

M A C A U
LAW JOURNAL

SPECIAL ISSUE

THE IMPLEMENTATION OF
THE CONVENTION ON THE RIGHTS OF
THE CHILD IN MACAO

2 0 1 0



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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 CONVENTION ON THE RIGHTS OF
THE CHILD IN MACAO

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2nd EU-MACAO CO-OPERATION PROGRAMME IN THE LEGAL FIELD



MACAU LAW JOURNAL

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Ownership

Macao Special Administrative Region

Edition, distribution and secretariat

International Law Office, Avenida da Praia Grande, n.ºs 762-804,
Edifício «China Plaza», 17th/F. – Macau, Tel: 28337210 – Fax: 28337224

Arrangement and printing

Macao Press

Cover

Leung Pai Wan (calligrapher) and *Elsa Ho* (IO)

Periodicity

Every four months

Circulation

1000 copies

ISSN n.º 0872-9352

Publication of work: The Macau Law Journal is open for the collaboration of any interested parties, without prejudice to the appreciation of the contributions, for publication purpose, by the respective Review bodies. Parties interested in publishing should contact the Review's secretariat. All published contributions are remunerated and are under the exclusive responsibility of its authors, being the Review allowed to secure for its translation.

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PREFACE

This fourth volume of the special edition of the Macau Law Journal dedicated to the dissemination of the main instruments of International Law in the field of Human Rights, known as the *core international human rights instruments*, applicable to the Macao Special Administrative Region (Macao SAR) refers to the application of the Convention on the Rights of the Child to the Macao SAR.

All the fundamental documents related to the implementation of the said Convention as well as to its Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography can be found in a systematic and comprehensive manner in this volume.

Once more, we hope to achieve with this initiative a better understanding of the efforts undertaken to promote Human Rights and their effective implementation as well as to encourage the continuous study of Human Rights in the Macao SAR.

The Executive-Director

Jorge Costa Oliveira

PART I

The CRC and its application to Macao

CONVENTION ON THE RIGHTS OF THE CHILD * **

Preamble

The States Parties to the present Convention,

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,

Bearing in mind that the peoples of the United Nations have, in the Charter, reaffirmed their faith in fundamental human rights and in the dignity and worth of the human person, and have determined to promote social progress and better standards of life in larger freedom,

Recognizing that the United Nations has, in the Universal Declaration of Human Rights and in the International Covenants on Human Rights, proclaimed and agreed that everyone is entitled to all the rights and freedoms set forth therein, without distinction of any kind, such

* Adopted at New York, on 20 November 1989.

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

as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status,

Recalling that, in the Universal Declaration of Human Rights, the United Nations has proclaimed that childhood is entitled to special care and assistance,

Convinced that the family, as the fundamental group of society and the natural environment for the growth and well-being of all its members and particularly children, should be afforded the necessary protection and assistance so that it can fully assume its responsibilities within the community,

Recognizing that the child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding,

Considering that the child should be fully prepared to live an individual life in society, and brought up in the spirit of the ideals proclaimed in the Charter of the United Nations, and in particular in the spirit of peace, dignity, tolerance, freedom, equality and solidarity,

Bearing in mind that the need to extend particular care to the child has been stated in the Geneva Declaration of the Rights of the Child of 1924 and in the Declaration of the Rights of the Child adopted by the General Assembly on 20 November 1959 and recognized in the Universal Declaration of Human Rights, in the International Covenant on Civil and Political Rights (in particular in articles 23 and 24), in the International Covenant on Economic, Social and Cultural Rights (in particular in article 10) and in the statutes and relevant instruments of specialized agencies and international organizations concerned with the welfare of children,

Bearing in mind that, as indicated in the Declaration of the Rights of the Child, “The child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth”,

Recalling the provisions of the Declaration on Social and Legal Principles relating to the Protection and Welfare of Children, with Special Reference to Foster Placement and Adoption Nationally and Internationally; the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules); and the Declaration on the Protection of Women and Children in Emergency and Armed Conflict,

Recognizing that, in all countries in the world, there are children living in exceptionally difficult conditions, and that such children need special consideration,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Recognizing the importance of international co-operation for improving the living conditions of children in every country, in particular in the developing countries,

Have agreed on the following:

PART I

Article 1

For the purposes of the present Convention, a child means every human being below the age of eighteen years unless under the law

applicable to the child, majority is attained earlier.

Article 2

1. States Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.

2. States Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 3

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.

2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.

3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform

with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

Article 4

States Parties shall undertake all appropriate legislative, administrative, and other measures for the implementation of the rights recognized in the present Convention. With regard to economic, social and cultural rights, States Parties shall undertake such measures to the maximum extent of their available resources and, where needed, within the framework of international co-operation.

Article 5

States Parties shall respect the responsibilities, rights and duties of parents or, where applicable, the members of the extended family or community as provided for by local custom, legal guardians or other persons legally responsible for the child, to provide, in a manner consistent with the evolving capacities of the child, appropriate direction and guidance in the exercise by the child of the rights recognized in the present Convention.

Article 6

1. States Parties recognize that every child has the inherent right to life.
2. States Parties shall ensure to the maximum extent possible the survival and development of the child.

Article 7

1. The child shall be registered immediately after birth and shall have the right from birth to a name, the right to acquire a nationality and, as far as possible, the right to know and be cared for by his or her parents.

2. States Parties shall ensure the implementation of these rights in accordance with their national law and their obligations under the relevant international instruments in this field, in particular where the child would otherwise be stateless.

Article 8

1. States Parties undertake to respect the right of the child to preserve his or her identity, including nationality, name and family relations as recognized by law without unlawful interference.

2. Where a child is illegally deprived of some or all of the elements of his or her identity, States Parties shall provide appropriate assistance and protection, with a view to re-establishing speedily his or her identity.

Article 9

1. States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence.

2. In any proceedings pursuant to paragraph 1 of the present article, all interested parties shall be given an opportunity to participate in the proceedings and make their views known.

3. States Parties shall respect the right of the child who is separated from one or both parents to maintain personal relations and direct contact with both parents on a regular basis, except if it is contrary to the child's best interests.

4. Where such separation results from any action initiated by a State Party, such as the detention, imprisonment, exile, deportation or death (including death arising from any cause while the person is in the custody of the State) of one or both parents or of the child, that State Party shall, upon request, provide the parents, the child or, if appropriate, another member of the family with the essential information concerning the whereabouts of the absent member(s) of the family unless the provision of the information would be detrimental to the well-being of the child. States Parties shall further ensure that the submission of such a request shall of itself entail no adverse consequences for the person(s) concerned.

Article 10

1. In accordance with the obligation of States Parties under article 9, paragraph 1, applications by a child or his or her parents to enter or leave a State Party for the purpose of family reunification shall be dealt with by States Parties in a positive, humane and expeditious manner. States Parties shall further ensure that the submission of such a request shall entail no adverse consequences for the applicants and for the members of their family.

2. A child whose parents reside in different States shall have the

right to maintain on a regular basis, save in exceptional circumstances personal relations and direct contacts with both parents. Towards that end and in accordance with the obligation of States Parties under article 9, paragraph 1, States Parties shall respect the right of the child and his or her parents to leave any country, including their own, and to enter their own country. The right to leave any country shall be subject only to such restrictions as are prescribed by law and which are necessary to protect the national security, public order (*ordre public*), public health or morals or the rights and freedoms of others and are consistent with the other rights recognized in the present Convention.

Article 11

1. States Parties shall take measures to combat the illicit transfer and non-return of children abroad.

2. To this end, States Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 12

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Article 13

1. The child shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child's choice.

2. The exercise of this right may be subject to certain restrictions, but these shall only be such as are provided by law and are necessary:

- a) For respect of the rights or reputations of others; or
- b) For the protection of national security or of public order (ordre public), or of public health or morals.

Article 14

1. States Parties shall respect the right of the child to freedom of thought, conscience and religion.

2. States Parties shall respect the rights and duties of the parents and, when applicable, legal guardians, to provide direction to the child in the exercise of his or her right in a manner consistent with the evolving capacities of the child.

3. Freedom to manifest one's religion or beliefs may be subject only to such limitations as are prescribed by law and are necessary to protect public safety, order, health or morals, or the fundamental rights and freedoms of others.

Article 15

1. States Parties recognize the rights of the child to freedom of association and to freedom of peaceful assembly.

2. No restrictions may be placed on the exercise of these rights other than those imposed in conformity with the law and which are necessary in a democratic society in the interests of national security or public safety, public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others.

Article 16

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, home or correspondence, nor to unlawful attacks on his or her honour and reputation.

2. The child has the right to the protection of the law against such interference or attacks.

Article 17

1. States Parties recognize the important function performed by the mass media and shall ensure that the child has access to information and material from a diversity of national and international sources, especially those aimed at the promotion of his or her social, spiritual and moral well-being and physical and mental health. To this end, States Parties shall:

a) Encourage the mass media to disseminate information and material of social and cultural benefit to the child and in accordance with the spirit of article 29;

b) Encourage international co-operation in the production, exchange and dissemination of such information and material from a diversity of cultural, national and international sources;

c) Encourage the production and dissemination of children's

books;

d) Encourage the mass media to have particular regard to the linguistic needs of the child who belongs to a minority group or who is indigenous;

e) Encourage the development of appropriate guidelines for the protection of the child from information and material injurious to his or her well-being, bearing in mind the provisions of articles 13 and 18.

Article 18

1. States Parties shall use their best efforts to ensure recognition of the principle that both parents have common responsibilities for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. Parents or, as the case may be, legal guardians, have the primary responsibility for the upbringing and development of the child. The best interests of the child will be their basic concern.

2. For the purpose of guaranteeing and promoting the rights set forth in the present Convention, States Parties shall render appropriate assistance to parents and legal guardians in the performance of their child-rearing responsibilities and shall ensure the development of institutions, facilities and services for the care of children.

3. States Parties shall take all appropriate measures to ensure that children of working parents have the right to benefit from child-care services and facilities for which they are eligible.

Article 19

1. States Parties shall take all appropriate legislative, administrative,

social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

2. Such protective measures should, as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 20

1. A child temporarily or permanently deprived of his or her family environment, or in whose own best interests cannot be allowed to remain in that environment, shall be entitled to special protection and assistance provided by the State.

2. States Parties shall in accordance with their national laws ensure alternative care for such a child.

3. Such care could include, inter alia, foster placement, kafalah of Islamic law, adoption or if necessary placement in suitable institutions for the care of children. When considering solutions, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background.

Article 21

States Parties that recognize and/or permit the system of adoption

shall ensure that the best interests of the child shall be the paramount consideration and they shall:

a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

Article 22

1. States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures

shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.

2. For this purpose, States Parties shall provide, as they consider appropriate, co-operation in any efforts by the United Nations and other competent intergovernmental organizations or non-governmental organizations co-operating with the United Nations to protect and assist such a child and to trace the parents or other members of the family of any refugee child in order to obtain information necessary for reunification with his or her family. In cases where no parents or other members of the family can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his or her family environment for any reason, as set forth in the present Convention.

Article 23

1. States Parties recognize that a mentally or physically disabled child should enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.

2. States Parties recognize the right of the disabled child to special care and shall encourage and ensure the extension, subject to available resources, to the eligible child and those responsible for his or her care, of assistance for which application is made and which is appropriate to the child's condition and to the circumstances of the parents or others caring for the child.

3. Recognizing the special needs of a disabled child, assistance extended in accordance with paragraph 2 of the present article shall be provided free of charge, whenever possible, taking into account the financial resources of the parents or others caring for the child, and shall be designed to ensure that the disabled child has effective access to and receives education, training, health care services, rehabilitation services, preparation for employment and recreation opportunities in a manner conducive to the child's achieving the fullest possible social integration and individual development, including his or her cultural and spiritual development.

4. States Parties shall promote, in the spirit of international co-operation, the exchange of appropriate information in the field of preventive health care and of medical, psychological and functional treatment of disabled children, including dissemination of and access to information concerning methods of rehabilitation, education and vocational services, with the aim of enabling States Parties to improve their capabilities and skills and to widen their experience in these areas. In this regard, particular account shall be taken of the needs of developing countries.

Article 24

1. States Parties recognize the right of the child to the enjoyment of the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health. States Parties shall strive to ensure that no child is deprived of his or her right of access to such health care services.

2. States Parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

- a) To diminish infant and child mortality;
- b) To ensure the provision of necessary medical assistance and

health care to all children with emphasis on the development of primary health care;

c) To combat diseases and malnutrition, including within the framework of primary health care, through, inter alia, the application of readily available technology and through the provision of adequate nutritious foods and clean drinking-water, taking into consideration the dangers and risks of environmental pollution;

d) To ensure appropriate pre-natal and post-natal health care for mothers;

e) To ensure that all segments of society, in particular parents and children, are informed, have access to education and are supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of accidents;

f) To develop preventive health care, guidance for parents and family planning education and services.

3. States Parties shall take all effective and appropriate measures with a view to abolishing traditional practices prejudicial to the health of children.

4. States Parties undertake to promote and encourage international co-operation with a view to achieving progressively the full realization of the right recognized in the present article. In this regard, particular account shall be taken of the needs of developing countries.

Article 25

States Parties recognize the right of a child who has been placed by the competent authorities for the purposes of care, protection or treatment of his or her physical or mental health, to a periodic review of the treatment

provided to the child and all other circumstances relevant to his or her placement.

Article 26

1. States Parties shall recognize for every child the right to benefit from social security, including social insurance, and shall take the necessary measures to achieve the full realization of this right in accordance with their national law.

2. The benefits should, where appropriate, be granted, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child, as well as any other consideration relevant to an application for benefits made by or on behalf of the child.

Article 27

1. States Parties recognize the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development.

2. The parent(s) or others responsible for the child have the primary responsibility to secure, within their abilities and financial capacities, the conditions of living necessary for the child's development.

3. States Parties, in accordance with national conditions and within their means, shall take appropriate measures to assist parents and others responsible for the child to implement this right and shall in case of need provide material assistance and support programmes, particularly with regard to nutrition, clothing and housing.

4. States Parties shall take all appropriate measures to secure the

recovery of maintenance for the child from the parents or other persons having financial responsibility for the child, both within the State Party and from abroad. In particular, where the person having financial responsibility for the child lives in a State different from that of the child, States Parties shall promote the accession to international agreements or the conclusions of such agreements, as well as the making of other appropriate arrangements.

Article 28

1. States Parties recognize the right of the child to education, and with a view to achieving this right progressively and on the basis of equal opportunity, they shall, in particular:

- a) Make primary education compulsory and available free to all;
- b) Encourage the development of different forms of secondary education, including general and vocational education, make them available and accessible to every child, and take appropriate measures such as the introduction of free education and offering financial assistance in case of need;
- c) Make higher education accessible to all on the basis of capacity by every appropriate means;
- d) Make educational and vocational information and guidance available and accessible to all children;
- e) Take measures to encourage regular attendance at schools and the reduction of drop-out rates.

2. States Parties shall take all appropriate measures to ensure that school discipline is administered in a manner consistent with the child's human dignity and in conformity with the present Convention.

3. States Parties shall promote and encourage international

co-operation in matters relating to education, in particular with a view to contributing to the elimination of ignorance and illiteracy throughout the world and facilitating access to scientific and technical knowledge and modern teaching methods. In this regard, particular account shall be taken of the needs of developing countries.

Article 29

1. States Parties agree that the education of the child shall be directed to:

a) The development of the child's personality, talents and mental and physical abilities to their fullest potential;

b) The development of respect for human rights and fundamental freedoms, and for the principles enshrined in the Charter of the United Nations;

c) The development of respect for the child's parents, his or her own cultural identity, language and values, for the national values of the country in which the child is living, the country from which he or she may originate, and for civilizations different from his or her own;

d) The preparation of the child for responsible life in a free society, in the spirit of understanding, peace, tolerance, equality of sexes, and friendship among all peoples, ethnic, national and religious groups and persons of indigenous origin;

e) The development of respect for the natural environment.

2. No part of the present article or article 28 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 principle set forth in paragraph 1 of the present article and to the

requirements that the education given in such institutions shall conform to such minimum standards as may be laid down by the State.

Article 30

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

Article 31

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to participate fully in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 32

1. States Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.

2. States Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other

international instruments, States Parties shall in particular:

- a) Provide for a minimum age or minimum ages for admission to employment;
- b) Provide for appropriate regulation of the hours and conditions of employment;
- c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.

Article 33

States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

- a) The inducement or coercion of a child to engage in any unlawful sexual activity;
- b) The exploitative use of children in prostitution or other unlawful sexual practices;
- c) The exploitative use of children in pornographic performances and materials.

Article 35

States Parties shall take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.

Article 36

States Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 37

States Parties shall ensure that:

a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offences committed by persons below eighteen years of age;

b) No child shall be deprived of his or her liberty unlawfully or arbitrarily. The arrest, detention or imprisonment of a child shall be in conformity with the law and shall be used only as a measure of last resort and for the shortest appropriate period of time;

c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interest not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances;

d) Every child deprived of his or her liberty shall have the right

to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent, independent and impartial authority, and to a prompt decision on any such action.

Article 38

1. States Parties undertake to respect and to ensure respect for rules of international humanitarian law applicable to them in armed conflicts which are relevant to the child.

2. States Parties shall take all feasible measures to ensure that persons who have not attained the age of fifteen years do not take a direct part in hostilities.

3. States Parties shall refrain from recruiting any person who has not attained the age of fifteen years into their armed forces. In recruiting among those persons who have attained the age of fifteen years but who have not attained the age of eighteen years, States Parties shall endeavour to give priority to those who are oldest.

4. In accordance with their obligations under international humanitarian law to protect the civilian population in armed conflicts, States Parties shall take all feasible measures to ensure protection and care of children who are affected by an armed conflict.

Article 39

States Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such

recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

Article 40

1. States Parties recognize the right of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

2. To this end, and having regard to the relevant provisions of international instruments, States Parties shall, in particular, ensure that:

a) No child shall be alleged as, be accused of, or recognized as having infringed the penal law by reason of acts or omissions that were not prohibited by national or international law at the time they were committed;

b) Every child alleged as or accused of having infringed the penal law has at least the following guarantees:

i) To be presumed innocent until proven guilty according to law;

ii) To be informed promptly and directly of the charges against him or her, and, if appropriate, through his or her parents or legal guardians, and to have legal or other appropriate assistance in the preparation and presentation of his or her defence;

iii) To have the matter determined without delay by a competent, independent and impartial authority or judicial body in a fair hearing according to law, in the presence of legal or other appropriate assistance and, unless it is considered not to be in the best interest of the child, in

particular, taking into account his or her age or situation, his or her parents or legal guardians;

iv) Not to be compelled to give testimony or to confess guilt; to examine or have examined adverse witnesses and to obtain the participation and examination of witnesses on his or her behalf under conditions of equality;

v) If considered to have infringed the penal law, to have this decision and any measures imposed in consequence thereof reviewed by a higher competent, independent and impartial authority or judicial body according to law;

vi) To have the free assistance of an interpreter if the child cannot understand or speak the language used;

vii) To have his or her privacy fully respected at all stages of the proceedings.

3. States Parties shall seek to promote the establishment of laws, procedures, authorities and institutions specifically applicable to children alleged as, accused of, or recognized as having infringed the penal law, and, in particular:

a) The establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal law;

b) Whenever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, providing that human rights and legal safeguards are fully respected.

4. A variety of dispositions, such as care, guidance and supervision orders; counselling; probation; foster care; education and vocational training programmes and other alternatives to institutional care shall be available to ensure that children are dealt with in a manner appropriate to their well-being and proportionate both to their circumstances and the offence.

Article 41

Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child and which may be contained in:

- a) The law of a State party; or
- b) International law in force for that State.

PART II

Article 42

States Parties undertake to make the principles and provisions of the Convention widely known, by appropriate and active means, to adults and children alike.

Article 43

1. For the purpose of examining the progress made by States Parties in achieving the realization of the obligations undertaken in the present Convention, there shall be established a Committee on the Rights of the Child, which shall carry out the functions hereinafter provided.

2. The Committee shall consist of eighteen experts of high moral standing and recognized competence in the field covered by this Convention. The members of the Committee shall be elected by States Parties from among their nationals and shall serve in their personal capacity, consideration being given to equitable geographical distribution, as well as to the principal legal systems. (amendment)

3. The members of the Committee shall be elected by secret ballot from a list of persons nominated by States Parties. Each State Party may

nominate one person from among its own nationals.

4. The initial election to the Committee shall be held no later than six months after the date of the entry into force of the present Convention and thereafter every second year. At least four months before the date of each election, the Secretary-General of the United Nations shall address a letter to States Parties inviting them to submit their nominations within two months. The Secretary-General shall subsequently prepare a list in alphabetical order of all persons thus nominated, indicating States Parties which have nominated them, and shall submit it to the States Parties to the present Convention.

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

6. The members of the Committee shall be elected for a term of four years. They shall be eligible for re-election if renominated. The term of five of the members elected at the first election shall expire at the end of two years; immediately after the first election, the names of these five members shall be chosen by lot by the Chairman of the meeting.

7. If a member of the Committee dies or resigns or declares that for any other cause he or she can no longer perform the duties of the Committee, the State Party which nominated the member shall appoint another expert from among its nationals to serve for the remainder of the term, subject to the approval of the Committee.

8. The Committee shall establish its own rules of procedure.

9. The Committee shall elect its officers for a period of two years.

10. The meetings of the Committee shall normally be held at United Nations Headquarters or at any other convenient place as determined by the Committee. The Committee shall normally meet annually. The duration of the meetings of the Committee shall be determined, and reviewed, if necessary, by a meeting of the States Parties to the present Convention, subject to the approval of the General Assembly.

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

12. With the approval of the General Assembly, the members of the Committee established under the present Convention shall receive emoluments from United Nations resources on such terms and conditions as the Assembly may decide.

Article 44

1. States Parties undertake to submit to the Committee, through the Secretary-General of the United Nations, reports on the measures they have adopted which give effect to the rights recognized herein and on the progress made on the enjoyment of those rights:

- a) Within two years of the entry into force of the Convention for the State Party concerned;
- b) Thereafter every five years.

2. Reports made under the present article shall indicate factors and difficulties, if any, affecting the degree of fulfilment of the obligations under the present Convention. Reports shall also contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned.

3. A State Party which has submitted a comprehensive initial

report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (b) of the present article, repeat basic information previously provided.

4. The Committee may request from States Parties further information relevant to the implementation of the Convention.

5. The Committee shall submit to the General Assembly, through the Economic and Social Council, every two years, reports on its activities.

6. States Parties shall make their reports widely available to the public in their own countries.

Article 45

In order to foster the effective implementation of the Convention and to encourage international co-operation in the field covered by the Convention:

a) The specialized agencies, the United Nations Children's Fund, and other United Nations organs shall be entitled to be represented at the consideration of the implementation of such provisions of the present Convention as fall within the scope of their mandate. The Committee may invite the specialized agencies, the United Nations Children's Fund and other competent bodies as it may consider appropriate to provide expert advice on the implementation of the Convention in areas falling within the scope of their respective mandates. The Committee may invite the specialized agencies, the United Nations Children's Fund, and other United Nations organs to submit reports on the implementation of the Convention in areas falling within the scope of their activities;

b) The Committee shall transmit, as it may consider appropriate, to the specialized agencies, the United Nations Children's Fund and other competent bodies, any reports from States Parties that contain a request,

or indicate a need, for technical advice or assistance, along with the Committee's observations and suggestions, if any, on these requests or indications;

c) The Committee may recommend to the General Assembly to request the Secretary-General to undertake on its behalf studies on specific issues relating to the rights of the child;

d) The Committee may make suggestions and general recommendations based on information received pursuant to articles 44 and 45 of the present Convention. Such suggestions and general recommendations shall be transmitted to any State Party concerned and reported to the General Assembly, together with comments, if any, from States Parties.

PART III

Article 46

The present Convention shall be open for signature by all States.

Article 47

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

Article 48

The present Convention shall remain open for accession by any State. The instruments of accession shall be deposited with the Secretary-General of the United Nations.

Article 49

1. The present Convention shall enter into force on the thirtieth day following the date of deposit with the Secretary-General of the United Nations of the twentieth instrument of ratification or accession.

2. For each State ratifying or acceding to the Convention after the deposit of the twentieth instrument of ratification or accession, the Convention shall enter into force on the thirtieth day after the deposit by such State of its instrument of ratification or accession.

Article 50

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties, with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General Assembly for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly of the United Nations and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties which have accepted it, other States Parties still being

bound by the provisions of the present Convention and any earlier amendments which they have accepted.

Article 51

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

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

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

Article 52

A State Party may denounce the present Convention by written notification to the Secretary-General of the United Nations. Denunciation becomes effective one year after the date of receipt of the notification by the Secretary-General.

Article 53

The Secretary-General of the United Nations is designated as the depositary of the present Convention.

Article 54

The original of the present Convention, of which the Arabic,

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

**PORTUGUESE PRESIDENT DECREE 24/98
CONCERNING THE APPLICATION OF THE
CONVENTION TO MACAU ***

Portuguese President Decree 24/98

In accordance and for the legal effects established in Articles 3 (2) and (3) and Articles 69 and 70 of the Organic Statute of Macau, I hereby decree the extension of the application to the territory of Macau of the Convention on the Rights of the Child, approved for ratification by President Decree 49/90, of 12 September, published in the Portuguese Official Gazette No. 211, I Series, of 12 September 1990, in the same terms to which the Portuguese Republic is internationally bound.

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

Signed on 2 July 1998.

To publish.

The President of the Republic, Jorge Sampaio.

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

NOTICE OF THE CHIEF EXECUTIVE 5/2001 *

Considering that the People's Republic of China notified on 19 October 1999, the Secretary-General of the United Nations, in its capacity of depository entity of the Convention on the Rights of the Child, adopted at New York, on 20 November 1989, in respect to the continuation of the application of the referred Convention to the Macao Special Administrative Region.

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

Enacted, 4 January 2001.

The Chief Executive, Ho Hau Wah.

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

Notification

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

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

The Convention on the Rights of the Child (hereinafter referred to as the “Convention”), to which the Government of the People’s Republic of China deposited the instrument of ratification on 2 March 1992, will apply to the Macao Special Administrative Region with effect from 20 December 1999.

The Government of the People’s Republic of China will assume the responsibility for the international rights and obligations arising from the application of the Convention to the Macao Special Administrative Region. (…)”

NOTICE OF THE CHIEF EXECUTIVE 12/2003 *

Considering that the People's Republic of China, by Note dated 3 December 2002, deposited with the Secretary-General of the United Nations its instrument of ratification dated 29 August 2002 to the Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography, adopted at New York, on 25 May 2000 (Protocol);

Also considering that attached to the referred Note dated 3 December 2002 was another Note dated 25 October 2002, whereby it is declared that "(...) in accordance with the Basic Law of the Macao Special Administrative Region of the People's Republic of China and as suggested by the Government of the Macao Special Administrative Region, the Protocol shall apply to the Macao Special Administrative Region of the People's Republic of China (...)");

Considering furthermore that the Protocol, in accordance with its Article 14 (2), entered into force for the People's Republic of China, including its Macao Special Administrative Region, on 3 January 2003;

* Published in the Macao SAR Official Gazette No. 19, II Series, 7 May 2003.

The Chief Executive orders to publish, in accordance with Article 6 (1) of Law 3/1999, of the Macao Special Administrative Region, the Protocol in its Chinese authentic version, together with the respective Portuguese translation.

Enacted, 30 April 2003.

The Chief Executive, Ho Hau Wah.

**OPTIONAL PROTOCOL TO THE CONVENTION
ON THE RIGHTS OF THE CHILD ON THE SALE OF
CHILDREN, CHILD PROSTITUTION AND CHILD
PORNOGRAPHY ***

The States Parties to the present Protocol,

Considering that, in order further to achieve the purpose of the Convention on the Rights of the Child and the implementation of its provisions, especially articles 1, 11, 21, 32, 33, 34, 35 and 36, it would be appropriate to extend the measures that States Parties should undertake in order to guarantee the protection of the child from the sale of children, child prostitution and child pornography,

Considering also that the Convention on the Rights of the Child recognizes the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development,

Gravely concerned at the significant and increasing international

* Adopted at New York, on 25 May 2000.

traffic in children for the purpose of the sale of children, child prostitution and child pornography,

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography,

Recognizing that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation and that girl children are disproportionately represented among the sexually exploited,

Concerned about the growing availability of child pornography on the Internet and other evolving technologies, and recalling the International Conference on Combating Child Pornography on the Internet, held in Vienna in 1999, in particular its conclusion calling for the worldwide criminalization of the production, distribution, exportation, transmission, importation, intentional possession and advertising of child pornography, and stressing the importance of closer cooperation and partnership between Governments and the Internet industry,

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking in children,

Believing also that efforts to raise public awareness are needed to reduce consumer demand for the sale of children, child prostitution and child pornography, and believing further in the importance of strengthening global partnership among all actors and of improving law enforcement at the national level,

Noting the provisions of international legal instruments relevant to the protection of children, including the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, the Hague Convention on the Civil Aspects of International Child Abduction, the Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Cooperation in Respect of Parental Responsibility and Measures for the Protection of Children, and International Labour Organization Convention No. 182 on the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour,

Encouraged by the overwhelming support for the Convention on the Rights of the Child, demonstrating the widespread commitment that exists for the promotion and protection of the rights of the child,

Recognizing the importance of the implementation of the provisions of the Programme of Action for the Prevention of the Sale of Children, Child Prostitution and Child Pornography and the Declaration and Agenda for Action adopted at the World Congress against Commercial Sexual Exploitation of Children, held in Stockholm from 27 to 31 August 1996, and the other relevant decisions and recommendations of pertinent international bodies,

Taking due account of the importance of the traditions and cultural values of each people for the protection and harmonious development of the child,

Have agreed as follows:

Article 1

States Parties shall prohibit the sale of children, child prostitution and child pornography as provided for by the present Protocol.

Article 2

For the purposes of the present Protocol:

- a) Sale of children means any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration;
- b) Child prostitution means the use of a child in sexual activities for remuneration or any other form of consideration;
- c) Child pornography means any representation, by whatever means, of a child engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a child for primarily sexual purposes.

Article 3

1. Each State Party shall ensure that, as a minimum, the following acts and activities are fully covered under its criminal or penal law, whether such offences are committed domestically or transnationally or on an individual or organized basis:

- a) In the context of sale of children as defined in article 2:
 - i) Offering, delivering or accepting, by whatever means, a child for the purpose of:
 - a. Sexual exploitation of the child;
 - b. Transfer of organs of the child for profit;
 - c. Engagement of the child in forced labour;
 - ii) Improperly inducing consent, as an intermediary, for the adoption of a child in violation of applicable international legal instruments on adoption;
- b) Offering, obtaining, procuring or providing a child for child

prostitution, as defined in article 2;

c) Producing, distributing, disseminating, importing, exporting, offering, selling or possessing for the above purposes child pornography as defined in article 2.

2. Subject to the provisions of the national law of a State Party, the same shall apply to an attempt to commit any of the said acts and to complicity or participation in any of the said acts.

3. Each State Party shall make such offences punishable by appropriate penalties that take into account their grave nature.

4. Subject to the provisions of its national law, each State Party shall take measures, where appropriate, to establish the liability of legal persons for offences established in paragraph 1 of the present article. Subject to the legal principles of the State Party, such liability of legal persons may be criminal, civil or administrative.

5. States Parties shall take all appropriate legal and administrative measures to ensure that all persons involved in the adoption of a child act in conformity with applicable international legal instruments.

Article 4

1. Each State Party shall take such measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, when the offences are committed in its territory or on board a ship or aircraft registered in that State.

2. Each State Party may take measures as may be necessary to establish its jurisdiction over the offences referred to in article 3, paragraph 1, in the following cases:

a) When the alleged offender is a national of that State or a person

who has his habitual residence in its territory;

b) When the victim is a national of that State.

3. Each State Party shall also take such measures as may be necessary to establish its jurisdiction over the aforementioned offences when the alleged offender is present in its territory and it does not extradite him or her to another State Party on the ground that the offence has been committed by one of its nationals.

4. The present Protocol does not exclude any criminal jurisdiction exercised in accordance with internal law.

Article 5

1. The offences referred to in article 3, paragraph 1, shall be deemed to be included as extraditable offences in any extradition treaty existing between States Parties and shall be included as extraditable offences in every extradition treaty subsequently concluded between them, in accordance with the conditions set forth in such treaties.

2. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from another State Party with which it has no extradition treaty, it may consider the present Protocol to be a legal basis for extradition in respect of such offences. Extradition shall be subject to the conditions provided by the law of the requested State.

3. States Parties that do not make extradition conditional on the existence of a treaty shall recognize such offences as extraditable offences between themselves subject to the conditions provided by the law of the requested State.

4. Such offences shall be treated, for the purpose of extradition

between States Parties, as if they had been committed not only in the place in which they occurred but also in the territories of the States required to establish their jurisdiction in accordance with article 4.

5. If an extradition request is made with respect to an offence described in article 3, paragraph 1, and the requested State Party does not or will not extradite on the basis of the nationality of the offender, that State shall take suitable measures to submit the case to its competent authorities for the purpose of prosecution.

Article 6

1. States Parties shall afford one another the greatest measure of assistance in connection with investigations or criminal or extradition proceedings brought in respect of the offences set forth in article 3, paragraph 1, including assistance in obtaining evidence at their disposal necessary for the proceedings.

2. States Parties shall carry out their obligations under paragraph 1 of the present article in conformity with any treaties or other arrangements on mutual legal assistance that may exist between them. In the absence of such treaties or arrangements, States Parties shall afford one another assistance in accordance with their domestic law.

Article 7

States Parties shall, subject to the provisions of their national law:

a) Take measures to provide for the seizure and confiscation, as appropriate, of:

i) Goods, such as materials, assets and other instrumentalities used

- to commit or facilitate offences under the present Protocol;
- ii) Proceeds derived from such offences;
- b) Execute requests from another State Party for seizure or confiscation of goods or proceeds referred to in subparagraph (a);
- c) Take measures aimed at closing, on a temporary or definitive basis, premises used to commit such offences.

Article 8

1. States Parties shall adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process, in particular by:

- a) Recognizing the vulnerability of child victims and adapting procedures to recognize their special needs, including their special needs as witnesses;
- b) Informing child victims of their rights, their role and the scope, timing and progress of the proceedings and of the disposition of their cases;
- c) Allowing the views, needs and concerns of child victims to be presented and considered in proceedings where their personal interests are affected, in a manner consistent with the procedural rules of national law;
- d) Providing appropriate support services to child victims throughout the legal process;
- e) Protecting, as appropriate, the privacy and identity of child victims and taking measures in accordance with national law to avoid the inappropriate dissemination of information that could lead to the identification of child victims;

f) Providing, in appropriate cases, for the safety of child victims, as well as that of their families and witnesses on their behalf, from intimidation and retaliation;

g) Avoiding unnecessary delay in the disposition of cases and the execution of orders or decrees granting compensation to child victims.

2. States Parties shall ensure that uncertainty as to the actual age of the victim shall not prevent the initiation of criminal investigations, including investigations aimed at establishing the age of the victim.

3. States Parties shall ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

4. States Parties shall take measures to ensure appropriate training, in particular legal and psychological training, for the persons who work with victims of the offences prohibited under the present Protocol.

5. States Parties shall, in appropriate cases, adopt measures in order to protect the safety and integrity of those persons and/or organizations involved in the prevention and/or protection and rehabilitation of victims of such offences.

6. Nothing in the present article shall be construed to be prejudicial to or inconsistent with the rights of the accused to a fair and impartial trial.

Article 9

1. States Parties shall adopt or strengthen, implement and disseminate laws, administrative measures, social policies and programmes to prevent the offences referred to in the present Protocol. Particular

attention shall be given to protect children who are especially vulnerable to such practices.

2. States Parties shall promote awareness in the public at large, including children, through information by all appropriate means, education and training, about the preventive measures and harmful effects of the offences referred to in the present Protocol. In fulfilling their obligations under this article, States Parties shall encourage the participation of the community and, in particular, children and child victims, in such information and education and training programmes, including at the international level.

3. States Parties shall take all feasible measures with the aim of ensuring all appropriate assistance to victims of such offences, including their full social reintegration and their full physical and psychological recovery.

4. States Parties shall ensure that all child victims of the offences described in the present Protocol have access to adequate procedures to seek, without discrimination, compensation for damages from those legally responsible.

5. States Parties shall take appropriate measures aimed at effectively prohibiting the production and dissemination of material advertising the offences described in the present Protocol.

Article 10

1. States Parties shall take all necessary steps to strengthen international cooperation by multilateral, regional and bilateral arrangements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child

prostitution, child pornography and child sex tourism. States Parties shall also promote international cooperation and coordination between their authorities, national and international non-governmental organizations and international organizations.

2. States Parties shall promote international cooperation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

3. States Parties shall promote the strengthening of international cooperation in order to address the root causes, such as poverty and underdevelopment, contributing to the vulnerability of children to the sale of children, child prostitution, child pornography and child sex tourism.

4. States Parties in a position to do so shall provide financial, technical or other assistance through existing multilateral, regional, bilateral or other programmes.

Article 11

Nothing in the present Protocol shall affect any provisions that are more conducive to the realization of the rights of the child and that may be contained in:

- a) The law of a State Party;
- b) International law in force for that State.

Article 12

1. Each State Party shall, within two years following the entry into force of the present Protocol for that State Party, submit a report to the Committee on the Rights of the Child providing comprehensive

information on the measures it has taken to implement the provisions of the Protocol.

2. Following the submission of the comprehensive report, each State Party shall include in the reports they submit to the Committee on the Rights of the Child, in accordance with article 44 of the Convention, any further information with respect to the implementation of the present Protocol. Other States Parties to the Protocol shall submit a report every five years.

3. The Committee on the Rights of the Child may request from States Parties further information relevant to the implementation of the present Protocol.

Article 13

1. The present Protocol is open for signature by any State that is a party to the Convention or has signed it.

2. The present Protocol is subject to ratification and is open to accession by any State that is a party to the Convention or has signed it. Instruments of ratification or accession shall be deposited with the Secretary-General of the United Nations.

Article 14

1. The present Protocol shall enter into force three months after the deposit of the tenth instrument of ratification or accession.

2. For each State ratifying the present Protocol or acceding to it after its entry into force, the Protocol shall enter into force one month after the date of the deposit of its own instrument of ratification or accession.

Article 15

1. Any State Party may denounce the present Protocol at any time by written notification to the Secretary-General of the United Nations, who shall thereafter inform the other States Parties to the Convention and all States that have signed the Convention. The denunciation shall take effect one year after the date of receipt of the notification by the Secretary-General.

2. Such a denunciation shall not have the effect of releasing the State Party from its obligations under the present Protocol in regard to any offence that occurs prior to the date on which the denunciation becomes effective. Nor shall such a denunciation prejudice in any way the continued consideration of any matter that is already under consideration by the Committee on the Rights of the Child prior to the date on which the denunciation becomes effective.

Article 16

1. Any State Party may propose an amendment and file it with the Secretary-General of the United Nations. The Secretary-General shall thereupon communicate the proposed amendment to States Parties with a request that they indicate whether they favour a conference of States Parties for the purpose of considering and voting upon the proposals. In the event that, within four months from the date of such communication, at least one third of the States Parties favour such a conference, the Secretary-General shall convene the conference under the auspices of the United Nations. Any amendment adopted by a majority of States Parties present and voting at the conference shall be submitted to the General

Assembly of the United Nations for approval.

2. An amendment adopted in accordance with paragraph 1 of the present article shall enter into force when it has been approved by the General Assembly and accepted by a two-thirds majority of States Parties.

3. When an amendment enters into force, it shall be binding on those States Parties that have accepted it, other States Parties still being bound by the provisions of the present Protocol and any earlier amendments they have accepted.

Article 17

1. The present Protocol, of which the Arabic, 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 Protocol to all States Parties to the Convention and all States that have signed the Convention.

NOTICE OF THE CHIEF EXECUTIVE 17/2006 *

Considering that the People's Republic of China notified on 10 July 2002, the Secretary-General of the United Nations the deposit of its instrument of acceptance in relation to the Amendment to the Convention on the Rights of the Child, adopted at New York, on 12 December 1995;

Also considering that the Amendment entered into force within the national territory on 18 November 2002;

The Chief Executive orders the publication, in accordance with Article 6 (1), of the Law 3/1999, 20 December, of the Macao Special Administrative Region, the referred Amendment to the Convention on the Rights of the Child, in its Chinese authentic text, together with the respective Portuguese translation on the basis of some authentic texts.

The authentic Chinese and English texts of the Convention on the Rights of the Child, together with the respective Portuguese translation, are published in the Macau Official Gazette, No. 37, of 14 September 1998.

Enacted, 31 March 2006.

The Chief Executive, Ho Hau Wah.

* Published in the Macao SAR Official Gazette No. 15, II Series, 12 April 2006.

PART II

**Reports, written
questions & answers**

‘CORE DOCUMENT’ OF THE PR OF CHINA *

(PART III)

MACAU SPECIAL ADMINISTRATIVE REGION

I. LAND AND PEOPLE

A. Geography and climate

119. The Macau Special Administrative Region of the People’s Republic of China (hereinafter referred to as the MSAR) lies on the South-eastern China coast, in the Pearl River delta. It consists of the Peninsula of Macau and the Islands of Taipa and Coloane, covering a total surface area of 23.8 square kilometres (km²) (approximately 5.8 km² is land reclaimed from the sea). The total length of Macau’s coastline is 37,489 metres (m) (Peninsula: 11,350 m; Islands: 26,139 m).

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

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

B. Demographic data and population

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

122. The population density is 18,380 inhabitants per km². The majority of the population (more than 95%) lives in urban areas. The annual growth of the population was 0.2 % in 1996, 1.5% in 1997, 2% in 1998 and 1.6% in 1999. The average annual growth was 1.5% for the period 1996-1999. This population growth is a result of a natural increase, i.e., a higher rate of births over deaths. Immigration is also a factor due to the constant rise in the number of people coming from the Chinese Mainland.

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

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

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

Languages

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

Life expectancy (crude birth and crude mortality rates)

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

Infant mortality

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

Fertility rate

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

Literacy rate

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

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

Religion

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

C. Economy

Gross Domestic Product (GDP)

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

Employment and unemployment

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

Inflation rate

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

B. Political and institutional structure

General structure

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

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

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

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

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

The Chief Executive of the MSAR

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

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

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

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

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

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

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

The Executive Council of the MSAR

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

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

The Government and the structure of the Administration of the MSAR

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

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

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

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

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

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

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

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

The Legislative Assembly of the MSAR

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

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

Membership	<u>A.</u> First term 20/12/99- -15/10/2001	<u>B.</u> Second term 2001-2005	<u>C.</u> Third and subsequent terms 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 defence 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
ARTICLE 44 OF THE CONVENTION CONCERNING
THE APPLICATION OF THE CRC TO MACAO * ****

(PART II)

Introduction

1. The present report is the first to be submitted by the People's Republic of China under the terms of article 44 of the Convention on the Rights of the Child (hereinafter referred to as the Convention) for the application of the Convention to the Macao Special Administrative Region of the People's Republic of China (MSAR).

