



International Covenant on Civil and Political Rights

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Summary record of the 3901st meeting*

Held at the Palais Wilson, Geneva, on Friday, 15 July 2022, at 10 a.m.

Chair: Ms. Pazartzis

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* No summary record was issued for the 3900th meeting.

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The meeting was called to order at 10.00 a.m.

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

Second periodic report of Macao, China (continued) ([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. Bulkan** said that, in discussions concerning the enjoyment of rights under the National Security Law, it was important to bear in mind that the State party's unitary system of law gave international treaties direct effect and supremacy over domestic legislation. While the Committee was pleased to note that national law did not discriminate when it came to the entry of non-residents, clarification was required regarding practice on the ground; there were several well-documented cases in which journalists had been denied entry to Macao, China, for so-called security reasons, and he would be grateful for figures showing how many had been refused entry on those grounds over the past five years. The delegation might also wish to elaborate on the precise nature of the security threat posed by journalists that warranted their exclusion from the territory and to comment on the harassment and threats that they reportedly suffered, especially around politically sensitive events.
3. It was unclear how the requirement for public broadcasting journalists to "promote patriotism" and "not disseminate information or opinions contrary to the policies of China or the Macao Special Administrative Region" was compatible with the freedom of expression protected under the Covenant. The delegation might therefore also wish to elaborate on how the legal safeguards protecting freedom of speech were enforced in practice. It was also unclear why holding a mock referendum in 2014 would have restricted the legal rights of other residents, as the State party had claimed. Given that local jurists and others had confirmed the legality of the referendum, could the State party explain the rationale and legal basis for its suppression?
4. The Committee was concerned about the dismissal of two professors, Bill Chou Kwok-ping and Eric Sautedé, from their respective universities and would appreciate the delegation's comments on credible allegations that their dismissals had been politically motivated, that the Government exercised indirect control over businesses and employers, and that academics were increasingly reluctant to voice their opinions for fear of reprisals. He wondered why the State party was increasingly intolerant of free speech, and whether it might undertake to refrain from silencing or victimizing citizens who exercised their right to criticize government policies. The Committee was also concerned about the State party's increasing tendency to prevent the public display of political messages and considered the definition of "assembly" and "protest" applied by the law enforcement authorities, whereby any action involving the expression of opinions in public, including the display of placards or signs, was deemed to constitute an assembly, to be overly broad. Specifically, it was unclear how tearing down the post-it mosaic known as the "Lennon Wall" installed at Nam Van Lake in August 2019 and prohibiting schoolchildren from putting up signs protesting against government surveillance were compatible with the State party's obligations under the Covenant. An explanation of the precise nature of the threat posed by protests of that kind would therefore be welcome.
5. **Ms. Abdo Rocholl** said that it had come to the Committee's attention that the Municipal Affairs Bureau had revoked the permit granted to an organization that had regularly hosted a touring exhibition on the history of the Tiananmen Square Incident for the past three decades, arguing that the event did not meet the criteria for granting permits to event organizers wishing to use public places. It would be helpful if the delegation could specify those criteria and indicate in which legal documents they were established. It appeared that the notion of "purposes contrary to the law" was frequently used to justify bans on demonstrations, even though the Government of Macao, China, had itself indicated that there was no statutory definition or internal police guideline specifying the meaning of that phrase; for example, in 2019 the notion had been invoked to ban a rally calling on the police to observe the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. She would like to know how promoting the international prohibition of torture

and criticizing alleged police brutality constituted “purposes contrary to the law” and whether the State party intended to establish a legal definition of the notion of “purposes contrary to the law” or at least to develop internal guidelines for police work that could be made available for public consultation.

6. Additional information was also needed regarding the definition of the term “assembly” and the body of law in which the definition was established, as well as figures showing the number of ongoing investigations and criminal proceedings related to assemblies deemed “unlawful”. With regard to the explanations provided in the State party’s response to question 19 of the list of issues ([CCPR/C/CHN-MAC/RQ/2](#), paras. 63–64), it would be useful to know how many applications for the authorization of assemblies had been submitted, what the stated purpose of the assemblies had been, and how many of the applications had been refused. She would also to know whether it was true that non-resident migrant workers were denied permission to hold assemblies owing to their residence status. Noting lastly that there was apparently no legislation protecting the right to organize and the right to strike, she asked whether the State party planned to introduce a local trade union law to protect those rights.

