



International Covenant on Civil and Political Rights

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Summary record of the 3897th meeting*

Held at the Palais Wilson, Geneva, on Wednesday, 13 July 2022, at 10 a.m.

Chair: Ms. Pazartzis

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 40 of the Covenant
(continued)

Second periodic report of Macao, China (CCPR/C/CHN-MAC/2; CCPR/C/CHN-MAC/Q/2; CCPR/C/CHN-MAC/RQ/2)

1. *At the invitation of the Chair, the delegation of Macao, China, joined the meeting.*
2. **Mr. Chen Xu** (Permanent Representative of China to the United Nations Office at Geneva and other international organizations in Switzerland) said that, in accordance with the Basic Law of the Macao Special Administrative Region, the provisions of the Covenant had remained in force in Macao following the restoration of Chinese sovereignty in 1999. Although China had not yet ratified the Covenant, the Chinese Government, acting in accordance with the “one country, two systems” principle, had transmitted the initial report prepared by the Government of the Macao Special Administrative Region (CCPR/C/CHN-MAC/1) to the Committee in 2011 and the second report (CCPR/C/CHN-MAC/2) in September 2019. The delegation would provide detailed information in response to the Committee’s questions.
3. **Mr. Cheong Weng Chon** (Macao, China), speaking via video link, said that the Macao Special Administrative Region enjoyed a high degree of autonomy and exercised independent executive, legislative and judicial powers, in accordance with the Basic Law. At the end of 2021, its per capita gross domestic product had been 192 per cent higher than in 1999 and the average life expectancy of residents had increased from 77.9 years to 84.2 years in the same period.
4. Outlining some of the main legislative advances since 2013, when Macao, China, had last reported to the Committee, he said that the Law on Preventing and Combating Domestic Violence, enacted in 2016, designated domestic violence as an independent offence and enabled judges to order a defendant to move out of the victim’s residence. It also provided for victims to receive assistance such as temporary placement, emergency financial aid, free health care and counselling; a total of 739 victims had been granted temporary placement between 2013 and 2021. The Criminal Code had been amended in 2017 to render child pornography an independent offence and the scope of crimes related to child prostitution had been expanded. Sexual harassment had also been listed as an independent criminal offence. The Law on Labour Relations had been amended in 2020 to extend maternity leave to 70 days, to introduce five working days of paternity leave and to increase compensation for dismissal. Any employer who failed to pay the minimum wage specified in the 2020 Law on the Minimum Wage for Workers was punishable with a fine. The legislation governing judicial procedures had been amended in 2013 and 2019 in order to simplify litigation procedures and reduce the duration of trials, and the number of pending cases in courts at all levels had continued to decline. The number of seats in the Legislative Assembly had increased from 29 to 33 since 2013, and the number of members of the Chief Executive Election Committee had increased from 300 to 400 since 2014.
5. The Government had provided increased protection for older persons, persons with disabilities and other vulnerable groups through disability subsidies, old-age pensions and various support funds. Financial subsidies were also granted to disadvantaged families. Social and economic housing had been constructed to provide access to basic living conditions for residents who had difficulty in purchasing property, with apartments being leased at very favourable rates or sold at below market prices. Such housing had accounted for about 21.8 per cent of residential properties as at late June 2021.
6. The Commission against Corruption played an important role in human rights monitoring, and various committees and non-governmental organizations (NGOs) actively advised the Government on human rights development and policy formulation. The body responsible for monitoring police departments had been converted into an external independent monitoring body in 2019 and was now authorized to monitor places of detention and to conduct summary investigations. The Commission for Women and Child Affairs, established in 2016, also had an expanded monitoring role. All three bodies fulfilled the

criteria for national human rights institutions laid down in the principles relating to the status of national institutions for the promotion and protection of human rights (Paris Principles).

7. To raise awareness of human rights protection, in 2020 and 2021 the Legal Affairs Bureau had organized 220 lectures on legal matters, including human rights treaties, in primary and secondary schools and in universities. It also continued to conduct legal training courses on human rights and integrity education for magistrates, law enforcement officers and civil servants. The Law on Employment of Non-Resident Workers established the principle of non-discrimination, and the Law on Minimum Wage for Workers was applicable equally to local and non-resident workers. A law enacted in 2020 prohibited employment agencies from overcharging intermediary service fees and provided for appropriate penalties. More than 24,000 public opinions on trade union legislation had been collected in October 2021; the Government was currently studying the opinions and suggestions and drafting a bill that would be submitted to the Legislative Assembly in 2022.