2. The Convention entered into force for Macao on 27 May 1999¹.

* CRC/C/83/Add.9 (Part II), 27 September 2004 [27 June 2003].

** For the first and second parts of the second periodic report submitted by the Government of China, see document CRC/C/83/Add.9 and CRC/C/83/Add.9 (Part I). For the initial periodic report submitted by China, see CRC/C/11/Add.7; for its consideration by the Committee on 28 and 29 May 1996, see CRC/C/SR.298-300 and CRC/C/15/Add.56. The annexes may be consulted in the files of the Secretariat.

¹ By letter of notification deposited with the Secretary-General of the United Nations on 27 April 1999, the Government of the Republic of Portugal extended the Convention to Macao. On 19 October 1999, the Government of the People's Republic of China notified the Secretary-General on its assumption of the responsibility for the international obligations arising from the application of the Convention to the MSAR. The text of the Convention was published in the Macao Official Gazette, No. 37, 14 September 1998.

3. This report, prepared as suggested in the general guidelines adopted by the Committee on the Rights of the Child regarding the form and contents of periodic reports to be submitted by State Parties of the Convention, should be read jointly with the third part of the second revision of the People's Republic of China's core document (HRI/CORE/I/Add.21/Rev.2), submitted to the Secretary-General on 3 October 2000. Therefore, data concerning the territory and population, political structure and the general legal framework within which human rights are protected in MSAR concur with those in the above-mentioned third part of the core document that is referred to in full.

I. GENERAL MEASURES OF IMPLEMENTATION

4. Prior to the extension of the Convention to Macao, no major inconsistencies were found between local law and the Convention. Thus, no significant changes in Macao's legal system were made in order to bring it into line with the Convention's provisions.

5. It should be noted, nevertheless, that since the Convention became applicable some legal measures were adopted with the intent of providing a better guarantee of some of the rights also provided for in the Convention. Such is the case of the legislation on: (a) the administration of juvenile justice; (b) compulsory education until 15 years of age; (c) adoption; and (d) the right of association.

6. After the establishment on 20 December 1999 of MSAR, its Basic Law was put into effect. MSAR's Basic Law has constitutional value and stipulates that local laws "and other normative acts previously in force in Macao shall be maintained, except for any that contravenes this Law, or are subject to any amendment by the legislature or other relevant

organs of the Macao Special Administrative Region in accordance with legal procedures” (article 8, see also arts. 18 and 145).

7. Chapter III of the Basic Law enshrines the fundamental rights of all MSAR residents. Article 38 (3) affirms specifically the protection of the legitimate rights and interests of minors.

8. In recent years, treaties on international human rights in force in Macao have been extensively publicized. The Government and its departments have taken several measures to promote information on and dissemination of human rights — including the rights of the child — in quizzes and interactive technology as well as through the distribution of specially focused brochures and leaflets. The subject of fundamental rights is also incorporated in the school curricula of several courses.

9. Many of the initiatives to promote the awareness of fundamental rights and duties are specially targeted and organized in close connection with neighbourhood associations directed towards workers’ unions and educational centres.

10. The Legal Information Division of MSAR’s Justice Affairs Department also provides a service that offers legal information through some of the largest Chinese newspapers, including:

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

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

— In the daily *Si Man Pou*, since 1996, the weekly feature “Talking about the Law in Macao”; and

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

11. With reference to the rights of the child, the newspapers *Ou Mun Iat Pou*, *Va Kio* and *Si Man Pou* have already published 9, 12 and 5 articles, respectively.

12. Other special programmes on legal affairs have been aired over the radio and TV in addition to information campaigns at secondary schools.

13. The Chinese-language radio station *Ou Mun Tin Tóí* has been regularly broadcasting since 1994 the programme “Encyclopedia of the law”, as well as transmitting a summary of the *Official Gazette* — in both Cantonese and Mandarin — highlighting the most important laws published during that week. Children’s rights are constantly in focus on the “Encyclopedia of the law”, with themes such as adoption, criminal responsibility, smoking and pornographic material, the right to education and minor’s capacity.

14. The Chinese channel of Macao Television Broadcasting every Tuesday shows a programme entitled “Questions and Answers”, in which issues on justice are submitted to the lawyers in the studio, specifically on themes related to childhood and youth. Educational Television of Macao transmits three times a week a programme in which a lawyer and a scholar, both from the Judicial Affairs Department, talk about numerous legal subjects in a comprehensible style. Within this field, it is appropriate to refer to a series of four programmes dedicated to the Convention, broadcast between April and May 1999.

15. As soon as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural

Rights were extended to Macao, as of 27 April 1993, the Legal Information Division started publishing a bilingual brochure in Chinese and Portuguese, entitled: “Basic rights applicable in Macao”. Along the same lines, it also published brochures in Chinese on the following: “Rights, laws and guarantees”, “Residence in Macao”, “Workers rights” and “The social security system”.

16. Lastly, worth mention is the existence in MSAR of a commission composed of representatives from several public services and social and youth organizations that annually prepare the celebration of International Children’s Day. Amongst other things, the commemorative activities consist of shows, competitions, seminars and visits to MSAR’s government bodies, and are essentially directed towards children and youth. The underlying objective of the commemorations is to create awareness of children’s rights amongst the population.

II. DEFINITION OF THE CHILD

17. According to article 1 of the Convention, a child is any human being below the age of 18, unless, under the law applicable to the child, majority is attained earlier. This corresponds to the status of minority for civil purposes in MSAR’s legal order: minors are all persons who have not attained the age 18 (article 111 of the Macao Civil Code).

Medical and legal counselling without parental consent

18. There is no specific law governing the right of a child to consult a doctor or a lawyer without parental consent. Nevertheless, within certain limits, that right may result from some legal provisions. Firstly, parents have

the duty to allow their children a certain degree of autonomy in running their own lives, depending on their level of maturity. An exception to the power of parents to represent their children is made in the case of “pure personal acts”. Thus, it appears that children are legally entitled to consult a doctor or a lawyer when health or legal problems compatible with their age and maturity arise, provided that such problems are not especially serious and do not involve major costs (arts. 1733 (2) and 1736 (1) of the Civil Code).

Medical treatment or surgery without parental consent

19. In the field of health, the law states that any medical act can only be carried out if the person concerned freely gives his/her informed consent. In cases of surgical intervention, consent shall be given in writing. Whenever in the terms of the law the minor is incapable of consenting to a surgical intervention, it cannot be performed without the authorization of the minor’s legal representative. If the latter for any reason cannot grant that authorization, the court shall render the appropriate decision. For that purpose, the law requires the court to take into account the opinion of the minor, in accordance with his/her age and level of maturity (arts. 5 (1) (3) and 6 (2) of Decree-Law 111/99/M).

20. The donation of organs and tissues of human origin by a minor is also subject to the authorization of the minor’s legal representative. Yet, it also depends on the non-opposition of the minor or, if the minor has capacity of understanding and free will, on his/her expressed consent (article 7 of Law 2/96/M).

21. Relating to mental health, Decree-Law 31/99/M states that a minor over the age of 14 years can: (a) decide to receive or refuse the

diagnostic and therapeutic interventions proposed; (b) not be subjected to electroconvulsive therapy without his/her prior written consent; and (c) accept or refuse taking part in research, clinical experiments or academic training programmes. The legal representatives exercise these rights when the patient is a minor under the age of 14 years.

22. On the subject of abortion, a pregnant girl aged 16 years and over has the right to consent to her own abortion, in cases where abortion is permitted by law (Decree-Law 59/95/M).

Compulsory education

23. All children aged between 5 and 15 years old are legally required to attend school. (Further details on compulsory education are given in paragraphs 368 to 370 below, in connection with article 28 of the Convention).

Admission to employment or work, including hazardous work, part-time and full-time work

24. The minimum age for admission to employment or work in the public service is 18 years old and in the private sector is 16 years old. Under the condition that the minor's required physical capacity for the exercise of a particular work has been previously attested, the law exceptionally allows the employment in the private sector of persons aged under 16 but not younger than 14 years old (article 11 of Decree-Law 87/89/M and arts. 39 and 42 of Decree-Law 24/89/M). (Further details are given in paragraphs 489 to 494 below, in connection with article 32 of the Convention).

Marriage

25. The minimum legal age for marriage for both sexes is 16 years of age. Yet, if the person is aged between 16 and 18, the law requires the parents or the guardian to give their consent to the marriage. Nevertheless, if there are convincing reasons that justify the celebration of marriage and the minors have sufficient physical and mental maturity, at their request the court can grant the necessary authorization (arts. 1479 (a) and 1487 of the Civil Code).

Sexual consent

26. The minimum age of consent for sexual acts is 16 years, both for heterosexual and homosexual acts (articles 168 and 169 of the Macao Criminal Code).

Voluntary enlistment in the armed forces

27. There is no conscription into the armed forces in MSAR. The Central People's Government of the People's Republic of China is responsible for the defence of MSAR (article 14 of the Basic Law).

Criminal responsibility

28. The age of criminal responsibility is 16 years (article 18 of the Criminal Code). (Further details are given in chapter VIII, section B, which deals with children involved with the system of administration of juvenile justice).

Deprivation of liberty, including by arrest, detention and imprisonment

29. Starting from the age of 16, a young person may be subject to punishment by imprisonment or any other kind of deprivation of liberty penalty. Young offenders between 12 and 16 years old may be deprived of liberty if, according to their educational needs, the court decides that they have to be placed at an educational establishment (articles 6 (1) and 35 of Decree-Law 65/99/M). (These issues will also be further detailed in chapter VIII, section B, which deals with children involved with the system of administration of juvenile justice).

Capital punishment and life imprisonment

30. The Criminal Code forbids the death penalty and imprisonment for life, or for an unlimited or unspecified period of time. Additionally, the penalty of imprisonment can never exceed a duration of 30 years (arts. 39 (1) and 41 (2) (3)).

Giving testimony in court, in civil and criminal cases

31. There is no age limit for children testifying in court. Under MSAR's law, any person who is not under judicial restraint on mental grounds can give testimony. A person cannot refuse to testify, unless otherwise specifically determined by law (article 517 of the Macao Civil Procedure Code and article 118 (1) of the Macao Criminal Procedure Code). Such is the case of descendants who can refuse to testify as witnesses in civil proceedings involving their ancestors and vice versa. The judge must draw attention to this right of refusal (articles 519 (1) (a) and (2) of the Civil Procedure Code).

32. With reference to the criminal proceedings, there are special rules concerning the questioning of children below the age of 16 years. Solely the judge presiding at the trial carries out the hearing. At the end of the hearing, the Procurator (who in MSAR acts as the public prosecution) and the lawyers can request for the judge to pose additional questions to the witnesses. Evidence of a child under 16 years of age shall be given unsworn (articles 81 and 330 of the Criminal Procedure Code).

Lodging complaints and seeking redress before a court or other relevant authority without parental consent

33. In accordance with article 44 of the Civil Procedure Code, a minor can only face trial through his/her legal representative, with the exception of acts within his/her legal capacity. Whenever parental authority is exercised jointly by both parents, the institution of civil actions in the interest of the minor requires the agreement of both of them.

34. It should be noted, however, that in some cases the minor has the necessary *locus standi* to institute legal proceedings. For example, the minor can plead to the court in order to obtain social protection or maintenance, and or the alteration of a previous decision relating to maintenance (article 79 (1) and 107 of Decree-Law 65/99/M). As already mentioned in paragraph 25, minors aged 16 to 18 can request a court authorization in order to get married.

Participating in administrative and judicial proceedings affecting the child

35. There are several provisions within the Civil Code ensuring that the minor is heard in court.

36. For instance, when parental authority is exercised jointly by both parents, yet they disagree on some issue of particular importance, either of them can appeal to the court, which will attempt to reach conciliation. If an agreement is not reached, the court will hear the child over 12 years of age involved in the case, except when important circumstances advise against it (article 1756 (2) of the Civil Code).

37. The court, before appointing a guardian, shall also hear the minor who has reached 12 years of age (article 1787 (2) of the Civil Code).

38. In the proceedings for adoption, the judge must hear the adoptee over the age of 7 and under the age of 12 years, as well as the children of the adopter and the adoptee, if over the age of 12 years. Exception is made if these are deprived of the use of their mental capacities or for any other reason there are serious difficulties in having them heard (article 1836 of the Civil Code).

39. Within the system of juvenile justice, which comprises the social protection regime and the educational regime, there are specific rules concerning the hearing of minors. In fact, under those regimes a minor who has attained the age of 12 must always be heard whenever the application of appropriate measures is considered.

Legal capacity to inherit, to conduct property transactions

40. Private property and inheritance rights are specifically guaranteed by the Basic Law (arts. 6 and 103).

41. Regarding the succession to estates of deceased persons, MSAR's law establishes that all persons born or conceived at the time of the deceased's death have the capacity to inherit. The descendants of the deceased, regardless of being marital or non-marital children, are legal

heirs. They respectively make up, together with the surviving spouse or, as may be the case, alone, the first category of legal heirs (articles 1873 et seq. of the Civil Code).

42. A minor over 16 years of age has legal capacity to administrate assets acquired through his/her work. Moreover, the law recognizes as having legal efficacy the minor's acts regarding his/her current life to the extent of his/her natural capacity and provided that only petty expenses or small assets are involved. Acts related to the profession, trade or service that the minor was authorized to practise by his/her legal representative or practised within that trade, profession or service are also valid under the law (article 116 (1) of the Civil Code).

Choosing a religion or attending religious school teaching

43. MSAR's Basic Law ensures the freedoms of religion and education (articles 25, 34, 37 and 128 of the Basic Law).

44. Parents have total liberty to choose their children's schools, other than those established by public authorities. They can object to their children being forced to receive teachings that are not in accordance with their own religious beliefs (article 15 (3) of Law 6/94/M).

45. Nevertheless, the parents' power/duty to determine the religious education of their children in conformity with their own convictions ceases when the minors attain the age of 16. Thus, minors aged between 16 and 18 have the right to freedom of religion and belief (article 1740 of the Civil Code).

Purchase of controlled substances

46. In MSAR it is prohibited to sell or offer, for the purposes of

promotion, publicity or commercial information, tobacco to minors. The presentation of an identification document before the act of purchase may be required whenever there are doubts concerning the age of the buyer; the refusal to present the identification document leads to the presumption of the minority of the buyer. In the areas where tobacco is sold, the correct warning signs should be posted, indicating that the sale or offer of tobacco to minors under 18 years of age is prohibited (article 1-A of Law 21/96/M, as modified by Law 10/97/M).

47. Regarding the premises where smoking is prohibited, local legislation states that it is forbidden to smoke in areas exclusively destined for minors under 18 years of age, notably in childcare establishments, recreational centres, holiday camps and other similar places. It is equally forbidden to smoke inside basic, secondary, technical-professional and higher education schools, except in the respective cafeterias or similar areas of the two latter (article 4 (1) (b) and (c) of the same law).

48. Decree-Law 34/99/M, which regulates the trade and lawful use of narcotic drugs and psychotropic substances, prohibits the sale to minors of substances and concoctions in accordance with its annexed tables I and IV². If the minor has no one to represent him/her, these substances should be delivered to the person who is in charge of him/her or has the responsibility for his/her education or care. The violation of this provision is sanctioned with a fine of MOP\$20,000 to 50,000 (arts. 41 (1) (2) and 67 (1)).

² These table are in conformity with the World Health Regulations and international treaties on drug substances.

III. GENERAL PRINCIPLES

A. Non-discrimination (art. 2)

49. Articles 25 of the Basic Law states that “all Macao residents shall be equal before the law, and shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions”.

50. Fundamental rights, established in the Basic Law, including the non-discrimination right, can only be subject to limitations in cases provided by law. In fact, article 40 of the Basic Law, reaffirming the application of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the international labour conventions in MSAR, stipulates that any restriction to the rights and freedoms of MSAR’s residents has to be prescribed by law and that such a restriction shall not contravene the aforesaid treaties.

51. The non-discrimination right is embedded in the whole of MSAR’s legal system. Several laws expressly reinforce this right in a positive way as well as by means of repression of discrimination conducts or actions.

52. For instance, the Law on Protection of Human Rights and Human Dignity, which concerns biological and medical applications, establishes that any form of discrimination against a person in virtue of their genetic ancestry is prohibited (article 10 of Decree-Law 111/99/M). Another example is the Law on Freedom of Religion and Cult, which stipulates that no one can be harmed, persecuted, deprived of rights or

exempt from responsibilities or civic duties for not professing any religion, or due to their convictions or religious practices (article 2 (3) of Law 5/98/M).

53. Furthermore, criminal law severely punishes the practice of acts carried out for discriminatory reasons. Hence, racial discrimination constitutes a specific and serious crime in MSAR, punishable with imprisonment from six months to eight years. The crime of homicide is aggravated when motivated by racial, religious or political hatred (articles 129 (1) (a) and 233 of the Criminal Code).

54. As far as children are concerned, in MSAR there is no discrimination between different groups of children, neither between adults and children. Even though all human beings are equal before the law, it is considered that children have particular needs. Therefore, differences of treatment on laws regarding children are solely on the necessity of guaranteeing their protection.

B. Best interests of the child (art. 3)

55. Several provisions of the Civil Code specifically state that certain decisions concerning the child must take into consideration the “best interests of the child”. For instance:

— If the parents disagree on the choice of the child’s name, the decision will be taken by a judge, who must decide in accordance with the child’s interests (art. 1730 (2));

— In cases of divorce, de facto separation or annulment of the marriage, the agreement of the parents in reference to the future of the child, to his/her maintenance and the way in which this is to be provided will not be approved by the court if it is not in the interest of the minor,

namely the interest of maintaining a personal and direct relationship with the non-custodial parent, should there be no agreement, the court shall decide in consistence with the interests of the minor (art. 1760); and

— In adoption, it can only be decreed if, amongst other circumstances established in the law, it presents genuine advantages for the adoptee (art. 1826).

C. The right to life, survival and development (art. 6)

56. The right to life enjoys absolute protection in MSAR's legal system. Article 70 of the Civil Code states that all persons have the right to life. Such a right cannot be renounced or waived and is not subject to any legal or voluntary limitation. The death penalty is prohibited.

57. The protection of the right to life begins with the protection of intra-uterine life; however, abortion is not punishable except within circumstances determined by law.

58. The right to survival and development will be dealt with under chapter VI, section B.

D. Respect for the views of the child (art. 12)

59. MSAR law recognizes a minor's right to be heard on important matters relating to his/her life. Whether within the family or at school, it is considered relevant to hear the child and the young, since the authoritarian concept of family relationships does not favour responsibility nor autonomy.

60. The views of the child should be given due weight according to the age and the maturity of the child in all family matters. In fact, even

though the child is subject to parental authority until full legal age or emancipation, parents must take into account the child's opinions on important family matters and grant the child autonomy when organizing his/her life (articles 1732 and 1733 (2) of the Civil Code).

61. This right is reflected in several provisions of the Civil Code, namely when conflicts over the exercise of parental authority arise or within proceedings to appoint a guardian and to adopt a child (arts. 1756, 1787 and 1836). There are also other examples demonstrating how the greatest possible degree of autonomy must be given to children while running their lives. For instance, young people over 16 years of age are entitled to administer property that they acquired as a result of their work (art. 1743 (1) (d)), to decide on their religious education (art. 1740), and to recognize without authorization from their parents or guardians a child born out of wedlock (art. 1705 (2)).

62. It should also be noted that minors are entitled to seek judicial protection against abuse of authority either within the family or by the guardian or in the institutions where they are placed. The minor who has reached 12 years old of age is always heard by the judge before the application of any general measure under the social protection regime (articles 67 (1) (b) and 82 of Decree-Law 65/99/M).

63. As already noted above, under the education regime applicable to minors between the ages of 12 and 16 years who have committed an act established by law as a crime, misdemeanour or administrative offence, the hearing of the minor must take place. Furthermore, that hearing has to be carried out by the judge and is a compulsory element of evidence in the investigation phase of such proceedings. In addition, if commitment measures are applied to the minor, he/she is entitled to lodge complaints

or to make statements (article 80 and 81 of Decree-Law 40/94/M applicable by virtue of article 45 (m) of Decree-Law 65/99/M).

64. Lastly, it should be highlighted that the Government of MSAR is preoccupied with promoting the right of young people to participate in taking their own decisions. As such, the attitude adopted is one that fosters the monitoring by the young of government policies, through the Youth Council.

IV. CIVIL RIGHTS AND FREEDOMS

A. Name and nationality (art. 7)

Right to a name

65. The right to a name, which includes the right to personal identity and personality, is enshrined in MSAR's civil law (article 82 (1) of the Civil Code).

66. Identity is protected in two ways. On the one hand, every person is entitled to use a name and to impose on others the obligation to address him/her by that name. Both the omission of the name of a person and the address by a different name are regarded as illegal. On the other hand, each person is safeguarded from the use of his/her name by a third party.

67. Articles 1730 and 1731 of the Civil Code discuss the issue of surnames, stating that the minor may use the surnames of his/her father and mother or of only one of them. The choice of a name and surname lies with the parents. In case of disagreement, the judge shall rule in accordance with the child's best interests. When paternity is not established, the minor may take the surnames of the husband of the mother should either party declare before the registrar that this is their wish.

68. The Macao Civil Registration Code stipulates, in its article 1, that all births taking place in MSAR are subject to registration. Births must be reported orally within 30 days at MSAR's birth registration office. Furthermore, hospitals have the obligation to report all births that have occurred in the previous week. If the birth is not registered within the appointed time limits, the registrar is compelled to inform MSAR Procuratorate which, having gathered the necessary information, shall request the judge to order a compulsory registration (arts. 76 and 78).

69. Abandoned children, or, newborns whose parents are not known and have been discovered abandoned anywhere in MSAR, must also have their births registered. In this case, the registrar shall give the abandoned child a complete name composed of a maximum of three commonly used names, without drawing attention to his/her status as an abandoned child (articles 85 and 88 of the Civil Registration Code).

Right to a nationality

70. In accordance with the provisions of article 18 of the Basic Law and of its annex III, the Nationality Law of the People's Republic of China is applicable in MSAR (published in MSAR's *Official Gazette* by notice of the Chief Executive 4/1999, of 20 December 1999).

71. Considering the specific MSAR situation, the Standing Committee of the National People's Congress of the People's Republic of China adopted on 29 December 1998 the "Interpretation on some questions concerning implementation of the Nationality Law of the People's Republic of China in the Macao Special Administrative Region".

72. Under the terms of point 1, paragraph 2 of the "Interpretation", residents of MSAR of Chinese and Portuguese origins can voluntarily

choose the nationality of the People's Republic of China and the nationality of the Portuguese Republic. Whoever chooses one of these nationalities is not allowed to keep the other. Before choosing from one of these nationalities, these residents of MSAR enjoy the rights foreseen by the Basic Law of MSAR, except for rights that are conditional on the holding of a certain nationality.

73. In either case, the Chinese citizens of Macao who hold Portuguese travel documents can continue to use them for travelling purposes when passing through other countries or regions after the establishment of MSAR, but are not allowed to enjoy Portuguese consular protection in MSAR and in other regions of the People's Republic of China by reason of holding such documents.

74. Any person born in China (including Macao) or abroad whose parents, or one of them, are Chinese nationals, has Chinese nationality. Nevertheless, a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth does not have Chinese nationality (articles 4 and 5 of the Nationality Law).

75. Foreigners and stateless persons, who are permanent residents of MSAR, may acquire Chinese nationality through means of naturalization. Petitions relative to nationality can include the minor children of the petitioner (articles 4 (1) and 3 (3) of Law 7/1999, of 20 December).

Right to know his or her parents

76. Regarding the right to know one's origins, it should be pointed out that the birth certificate must bear the names of the mother and father alike (article 81 (1) (e) of the Civil Registration Code).

77. The person declaring the birth must identify, if possible, the mother of the child. If the mother is not named on the birth certificate, the court will conduct an informal inquiry. Maternity may also be established by means of proceedings especially instituted by the child for that purpose (articles 1658, 1667 and 1673 of the Civil Code and article 89 of the Civil Registration Code).

78. There is a presumption that the father of a child born or conceived in wedlock is the husband of the mother, although this presumption may be set aside. The presumed paternity is obligatorily mentioned in the child's birth certificate (articles 1685 and 1694 of the Civil Code and article 95 of the Civil Registration Code).

79. In the case of a child born or conceived out of wedlock, paternity can be established if the father recognizes the child as his own or by an appropriate judicial decision (articles 1657 (2) and 1701 of the Civil Code and article 97 of the Civil Registration Code).

80. It should be noted that there is an official inquiry as to the paternity of the child whenever the birth certificate of the minor only mentions maternity (articles 1716 et seq. of the Civil Code and article 98 of Civil Registration Code).

B. Preservation of identity (art. 8)

81. With regard to the change of a name, the Civil Registration Code, in article 83, establishes that such an alteration is subject to authorization by the Chief Executive, except in some cases where changes are recorded in the registrar through verbal request by the interested party (for example, in the cases establishing parent-child relationships, adoption and marriage).

82. In the case of adoption, the first name of the adopted child is maintained but he/she is given a new surname composed of the surnames of their adopters. However, the court can, at the request of the adopter and whenever it is justified, modify the first name of the adopted child, if the modification safeguards his/her legitimate interests, namely the right of personal identity, and favours the integration in the new family (article 1840 of the Civil Code).

83. Even though the adoption proceedings are and remain secret, identifying information can be disclosed solely upon a court order if there are strong reasons for it and at the request of legally concerned persons, on the grounds and to extent decided by the court.

C. Freedom of expression (art. 13)

84. The fundamental rights of freedom of opinion and of expression are fully guaranteed under MSAR's Basic Law, which not only specifically establishes in its article 27 these rights, but also ensures its existence by virtue of its article 40.

D. Freedom of thought, conscience and religion (art. 14)

85. The Basic Law also ensures the freedoms of conscience and religious belief as well as the freedoms to preach and to conduct and participate in religious activities in public (art. 34).

86. Consistent with the right of freedom of religion, article 128 of the Basic Law states that the Government of MSAR shall not interfere in the internal affairs of religious organizations, nor in their efforts and those of their believers in Macao to maintain and develop relations with

their counterparts outside Macao, or restrict religious activities that do not contravene the laws of the region.

87. Furthermore, article 128 determines that religious organizations may, in accordance with the law, run seminaries and other schools, hospitals and welfare institutions and provide other social services. Schools run by religious organizations may continue to provide religious education.

88. Law 5/98/M, of 3 August, regulates freedom of religious belief and worship and of profession of faith. This law recognizes 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 shall be the object of prejudice, persecution, or be deprived of his/her rights, exempted from obligations or civic duties for not professing a religious faith, or because of his/her religious beliefs or practices, except for the right to conscientious objection, under the terms of the law.

89. According to the same law, 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, its article 3 (3) states that MSAR “does not interfere in the organization of religious faiths or the exercise of their activities and worship and does not make any comments on religious issues”. Article 4 affirms the principle of equality of religions before the law.

90. Article 5 of the law mentioned above proclaims adequately the content of freedom of religion, describing the rights therein contained, to follow or not to follow a religion, to convert or to renounce one’s beliefs, to fulfil or disregard the obligations of the espoused religion, to

express personal convictions, display these convictions, separately or together, in private or in public, to spread by any means the doctrine of the religion they follow, practising the worship and rites pertaining to the religion espoused.

91. The freedom to learn or to teach any religion in educational establishments is also protected under article 10 of Law 5/98/M. The teaching of any religion and its moral doctrine is carried out in institutions that have the capability for such, without harming their pedagogic autonomy and the students whose parents or whoever is exercising the parental authority so request. This right can be exercised by students aged 16 years old or above. Enrolment at schools managed by religious organizations implies acceptance of an education in their religion and doctrine.

92. Law 11/91/M, establishing the general framework for MSAR's education system, enshrines the right of all residents to education regardless of race, belief and political or ideological convictions.

93. Criminal law protects the principle of freedom of religion and cult, punishing those who offend religious feelings, as well as the damage or theft of religious cult objects (article 198 (1) (c), 207 (1) (e) and 282 of the Criminal Code).

94. The guarantee of freedom of conscience and religion is further illustrated by the public holidays calendar applicable in MSAR, which reflects the sociological and cultural variety that is typical of the region. Thus, public holidays include the days commemorating: Universal Brotherhood, the death of Christ (Easter), Buddha's Day, the Commemoration of Ancestors (Chong Yeong), the Immaculate Conception and Christmas.

95. The MSAR public hospital has two mortuary chapels, for the celebration of Christian and Buddhist rites, respectively. Appropriate religious facilities are available even to prisoners, as are visits by the corresponding clergy.

96. Finally, not only are there no restriction in MSAR on freedom of intellectual, artistic and scientific expression, but the law also protects authors, both residents and others, since in the latter case there is material reciprocity (article 37 of the Basic Law and article 50 (1) (2) of Decree-Law 43/99/M, of 16 August).

E. Freedom of association and peaceful assembly (art. 15)

97. Rights of association, meeting, procession and demonstration as well as the right and liberty to organize and take part in associations and strikes are guaranteed by article 27 of the Basic Law.

Right of association

98. The right of association is regulated under Law 2/99/M, and articles 140 et seq. of the Civil Code.

99. Any group of persons may form an association without the need for an authorization, provided that their objective is neither the promotion of violence, nor the infringement of criminal law, nor contrary to public order. Quasi-military armed associations, militarized or paramilitary ones, and racist associations are prohibited under article 2 of Law 2/99/M.

100. Another aspect of the right of association is that nobody can be coerced into joining an association or remain in it against his/her free will. Anyone who coerces someone else under these terms is

criminally responsible (article 4 of Law 2/99/M).

101. Young people's associations are very popular in the MSAR. They promote friendly contacts and community spirit coupled with a mutual assistance between its members, by way of several cultural and sporting activities. Young people's associations also foster the involvement of its members in different civil activities, exploring the creativity of the young and training their leadership skills, providing them with a sense of belonging, vocation and identification with the society.

Table 1

Activities of young people's associations (number of participants)

Activity	1998/99	1999/2000	2000/01
Training activities	318	557	506
Competitions	655	517	388
Meetings/discussions	1,050	905	335
Exchanges	523	88	105
Exhibitions	2,750	4,000	- ^a
Inquiries and studies ^b	1,668	2,791	1,678
Youth Prize for Social Services	403	481	494
Youth festivals	2,350	1,230	3,598
Other activities	85	-	370
Total	11,652	10,569	7,474

Source: "Education and training in numbers", 2000/2001, Education and Youth Department

^a There were no activities in this school year

^b Organized by the Education and Youth Department and the Macao Sports Development Board

102. Young people's associations intervene as social partners of the Government of MSAR, participating in the definition and execution of youth policies when represented in the appropriate bodies (article 13 (2) of Law 6/94/M).

103. The Youth Council, created at the end of 1988, is composed by (and in addition to persons nominated by the Chief Executive) the

presidents of 12 associations or organizations linked to education or youth affairs.

104. The purpose of the Youth Council is to support the Chief Executive in the making of policies for the young and to ensure the active involvement of young people's organizations in the coordination of programmes, measures and actions promoted and carried out by the Government. To date, within this Council, there has been debated, amongst other matters, the economic and social situation of the young in MSAR, the role of young people's associations, the issue of the young looking for their first jobs and juvenile crime.

Right to meet and demonstrate

105. Law 2/93/M, as amended by Law 7/96/M, regulates the right of meetings and demonstrations. This law, in its article 1, states that MSAR's residents "shall have the right to meet peacefully and without arms, in public spaces, places open to the public or in private, without requiring any authorization" and also that MSAR's residents are entitled to demonstrate.

106. Only meetings or demonstrations for purposes contrary to the law are prohibited, though in all cases the right to criticize is safeguarded. The exercise of these rights may only be restricted, limited or placed under conditions in the cases provided by law.

107. The most remarkable feature and a true touchstone of the rationale behind these regulations lies in the establishment of a legal regime that assigns the exercise of the rights to meet and demonstrate with no need for prior authorization, stating that it is enough to indicate in advance the intention to meet or demonstrate.

108. Meetings or demonstrations may not be carried out through illegal occupation of public premises, open to the public or to individuals. There are also time restrictions, since meetings or demonstrations are not allowed between 00.30 a.m. and 7.30 a.m., except in closed premises, show halls, uninhabited buildings or, where there are occupants, after having obtained their written consent.

109. Police authorities can interrupt the course of meetings or demonstrations only when organizers have been informed through the official channels that they have not been authorized to hold these gatherings, because their aim is contrary to the law or when they fail to stay within the law and cause a serious disturbance to public security or the free exercise of individual rights.

110. Counter-demonstrations are not prohibited, but police authorities should take necessary precautions to permit meetings and demonstrations to proceed without interference from counter-demonstrations, which could disturb the free exercise of the participants' rights.

111. Counter-demonstrators who interfere with meetings or demonstrations, preventing them from proceeding freely, shall be subject to the sanctions provided for the crime of coercion. Persons carrying arms in meetings or demonstrations, and persons holding meetings and demonstrations that are against the law shall be subject to the penalty provided for the crime of qualified disobedience, regardless of other sanctions to which their actions may give rise. Any authority who oversteps the legal conditions and prevents or attempts to prevent the free exercise of the right to meet or demonstrate shall be subject to the punishment provided for the crime of abuse of authority and to

disciplinary proceedings.

F. Protection of privacy (art. 16)

112. The Basic Law guarantees the right of all MSAR's resident to their private and family life (art. 30 (2)).

113. The right to privacy is also recognized by the Civil Code. In accordance with article 74 of the Civil Code, no person shall disclose the private life of others. The extent of the right to privacy depends on the situation and status of the individual.

114. The Framework Law on Family Policy equally recognizes the right to private family life, with respect to initiative, organization and autonomy of families and their communities (article 6 of Law 6/94/M).

115. The Criminal Code establishes penalties for certain acts that adversely affect the right to privacy, such as the disclosure of information relating to the intimacy of private life (art. 186), violation of privacy by computer devices (art. 187), breach of secrecy (art. 189) and unlawful records and photographs (art. 191). Besides, evidence obtained by means of wrongful interference in private life without the consent of the concerned person is void (article 133 (3) of the Criminal Procedure Code).

116. In order to ensure that the child's right to privacy is respected, procedures and proceedings within the educational and social protection regimes are secret. Breach of the secrecy is a crime of violation of judicial secrecy. Furthermore, the hearing of the minor takes place in the judge's chambers; aside from the Procurator, only those that the judge considers as suitable can assist the hearing. If commitment or entrustment measures are to be applied, a court hearing will take place. Such hearings are held in camera and are open only to persons expressly authorized by the court

to attend (articles 18, 20, 29, 35 and 77 (1) of Decree-Law 65/99/M).

117. In regard to the inviolability of the home, it must be emphasized that article 31 of the Basic Law states that “the homes and other premises of Macao residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident’s home or other premises shall be prohibited”.

118. The Criminal Code punishes by imprisonment of up to one year anyone who enters and remains in the home of another person against the will of the owner. In certain circumstances this penalty of imprisonment may be aggravated up to three years (art. 184).

119. All searches must be ordered by the court in the circumstances and manner prescribed by law (articles 161 and 162 of the Criminal Procedure Code).

120. Evidence obtained by means of wrongful interference in the home without the consent of the concerned person is void (article 113 (3) of the Criminal Procedure Code).

121. Concerning the inviolability of correspondence, article 32 of the Basic Law stipulates that “the freedom and privacy of communication of Macao residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with the provisions of the law to meet the needs of public security or of investigation into criminal offences”.

122. Both the violation of correspondence and telecommunications and the breach of secrecy of correspondence and telecommunications committed by mail, telegraph, telephone or telecommunications employees are considered as crimes (articles 188 and 349 of the Criminal Code).

123. The seizure of correspondence and recordings of telephone conversations or communications are subject to specific legal requirements and only the court can order or authorize it. Evidence obtained by means of wrongful interference in correspondence or telecommunications without consent of the concerned person is void (articles 113 (3), 164 and 172 of the Criminal Procedure Code).

124. The inviolability of correspondence is also safeguarded in articles 75 and 76 of the Civil Code concerning the duty of non-disclosure of confidential letters, personal and family memorabilia or other confidential written material. Even in the case of a non-confidential letter, the receiver may only make use of such a letter in the manner in which the writer intended it to be used (article 77 of the Civil Code).

125. Imprisoned minors of 16 years of age and over have the right to receive and mail correspondence. The director of the prison can forbid the correspondence of prisoners with specific persons should this threaten the security and order of the institution, or if the correspondence has a harmful effect on the prisoners or renders their social reintegration difficult (article 30 of Decree-Law 40/94/M).

126. Correspondence written or mailed to the prisoner is subject to inspection and censorship. The director of the prison can authorize the retaining of any correspondence that endangers the security or order of the institution, or could have a harmful influence on the recipient. The prisoner is always informed of any confiscated correspondence (article 31 of Decree-Law 40/94/M).

127. These provisions of Decree-Law 40/94/M are also applicable to minors aged between 12 and 16 years, who have committed an act established by the law as a crime, misdemeanour or administrative offence,

and on whom were applied commitment measures within the educational regime (article 45 (d) of Decree-Law 65/99/M).

128. On the other hand, it is worth stressing that article 88 (1) of Decree-Law 65/99/M establishes the right to the inviolability of correspondence of minors who are entrusted to institutions within the social protection regime.

129. As to the right to honour and reputation, article 30 of the Basic Law recognizes the right of MSAR's residents to their good name and reputation, stating that "*humiliation, slander and false accusation against residents in any form shall be prohibited*".

130. Anyone who infringes the right to honour and reputation is liable to punishment under the Criminal Code for the crimes of libel, slander and calumny (arts. 174, 175 and 177). Victims may obtain compensation for moral and/or material damages suffered.

131. The Civil Code also safeguards this right, stating that all persons have the right to protect themselves against accusations or offensive judgements of their honour and respect, good name and reputation, credibility and decorum. The right to honour cannot be renounced or waived (art. 73).

G. Access to appropriate information (art. 17)

132. The freedom of the press and of publication benefit from special protection by virtue of article 27 of the Basic Law.

133. Law 8/89/M, establishing the legal framework for television and radio broadcasting, considers that the aim of broadcasting is, amongst others: (a) to contribute to information, promotion of social and cultural progress and civic and social conscience of residents; (b) to promote the

dissemination of educational or training programmes; and (c) to contribute by way of balanced programming towards information, recreation and the promotion of the public's education and culture, taking into consideration their diversity of ages, occupation, interests and origins.

134. Television and radio broadcasting is carried out in an independent and autonomous manner as far as programming is concerned, and no public or private body can prevent or enforce the broadcasting of programmes.

135. There are, however, certain limits to this freedom. It is prohibited to broadcast any programmes that: violate rights, freedoms and fundamental guarantees; incite the practice of crimes or promote intolerance, violence or hatred; or are considered by law as pornographic or obscene. Also, it is mandatory to include in the general programming news on local, Portuguese, Chinese and international current information, as well as programmes of a cultural and sports nature.

136. With reference to cable television, it is important to note that for the broadcasting of programmes or audio-visual segments with adult content, it is compulsory that the viewing channel not be directly accessible, through the use of electronic decoders or other equipment that obstruct viewing or listening.

137. To contribute efficiently to the expansion and intensification of education for the masses, namely within the fields of education and civic formation, a special project called the "Educational Television of Macao" was created within the Polytechnic Institute, specially conceived to teach the MSAR's official languages and to broadcast civic educational programmes (Order 2/GM/95).

138. MSAR's law also contains special provisions aimed at

protecting children in their access to information in general and to public events and entertainment.

139. Access by children to pornographic or obscene material is prohibited. Law 10/78/M forbids obscene billboard posting or display in public spaces, sales display or sale, exhibition, broadcasting or publicity of any forms of pornographic or obscene material, except in appropriate establishments that must be exclusively run for such purposes and duly authorized to that effect. Such establishments must be located at least 300 meters away from educational establishments, parks or kindergartens and they are not allowed to sell to minors under the age of 18, neither to employ them in such sales.

140. In the establishments of rental and sale of videos, “laser” discs and computer equipment, the packaging and display of material of a pornographic nature must take place in a duly protected and separate area from the other equipment (article 36 of Decree-Law 47/98/M).

141. Law 7/89/M which establishes the framework for advertising activity, contains specific rules on advertising addressed to minors. Advertising messages directed to children and the young should take into account their psychological vulnerability and should abstain specifically from: (a) containing and phrases, and (b) implicitly inculcating them with a sense of inferiority for not using or consuming the advertised good or service.

142. In addition, the use of minors in advertising is only permitted when there is a direct connection between them and the product or service being advertised. The publicity for alcoholic drinks and tobacco cannot make use of the presence of minors or incite children to consume them, and cannot be broadcast over the radio and television between 7 a.m.

and 9 p.m.

143. The Show Classification Committee, aiming at the pedagogical and educational formation of the population and the defence of public moral and customs, defines the age classification of entertainment events, according to the following levels: Group A, for all; Group B, not advisable to minors under 13 years of age; Group C, not advisable to minors under 18 years of age and forbidden to minors under 13 years of age; and Group D, forbidden to minors under 18 years of age (article 8 of Decree-Law 15/78/M).

144. Group D includes performances that carry a theme which advocates crime and the use of drugs, dignifies violence for its own sake, or exploits sexuality and perversion. Sports, circus and bullfighting events, if taking place in the morning or afternoon, are generally classified “for all” (Group A); however, boxing and professional fighting events, including martial arts films, are generally classified under Group C.

145. On the other hand, it is prohibited for minors under 18 years of age to attend public places where professional dancers perform, notably in nightclubs, discotheques and cabarets as well as saunas and massage establishments. Minors under 16 years of age are prohibited from entering establishments where billiards, bowling and karaoke take place (article 10 (3) of Decree-Law 15/78/M and articles 31, 33 and 35 of Decree-Law 47/98/M).

146. Finally, it must be stressed that numerous books and magazines suitable for children and young people are available in MSAR. There are various libraries, two of them itinerant, offering different services like thematic exhibitions and consultation. All of the libraries have access to computers that are connected to the Internet.

147. Other than this, the majority of primary and secondary schools have their own libraries. As soon as students enrol in primary school, they are encouraged to visit these libraries, so that they can learn to find, handle and take care of the available books.

H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))

148. MSAR's law forbids torture or inhuman treatment at all levels.

149. In fact, the prohibition stipulated in article 37 (a) of the Convention that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" corresponds to the guarantee laid down in article 28 of the Basic Law.

150. The International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are applicable to MSAR. As already mentioned, the death penalty cannot be imposed in any circumstances. Equally, there is no life imprisonment penalty.

151. Under the Criminal Code, torture or other cruel, inhuman or degrading treatment is an offence when carried out by a public official or someone who usurps that function by his/her own initiative or by a higher order. The crime covers any act by which severe pain or suffering, whether physical or psychological, is inflicted on a person, or through the application of chemical substances, drugs or the employment of any other means, for the purpose of disturbing the victim's free will or the victim's capacity of exercising that free will (arts. 234 to 238).

152. Punishments pertaining to the precedent paragraph go from

two to eight years of imprisonment. This penalty is increased by up to 3 to 15 years, if:

- a) The physical integrity of the victim is seriously affected;
- b) Torture methods of a particularly serious nature, namely beatings, electroshocks, simulation of execution or hallucination substances are applied; or
- c) The offender carries out these acts frequently.

The penalty is increased by up to 10 to 20 years if the offence results in suicide or death of the victim.

153. A hierarchical superior who, being aware that his/her subordinate has committed such a crime, does not denounce him/her within a maximum period of three days, shall be punished by imprisonment of one to three years.

154. The Criminal Code establishes additional penalties for those who commit these crimes, while aware of their seriousness and influence on the offender's civic character. The offender can be deprived of the right to elect or to be elected as a member of the Legislative Assembly for a period of 2 to 10 years.

155. The use of torture is also a serious circumstances that aggravates other crimes foreseen by the Criminal Code, such as the case of homicide and other serious offences against physical integrity of a person.

156. Punishment applicable to other types of crimes that threaten life or physical integrity are listed in table 2 below:

Table 2
Punishment for violent crimes

Type of crime	Penalty	Aggravated penalty
Homicide	From 10 to 20 years of imprisonment	-
Qualified homicide	From 15 to 25 years of imprisonment	-
Voluntary manslaughter	From 2 to 8 years of imprisonment	-
Infanticide	From 1 to 5 years of imprisonment	-
Manslaughter	Up to 3 years of imprisonment	Up to 5 years of imprisonment
Exposure or abandonment	From 1 to 5 years of imprisonment	From 2 to 5 years of imprisonment (if carried out by an ascendant, descendant, adopter or adoptee of the victim) From 2 to 8 years of imprisonment (if it causes a serious offence against the physical integrity of the victim) From 5 to 15 years of imprisonment (if it causes death)
Offence against inter-uterine life	From 2 to 8 years of imprisonment	The limits of penalties are aggravated by one third (if it causes a serious offence to physical integrity or the victim's death)
Abortion	Up to 3 years of imprisonment	
Serious offence against physical integrity	From 2 to 10 years of imprisonment	From 5 to 15 years of imprisonment (if it results in death)
Simple offence against physical integrity	Up to 3 years of imprisonment or a fine penalty	From 2 to 8 years of imprisonment (if it results in death)
Offence against physical integrity with negligence	Up to 2 years of imprisonment or a fine penalty	Up to 3 years of imprisonment or a fine penalty (if it causes a serious offence against physical integrity)
Partaking in a dispute	Up to 3 years of imprisonment or a fine penalty	
Ill-treatment or excessive loads on minors, the disabled or spouse of the offender	From 1 to 5 years of imprisonment	From 2 to 8 years of imprisonment (if there is a serious offence against physical integrity) From 5 to 15 years of imprisonment (if it causes death)

Type of crime	Penalty	Aggravated penalty
Threat	Up to 2 years of imprisonment or a fine penalty	Up to 3 years of imprisonment or a fine penalty (if threat consists of the infliction of another crime)
Coercion	Up to 3 years of imprisonment or a fine penalty	
Serious coercion	From 1 to 5 years of imprisonment	
Abduction	From 1 to 5 years of imprisonment	From 3 to 12 years of imprisonment (if there is a serious offence against physical integrity, torture or other cruel, inhuman or degrading treatment) From 5 to 15 years of imprisonment (if it causes death)
Slavery	From 10 to 20 years of imprisonment	
Kidnapping	From 3 to 10 years of imprisonment	From 5 to 15 years of imprisonment (if there is a serious offence against the physical integrity, torture or other cruel, inhuman or degrading treatment) From 10 to 20 years of imprisonment (if it causes death) The limits of penalties are aggravated by one third (if the victim is incapable of defence or is a minor under 16 years of age)
Genocide	From 15 to 25 years of imprisonment if there is homicide From 10 to 25 years of imprisonment in other cases	

157. It must be stressed that any evidence obtained through means of torture, force or in violation of the physical or moral integrity of the individual is void (article 113 (1) of the Criminal Procedure Code).

158. The Civil Code also establishes that all people have the right to their physical and psychological integrity (art. 71 (1)).

V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE

A. Parental guidance (art. 5)

159. The Civil Code defines parental authority. The exercise of parental authority is perceived simultaneously as a power and a duty. Article 1733 stipulates that parents are responsible, in the interest of their children, for their safety and health, to support them financially, to guide their education, to represent them, even before birth, and to manage their property. Nevertheless and as mentioned above, parents should consider their children's views in important family matters, according to their maturity, and should allow them to organize their lives independently.

160. Maternity and paternity constitute human and social values that the Government of MSAR should respect and safeguard. The Framework Law on Family Policy specifically stipulates that the Government shall guarantee the exercise of the parental authority rights and cooperate with its holders regarding the execution of their powers/duties relating to their children (article 7 of Law 6/94/M).

161. Thus, it is an obligation of the Government, in collaboration with the associations concerned with family interests, to promote the improvement of quality of life and the moral and material situation of families and their members. The Government supports those associations in view of fostering family educational activities, namely activities related to a responsible exercise of motherhood and fatherhood.

162. The Government of MSAR also promotes the creation of family support centres intended to help families in special situations. Aside from other activities, these centres should give special assistance to

single-parent and prisoners' families. These centres should also develop efficient mechanisms to deal with crisis situations provoked by any member of the family, namely those situations arising from marital separation or imminent family break-ups and violence, especially when children are involved.

163. The Bureau for Family Action was created in November 1998 as a subordinate body of the Department of Family and Community of the Social Welfare Institute. Its aim is to support families with problems or at risk with the help of a team of specialized technical staff (social workers, psychologists, nursery, teachers, legal advisers, etc.).

164. Family counselling is available directly or by way of a special hotline that receives an average of 13.5 calls per month. Information on legal issues is also provided, particularly on conditions and formalities for divorce, the exercise and regulation of parental authority, and matrimonial property regimes.

165. During 2001, this Bureau attended to 54 cases involving 200 users. The most common cases were related to the education of children, abuse of children, suicide and marital problems (domestic violence and sexual aggression within a marriage, amongst others).

B. Parental responsibilities (art. 18, paras. 1-2)

166. Article 18 (1) of the Convention confirms the principle that both parents are responsible for the upbringing and development of the child. This principle is also present in MSAR's legal order. In fact, article 1756 (1) of the Civil Code stipulates that within a marriage both parents exercise parental authority. The Framework Law on Family Policy reaffirms this principle when it states that child support and education are a parent's

responsibility other than their fundamental right and duty (article 7 (2) of Law 6/94/M).

167. Parental authority is usually exercised jointly and through common agreement. As already mentioned (in para. 36), if an agreement cannot be reached in matters of importance, any one of the parents can appeal to the court, which will try to reach reconciliation. If this is not possible, the court will hear the child over 12 years of age, except if specific circumstances advise against such a hearing (article 1756 (2) of the Civil Code).

168. In cases of divorce, de facto separation or annulment of a marriage, the future of the child, his/her upbringing and the way in which maintenance is to be provided are regulated by agreement of both parents, which is subject to court approval. Approval is denied if the agreement does not meet the interests of the minor. In the absence of an agreement, the court will decide consistently in the interests of the minor. The minor may be entrusted to either one of the parents or, in the event of danger to his/her personal security, health, moral upbringing and education, to a third party or establishment (article 1760 of the Civil Code).

169. Parental authority is exercised by the parent who has custody, while the parent who has no parental control shall have the power to check the education and living conditions of the child. When the child is entrusted to a third person or an institution, the duties and responsibilities of the parents shall be exercised by them.

170. The Civil Code has been, however, an innovator regarding this issue, by making the option of a joint exercise of parental authority available, thus allowing the parents to choose a system that does not exclude the responsibility of either one of them (art. 1761).

171. When one of the measures established in Decree-Law 65/99/M is applied to a minor aged between 12 and 16 years, the parents still exercise parental authority over all issues that are not incompatible with those measures. In case of doubt, it is the responsibility of the judge to define the limitations of the exercise of parental authority.

172. This applies equally within the social protection regime. If the measures of assistance to a minor under the care of a relative, a third person, a family or an institution are applied, a visiting system is established for his/her parents, unless this is considered exceptionally to be against the interest of the minor (article 76 of Decree-Law 65/99/M).

173. In order to help mothers and fathers exercise their responsibilities, the law establishes that working women have the right to a period of leave before and after giving birth, without loss of remuneration or any other right or benefit (article 7 (5) of Law 6/94/M).

174. Decree-Law 24/89/M, which governs work and employment in the private sector, states in article 37 (1) that “pregnant women who have been in employment for over one year, are entitled to thirty-five days’ maternity leave without loss of remuneration or employment”. Of these 35 days, 30 must be taken after the birth and the remaining 5 may be used either before or after the birth. Article 37 (3) provides for the possibility of the period of 35 days to be increased in exceptional cases. Article 35 (2) states that “during pregnancy and for three months following the birth, women should not engage in any tasks which could cause discomfort”.

175. The law governing public employment grants 90 days’ maternity leave. Of these days, 60 must be used immediately after the birth, while the remaining 30 may be used either before or after the birth. The period of 90 days may be increased in exceptional cases. It should also

be underlined that mothers are allowed to have special working hours in order to return home to breastfeed their children. This law not only protects motherhood but also fatherhood: when a child is born, the father is entitled to five days' leave. In the event the mother dies in the period following childbirth, the father is entitled to a leave of absence to take care of the child for a period equal to that to which the mother would have been entitled to, and lasting at least 20 days.

176. In the case of the adoption of a newborn, public employees are entitled to 30 days' leave. With respect to sick leave, one will be granted a leave of up to 15 days in order to take care of relatives (parents, spouse or children) each year.

C. Separation from parents (art. 9)

177. In MSAR's legal order, the right to respect family life is ensured in a broad manner. This right comprises, as already mentioned and other than the Government's assistance and support to the family to fully assume its responsibilities within the community, the respect for the privacy of family life and family union, including the non-interference therein. Family union is regarded not only as an aspect of parental duty but also as a child's right. Children shall, whenever possible, grow up in the care and under the responsibility of their parents.

178. The Framework Law on Family Policy stipulates that children cannot be separated from their parents, except when the parents do not carry out their fundamental duties, and always by way of a judicial decision (article 7 (4) of Law 6/94/M).

179. In cases of dissolution of marriage, children may be separated from their parents when parental authority is judicially entrusted to only

one of the parents. The parent who does not exercise parental authority assists in overseeing the education and living conditions of the child (article 1761 of the Civil Code).

180. The court may order that the minor be entrusted to a third person, a family, or an institution when the security, health, moral upbringing or education of that minor is endangered. The parents continue to exercise parental authority in all issues that are compatible with the entrustment. Parents still have the right to visit the child unless it is against the child's interests (articles 1772 and 1773 of the Civil Code and article 76 of Decree-Law 65/99/M).

181. A minor can also be separated from his/her parents if they have been prohibited from exercising parental authority. This includes those who have been convicted for a crime punishable with such a penalty, or those declared as mentally disabled by a court decision (article 1767 (a) and (b) of the Civil Code).

182. If any of the parents violates his/her duties towards the child or when any parent is not in a condition to fulfil those duties owing to inexperience, sickness, absence or other reasons, the court can prohibit the exercise of parental authority. The court's decision for the inhibition of the exercise of parental authority may only be revoked when the original causes for such cease to exist (articles 1769 (1) and 1770 of the Civil Code).

183. Another situation involving a child's separation from parents is when the mother or father is serving a prison sentence. If the mother is in a prison establishment, she is legally allowed to keep the children with her until they attain the age of 3, and as such will occupy a separate cell. Children will receive food, medical care and other forms of assistance. When children attain the age of 3, they are then removed from their

mothers. If the mother has no one to entrust the children to, the head of the institution will inform the bodies responsible for child assistance and will make sure that frequent contacts between the mother and children take place (article 43 (1) (2) of Order 8/GM/96 relative to the Regulations of Coloane Prison).

184. It should be emphasized that prison establishments have the obligation to promote the contact of the prisoner with the outside world, especially with the family (article 21 of Decree-Law 40/94/M).

D. Family reunification (art. 10)

185. Under the terms of article 10 of Decree-Law 55/95/M, of 31 October, a person remaining within MSAR can be authorized for the purposes of family reunification. The authorization for family members (that includes amongst others, descendants of small age) of a non-resident specialized worker to remain in MSAR is granted for the period of employment. On the other hand, Decree-Law 14/95/M, allows family members of head staff posts and experts to have residence in MSAR.

E. Illicit transfer and non-return (art. 11)

186. The obligation that can be inferred from article 11, paragraph 1, of the Convention, namely to stop the illicit transfer and non-return of children abroad, is fulfilled in MSAR. Whoever seizes or refuses to return a minor to his/her lawful parent, guardian or legal keeper shall be punished by imprisonment of up to three years (article 241 of the Criminal Code).

Any parent or, in urgent cases, the person to whom the child was entrusted, can file for the minor's return with the help of the court or other competent authority (article 1741 of the Civil Code).

187. One treaty that especially serves to promote international cooperation and the fight against abduction of children abroad, both issues addressed in article 11, paragraph 2, of the Convention, is the Convention on the Civil Aspects of International Child Abduction of 25 October 1980. This convention is applicable to MSAR.

188. MSAR's law does not provide the Government with the possibility of ensuring or advancing the maintenance for children in cases where parents, or other persons who have financial responsibility, evade the payment. Nevertheless, there are mechanisms to enforce the decisions relating to the payment of maintenance by parents or other persons who are financially responsible for the child.

189. If the maintenance debtor is an employee, a pensioner or receives by any means periodic payments from a private or public entity, after a period of 10 days starting from the day at which the maintenance payment was due, the court may order the direct deduction of the amount due from the debtor's salary, pension or other income. The entities responsible for such payments shall give the maintenance directly to its creditor (article 110 (1) of Decree-Law 65/99/M).

190. Furthermore, failure to comply with maintenance obligations may constitute a crime if it puts the satisfaction of fundamental needs of the creditor's maintenance at risk. The crime of "breach of maintenance obligation" is punishable by imprisonment of up to two years or a fine. Criminal proceedings depend on a complaint being lodged by the offended party. If the offended party is a minor and the offender is his/her legal

representative, the Procurator shall promote the appointment of a special curator in order to present the complaint on behalf of the minor.

191. The Hague Convention on the Law Applicable to Maintenance Obligations towards Children of 24 October 1956 and the Convention concerning the Recognition and Enforcement of Decisions relating to Maintenance Obligations towards Children of 15 April 1958, are both applicable to MSAR.

G. Children deprived of their family environment (art. 20)

192. The Government of MSAR, in collaboration with the associations related to family interests and institutions of social solidarity, promotes a policy of protection of minors deprived of a normal family environment, trying to provide them with better living conditions, family unification and integration within the community (article 9 (1) of Law 6/94/M).

193. The social protection regime applies to situations where minors have been victims of ill-treatment or abandonment, helplessness or other situations that have endangered their well-being, health, moral upbringing and education. It also applies to cases of abusive exercise of parental authority.

194. Within this regime, the court can apply one or more of the following measures:

- a) assistance to the minor's parents, guardian or any entity to whom the minor is entrusted;
- b) assistance to a minor under the care of a relative;
- c) a minor's entrustment to a third person;
- d) assistance for autonomous living; and

e) a minor's entrustment to a family or institution.

195. The first and second above-mentioned measures have a social, psycho-pedagogical and financial nature. Their aim is to provide help to minors and concerned persons (articles 69 and 70 of Decree-Law 65/99/M).

196. The third measure cited above, "entrustment to a third person", consists of placing the minor under the care of a person who does not belong to his/her family, but with whom the minor has established an emotional relationship. Its purpose is to provide the minor and the family with assistance of a social or psycho-pedagogical nature, namely making them attend training programmes in view of enhancing parental responsibilities, as well as providing financial support when necessary. The person to whom the minor is entrusted can be a prospective adopter chosen by the Social Welfare Institute (article 71 of Decree-Law 65/99/M).

197. "Assistance for autonomous living", the fourth measure cited above, consists of providing the minor who has attained the age of 15 years financial support as well as psycho-pedagogical and social guidance in order to enable the minor to live alone and progressively acquire autonomy (article 72 (1) of Decree-Law 65/99/M).

198. "Entrustment to a family" consists of placing the minor in the care of a person or of a family that is qualified by the Social Welfare Institute, who will integrate the minor into their own family life. This measure enables the minor to receive the necessary and adequate care and education (article 73 (1) of Decree-Law 65/99/M).

199. "Entrustment to an institution" involves the placing of the minor under the care of an entity that has the conditions to receive children on a permanent basis (article 74 (1) of Decree-Law 65/99/M).

200. Institutions that take care of children or youths who find themselves temporarily or permanently deprived of their families should provide these with a living structure that is as close as possible to a real family, while offering them emotional stability, as well as educational conditions in order to enable them a physical, intellectual and moral development and their integration into society. These homes cooperate with the families or replace them, completely or partially, when all other social actions have failed. The technical staff working at these homes has adequate training in social and pedagogical areas (articles 2 and 28 of Regulation 160/99/M).

201. It should be stressed that the “Regulations for the establishment and operation of the homes for children and young people” were adopted in May 1999. The objective of these regulations is the improvement of the existing facilities and of those to be created in the future, thus providing the sheltered with an adequate and qualified service.

202. The homes for children and young people are “open institutions”, which means that minors are free to come and go. These homes are preferably mixed (for boys and girls), allowing in all cases the social interaction between minors and adults of both sexes (article 74 of Decree-Law 65/99/M and article 18 of Regulation 160/99/M).

203. There are presently eight homes in MSAR for children and young people with the capacity to receive 540 children. It falls under the competence of the Social Welfare Institute to subsidize these institutions and supervise their activities in order to guarantee their proper operation. In the years 2000 and 2001 these eight homes were subsidized as shown in table 3 below.

Table 3
Subsidies for childcare homes

Name	Maximum capacity	Yearly fixed subvention 2000 (in MOP\$)	Yearly fixed subvention 2001 (in MOP\$)
Fountain of Hope	20	226,696	690,714
Cradle of Hope Home	16	816,588	852,188
Helen Liang Institute	70	1,138,200	1,138,200
Mong Ha Youth Centre	40	1,989,468	1,971,968
EFC Fellowship	24	728,916	728,916
Luís Versiglia School	84	1,764,588	1,768,404
Rainbow Residential Centre	51	2,354,796	2,354,796
St. Joseph's Home	235	3,063,504	3,063,504

Source: Social Welfare Institute, May 2002

204. Finally, an ultimate response to children permanently deprived of a family environment is adoption.

H. Adoption (art. 21)

205. A thorough revision of the adoption regime was conducted in 1999. Presently, there are two major legal instruments governing adoption: the Civil Code and Decree-Law 65/99/M. The former includes a specific chapter regarding the basic principles of adoption. It defines the profiles of the adopter and the adoptee, the effects of the adoption and its conditions. Decree-Law 65/99/M contains provisions relating to the procedures and formalities necessary to conclude an adoption process.

206. This new legislation maintains the importance of adoption. In fact, the changes in the legal system bring out its full potential,

strengthening it as one of the most important resources for responding to the situation of children deprived of a normal family environment.

207. Adoption is always enacted by a court order. It can only be decreed if it presents genuine advantages for the child. It must be based on legitimate interests and should not imply unfair sacrifices by the other children of the adopter or by the adoptee. Also necessary is a reasonable presumption that a bond similar to a parent-child bond will be established between the adopter and the adoptee.

208. For an adoption to take place, it is necessary for the adoptee to have been under the care of the adopter for a sufficient period of time to allow a proper evaluation of the advantages of the adoption. The prospective adopter can only take the adoptee under his/her care, in view of a future adoption, by means of a judicial or an administrative entrustment (article 1827 of the Civil Code).

209. The whole adoption process is subject to a previous verification of the adoption's requirements. Adoption cannot be decreed unless several circumstances are demonstrated, such as those related to the age of the prospective adopters, the duration of the marital relationship and the establishment of mutual bonds of affection between the child and the prospective adopters.

210. The verification of all these requirements requires a follow-up assessment during the preliminary phase of the proceedings, to guarantee the accuracy of the information and the adequate protection of the child. This follow-up assessment, which is accompanied by an evaluation incorporated in the social report to be presented to the judge, is carried out by specialized staff of the Social Welfare Institute (SWI). Its Child and Youth Division is the only MSAR body authorized to handle

the various procedures in connection with domestic or intercountry adoption.

211. Age is the main legal condition governing eligibility to adopt in MSAR. A child can only be adopted by:

— Two persons who have been married for more than three years (as long as they are not *de facto* separated) or living together for more than five years, if both are more than 25 years of age; or

— A person who is more than 28 years of age.

However, if the adoptee is the child of the spouse of the adopter, or of the person with whom the adopter has been living with for more than three years, the adopter is merely required to be over the age of 25 (article 1828 of the Civil Code).

212. In addition, the adopter cannot be over 60 years of age at the time of the adoptee's entrustment. An age differential between the adopter and the child is also required: more than 18 years and less than 50 years, except when significant reasons can be given otherwise.

213. Articles 1830 and 1831 of the Civil Code establish who can be adopted and when the adoption can take place. If the conditions imposed by those two articles are not fulfilled, the child is considered unadoptable.

214. Article 1831 (1) expressly defines that a child is considered adoptable if he/she meets one of the following requirements:

- a) Has deceased or unknown parents;
- b) Prior consent to the child's adoption has been given;
- c) Has been abandoned by his/her parents;
- d) Has parents who, by action or negligence, have endangered his/her security, health, moral upbringing and education in a way that has

sincerely jeopardized the affective bonds particular to a parent-child relationship; or

e) Has been in the care of an institution or person since the child's parents have revealed evident unconcern about him/her in a way that has unequivocally jeopardized the affective bonds particular to a parent-child relationship, for at least six months prior to the entrustment petition.

215. Even if the child meets the requirements referred to in subparagraphs (a), (c), (d) and (e) above, the adoption order cannot be decreed if the child is living with or being cared for by an ascendant, a collateral relative until the third degree or a guardian. Exceptions can be granted:

— If those persons have endangered the child's security, health, moral upbringing or education; or

— If the court decides that the circumstances do not conveniently ensure the child's interests.

216. Article 1830 of the Civil Code states that a child must be under the age of 16 years at the time of the adoption petition or under 18 years at that time if before attaining the age of 16 the child has been, by law or de facto, under the adopter's care.

217. Regardless of age, MSAR's law allows the adoption of:

— The child of the adopter's spouse or of the person with whom the adopter lives; and

— Mentally disabled persons under restraint;

if, while aged under 16, those persons have been, by law or de facto, under the adopter's care.

218. Adoption requires the consent of the persons interested in the establishment of the new family bond and the dissolution of the

relationship of the adoptee with his/her original family. The persons whose consent is required by law are those mentioned in article 1833 of the Civil Code, namely:

- a) The spouse of the adopter, if not de facto separated;
- b) The parents of the adoptee, even if they are minors and do not exercise parental authority, if there has not been a judicial entrustment; and
- c) The ascendants, collateral relatives until the third degree or guardian with whom the child has been living or is being cared by due to the absence or evident unconcern of his/her parents, except if the judicial entrustment of the adoptee has already been decided.

219. The court can dispense with the consent, if the persons who should give it are deprived of their mental capacities or in case there are serious difficulties at having them heard. Moreover, the consent by the persons referred to in subparagraphs (b) and (c) can be dispensed with if those persons have abandoned, showed disinterest in or endangered the security, health, moral upbringing or education of the adoptee.

220. MSAR law also guarantees the participation of the child in the adoption process and gives due weight to his/her feelings, opinions and wishes, according to his/her age and maturity. A court hearing must be provided to a child over the age of 7 and under the age of 12 years, unless he/she is deprived of his or her mental capacity or if, for any reason, it is very difficult to have him/her heard. Over the age of 12 years, the child's consent to be adopted is mandatory (articles 1833 and 1836 of the Civil Code).

221. Article 1834 (1) of the Civil Code states that consent must be given before a judge. This legal requirement ensures that all necessary

consents to the adoption (including the consent of the child) are given freely and without the influence of illicit compensation.

222. To prevent any decision from being taken hastily or under emotional duress, a waiting period before the mother's consent can be executed is required by law. A mother's consent to the adoption of her child is not legally accepted if given less than six weeks after the child's birth (article 1834 (3) of the Civil Code).

223. Concerning the effects of an adoption, the Civil Code stipulates that through an adoption order the adopted child becomes a child of the adopter(s), as if he/she was the latter's natural child. The child is recognized as a member of the adoptive family and enjoys all the rights pertaining thereto. Ties between the adopted child and his/her family of origin are considered dissolved, except for marriage impediments (article 1838 (1) of the Civil Code).

224. However, if one of the spouses adopts the child of the other, the family relationship between the adopted, the spouse of the adopter and the respective relatives are maintained. The same applies in the case of adoption of a child of a person with whom the adopter has been living in a *de facto* union (article 1838 (2) of the Civil Code).

225. Once adopted, the child loses his/her original surnames. At the request of the adopter, the court can modify the first name of the adopted if this modification safeguards his/her interest and favours his/her integration in the family (article 1840 of the Civil Code).

226. Adoption is irrevocable. However, the adoption order can be reviewed by the court, on grounds of serious violation of the legal requirements of the adoption (articles 1841 et seq. of the Civil Code).

227. Caution has been taken to cover the possibility of an

intercountry adoption. Decree-Law 65/99/M regulates, *inter alia*, the placement abroad of an MSAR resident minor in view of his/her adoption, as well as the adoption by an MSAR resident of a minor residing abroad, introducing regulations that seek to guarantee the transparency and safety of the procedures.

228. The principle of subsidiarity is enshrined in the domestic legislation. In fact, the placement of a child abroad in view of his/her adoption is not permitted whenever adoption in MSAR is feasible. Adoption is considered feasible when, at the time of the child's entrustment petition, there are prospective adopters residing in MSAR whose applications for adoption could proceed, taking into account the child's interests. The court has to be convinced that adoption in MSAR is not feasible before granting a child's entrustment — a *sine qua non* condition to a child's placement abroad (articles 162 and 165 (3) of Decree-Law 65/99/M).

229. The adoption law seeks to prevent one from obtaining improper financial or other gains from an activity related to an adoption, establishing that a person may only assume responsibility for a child, with view to his/her adoption, pursuant to a court or administrative decision of entrustment. The law is even more stringent and always requires a court decision of entrustment when a child residing in MSAR is to be placed abroad.

230. The prevention of improper gain and safeguards against trafficking in children are the reasons why all administrative adoption procedures converge in one official authority — the Social Welfare Institute (SWI). It is important to emphasize that it constitutes a crime of corruption when a civil servant, while exercising his/her functions, demands or accepts,

for him/herself or for another person, any undue gain, be it financial or not.

231. To preclude coercion or extortion, the adopter's identity cannot be disclosed to the biological parents, unless the adopter has made an express declaration to the contrary (article 1837 of the Civil Code).

232. The purchase or sale of a human being, regardless of age, is illicit and void. When done with intent to reduce a human being to slavery, the act is punishable by imprisonment of 10 to 20 years. In addition, the abduction of a human being, of any age, constitutes a crime against the freedom of that individual.

233. It is expected that the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993 will apply to MSAR since the People's Republic of China signed the Convention on 30 November 2000, signalling its intent to proceed with efforts to ratify it. The Government of MSAR, having a substantial interest in monitoring the international process on the protection of children, already forwarded to the Central People's Government its favourable opinion regarding the eventual future application of the said Convention in the Region.

I. Periodic review of placement (art. 25)

234. The protection laid down in article 25 of the Convention is aimed at recognizing the right of a child who is under a placement measure to a periodic review of that measure. This right is guaranteed in MSAR law.

235. In fact, within the educational regime, judicial decisions that have ordered the application of commitment measures have a mandatory

review at the end of the period of one year, counting from the day the last decision was proffered by the judge (article 61 (2) of Decree-Law 65/99/M, of 25 October).

236. Also, the judicial decision entrusting the minor to an institution, under the social protection regime, has a mandatory review in the same terms referred to in the previous paragraph (article 89 (2) of Decree-Law 65/99/M).

237. Regarding the mental health regime, the decision for compulsory commitment at a public health establishment must be submitted within 72 hours by the director of MSAR's Health Services to the court for confirmation. On the other hand, the compulsory commitment at a private health establishment is subject to a court authorization. In both cases, regardless of any request, the review of the commitment is mandatory after two months have elapsed since the beginning of the commitment or the decision that has maintained it. The mandatory review takes place with the hearing of the Procurator, the defence lawyer and of the patient, except when the health of the latter would make his/her hearing useless or infeasible (articles 12 (3) (4) and 17 (2) (5) of Decree-Law 31/99/M).

J. Abuse and neglect, including physical and psychological recovery and social reintegration (art. 19)

238. The values enshrined in article 19 of the Convention are also protected under the law of MSAR.

239. According to article 135 of the Criminal Code, one who endangers the life of another person by abandoning him or her despite his/her age, and having the duty of guarding, looking after or assisting

him/her, shall be punished by imprisonment from one to five years. If the parent or guardian of the victim commits the act, the imprisonment shall be from two to five years. These penalties are further aggravated if the act constitutes a serious offence against the physical integrity or results in the death of the victim (imprisonment can go up to 8 and 15 years, respectively).

240. In addition, if one who has the lawful care or charge of a minor, or is responsible for the education of a minor: (a) inflicts upon him/her physical or mental ill-treatment or treats him/her in a cruel manner; (b) employs him/her in dangerous, inhuman or prohibited activities; (c) loads him/her with excessive work; or (d) does not provide the care or the assistance imposed by the duty of his/her functions, shall receive a prison sentence of one to five years, if the act is not otherwise punishable under article 138 on serious offences against physical integrity (article 146 of the Criminal Code).

241. Besides criminal responsibility, there are special intervention mechanisms in order to take effective action at ensuring the child's best interests should the parents or persons exercising the parental authority endanger the child's security, health, moral upbringing and education.

242. Those range from the restriction of the exercise of parental authority to the total disqualification from it (prohibition). The judge can also order for the child to be put in the care of another family member, third person or institution. (In this respect, see paras. 192 to 203 above.)

243. Several social institutions provide shelter and assistance to minors of different ages who, for whatever reason, have been forced out of their homes. These are the Mong Ha Youth Centre, the Fountain of Hope Centre, the Helen Liang Institute, the EFC Fellowship Orphanage,

the St. Joseph's Home, the Luís Versiglia School, the Rainbow Residential Centre, and the Cradle of Hope Home. In this respect, the important role carried out by the charity organizations of the local Chinese community and Catholic institutions should be underlined.

244. In 2000 and 2001, the Division of Children and Youth of the Social Welfare Institute registered the number of cases of ill-treatment and abandonment of children as set out in table 4 below:

Table 4
Types of ill-treatment of children

Type of problem	Number of cases registered	
	2000	2001
Physical abuse	11	10
Psychological abuse	2	0
Negligence	1	2
Sexual harassment	0	5
Abandonment	5	5
Total	19	22

Source: Social Welfare Institute, May 2002

VI. BASIC HEALTH AND WELFARE

A. Disabled children (art. 23)

245. Article 38, paragraph 3, of the Basic Law states that “(...) the disabled shall be taken care of and protected by the Macao Special Administrative Region”.

246. The Framework Law on Family Policy stipulates that the government of MSAR should promote a policy that aims at the full social and family integration of the disabled and guarantees their financial security. Special assistance should be provided to physically and mentally

disabled children in order to provide them with the adequate conditions for their development (arts. 11 and 8, para. 4).

247. The social right corresponding to article 23 of the Convention is also recognized in Decree-Law 33/99/M which endorses the regime for the integration and rehabilitation of the disabled. This regime, applicable to anyone with psychological, intellectual or physical disabilities, aims at correcting or minimizing the disability and re-establishing, developing or potentiating the aptitudes and capacities of a disabled person, making him/her more independent and active in the community to which he/she belongs.

248. Article 4 of Decree-Law 33/99/M enshrines the principle of equality by stipulating that a disabled person enjoys the same rights and has the same duties as all other residents of MSAR, under conditions of full equality, with the exception of the exercise or observance of those for which he/she is incapacitated.

249. At present, no statistical data on the number, type and living conditions of the disabled in MSAR is available. However, some arrangements have been made to set up a centralized system of registration of the disabled that aims at the creation of a database, which would assist in the study and planning of the respective policies and services. It should be stressed that the number and type of disabled persons will be one of the items in the population census in 2001. In this respect, a pilot inquiry was conducted in 2000 and its results will be disseminated later in 2002.

Education

250. The education system in MSAR provides a set of diversified answers to children and young people with special educational needs,

thus promoting, in adequate pedagogic, human and technical conditions, their integration in regular schools or their attendance of specialized institutions, depending on the circumstances of each case (article 19, paragraph 1, of Decree-Law 33/99/M). (Further details on education for special needs are given in paragraphs 354 to 360 below, in connection with article 28 of the Convention).

251. It should be noted that there are three pre-school education centres, dedicated exclusively to disabled children.

Table 5

Institution	Objectives of services provided	Capacity
Kai Chi Centre	To assist children with mental retardation aged between 0-6 in the development of gross and fine motor skills, cognition, language and communication skills, self-care and social skills. To assist children with mental retardation to develop their fullest potential and to assist them to integrate back into society	55
Kai Kin Centre	Same as above	27
Institution	Objectives of services provided	Capacity
Kai Chung Centre	Through early intervention, to assist children who are one year of age or above with hearing or language impairments to develop their language skills in order for them to integrate back into mainstream education	32

Source: Social Welfare Institute, May 2002

252. The maximum total capacity of the three centres is 112 persons. In 1999, these centres provided services to 135 users, a small increase of 3.85 per cent over 1998.

Table 6

Institution	Capacity^a	1998	1999
Kai Chung Centre	32	31	31
Kai Chi Centre	55	68	68
Kai Kin Centre	25	31	36
Total	112	130	135

Source: Social Welfare Institute

^a The reason why the capacity is less than the number of users is due to the fact that the users do not make use of the facilities all at the same time

Health care and rehabilitation services

253. It falls under the competence of MSAR Health Services to guarantee the access of the disabled to all aspects of health care, such as health promotion and monitoring, illness and disability prevention, examination and diagnosis, premature stimulation and medical rehabilitation (article 18, paragraph 1, of Decree-Law 33/99/M).

254. Another governmental department that fulfils an important role in this area is the Social Welfare Institute (SWI). With the support of this Institute, MSAR Health Services promote the development of programmes of house-call medical assistance and others carried out in cooperation with social welfare institutions that work with the disabled.

255. SWI also assists the disabled in developing their capacities and strengthening their self-confidence and independence, providing them and their families with counselling and direct financial support.

256. The Rehabilitation Division of the Social Solidarity Department of SWI keeps active contacts with civic institutions and associations for the disabled and provides these with the necessary conditions to carry out their activities through technical assistance, financial subsidies and provision of facilities.

257. Until 1986, all assistance conferred to the disabled was provided by private institutions that received subsidies and support from the Government. The first operational institution specifically established to serve in the area of rehabilitation of the disabled was opened in 1986, created by the Government but entrusted to the community, called the Centre for Social Support and Protected Workshop for the Disabled. Since then, several other similar institutions have been created, and presently there are 4 residential centres and 11 day centres in MSAR.

Table 7
Residential centres in MSAR

Institution	Services provided
Centre Santa Lúcia	To provide care and training for females age 16 and above with mental retardation or chronic psychiatric conditions and to assist them in the development of their potential and in the improvement of the quality of their lives
Institution	Services provided
Centre Santa Margarida	Same as above
Home São Luíz Gonzaga	To provide assistance for males age 16 and above with mental retardation or chronic psychiatric conditions to reduce the difficulties they may encounter in their daily lives, and to provide all residents with a good living environment and care so that they can live a normal life
Home Nossa Senhora da Penha	To provide residential services and training for children aged between 0 and 15 with mental retardation or physical impairment and to assist them in developing their potential and to provide them with a better quality of life

Source: Social Welfare Institute, May 2002

Table 8
Day centres in MSAR

Day centre	Services provided
Centre of Social Support and Vocational Assistance for the Disabled	To provide training in sewing for persons age 16 or above with slight mental retardation, physical disabilities or hearing impairments in order to accomplish the centre's mission of "self-confidence, perseverance, independence"
Kai Lung Centre	To provide systematic and functional training for people age 16 or above with mental retardation, and to enable them to learn various daily living skills, to build self-confidence and to live an independent life
Kai Chi Centre	1. To assist children with mental retardation aged 0 to 6 in the development of gross motor skills, fine motor skills, cognition, language and communication skills, self-care and social skills; 2. To assist children with mental retardation to develop their fullest potential and to assist them in integration in society
Kai Kin Centre	Same as above
Kai Chung Centre	Through early intervention, to assist children as of one year of age with hearing or language impairments to develop their language skills in order to integrate them into the mainstream education system

Day centre	Services provided
Centre of Social Support for the Deaf	1. To assist juveniles and adults with hearing impairments to solve their problems arising from communication barriers; 2. To enhance the abilities and awareness of persons with hearing impairments in order to allow them to participate equally in the society
Day Centre Nossa Senhora da Penha	To provide day training for children aged 0 to 15 with mental retardation or physical disabilities in order to develop their potential and to enhance their quality of life
Centre O Amanhecer	1. To provide day-care services for children between 2 and 16 years of age with mental retardation in order to alleviate the pressure on their families while taking care of them; 2. To provide basic training, including self-care training, daily living skills and social skills in order to build up their self-confidence and independent abilities
Centre A Madrugada	1. To provide day-care services for persons age 16 and above with mental retardation in order to alleviate the physical and mental pressure on their families 2. To provide basic training, including self-care training, daily living skills and social skills in order to build up their self-confidence and independent abilities
Centre for the Rehabilitation of the Blind of Macao	To provide social and recreational gatherings for visually impaired people aged 16 or above
Centre for Vocational Training for the Mentally Retarded	To provide vocational training for those with mild to moderate mental retardation age 16 and above and to develop their vocational interests in order to prepare them to adapt to a working and independent life

Source: Social Welfare Institute, May 2002

258. Likewise, the Family and Community Department of SWI provides direct financial support and counselling to the most indigent disabled and their families, through its five social welfare centres and the Family Welfare Office.

Training and preparation for employment

259. According to Decree-Law 33/99/M, the employment policy should include measures and technical and financial incentives that promote the professional integration of the disabled in the labour market as well as the creation of alternative work opportunities, namely: self-employment,

pre-professional training, re-adaptation to work and protected jobs (art. 21, para. 2).

260. Within this area, and worth a mention, are the activities 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 moderate mentally disabled and to the physically disabled of both sexes aged over 16, while the latter promotes the professional formation of the mild to medium mentally disabled with self-supporting capacity aged over 16.

261. SWI provides technical and financial support to these private institutions, other than monitoring their activities and giving its cooperation. Moreover, activities related to professional training, protected jobs and work re-adaptation aimed at helping the social and labour reintegration of persons with physical or behavioural disability who are unemployed can be subsidized by the Social Security Fund (article 5 of Order 54/GM/98).

Recreation opportunities

262. Sports, culture and recreation are seen as a constituent part of the rehabilitation process of the disabled, while being privileged mediums for the recovery of their psychic balance and the development of their capacity for social interaction (article 15 of Decree-Law 33/99/M).

263. In the area of sports, the Macao Sports Association for the Deaf, the Macao Recreational Association of the Disabled and the Macao Special Olympics are three private institutions that organize activities for disabled youth. The Macao Sports Development Board (MSDB) provides financial support to these institutions.

264. In 2001, 365 male and 177 female disabled persons were registered in the MSDB and participated in several local, regional and

international sports events with the support of the Government.

265. To encourage the disabled to participate in sports activities, the Government of MSAR awards athletes who achieve remarkable results in major sports competitions for the disabled prizes ranging between MOP\$ 2,000 to MOP\$ 10,000 per athlete, as an incentive for their efforts (Order of the Secretary for Social Affairs and Culture 37/2000).

266. In the areas of culture and recreation, it should be mentioned that SWI annually organizes, in collaboration with the Association for the Support of the Disabled and the Young Volunteers Associations, the “fashion parade” event in which students from the three above-mentioned pre-school education centres present a show that includes songs, dances and theatre sketches.

267. Finally, the World’s Day of the Disabled is marked annually, in a joint initiative of SWI and other public and private institutions. In 2001, the theme for the World’s Day of the Disabled was a barrier-free environment. Seven government departments and 19 NGOs organized the main events. Seminars and workshops were held to increase the awareness of the public and related professionals. A large-scale celebration fair took place and included stage performances by persons with disabilities, games and sale of artefacts made by the disabled, a ceremony honouring employers who hired persons with disabilities and an exhibition area demonstrating examples of barrier-free public facilities, offices and homes, showing the public that sometimes very small changes in our environment can greatly improve the quality of life of the disabled persons.

268. Accessibility and mobility include measures and techniques that aim at conferring on the disabled greater autonomy and complete participation at school, social and professional life, trying to overcome situations imposed by physical barriers and means of transportation (article

13 of Decree-Law 33/99/M).

269. In the area of accessibility, it should be pointed out that Law 9/83/M establishes regulations to suppress architectural barriers. Taking into account that architectural barriers are one of the major obstacles to the (re)integration of the disabled, Law 9/83/M establishes a series of technical requirements to improve the accessibility of persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings and sidewalks.

270. The adaptation of already standing facilities and buildings can benefit from tax exemptions or reductions (article 21 of Law 9/83/M). The suppression of architectural barriers, in order to facilitate the social and professional integration of unemployed persons with a physical or behavioural disability, can benefit from subsidies by the Social Security Fund (article 5 of Order 54/GM/98).

271. Moreover, within the area of mobility, it should be mentioned that the Caritas Rehab Bus has provided, since November 1999, transportation and escort services for those with physical impairment and visual impairment.

B. Health and health services (art. 24)

272. It could be said that children in MSAR enjoy a standard of health that is very acceptable when compared to industrialized countries. The rate of neonatal and child mortality is very low (respectively 3.4 and 4.1 per cent in 1999), the vaccination rate is high and life expectancy rate is also high (in 1994-1997, 76.79 years; 75.32 for male and 79.89 for female). This is due to a health-care system that offers a comprehensive range of promotional, preventive, curative and rehabilitative services.