8. Issues pertaining to the rights of minority groups, such as legal recognition of transgender persons and the applicability of domestic violence to cohabitants of the same sex, were controversial in East Asian societies, which were deeply influenced by traditional cultures and values. Some organizations and experts argued that protection of the rights of minority groups need not be premised on the formation of a social consensus. However, it would be difficult, in the absence of a social consensus, to gain support from the legislative body for the amendment of legislation. Inclusive dialogues that took into account the legal system and social values would therefore be necessary to safeguard the rights of minority groups.

9. After the outbreak of the coronavirus disease (COVID-19) pandemic, the Government had adopted strict preventive measures pursuant to the Law on the Prevention, Control and Treatment of Infectious Diseases and other legislation, including restrictions on crowd gatherings, adjustments to immigration policies and suspensions of the operation of certain venues. The number of COVID-19 cases and deaths had remained at a very low level; a total of 1,902 COVID-19 cases had been recorded since early 2020 and three senior residents over the age of 85 had died of the disease. The Government had also launched a series of financial support measures to relieve residents' hardship during the pandemic, including a consumption subsidy scheme, tax relief, rent relief for tenants and employment subsidies. Psychological support services had been provided for persons with mental health issues attributable to the pandemic.

10. The COVID-19 pandemic had severely undermined the economy and residents' lives. The number of visitors to Macao, China, had fallen from more than 39 million prior to the pandemic to around 7 million in 2021. However, the effective control of the pandemic would doubtless lead to a rapid economic recovery and a resumption of normal exchanges with other countries. It was hoped that existing advantages in terms of tourism and culture could be leveraged to build a "world centre of tourism and leisure" and to serve as an important platform for commercial and trade cooperation between China and Portuguese-speaking countries and for exchanges between Chinese and western cultures. Through its continuous development, Macao, China, would provide the necessary economic and social conditions for further strengthening human rights protection and promoting the implementation of the Covenant.

11. **Mr. Bulkan**, noting that the Court of Final Appeal had invoked the Covenant in 5 cases and that the Court of Second Instance had done so in 27 cases between 2011 and June 2020, said that the Committee would appreciate information concerning the rights invoked and the outcome of those cases, including the number in which violations of the Covenant had been found to have occurred. He also noted that the Covenant seemed to have been applied by the judiciary in a manner that was inconsistent with the Committee's jurisprudence. For example, in case No. 81/2021 the Court of Final Appeal had invoked article 18 of the Covenant to uphold a police ban on a proposed vigil because descriptions of the 1989 Tiananmen Square events as a "massacre" and "horrible" were deemed to be unacceptable and excessive. In case No. 113/2021, it had upheld the disqualification of candidates because they had participated in activities including a vigil commemorating the 1989 Tiananmen Square Incident and a mock referendum on the political system, and, in case No. 94/2019, it had upheld a ban on a demonstration against the inhumane treatment of

protestors in Hong Kong on the grounds that the criticism of the Hong Kong Police Force was unfounded. The Covenant had been misinterpreted in all three cases. While freedom of expression was subject to restrictions, the grounds invoked to justify such restrictions should not include legitimate criticism of the Government or commentary on past events, even if the language used might shock or offend. The right of political participation under article 25 of the Covenant could be subject to reasonable restrictions only, and political opinions did not fall into that category.

12. The Committee would welcome more detailed information about how knowledge of the Covenant was disseminated, including how and by whom training programmes were organized, how frequently they were conducted and any pertinent feedback that had been received. While the declaration and reservation made to articles 12 (4), 13 and 25 (b) of the Covenant might be in compliance with the Vienna Convention on the Law of Treaties, ratification of the Covenant imposed an obligation to abide by all of its provisions, since the rights and freedoms guaranteed therein were interrelated and indivisible. The Committee therefore wished to know whether and how soon the Government planned to review its declaration and reservation.