Table 9
Major demographic indicators

Indicators in per cent	1998	1999	2000
Natural growth rate	7.2	6.4	5.7
Crude birth rate	10.4	9.6	8.8
Crude death rate	3.2	3.2	3.1
Infant mortality rate	6.1	4.1	2.9
Neonatal mortality rate	4.3	3.4	2.1
Perinatal mortality rate ^a	6.8	6.0	6.7
Late foetal mortality rate	2.9	2.4	3.1

Source: Yearbook of Statistics, 2000, Census and Statistics Department

^a Including those weighing 500 grams or more

Table 10
Live births and foetal deaths in Macao

	1998			1999			2000		
	M/F	M	F	M/F	M	F	M/F	M	F
Live births	4,434	2,279	2,154	4,148	2	2	3,849	2	1
Foetal deaths	13	4	9	15	108	039	19	031	818
					10	5		14	5

Source: Yearbook of Statistics, 2000, Census and Statistics Department

Table 11
Live births according to gender of child and age of the mother

		Total live births	
		Male/Female	Male
1999		4 148	2 108
2000		3 849	2 031
2001		3 241	1 645
Age of mother	< 15	1	1
	15-19	92	46
	20-24	400	208
	25-29	1 071	543
	30-34	1 059	557
	35-39	550	262
	40-44	68	29
	45-49	1	-
	> 50	-	-

Source: Monthly Bulletin of Statistics, March 2002, Census and Statistics Department

Table 12
Foetal deaths by gender and cause of death

Causes of death	1998		1999		2000	
	MF	M	MF	M	MF	M
Total	13	4	15	10	19	14
Complications during pregnancy, childbirth and puerperium	-	-	-	-	-	-
- Premature or false labour	-	-	-	-	-	-
- Umbilical cord complications	-	-	-	-	-	-
Congenital anomalies	-	-	1	1	3	2
- Congenital anomalies of ear, face and neck	-	-	1	1	-	-
- Congenital anomalies of the respiratory system	-	-	-	-	-	-
- Cleft palate and cleft lip	-	-	-	-	1	-
	-	-	-	-	1	1
Certain conditions originated in the perinatal period	11	4	14	9	16	12
- Foetus or new-born affected by complication of placenta, cord and membranes	1	-	-	-	7	4
- Unspecified disorders relating to short gestation period and low birth weight	1	-	-	-	1	1
- Intrauterine hypoxia and birth asphyxia	-	-	-	-	-	-
- Foetal and neonatal haemorrhage	8	4	13	8	5	5
- Other and ill-defined conditions originated in the perinatal period	-	-	1	1	1	1
	1	-	-	-	2	1
Symptoms, signs and undefined conditions	2	-	-	-	-	-
Other undefined and unknown causes of morbidity and mortality	2	-	-	-	-	-

Source: Yearbook of Statistics, 2000, Census and Statistics Department

Table 13
Deaths of children under one year old by gender and age (in days)

Age (in days)	Gender					
	1998		1999		2000	
	MF	M	MF	M	MF	M
Total	27 ^a	16	17	12	11	6
Less than 1 day	9	6	7	5	3	1
1 day	2	-	2	2	1	1
2 days	-	-	-	-	-	-
3 days	-	-	-	-	-	-
4 days	2 ^a	1	-	-	-	-
5 days	2	1	-	-	-	-

Age (in days)	Gender					
	1998		1999		2000	
	MF	M	MF	M	MF	M
6 days	2	1	1	1	2	-
7-27 days	2	2	4	2	1	-
28-59 days	3	2	1	1	-	-
60-179 days	4	3	1	1	2	2
From 180 to less than 1 year	1	-	1	-	1	1

Source: Yearbook of Statistics, 2000, Census and Statistics Department

^a One case with sex unknown

Table 14
Deaths of children in 2000, by gender and age group

	< 1 year	1-4 years	5-9 years	10-14 years	15-19 years
Male	6	4	2	5	5
Female	5	2	2	-	4

Source: Yearbook of Statistics, 2000, Census and Statistics Department

273. MSAR's health services, following the World Health Organization target of "health for all in the year 2000", guarantees access to universal and free health care for the entire population of MSAR. This principle is dealt with in Decree-Law 24/86/M.

274. Health-care costs are fully or partly covered by the MSAR budget, depending on the type of illness or the socio-economic condition of the patient, and also on whether he/she is a MSAR resident or not (article 3 of Decree-Law 24/86/M as modified by Decree-Law 68/89/M).

275. The cost of health care in MSAR has been increasing every year. In 1995, the entire health-care budget was MOP\$ 851 million. It has grown steadily to MOP\$ 1.235 billion in 1999. During the same period the population has grown from 415,030 to 437,455. In 1995, the gross domestic product (GDP) was MOP\$ 55.3 billion. It grew to MOP\$ 55.9 billion, then dropped to MOP\$ 49.2 billion in 1999.

Table 15
Health-care expenditures

	1995	1996	1997	1998	1999
Population (in thousands)	415,030	415,850	422,046	430,549	437,455
GDP (in billions MOP\$)	55.3	55.3	55.9	51.9	49.2
Total health-care expenditures in millions (MOP\$)	851	952	1 049	1 088	1 235
Health-care expenditure as percentage of GDP	1.54	1.72	1.87	2.09	2.51
Health-care expenditure per capita (US\$)	2,050	2,289	2,486	2,527	2,823

Source: Census and Statistics Department, 22 June 2000

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

- At health centres (medical care, including medication);
- To carriers or suspected carriers of infectious/contagious diseases, drug addicts, cancer and psychiatric patients and in the context of family planning;
- To population groups at risk: pregnant women, women in and after labour, children below 10 years of age, and primary and secondary school students;
- Prisoners;
- Civil servants;
- Individuals or families with difficulties; and
- Persons aged 65 and over.

277. In addition, emergency health care provided at MSAR's public hospital is completely free of charge.

278. The institutions under the health service that provide services in this area include the Conde São Januário Hospital (CSJH) and various health centres that attend to patients of their respective zones. There are seven health centres in the MSAR strategically located in several zones of the city and islands.

279. These health centres, besides offering general care for disease prevention and health promotion, namely in the forms of pre-natal care, post-birth care and vaccination, also provide the following personalized care: medical ambulatory care; nursing care, both in the centre or at home; health education and information; medication listed as essential medication for primary care; complementary means of diagnosis and therapeutics; and social assistance to individuals or groups at risk, through the participation of social workers in the health teams. One of the seven health centres provides alternative care in the form of traditional Chinese medicine.

280. Health promotion and supervision are based on permanent and diversified actions aimed at the health education of the community. In this context, health centres provide free information on the advantages of breastfeeding and childcare in the fields of health, hygiene, nutrition and accident prevention. In the year 2001, these health centres conducted a total of 8,216 collective education sessions on health problems, with the participation of 262,422 persons.

281. Patients requiring special health care are sent to CSJH, which has a paediatric unit (with 33 beds and 20 cots) and a paediatric emergency service where children under 12 years of age are attended. In the year of 2001 a total of 56,657 children were attended there. Seventeen paediatricians are presently working in the CSJH.

282. Besides CSJH, there is also a private hospital in the MSAR, the Kiang Wu Hospital (KWH). CSJH reimburses KWH for services provided to eligible patients.

Family planning

283. The Government of MSAR should create and support, in

collaboration with the families, adequate means to promote proper training and family planning that guarantee free, responsible and conscious fatherhood and motherhood (article 10 (1) of Law 6/94/M).

284. 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.

285. On a more concrete basis, 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).

286. Various health centres provide a family planning programme that is free of charge. All medication and devices used in family planning are also totally free of charge and provided at the expense of the Government of MSAR (arts. 6 (2) and 7 (1) (d) of Decree-Law 24/86/M).

Primary care to pregnant women and children

287. As mentioned above, primary care to pregnant women is free of charge and is carried out at health centres. The future mother receives periodic examinations, mother-and-child counselling and education throughout the pregnancy.

288. At the health centres, children, especially those in their first years of life, undergo regular examinations aimed at the early detection of disabilities and congenital deficiencies. They also benefit from MSAR's vaccination programme, which is free of charge.

289. Pregnant women jailed in a prison establishment, including

those who are about to give birth or who have had a pregnancy interruption, are assisted and treated by an adequately specialized doctor. A child who remains with the mother in the prison establishment has the right to undergo a prompt diagnosis for any diseases that could endanger his/her physical and intellectual development (article 43 of Decree-Law 40/94/M).

Immunization system

290. The vaccination programme (VPM) of MSAR is outlined in Order 18/GM/96. The vaccinations included in VPM are free of charge (article 5 (1) of Decree-Law 13/96/M). The VPM scheme covers the following: anti-tuberculosis vaccine (BCG); anti-hepatitis B vaccine (VAHB); anti-poliomyelitis vaccine (VAP); anti-diphtheria, tetanus and pertussis vaccine-triple (DTP); anti-measles vaccine (VAS); anti-measles, mumps and rubella vaccine-triple (VASPR); anti-diphtheria and tetanus vaccine (DT); anti-rubella vaccine (VAR); and anti-tetanus vaccine (VAT).

291. VAHB and VAR are administered, without the need of prior immunity tests, to all children up to the age of 12 years inclusive and to all girls aged between 10 to 13 years old inclusive, respectively (paras. (a) and (b) of Order 18/GM/96).

292. The vaccinations of VPM are recorded in an individual vaccination record, which is issued free of charge by the health service and by the institutions with which this department has signed cooperation protocols under the VPM scheme (arts. 1 and 2 of Decree-Law 13/96/M).

293. The presentation of the individual vaccination record is compulsory upon registration at any public or private schools, including nurseries. The record must also be presented during all medical

examinations conducted on any individual up to the compulsory education age (article 4 of Decree-Law 13/96/M).

294. The World Health Organization has declared in October 2000 that poliomyelitis has been eradicated in MSAR. The last detected case was in 1975. Yet, and to avoid the reoccurrence of new cases, the vaccination campaign against this disease will continue to be carried out.

Table 16
Routine immunization in Macao (1999)

Vaccines	Target age group	No. in target group	No. of doses administered	Coverage (%)
Tuberculosis - BCG	New-born	4,387	4,325	98.6
Poliomyelitis	2 years	5,030	4,264	84.8
Diphtheria, tetanus and pertussis	2 years	5,030	4,273	85
Measles	2 years	5,030	4,579	91
Measles, mumps and rubella	2 years	5,030	4,417	87.8
Hepatitis B	2 years	5,030	4,654	92.5

Source: Health Services, 2000

Table 17
Routine immunization in MSAR (2000 and 2001)

Vaccines	Target age group	2000			2001		
		No. in target group	No. of doses administered	Coverage (%)	No. in target group	No. of doses administered	Coverage (%)
BCG	Births	3,925	3,800	96.8	4,118	4,029	97.83
Hepatitis B – birth dose	Births	3,925	3,917	99.8	4,118	4,112	99.85
DTP1	Surviving infants	3,801	3,801	96.8	4,118	3,983	96.72
DTP3	Surviving infants	3,925	3,621	92.3	4,118	3,780	91.79
Polio3 (e.g. OPV3)	Surviving infants	3,925	3,620	92.2	4,118	3,781	91.81
HepB3	Surviving infants	3,925	3,543	90.3	4118	3,749	91.06
Hib3	Surviving infants	-	-	-	NR	NR	NR

Vaccines	Target age group	2000			2001		
		No. in target group	No. of doses administered	Coverage (%)	No. in target group	No. of doses administered	Coverage (%)
MCV1 ^a Measles-containing vaccine	9 months	3,523	3,523	89.8	4 118	3,694	89.7
MCV1 ^b Measles-containing vaccine	24 months	4,194	3,722	88.7	4 406	3,904	88.6
Yellow fever	Surviving infants	NR	NR	NR	NR	NR	NR

Source: Health Services, May 2002

^a MCV1 is the first dose of measles-containing vaccine (i.e. measles vaccine, measles-rubella vaccine, or measles-mumps-rubella vaccine)

^b MCV1 is the second dose of measles-containing vaccine (if this is a part of the routine immunization schedule)

Table 18
Reported incidence of vaccine-preventable diseases and other important notifiable diseases among children under 15 years of age (number of cases)

International classification of diseases (ICD/10)	1999	2000	2001
A01.0 Typhoid fever	-	3	0
A02.0 Salmonella enteritis	-	33	19
A03.0 Shigellosis due to Shigella dysenteriae	-	1	1
A04.0 Enteropathogenic E. Coli infection	-	0	1
A15.0 Tuberculosis of the lungs, confirmed by sputum microscopy	-	2	2
A15.1 Tuberculosis of the lungs, confirmed by culture only	-	2	2
A15.3 Pulmonary Tuberculosis confirmed unspecified means	-	0	0
A15.6 Tuberculosis pleurisy, confirmed	-	1	1
A15.9 Respiratory Tuberculosis, unspecified conf by lab	-	0	0
A16.0 Tuberculosis of lungs, bacteria and history negative	-	2	2
A16.2 Tuberculosis of lungs, no mention of laboratory test	-	0	2
A16.3 Tuberculosis intrathoracic lymph nodes	-	1	0
A16.7 Primary respiratory Tuberculosis, unknown lab result	-	0	0
A17.0 Tuberculosis meningitis	0	0	0
A18.0 Tuberculosis of bones and joints	-	0	1
A18.2 Tuberculosis peripheral lymphadenopathy	-	2	1
A19 Military tuberculosis	0	1	0

International classification of diseases (ICD/10)	1999	2000	2001
A30 Leprosy	0	0	0
A33 Tetanus neonatorum	0	0	0
A37 Whooping cough	-	0	0
A38 Scarlet fever	-	15	9
A39.8 Other meningococcal infections	-	0	0
A50 Congenital syphilis	0	3	1
A54 Gonococcal infections	0	1	0
A63 Other predominantly sexually transmitted diseases	-	0	0
A71 Trachoma	0	1	0
A90 Dengue fever	-	0	230
B01 Varicella (chickenpox)	-	669	1,458
B05 Measles	1	2	3
B06 Rubella (German measles)	5	7	2
B15.0 Acute hepatitis A without coma	-	0	0
B15.9 Acute hepatitis A without coma	2	0	0
B16.9 Acute hepatitis B without delta	1	7	0
B17.1 Acute hepatitis C (4)	-	4	2
B17.8 Other acute specified hepatitis	-	0	1
B24 Unspecified HIV diseases	-	0	0
B26 Mumps	17	39	30
B54 Unspecified malaria	0	0	0
P35.0 Congenital rubella syndrome	-	0	1
Z21 Asymptomatic HIV infection	1	1	0

Source: Health Services, May 2002

HIV/AIDS

295. During the years 1998, 1999 and 2000 only one HIV-positive case was detected, in 1999, that of a female infant who was infected in the womb and died aged 6 months. In 2001 there were no reported cases of children infected with HIV.

Nutrition

296. The importance of breastfeeding and a balanced diet are emphasized to the future mother during health checks within maternal and child health consultations. Mothers are encouraged to start breastfeeding

their babies as soon as they are born. Guidance and support continues in hospital maternity wards and health centres.

297. Breastfeeding tends to decline rapidly after the first month of a child's life, owing to local customs.

Table 19
Infant nutrition, 2000 (until 30 November) on the basis of consultations at the health centres

Feeding method	Less than 1 month		1 to 2 months		2 to 3 months		3 to 4 months		4 months		Total
		%		%		%		%		%	
Breastfeeding only	52	1.40	24	1.11	8	0.42	2	0.11	6	0.01	92
Predominantly breastfeeding	104	2.80	40	1.84	25	1.30	18	0.95	184	0.30	371
Mixed feeding	376	10.11	133	6.13	97	5.05	32	1.69	109	0.18	747
Artificial feeding	946	25.44	602	27.75	577	30.02	343	18.08	2 708	4.47	5,176
Has been breastfeeding	840	22.59	264	12.17	187	9.73	181	9.54	2 812	4.65	4,284

Source: Health Services

298. At the nurseries, food is generally well prepared and adequate to the children's age both in terms of quality and quantity. Menus are shown in a visible and accessible place for consultation by the parents. When requested by medical prescription, special diet food is prepared (article 20 of Regulation 156/99/M).

299. In Homes for children and young people, the young enjoy food that consists of a balanced diet that incorporates good quality and varied ingredients, adapted to the age of the users, as it is recognized that the intake of food has a determining role in the development of children and young people (article 26 (1) of Regulation 160/99/M).

300. The Social Welfare Institute supplies daily meals to students

coming from families with financial difficulties. These meals are free of charge or might merely cost a token price. That institute also supplies students from six different schools with additional supplements of food (in 2001, this service covered a total of 1,193 students, with an expenditure of MOP\$ 1,149,526.50).

Dental care

301. Although water in MSAR is treated, the level of fluoride present in the public water supply is rather insufficient, which might explain the high number of children seeking assistance of a stomatologist.

302. The health service carried out in 1996 a sample study on the incidence of dental caries amongst young people of Macao. The results were as follows: of the 114 6 year olds observed, 91 (79.8 per cent) already had caries in their milk teeth; of the 211 9 year olds observed, 178 (84.4 per cent) already had caries in their milk teeth: of these 211 children, about half of them, that is 111 (52.6 per cent), already had caries in their permanent teeth; from the 191 observed 12 year olds, 137 (71.7 per cent) already had caries in their permanent teeth.

303. Supplements of fluor were given to 2,348 children in 1999, 3,393 in 2000 and 3,640 in 2001.

C. Social security and childcare services and facilities (arts. 26 and 18, para. 3)

Social security

304. According to the law governing public employment, there are two kinds of social benefits offered to civil servants relating to children, those being family allowances and childbirth allowances.

305. Furthermore, under the social welfare system and within the category of permanent subsidies, there is the pension to single parents' families and the pension for the disabled. Within the category of temporary subsidies, there are the childbirth subsidy and the education subsidy.

Childcare services and facilities

306. The Government of MSAR should promote the creation and operation of a maternal-infant mesh and nurseries (article 8 (3) of Law 6/94/M).

307. Nurseries are establishments intended for the reception of children ages 3 months to 3 years, which provide them with the adequate conditions for their development, as means of support to families during their working hours or in other situations whereby the child cannot be left at home during that time interval (article 3 (1) (a) of Decree-Law 90/88/M).

308. Nurseries should provide for the individual accommodation of children under an atmosphere of affectionate and physical security, creating adequate conditions for their physical, social, emotional and intellectual development. They should also collaborate with the family in sharing the cares and responsibilities in the evolution process of the children, taking into consideration that they are undergoing one of the most important phases of their physical and mental development (article 2 (1) and (2) of Regulation 156/99/M).

309. The Social Welfare Institute (SWI) manages directly the Montedda Guia Nursery. This establishment has a maximum capacity for 250 children and in the year 2001 had 99 users. There are currently 52 nurseries in MSAR run by private entities, with the capacity of accommodating 4,800 children.

310. Private nurseries can only operate after having received an

operative licence conferred by the Social Equipment Management and Licensing Division of SWI. This division is also responsible for the inspection of the nurseries' equipment and its activities (article 25 (a) of Decree-Law 90/88/M). In the year 1999, SWI financially subsidized private nurseries with the amount of MOP\$ 21,877,746.

311. It is worth pointing out that the Regulations concerning the Setting-Up and Operation of Nurseries were adopted in May 1999, aiming at guaranteeing the improvement of existing equipment and the setting-up of future ones, in order to ensure an adequate and qualified nursery service.

312. It should also be stressed that in MSAR it is very common for grandparents to assume the responsibility of taking care of babies and young children under 3 years of age while the parents are away at work.

D. Standard of living (art. 27, paras. 1-3)

313. The average monthly employment income in MSAR was MOP\$ 5,240 in 1997, MOP\$ 5,063 in 1998 and MOP\$ 4,889 in 1999.

314. There are a number of mechanisms established by law that allow residents to live with dignity, even in situations of particular difficulty or adversity, namely through the social security system and the social welfare system.

Social security

315. The Social Security Fund was created in 1989 with the objective of providing a guarantee of social support to workers employed by an entity.

316. Under Decree-Law 58/93/M only workers registered at the Fund are beneficiaries and their employers should be registered as contributors.

Table 20
Beneficiaries who pay by deduction to the Society Security Fund,
by gender

Gender	1998	1999	2000
Total	113,234	115,698	122,327
Male	52,519	52,800	55,488
Female	60,715	62,898	66,839

Source: Yearbook of Statistics, 2000, Census and Statistics Department

317. The financing of the fund comes from the contribution of the workers and employers (each worker contributes MOP\$ 15 each month and each employer contributes either MOP\$ 30 or MOP\$ 45, in case the worker is a resident or not, each month) added to 1 per cent of the budgetary donations annually transferred from the MSAR budget and of the receipts from investments of the fund. In 1998 the sum had a return of MOP\$ 700 million.

318. The fund covers old-age pensions, disability pensions, unemployment subsidies, sickness subsidies, payments for pneumoconiosis, credits from work, social pensions, supplementary social pensions, childbirth subsidies, marriage subsidies and funeral subsidies.

319. Unemployment payments are available to all those who are in an involuntary unemployment situation and are registered at the fund (article 21 (1) of Decree-Law 58/93/M).

320. Considered under involuntary unemployment are those beneficiaries not exercising any remunerated activities, after their work contract has been terminated as a consequence of: a decision of the employer; termination of the contract with a rightful cause through the worker's initiative; the work having reached its completion date; and mutual agreement in situations that permit resorting to collective termination of

employment (article 21 (2) of Decree-Law 58/93/M).

321. The unemployment benefit has a per diem of MOP\$ 70 (Order 84/GM/99).

322. The fund also has support and incentive programmes to specially assist the locally unemployed with particular difficulties, namely: training them in view of reintegration in the labour market; integration in the labour force of those who have job placement difficulties; support for the social-labour integration of those who have physical or behavioural disabilities; training in new skills for the transfer of the unemployed; hiring of youth searching for their first jobs; and granting of social subsidy to the unemployed in a destitute situation (article 2 of Order 54/GM/98 as amended by Order 23/GM/99).

323. To the companies employing youth (aged under 26), as long as these are recruited amongst those registered in the “Labour Market” of MSAR’s Labour and Employment Department, financial subsidies up to the amount of MOP\$ 15,000 can be granted (article 7 of Order 54/GM/98 as amended by Order 23/GM/99).

324. Owing to the crisis in the labour market over the last few years, MSAR’s unemployment rate has risen. The Government, however, is currently studying measures to overcome this situation.

Table 21
Structure of the active population by gender

Gender	Total (in thousands)			Employed			Unemployed		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
Male/female	210.7	216.2	214.6	201.0	202.5	200.1	9.6	13.8	14.5
Male	116.4	115.7	113.7	109.8	106.4	103.9	6.6	9.4	9.9

Source: Yearbook of Statistics, 2000, Census and Statistics Department

Social welfare

325. The social welfare system is designed to protect individuals and social groups who are in conditions of indigence, by extending to them financial assistance in cash and social assistance in the form of equipment and services. It also aims at the social advancement of individuals and families as well as community development (article 1 of Decree-Law 52/86/M).

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

327. SWI, through its social welfare centres scattered around the city of Macao and the two islands (there are five to date), develops social welfare that includes, amongst others services, offering support to individuals and families, supplying meals and nursery services.

328. Support to individuals and families includes financial subsidies allocated to old people, needy families, physically disabled who are not covered by the social security system and all those who are not beneficiaries of social security pensions. Subsidies can be permanent or temporary. The permanent subsidies include: old age pensions; pensions for the needy; disability pensions; unemployment subsidies; sickness pensions; pneumoconiosis pensions; and pensions for single parents' families. Temporary subsidies include: funeral subsidies; household remodelling subsidies; support for catastrophe victims; subsidies for purchase of

furniture, prosthetics and other specific equipment; subsidies for expenses with the abode at nursing homes or hospital stay; and subsidies for education and rent. Currently, the sum of a permanent subsidy to be allocated to a single person is set at MOP\$ 1,200 per month.

329. In the canteens of SWI (the D. Augusta Silvério Marques Canteen, the Taipa Island Canteen and the Coloane Island Canteen), three daily meals are provided for the old-aged, persons with financial difficulties and destitute children from school establishments. These meals are free of charge or merely cost a token price that is defined according to the person's/families' income. In the year 2001, 324,768 meals were provided to 917 persons in these canteens. That represented an expenditure of MOP\$ 1,772,322.

330. As mentioned above, SWI has under its supervision several nurseries within MSAR.

Housing

331. Regarding housing, the MSAR's Housing Institute provides economical or temporary housing to individuals who have financial problems and are incapable of acquiring or renting accommodation.

Table 22
Public housing (as of 31 December 2000), by year of construction and type

Year	Total	Studio flat					T1	T2	T3	T4
		T0	T0I	T0II	T0III	T0IV				
Total	9,084	259	218	318	182	77	1,889	5,244	824	73
1965-1970	140	120	-	-	-	-	20	-	-	-
1971-1975	270	-	-	-	-	-	210	60	-	-
1976-1980	464	42	-	-	-	-	76	321	25	-
1981-1985	1,047	-	-	-	-	-	470	577	-	-
1986-1990	1,945	96	154	294	182	77	263	722	137	20
1991-1995	2,393	1	64	-	-	-	432	1,655	218	23

Year	Total	Studio flat					T1	T2	T3	T4
		T0	T0I	T0II	T0III	T0IV				
1996	85	-	-	-	-	-	-	36	39	10
1997	807	-	-	-	-	-	109	431	262	5
1998	673	-	-	24	-	-	309	182	143	15
1999	1,260	-	-	-	-	-	-	1,260	-	-
2000	-	-	-	-	-	-	-	-	-	-

Source: Yearbook of Statistics, 2000, Census and Statistics Department

VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

A. Education, including vocational training and guidance (art. 28)

332. All MSAR residents, independent of race, gender, religion and political or ideological conviction, are entitled to receive education (article 37 of the Basic Law and article 2 of Law 11/91/M).

333. The right to education consists of equality of opportunity in the access to and study at schools and the freedom to learn and teach, which is characterized by the prohibition of stereotyped education and protection of the right to the creation and existence of private institutions.

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

335. Article 122 (1) of the Basic Law asserts that all educational institutions in MSAR shall enjoy their autonomy, their teaching and academic freedom in accordance with the law.

336. In addition, article 122 (2) of the Basic Law stipulates that all students enjoy freedom of choice over educational institutions and freedom to pursue their education outside the Region. Correspondingly, the Framework Law on Family Policy states, in its article 15 (2), that “parents have the right to freely choose the schools and other necessary means to educate their children, in conformity with their convictions, their pedagogical preferences and geographical location or the available class timetables”.

337. Education is considered, in the conception of the MSAR budget, as one of the fundamental priorities. The budget of the year 2002 assigned the amount of MOP\$ 1,087,725,100 exclusively for the area of education (this amount does not include higher education, scientific investigation and professional education).

338. The right to education becomes concrete through the educational system, whose essential principles are present in Law 11/91/M. The educational system comprises: pre-school education; the preparatory year for primary school; primary school; secondary school; higher education; special education; education for adults; and technical and professional education.

Pre-school education

339. Pre-school education, which intends to complement the family educational action in its training, is directed towards children aged 3 and 4 years old (article 5 of Law 11/91/M).

340. In pre-school education, the pedagogical approach is far-reaching and progress evaluation does not take place. The curriculum plan is comprised of activities aimed at the physical and motor, social-emotional and cognitive development of each child. It should also attend to the specificity of each child, namely in the aspects pertaining to the social/cultural background to which he/she belongs (article 4 of Decree-Law 38/94/M).

Basic education

341. Basic education includes the preparatory year for primary school, primary school and the general secondary school (article 6 (1) of Law 11/91/M).

342. Access to the preparatory year for primary school is conferred to all children who reach the age of 5 before 31 December on the year they enrol. The curriculum plan gives continuity to pre-school education, providing for the acquisition of basic knowledge and developing capacities in order to prepare children for the entry into primary school (article 7 of Law 11/91/M and article 5 of Decree-Law 38/94/M).

343. Primary school lasts six years, with access conditioned on attendance in the preparatory year. Access to the first year of primary school is granted to children who attain the age of 6 before 31 December of the year of their enrolment; the maximum permitted attendance age is 15. Primary school should ensure that the child is able to acquire and master knowledge, values and attitudes that are indispensable for the full development of his/her cognitive, social-affectionate and motor capacities, stimulating his/her interest at learning and for self-improvement (article 8 of Law 11/91/M and article 6 of Decree-Law 38/94/M).

344. Those who graduate from primary school are allowed access to the general secondary school, which lasts three years and is organized according to a curriculum plan that introduces components of both general and vocational training (article 9 of Law 11/91/M and article 3 of Decree-Law 39/94/M).

345. Basic education is universal, free of charge and compulsory in official establishments and in those subsidized by the Government of MSAR. This free assistance covers exemption from fees or other enrolment charges, attendance or certification fees and the granting of subsidies for tuition to pupils of unsubsidized private schools (article 6 of Law 11/91/M and article 1 of Decree-Law 42/99/M).

Supplementary secondary school

346. Other than the general secondary school, secondary school also comprises the supplementary secondary school, which is optional.

347. With a minimum and maximum duration of two and three years, respectively, the supplementary secondary school is organized on the basis of diversified curriculum plans that make it possible to prepare students who wish to access into higher education, other than the basic preparation for those who wish to join the job market. Access is conferred to those who graduate from general secondary school (article 9 of Law 11/91/M).

Higher education

348. Higher education may be either public or private, and consists of university education and polytechnic education (article 3 (1) of

Decree-Law 11/91/M). Access to university and polytechnic education is conditioned on graduation from the secondary school.

349. By law, the Government of MSAR has the obligation to create conditions that guarantee its residents the possibility of reaching higher education, in order to offset the discriminatory effects resulting from former economic inequalities or social disadvantages, as well as from ascendancy, gender, race and philosophical convictions.

350. MSAR residents thus enjoy a reduction in tuition fees of between 40 and 85 per cent, depending on the courses and establishments. Apart from this reduction subsidized by the Government, the latter also joins other institutions at giving financial support for tuition fees in the form of scholarships.

Table 23
Scholarships for higher education (by relevant areas and number of beneficiaries)

Subject areas	Year		
	1998/99	1999/2000	2000/01
Economics/management	700	753	756
Engineering	369	368	332
Computer science	159	197	247
Medical science	326	371	438
Languages/literature	172	215	228
Social sciences	147	156	166
Architecture/design	77	57	50
Law	61	61	84
Communications	153	177	157
Natural sciences	88	106	119
Education	308	336	353
Pre-university	96	72	75
Others	36	36	35
Total	2,692	2,905	3,040

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Table 24
Scholarships for higher education (by country or region and number of beneficiaries)

Country/region	Year		
	1998/99	1999/2000	2000/01
China (mainland)	1,019	1,130	1,120
Macao Special Administrative Region (MSAR)	1,075	1,208	1,392
Taiwan	495	475	437
Portugal	50	36	31
United States of America	23	26	25
Hong Kong Special Administrative Region	8	8	10
Australia	8	9	10
Canada	4	4	4
Others	10	9	11
Total	2,692	2,905	3,040

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

351. In the course of the year 2001, and with the objective of promoting access into higher education, three seminars were conducted in 33 secondary school establishments, which included the participation of 1,200 students.

352. According to statistical data gathered by the Office for Assistance to Higher Education (OAHE), 38 private consultations and 146 telephone consultations for information concerning the access into higher education were registered in the year 2001. In order to boost the extent of services that OAHE has to offer, it is possible to access this sort of information through the Internet as starting from May 2000 (in 2001, 103 e-mails were answered).

353. Equally relevant is that, in 1999, OAHE proceeded with the introduction of the programme "Searching Software" in its homepage, with which Internet users can search in an easier and swifter manner the web-site addresses of different local or foreign higher education establishments. The number of Internet consultations registered by OAHE in 2001 was 2,000.

Special education

354. Special education aims at guaranteeing the principle of equality of educational opportunities and the promotion of the social adjustment of those who have special education needs. These needs can either be permanent or temporary, resulting from mental characteristics, sensory aptitude, neuromuscular or body characteristics, emotional or social behaviour, communication aptitude or multiple deficiencies. Children who are generally gifted are also covered by this education (article 13 of Law 11/91/M).

355. Article 3 of Decree-Law 33/96/M provides that special education consists of the adjustment or adaptation of the programmes, methodologies and evaluation processes belonging to normal education, and of the conditions in which instruction and learning is achieved, namely in:

- a) Access to special equipment used for compensation or for the refinement of learning;
- b) Adaptation of the school's physical environment;
- c) Curriculum adaptations or introduction of alternative curricula;
- d) Adjustment of administrative procedures, namely in enrolment, attendance and absenteeism procedures;
- e) Adjustment in the organization of classes;
- f) Special conditions for evaluation; and
- g) Enhanced pedagogic assistance.

356. Educational plans and programmes are developed and carried out in compliance with the capacities and needs of students. Moreover, the education of students with special-education needs is carried out in a straight and articulated collaboration involving the family, the school, health-care institutions and the community.

357. Special education can take place in a normal classroom or class, to which the student belongs, and also in spaces specially conceived

for this purpose, located at the educational institution and designated as special training units.

358. In the academic year 2001/02, there were 752 students registered with special-education needs, of which 113 were integrated into normal classes and the remainder in special training units located either in normal schools or in independent units.

Table 25
Special education — transit of students by gender and education level

Years	Enrolled		Entries during the academic year		Drop-outs during the academic year		At the end of the academic year			
	M	F	M	F	M	F	Total		Passed or graduated	
							M	F	M	F
1997/98	293	140	14	4	6	3	301	141	214	98
1998/99	316	162	13	6	2	1	327	167	248	128
1999/2000	356	192	17	9	8	3	365	198	107	50
Education level										
Pre-primary	11	6	-	2	-	-	11	8	4	5
Primary	34	14	5	1	1	1	38	14	24	8
Secondary	15	5	-	-	-	-	15	5	13	3
Special	296	167	12	6	7	2	301	171	66	34

Source: Yearbook of Statistics, 2000, Census and Statistics Department

Table 26
Establishments that provide special education, by body of supervision and education levels instructed

Year	Total	Body of supervision			
		Charity association or organization	Government of MSAR	Macao diocese	Other
1997/1998	11	4	6	1	-
1998/1999	12	4	5	2	1
1999/2000	13	4	8	1	-

Year	Total	Body of supervision			
		Charity association or organization	Government of MSAR	Macao diocese	Other
Education level					
Pre-primary and primary	1	-	-	1	-
Pre-primary, primary and secondary	1	1	-	-	-
Special	11	3	8	-	-

Source: Yearbook of Statistics, 2000, Census and Statistics Department

359. In the academic year 2000/01, the Government of MSAR subsidized six educational institutions for around MOP\$ 8,252,475.

360. All staff working under the special-education regime has special qualifications in this area, given by MSAR's Education and Youth Department (EYD) in collaboration with local and foreign higher education institutions. The technical staff are holders of bachelor's to master's degrees, encompassing areas of training such as: social services, special education, medical science (general practice and paediatrics), physical and occupational therapy and psychology. They also benefit from progressive training; in the academic year 1999/2000, various workshops were organized, such as "Pedagogic methods for students with reading and writing difficulties", "Pedagogic methodology for children with autism", "Training of teachers in special education" and "How to communicate with students".

Table 27
Special-education teachers by gender and education levels instructed

Education level instructed	Male/Female			Male			Female		
	1997 / 98	1998 / 99	1999 / 2000	1997 / 98	1998 / 99	1999 / 2000	1997 / 98	1998 / 99	1999 / 2000
Total	91	81	93	13	10	12	78	71	81
Pre-primary	4	5	3	-	-	-	4	5	3
Pre-primary, and primary	1	2	1	-	1	-	1	1	1
Pre-primary, primary & secondary	1	2	1	-	1	-	1	1	1

Education level instructed	Male/Female			Male			Female		
	1997 / 98	1998 / 99	1999 / 2000	1997 / 98	1998 / 99	1999 / 2000	1997 / 98	1998 / 99	1999 / 2000
Pre-primary, and secondary	-	1	-	-	-	-	-	1	-
Primary	9	6	8	2	-	1	7	6	7
Primary and secondary	7	9	10	2	2	3	5	7	7
Secondary	3	-	1	-	-	-	3	-	1
Special	66	56	69	9	6	8	57	50	61

Source: Yearbook of Statistics, 2000, Census and Statistics Department

Technical and professional education

361. Technical and professional education, while still a distinct educational course within the framework of the educational system, has as its objective to provide qualifications for youngsters and adults who wish to take on social roles and to enter into the job market. This education is divided into two fields: professional training and technical-professional school (article 15 of Law 11/91/M).

362. Professional training envisages securing basic skills for the exercise of a professional activity and is conducted in public or private professional training institutions. Access is conferred to youngsters and adults who have completed primary school (articles 16 and 17 of Law 11/91/M).

363. Technical-professional school has as its objective the preparation of technical workers and professionals of an intermediary level, through the acquisition of knowledge and the necessary skills for carrying out a qualifying professional activity. Technical-professional instruction is conducted in public or private schools. Access to this education is granted to youngsters and adults who have completed at least the general secondary school (article 18 of Law 11/91/M).

364. At the moment, there are three establishments that teach

technical-professional subjects, namely: the Sino-Portuguese Technical-Professional School; the Technical-Professional Secondary School of the General Association of Macao Labourers; and the Sam Yuk Secondary School of Macao.

Table 28
Number of technical-professional students and classes

Schools	2000/01	2001/02
Sino-Portuguese Technical-Professional School	1,315 (44 classes)	1,344 (43 classes)
Technical-Professional Secondary School of the General Association of Macao Labourers	927 (19 classes)	803 (20 classes)
Sam Yuk Secondary School of Macao (Chinese section)	557 (13 classes)	405 (10 classes)
Total	2,599 (75 classes)	2,552 (73 classes)

Source: Education and Youth Department, May 2002

Table 29
Number of technical-professional courses

Schools	Courses in 2001/02
Sino-Portuguese Technical-Professional	Technical-professional general secondary education, Computer Science techniques, Tourism techniques, Administrative and Business techniques, Electro-mechanics and industrial maintenance techniques, Social services
Technical-Professional Secondary School of the General Association of Macao Labourers	Accounting, Computer Science, Business
Sam Yuk Secondary School of Macao (Chinese section)	Computer Science, Sewing, Business

Source: Education and Youth Department, May 2002

365. In the academic year 2000/01, a seminar on “methodology for technical-professional education” was organized by the Education and Youth Department (EYD). In 2001 the staff and teachers of the three establishments above participated in the “International Meeting on

Technical-Professional Education, Beijing 2001". At the local level, seminars were conducted as well as exchange visits, between the three establishments, which allowed for the exchange of knowledge relating to curricula, classroom management and pedagogics.

Non-formal education

366. Within the scope of non-formal education in MSAR, vocational artistic education is worth a reference. It consists of a specialized kind of training, directed towards individuals with confirmed aptitude or talent in a specific artistic area, namely music, dance and plastic arts (article 9 of Decree-Law 4/98/M).

367. Vocational artistic education is conducted in official or private specialized educational institutions. These institutions exclusively teach vocational artistic subjects, while students attend the remaining subjects in other educational establishments (article 11 of Decree-Law 4/98/M).

Compulsory education

368. Article 121 (2) of the Basic Law states that "the Government of the Macao Special Administrative Region shall, in accordance with law, gradually institute a compulsory education system". Compulsory education in MSAR comprises the preparatory year for primary school, primary school and the general secondary school. It covers children and the young between the ages of 5 and 15 and is provided in official or private educational establishments (article 1 of Decree-Law 42/99/M).

369. Even though compulsory education was only established in mid-1999, EYD's statistics show that in 1996 the school attendance rate of children aged between 6 and 11 was 99.5 per cent. A 100 per cent rate was not reached due to the existence of a sector of the population that

is mobile, which is reflected through the entry of new immigrants and in the emigration of MSAR's residents to foreign countries.

370. EYD seeks to render compulsory education effective through the following measures: (a) strengthening the dissemination (in schools, social welfare services, mass-media and in the immigration department) of information concerning government assistance that children and youngsters have the right to receive, the extent of free education and the array of available measures of social compensation; (b) work meetings with those responsible for the private educational institutions in order to reinforce the access to education; and (c) involvement of government departments who intervene on social, employment, justice and public safety areas, in order to locate and guide children and youngsters likely to drop out of school or who are out of the regular educational system.

Compensatory education

371. In accordance with the principle of equal opportunities in access to and achievement in education, the existence of compensatory education activities is assured to students with educational needs (articles 19 and 20 of Law 11/91/M).

372. Compensatory education is provided to students at lower education levels. However, priority is conferred to basic education students who are in the following situations: have certified physical or/and intellectual disabilities and are not covered by the special-education regime; have not received lectures, in the previous academic year, in at least two thirds of the number of classes foreseen by their curriculum; have not been instructed of the significant contents of the programmes; display learning deficiencies in the language medium that is being used; or reveal, for any other reasons, learning difficulties (Nos. 4 and 5 of Order

7/SAAEJ/92).

373. Compensatory education activities can assume the form of additional classes, individual or group support activities, alternative curricula, and study-rooms with pedagogical guidance (No. 6 of Order 7/SAAEJ/92).

374. Compensatory education is maintained as long as its legitimate need remains. Once parental or the guardian's consent is obtained, attendance to classes and/or educational compensation activities can become mandatory (Nos. 2 and 12 of Order 7/SAAEJ/92).

Psycho-pedagogical assistance, and professional and school orientation

375. Under the terms of article 21 of Law 11/91/M, the Government of MSAR is responsible for securing, directly or through assistance to non-official institutions, the existence of services for psycho-pedagogical assistance and for professional and school orientation.

376. Counselling to students in private schools is directly guaranteed by specially assigned personnel from EYD, or indirectly by staff made available by the voluntary associations financed by that governmental department. In the academic year 2000/01, 59 schools were covered by this service. In 2001, EYD went further and provided a social counsellor for every school with more than 1,000 students (or more than 1,500 students if the school engaged in both primary and secondary education), benefiting a total of 36 schools. The amount spent in this last programme was MOP\$ 3,178,000.

377. Following the organization in the academic year 1999/2000 of initiation courses in counselling practices, equivalent advanced courses were also organized in the academic years 2000/01 and 2001/02 for teachers interested in acting as counsellors. Further to that, 180 actions related to counselling services were organized both inside and outside

school establishments in the year 2000. The total number of activities grew to 700, which included a total of about 42,000 participants. In the same year, EYD also promoted the training of parents or other persons in charge of a child’s education, through seminars, group sessions, workshops and gatherings in which 590 persons participated.

Social-educational support

378. As noted above, all MSAR residents have the right to education. Other than the measures already mentioned, which aim at diversifying instruction so that the school carries out its social integration and education roles, there are still those measures of social-educational support.

379. Social-educational support consists of economic support schemes and supplementary support services offered to students and schools. It contributes as such to the generalization of the concept of a universal and gratuitous education (article 13 of Decree-Law 62/94/M).

380. Economic support schemes, intended for the various school levels, include subsidies for tuition, subsidies for the purchase of school material and scholarships. In March 2002, the Government decided that children in need coming from single-parent families are entitled to receive a financial subsidy to attend school.

Table 30
Subsidy for tuition (number of students benefiting)

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	1,372	1,060	1,097
Primary	888	778	778
Secondary	2,343	2,474	3,503
Total	4,603	4,312	5,378

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Table 31
Subsidies for the purchase of school material (number of students benefiting)

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	2,360	1,802	1,828
Primary	6,399	6,016	6,985
Secondary	4,544	4,897	6,611
Total	13,303	12,715	15,424

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

381. In its turn, supplementary support services are directed towards completing the support that is extended to students for the creation of better study conditions and well-being. These services comprise, namely, food supply, school health service and school insurance.

Table 32
Food supply service (number of students benefiting)

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	928	860	847
Primary	1,475	1,399	1,432
Secondary	315	343	329
Total	2,718	2,602	2,608

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Table 33
School insurance (number of students benefiting)

School insurance and accidents	Year		
	1998/99	1999/2000	2000/01
Reported accidents	991	1 147	1 311
Accident rate	1.03%	1.20%	1.37%

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Teachers

382. Under MSAR's educational system, teachers and educators carry out an activity considered as of public interest and benefit from a statute that is dignified and compatible with their professional qualifications and social responsibilities.

383. By law, teachers and educators have the right and duty to professional training, the Government being accountable for promoting the conditions and creating the necessary means. Teacher training assumes varied and flexible forms, ranging from the initial training, the internship and the continued training (articles 25 (2) and 26 of Law 11/91/M).

384. In the academic year 2000/01, EYD has collaborated with the University of Macao at the organization of courses aimed at the training of teachers working at pre-primary and primary school establishments. The Macao Polytechnic Institute provides those professionals with specialized courses in sports and physical training, musical education and the arts.

385. In collaboration with the Macao Education Association and the Vá Nam University, courses in childhood psychology and in the tutoring of mathematics and English were also organized. These courses provided for the training of 314 teachers. A series of progressive and diversified continued training programmes were provided by EYD to teachers in 2001. In total, 113 seminars, conferences, meetings and workshops took place with the participation of 8,873 persons.

386. Attending to the development of information technology education, three courses in computer science were organized in 2000, in which 63 teachers belonging to private teaching institutions that lecture in this area participated. Furthermore, throughout that year there were a

series of courses and sessions for the demonstration of techniques, specially conceived for teachers and in which 1,327 persons participated (1,288 persons concluded the said courses and sessions).

387. According to EYD, the number of teachers from non-higher education establishments, relating to the academic years of 1998/99, 1999/2000 and 2000/01, was as shown in the table below:

Table 34
Types of school establishment (not higher education)

Types of schools	Year		
	1998/99	1999/2000	2000/01
Sino-Portuguese schools (using Chinese as teaching language)	334	348	361
Sino-Portuguese schools (using Portuguese as teaching language)	36	21	17
Private schools (using Chinese and English as teaching languages)	3,305	3,403	3,534
Private schools (using Portuguese as teaching language)	126	74	71
Total	3,801	3,846	3,983

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department.

Table 35
Enrolment by level of instruction (not higher education)

Level of instruction	Year		
	1998/99	1999/2000	2000/01
Pre-school and the preparatory year for primary school	545	531	494
Primary	1,505	1,496	1,530
Secondary	1,382	1,465	1,599
Special education	74	83	83
Duties equated to those of a teacher	295	271	277
Total	3,801	3,846	3,983

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

388. Regarding the training of teachers, EYD registered in the academic years of 1998/99, 1999/2000 and 2000/01 the following number of student teachers, as outlined in the table below.

Table 36
Training of teachers

School establishments training teachers	Year		
	1998/99	1999/2000	2000/01
Macao University	566	680	708
Macao Polytechnic Institute	36	32	19
Vá Nam Normal University	322	197	139
São José Diocese College	120	126	121
EYD	4,999	6,508	6,806
Total	6,043	7,543	7,793

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Language of instruction

389. Official education institutions, covering 6.2 per cent of all pupils in the educational programme, may only use as their teaching language either Chinese or Portuguese. The institutions using Chinese as a teaching language shall adopt Portuguese as their second language and, conversely, those using Portuguese shall adopt Chinese as their second language (article 35 (7) (8) of Law 11/91/M).

390. In the academic year 2001/02, of the 23 official education institutions, 20 used Chinese as a teaching language and 3 used Portuguese. Private teaching establishments are entirely free to decide on the language to be used and also the second language to be included on a mandatory basis in the corresponding curriculum (article 35 (6) of Law 11/91/M). The majority use Chinese as the teaching language. During the academic year 2001/02, 95 establishments were using Chinese while Portuguese was used by 2 and English by 9 private establishments.

Table 37
Establishments in Macao by education levels

Education level taught	Total
1997/98 ^a	147
1998/99	151
1999/2000	133

Education level taught	Total
Pre-primary	18
Pre-primary and primary	34
Pre-primary, primary and secondary	9
Primary	23
Primary and secondary	12
Primary and vocational technical college	5
Secondary	19
Vocational technical college	4
Higher	9

Source: *Yearbook of Statistics, 2000, Census and Statistics Department*

^a One establishment of higher education suspended the educational activities in the academic year 1997/1998

Table 38
Number of students, by attendance and level of education (does not cover higher education)

Education level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	17,092	16,162	14,847
Primary	46,587	46,933	45,211
Secondary	31,612	35,316	38,913
Special education	477	553	605
Total	95,768	98,964	99,576

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Table 39
Number of students, by attendance (does not cover higher education)

School establishment	Year		
	1998/99	1999/2000	2000/01
Sino-Portuguese schools (using Chinese as teaching language)	5,078	6,098	6,201
Sino-Portuguese schools (using Portuguese as teaching language)	228	115	102
Private schools (using either Chinese or English as teaching languages)	88,851	91,683	92,364
Private schools (using Portuguese as teaching language)	1,611	1,068	909
Total	95,768	98,964	99,576

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

Table 40

**Students who passed or graduated at the end of the academic year,
by gender and education level**

Education year	Number of students						Success rate (%)
	At the end of the academic year			Passed or graduated			
	M/F	M	F	M/F	M	F	
1997/98	102,187	51,990	50,197	86,517	43,068	43,249	84.7
1998/99	107,419	54,818	52,601	89,786	44,689	45,097	83.6
1999/2000	104,997	53,253	51,744	90,113	45,226	44,887	85.8
Education level							
Pre-primary	16,083	8,433	7,650	15,976	8,367	7,609	99.3
Primary	47,059	24,619	22,440	43,307	22,293	21,014	92.0
Secondary	30,685	14,447	16,238	25,910	11,852	14,058	84.4
Vocational technical college	4,076	2,679	1,397	3,119	2,007	1,112	76.5
Higher	7,094	3,075	4,019	1,801	707	1,094	25.4^a

Source: Yearbook of Statistics, 2000, Census and Statistics Department

^a In higher education only graduates are counted

B. Aims of education (art. 29)

391. The aims of education as referred to in article 29 of the Convention are recognized by MSAR's educational system and most of them are expressly provided for in the Framework Law on Education.

392. The educational system has as objectives, amongst others, to:

- (i) "Contribute for the harmonious and broad development of the individual personality, encouraging the formation of free, responsible, autonomous and solidaristic persons (...);
- (ii) Promote the development of a civic conscience through the conveyance of Macao's own culture, imperative for the reinforcement and consolidation of an identity (...);
- (iii) Contribute for the reinforcement of the friendship and solidarity ties with all the people of the world (...); and

- (iv) Imote the development of a democratic and pluralistic spirit, as respecting others and their ideas, open to dialogue and the free exchange of opinions, enriching residents into becoming capable of judging with a critical spirit and to intervene creatively on the problems of the society (...)" (article If Law 11/91/M).

393. These principles are then developed and strengthened in the provisions with reference to pre-primary, primary, secondary and higher education. Therefore, and as an example, pre-school education should "favour the development of ethical concepts, personal interests and creative capacity"; primary school should "provide for the awareness of the reality in Macao and for the favour of the development of the characteristic values of its identity"; secondary school should "stimulate the interest of students on the problems of the regional life and of the international community in general"; and higher education should "contribute for the international cooperation and approach of the peoples" (articles 5, 8 and 9 of Law 11/91/M and article 2 of Decree-Law 11/91/M).

394. The respect for human rights and fundamental freedoms is enshrined in the Framework Law on Education. Equally relevant is that both human rights and the respect for natural environment occupy a crucial place in the subject "Personal and Social Development" integrated in the school curriculum.

395. All training provided to teachers should guarantee scientific-pedagogical knowledge and skills. It should also integrate a component of personal and social training that is adequate to the curriculum needs of the respective levels of education and schooling. Furthermore, training programmes should be outlined in consonance

with the general principles and objectives of the educational system (article 26 of Law 11/91/M).

396. According to article 49 of Law 11/91/M, the administration of educational institutions should allow for the participation of teachers, parents, students and others involved in the educational process.

397. As mentioned above, private education is recognized by the Basic Law and by the Framework Law on Education as a specific expression of the freedom to learn and teach. Private school institutions are free to define, by themselves, their educational project, without disregarding the principles defined by the Framework Law on Education (articles 121 and 122 of the Basic Law and article 2 (3) (b) of Law 11/91/M).

C. Leisure, recreation and cultural activities (art. 31)

398. Access to and participation in cultural activities and demonstrations is a right guaranteed by the Basic Law (art. 37).

399. The principle that curriculum activities should be complemented with actions geared towards the integral formation and personal fulfilment of the students, in order for them to employ creatively and rewardingly their spare time, is enshrined by the Framework Law on Education (article 51 of Law 11/91/M).

400. Activities that complement the curriculum aim at cultural and civic enrichment, physical and sports education, artistic education and integration of the students in the community. With optional attendance, these types of activities are namely of a sportive, leisure, science-technological and artistic character (Nos. 1 and 2 of Order 18/SAAEJ/93). Within this extent, schools offer students activities that complement their curriculums, which are arranged into groups or clubs that are constituted by

a minimum of 10 and a maximum of 30 students. Along these lines, sports are conferred a particular importance, since the Framework Law on Education considers it desirable for students to practice sports throughout their time at school. School sports not only aim at promoting physical condition, but also the understanding of sports as a cultural factor, stimulating feelings of solidarity, cooperation, autonomy and creativity.

Table 41
School sports, by number of participants

School sports	Year		
	1998/99	1999/2000	2000/01
Sports nucleus	8,310	9,428	10,844
School championships	6,261	6,687	6,594
School "Interports" — Macao, Hong Kong, Fuzhou, Canton	112	188	228
School representative teams	465	539	673
International tournaments	12	34	32
Other activities to occupy spare time	1,951	2,050	3,011
Total	17,111	18,926	21,382

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

401. In order to support and encourage participation in sports activities, certain privileges are granted to students who are sports practitioners, relating namely to their school timetable, absenteeism and dates of their evaluation tests (articles 47 et seq. of Decree-Law 67/93/M).

402. There is a considerable number of sports participants in MSAR, especially among the younger age groups, which is reflected in the great number of practitioners registered at the Macao Sports Development Board (MSDB) and the number of local sports associations. MSAR also provides great and modern facilities for the practice of various sports activities.

Table 42

Number of athletes under 18 years of age, registered at the Macao School Development Board in 2001, by gender and sports activity

Sports activity	Male	Female	Total
Aikikai	15	12	27
Handball	48	48	96
Archery	15	10	25
Chinese martial arts	696	310	1,006
Track and field	750	750	1,500
Motorcar club ^a	0	0	0
Badminton	64	28	92
Dragon boats ^a	0	0	0
Basketball	1,352	240	1,592
Billiards ^a	0	0	0
Bowling	48	22	70
Boxing	72	10	82
Bridge ^a	0	0	0
Canoeing	126	34	160
Cycling	44	20	64
Dancing	10	114	124
Fencing	61	36	97
Soccer	486	0	486
Mini-soccer	200	0	200
Gateball ^a	0	0	0
Gymnastics (choreographed)	40	45	85
Golf ^a	0	0	0
Chess	270	59	329
Hockey	160	0	160
Judo	1,167	712	1,879
Karate-do	174	62	236
Kendo	5	0	5
Swimming	517	423	940
Skating ^a	0	0	0
Rugby	30	3	33
Squash	135	49	184
Tennis	48	30	78
Table-tennis	458	91	549
Target practice ^a	0	0	0
Triathlon	74	18	92
Sailing	46	19	65
Volleyball	84	192	276
Chinese chess	6	1	7
“Wei Qi” chess	79	38	117

Source: Macao Sports Development Board, May 2002

^a There is no calculation based on age done by the sports associations

Table 43
Sports facilities in MSAR in 2000 and 2001

Type of sports facilities	Number of sports facilities	
	2000	2001
Soccer fields	5	5
Mini-soccer field	3	4
Indoor soccer fields	1	1
Tennis courts	43	45
Hockey fields	2	1
Basketball courts	17	21
Volleyball courts	2	3
Badminton courts	23	33
Target-practice fields	4	4
Multi-purpose fields	114	131
Exercise track	13	13
Gymnasiums	0	8
Pavilions	11	15
Swimming pools	49	49
Athletic grounds	3	4
Skating rinks	6	6
Squash courts	14	14
Bowling facilities	22	22
Billiards facilities	13	13
Table tennis facilities	53	62
Bodybuilding facilities	38	42
Sports facilities	48	48
Nautical centres	2	2
Golf fields	1	1
Mini-golf fields	9	9
Gate ball	1	3
Remote-control vehicles track	1	1
Karting track	1	1
Multi-purpose facilities	0	3
Beach volleyball	0	5
Motorized sports	0	0
Dance saloons	31	31
Climbing facilities	3	3
Horse-riding tracks	2	2
Others		
Ice skating rink	1	1
Skating rink	2	3
Acrobatic skate slope	1	0
Hac Sá dam aquatic centre	0	1

Source: Macao Sports Development Board, May 2002

403. MSDB, through the coordination of the 50 sports associations, organizes periodically 143 junior championships at the local level. In compliance with the statistical data provided by the sports associations, the number of young athletes participating in sports activities and championships in the year 2000 was 6,868.

404. In the year 2001, MSDB subsidized, for a total of MOP\$ 689,000 the junior selection teams (about 150 registrations) at the participation in 10 junior events as organized by the international, Asian and world federations.

405. For several years, MSDB has introduced the necessary means to assist sports entities in the training of young athletes, namely in the areas of basketball, volleyball, table tennis, badminton, swimming and Chinese martial arts (with a total of around 25,000 registered members). In the year 2001, MSDB subsidized with more than MOP\$ 730,000 the 10 teams of the “Macao Hockey Association” (220 young athletes) for specific hockey training programmes and more than MOP\$ 1,148,000 for the training of 17 teams in under-17 and under-19 divisions of the Macao Football Association (300 young athletes).

406. MSDB annually subsidizes various youth associations in the organization of different types of activities, namely: the “Macao Police Agents Association” in the organization of the *Ursa-Maior de Macao* programme and *Águia em Vóo* (with the participation of 180 youngsters); and the Youth Delinquency Assessment Association for the organization of “O Brotar 2000” with youths from Beijing and Macao showing their development (with the participation of 40 youngsters). By the same token, MSDB grants regular subsidies to young teams for the rental of their facilities, hoping to offer more room for manoeuvre to these youths.

407. Various cultural activities take place in MSAR throughout the year. Other than the Arts Festival and the International Music Festival, there are concerts of classical and modern music, variety shows that count on the participation of local and international groups and artists. Full-time students receive a 50 per cent reduction on tickets fees.

Table 44
Public shows and exhibitions

Type of show	Number of shows			Attendance		
	1998	1999	2000	1998	1999	2000
Total	8,713	10,280	10,969	479,139	769,704	829,653
Ballet	-	15	18	-	8,848	11,515
Concerts	93	167	210	47,434	121,120	105,015
Operas (variety shows)	75	84	77	131,854	173,146	169,093
Chinese opera	19	59	51	10,305	22,401	19,505
Theatre	52	81	54	12,162	19,336	23,001
Contests	32	42	32 ^a	11,580	10,214	16,511 ^a
Films/shows	8,325	9,525	9,920	177,698	155,410	207,191
Exhibitions	70	111	120	72,798	196,646	237,286
Others	47	196	214	15,308	62,583	40,536

Source: Yearbook of Statistics, 2000, Census and Statistics Department

^a The data on attendance to 20 contests were not available

408. In the year 2000, MSAR's Education and Youth Department (EYD) carried out 74 actions specially conceived for the young, which included cultural, recreational and sports activities, art and training courses, counting on the participation of 91,000 youngsters.

Table 45
Recreational cultural activities, by number of participants

Activities	Year		
	1998/99	1999/2000	2000/01
Cultural and recreational	17,431	17,276	19,717
Sports	21,558	16,531	17,444
In schools	8,410	11,987	11,371
In youth associations	2,589	2,343	1,667
Programme for youth activities during summer	210	225	296
Voluntary service programmes	30	42	26
Total	50,228	48,404	50,521

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

409. EYD arranges and supports the creation of spare-time occupational activities along the following parameters, amongst others: energy-release in a free but safe environment; training; personal assertion; promotion of personal/social interaction; promotion of family harmony as the support for a child/youth’s development. Attending to these parameters, EYD organizes recreational, sportive, cultural and artistic activities directly or subsidizes its organization by schools, youth associations and social solidarity organizations.

410. There are various polyvalent spaces, managed by EYD, dedicated to the practice of educational, recreational and cultural activities, which favour the creative and rewarding occupation of spare time of the young, namely: the Barra Youth Centre; the Areia Preta Youth Centre; the Forum Youth Centre; the Caixa Escolar Youth Centre; the Bairro do Hipódromo Centre for Youth Activities; and the Taipa Centre for Educational Activities.

411. During the summer months and coinciding with school holidays, the young of MSAR have at their disposal a series of sports and recreational-cultural activities as an alternative for the occupation of their spare time.

Table 46
Summer activities, by number of participants

Summer activities	Year		
	1998/99	1999/2000	2000/01
Cultural and recreational	17,431	17,276	19 717
Sports	21,558	16,531	17,444
In schools	8,410	11,987	11,371
In youth associations	2,589	2,343	1,667
Programme for youth activities during summer	210	225	296
Voluntary service programmes	30	42	26
Total	50,228	48,404	50,521

Source: "Education and Training in Numbers", 2000/01, Education and Youth Department

412. In the months of July and August, EYD and MSDB organize

in a joint venture summer activities specially conceived for youths aged between 4 and 21. They are aimed at providing these young people with a healthy occupation of their spare time, encouraging them to get together and creating conditions for the development of their physical, psychological and moral aptitudes.

VIII. SPECIAL PROTECTION MEASURES

A. Children in situation of emergency

1. Refugee children (art. 22)

413. The Convention relating to the Status of Refugees of 28 July 1951 and its Protocol of 31 January 1967 entered into force for Macao on 26 July 1999 and 27 April 1999, respectively.

414. The Social Welfare Institute is accountable for providing assistance to refugees who arrive in MSAR, through forms of shelter, supplying of various items and the allocation of subsidies.

415. Throughout 1999, 263 Timor refugees were accommodated, and MOP\$ 1,848,579.40 was advanced in the form of subsidies, such as: regular subsidy, transportation subsidy, food subsidy and others. At the time of the reunification, these refugees had already left the Ilha Verde Refugee Camp. In fact, 15 of them settled down in MSAR and the remaining refugees returned to East Timor or went to Portugal.

2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)

416. In this respect, it should be stressed that the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977 are applicable to MSAR.

B. Children involved with the system of administration of juvenile justice

1. The administration of juvenile justice (art. 40)

417. At present, minors under the age of 16 are not criminally responsible in MSAR (article 18 of the Criminal Code).

418. The MSAR law concerning juvenile justice was recently subject to revision. The Statute for Legal Assistance for Minors Overseas, which dated from 1971, was superseded at the end of 1999 by Decree-Law 65/99/M, which approved the educational and the social protection regimes on juvenile justice.

Education regime

419. Minors aged 12 to 16 who have committed an act that can be qualified as a crime, a misdemeanour or an administrative offence under the law are subjected to the educational regime, and measures will be applied to them depending on their educational needs (article 6 (1) of Decree-Law 65/99/M).

420. The measures applicable to minors have solely an educational character, aiming at the socialization of the child. The judge should choose the most adequate measure on a case-by-case basis, attending to the educational needs of the minor at the moment of its application.

421. The law enumerates the educational measures in an ascending order of restriction of liberty that the application entails, namely: admonition; imposition of specific conducts or duties; educational monitoring; semi-commitment; and commitment (article 7 of Decree-Law

65/99/M).

422. The admonition consists on the solemn reprimand done by the judge to the minor, censuring his/her conduct and urging the minor to correct his/her actions.

423. The imposition of specific conducts or duties may consist of: the obligation of the minor to present apologies to the victims for his/her conduct; compensation for damages caused; the obligation of the minor to pursue school or professional training or, when legally possible, to carry out a professional activity; performance of an activity with a social character and interest; and payment of an amount in cash or in specie to benefit a social institution.

424. The educational monitoring consists on carrying out an individual plan of education embracing the areas established by the court.

425. The commitment measures consist of placing the minor in an educational establishment. Under a semi-commitment measure, the minor takes a school or professional training or, when legally possible, carries out a professional activity at a location outside the educational establishment. In this case, the minor is free to leave the premises without an escort within strictly necessary schedules. In full commitment, the minor is always accompanied, be it outside or inside the educational establishment.

426. Moreover, commitment measures are carried out in accordance with an individual educational plan elaborated by the Minors Institute and comprising the areas determined by the court.

427. Proceedings relating to the educational regime are instituted at the request of the Procurator or through a verbal or written communication by any person. The minor must be presented to the court. Such a presentation can be done through law enforcement bodies.

Whenever immediate presentation is impossible, the minor is entrusted to his/her legal representatives or, exceptionally, to an educational establishment, when there are doubts concerning the practice of new acts of analogous nature (article 24 of Decree-Law 65/99/M).

428. Once the minor is presented to the court, the judge can: stop the proceedings; apply an educational measure, should that be possible; free the minor, regardless of the progress of the proceedings; or order the minor to remain under the care of an establishment if doubts over the practice of new acts of a similar nature arise and commitment measures are to be applied (article 25 of Decree-Law 65/99/M).

429. If, immediately or after a brief oral investigation, a judge reaches the conclusion that a minor carried out the acts or that the application of a measure to this minor is necessary, an investigation phase is declared open. Evidence is reduced in written form and may consist of: a hearing for the minor; depositions by the parents, guardian, or by the entity having the minor in custody; social reports; observation of the minor; and information requested from other entities. Whenever the application of a measure is to be considered, the minor must be heard.

430. Once the investigation phase reaches its close, and if the commission of the acts is proven and a non-institutional measure is to be applied to the minor, the court can order for the latter. If the court considers the acts as proven and that a measure of semi-commitment or commitment can be applicable to the minor, the judicial hearing then takes place.

431. The court's decisions regarding the application of measures are appealable by the Procurator, the minor aged 14 or over and the parents, guardian or entity that has the minor in custody or by a lawyer on their

behalf (article 39 (2) and (3) of Decree-Law 65/99/M).

432. A lawyer can assist the minor in all phases of the proceedings. The lawyer's intervention is mandatory in the appeal phase.

433. In the proceedings, one of the official languages of MSAR is to be used. When a person who does not understand or command the language has to intervene in the proceedings, an interpreter is then appointed without charges to the said person (article 89 (1) and (2) of the Civil Procedure Code, applicable by virtue of article 41 of Decree-Law 65/99/M).

434. The proceedings have an urgent character (being carried out also during judicial holidays) and are secret (even after being filed).

435. According to information supplied by MSAR's First Instance Court, in the years 1999, 2000 and 2001 the number of minors presented to the court for carrying out offences was 186, 184 and 255, respectively. The most frequent offences carried out by minors were larceny, bodily harm and extortion of other minors. Admonition and educational monitoring were the most applied measures.

Social protection regime

436. The minimum age for the application of the educational regime is 12 years old, since the law considers that a minor under this age does not meet the necessary psychobiological conditions in order to undergo such a regime. Therefore, acts qualified as crimes, misdemeanours or administrative offences when committed by minors aged less than 12 years are covered by the social protection regime, which is equally applicable to minors in situations of danger (e.g., victims of ill-treatment, those abandoned, etc.). Under this regime, the measures applicable to the

minor take into account his/her educational and social protection needs.

437. The proceedings regulated in article 77 of Decree-Law 65/99/M are ruled by the relevant provisions of the educational regime, except for a few exceptions.

General regime

438. As was previously mentioned, minors are criminally responsible starting from the age of 16 years and are consequently subject to criminal law should they be accused of having infringed it.

439. The principles of presumption of innocence, non-retroactivity of the criminal law as well as of the procedural swiftness are enshrined in MSAR's legal order. In fact, the Basic Law states that "Macao residents shall not be punished by the law, unless their acts constitute a crime and they shall be punished for it as expressly prescribed by the law at the time. When charged with criminal offences, Macao residents shall enjoy the right to an early court trial and shall be presumed as innocent until convicted" (art. 29).

440. On its own account, the Criminal Procedure Code recognizes that the accused has the following rights, amongst others:

— The right of not replying to the questions posed to him/her concerning the case or to the content of any statement he/she gives regarding the case (art. 50 (1) (c));

— The right to choose and be assisted by counsel in the proceedings and, in case of detention, to be allowed to communicate even in private with counsel (art. 50 (1) (e));

— The right to produce evidence and request evidence that he/she deems to be necessary (art. 50 (1) (f));

— The right to appeal, under the terms of the law, against decisions that have been unfavourable (art. 50 (1) (h)); and

— The right to have free assistance of an interpreter if he/she cannot understand or speak the language used (art. 82).

2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))

441. According to MSAR law, deprivation of liberty is always used as a measure of last resort. Moreover, deprivation of liberty for an unspecified period of time is prohibited.

Minors who have reached 12 years of age but not 16 years

442. Concerning the educational regime applicable to minors with ages ranging from 12 to 16 who have committed an act qualified as a crime, a misdemeanour or an administrative offence under the law, the court can only order the minor's entrustment to an educational establishment during the period of the ongoing proceedings when there is a risk that he/she will commit new offences and commitment measures are presumably applicable.

443. The measure of entrustment of the minor to an educational establishment cannot total more than 21 days, except when observation of the minor is carried out through a commitment regime. The measure of observation, having as its goal the understanding and definition of the minor's personality, his/her aptitudes and tendencies and the conditions of the social milieu in which he/she is integrated, has a maximum duration

of three months (articles 25 and 31 of Decree-Law 65/99/M).

444. Within the array of measures that can be applied to the minor by the court — admonition, imposition of specific conducts or duties, educational monitoring — commitment is used as a measure of last resort, viable only when other measures do not accurately satisfy the educational needs of the minor (article 7 of Decree-Law 65/99/M).

445. The duration of the minor's commitment at an educational establishment is always determined by a court decision.

446. Commitment measures are always carried out under court supervision. Judicial intervention has, specifically, the following purposes: approval and execution of the individual plan of education; visit to the educational establishment; examination of the minor's complaint; and appreciation of the appeal from disciplinary decisions proffered by the competent bodies of the educational establishment (article 56 of Decree-Law 65/99/M).

447. The judicial decisions that have ordered the application and the execution of commitment measures have a mandatory review at the end of one year, counting from the day of the last decision by the judge. Besides this mandatory review, the law provides for other cases of review, namely when the educational needs of the minor do demand such a review (article 61 of Decree-Law 65/99/M).

448. During the review the judge can, depending on the cases, decide to sustain the measure, replace it with one that is less restrictive of the liberty, reduce its duration or terminate it immediately. In cases of mandatory review, the judicial decision that maintains the reviewed decision is appealable (article 63 (2) of Decree-Law 65/99/M).

449. If commitment or semi-commitment of the minor at an

educational establishment is ordered, the measure will be carried out at the Minors Institute (MI), which is an entity under MSAR's Justice Affairs Department.

450. The maximum capacity of the MI is 68 minors, of which 53 can be housed in the boys' chambers and 15 in the girls' chambers. These two chambers operate independently from each other, with separate dormitories, recreational areas as well as studying and training centres. At present, there are 59 minors in the MI (48 males and 11 females). From those, eight males and one female are under semi-commitment, all of them in a normal situation. The rest are under the measure of commitment, of which eight are under observation and the others in a normal situation. There are different sections in each home for minors under different measures.

Table 47
Minors in the Minors Institute according to the measures applied by the court

	Semi-commitment		Commitment	
	Normal	Observation	Normal	Observation
Male	8	0	34	8
Female	1	0	10	0
Total	9	0	42	8

Source: Minors Institute, May 2002

Table 48
Minors in the Minors Institute by age and gender

Age	11	12	13	14	15	16	17	18	19	20
Male	0	1	0	12	16	10	6	2	1	0
Female	0	0	0	3	7	0	1	0	0	0

Source: Minors Institute, May 2002

451. The implementation of commitment measures should respect the minor's personality and should be carried out with absolute impartiality, without discrimination founded in ascendancy, gender, race, language, country of origin, religion, political and ideological convictions, instruction, economic situation and social condition (article 2 of Decree-Law 40/94/M, applicable by virtue of article 45 (a) of Decree-Law 65/99/M).

452. The minor is housed in a room with capacity for at least three persons and wears his/her own clothing (articles 46 and 47 of Decree-Law 65/99/M). The minor will be served meals that are adequate to the culture of the community to which he/she belongs and in a sufficient quantity and quality. Breakfast, lunch, dinner and a light refreshment at the evening are served at the Minors Institute.

453. Visiting and correspondence arrangements are regulated in detail in articles 21 to 36 of Decree-Law 40/94/M, applicable by virtue of article 45 (d) of Decree-Law 65/99/M.

454. The minor has the right to receive regular visits, which should not be for a period of less than one hour per week. The director can prohibit visits by minors aged under 16 who are not siblings of the committed minor, as well as persons who endanger the safety and order of the Minors Institute, have a bad influence over the minor or can hamper his/her social reintegration. The visits by the minor's lawyer and other persons considered as having urgent and legitimate interests might be authorized by the director, outside of normal visiting hours or days.

455. Likewise, the director of the Minors Institute can authorize the minor to go out without an escort during weekends, summer holidays and official holidays, in order to visit his/her parents, tutor or guardian, as long as both parties have given their consent and the return to home reveals to be useful to the minor's educational needs. Minors under the

semi-commitment measure can even, upon the director's authorization, eat and stay overnight on weekdays at their parents', tutor's or guardian's home (article 53 of Decree-Law 65/99/M).

456. Mailing and reception of correspondence is permitted but is subject to inspection and censorship under the terms of the law.

457. Regarding religious practice, it should be noted that the minor is free to profess, study and practise his/her faith. MI should ensure the satisfaction of the minor's demands concerning his/her religious, spiritual or moral life, facilitating the adequate means towards that end (article 37 of Decree-Law 40/94/M, applicable by virtue of article 45 (e) of Decree-Law 65/99/M).

458. The minor has the right to receive free and adequate medical treatment for his/her ailments, when these are considered as first-aid care. Furthermore, the minor should undergo frequent and periodic examinations in order to track down any physical or psychological ailment (article 41 of Decree-Law 40/94/M, applicable by virtue of article 45 (f) of Decree-Law 65/99/M).

459. Treatment is carried out whenever possible in the minor's chamber and accordingly in MI's infirmary. In this respect, it is worth referring that there is a clinical treatment room in MI with one part-time doctor and one part-time nurse. Dental service is provided by the clinic at Macao Prison. In more serious cases and upon the doctor's advice the minor would be hospitalized (article 47 of Decree-Law 40/94/M, applicable by virtue of article 45 (f) of Decree-Law 65/99/M).

460. When the minor enters MI, he/she undergoes a meticulous medical examination involving several tests leading to a clinical evaluation. The tests include taking urine and blood samples and a chest X-ray. In addition, all minors are vaccinated against tetanus.

461. The minor has the right to attend the necessary classes for the fulfilment of the compulsory education, as well as to participate in other school activities as organized by the establishment (article 58 (1) of Decree-Law 40/94/M, applicable by virtue of article 45 (g) of Decree-Law 65/99/M).

462. MSAR's Education and Youth Department assists MI in what concerns primary education. A full-time teacher is assigned to the MI to develop teaching programmes supported by a governmental school for all students under primary education. At present, classes from Form 1 to Form 3 are available for secondary school students. Subjects include Chinese, Mandarin, English, mathematics, science, computer science, physical education, and arts and crafts.

463. In the Minors Institute, a small-group strategy is adopted. There are study rooms in each section and the staff assists minors in their studies. MI provides intensive counselling sessions to minors in order to motivate them to return to their studies and to help them in their academic and psychological preparation, as most of them have already dropped out of school for a lengthy period of time.

464. Minors have the right to perform remunerative work, while tasks that go against their dignity, or are especially dangerous or unhealthy cannot be assigned to them. In the selection of work, the intellectual and physical capacities as well as the professional aptness and the aspirations of the minor are considered, along with the activities that the minor can dedicate himself/herself to after the end of the measure (article 51 (4) of Decree-Law 40/94/M, applicable by virtue of article 45 (g) of Decree-Law 65/99/M).

465. Vocational training courses are provided for all minors of the Minors Institute. At present, the following courses are available:

electricity, electronics, air-conditioning installation and repair of electrical appliances.

466. Concerning the use of spare time, MI promotes the organization of cultural, recreational and sports activities, namely: listening to music, reading books, magazines and newspapers, TV viewing, the arts workshop, playing table tennis, football and basketball.

467. During festive seasons such as Christmas, MI's staff prepares and conducts cultural activities and parties for the minors. During summer holidays, extracurricular activities outside MI are organized, such as jogging, barbecues, study visits to museums and exhibitions, swimming and other sports activities conducted by the Macao Sports Development Board. Additionally, non-governmental organizations such as *Ser Oriente* (an anti-drug association) and the Pan-Mac Junior Chamber offer recreational, sports or educational activities for the minors.

468. Social service has been introduced to MI since June 2000. MI has a joint programme with the Richmond Fellowship of Macao, which is a well-known non-profit organization whose aim is to provide preventive and aftercare service as well as educational programmes for psychiatric-service users. Several minors have joined their volunteer training programme. Minors have had the opportunity to organize recreational activities for the service users as well as to do volunteer work, such as cleaning municipal parks and fund-raising activities for the organization.

469. Social and family support is provided by social workers and psychologists, whose goal is to study the behaviour of the minors, encourage their rehabilitation, protect their relationship with their families and prepare them for their social reintegration. At present, MI has two social workers and two psychologists working as in-house caseworkers.

470. For minors undergoing the measure of semi-commitment,

MI helps them to adapt to their school or working life outside the institute in order to reinforce their self-confidence and social skills so that they can reintegrate into society. Furthermore, social workers go to the minors' schools or working places to follow up and discuss their situation with the school director or the work supervisor. When minors encounter any emotional or social problems, counselling sessions and other kinds of intervention are arranged as early as possible.

471. For minors undergoing the measure of commitment, three main areas of service are provided: vocational and educational counselling; individual or group counselling in accordance with the minor's cognitive, emotional and behavioural problems; and family therapy.

472. Periodically, social workers and psychologists interview the minor's family in order to provide them with therapy. Objectives include: enhancing relationship ties amongst family members; improving communication between family members and supplying them with communication skills; enforcing parental skills; and seeking cooperation with family members for the minor's re-education. In cases where social, economical or housing problems are encountered, MI tries to assist the minor's family by seeking help from the "resources" of the society, such as the Social Welfare Institute, Caritas and MSAR's Housing Department.

473. As to the right to complain and make remarks, the minor can address MI's director, social workers and psychologists to disclose issues that are of his/her interests or related to life at the institute, or to complain about an illegitimate order. Decision over the complaint or remark is taken in the shortest time possible.

474. In the Minor's Institute, almost all complaints received concerned trivial issues about the minor's daily life. Formal complaints have seldom been received. All forms of complaints, however, are handled in a

serious manner.

Table 49
Transit of minors in the Minors Institute

Year	Gender	Minors					
		Variations				Age group	
		Balance as of 1 Jan.	Entered during the year	Released during the year	Balance as of 31 Dec.	14 to 16 years old	Over 16 years old
1998	Male/female	23	10	19	14	8	6
	Male	20	10	16	14	8	6
	Female	3	-	3	-	-	-
1999	Male/female	18	22	14	23	21 ^a	2
	Male	17	19	12	22	20	2
	Female	1	3	2	1	1	-
2000	Male/female	23	29	15	37	30 ^b	7
	Male	22	26	15	33	26	7
	Female	1	3	-	4	4	-

Source: Yearbook of Statistics, 2000, Census and Statistics Department

^a Includes three minors aged below 14

^b Includes seven minors aged below 14

Minors aged 16 and over

475. As previously noted, minors aged 16 and over are criminally responsible and therefore the criminal law is applicable to them.

476. Under article 237 (a) of the Criminal Procedure Code, an individual can only be held in detention for a maximum period of 48 hours within which he/she has to be presented before the judge of criminal instruction for a summary hearing, for interrogation or for the application of a coercive measure.

477. The judge can only order “preventive imprisonment” in cases where there is a strong indication that the accused committed a deliberate offence punishable by imprisonment with a maximum length of over three years and if the other coercive measures set forth in the law are considered to be inadequate or insufficient (article 186 (1) (a) of

the Criminal Procedure Code).

478. Furthermore, any person who is held in preventive imprisonment is entitled to a trial within the shortest time possible, as consistent with the right of defence. Once the maximum period for it expires, this measure can no longer be applied and the accused must be freed at once (article 201 of the Criminal Procedure Code).

479. According to criminal law, if there are two alternative penalties that could be applied to a crime, being one restrictive and the other non-restrictive of liberty, the court must only apply the latter (article 64 of the Criminal Code).

480. When inflicting a penalty, the court must take as a mitigating circumstance the fact that the offender was still under 18 years old at the time of the commission of the offence. The penalty for the offence in question is therefore reduced in its maximum and minimum limits. On the other hand, the maximum and minimum limits of a penalty are aggravated by one third if the offender uses a minor under 16 years of age to carry out the offence (articles 66 (2) (f), 67 and 68-A of the Criminal Code).

481. The right to an appeal is an important safeguard of the accused's defence. This right is subject to extensive regulations in the Criminal Procedure Code and, except in some cases provided for by the law, the accused can always lodge an appeal against a decision. In case of arbitrary or unlawful detention or imprisonment, all persons have the right to apply to the court for the issuance of a writ of habeas corpus (article 28 (2) of the Basic Law).

482. As to the conditions inside the prison establishments, Decree-Law 40/94/M regulates the implementation of measures that deprive minors of their liberty.

483. It is important, however, to stress that once inside the establishment, untried detainees are separated from convicted prisoners. They are housed in separate blocks with absolutely no contact between them. Furthermore, besides being separated according to gender, prisoners are also isolated based on age. Prisoners aged 21 or under do not come into contact with those aged over 21. This is achieved by housing each group in separate blocks (article 7 (1) (2) of Decree-Law 40/94/M).

3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))

484. As mentioned above, in MSAR there are no capital-punishment nor life-imprisonment sentences. In MSAR's criminal law, the maximum prison terms are not allowed to exceed 30 years (article 41 of the Criminal Code).

4. Physical and psychological recovery and social reintegration of the child (art. 39)

485. The Division for Social Reinsertion (DSR), under MSAR's Justice Affairs Department, allocates support for minors in liberty who are either involved in criminal proceedings or are under the educational regime, providing for the creation of temporary shelter conditions and for their labour, education and social reintegration (article 3 (1) of Administrative Regulation 36/2000). For this reason, DSR acts in straight collaboration with the Minors Institute and the Macao Prison Establishment.

486. Two psychologists, two sociologists, eight social workers and

one anthropologist are currently working for the DSR. They provide all sorts of assistance to the minors and their families and accompany them throughout their reintegration into family, school or professional life.

487. DSR organizes, amongst other things, various leisure initiatives for the minors under their supervision, such as visits to museums and exhibitions, summer campings and field trips. These initiatives reinforce the friendship ties between the participating minors and broaden their interests. Also, *Caritas de Macau* provides minors with activities to occupy their spare time, through an emphasis on voluntary community service.

488. Regarding professional training, the Protocol celebrated between DSR and the D. Luís Versiglia Centre for Professional Training should be singled out. Within the scope of this Protocol, minors attend training courses in this institution (electronics, joinery, mechanics, etc.) of four to six months' duration. Since January 1999, the date the Protocol was signed, 26 minors have attended these courses.

C. Children in situations of exploitation, including physical and psychological recovery and social reintegration

1. Economic exploitation of children, including child labour (art. 32)

489. The policy of employment and labour rights, structured on the basis of Law 4/98/M, provides for the adoption of measures aimed at eradicating child labour. Decree-Law 24/89/M, which governs work relations in MSAR, regulates child labour.

490. The minimum age for admission to employment or work in the private sector is 16 years of age. The employment of minors under the age of 16 but not younger than 14 is exceptionally authorized by law

if the physical capacity required for the exercise of the work is previously attested (articles 39 and 42 (1) of Decree-Law 24/89/M).

491. To this purpose, attention should be drawn to the fact that cases of work performed by minors under the age of 16 and detected by the Inspection Division of MSAR's Labour and Employment Department are only sporadic.

492. The admission of minors to employment or work that by its nature or conditions is likely to jeopardize their physical, spiritual or moral development can be prohibited or conditioned. Employers should make available to their employed minors working conditions adequate to their age, in order to prevent any damage to their physical, spiritual and moral development. At least once a year, minors are submitted to regular and periodic physical fitness and health examinations (articles 38, 40 and 42 of Decree-Law 24/89/M).

493. In the event of violation of these stipulations, the Labour and Employment Department can levy fines of up to MOP\$ 12,500. In cases of recurrence, the fine limits are doubled (article 50 of Decree-Law 24/89/M).

494. It is important to stress once again that, according to article 146 of the Criminal Code, putting excessive work loads on minors is a serious crime. The penalty is aggravated when it results in a serious threat to the physical integrity or in the death of the minor: imprisonment is for 2 to 8 years or 5 to 15 years, respectively. Given that the offender's actions deserve to be considered as especially censurable, this crime has a public nature, which means that the criminal proceedings in these cases do not depend on a complaint.

2. Drug abuse (art. 33)

495. MSAR is devoted to the fight against drug dependence, in particular as concerns child consumers.

496. The Single Convention on Narcotic Drugs, of 30 March 1961, the Protocol Amending the Single Convention on Narcotic Drugs, of 25 March 1972, the Convention on Psychotropic Substances, of 21 February 1971 and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 20 December 1988, are applicable to MSAR.

497. Decree-Law 5/91/M establishes as criminal offences the traffic and consumption of narcotic drugs and psychotropic substances, and determines measures to combat drug dependence. Under this Decree-Law, one who, without being authorized to do so, cultivates, produces, manufactures, extracts, prepares, offers, sells, distributes, purchases, gives to or in any title provides to another person, transports, imports, exports narcotic drugs and psychotropic substances shall be punished by imprisonment of 8 to 12 years and a fine of MOP\$ 5,000 to 700,000. This penalty is aggravated by one quarter at its minimum and maximum limits when the substances and prepared concoctions were destined to minors (arts. 8 and 10).

498. On the other hand, whoever induces another person to illicitly use narcotic drugs and psychotropic substances or instigates, in public or private, the use of these substances shall be punished by imprisonment of one to two years and a fine of MOP\$ 2,000 to 225,000. The minimum and maximum limits of this penalty are increased by one third when one of these acts is committed in the disadvantage of the minor (article 16

of Decree-Law 5/91/M).

499. Decree-Law 34/99/M, which regulates the trade and use of narcotic drugs and psychotropic substances, prohibits in its article 41 the supply of narcotic drugs and psychotropic substances to minors. Its violation is punished with a fine of MOP\$ 20,000 to 50,000.