13. The Standing Committee of the National People's Congress had only once exercised its power to interpret the Basic Law, specifically in relation to the methods for the selection of the Chief Executive and the formation of the Legislative Assembly. Since that interpretation subjected political reform via electoral changes to the overall authority of the Central People's Government and was inconsistent with article 25 of the Covenant, he wished to know whether residents could file a legal challenge to the interpretation and whether it was subject to judicial review. If Standing Committee interpretations of the Basic Law were supreme, he wondered how, given that the Committee was not a judicial body, such dominance could be reconciled with judicial independence and the rule of law.

14. Lastly, noting that in March 2020 the Central People's Government had revoked the press credentials of American journalists working for the New York Times, the Washington Post and the Wall Street Journal, announcing that they would not be allowed to work in China, including Hong Kong and Macao, and that such action violated both the Basic Law and the Covenant, he asked what recourse existed for those affected.

15. **Ms. Sancin** said that, since the Commission against Corruption lacked the kind of broad substantive mandate envisaged under the Paris Principles, she would like to know whether the Government of Macao, China, planned to establish a national human rights institution that was fully compliant with the Principles and promoted human rights throughout Macao society. It would also be useful to know whether, with a view to promoting and protecting Covenant rights, the authorities were planning to further strengthen the independence of the Commission and other existing institutions and to extend their mandates. She would appreciate figures for the number of enquiries that the Commission against Corruption had launched ex officio to date, together with details of the Covenant rights that had been violated and the consequences for the institutions or individuals involved. Noting that the Commission's report on its activities in the previous year was normally released between March and May each year, she asked why the report on 2021 had not been released as at July 2022 and when it might be expected. Disaggregated data showing how public awareness about each of the existing human rights institutions and their mandates was being raised, along with information on the composition of the human rights interdepartmental working group and details of the specific activities it carried out to implement the Covenant and follow up on the Committee's recommendations, would also be helpful.

16. **Mr. Furuya** said that he would appreciate information on the concrete measures that the Government of Macao, China, had taken to reduce the de facto inequalities based on cultural and social factors mentioned in the report. Since, in 2016, only 7 of the 33 members of the Legislative Assembly had been women, he would appreciate an updated figure for the number of female members and information about steps taken or planned to improve the gender balance among deputies. An explanation of the potential obstacles to the enactment of comprehensive anti-discrimination legislation – which, in the light of alleged discrimination against migrant workers and lesbian, gay, bisexual and transgender persons and in view of the ethnic, religious, linguistic and cultural diversity of Macao, China, was very much needed – would likewise be welcome.

17. He would appreciate an update on the studies being conducted by the working group on gender identity recognition established in 2017 and an indication as to whether the Government planned to complete the studies and move forward with the legislative amendments necessary to safeguard the rights of transgender persons. Noting that Law No. 2/2016 on Preventing and Combating Domestic Violence did not apply to same-sex partners, he wondered how many perpetrators of same-sex domestic violence had been investigated, prosecuted and convicted under the Criminal Code. Noting also that lack of social consensus could not be used as an excuse for treating same-sex couples differently and denying them equal marriage rights, he asked what measures the Government had taken or planned to promote social acceptance of lesbian, gay, bisexual and transgender persons and raise awareness of their rights.

18. **Mr. Gómez Martínez** said that the Committee was concerned that, since Law No. 2/2016 required acts of violence in the home to be of a continuous nature in order for them to be considered offences of domestic violence and incidents of physical or psychological violence against women therefore tended to be treated as one of a range of other offences, the Law in question was not in line with international human rights standards. In that connection, he would like to know whether national legislation recognized gender grounds, and more specifically a desire on the part of male perpetrators to demonstrate their perceived superiority over their female victims, as an aggravating factor potentially applicable to any offence and carrying the most severe criminal penalties. He would also appreciate an explanation as to why sexual harassment in the workplace remained underreported despite having been expressly criminalized in 2017.

19. Although no agreement on the surrender of fugitive offenders had been reached with mainland China and rulings issued by the Court of Final Appeal in 2007 and 2008 expressly prohibited their surrender, the Committee had been informed that the police of Macao, China, had handed over Wu Quansen, a former Chinese official accused of corruption and officially resident in Macao, to the mainland authorities in 2015. He would appreciate more information about the circumstances of that case and would like to know whether there were any plans to sign an extradition agreement with the Government of mainland China and, if so, what the status of those plans was.