500. Worth noting is that, even though medication containing codeine or dextrometorphane in doses not over 2.5 per cent are not subject to Decree-Law 34/99/M, the health services, following information provided by the emergency room of the public hospital and the judicial police on the abuse by youngsters of these types of medication, has since 1994 put under restrictive control the import, distribution and dispense of medication that contains either codeine or dextrometorphane in any dosage.

501. The Department for the Prevention and Treatment of Drug Dependence (DPTD) of the Social Welfare Institute ensures services in the area of prevention and treatment of drug dependence. This department is chiefly responsible for the planning and execution of the education and dissemination actions for the prevention of drug abuse, other than offering treatment and rehabilitation services. To carry out its functions, DPTD can resort to two sub-units: the Primary Prevention Division and the Treatment and Social Reinsertion Division.

502. The Primary Prevention Division (PPD) is responsible for bringing about programmes for the prevention of the consumption of drugs in school environments, families and the community, as well as to develop awareness and information for children and youths.

503. In the area of primary prevention, a number of seminars, training courses, exhibitions, group activities, competitions, television and

radio campaigns and the distribution of leaflets in schools on drug prevention, prevention of medication abuse and rehabilitation from drug dependency have been organized in MSAR. In 1999, 86 seminars were conducted on the prevention of abuse of medication, directed towards schools, families and public services. This included the participation of 6,736 persons. In addition, nine exhibitions were organized in two primary schools, three secondary schools, three technical schools and in a special-education school intended to make youngsters aware of the forms of preventing drug consumption.

504. The International Day against Drug Abuse and Illicit Trafficking is duly signalled every year in MSAR. In 2001, the “Walk Against Drug and Drug Addicts Support” was organized to commemorate that day, together with exhibitions, game tents and shows against drugs.

505. Notably, and to this end, the Healthy Lifestyle Programme course organized in September 2000 and directed towards students aged between 5 to 12, is worth a mention. Through the use of advanced didactic material and an innovative form of instruction, this course has as its objective to incite in the children knowledge on the correct handling of medication and the dangers deriving from its abuse. It had the participation of 3,469 students and 142 teachers from 14 schools.

506. PPD also ensures the operation of facilities directed towards the prevention of drug dependence, namely the Youth Community Centre. This centre aims at creating, in a healthy manner, a gathering place and spare-time opportunities, thus promoting behaviours and attitudes that aid youths at resisting pressures. This permits them to acquire the necessary knowledge to cope with the trials of life. As such, this centre has at its disposal various rooms for meetings, theatrical performances, computer

science, recording, music, dance, cinema, multifunctional recreation and a photographic dark room.

507. In the extent of its functions, PPD also guarantees the operation of a 24-hour hotline service, which offers information and explanations on the drug issue. In the year 2000, 102 calls were received.

508. In its turn, the Treatment and Social Reinsertion Division (TSRD) is responsible for offering detoxification and rehabilitation services, especially through its External Consultation Centre.

509. At the External Consultation Centre, counselling is provided by social workers while psychologists, psychiatrists and qualified nurses also offer assistance. A treatment plan is elaborated for each drug user and this is complemented by certain forms of therapy, such as “moral detoxification”, reinforcement of the intention of detoxification, medical treatment and training for social reintegration. After the treatment has been concluded, the centre continues to offer to the former drug-user assistance for his/her social reinsertion. This centre started to operate in October 1991; in 2001 it offered detoxification services to 255 patients.

510. In addition, a 24-hour hotline was created at the end of 1999 to people undergoing detoxification and their respective families, which registered 2,417 requests for information in the year 2001.

511. In the extent of treatment and rehabilitation, MSAR's Health Services have collaborated with TSRD in the laboratory sampling of drug users who were attended to by the External Consultation Centre, and have put at their disposal psychiatrists to assist them with therapy treatment. Equally, there are in MSAR six private institutions with direct intervention in offering detoxification services (for men and women), namely: Youth Challenge, Christian New Life Fellowship of Macao, House of Promise,

Jesus Family Association and *Ser Oriente*. In 2001, these institutions offered services to a total of 145 persons, 66 of whom had registered for the first time.

512. The Social Welfare Institute (SWI) grants financial support to these private detoxification institutions and associations. In the year 2001, a total sum of MOP\$ 2,500,268 was awarded as subsidies. Other than that, TSRD offers concrete technical orientation, staff training, legal counselling and, in a broader sense, ensures the efficiency and quality of its services.

513. MSAR's health services also provide support to private institutions connected to the prevention and treatment of drug dependence, within the domain of HIV awareness and of various infectious diseases.

514. The *Casa de Reabilitação* is a rehabilitation centre operated by a private institution that provides assistance to former drug users who are not yet capable of returning to their family life or to society. A semi-residential regime is provided to these people with the duration of six months, which aims, through a series of activities and training courses, to prevent their relapse and assist them in the first phase of their social reintegration. The quarters, technical and financial resources of the *Casa de Reabilitação* are provided by SWI.

515. According to information supplied by SWI, in the last three years (1999, 2000 and October 2001) there were no reported cases of minors under 16 years of age resorting voluntarily to the services of the External Consultation Centre and other private detoxification institutions. In these three years, and amongst youngsters aged 16 to 21, SWI registered: 17 cases at the External Consultation Centre and 17 cases in private detoxification institutions. Of the 17 cases registered at that Centre, 94 per

cent were male and their place of origin was Macao or mainland China. The majority was addicted to heroin administered through the nose, while 24 per cent was administered intravenously.

3. Sexual exploitation and sexual abuse (art. 34)

516. The Criminal Code dedicates an entire chapter to sexual crimes. This chapter is divided into three sections: section I refers to crimes against sexual freedom; section II concerns crimes against sexual self-determination; and section III covers common provisions that pertain to previous sections.

517. Within section I, the classification of crimes was not specifically established according to the victim's age, even though it constitutes ground for the aggravation of the penalty. Thus, sexual coercion, rape and non-consensual artificial procreation, which constitute crimes when committed against an adult, are considered as aggravated crimes when the victim is under 14 years old. In this section, the crime of sexual abuse of a hospitalized person should be emphasized since it is also applicable to minors confined at an establishment for serving penalties of deprivation of liberty, hospital, asylum, clinic or other establishments that provide assistance or treatment, as well as at an educational establishment (art. 160).

518. Section II provides for a special category of crimes — crimes against sexual self-determination — that aim at punishing certain acts that only constitute crime due to the circumstance in which they were carried out with or in relation to a minor. An important element of the crime is the child's age. The crimes that are comprised in this section are: sexual abuse of children (art. 166), sexual abuse of pupil and dependants (art. 167),

statutory rape (art. 168), sexual act with minors (art. 169) and procurement of minors (art. 170).

519. Sexual intercourse or anal coitus with a minor under 14 years of age is punishable by imprisonment of 3 to 10 years. Sexual intercourse or anal coitus with a minor aged between 14 and 16 is punishable with up to four years' of imprisonment if the perpetrator has engaged in such an act by taking advantage of the minor's inexperience (arts. 166 (3) and 168).

520. Whoever practices a sexually related act³ with or on a minor under the age of 14, or leads the minor to practise it with him/her or with someone else, shall be punished by imprisonment of one to eight years. The same penalty is applied to one who practices a sexually related act in the presence of a minor under the age of 14 and directly related with the minor. If the sexually related act is performed with a minor aged between 14 to 16, thus profiting from his/her lack of experience, or if the victim is led to perform such an act with another person, the perpetrator shall be punished by imprisonment of up to three years (arts. 166 (1), (2) and 169).

521. One who: (a) practices exhibitionistic acts of a sexual nature in the presence of a minor aged under 14; or (b) interacts with a minor under 14 years old through means of an obscene conversation or of a pornographic writing, demonstration or object, or who uses the minor in pornographic photography, film or recording, is punished by imprisonment of up to three years. If the acts were committed with a profit-making intent, the penalty is of one to five years of imprisonment (art. 166 (4) and (5)).

³ Sexually related act covers any abusive act of sexual nature, excluding intercourse and anal coitus.

522. Sexual abuse of pupils and dependants (between 14 and 16 or between 16 and 18 years old, whether or not the perpetrator is abusing his/her role or relationship with the victim) is punished to imprisonment that ranges from one to eight years, except for those acts described in paragraph 521 above, in which penalties are up to one year of imprisonment if it does not carry a lucrative intention or up to three years if this intention exists (art. 167).

523. The procurement of minors is also provided for and punished under article 170. According to this article, one who fosters, promotes or facilitates child prostitution or the practice by a minor of sexually related acts shall be punished by imprisonment of one to five years. If the victim is under the age of 14 or if the perpetrator uses violence, serious threats, trickery or fraud, or engages in procurement as a way of life or for profit, then imprisonment is for 2 to 10 years.

524. In all the crimes referred to in the previous paragraphs, the penalties are increased by one third at both its minimum and maximum limits if the victim is a descendant, adopted or relative up to the second degree of the perpetrator, or is under his/her guardianship or curatorship (art. 171 (1) (a)).

525. In addition, whoever is convicted of any of these sexual crimes may be inhibited from exercising parental authority, guardianship or curatorship for a period of two to five years, given the specific seriousness of the act and its connection with the role played by the perpetrator (art. 173).

526. By rule, the criminal proceedings for these sorts of crimes depend on the lodging of a complaint, except if the crime results in suicide or in the victim's death. However, when the victim is under 12 years of age, the Procurator shall initiate the proceedings if special reasons of public interest so require (art. 172).

Table 50
Sexual acts against minors as registered by the MSAR police

Type of crime	1997	1998	1999
Sexual abuse of children	8	5	1
Sexual abuse of pupils and dependent minors	-	-	-

4. Sale, trafficking and abduction (art. 35)

Sale and trafficking of children

527. Regardless of age, the sale, transfer or purchase of a human being is illicit and void. When done to reduce the human being to slavery, the act is punishable by imprisonment of 10 to 20 years (article 153 of the Criminal Code).

528. In addition, one who, in order to satisfy the interests of another, seeks to obtain, suborn, seduce, or divert a person for the practice of prostitution in another country or territory, even if the various acts that are constituents of the infraction have been performed in different countries or territories, shall be punished by imprisonment of two to eight years. The penalty is increased by one third either at its minimum and maximum limits when the victim is a minor. If the victim is under 14 years of age, this crime shall be punished by imprisonment of 5 to 15 years (article 7 of Law 6/97/M of 30 July).

529. So far, no cases of international trafficking of children have been reported or known in MSAR. Nor have there been any complaints either from residents or foreigners regarding the disappearance of children for the purposes of suspected sale or trafficking.

Abduction

530. According to the Criminal Code, abduction is punishable by

imprisonment for up to five years (art. 152). The unlawful retention of the minor also constitutes a specific crime.

531. Moreover, anyone who, by violence, threat or trickery kidnaps another person with the intention to submit the victim to extortion; commit a crime against the sexual freedom or self-determination of the victim; obtain a ransom or compensation; or coerce a public authority or a third person to an act of omission or to tolerate an activity, shall be punished by imprisonment of 3 to 10 years. If the kidnapping results in the victim's death, the perpetrator shall be punished by imprisonment of 10 to 20 years. In addition, if the victim is under the age of 16 or is unable to defend him/herself or to resist to the kidnapper, the penalties shall be aggravated by one third at its minimum and maximum limits (article 154 of the Criminal Code).

532. The Hague Convention on the Civil Aspects of International Child Abduction is applicable to MSAR.

5. Other forms of exploitation (art. 36)

533. Beggary does not constitute an alarming phenomenon in MSAR. In the year 1999, only two cases of exploitation of children for the purpose of begging were detected, as perpetrated by non-residents who used their children as beggars. The police arrested the offenders and, as they were illegal immigrants, they were expelled from Macao.

**WRITTEN QUESTIONS & ANSWERS TO THE LIST
OF ISSUES TO BE TAKEN UP INTO CONSIDERATION
OF THE SECOND PERIODIC REPORT OF
CHINA (CRC/C/83/ADD.9, PART II) * ****

(PART III)

MACAO SPECIAL ADMINISTRATIVE REGION

PART I

A. Data and statistics, if available

I.A.1. Please provide disaggregated statistical data (by gender, age groups, ethnic groups, urban and rural areas) covering the years 2002, 2003 and 2004 on the number and percentage of children under 18 living in mainland China and the Special Administrative Regions of Hong Kong and Macao respectively.

* CRC/C/Q/CHN/2, 15 June 2005.

** CRC/C/RESP/89(III), received on 30 August 2005 (unedited version).

In the Macao Special Administrative Region (MSAR), there is no available data on ethnic groups. Moreover, there are no rural areas; therefore, that aspect is not applicable.

The resident population of the MSAR was estimated at 465,333 as at 31 December 2004. The available requested disaggregated data on the number and percentage of children under 18 living in the MSAR is as follows.

Age group	2002					
	No.			% of total population		
	MF	M	F	MF	M	F
0-4	18,556	9,575	8,981	4.2	2.2	2.0
5-9	30,036	15,712	14,315	6.8	3.6	3.2
10-14	39,765	20,490	19,275	9.0	4.6	4.4
15-17	25,234	12,861	12,373	5.7	2.9	2.8
Total	113,591	58,647	54,944	25.7	13.3	12.4

Source: MSAR Statistics and Census Department

Age group	2003					
	No.			% of total population		
	MF	M	F	MF	M	F
0-4	17,407	9,005	8,402	3.9	2.0	1.9
5-9	28,002	14,662	13,340	6.2	3.3	3.0
10-14	38,196	19,731	18,465	8.5	4.4	4.1
15-17	25,927	13,250	12,677	5.8	3.0	2.8
Total	109,532	56,648	52,884	24.4	12.6	11.8

Source: MSAR Statistics and Census Department

Age group	2004					
	No.			% of total population		
	MF	M	F	MF	M	F
0-4	16,745	8,713	8,032	3.6	1.9	1.7
5-9	26,131	13,627	12,504	5.6	2.9	2.7
10-14	36,805	19,081	17,724	7.9	4.1	3.8
15-17	26,799	13,768	13,031	5.8	3.0	2.8
Total	106,480	55,189	51,291	22.9	11.9	11.0

Source: MSAR Statistics and Census Department

I.A.2. In the light of Article 4 of the Convention, please provide disaggregated data on budget allocations and trends (in absolute figures and percentages of the national budget) for the years 2003, 2004 and 2005 regarding the implementation of the Convention evaluating also the priorities for budgetary expenditures given to the following:

I.A.2.(a) education (different types of education, i.e. pre-primary, primary and secondary education, and vocational training);

The MSAR currency is the *Macau Pataca* (MOP), the full convertibility of which is assured by the MSAR foreign currency reserve. The *Pataca* is indirectly indexed to the United States Dollar at an exchange rate of about USD 1: MOP 8. Amount values hereunder are indicated in MOP.

In the MSAR, public education budget and actual expenditure are divided into non-tertiary education and tertiary education categories. The non-tertiary education category covers regular and special pre-school education and preparatory year for primary education, primary education, secondary education, and vocational-technical secondary education. Tertiary education refers to higher education.

There is no available data for 2004/2005. In 2002 and 2003, the non-tertiary public education expenditure was 9.8% and 8.9% of the total public expenditure. The non-tertiary public education expenditure accounted for 1.9% and 1.7% of the MSAR Gross Domestic Product respectively.

Public expenditure in education		
Indicators	Amount in MOP	
	2002	2003
Total public expenditure of the MSAR Government	10,318,400,000	12,115,000,000
Gross Domestic Product	54,294,700,000	63,365,400,000
Government public education expenditure	1,683,600,000	1,839,000,000
Non-tertiary education	1,007,000,000	1,083,000,000

Source: MSAR Education and Youth Affairs Department

N.B. — The accounting system adopted is the national government finance statistical calculation established by the International Monetary Fund

Public expenditure in education		
Indicators	% of the MSAR budget	
	2002	2003
Public education expenditure among total public expenditure	16.3	15.2
Non-tertiary public education expenditure among total public expenditure	9.8	8.9
Public education expenditure among gross domestic product	3.1	2.9
Non-tertiary public education expenditure among gross domestic product	1.9	1.7

Source: MSAR Education and Youth Affairs Department

I.A.2.(b) health care (different types of health services, i.e. primary health care, vaccination programmes, adolescent health care, HIV/AIDS and other health-care services for children, including social insurance);

There is no available disaggregated data by different types of health services, i.e. primary health care, vaccination programmes, adolescent health care, HIV/AIDS and other health-care services for children, including social insurance. The only available data regards the global public health expenditure, which was of MOP\$ 1,238,990,000 in 2002 and MOP\$ 1,384,065,000 in 2003, representing 12% and 11.4% of the MSAR budget respectively.

I.A.2.(c) programmes and services for children with disabilities;

There is no available disaggregated data on programmes and

services specifically for children with disabilities. The available data refers to support programmes for families, including families with disabled individuals, as described in the following response.

I.A.2.(d) support programmes for families;

Concerning support programmes for families, the MSAR Social Welfare Institute (SWI), from 2002 to 2004, provided financial support to families with minors and the total monetary amounts granted were of MOP\$ 40,173,179, MOP\$ 46,755,886 and MOP\$ 94,251,075 (these amounts include regular and special financial aid, and exclude special allowances), a clear increase.

Regular financial aid (by beneficiaries)			
Beneficiaries	2002	2003	2004
Number of families	2,611	2,540	4,651
Number of minors (under 18 years old)	4,961	4,635	8,618

Source: MSAR Social Welfare Institute

Regular financial aid (by amount in MOP)			
	2002	2003	2004
Financial aid to families with minors	38,869,129	43,023,663	88,988,915
Financial aid (Social Security Fund)	7,984,050	6,707,100	15,331,463
Total	46,853,179	49,730,763	104,320,378

Source: MSAR Social Welfare Institute

The SWI also provides special to children. This support is granted through special financial aid to children's families, specifically to single-parent families, families with chronically ill and disabled individuals, which are in a state of poverty.

Special financial aid (by beneficiaries)			
Beneficiaries	2002	2003	2004
Number of families	1,227	1,587	2,141
Number of minors (under 18 years old)	2,159	2,621	3,565

Source: MSAR Social Welfare Institute

Special financial aid (by amount in MOP)			
	2002	2003	2004
Total amounts of special support	1,304,050	3,732,223	5,262,160

Source: MSAR Social Welfare Institute

In addition to the mentioned financial aid, another special allowance is also granted twice a year, as follows.

Special allowance (by beneficiaries)			
Beneficiaries	2002	2003	2004
Number of families	-*	2,288	2,889
Number of minors (under 18 years old)	-	4,204	5,071

Source: MSAR Social Welfare Institute

*N.B. — * This special allowance started in 2003*

Special allowance (by amount in MOP)			
	2002	2003	2004
Total amounts of special allowance	-	6,364,000	7,554,100

Source: MSAR Social Welfare Institute

Furthermore, the SWI also provides support to children, through regular subventions to children and youth services. Occasional subventions to non-governmental entities are also granted, as follows.

Regular subventions to children and youth services (amount in MOP)			
Service Sectors	2002	2003	2004
Nursery	23,109,506	24,078,568	23,204,988
Residential service for children and the youth	12,798,691	13,250,494	14,686,353
Other children and youth services	983,500	2,002,375	2,193,125
Community Centre	7,029,838	8,413,368	9,482,829
Family Service Centre	730,274	766,020	1,327,606
Total amount	44,651,809	48,510,825	50,894,901

Source: MSAR Social Welfare Institute

Occasional subventions to non-governmental entities			
	2002	2003	2004
No. of non-governmental entities	35	41	36
No. of activities / programmes	135	189	168
Total amount (in MOP)	868,690	3,539,988	2,841,066

Source: MSAR Social Welfare Institute

The SWI provides meals in certain places run by the SWI itself (canteens) and in schools. This type of aid is provided to all people in need, including children. At the moment, it is not possible to disaggregate the data regarding children. In 2002, 2003 and 2004, the total amounts spent on this service were of MOP\$ 12,304,629, MOP\$ 9,796,516 and MOP\$ 6,615,043 respectively.

Summarizing:

Total financial support by SWI (by amount in MOP)			
Types of support	2002	2003	2004
Regular financial aid to families with minors	46,853,179	49,730,763	104,320,378
Special financial aid to families with minors	1,304,050	3,732,223	5,262,160
Special allowances	-	6,364,000	7,554,100
Regular subventions to children and youth services	44,651,809	48,510,825	50,894,901
Occasional subventions to non-governmental entities	868,690	3,539,988	2,841,066
Meal allowances	12,304,629	9,796,516	6,615,043
Total	105,982,357	121,674,315	177,487,648

Source: MSAR Social Welfare Institute

I.A.2.(e) support for children living below the poverty line;

Regarding general financial aid to families with children, please refer to the previous response.

As stated, the SWI provides special financial aid to children's families, i.e., single-parent families, families with chronically ill and disabled individuals, which are in a state of poverty.

During the past 3 years, 1,380, 1,518 and 2,315 children from 800,

960 and 1,417 single-parent families respectively were beneficiaries of financial aid for learning activities.

There were also 561, 756 and 888 minors respectively from families with members that are chronically ill who received financial aid. During that same period, there were 218, 347 and 362 minors respectively from families with disabled individuals who received financial aid.

The total amounts of those aids were of MOP\$ 1,304,050, MOP\$ 3,732,223 and MOP\$ 5,262,160 respectively.

I.A.2.(f) protection of children who are in need of alternative care including the support of care institutions;

The SWI provides support to children who are in need by granting financial aid to private care institutions running residential service for children and the youth. The total amount of this financial aid was of MOP\$ 12,789,691 in 2002, MOP\$ 13,250,494 in 2003 and MOP\$ 14,686,353 in 2004.

Children with disabilities placed in institutions running residential service									
Age group	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
0-4	1	1	-	2	1	1	1	-	1
5-9	4	2	2	4	2	2	4	2	2
10-14	9	6	3	7	5	2	6	5	1
15-17	9	6	3	8	5	3	11	8	3
Total	23	15	8	21	13	8	22	15	7

Source: MS-AR Social Welfare Institute

I.A.2.(g) programmes and activities for the prevention of and protection from child abuse, child sexual exploitation and child labour;

The SWI organizes several activities directed to the protection of

the rights of the child in a broad perspective, focusing on the prevention of violations of those rights. The following table highlights a few of those activities and the respective budget allocations.

SWI programmes / services			
Types of programmes / services	Amount in MOP		
	2002	2003	2004
The International Children's Day Festival	25,078	73,000	100,948
Programme series on children protection and prevention of abuse	37,575	35,000	192,935
Productions of pamphlets related to the rights of the child	5,000	18,220	20,900

Source: MSAR Social Welfare Institute

There is a division in the MSAR Justice Affairs Department (JAD) solely for the divulgation of law. One of the main concerns of the MSAR Government in this regard is the divulgation of fundamental rights, including those of the child. Every year, several activities are organized in a simple and direct manner in order to make the law easily understood to everyone. The actual expenses of the referred JAD division, specifically on the divulgation of the rights of the child, were of MOP\$ 35,000 in 2002, MOP\$ 40,000 in 2003, and MOP\$ 50,000 in 2004.

I.A.2.(h) programmes and services for children belonging to minority groups and refugees;

There have been very few cases of refugees in the MSAR. In fact, during the last three years, there was only one case involving minors.

It is the responsibility of the SWI to provide social support to refugees, including their children and refugee children. In 2003, the SWI provided social to a family with minors seeking the status of refugees. This family initially had 2 children, and in June 2004, a third child was born. The financial support to this family in 2003 and 2004 was of MOP\$ 8,840 and MOP\$ 56,940 respectively.

I.A.2.(i) programmes and services for abandoned children, including street children;

In the MSAR, there are no street children. Regarding abandoned children, please refer to the previous to I.A.2.(f).

I.A.2.(j) juvenile justice and rehabilitation of juvenile offenders.

The budget regarding the implementation of programmes and activities for juvenile justice and the rehabilitation of juvenile offenders (not including the expenses of administration and daily operation) was of MOP\$ 488,000 in 2002, MOP\$ 492,000 in 2003, and MOP\$ 617,000 in 2004; and the actual expenses were of MOP\$ 221,050 in 2002, MOP\$ 275,628 in 2003, and MOP\$ 362,343 in 2004.

I.A.2. [last sentence] Please also indicate the estimated expenses of the private sector, in particular for health and education.

Health

According to the MSAR Health Department, the estimated expenses of the private health sector were of MOP\$ 65,869,200 in 2002, MOP\$ 81,601,365 in 2003, and MOP\$ 78,390,576 in 2004 (excluding private hospital *Kiang Wu*, for which there is no available data).

Education

According to the results of the MSAR Statistics and Census Department's Education Surveys of 2002/2003 and 2003/2004, the estimated expenses of the private sector for regular education (pre-primary,

primary, secondary and vocational-technical secondary education) are as follows:

— in the academic year 2002/2003, the average revenue and expenditure for private schools were MOP\$ 9.44 million and MOP\$ 8.21 million respectively; and the total government subsidies granted to private schools were of MOP\$ 460 million, corresponding to 45.1% of the total revenue of these schools;

— in the academic year 2003/2004, the average revenue and expenditure for private schools were MOP\$ 9.72 million and MOP\$ 8.50 million respectively; and the total government subsidies granted to private schools were of MOP\$ 490 million, corresponding to 45.3% of the total revenue of these schools.

According to the MSAR Education and Youth Affairs Department (EYAD), the estimated global expenses of the MSAR private sector for education, in the period 2002-2004, were around MOP\$ 1,000,000,000 per year. The MSAR Government subsidised around 60% of those expenses.

I.A.3. With reference to children deprived of a family environment and separated from parents, please provide disaggregated data (by gender, age groups, if possible ethnic groups, urban and rural areas) for the years 2002, 2003 and 2004 on the number of children:

I.A.3.(a) separated from their parents;

The following tables illustrate the situation of children deprived of a family environment in the MSAR during the period in reference.

Children with disabilities placed in institutions running residential service									
Age group	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
0-4	9	4	5	10	6	4	7	3	4
5-9	1	1	-	4	3	1	3	3	-
10-14	8	6	2	6	5	1	9	4	5
15-17	2	2	-	3	2	1	9	7	2
Total	20	13	7	23	16	7	28	17	11

Source: MSAR Social Welfare Institute

I.A.3.(b) placed in institutions;

With reference to children deprived of a family environment and separated from parents and placed in institutions, and as stated in the Part related to the MSAR of China’s report on the Convention on the Rights of the Child (paragraphs 199 and *seq.*), it should be recalled that, in the MSAR, children at risk or in need, independently of having committed an act qualified as crime, misdemeanour or administrative offence, may be entrusted to an institution. These institutions, child care homes, are “open institutions”.

The following table illustrates the above-mentioned situation.

Children (not in conflict with law) placed in institutions			
Age group	2002	2003	2004
	MF	MF	MF
0-4	25	18	23
5-9	41	59	62
Children (not in conflict with law) placed in institutions			
Age group	2002	2003	2004
	MF	MF	MF
10-14	53	61	75
15-17	50	50	60
Total	169	188	220

Source: MSAR Social Welfare Institute

I.A.3.(c) placed with foster families; and

In the MSAR, children are not placed with foster families.

I.A.3.(d) adopted domestically or through intercountry adoptions.

Adopted children (between 0 and 3 years old)									
Types of adoption	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
Domestic adoptions	3	1	2	3	1	2	1	0	1
Intercountry adoptions	0	0	0	0	0	0	1	0	1
Total	3	1	2	3	1	2	2	0	2

Source: MSAR Social Welfare Institute

I.A.4. Please specify the number of children with disabilities, up to the age of 18, disaggregated by gender, age groups and, if possible, ethnic groups, urban and rural areas, covering the years 2002, 2003 and 2004.

The requested data on the number of children with disabilities in the MSAR is not available.

The only available information on the population with physical and/or mental disability was collected in the 2001 Census. Based on the information then provided, the size of the population with disabilities was 5,713, corresponding to 1.3% of the resident population. Among them, 51.1% were male and 48.9% were female. An analysis by age group showed that the disabled accounted for 0.5% of the population aged 14 and below, 1% of those aged 15-64 and 6.7% of those aged 65 and above.

In what relates to children, and according to the 2001 Census, at that time, the number of children with disabilities (and their gender) was as follows.

Children with disabilities			
Age group	2001		
	No.		
	MF	M	F
0-4	67	40	27
5-9	144	104	40
10-14	231	134	97
15-19	220	139	81

Source: Statistics and Census Department, 2001 Census, extract from table No. 54

I.A.4.(a) living with their families;

There is no available data on children with disabilities living with their families, as mentioned in the previous response. The only available data refers to children with disabilities (up to the age of 18 years old) who are living with their families and attending the day rehabilitation activity service with subvention of the SWI.

Disabled children living with their families and attending the day rehabilitation activity service					
2003			2004		
MF	M	F	MF	M	F
296	215	81	323	221	102

Source: MS.AR Social Welfare Institute

I.A.4.(b) living in institutions;

Please refer to the previous response to I.A.3.(b).

I.A.4.(c) placed with foster care;

Please refer to the previous response to I.A.3.(c).

I.A.4.(d) attending regular schools;

Please refer to the following response to I.A.4.(e).

I.A.4.(e) attending special schools;

In the academic years 2001/2002 and 2003/2004, the number of special education students attending regular schools increased from 108 to 202 while the number of special education students attending special education schools decreased from 644 to 522. The total number of special education students within the three school years also decreased from 752 to 724.

Number of special education students												
Age group	2001/2002			2002/2003			2003/2004					
	All Schools			All Schools			Special Education Schools			Regular Schools		
	MF	M	F	MF	M	F	MF	M	F	MF	M	F
<5	144	101	43	135	94	41	76	52	24	47	35	12
6-10	198	133	65	196	128	68	129	88	41	75	43	32
11-15	230	133	97	238	140	98	181	113	68	63	40	23
>16	180	119	61	175	118	57	136	92	44	17	10	7
Total	752	486	266	744	480	264	522	345	177	202	128	74

Source: MSAR Education and Youth Affairs Department

N.B. — There is no data on the attendance of special education schools versus regular schools in the academic years 2001/2002 and 2002/2003

I.A.4.(f) not attending schools.

There is no available data.

I.A.5. Please provide disaggregated statistical data (by gender, age groups, if possible ethnic groups, urban and rural areas) covering the years 2002, 2003 and 2004:

I.A.5.(a) rates of infant and child mortality;

Rates of infant mortality (% per thousand of live births)					
2002		2003		2004	
3.5		0.6*		3.4	

Source: MSAR Health Department

N.B. — According to the MSAR Health Department, the surprisingly low infant mortality rate of 0.6% in 2003 was occasional because the live birth population was small

No. of death of children									
Age group	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
<1	11	6	5	2	1	1	10	6	4
1-4	2	1	1	3	1	2	3	2	1
5-14	5	3	2	3	1	2	3	2	1

Source: MSAR Health Department

I.A.5.(b) rates of immunization;

Rates of immunization (%)			
Types of immunization	2002	2003	2004
B.C.G. immunization — children 12 months of age	97.4	97	96
3 rd dose DTP immunization — children 12 months of age	91.7	90.4	90
3 rd dose polio immunization — children 12 months of age	91.7	90.4	90
1 st dose measles immunization — children 12 months of age	89.1	90	90
2 nd dose measles immunization — children 24 months of age	88.4	90	81

Source: MSAR Health Department

I.A.5.(c) rates of malnutrition;

In the MSAR, malnutrition is not common. In the Service of Paediatrics & Neonatology of the public hospital (*Centro Hospitalar Conde São Januário*), there were no cases of malnutrition in 2002, 2003 and 2004. There is no available data for the private hospital (*Kiang Wu Hospital*).

I.A.5.(d) children infected with and/or affected by HIV/AIDS;

There are no reported cases of children infected and/or affected by HIV/AIDS in 2002, 2003 and 2004.

I.A.5.(e) adolescent health, including early pregnancy and sexually transmitted infections (STIs), abortions, mental health and suicide, drug, alcohol and tobacco abuse;

The MSAR Health Department has no available disaggregated

data on adolescent health.

The available data on adolescent early pregnancy and abortions respects to cases reported to the SWI. In 2002, there was no reported case; 6 cases were reported in 2003 and 8 in 2004.

The collected statistical data on death by age group and causes of death for the period in references is based on the groups established by the International Classification of Diseases of the World Health Organization; therefore, it is not possible, at the moment, to disaggregate adolescent mental health and suicide. Nevertheless, and solely in respect to suicide, based on police reports, the estimation is as follows. In 2002, there were 4 cases of attempted suicide, 2 of which fell into the age group of 12 to 14 (both girls) and 2 into the age group of 15 to 17 (1 boy and 1 girl). In 2003, there 17 reported cases, 1 of which fell into the age group of 9 to 11 (1 boy), 6 into the age group of 12 to 14 (all girls) and 10 into the age group of 15 to 17 (2 boys and 8 girls). In 2004, there were 5 cases, 1 of which fell into the age group of 9 to 11 (1 girl), 3 into the age group of 12 to 14 (all girls) and 1 into the group of 15 to 17 (1 girl).

In respect to adolescent drug, alcohol and tobacco abuse, the available data results from specific researches made by the SWI (*“Youth and Drug”* researches). According to the three researches made until now, in the period between 2001 and 2003, among 6,902 young people (which included 3,187 high school students, 3,599 college students and 116 other young people), 283 young people had experimented drugs (approximately 4.1% of those interviewed). The following table summarises the results of those researches.

Youth using drugs, alcohol and tobacco (2001-2003)			
Types of substances	High school students (above 12 years old and below 18 years old)	College students (above 18 years old and below 25 years old)	Other young people (12 years old to 24 years old)
Pills	3.1%	3.5%	11.2% (Ketamine) 7.8% (Ecstasy)
Cannabis		2.8%	8.6%
Heroin	0.8%	1.5%	1.7%
Total percentage of drug abuse	3.4% (108)	4.3% (154)	18.1% (21)
Cigarettes	23%	25.1%	66.6%
Alcohol*	69.1%	84.9%	78%

Source: MSAR Social Welfare Institute

N.B. — * Regarding the high alcohol proportion, most of the young people interviewed declared that they drank beer and/or other alcoholic drinks during leisure activities only

I.A.5.(f) percentage of health professionals working in the health-care services for children.

Health professionals working in the health-care services for children									
	2002			2003			2004		
	NP	ND	%	NP	ND	%	NP	ND	%
MSAR hospitals	34	388	8.8	31	440	7	30	464	6.5
Primary care sector	8	511	1.6	9	546	1.6	13	524	2.5
General Practitioners*	-	351	-	-	382	-	-	381	-

Source: MSAR Health Department

N.B. — (1) NP (number of Paediatricians); ND (total number of doctors); % of the total number of doctors; (2) The General Practitioners (GP) also provide medical services to children in primary care sector

I.A.6 With reference to child abuse, please provide disaggregated data (by age, gender, if possible ethnic groups, and types of violations reported) covering the years 2002, 2003 and 2004 on the:

I.A.6.(a) number of child abuse cases reported;

Cases reported to the Public Hospital										
Types of ill-treatment	Age group	Number of children								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Nutritional neglect	< 1 year	-	-	-	-	-	-	-	-	-
	1-4	-	-	-	-	-	-	1	1	-
	5-10	-	-	-	-	-	-	-	-	-
Psychological abuse	< 1 year	-	-	-	-	-	-	-	-	-
	1-4	-	-	-	-	-	-	-	-	-
	5-10	-	-	1	-	-	-	-	-	-
Physical abuse	< 1 year	1	1	-	-	-	-	1	-	1
	1-4	-	-	-	2	1	1	-	-	-
	5-10	2	2	-	1	1	-	4	2	2
Sexual abuse	< 1 year	-	-	-	-	-	-	-	-	-
	1-4	-	-	-	1	-	1	-	-	-
	5-10	-	-	-	-	-	-	-	-	-
Total		3	3	1	4	2	1	6	3	3

Source: MS-AR Health Department

Cases reported to the SWI										
Types of ill-treatment	Age group	Number of children								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Neglect	0-4	2	-	2	1	1	-	1	1	-
	5-9	1	-	1	2	-	2	-	-	-
	10-14	5	4	1	3	3	-	-	-	-
	15-17	-	-	-	-	-	-	-	-	-

Cases reported to the SWI										
Types of ill-treatment	Age group	Number of children								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Psychological abuse	0-4	-	-	-	-	-	-	-	-	-
	5-9	-	-	-	-	-	-	-	-	-
	10-14	1	-	1	-	-	-	-	-	-
	15-17	-	-	-	-	-	-	-	-	-
Physical abuse	0-4	-	-	-	1	1	-	-	-	-
	5-9	3	3	-	2	1	1	1	1	-
	10-14	6	2	4	2	1	1	3	2	1
	15-17	3	-	3	-	-	-	-	-	-
Sexual abuse	0-4	-	-	-	-	-	-	-	-	-
	5-9	-	-	-	-	-	-	-	-	-
	10-14	-	-	-	-	-	-	-	-	-
	15-17	-	-	-	-	-	-	-	-	-
Total		21	9	12	11	7	4	5	4	1

Source: MS-AR Social Welfare Institute

Child physical abuse cases reported to the Police (family violence)								
2002			2003			2004		
MF	M	F	MF	M	F	MF	M	F
25	11	14	26	13	13	31	13	18

Source: MS.AR Office for Security Coordination

N.B. — There is no disaggregated data by age

Child sexual abuse cases reported to the Police									
Age group	Number of children								
	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
5-10	2	-	2	4	-	4	-	-	-
11-14	5	-	5	11	-	11	5	-	5
15-17	2	-	2	1	-	1	5	-	5
Total	9	0	9	16	0	16	10	0	10

Source: MS.AR Office for Security Coordination

I.A.6.(b) number and percentage of reports which have resulted in either a court decision or other types of follow-up; and

According to the SWI, of the reported child abuse cases it received (see above table), from the 21 cases in 2002, 4 resulted in a court decision and all of them resulted in other types of follow-up; from the 11 cases in 2003, 5 resulted in a court decision and all of them resulted in other types of follow-up; and from the 5 cases in 2004, none of them resulted in a court decision but all of them resulted in other types of follow-up.

I.A.6.(c) number and proportion of victims that have received counselling and assistance in recovery.

All the children to whom the reported cases refer received assistance. In certain cases, if the family of the child cannot provide him/her with proper care, the child will be entrusted to special institutions under the supervision of the SWI. In other cases, a social-worker will be

assigned to follow-up the case for a certain period of time. The SWI also provides assistance and information to the children's families.

I.A.7. With reference to the right to education, please provide disaggregated statistical data (by gender, age groups, urban and rural areas, ethnic minorities and immigrant children) covering the years 2002, 2003 and 2004 in percentage of the relevant age group on the:

I.A.7.(a) rates of literacy, below and over 18 years;

Compulsory education covers all children aged from 5 to 15. According to the 2001 Census, the rate of literacy of the population aged 15-year-old or above was 91.3%. As the next Census will be conducted only in 2006, there is no information of the rate of literacy of 2002, 2003 and 2004.

I.A.7.(b) rate of enrolment in pre-primary schools, primary and in secondary schools;

The rate of enrolment in pre-primary schools increased from 91.2% in the academic year 2001/2002 to 97.3% in the academic year 2003/2004. The rate of enrolment in primary schools decreased from 105.8% to 104.6% while the rate of enrolment in secondary schools increased from 84.5% to 92.7%.

I.A.7.(c) percentage of children completing primary and secondary education;

The rate of school completion of children in pre-primary increased from 93.5% in the academic year 2001/2002 to 94.5% in the academic year 2003/2004. The rate of school completion of primary children increased from 82.7% to 83.1% while the rate of school completion of secondary children increased from 62.5% to 68.5%.

I.A.7.(d) number and percentage of dropouts, repetition and retention;

The repetition rate of children in pre-primary decreased from 1.6% to 1.4% from the academic year 2001/2002 to 2003/2004. The repetition rate of primary children decreased from 7% to 5.7% while the repetition rate of secondary children decreased from 13.5% to 11.1%.

The percentage of dropouts within compulsory education (children between 5 and 15 years old) increased from 0.7% in 2001/2002 to 0.8% in 2003/2004.

I.A.7.(e) number of children in private schools;

In the academic years 2001/2002 and 2003/2004, the number of children attending private schools decreased from 93,691 to 92,858.

Number of students (by type of school)			
School Type	Academic years		
	2001/2002	2002/2003	2003/2004
Government schools	6,299	6,382	5,397
Private schools	93,691	92,801	92,858
Total	99,990	99,183	98,255

Source: MSAR Education and Youth Affairs Department

Number of students (by gender and age)									
Age group	Academic years								
	2001/2002			2002/2003			2003/2004		
	MF	M	F	MF	M	F	MF	M	F
< 5	12,789	6,693	6,096	11,836	6,141	5,695	11,202	5,771	5,431
6-10	30,655	15,856	14,799	29,246	15,167	14,079	27,765	14,483	13,282
11-15	37,316	19,116	18,200	36,803	18,869	17,934	35,957	18,445	17,512
16-20	17,093	8,662	8,431	19,119	9,696	9,423	21,103	10,830	10,273
> 21	2,137	1,223	914	2,179	1,232	947	2,228	1,265	963
Total	99,990	51,550	48,440	99,183	51,105	48,078	98,255	50,794	47,461

Source: MSAR Education and Youth Affairs Department

I.A.7.(f) ratio teacher per children and number of children per class.

The teacher/student ratio in pre-primary improved from 1:28.9 in 2001/2002 to 1:26.0 in 2003/2004. The teacher/student ratio in primary improved from 1:28.2 in 2001/2002 to 1:25.2 in 2003/2004. The teacher/student ratio in secondary improved from 1:23.5 in 2001/2002 to 1:22.9 in 2003/2004.

The average class size of pre-primary schools decreased from 35.0 in 2001/2002 to 32.3 in 2003/2004. The average class size of primary schools decreased from 41.8 in 2001/2002 to 37.3 in 2003/2004 while the average class size of secondary schools decreased from 43.4 in 2001/2002 to 43.0 in 2003/2004.

Summarizing the data requested in points A.7.(b), A.7.(c), A.7.(d), and A.7.(f)

Education Indicators				
Education Indicators	Levels of Education	Academic years		
		2001/2002	2002/2003	2003/2004
Rate of enrolment	Pre-primary	91.2%	93.0%	97.3%
	Primary	105.8%	104.7%	104.6%
	Secondary	84.5%	88.3%	92.7%
Rate of school completion	Pre-primary	93.5%	94.2%	94.5%
	Primary	82.7%	83.2%	83.1%
	Secondary	62.5%	65.0%	68.5%
Rate of repetition	Pre-primary	1.6%	1.5%	1.4%
	Primary	7.0%	5.9%	5.7%
	Secondary	13.5%	12.5%	11.1%
Drop-outs percentage	Compulsory education	0.7%	0.7%	0.8%
Average class size (No. of children per class)	Pre-primary	35.0	33.2	32.3
	Primary	41.8	39.5	37.3
	Secondary	43.4	43.2	43.0
Ratio teacher per children	Pre-primary	1:28.9	1:27.1	1:26.0
	Primary	1:28.2	1:26.5	1:25.2
	Secondary	1:23.5	1:23.8	1:22.9

Source: MSAR Education and Youth Affairs Department

** Data in terms of gender, age groups, and immigrant children is not available*

I.A.8. Please provide disaggregated statistical data (including by gender, age and type of crime) covering the years 2002, 2003 and 2004, in particular on the number of:

I.A.8.(a) persons below 18, who have allegedly committed a crime, reported to the police;

In respect to children who have allegedly committed a crime, and as stated in the Part related to the MSAR of China's report on the Convention on the Rights of the Child (paragraphs 417 and *seq.*), it should be recalled that, in the MSAR, children below 16 years old are not criminally responsible.

Children below 12 years old are subject to the social protection regime, measures of which are under the supervision of the SWI.

The educational regime is applicable to children aged 12 and below 16, the Social Rehabilitation Division (SRD) of the JAD being the competent authority to supervise the measures of this regime.

Nevertheless, the educational regime may also be applicable to minors who have already completed 16 years of age if the act that they have committed qualified as crime, misdemeanour or administrative offence is punishable with a fine or imprisonment up to 2 years.

Even though a police complaint may be lodged in regard to acts carried out by children below 12 years old, as they are not criminally responsible, police data may not coincide with SWI data.

The following table respects solely to cases reported to the police.

Cases reported to the police										
Types of offences	Age group	No.								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Crimes against persons/life (physical integrity/bodily harm)	6-8	1	-	1	1	1	-	-	-	-
	9-11	2	1	1	4	3	1	6	5	1
	12-15	67	53	14	63	50	13	81	57	24
	16-18	N/A	N/A	N/A	90	77	13	86	71	15
Crimes against persons/personal freedom (threat)	6-8	-	-	-	-	-	-	-	-	-
	9-11	-	-	-	-	-	-	-	-	-
	12-15	6	6	-	1	1	-	-	-	-
	16-18	N/A	N/A	N/A	6	6	-	4	4	-
Crimes against persons/sexual freedom and sexual self determination (rape, sexual coercion, sexual abuse)	6-8	-	-	-	-	-	-	-	-	-
	9-11	-	-	-	-	-	-	-	-	-
	12-15	1	1	-	1	1	-	-	-	-
	16-18	N/A	N/A	N/A	5	5	-	1	1	-
Crimes against property (larceny, theft, robbery, extortion, destruction of public property)	6-8	4	4	-	4	4	-	4	3	1
	9-11	8	8	-	23	20	3	18	9	9
	12-15	96	85	11	91	81	10	112	92	20
	16-18	N/A	N/A	N/A	125	114	11	122	106	16
Crimes against society/forgery and crimes of common danger/ public order and tranquillity (forgery of documents or currency, organized crime)	6-8	-	-	-	-	-	-	-	-	-
	9-11	-	-	-	-	-	-	-	-	-
	12-15	9	7	2	2	1	1	1	-	1
	16-18	N/A	N/A	N/A	24	9	15	40	13	27
Crimes against the MSAR/against public authority/justice (disobedience, perjury, false information)	6-8	-	-	-	-	-	-	-	-	-
	9-11	-	-	-	-	-	-	-	-	-
	12-15	1	1	-	-	-	-	-	-	-
	16-18	N/A	N/A	N/A	22	4	18	20	4	16
Crime related to drug abuse and trafficking (including aiding and abetting)	6-8	-	-	-	-	-	-	-	-	-
	9-11	-	-	-	-	-	-	-	-	-
	12-15	3	2	1	3	1	2	3	2	1
	16-18	N/A	N/A	N/A	13	7	6	22	16	6
Total		198	168	30	478	385	93	520	383	137

Source: MSAR Office for Security Coordination

N.B. — (1) There were no cases regarding children below 6 years old; (2) In 2002, there is no available data for children between 16 and 18 years old

The following table illustrates the cases of children below 12, who have alleged committed an act qualified as crime, misdemeanour or administrative offence, being transferred from the court (Procurator) to the SWI supervision under the social protection regime (as referred, they are not criminally charged and the measures that may be applied to them are not institutional measures).

Cases reported to the SWI										
Types of offences	Age group	No.								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Crimes against persons/life (physical integrity/bodily harm, etc.)	6-8	-	-	-	2	2	-	2	2	-
	9-11	5	4	1	5	4	1	4	4	-
Crimes against property (larceny, theft, robbery, destruction of public property, etc.)	6-8	-	-	-	4	4	-	4	3	1
	9-11	7	7	-	16	14	2	16	12	4
Misdemeanour	6-8	-	-	-	-	-	-	1	1	-
	9-11	1	1	-	-	-	-	-	-	-
Total		13	12	1	27	24	3	27	22	5

Source: MSAR Social Welfare Institute

N.B. — There were no cases regarding children below 6 years old

I.A.8.(b) persons below 18 who have been charged with a crime and of them those who are sentenced, and the type of punishment or sanctions related to offences including length of deprivation of liberty;

The following table illustrates the situation of children under the educational regime who committed an act qualified as crime, misdemeanour or administrative offence and who have been sent to the SRD of the JAD for a first evaluation before a judicial decision.

Admitted cases of children between 12 and 16 years old who committed a crime and were sent to the SRD for a first evaluation										
Types of offences	Age group	No.								
		2002			2003			2004		
		MF	M	F	MF	M	F	MF	M	F
Crimes against persons/life (physical integrity/bodily harm)	12-14	38	30	8	60	38	22	81	49	32
	15-17	52	38	14	59	47	12	45	36	9
	18-19	-	-	-	1	1	-	-	-	-
Crimes against persons/private life (acts against decency)	12-14	1	1	-	4	4	-	1	1	-
	15-17	2	-	-	-	-	-	-	-	-
	18-19	-	-	-	-	-	-	-	-	-
Crimes against property (larceny, theft, robbery, extortion destruction of public property)	12-14	39	31	8	40	32	8	33	27	6
	15-17	30	25	5	30	28	2	18	12	6
	18-19	-	-	-	-	-	-	-	-	-
Crimes against society/forgery and crimes of common danger/public order and tranquillity (forgery of documents, currency, organized crime)	12-14	1	1	-	6	6	-	2	2	-
	15-17	5	4	1	3	3	-	2	2	-
	18-19	-	-	-	-	-	-	-	-	-
Crime related to drug abuse and trafficking (including aiding and abetting)	12-14	-	-	-	1	-	1	-	-	-
	15-17	6	6	-	2	2	-	2	2	-
	18-19	-	-	-	-	-	-	-	-	-
Misdemeanour	12-14	6	4	2	6	1	5	7	5	2
	15-17	3	2	1	6	4	2	2	2	-
	18-19	-	-	-	-	-	-	-	-	-
Total		183	144	39	218	166	52	193	138	55

Source: MSAR Justice Affairs Department

N.B. — Those between 18-19 years old are those who committed the crime when they were below 16 years old and are awaiting judicial decision

The following table respects to the global number of children under the educational regime who committed an act qualified as crime, misdemeanour or administrative offence and who have been subject by judicial decision to the educational measure of semi-commitment or commitment in the Minors Institute (the other types of educational measures, such as admonition, imposition of specific conducts or duties, educational monitoring, which may apply, are not included in the table because, although they are considered as a sort of “punishment”, in fact, they are not institutional measures and do not involve deprivation of liberty/confinement in any sense).

The length of institutional measures of semi-commitment and of commitment in the Minors Institute depends on the behaviour and progress of the minors, disregarding the type of crime they committed; therefore, it is not possible to classify the length of those measures according to the types of crime. According to the statistic of the Minors Institute, the average length of institutional measures is of 24 months.

Children between 12 and 16 years old who committed a crime and subject to semi-commitment or commitment from 2002 to 2004		
Types of offences	No. of children	
	Who committed a crime	Subject to semi-commitment or commitment
Crimes against persons/life (physical integrity, bodily harm)	336	15
Crimes against persons/private life (acts against decency)	8	1
Crimes against property (larceny, theft, robbery, extortion, destruction of public property)	190	37
Crimes against society/forgery and crimes of common danger/public order and tranquillity (forgery of documents, currency, organized crime, arson)	19	6
Crimes against the MSAR/against public authority justice (disobedience, perjury, false information)	-	29
Crime related to drug abuse and trafficking (including aiding and abetting)	11	3
Misdemeanour	30	1
Total	594	92

Source: MSAR Justice Affairs Department

There is no disaggregated data on persons charged with a crime and sentenced when they were between 17 and 18 years old (at the time of the commission of the crime).

I.A.8.(c) detention facilities for persons below 18 in conflict with law and their capacity;

As referred, child care homes are “open institutions” for children at risk below 12 years old (independently of having committed a criminal offence) and thus they cannot be considered as detention facilities.

The same could be said about the Minors Institute, which, although it is not an “open institution”, is not a detention facility in the proper sense, but an educational establishment for children (as a rule, between 12 and 16 years old) who are in conflict with law. The capacity of the Minors Institute is 127 persons (99 males and 28 females).

I.A.8.(d) persons below 18 detained in these facilities and persons below 18 detained in adult facilities, and

Children in the Minors Institute									
Age groups	2002			2003			2004		
12-14	18	13	5	16	14	2	10	9	1
15-17	31	27	4	45	36	9	53	43	10
Total	49	40	9	61	50	11	63	52	11

Source: MSAR Justice Affairs Department

The MSAR Prison Establishment is an adult custodial facility. Its capacity is 1,050 persons. According to the law, persons aged 16 or above are criminally responsible, and therefore, as a rule (please see the first part of the response to I.A.8.(a)), if convicted of a crime, they will serve

their sentence in the Prison Establishment, which does not have separate areas for prisoners under 18 years old.

Persons aged 16 to 17 detained in adult facilities			
Types of offences	Number of offenders		
	2002	2003	2004
Crimes against persons/life (physical integrity, bodily harm)	3	4	4
Crimes against property (larceny, theft, robbery, extortion destruction of public property)	8	12	6
Crimes against society/forgery and crimes of common danger/public order and tranquillity (forgery of/and or exchange of forged documents, currency, organized crime, arson)	6	5	2
Crime related to drug abuse and trafficking (including aiding and abetting)	7	6	5
Total	24	27	17

Source: MS/AR Office for Security Coordination

I.A.8.(e) persons below 18 kept in pre-trial detention and the average length of their detention;

In respect to persons below 18 kept in pre-trial detention and the average length of their detention, a difference has to be established in terms of the legal regime to which the persons is subject.

According to the law in force, when children under the educational regime commit an act qualified as crime, misdemeanour or administrative offence, the judge may order that they would be kept in an educational establishment for a period of up to 7 days if there is a serious reason to believe that they will carry out acts of a similar nature and if it may be presumed that such acts may imply a decision of semi-commitment or commitment. The alternative and the most common situation is for the judge to decide to apply immediate observation measure on the minors.

In all cases, children are always first observed by psychologists of the Minors Institute. In the observation period, individual and family

situation will be assessed and the respective report will be sent to the court with suggestions upon their conditions and needs for residential services.

Although the referred observation measure cannot be considered as detention or pre-trial detention in the proper sense, as most of the children under observation are not totally free to come and go, it is the closet measure to pre-trial detention. The length of the observation measure is the same for all admitted minors. It does not vary according to the type of crime. According to the statistic of the Minors Institute, the average length of observation for the minors is 3 months.

Children under observation in the Minors Institute from 2002 to 2004									
Types of offences	No.								
	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
Crimes against persons/life (physical integrity, bodily harm)	6	4	2	3	1	2	6	1	5
Crimes against persons/private life (acts against decency)	0	0	0	0	0	0	1	1	0
Crimes against property (larceny, theft, robbery, extortion destruction of public property)	14	14	0	9	9	0	10	7	3
Crimes against society/forgery and crimes of common danger/public order and tranquillity (forgery of documents, currency, organized crime, arson)	4	4	0	4	3	1	2	2	0
Crime related to drug abuse and trafficking (including aiding and abetting)	1	1	0	1	0	1	1	1	0
Others (e.g. fail to abide court order)	12	9	3	8	6	2	10	5	5
Total	37	32	5	25	19	6	30	17	13

Source: MSAR Justice Affairs Department

In respect to those below 18 years of age that are not any more subject to the educational regime, as stated, in 2002, there were 24 persons kept in pre-trial detention in the Macao Prison Establishment and the average length of their pre-trial detention was of 9.5 months. In 2003, there were 27 persons and the average length of pre-trial detention was of 9.4 months and, in 2004, there were 17 persons and the average length was of 8.9 months.

I.A.8.(f) reported cases of abuse and maltreatment of persons below 18 occurred during their arrest and detention;

There are no reported cases of mistreatment of persons below 18 years old occurred during their “detention” and/or arrest.

I.A.8.(g) percentage of recidivism cases.

It is required by the MSAR law that the type of crime cannot be specified in the criminal records for those below 16 years of age; therefore, statistical data regarding the type of crime is not available.

The following table refers to the recidivism cases of persons below 18 years old in the MSAR.

Recidivism cases of persons below 18 years old												
Age group	2002				2003				2004			
	TC	Recidivism			TC	Recidivism			TC	Recidivism		
		M	F	%		M	F	%		M	F	%
9-11	3	-	-	-	0	-	-	-	0	-	-	-
12-14	51	2	-	3.9%	54	1	-	1.9%	67	-	-	-
15-17	100	3	-	3%	128	2	2	3.1%	82	1	-	1.2%
Total	154	5	-	3.2%	182	3	2	2.7%	149	1	-	0.67%

Source: MSAR Identification Department

N.B. — (1) TC — total number of cases; (2) In this table, a case is counted in the respective year when it is found that the same child has committed an act qualified as crime before, in the same year or in the previous years

I.A.9. With reference to special protection measures, please provide statistical data (including by gender, age, if possible ethnic group, urban and rural areas) for the years 2002, 2003 and 2004 on the number of children:

I.A.9.(a) involved in sexual exploitation, including prostitution, pornography and trafficking and the number of children provided with access to recovery and other assistance;

Cases of girls involved in sexual exploitation (prostitution) reported to the Police			
Age group	No.		
	2002	2003	2004
< 16	2	2	4
16-17	96	81	170
Total	98	83	174

Source: MSAR Office for Security Coordination

I.A.9.(b) involved in substance abuse and the number of children who received treatment and recovery assistance;

Cases of children involved in substance abuse reported to the Police									
Age group	No. of children								
	2002			2003			2004		
	MF	M	F	MF	M	F	MF	M	F
0-11	-	-	-	-	-	-	-	-	-
12-14	-	-	-	1	-	1	1	1	-
15-17	5	3	2	3	1	2	1	1	-
Total	5	3	2	4	1	3	2	2	-

Source: MSAR Office for Security Coordination

Within the MSAR Government, treatment and recovery assistance to children involved in substance abuse is provided by the SWI, which has a specific division for that purpose, the Treatment and Rehabilitation Service, and runs two rehabilitation centres. Apart from that, there are eight more private rehabilitation centres which are subsidised by the

Government, through the SWI.

In the MSAR, from 2002 to 2004, there were no reported cases of child drug abusers below 12 years old seeking for help. Regarding children between 12 and 14 years old, there was 1 case in 2002 and another one in 2004. In respect of those between 15 and 19 years old, there were 4 cases in 2002, 8 cases in 2003, and 12 in 2004.

I.A.9.(c) involved in child labour; and

There are no reported cases of child labour.

I.A.9.(d) unaccompanied asylum-seeking, refugee and displaced children.

Please refer to the previous response to I.A.2.(h).

B. General measures of implementation

I.B.1. The Committee would appreciate to receive detailed information on activities meant to implement recommendations contained in the Committee's previous concluding observations (CRC/C/15/Add.56 of 7 June 1996 on mainland China, and CRC/C15/Add.63 of 30 October 1996 with respect to Hong Kong) on the initial reports of China (CRC/C/11/Add.7) and Hong Kong (CRC/C/11/Add.9), which have not yet been fully implemented.

Not applicable to the MSAR.

With regard to mainland China, the Committee would like information related to the implementation of its concluding

observations regarding the establishment of a national human rights institution (para. 26), the strengthening of data collection mechanisms (para. 28), the elimination of rural and urban disparities through budgetary allocations (para. 31), and ensuring Tibetan children are guaranteed full opportunities to develop knowledge about their own language and culture (para. 40). Please explain the obstacles to implementation and how the State party envisages overcoming them.

Not applicable to the MSAR.

With regard to the Special Administrative Region of Hong Kong, the Committee would like to inquire whether the State party has changed, or foresees a change in its position with regard to the non-implementation of the Committee's concluding observations on the development of a comprehensive child policy (para. 20), the establishment of an independent monitoring mechanism (para. 20) and the coordination of policies on child abuse (para. 22).

Not applicable to the MSAR.

I.B.2. Please provide information on cases, if any, where the Convention has been directly invoked in domestic courts in mainland China or the Special Administrative Regions of Hong Kong and Macao, and if so, please provide examples of such cases.

There is no available data.

I.B.3. Please provide updated information on the current

status of implementation of the National Children's Development Programme (2001-2010) for mainland China.

Not applicable to the MSAR.

I.B.4. Please provide updated information on efforts to develop a National Plan of Action or similar child policy in the Special Administrative Regions of Hong Kong and Macao.

In the MSAR, there is no specific plan of action regarding children.

I.B.5. Please explain whether there are any plans to establish a national human rights institution with a specific mandate on children's rights in conformity with the Committee's general comment No. 2 in mainland China or either of the Special Administrative Regions. With regard to the Special Administrative Region of Hong Kong, please provide additional information on the specific mandate of the Ombudsman and the Equal Opportunities Commission as related to children and the extent to which children may file a complaint with these bodies.

Regarding the eventual establishment of a regional human rights institution with a specific mandate on children's rights in the MSAR, the MSAR Government has ordered a study to analyse in detail the viability, advantages and disadvantages of establishing such an institution, taking into consideration of existing law, the specificity of the MSAR social reality, and, in particular, its legal compatibility with the MSAR Basic Law.

I.B.6. Please provide updated information on the dissemination of the Convention and the State party report and on efforts made to provide training, awareness on the Convention and on human rights in general, to children, parents, teachers, social workers and other professionals working with and for children in all parts of the State party.

The MSAR Government is committed to the dissemination of fundamental rights, including those of the child. The divulgation is done through all means, in particular, through the media, such as television, radio, websites, newspaper, publication of brochures, organization of specific recreational activities and training.

Between 2002 and June 2005, the divulgation of the rights of the child was done through the publication of articles on newspapers and the electronic media frequently.

Several brochures on the rights of the child were published by the SWI in cooperation with the JAD, such as: *“Introduction to the Convention on the Rights of the Child”*, *“Social Protection System for children in the MSAR”*, *“Laws and Regulations on the Prevention of Child Abuse”*, *“The Guardianship and Custody”* and *“Domestic and Intercountry Adoptions”*.

To further the understanding of newly migrated families towards their fundamental rights, the EYAD also published a pamphlet *“Welcome to Live in Macao — The First Step of Merging into Society”* with the cooperation of other related departments. The brochure also introduces various rights and duties of children and youths. The EYAD also published the *“School Guides and Parents Handbook”* to help parents to know more about the education services in the MSAR, so that they can get the right services.

In terms of activities, the SWI organizes with 30 other government

and non-governmental entities a series of community programmes to promote to the general public the message on the rights of the child for the International Children's Festival. It also provides technical and financial support to other entities to carry out similar activities.

Similarly, with other local entities, the EYAD organizes programs, like "*Life-long Education Week*", "*Home-School Cooperation Promotion Day*", "*MSAR Government Basic Law Week*", "*Interschool Debate Competition*" and "*Youth Civic Education Common Knowledge Competition*". These activities aim at enriching the youth's knowledge of their rights and duties, promoting their understanding of the political system, social affairs, public administration structure and its operation. A brochure on "*The Convention of the Rights of the Child*" was published by the JAD and can be found in Youth Centres and Education Centres operated by the EYAD.

In the area of training, the SWI offers courses to the staff working in children and juvenile institutions and to accredited social workers to increase their awareness of child protection and knowledge on the rights of the child.

The EYAD includes a module of "The Convention on the Rights of the Child" in the professional development course for school heads and administrators to facilitate the respect of the rights provided for in the Convention in school. It helps parents and teachers to create a better growing environment for children.

As to the promotion of the Convention and the human rights as a whole, the relevant departments under the Secretary for Security, namely the Superior Academy of Security Forces, have included this subject into their curricula. At the same time, plans have been made to extend these training courses to the personnel, of different rankings, of the Police and

Macao Prison Establishment.

The Labour Affairs Bureau also works for the training, implementation of the Convention and promotion of general human rights. It organizes courses that include subjects and activities regarding those rights.

I.B.7. Please indicate the issues affecting children that the State party considers to be priorities requiring the most urgent attention with regard to the implementation of the Convention.

The following issues are currently being considered with regard to the implementation of the Convention:

- adoption of the legal framework on international mutual legal assistance in criminal matters;
- reformulation of the legal framework concerning the protection of witnesses;
- extension of the duration of free education from 10 years to 12 years as to include pre-primary education year 1 and year 2, so that children starting from age 3 can receive 12 years of free pre-primary, primary and secondary education; and granting universal subsidised senior secondary education for persons below 18 years of age to have more opportunities to receive formal education;
- improvement of rehabilitation services, in order to promote opportunity for children with disabilities to live with their families in the community by supporting community service and to provide appropriate rehabilitation training according to the needs of the children in cooperation with non-governmental entities, as to raise their independent living capacity.

PART II

Please provide the Committee with copies of the text of the Convention on the Rights of the Child in all official languages or the State party as well as in other languages or dialects, when available. If possible, please submit these texts in electronic form.

The authentic Chinese and English texts of the Convention on the Rights of the Child, accompanied by the respective translation into Portuguese, were published in the *Macao Official Gazette*, Series I, No. 37, of 14 September 1998 (page 1054 and *seq.*). Copy of that publications is annexed hereto. Their electronic form — full text — can be found on the MSAR Government Website (http://www.imprensa.macao.gov.mo/bo/i/98/37/resoluar20_cn.asp).

PART III

Under this section, the State party is to briefly (3 pages maximum) update the information provided in its report with regard to:

— new bills or enacted legislation;

There is no new enacted legislation on matters related to the rights of the child since the submission to the Committee of the Part related to the MSAR of China's report on the Convention on the Rights of the Child.

— new institutions;

In response to the needs of minors at risk, to help them to rebuild their families, to get back to the main stream and healthy

development, it was decided to establish (under SWI) the following new institutions/services:

- an institute for girls with emotional and behaviour problems;
- a “community service team” — within the existing youth out-reaching services — to reach out those youths at risk who are involuntary to receive institutionalized services;
- to expand the project of “*Kai Chi*” & “*Kai Kin*” “*Early Learning & Developmental Centre*”, targeting at children between 0-6 years old with intellectual development delay, learning difficulties and behavioural problem, which will provide early intervention training service physiotherapy, occupational therapy, speech therapy;
- a comprehensive service centre, “*Hong Lok*”, targeting mentally retarded persons of 16 years old or over, and their families (small scale home for mild mental handicapped persons, supported employment service, and family resource service).

— **newly implemented policies;**

In the area of education, the MSAR Government is up-lifting the quality of education by means of reducing the class size, increase the teacher/class ratio and teacher/student ratio. While free education is extended to year 1 of pre-primary education, the class size will be reduced to 25 to 35 children instead of 35 to 45 children. The practice of 25-35 children per class is planned to be fully implemented in non-tertiary education gradually to offer higher quality of education for all children.

In the domain of public education expenditure, the MSAR Government grants financial support to children from poor families to continue their schooling. According to Orders of the Secretary for Social

Affairs and Culture 50/2004 and 51/2004, in 2004, the Government is increasing the amount of stationary subsidies from MOP\$ 600-1,300 to MOP\$ 800-1,500. In 2004/2005, the amount of senior secondary education annual subsidies given to school was increased from MOP\$ 5,200 per student to MOP\$ 9,000 per student. At the same time, the Government is increasing the special education grant given to private schools outside the Free Education School Network. The amount of the annual education grant per student in pre-primary and primary education will be increased from MOP\$ 2,900 to MOP\$ 3,500. The amount of the annual education grant per student in junior secondary education will be increased from MOP\$ 4,300 to MOP\$ 5,200.

Based on the Order of the Chief Executive 229/2005, the amount of annual free education grant per class given to schools of the *Free Education School Network* will be increased from MOP\$ 274,000 to MOP\$ 295,000, while the annual free education grant per junior secondary student will be increased from MOP\$ 9,200 to MOP\$ 9,900.

— newly implemented programmes and projects and their scope.

The EYAD is launching a “*Healthy School Enhancement Scheme*” to cultivate a healthy school culture beginning from pre-primary education. It aims at taking care of the nutrition, psychological health and safety of young children in the forms of: enhancing their strength and conditioning, promoting the eye-protection exercise, increasing the finance support and resources of extra-curricular activities, promoting healthy eating habits and hygiene, extending the free milk scheme to the second year of pre-primary education in 2005/2006, giving support to student counselling

service and launching *Student Counselling Service Promotion Day*, and reinforcing healthy behaviour education to establish good interpersonal relationships in school. It is hoped that the above activities and services can create a safe and healthy school environment for children to learn and develop.

**PR OF CHINA'S 2005 INITIAL REPORT UNDER
ARTICLE 12 (1) OF THE PROTOCOL CONCERNING
THE APPLICATION OF THE CRC-OP-SC TO MACAO**

(PART II)

MACAO SPECIAL ADMINISTRATIVE REGION^{*}

I. Introduction

1. The present Part II of this first report of the People's Republic of China contains detailed information on the measures taken to implement the provisions of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (hereinafter referred to as Optional Protocol) in its Macao Special Administrative Region (hereinafter referred to as MSAR).

2. China deposited its instrument of ratification of the Optional Protocol on 3 December 2002. Therefore, in accordance with its article

^{*} CRC/C/OPSA/CHN/1/Part.II, 14 July 2005, (3 June 2005).

14 (2), the Protocol entered into force for China on 3 January 2003.

3. Having in mind that, at the time of the deposit of its instrument of ratification, China also declared that the Protocol would be applicable to the MSAR, this part of the report covers its implementation in the MSAR in the period between 3 January 2003 and 3 January 2005.

4. It should be referred that in its elaboration, the *Guidelines regarding initial reports to be submitted by States Parties under article 12, paragraph 1, of the Optional Protocol*, adopted by the Committee on the Rights of the Child on 1 February 2002 (contained in document CRC/OP/SA/1 of 4 April 2002), were followed.

5. It must also be borne in mind that the present part of the report should be read together 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), as well as with the part of the report submitted by China under article 44 of the Convention on the Rights of the Child related to the MSAR (CRC/C/83/Add.9 (Part II) of 27 September 2004), presented to the Secretary-General of the United Nations.

a) Legal status of the Optional Protocol in the MSAR

6. General information on the MSAR land and population, the political structure and the framework in which human rights are protected in the MSAR legal system can be found in the above-mentioned Core Document of China.

7. Notwithstanding, it is particularly relevant to recall, in what regards the legal status of the Optional Protocol in domestic law, that its

provisions apply directly due to the fact that the MSAR legal system is a civil law system, whereby international applicable law is directly integrated. Therefore, only the non-self-executing provisions require the adoption of internal legislation.

8. The Optional Protocol was published in the *MSAR Official Gazette*, No. 19, Series II, of 7 May 2003, in its authentic Chinese text, accompanied by its Portuguese translation, that is to say, in both of the official languages of the Region.

9. Specific information on the rights of the child as well as their concrete implementation in the MSAR was provided to the Committee very recently in the referred part of the report of China submitted under article 44 of the Convention on the Rights of the Child. That information is still updated and, therefore, in this part of the report, the focus will be on the questions of how, at present and by virtue of the entry into force of the Optional Protocol, the rights of the child were — and still are — being reinforced.

b) Competent governmental entities and their coordination with the society

10. Concerning the MSAR public departments and bodies that are competent for the implementation of the Optional Protocol and their coordination with the civil society, the business sector and the media, description of the roles of each of the main entities that deals with the issues of children can also be found in the mentioned report on the Convention on the Rights of the Child.

11. In addition, it should be mentioned that, in the first step of implementation, one of the main areas concerned is justice. The drafting of legislation is under the MSAR Secretary for Administration and

Justice and, under its supervision, there are several entities involved, in particular, the Office of the Secretary and the Legal Affairs Department.

12. The Secretary for Social Affairs and Culture is responsible for the measures related to education, social protection and health. Under this Secretary, it is relevant to mention the Social Welfare Institute (hereinafter referred to as SWI), which plays one of the most important roles in the protection of children and juveniles in all its domains, in particular, child welfare, support to families with financial difficulties, support to courts in the administration of juvenile justice, prevention of juvenile delinquency, protection of victims and collaboration with and support to private institutions in those areas.

13. Police and migration affairs are under the Secretary for Security. On this subject, it is important to refer to the Judicial Police, Public Security Police and Customs Service. The first two are criminal police bodies with functions of crime prevention and investigation. The MSAR Sub-office of China National Central Bureau of INTERPOL is integrated in the Judicial Police. On top of that, they also assist in the promotion and divulgation of law by giving talks and distributing pamphlets and brochures in schools and other public places. The Customs Service is entrusted with police-like functions pertaining to customs control.

14. The courts of the MSAR exercise the judicial power independently and are subordinated to nothing but law and are not subject to any interference. It is also important in this respect to clarify that, in the MSAR legal system, procurators are also magistrates, independent and free from any interference. In fact, a procurator is attached to each court and, by law, exercises, *inter alia*, the functions of

defending legality, representing incapable persons, in which category minors are included, in all actions necessary for the exercise of their rights and interests. That is to say that procurators also play a very important role in the administration of juvenile justice.

15. Finally, regarding the coordination between the Government and the private sector, comprising the media, in the MSAR, the spirit of partnership is very strong. For long, the relationship between the different sectors of the society and the organs of power, in particular the Legislative Assembly and the Government, has been closely tied together and a key factor of the dynamic of the social process.

c) Dissemination of the Optional Protocol

16. The dissemination of law is under the Secretary for Administration and Justice, and there are specific entities and bodies in charge of that task, as for example, the Division for the Divulgence of Law and the Legal and Judicial Training Centre. Nevertheless, other entities and bodies are also engaged in the promotion and divulgation of law as well as in education and training in their own areas of work.

17. The MSAR is extremely committed to the protection of fundamental rights and guarantees of persons, as essential human and social values of its society, which is multi-ethnic and culturally-diverse, characterized by tolerance and equity. This commitment is reflected not only in the adoption of legislative measures but also through other concrete actions in the development and promotion of those rights.

18. In general terms, and as a matter of fact, the entry into force of the Optional Protocol has launched a debate on how to improve the protection of the child in all its different aspects.

19. By the same token, and aiming at the promotion and divulgation of fundamental rights, in particular, the rights of the child, within the various sectors of the community, the MSAR Government, through its competent entities and bodies, largely publicizes human rights. The media, the making of questionnaires, the use of interactive technology, the distribution of free pamphlets and brochures, etc, are the means usually employed for that purpose.

20. Fundamental rights are part of the school curriculum and of many training programs directed to professionals in more sensitive areas, as for example, the judicial, teachers, medical personnel and law enforcement agents.

21. Freedom of association is protected and promoted in the MSAR. As already pointed out, associations are a strong component of its society. The involvement of many associations in the field of caring for children and women is a tradition, and has always been encouraged and financially supported by the MSAR Government. These associations cooperate with the competent entities/bodies of the Administration and complement its work.

II. Prohibition of the sale of children, child prostitution and child pornography

1. General aspects

a) Special constitutional protection

22. The MSAR Basic Law, in its Chapter III, guarantees the fundamental rights and duties of residents and other persons in the MSAR. Under its provisions, human freedom and dignity are inviolable.

23. Also within that same Chapter III, article 38 (3) expressly enshrines the principle of special protection of minors.

24. These principles, along with the principles of equality and legality, are fundamental principles of the whole of the MSAR legal system.

25. At the level of ordinary law, the protection of minors is concretized through both substantive and procedural civil and criminal law.

b) Age limits used for definitions

26. According to article 1 of the Convention on the Rights of the Child, “(...) *a child means every human being below the age of eighteen years unless, under the law applicable to the child, majority is attained earlier.*”

27. The MSAR Civil Code enshrines the same concept. Its article 111 defines minor as a human being who is under 18 years old, being that also the age of majority.

28. Article 1479 of the said Code forbids marriage under 16 years old, and although article 1482 of the same Code stipulates that the marriage of a minor requires authorization from his parents (or the person who exercises parental power), when read together, the conclusion is that 16 years old is retained as the age of consent for marriage.

29. In a similar fashion, and as it will be more specifically detailed, the age of consent for marriage is also retained as the age of full sexual consent.

30. In what relates other specific legal concepts connected with the definition of the child (and their consequences), please refer to the mentioned part of China’s report on the Convention on Rights of the Child.

2. Prohibition of the sale of children

a) Human freedom and dignity

31. In what regards the sale of children, as defined by the Optional Protocol, it should be borne in mind that under the Basic Law provisions, human freedom and dignity are inviolable.

32. Articles 28 (1) and 30 (1) of the Basic Law expressly state, respectively, the inviolability of human freedom and of human dignity. Apart from their constitutional value, these principles are, as above-mentioned, cornerstones of the MSAR legal system, being reaffirmed as a constant in most of the ordinary laws.

b) Prohibition of slavery, forced labour and servitude

33. Under the international law of peace, not only the main treaties on slavery, but also other general treaties, both universal and specific — which touch upon the issue of slavery and slavery-related practices and forced labour (or refer to it) — are applicable. Such are the cases, for example, of the:

- 1926 Slavery Convention;
- 1930 Convention concerning Forced or Compulsory Labour (ILO No. 29);
- 1949 Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others;
- 1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery;
- 1957 Convention on the Abolition of Forced Labour (ILO No. 105);

- 1966 International Covenant on Civil and Political Rights;
- 1966 International Covenant on Economic, Social and Cultural Rights;
- 1973 Convention concerning Minimum Age for Admission to Employment (ILO No. 138);
- 1999 Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (ILO No. 182).

34. And of course, in what respects the law of armed conflicts, as China is a party to the main treaties in this field, they also apply to the MSAR.

35. The MSAR criminal law conceives the sale of persons in terms of slavery. In fact, article 153 of the Macao Criminal Code reads as follows: “*one who: (a) reduces another person to the status or condition of a slave; or (b) sells, disposes of or acquires a person, or takes possession of him with the intent to maintain him in the situation provided for in the previous paragraph, shall be punished with a penalty of 10 to 20 years of imprisonment*”.

36. Technically, this article emulates the relevant provisions of the 1926 Slavery Convention; thus, the expression “*status or condition of a slave*” is understood in exactly the same manner as the status or condition of a person “*over whom any or all the powers attaching to the right of ownership are exercised*”. This legal type covers all the situations in which a person is under the total physical control of another person.

37. On the issue of engagement of a child for the purpose of forced labour, the legal type of crime established in the quoted article 153 of the Macao Criminal Code covers that situation under certain circumstances.

38. Aside from that, article 146 of the same Code provides for the specific crime of ill-treatment or excessive loads on minors, incapable persons or spouse. The infliction of physical or mental ill-treatment or cruel treatment, the employment in dangerous, inhuman or prohibited activities and the overloading on a minor of excessive work is, as a rule, punishable with a penalty of 1 to 5 years of imprisonment. If the act corresponds to an offence against physical integrity, or if death results there from, penalties range from 2 to 8 years, or 5 to 15 years of imprisonment, respectively.

c) Prohibition of transfer of organs for profit

39. In what regards the transfer of organs) including those of children) for profit, Law 2/96/M, of 3 June, establishes the Rules to be Observed in Acts Involving Donation, Removal and Transplant of Human Organs and Tissues. Under this law, any kind of remuneration for the donation of organs as well as any transactions over it or any form of publicity regarding transaction of human organs or tissues are prohibited.

40. The free, duly informed and unequivocal consent of the donor, which, as a rule, should be given in writing, is mandatory. If the donor is a minor, the consent has to be given by his parents or the person who has parental power and requires non-opposition of the minor. Furthermore, explicit agreement is compulsory if the minor possesses the capacity to understand and to express his will. This consent may be revoked at any time until the act is performed.

41. This Law also provides for and punishes certain crimes connected with the violation of the rules and principles therein contained. More precisely, it criminalises autonomously the homicide for removal of human organs or tissues, and establishes commercial transactions on

and advertisement of human organs or tissues, remuneration of donation, illicit removals and transplants, illicit removals from corpses as new criminal offences. The penalty of this sort of homicide is the same as for qualified homicide and the penalties of the remaining offences range between fines and effective imprisonment up to 3 years. Attempt is punishable in all cases and accessory penalties of compulsive demission from public function or of inhibition of professional activity for a period of 1 to 5 years may apply. In addition, the law also refers to the general norms on civil and disciplinary liability (arts. 15 to 21).

d) Rules on adoption

42. At present, in the MSAR, intermediation for adoption is not allowed.

43. Adoption is governed by the provisions of the Macao Civil Code and by Decree-Law 65/99/M, of 25 October, which approves the Legal Framework on Educational and Social Protection on Juvenile Justice. This legislation, based on the principle of the best interest of the child, defines, *inter alia*, who may adopt and who may be adopted, the pre-requisites of adoption and its effects, and establishes the mechanism regarding the allocation of a minor habitually resident in Macao, outside Macao, with a view to adoption. It also governs the adoption of a minor who is habitually resident outside Macao, by a habitual resident of Macao.

44. In any case, it should be stressed that adoption always requires a judicial decision, which may only be rendered when there is a concrete and real benefit for the child, and it is reasonable to assume that a bond similar to a parent-child relationship will be established between the adopter and the adoptee.

45. Furthermore, in what concerns adoptions by interested adopters from outside Macao, the principle of subsidiarity is expressly enshrined. According to it, the court, before rendering its decision on placement of a minor outside Macao, has to ascertain that an adoption inside Macao is not viable. Therefore, whenever there is a request for judicial authorization regarding the provisional custody of a minor to be adopted outside Macao, the court, having in mind the best interests of the minor, should try, whenever possible, to keep him in Macao.

46. Within the MSAR, not only do all adoptions require a judicial order, but also all the administrative procedures regarding adoption must be conducted by a single entity, the SWI. The SWI must, *inter alia*, analyse the viability of the adoption, taking into account the suitability of the candidate and the particulars of the minor.

47. The purpose of this legal framework (and its stringent requirements) is to prevent illicit or improper gains arising from any activity related to, or connected with, adoption, and to prevent trafficking in children.

48. It is important to underline that the criminal offence of corruption is committed by a civil servant who demands or accepts, for himself or for another person, any undue gain, financial or not, while performing his duties.

49. China is undergoing its domestic legal procedure on the ratification of the 1993 Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, with a view to its future ratification. The MSAR was consulted on the eventual future application of this Convention and has given its favourable opinion. Therefore, if China ratifies the Convention, it will also be applicable to the MSAR.

50. In practical terms, it is worth mentioning that, until the present moment, there is no report and no knowledge of the existence of children being subject to the above-mentioned practices in the MSAR. There is also no record of complaints, by either residents or non-residents, regarding the disappearance of children in connection with their sale.

3. Prohibition of sexual exploitation of the child

a) General aspects

51. In what regards article 3 (a) of the Optional Protocol, that is to say, matters connected with sexual exploitation of the child, the Macao Criminal Code deals specifically with crimes against minors.

52. Indeed, Title I of its Book II, dealing with crimes against human beings, includes a whole chapter — Chapter V — specifically on sexual crimes. However, there are other provisions in the Criminal Code, which may be relevant to the protection of children in what concerns sexual abuse and exploitation.

53. Chapter V has three sections. The first section refers to crimes against sexual freedom; the second one to crimes against sexual self-determination; and the last one contains common provisions applicable to the previous two sections. The comparison between the crimes prescribed in the first two sections entails that the qualification of an offence as a crime against sexual freedom is anchored on the understanding that the victims of such offences enjoy full legal capacity of sexual consent. On the other hand, the *rationale* underpinning the classification of offences as crimes against sexual self-determination is an opposite one, that is to say, the victims do not fully enjoy such legal capacity.

54. Nevertheless, the penalties for some of the crimes provided

for in Section I — for example, rape (art. 157), sexual coercion (art. 158) and non-consensual procreation (art. 162) — are aggravated by one third in its minimum and maximum limits, inter alia, whenever the victim is a minor under 14 years of age.

55. Specifically in what regards the crimes against sexual self-determination, not only the victim has to be a minor, but the age of the minor also has to be taken into consideration, as another important element of the criminal legal types.

56. The following crimes are established in this Section: sexual abuse of minors (art. 166), sexual abuse of pupils and dependent minors (art. 167), statutory rape (art. 168), sexual acts with minors (art. 169) and procurement of a minor (art. 170).

57. In other legal types of crimes against human beings, the fact of the victim of the crime being a minor constitutes an aggravating circumstance. For instance, abduction for the purpose of committing the crime against sexual freedom and self-determination is punishable by imprisonment of 3 to 10 years; however, if the victim is a minor under 16 years of age, the penalty shall be increased by one-third in its minimum and maximum limits (art. 154 (1) and (4)).

b) Child prostitution

58. On the issue of child prostitution, the Macao Criminal Code establishes and punishes the criminal offence of procurement of a minor in article 170. This offence includes the acts of fostering, promoting and facilitating child prostitution or the practice, by a minor, of relevant sexual acts, and the resulting penalty is of 1 to 5 years of imprisonment. If the offender uses violence, serious threats, trickery or fraud, or engages in procurement as a way of life or for profit or takes advantage

of the mental incapacity of the victim, or if the victim is a minor under 14 years of age, the penalty is of 2 to 10 years of imprisonment.

59. In any of the given situations, the penalty is increased by one third in its minimum and maximum limits if the victim is a descendent, adopted or a relative or has kinship with the offender up to the second degree, or if the victim is under his guardianship or curatorship.

60. In addition, Law 6/97/M, of 30 July, on Organized Crime, provides for and punishes, in its article 7, the criminal offence of international trafficking in human beings. According to it, *“anyone who, to satisfy the interests of a third person, procures, elicits, seduces or misguides a person for the practice of prostitution in another country or territory, even if the acts constituting the offence have occurred in different countries or territories, is punished with imprisonment of 2 to 8 years”*. The penalty is aggravated by one third in its minimum and maximum if the victim is a minor. The penalty is of 5 to 15 years of imprisonment if the minor is under 14 years of age.

61. Still according to Law 6/97/M, it is possible, in regard to the criminal offence of trafficking in human beings, to apply, in addition to the principle penalties provided for the criminal offence, accessory penalties, being worthwhile to stress that, in the case of trafficking in minors, the inhibition of parental power, guardianship and curatorship or of administration of property is for a period of 2 to 10 years.

c) Child pornography

62. In what refers to child pornography, in the sense of article 2 (c) of the Optional Protocol, the use of a minor in pornographic photographs, films or recordings constitutes a criminal offence. Anyone who practises such an act, as well as anyone who acts upon a minor under 14 years of age by means of an obscene conversation, or pornographic writings,

performances or objects, is punished with a penalty of imprisonment of up to 3 years. This penalty is increased to 1 to 5 years whenever the acts are committed with commercial intent. If the victim is a minor under 14 years of age, the penalty is increased, having in mind the parent-child relationship or the victim's dependence on the offender (arts. 166 and 171 of the Macao Criminal Code, respectively).