20. He would appreciate clarification as to whether the actions of the Commission for Disciplinary Control of the Security Forces and Services were subject to judicial review and whether the Commission was accountable to the Legislative Assembly. Figures showing how many times disciplinary action had been taken against the staff of the security forces and services since the Commission's establishment and how many staff had been punished or tried for disciplinary breaches would be useful. Lastly, he wondered whether, in order to prevent persons with severe mental disabilities from being detained indefinitely in a psychiatric facility, the Government of Macao, China, had considered the possibility of establishing periodic, ex officio judicial reviews of their situation.

The meeting was suspended at 10.55 a.m. and resumed at 11.10 a.m.

21. **A representative of Macao, China**, speaking via video link, said that the Government of Macao, China, had organized dozens of training and awareness-raising workshops and lectures on human rights for law enforcement personnel, judges and lawyers. Between them, those events had had over 1,000 participants. Specific rights contained in the Covenant and in International Labour Organization conventions were implemented through the domestic laws of Macao, China, unless they were subject to a reservation. Accordingly, if citizens believed that their rights had been violated, they could, in most cases, seek redress under domestic law. The Government of Macao, China, would provide updated examples of case in which the Covenant had been invoked by the courts in writing.

22. **A representative of Macao, China**, speaking via video link, said that decision-making powers in all matters pertaining to international treaties, including the reservations made to certain articles of the Covenant, were vested in the Government of mainland China. The reservations in question had been made by the Government of Portugal in its resolution of 1992 and had predated the restoration of Chinese sovereignty in Macao in 1999; thus, the Government of China had merely extended the reservations rather than establishing them itself. With regard to the power of interpretation, the Basic Law of Macao, China, was

essentially the same as that of Hong Kong. Ultimate power of interpretation was vested in the Standing Committee of the National People's Congress but the Government of Macao, China, was allowed to interpret any provisions pertaining to matters in respect of which Macao enjoyed autonomy and to give an advisory interpretation on matters in which power was reserved for the Standing Committee – an arrangement that constituted a very well thought-through combination of central and local government. That approach to interpretation did not infringe on the independence of the judiciary of Macao, China, because the Standing Committee had only exercised its power of interpretation once.

23. **A representative of Macao, China**, speaking via video link, said that there was more than one way to implement the functions of a human rights institution in line with the Paris Principles. The Macao Special Administrative Region had several mechanisms that complied with the standards and spirit of the Paris Principles in terms of operational independence, mandate and budgetary autonomy. The Commission against Corruption, for example, was not a government agency *stricto sensu*; it was regulated separately in the Basic Law and discharged its functions independently. It exercised oversight over government agencies, including law enforcement bodies, had its own financial and human resources, and was free from government interference. Its broad mandate included handling administrative complaints and thereby safeguarding the rights, freedoms and legitimate interests of citizens. The Commission was also responsible for ensuring the effectiveness of public administration and thus, indirectly, for protecting human rights. Furthermore, it could make recommendations to the Chief Executive regarding the interpretation, amendment or repeal of legislative acts.

24. **A representative of Macao, China**, speaking via video link, said that the Court of Final Appeal rulings in which the Covenant had been invoked needed to be considered on a case-by-case basis. As a rule, public gatherings must be held in accordance with legislation on freedom of assembly and association, and the use of public roads or places for that purpose required prior notification. If the purpose of an assembly was inconsistent with the law, no permission was granted. In the cases subject to the Court's rulings, the proposed assemblies had been intended as forums to level excessive, unacceptable and unjustified accusations against the local government and the Central Government of the People's Republic of China. Doing so constituted undue interference in government affairs and was prohibited by law. Hence, the bans had been lawful.

25. As regarded the alleged discrimination against migrant workers, article 25 of the Basic Law provided for equality before the law and freedom from discrimination on any grounds, and those provisions applied to all residents.

26. Since the provisions criminalizing sexual harassment had come into effect, dozens of complaints had been received, some of them related to sexual harassment in the workplace, and many of the perpetrators had been convicted.

27. Since the Court of Final Appeal had ruled that no public authority could transfer a suspect to mainland China, not even to execute a Red Notice issued by the International Criminal Police Organization (INTERPOL), no such transfers had taken place. The surrender of offenders was not to be confused with expulsions, which were subject to different conditions and objectives.

28. No complaints of torture or ill-treatment of prisoners had been received between 2011 and 31 December 2021. Prisoners with psychological disorders were provided counselling and support, including suicide and self-harm prevention. Prisoners could make their views heard or lodge a complaint against ill-treatment before the prison authorities. In addition, judges and prosecutors conducted monthly prison inspections to provide oversight and learn about prisoners' grievances.

29. **Ms. Sancin** said that, although the Commission against Corruption might enjoy independence and autonomy and have the necessary financial and human resources to discharge its mandate, the State party was lacking an institution with a comprehensive mandate covering all the rights protected under the Covenant. Issues relating to freedom of expression, the right to peaceful assembly and freedom of association, for example, remained unaddressed. She would therefore be grateful to hear about any plans to establish an institution with a comprehensive mandate that was also able to engage in activities to raise

public awareness of the rights set forth in the Covenant. She would also be grateful for information on the number of inquiries that had been conducted by the Commission against Corruption, the rights involved, and the outcomes. She was curious to find out about the consequences for institutions or individuals that had been found guilty of violations. Specific information on the composition of the human rights interdepartmental working group created in 2016 to follow up the implementation of the Committee's recommendations would also be appreciated.

30. **Mr. Furuya** said that it was disappointing that the delegation had failed to provide any substantive replies to his questions. He was particularly interested in hearing about concrete measures taken to raise public awareness of the rights of lesbian, gay, bisexual, transgender, and intersex persons and thus promote social acceptance.

31. **Mr. Gómez Martínez** said that clarification was needed with regard to the criminalization of domestic violence. He failed to understand why not all acts of domestic violence were covered by Law No. 2/2016 on Preventing and Combating Domestic Violence and were instead penalized under provisions of the Criminal Code. He would also like to know whether the State party intended to introduce gender as an aggravating circumstance in its criminal legislation. While he was grateful for the information provided on deportations, he would appreciate clarification as to whether the State party had concluded an extradition agreement with the People's Republic of China to provide a legal framework for the surrender of sentenced persons. It was encouraging to hear that there had been no complaints of ill-treatment in prison since 2011. Could the delegation kindly provide updated information on the number of persons currently in prison?

32. **Mr. Bulkan** said that additional details were needed about the cases in which the Covenant had been invoked in court, including, in particular the rights involved and the violations found. Considering the powers vested in the Standing Committee of the National People's Congress when it came to interpreting the Basic Law, and, given that the People's Republic of China was not a party to the Covenant, he wondered what kind of legal recourse was available to residents of the Macao Special Administrative Region against any violations of their Covenant rights resulting from actions or decisions taken by the Central Government or one of its officials.

33. **A representative of Macao, China**, speaking via video link, said that the principle of equality was reflected in the Basic Law and applied in all areas of life. Given that equality and non-discrimination were two sides of the same coin, and that equality was protected by law, there was no need for separate non-discrimination legislation. A working group had been set up in 2017 to conduct a comprehensive study on gender identity recognition and work in that area would continue. Macao society was based on Eastern values, majority rights were respected, and legal provisions were in place to accommodate the interests of all members of society and balance interests.

34. Law No. 2/2016 on Preventing and Combating Domestic Violence did not apply to same-sex partners because same-sex marriages were not legally recognized. As society progressed, consensus on the legalization of same-sex marriage might emerge, which would then be followed up by relevant legislation. Although the purview of Law No. 2/2016 did not extend to same-sex couples, domestic violence in same-sex cohabitation relationships was covered by general criminal provisions. In order for a violent act to constitute domestic violence, it must be committed continuously. If the act involved serious bodily harm or rape, heavier penalties applied.

35. **A representative of Macao, China**, speaking via video link, added that assault of a family member was classified as aggravated assault and that perpetrators were prosecuted accordingly.

36. **A representative of Macao, China**, speaking via video link, said that the prison population as at 31 March 2022 amounted to 1,520 male prisoners and 215 female prisoners. Additional information would be provided in writing.

The meeting rose at noon.