63. Continuing on this issue, Law 10/78/M, of 8 July, on Public Sale, Exposition and Exhibition of Pornographic or Obscene Materials, the revision of which is currently being studied in order to better adequate the legal system to the imperatives arising from international treaties, including this Optional Protocol, establishes, as a general rule, the prohibition of any kind of public dissemination of pornographic or obscene materials.

64. For the purpose of this law, pornography is defined, in its article 2 (1), in a broad manner, so as to cover any kind of materials and means, including mechanical reproduction and audio-visual form of communication, containing words, descriptions or images that constitute an outrage to public decency and morality. The second paragraph of the same article 2 gives a non-exhaustive list of examples.

65. The penalty for the violation of the provisions of Law 10/78/M is of up to 6 months of imprisonment or the corresponding fine. However, in cases of habitual offenders, the penalty of imprisonment may not be converted into a fine. It is also established that the sale of objects and/or materials of a pornographic or obscene nature through a minor or to a minor under 18 years of age is an aggravating circumstance, the limits of the respective imprisonment or fine being increased to the double. Persons responsible over media organizations through which pornographic texts or images are disseminated are liable as co-offenders.

66. Furthermore, it should also be mentioned that Law 8/89/M, of 4 September, which establishes the Legal Framework on Radio and Television Broadcasting, prohibits the broadcast of any programme of a pornographic or obscene nature.

67. Moreover, a parent, guardian or curator of a minor, pursuant to conviction for any of the crimes established under articles 157 to 170 of the Criminal Code may be additionally sanctioned with the disqualification of parental power, guardianship or curatorship, whichever is the case, for a period from 2 to 5 years.

d) Summarizing

68. For a better and easier understanding of the alluded provisions and of their insertion in the Criminal Code:

SECTION I — CRIMES AGAINST SEXUAL FREEDOM		
Crime	Penalty	Aggravation(s) connected with minors
Rape (art. 157)	3 to 12 years of imprisonment	1/3 of its minimum and maximum limits
Sexual coercion (art. 158)	2 to 8 years of imprisonment	
Sexual abuse of a person unable to resist (art. 159)	1 to 8 years of imprisonment; or 2 to 10 years of imprisonment if there is copulation or anal coitus	
Sexual abuse of a hospitalized person (art. 160)		
Sexual fraud (art. 161)	Up to 2 years of imprisonment; or up to 5 years of imprisonment if there is copulation or anal coitus	
Artificial procreation without consent (art. 162)	1 to 8 years of imprisonment	1/3 of its minimum and maximum limits
Procurement (art. 163)	1 to 5 years of imprisonment	
Aggravated procurement (art. 164)	2 to 8 years of imprisonment	
Indecent exposure (art. 165)	Up to 1 year of imprisonment or fine of up to 120 days	

SECTION II — CRIME AGAINST SEXUAL SELF-DETERMINATION				
Crime	Penalty	Specific aggravations	Common aggravations	
Sexual abuse of children (art. 166) this type pertains only to minors under 14 years of age and it includes:			1/3 of its min. and max. limits if the victim is:	a) 1/3 of its min. and max. limits if the offender is a carrier of sexual transmitted disease
1) relevant sexual act with or on a child; and forcing a child to practise such an act with the offender or with another person;	1 to 8 years imprisonment		a) the offender's descendent, adoptee, relative or kin up to second degree, or it he is under the offender's guardianship or curatorship	b) 1/2 of its min. and max. limits if pregnancy, serious offence to physical integrity, AIDS, suicide or death results from the commission of the criminal offence
2) relevant sexual act in the presence of a child and directly related to him;				
3) sexual intercourse or anal coitus with a child;	3 to 10 years of imprisonment		b) in a submissive relationship of a hierarchical, economic or labour-related nature with the offender, provided that the criminal offence is committed by taken advantage of such a relationship	
4) indecent exposure in the presence of a child;	Up to 3 years of imprisonment	1 to 5 years of imprisonment if there is commercial intent		
5) acting upon a child by means of obscene conversation or pornographic writings, performances or objects; or use of a child in photographs, films or recording of a pornographic nature				
Sexual abuse of pupils and dependents (art. 167) this type pertains to:				
a) minors between 14 and 16 years of age who have been entrusted to the offender for education or assistance; and				
b) minors between 16 and 18 years of age who have been entrusted to the offender for education or assistance, when the offender takes advantage of his function or position; and it includes:				

SECTION II — CRIME AGAINST SEXUAL SELF-DETERMINATION				
Crime	Penalty	Specific aggravations	Common aggravations	
1) relevant sexual act with or on a minor; and forcing a minor to practise such an act with another person;	1 to 8 years of imprisonment			
2) relevant sexual act in the presence of a minor and directly related to him;				
3) sexual intercourse or anal coitus with a minor;				
4) indecent exposure in the presence of a minor;	Up to 1 year of imprisonment	Up to 3 years of imprisonment if there is commercial intent		
5) acting upon a minor by means of obscene conversation or pornographic writings, performances or objects;				
6) use of a minor in photo- graphs, films or recordings of a pornographic nature.				
Statutory rape (art. 168) This type (covering both copulation and anal coitus and pertains to minors between 14 and 16 years of age; and it requires that the offender take advantage of the minor's inexperience	Up to 4 years of imprisonment			

69. Children are specially protected and assisted. If the parents or other persons exercising parental power endanger the child's security, health, moral upbringing and education, special intervention mechanisms may be applied in order to effectively safeguard the child's best interests.

70. Those mechanisms range from restrictions to the exercise of

parental power, to disqualification from such power. The judge may order the child to be placed under the care of other persons or institutions.

71. As is the case everywhere, there are other situations involving abuse of children, namely commercial exploitation of begging, domestic violence, etc. The following table illustrates cases of complaints lodged with the Police relative to crimes related to children:

Crime	2003	2004
Sexual abuse of children	9	2
Statutory rape	7	3
Procurement of a minor	1	
Ill treatment of minors	26	31
Total	43	36

Source: Office for Security Co-ordination

4. Attempt, complicity and participation

a) Attempt

72. The Macao Criminal Code expressly stipulates, as one of the basis of punishability, that only intentional conduct is punishable, unless the law expressly provides punishment for negligent conduct (art. 12). On the other hand, as regards to the forms of commission of a crime, the Code sets out general rules on, inter alia, the definitions of attempt, perpetration, complicity and participation (arts. 20 et. seq.).

73. There is an attempt to commit a crime whenever a person engages in the execution of acts that constitute a criminal offence, which that person has decided to commit, although the offence is not completed. Except otherwise expressly provided for, an attempt to commit a crime is punishable only if, and when, the completion of such crimes is punishable with a maximum penalty of over 3 years of imprisonment.

The penalty is the same one established for the completed crime, but specially mitigated (arts. 21 (1) and 22 of the Criminal Code, respectively).

74. Most of the crimes previously referred to are punishable with penalties, which imply that the attempt to commit them is also punishable. Notwithstanding, and as mentioned, the revision of some aspects of the criminal law is underway, the punishability of the attempt with respect to the crimes in question being one of the major issues under consideration.

75. Perpetration is defined, in a very broad manner, so as to cover whoever commits the criminal act himself, or through another, or directly takes part in its execution by agreement or jointly with another or others, and also when one intentionally directs another person to commit the act, provided that there is execution or beginning of execution of the act (art. 25 of the Macao Criminal Code).

76. The punishability of accessoryship depends on the existence of criminal intention. In effect, a person who, intentionally and by any means, renders material or moral assistance to another person's wilful commission of a crime, is considered as an accessory to such crime. (art. 26 of the Macao Criminal Code).

77. It is important to stress that the minimum criterion for the existence of accessoryship is the fact that the person acts wilfully. No distinction is made in terms of aiding or abetting, which are both covered by the referred article 26. The accessory is punished with the same penalty as the perpetrator, but specially mitigated.

78. Another form of complicity specifically provided for is participation. Every participant is punished according to his own guilt, irrespective of the punishability or of the degree of guilt of the other co-participants (art. 28 of the Macao Criminal Code). However, if the

unlawfulness or the degree of the unlawfulness of the act depends on special personal characteristics or relationships of the perpetrator, the punishability of all the participants shall not be affected, so long as those characteristics and relationships exist in the person of any one of them, except if the *ratio legis* of the relevant criminal provisions points otherwise.

5. Liability of legal persons

79. On the subject matter of the liability of legal persons, article 3 (4) of the Optional Protocol determines that each party shall take the measures, where appropriate, to establish that liability, which may be criminal, civil or administrative.

80. Article of the Macao Criminal Code determines that, except as otherwise provided, only natural persons are criminally liable.

81. However, article 11 of the said Code provides for the punishability of commission on behalf of another person. A person who voluntarily acts as an authorised representative of a body of a legal person, a society or a de facto association, or as a legal or voluntary representative of another natural person, is punishable, even when the type of crime committed requires: (a) specific personal attributes, and those attributes only exist in relation to the represented person; or (b) that the perpetrator performs the act in his own interest, and the representative acts in the interest of the represented. This provision is applicable even if the legal instrument on which such representation is grounded is null and void.

82. The Macao Civil Code contains the general legal framework on civil liability, including the liability of legal persons (arts. 150 to 477).

III. Criminal law and criminal procedure law

1. Jurisdiction

83. In terms of criminal jurisdiction, the main principle in the MSAR is that of territoriality. Thus, article 4 of the Macao Criminal Code expressly establishes that “*unless otherwise provided by an international convention applicable in Macao or in a mutual legal assistance agreement, Macao criminal law shall be applicable to acts committed: a) in Macao, irrespective of the offender’s nationality; or b) aboard a vessel or an aircraft registered in Macao*”.

84. Article 5 (1) of the said Code complements the rules on the scope of criminal jurisdiction, contemplating other situations whereby jurisdiction is extended in conformity with the principles of protection of the MSAR interests, universality, active personality and passive personality. Another ground for the exercise of criminal jurisdiction to acts practised outside the MSAR is established in article 5 (2), which provides that “*the Macao criminal law is also applicable to acts committed outside Macao whenever the obligation to bring such acts under trial arises from an international convention applicable to Macao or from a mutual legal assistance agreement*”.

85. However, other legal concepts that may restrict jurisdiction are also provided for, namely, double criminality (item 2 of article 5 (1) (c)) and double jeopardy (*ne bis in idem*) (art. 6).

86. More to the point, in accordance with the referred rules on jurisdiction, the Macao criminal law shall be applied whenever the act pertaining to the crime of slavery is committed, provided that the offender is found in Macao and cannot be surrender to another territory or state (art. 5 (1) (b) of the Criminal Code).

87. The Macao criminal law will also be applicable to the

mentioned crimes of sexual abuse of minors, sexual abuse of pupils and dependent minors, statutory rape, sexual acts with minors and procurement of a minor whenever they are committed outside the Region “*by a Macao resident against a non-resident, or by a non-resident against a resident, when: (1) the offender is found in Macao; (2) the acts are also punishable under the legislation in force where the act has been committed, unless the jus puniendi is not exercised there; and (3) the acts constitute a crime for which the surrender is admitted but cannot, in casu be granted*” or “*against a Macao resident, by a resident, whenever the offender is found in Macao*” (art. 5 (1) (c) and (d) of the Criminal Code).

2. Extradition

88. Extradition, in its proper sense, is a matter that falls outside the scope of the autonomy of the MSAR.

89. Nevertheless, on the basis of an applicable international convention or agreement, and in accordance with the general provisions of the Macao Criminal Procedure Code, the surrender of fugitives or transfer of sentenced persons may take place, as it will be detailed in the following section.

3. International mutual legal assistance in criminal matters

90. Article 94 of the Basic Law allows the MSAR to enter into agreements in the field of mutual legal assistance. More precisely, according to the referred article, “*with the assistance and authorization of the Central People’s Government, the Macao Special Administrative Region may make appropriate arrangements with foreign states for reciprocal judicial assistance*”.

91. In the past, an agreement on the transfer of sentenced persons

was concluded with Portugal. Due to its object and to the entry into force of the Basic Law, there was the need to confirm its nature as an international treaty and the continuation of its application. This was done in 2000 by an Exchange of Notes between China and Portugal.

92. More recently, on 17 January 2001, an agreement on reciprocal legal assistance was concluded with Portugal.

93. Interregional mutual legal assistance agreements with the Mainland of China and the Hong Kong Special Administrative Region are also being negotiated.

94. A law establishing the general legal framework on mutual legal assistance in criminal matters is currently being drafted.

95. The Macao Criminal Procedure Code governs the relationship with the authorities outside the MSAR (overseas jurisdictions as well as the Mainland of China) for the purpose of the administration of criminal justice. The framework therein contained is essentially based on letters of request. However, some other forms of international co-operation will be possible in the near future with the enactment of the above-mentioned law on mutual legal assistance.

96. Article 213 of the said Code stipulates, as a general rule, that the letters of request, the surrender of fugitives, the execution or enforcement of a sentence of a foreign court and other matters related to criminal justice between the Macao courts and foreign authorities shall be regulated by applicable international conventions or agreements on mutual legal assistance, and that in the absence of such treaties, the provisions of the Criminal Procedure Code shall be applicable.

97. Article 213 does not preclude any action in the absence of applicable international law. Under the standard provisions of the

Criminal Procedure Code, a judiciary authority outside Macao may make a request to a Macao court, by means of a letter of request (designated as ‘rogatory letter’), to perform a judicial act, as for example, the service of documents, taking of evidence for use in judicial proceedings, etc.. Letters of request may be transmitted by any means and through any channel.

98. Once a letter of request is received, the Procurator examines the letter in order to ascertain its compliance with the public interest. Afterwards the judge decides on its compliance in harmony with domestic law.

99. Article 216 (1) of the same Code establishes the grounds for refusal of execution of a letter of request. Indeed, the execution may be refused by the court only to the extent that: (a) it does not fall within the functions of the requested Macao judicial authority; (b) the request concerns an act that is prohibited under the Macao law or that Macao public order would be prejudiced thereby; (c) the execution of the letter contravenes the fundamental principles of the legal system or the security of Macao; and (d) the requested act involves the execution or the enforcement of an order or judgment from a foreign court, which has not been reviewed or confirmed in cases where such a review or confirmation is mandatory.

100. Paragraph 2 of the same article 216 specifies that in the case of subsection (a) of the previous paragraph 1, the requested authority shall forward the letter of request to the competent Macao judiciary authority.

101. In addition, and according to the law that establishes the notification procedure of requests under judicial cooperation, the MSAR

competent authorities, before deciding to send a request to foreign authorities under the provisions of the law or of applicable bilateral agreements or multilateral treaties, or whenever they receive a request from foreign authorities, are to notify such requests to the Central People's Government through the Chief Executive. Whenever the Central People's Government, on the grounds of national defence, foreign affairs, sovereignty, public security, or public order of the State, emanates instructions on the submission or acceptance of a request under judicial cooperation, it shall transmit them by writing to the Chief Executive, and the Chief Executive shall issue an order in conformity with the referred instructions. The competent authorities of the MSAR shall be bound by that order.

102. The Procurator may always appeal against the judicial order granting execution of a letter of request. In case of such an appeal, such execution is suspended until the appellate decision is delivered.

103. Once a letter of request is executed, the documents concerning that execution shall be sent by the requested Macao authority through the same manner as the letter was received. If the letter is not executed in whole or in part, the requesting foreign authority shall be informed and advised of the reasons of non-execution also through the same manner.

104. All court decisions must be justified as to the reasons for their issuance.

4. Seizure and confiscation and other measures

105. Articles 163 to 171 of the Macao Criminal Procedure Code govern seizure. According to article 166, seizure of any kind of funds or

other financial assets deposited in banks or credit institutions is legally possible whenever there are serious reasons to believe that the funds or assets are related to the commission of a crime or are important to its investigation or to produce material evidence. It can take place if the funds or assets are not property of the perpetrator or are not deposited in his name. A seizure requires a judicial order.

106. In what relates crimes committed by persons who are part of an organized criminal group, special rules of the above-mentioned Law 6/97/M apply. Under article 31 of this Law, seizure of goods and rights, in a broader manner is possible; financial institutions or equivalent entities as well as associations, civil or commercial partnerships or companies, departments of registry and taxes, and any other public or private entities may not refuse information requested by the judges on those assets.

107. The right of all and any persons (both natural and legal) to own property is a fundamental economic right fully guaranteed in the MSAR, namely by the Basic Law and the international multilateral treaties in force. Confiscation of assets violates that right.

108. Nevertheless, it is true fundamental rights may be — and are — restrictable in certain cases and under certain conditions. After all, that is precisely the case with criminal penalties, but criminal penalties always presuppose an *ex ante facto* law and the compliance with due process of law. Therefore, and although confiscation, in the proper sense, is not possible, the Macao Criminal Code expressly sets forth the possibility of the permanent deprivation of property by order of a court. In this sense, objects or rights that derived from a crime — proceeds of a crime — may be declared lost in favour of the MSAR (arts. 101 to 104).

109. The previously referred provisions are drafted so as to include not only objects per se of any kind, but also goods, rights or benefits.

110. In the case of objects, it is established that these include all objects used to commit or intended to be used to commit a criminal offence, and those resulting from the commission of an offence that, by their nature, or due to the circumstances of the case, may endanger the security of persons or public morality or order, or if there is a serious risk that they may be used to commit new offences (art. 101).

111. In the case of goods, rights or benefits, the wording of the relevant provisions covers any kind of gains given by or promised to the perpetrator of the criminal offence, either directly for his benefit or for the benefit of a third person. These provisions also cover goods, rights or benefits that the perpetrator acquired directly for himself or for a third person. Even those obtained through a transaction or an exchange of things, or rights, directly obtained by means of the offence, are covered. If such gains, goods, rights or benefits are not susceptible of appropriation *in specie* the deprivation of property may be substituted by a payment to the MSAR of an amount corresponding to their value.

IV. Protection of the rights of the victims

112. Under the criminal procedure rules, children are specially protected in order to prevent disruption in their psychological and physical well-being.

113. For example, in case of children being victims of criminal offences of a sexual nature, the Criminal Procedure Code determines, inter alia, that the inquiry of a minor under 16 years of age is conducted

without publicity, the divulcation of the identity of the minor is not allowed and, when the minor has to be present in the court audience, the offender is removed during the deposition of the minor, if there are reasons to believe that his presence could put the minor in risk.

114. Protection is granted to minors even in cases where they are not victims but have to be present in the court to testify. For instance, only the judge can address a minor under 16 years of age during his testimony. What has been said regarding non-confrontation in terms of presence of the offender with the minor is also valid for the case where the minor has to testify.

115. The SWI is the entity within the MSAR Government that is competent to assist children victims of criminal offences. For that purpose, it has a special division, the Division for Infants and Juveniles of the Department of Social Solidarity. This Division co-operates and conducts projects and programmes to support children and juveniles as well as their families in situations of risk. It also gives assistance to the courts within the Legal Framework on Educational and Social Protection on Juvenile Justice. Another aspect of its activities is to develop co-operation with private social solidarity entities dedicated to children and juvenile and to monitor them.

116. The staff of the SWI, in particular, those of the mentioned Division, perform their functions by means of interdisciplinary and qualified groups of experts.

V. Prevention of the sale of children, child prostitution and child pornography

117. The divulcation of fundamental rights, in particular, those that are specially protected, as it is the case of the rights of the minors,

as well as the prevention of all forms of conducts against human freedom and dignity constitute a policy of the MSAR Government that has been systematically and continuously implemented.

118. Several departments of the MSAR Government carry out divulgation and dissemination activities and work in close co-operation with local associations and public and private social solidarity entities.

119. As mentioned, the Legal Affairs Department has a special division solely for the divulgation of law. This divulgation is done through all means, in particular, through radio and television broadcasting programmes, newspaper articles and publication of brochures and pamphlets, distributed freely. Several recreational activities aiming at the divulgation of laws are constantly organized, being one of the underlined ideas to promote justice and to prevent crimes in a simple, direct and intelligible way.

120. It is important to stress that the Convention on the Rights of the Child and in general all issues connected with the protection of children are major concerns of the society and, thus, have also been the focus of the dissemination policy of the Government.

121. Indeed, the more popular Chinese language newspapers, like “*Va Kio*” and “*On Mun*”, have specific columns on ‘law information’ and special attention was paid to the Optional Protocol in those columns.

122. The Legal Affairs Department has also promoted the publication of specific brochures on ill-treatment of children and it is preparing a new publication on the Convention on the Rights of the Child, which will detail the Optional Protocol even further.

123. Public campaigns are also carried out in schools. And, at a higher level, legal training programs on these subject matters have been

carried out, aiming at legal professionals and civil servants in general.

124. The Institute for Civic and Municipal Affairs regularly organizes information campaigns in public places directed to the general public for the purpose of divulgation, *inter alia*, of the rights and duties of the residents. These activities are very often incorporated into shows, performances in order to attract attention in an easy and enjoyable way. The public has shown a great receptivity to these activities.

125. The SWI has publicly announced that it is planning to open a centre specially dedicated to the protection and care of children. This centre will provide advice and counselling.

126. The MSAR is highly committed to enrich the knowledge of its population in what concerns the rights of the child and his protection.

ANNEX I

LEGISLATION MENTIONED IN THE REPORT

1. Basic Law of the Macao Special Administrative Region of the People's Republic of China
2. Macao Civil Code
3. Macao Criminal Code
4. Macao Criminal Procedure Code
5. Law 10/78/M, of 8 July, on Public Sale, Exposition and Exhibition of Pornographic or Obscene Materials
6. Law 8/89/M, of 4 September, which establishes the Legal Framework on Radio and Television Broadcasting
7. Law 2/96/M, of 3 June, establishes the Rules to the Observed in Acts Involving Donation, Collection and Transplantation of Human Organs and Tissues
8. Law 6/97/M, of 30 July, on Organized Crime
9. Decree-Law 65/99/M, of 25 October, which establishes the Legal Framework on Educational and Social Protection on Juvenile Justice

ANNEX II

MULTILATERAL TREATIES MENTIONED IN THE REPORT

1. Slavery Convention, signed at Geneva on 25 September 1926
2. Convention concerning Forced or Compulsory Labour, adopted at Geneva on 28 June 1930 (ILO No. 29).
3. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others adopted at Lake Success, New York on 2 December 1949
4. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956
5. Convention concerning the Abolition of Forced Labour, adopted at Geneva on 25 June 1957 (ILO No. 105).
6. International Covenant on Civil and Political Rights, adopted at New York on 16 December 1966
7. International Covenant on Economic, Social and Cultural Rights, adopted at New York on 16 December 1966
8. Convention concerning Minimum Age for Admission to Employment, adopted at Geneva on 26 June 1973 (ILO No. 138)
9. Convention on the Rights of the Child, adopted at New York on 20 November 1989
10. Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, done at The Hague on 29 May 1993
11. Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, adopted at Geneva on 17 June 1999 (ILO No. 182)

PART III

**CONCLUDING OBSERVATIONS OF THE
COMMITTEE ON THE RIGHTS OF THE
CHILD**

2005 CONCLUDING OBSERVATIONS OF THE CRC IN RELATION TO PR OF CHINA (MACAO SAR) * ** ***

China (including Hong Kong and Macau Special Administrative Regions)

1. The Committee considered the second periodic of China (CRC/C/83/Add.9, Parts I and II), submitted on 27 June 2003, at its 1062nd to 1065th meetings (see CRC/C/SR.1062-1065), held on 19 and 20 September 2005, and adopted, at the 1080th meeting (CRC/C/SR.1080), held on 30 September 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's comprehensive and informative periodic report which consisted of three parts covering the mainland and Hong Kong and Macau Special Administrative Regions (SARs), as well as the detailed written replies to its list of issues (CRC/C/Q/CHN/2 and Parts I and II), which gave a clearer

* CRC/C/CHN/CO/2, 24 November 2005.

** Consideration of reports submitted by States Parties under Article 44 of the Convention.

*** The present are extracts of the CRC observations which are relevant to Macao SAR.

understanding of the situation of children in the State party. It further notes with appreciation the large high-level, multisectoral delegation from the mainland, Hong Kong and Macau Special Administrative Regions.

B. Follow-up measures undertaken and progress achieved by the State party

[...].

C. Principal subjects of concern and recommendations

1. General measures of implementation

[...].

Coordination and National Plan of Action

12. [...].

13. As noted above in paragraph 6 (b), the Committee is concerned at the lack of a comprehensive plan of action for the implementation of the Convention in the Hong Kong SAR and that the coordination of existing programmes and policies is rather sectoral and fragmented. The Committee notes the information provided by the delegates from the Macau SAR that a comprehensive plan of action is under discussion.

14. [...].

15. The Committee reiterates its previous recommendation that in the Hong Kong SAR, the State party should improve coordination of its activities on the implementation of the Convention by developing and implementing a plan of action for the Hong Kong SAR. The Committee recommends that in the Macau SAR, the State party expedite its discussions

in this regard and elaborate and implement a comprehensive plan of action for the Macau SAR.

Independent monitoring

16. The Committee notes the information that various ministries in the mainland may receive complaints from the public, but it is concerned at the lack of an independent national human rights institution with a clear mandate to monitor the implementation of the Convention. It similarly regrets the absence of an independent national human rights institution with a specific mandate for child rights on the mainland and the Hong Kong and Macau SARs.

17. The Committee recommends that the State party establish, on the mainland and the Hong Kong and Macau SARs respectively, a national human rights institution which includes a clear mandate to monitor children's rights and implement the Convention at national, regional and local levels in accordance with the Principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles) annexed to General Assembly resolution 48/134 of 20 December 1993. While drawing the State party's attention to the Committee's General Comment No. 2 (2002) on the role of independent national human rights institutions, the Committee notes that such institutions should have a mandate to receive, investigate and address complaints from the public, including individual children, and be provided with adequate financial, human and material resources. In the case of the Hong Kong SAR, such an institution could be a specialized branch of the existing Ombudsman's Office.

[...].

Data collection

22. [...].

23. The Committee recommends that the State party further strengthen its efforts to collect reliable and comprehensive statistical data on all areas covered by the Convention and ensure that such data are systematically made available to the public in a timely manner in all parts of the State party. It further recommends that the State party explore the possibility of developing central databanks for statistics on children for the mainland and the Special Administrative Regions respectively, so as to ensure that statistical data are used for the development, implementation and monitoring of appropriate policies and programmes for children.

[...].

2. General principles

[...].

Non-discrimination

30. [...].

31. The Committee is concerned about the persistence of discrimination against refugee, asylum-seeking and undocumented migrant children in the Hong Kong SAR, and the lack of legislation specifically prohibiting discrimination on the basis of race or sexual orientation. The Committee regrets the lack of available information on the practical implementation of article 2 of the Convention in the Macau SAR.

32. [...].

33. The Committee recommends that in the Hong Kong SAR the State party expedite its efforts to draft and adopt legislation prohibiting

discrimination on the basis of race or sexual orientation. The Committee requests that in its next periodic report specific information be included on the practical implementation of article 2 in the Macau SAR.

34. The Committee requests that specific information be included in the next periodic report on the measures and programmes relevant to the Convention on the Rights of the Child undertaken by the State party to follow up on the Declaration and Programme of Action adopted at the 2001 World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance and taking account of Committee's general comment No. 1 (2001) on the aims of education.

Best interests of the child

35. The Committee is concerned about the limited information provided by the State party for all areas under its jurisdiction on how the principle of the best interests of the child is used as a primary consideration in all actions concerning children.

36. The Committee urges the State party to include in its next periodic report more detailed information on the implementation of article 3 and on how it ensures that the best interests of the child is a primary consideration in all actions concerning children.

Respect for the views of the child

37. [...].

38. The Committee notes with appreciation the efforts made by the State party in the Hong Kong SAR to support organizations representing children, such as the Children's Council Working Committee. However, it remains concerned that children's views are not sought systematically on all

policies and programmes affecting them. The Committee regrets the lack of information on how the views of the child are taken into account in all settings in the Macau SAR.

39. In the light of article 12 of the Convention, the Committee recommends that the State party strengthen its efforts on the mainland and in the Hong Kong and Macau SARs to ensure that children have the right to express their views freely on all matters affecting them and to have those views given due weight in policy-making, administrative proceedings, schools and the home. It encourages the State party to provide more detailed information on this issue, with respect to all areas under its jurisdiction, in the next periodic report.

[...].

3. Civil rights and freedoms

[...].

Corporal punishment

46. [...].

47. The Committee is concerned that corporal punishment within the family is not prohibited by law and continues to be practised in the home in the Hong Kong and Macau SARs.

48. The Committee urges the State party, in all areas under its jurisdiction:

(a) To explicitly prohibit by law corporal punishment in the family, schools, institutions and all other settings, including penal institutions;

(b) To expand public education and awareness-raising campaigns, with the involvement of children, on alternative non-violent forms of discipline in order to change public attitudes about corporal punishment.

4. Family environment and alternative care

Children deprived of family environment

49. [...].

50. The Committee is deeply concerned that existing quotas for persons entering the Hong Kong and Macau SARs from the mainland and regulations regarding the right of abode in the SARs contribute to the separation of children from their parents and hinder family reunification.

51. [...].

Adoption

52. As noted in paragraph 5 above, the Committee notes with appreciation the ratification of the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (No. 33). However, the Committee regrets the inadequate information available on the number of international adoptions and the number of agencies facilitating such adoptions on the mainland. It is further concerned about the lack of explicit guarantees that children without birth certificates maintain their right to an identity throughout the adoption process.

53. The Committee recommends that the State party:

(a) Extend the application of the 1993 Hague Convention to the Hong Kong and Macau SARs as soon as possible;

(b) Ensure that the legal provisions of the 1993 Hague Convention are incorporated into domestic legislation on the mainland and in the Hong Kong and Macau SARs;

(c) Further strengthen the monitoring of agencies facilitating international adoptions, in particular with regard to possible trafficking of children and the use of fees and donations paid by adopting parents;

(d) Enact legislative and administrative measures to ensure that all children without birth certificates are guaranteed their right to an identity throughout the adoption process;

(e) Inform government officials and other professionals working with children without parental care that adoptions, in particular international adoptions, are an exceptional alternative care option and that the principles of non-discrimination and the best interests of the child must be taken into account when making such decisions.

Abuse and neglect, maltreatment, violence

54. [...].

55. [...].

56. The Committee recommends that efforts to combat abuse, neglect, violence and maltreatment be strengthened in all parts of the State party, including through mandatory reporting requirements for staff working with children, such as doctors, teachers and social workers, and the establishment of specific helplines accessible and available to children.

[...].

5. Basic health and welfare

[...].

Health and health services

62. [...].

63. The Committee recommends that the State party take all necessary measures to provide universal access to maternal and child health services for all children in its jurisdiction, including non-registered children. It further urges the State party to develop policies and programmes to adequately address the problems of malnutrition and obesity in children and to promote breastfeeding through strengthening the implementation of the International Code of Marketing of Breastmilk Substitutes in all parts of the State party, including the China Code for Marketing of Breast Milk Substitutes, and through the promotion of Baby Friendly Hospitals in the Hong Kong SAR.

Adolescent health

64. The Committee is concerned at the lack of information on adolescent health services available in mainland China and the Macau SAR, as well as the high incidence of teenage pregnancies and abortions in the Hong Kong SAR.

65. The Committee recommends that in all areas under its jurisdiction, the State party pay close attention to adolescent health and the provision of appropriate adolescent health services, taking into account its general comment No. 4 (2003) on adolescent health and development in the context of the Convention on the Rights of the Child, and strengthen its efforts to promote adolescent health, including by providing sexual and reproductive health education in schools, and to introduce school health services, including youth-sensitive and confidential counselling and care.

Mental health

66. The Committee appreciates the measures taken by the State party in the Hong Kong SAR to address the high number of suicides among the youth. It remains concerned about the lack of data and information on mental health services available for children on the mainland and the Macau SAR, and on tobacco, alcohol and drug abuse.

67. The Committee recommends that in all areas under its jurisdiction, the State party expand preventive and therapeutic mental health services for adolescents and develop programmes to decrease tobacco smoking, alcohol consumption and drug abuse among adolescents, in particular through the development of campaigns specifically designed for adolescents on health-behavioural choices and life skills. It further recommends that in the Hong Kong SAR, the State party continue to strengthen its efforts to prevent suicide among the youth.

HIV/AIDS

68. [...].

69. [...].

70. In the light of the Committee's general comment No. 3 (2003) on HIV/AIDS and the rights of the child and the International Guidelines on HIV/AIDS and Human Rights, the Committee recommends that the State party strengthen its efforts to prevent the spread of HIV/AIDS both on the mainland and in the SARs and continue to raise awareness about HIV/AIDS among adolescents, particularly among those belonging to vulnerable groups.

[...].

6. Education, leisure and cultural activities

Education, including vocational training and guidance

[...].

76. In the Hong Kong SAR, the Committee is concerned about dropout rates in secondary schools, the competitive nature of the school system and bullying in schools. The Committee regrets the limited amount of information available on these issues in the Macau SAR.

77. [...].

78. [...].

79. In the Macau SAR, the Committee encourages the State party to expedite its plans to expand free compulsory education to 12 years' duration. The committee requests further information on the quality of education and programmes aimed at reducing violence in schools in the next periodic report.

7. Special protection measures

Refugee and migrant children

80. [...].

81. [...].

82. The Committee recommends that the State party extend all human rights guarantees in its Constitution and in the Convention to all children within its jurisdiction on the mainland and the SARs, including refugees, asylum-seekers and other undocumented migrants.

[...].

Sexual exploitation and trafficking

87. With respect to mainland China and the Macau SAR, the Committee notes with appreciation the submission of the initial report

under the Optional Protocol on the sale of children, child prostitution and child pornography, and refers the State party to the relevant recommendations contained in (CRC/C/OPSA/CO/2). The Committee regrets that the application of the Optional Protocol has not yet been extended to the Hong Kong SAR. While welcoming the amendments to the Crimes Ordinance aimed at strengthening the protection of children from pornography, it is concerned at the absence of any data on or reported cases of child prostitution in the Hong Kong SAR.

88. [...].

Administration of juvenile justice

89. [...].

90. [...].

91. The Committee shares the concerns of the delegates from the Macau SAR about the lack of restorative justice for children in conflict with the law and welcomes the information they provided about plans to reform the juvenile justice system.

92. In light of the recommendations adopted by the Committee on its day of general discussion on juvenile justice (CRC/C/46, paras. 203-238), the Committee recommends that in all areas under its jurisdiction, the State party ensure the full implementation of juvenile justice standards, in particular articles 37, 40 and 39 of the Convention and other relevant international standards in this area, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules), the United Nations Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines), the United Nations Rules for the Protection of Juveniles Deprived of Their Liberty and the Vienna

Guidelines for Action on Children in the Criminal Justice System. It further recommends that in all jurisdictions the State party provide training on relevant international standards to those responsible for administering juvenile justice.

93. [...].

94. [...].

95. In Macau SAR, the Committee recommends that the State party expedite its plans for reform of the juvenile justice system, and ensure that such reforms include:

(a) measures to ensure that detention is used only as a last resort and an expansion of the possibilities for alternative sentencing such as probation, community service or suspended sentences;

(b) possibilities for restorative justice, such as family group conferencing;

(c) an expansion of services to assist juvenile offenders with social reintegration in an environment which fosters the health, self-respect and dignity of the child.

8. Optional Protocols to the Convention on the Rights of the Child

96. The Committee recommends that the State party extend the application of the Optional Protocol on the sale of children, child prostitution and child pornography to Hong Kong Special Administrative Region. It further recommends that the State party ratify the Optional Protocol on the involvement of children in armed conflict, which it signed on 15 March 2001, and extend its application to Hong Kong and Macau SARs.

9. Follow-up and dissemination

Follow-up

97. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the National People's Congress and the State Council in the mainland, the Executive and Legislative Councils in Hong Kong SAR and the Executive Council and Legislative Assembly in Macau SAR, and to relevant provincial or local authorities, when applicable, for appropriate consideration and further action.

Dissemination

98. The Committee further recommends that the second periodic report and the written replies submitted by the State party and the related recommendations (concluding observations) adopted by the Committee be made widely available in the languages of the country, including through the Internet (but not exclusively), to the public at large, civil society organizations, youth groups, professional groups and children, in order to generate debate and awareness of the Convention, its implementation and monitoring.

10. Next report

99. In light of the recommendation on reporting periodicity adopted by the Committee and described in the report on its twenty-ninth session (CRC/C/114), the Committee underlines the importance of a reporting practice that is in full compliance with the provisions of article 44 of the Convention. An important aspect of State parties' responsibilities to

children under the Convention is ensuring that the Committee on the Rights of the Child has regular opportunities to examine the progress made in the Convention's implementation. In this regard, regular and timely reporting by States parties is crucial. The Committee recognizes that some State parties experience difficulties in reporting in a timely and regular manner. As an exceptional measure, in order to help the State party catch up with its reporting obligations so as to be in full compliance with the Convention, the Committee invites the State party to submit its third and fourth periodic reports in one consolidated report by 31 March 2009, the due date for the submission of the fourth report. The report should not exceed 120 pages (see CRC/C/118). The Committee expects the State party to report every five years thereafter, as foreseen by the Convention.

**2005 CONCLUDING OBSERVATIONS OF THE
CRC-OP-SC IN RELATION TO THE PR OF CHINA
(MACAO SAR) * ** *****

China (including the Macau Special Administrative Region)

1. The Committee considered the initial report of China including the Macau Special Administrative Region (CRC/C/OPSA/CHN/1 and Part II) submitted on 11 May 2005 at its 1062nd to 1065th meetings (see CRC/C/SR.1062-1065), held on 19 and 20 September 2005, and adopted at its 1080th meeting, held on 30 September 2005, the following concluding observations.

A. Introduction

2. The Committee welcomes the submission of the State party's initial report covering the implementation of the Optional Protocol on the mainland and in the Macau Special Administrative Region (SAR). The

* CRC/C/OPSC/CHN/CO/1, 24 November 2005.

** Consideration of reports submitted by States Parties under Article 12(1) of the Protocol.

*** The present are extracts of the CRC comments which are relevant to the Macao SAR.

Committee appreciates the frank and open dialogue held with the delegation.

B. Positive aspects

3. The Committee notes with appreciation the efforts made by the State party to submit its initial report in a timely manner so that it could be considered together with its second periodic report. Nevertheless, the Committee regrets that the application of the Optional Protocol has not been extended to the Hong Kong SAR.

C. Principal areas of concern and recommendations

C.1. General measures of implementation

Coordination and evaluation of the implementation of the Optional Protocol

4. The Committee welcomes the heightened efforts of the State party to combat trafficking and sexual exploitation in mainland China and the information provided by the delegation that coordination between the mainland and the SARs is increasing, in particular with respect to the reunification of victims with their families. Nevertheless, it is concerned that on the mainland the issue is addressed primarily by the Ministry of Public Security with limited coordination with other ministries and insufficient attention paid to the socio-economic aspects of human trafficking.

5. The Committee recommends that in mainland China the State party consider establishing a central coordinating body which includes relevant line ministries, affected children and youth, and non-governmental organizations, in particular those able to address the socio-economic aspects of trafficking and sexual exploitation. The Committee also urges the State party to further coordinate activities between the mainland and the SARs

with regard to assistance to victims assistance and prevention and prosecution of offences.

National Plans of Action

6. While noting with appreciation the State Party's signature of the Memorandum of Understanding against Human Trafficking in the Mekong Subregion in October of 2004, the Committee is concerned at the absence of a plan of action to combat trafficking and sexual exploitation applicable either to the Mainland or the Macau SAR.

7. The Committee recommends that the State party elaborate and implement a plan of action applicable to the mainland and the Macau SAR based on the Stockholm and Agenda for Action, the Yokohama Global Commitment and the provisions of the Optional Protocol.

Data collection

8. The Committee regrets the limited statistical data on sexual exploitation and cross-border trafficking included in the State party's report, both with regard to mainland China and the Macau SAR. It is further concerned that the data refers almost exclusively to the number of women and children rescued rather than those abducted, and that data often refers to different time periods, which hampers the accurate assessment and monitoring of the situation regarding the sale of children, child prostitution and child pornography.

9. The Committee recommends that the State party strengthen its efforts to collect disaggregated data on the victims of trafficking, sale of children, child prostitution and child pornography, including data on the numbers of boys and girls affected, broken down by SAR, the mainland, the

provinces and regions within the mainland, and, where applicable neighbouring countries.

C.2. Prohibition of the sale of children, child pornography and child prostitution

Existing criminal or penal laws and regulations

[...].

C.3. Penal/Criminal Procedure

Extradition

[...].

C.4. Protection of the rights of child victims

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

14. The Committee is concerned at the limited information provided about services to assist child victims with regard to reintegration and recovery in the mainland. It is also concerned about the absence of assistance programmes specifically designed for child victims of trafficking and sexual exploitation in the Macau SAR.

15. The Committee recommends that the State party expand the services provided to child victims of trafficking and sexual exploitation on the mainland and the Macau SAR to assist their recovery and reintegration and ensure that they are specifically designed to address the needs of such victims.

C.5. Prevention of the sale of children, child prostitution and child pornography

Measures adopted to prevent offences referred to in the Optional Protocol

16. While the Committee notes the measures taken in mainland China to punish offences related to the sale of children, child prostitution and child pornography, the Committee is concerned that insufficient attention is paid to prevention of such offences. The Committee also takes note of the information provided by the delegates from Macau SAR that efforts at prevention are being increased as gaming activities expand within the territory.

17. The Committee recommends that the State party pay increased attention to the prevention of the sale of children, child prostitution and child pornography, inter alia, through measures to address the socio-economic causes, public-awareness campaigns, and education for parents and children on preventing and reducing the risks of trafficking and sexual exploitation. The Committee also urges the State party to further enhance its efforts related to prevention in the Macau SAR and provide additional information on these efforts in the next periodic report.

C.6. International assistance and cooperation

18. The Committee notes with appreciation the increased regional cooperation between the State party and neighbouring countries, such as Vietnam. However, it is concerned about reports of increased cross-border trafficking of girls, both from and to the State party, apparently for the purposes of sexual exploitation and prostitution.

19. [...].

C.7. Follow-up and dissemination

Follow-up

20. The Committee recommends the State party to take all appropriate measures to ensure full implementation of the present recommendations, inter alia, by transmitting them to the members of the State Council and the National People's Congress in the mainland and the Executive Council and Legislative Assembly in the Macau SAR, and to provincial and local authorities, when applicable, for appropriate consideration and further action.

Dissemination

21. The Committee recommends that the initial periodic report and written replies submitted by the State party and related recommendations (concluding observations) it adopted be made widely available, including (but not exclusively) through the Internet, to the public at large, civil society organizations, youth groups, professional groups, and children in order to generate debate and awareness of the Convention, its implementation and monitoring.

C.8. Next report

22. In accordance with article 12, paragraph 2, the Committee requests the State party to include further information on the implementation of the Optional Protocol in its next (combined third and fourth) periodic report under the Convention on the Rights of the Child due, in accordance with article 44 of the Convention, on 31 March 2009.