7. **Mr. Furuya**, reiterating the concerns expressed in paragraph 20 of the list of issues ([CCPR/C/CHN-MAC/Q/2](#)), said that updated statistics on the number of investigations, prosecutions and convictions under articles 298 and 300 of the Macao Criminal Code would be useful. Given the absence of a time limit for the retention of video recordings and photographic images taken during demonstrations, and the lack of effective recourse against their misuse, it would be helpful to hear about any steps taken to protect the rights to privacy and peaceful assembly in that context.

8. **Ms. Sancin** asked whether consideration had been given to the withdrawal of the reservation entered in respect of article 25 (b) of the Covenant, to the introduction of universal and equal suffrage for all elections, to the abolition or reduction of the ratio of indirectly elected or appointed seats in the Legislative Assembly, and to the reinstatement of the direct elections for municipal bodies that had been abolished in 2001. The State party might also wish to explain how the disqualification of 21 candidates from the 2021 Legislative Assembly elections, including three who had already been members of the Assembly, on grounds of being “not loyal to the Macao Special Administrative Region” and “not upholding the Basic Law” was compatible with its obligations under the Covenant. Given that the exclusion criteria set forth in the Electoral Law appeared to leave room for considerable discretion, she would like to know about the safeguards in place to prevent their arbitrary application. She also wished to know whether it was true that the Electoral Affairs Committee had drawn on police surveillance data to justify the aforementioned disqualifications and whether there had been any other cases of suspension or removal from office of members of the Legislative Assembly.

The meeting was suspended at 10:30 and resumed at 10:40 a.m.

9. **A representative of Macao, China**, speaking via video link, said that foreign journalists had never been denied entry to the Macao Special Administrative Region on grounds of their occupation. Journalists were free to enter and conduct interviews without needing to register with the authorities. Some individuals had been denied entry on security grounds in the context of regular border control operations but any decision to refuse entry could be appealed before the Administrative Court. Since no disaggregated data was collected on the occupation of persons entering or being denied entry to the territory, he was unable to provide statistics on the number of journalists who had been turned away at the border. The police had removed the so-called “Lennon Wall” at Nam Van Lake because it had been erected in violation of the local administrative code, which banned the display of materials of that nature. The restrictions imposed on the right to freedom of assembly in the context of enforcement of the National Security Law were in line with those permitted under the Covenant; assemblies organized for the purpose of criticizing the government were not prohibited per se, and, between 2018 and March 2022, a total of 41 authorized assemblies had taken place, 5 of which had been openly critical of the Government.

10. **A representative of Macao, China**, speaking via video link, said that the right to lawful assembly and demonstration was guaranteed by law. The Government had transferred

the power to control such events to the security forces but no changes had been made to the procedure for requesting authorization. National legislation adhered to the provisions on the restrictions that might be placed on the right of peaceful assembly in the interests of national security and public order that were contained in article 21 of the Covenant; it did not extend those restrictions and did not undermine the right to criticism. Thus, residents, including migrants, enjoyed freedom of assembly subject to legal restrictions and public health requirements, including, in particular, measures adopted to mitigate the spread of the coronavirus disease (COVID-19), which had affected a number of gatherings. Authorization for the photography exhibition to which Ms. Abdo Rocholl had referred had been refused in 2021 because the venue had already been allocated to other applicants and the exhibition had been cancelled in 2022 owing to the COVID-19 pandemic.

11. Articles 298 and 300 of the Macao Criminal Code addressed the maintenance of State security and public order and were compatible with article 21 of the Covenant. The judicial authorities respected the principle of mandatory prosecution and were therefore bound to bring proceedings whenever those articles were violated. Since August 1998, a total of 18 cases had been initiated and 47 persons detained under the articles. Regulations governed the capture of video footage by the police during demonstrations and Law 8/2005 on Personal Data Protection granted individuals the right to review such footage, which, along with photographic images gathered during police operations, must be deleted after 60 days. The Commission for Disciplinary Control of the Security Forces and Services monitored the actions of police officers and residents could lodge complaints in the event of police violations of their rights.

12. **A representative of Macao, China**, speaking via video link, said that residents of Macao, China, enjoyed freedom of expression and academic freedom. Furthermore, under the Basic Law they had the freedom to engage in cultural, academic and creative activities. The Government respected the autonomy of higher education institutions and had played no part in the dismissal of the two academics by their respective universities, which had been guided by the regulations of the universities concerned. Legal remedies were available to the two professors if they felt that their rights had been violated. The right to stand in elections established in the Basic Law was not absolute; the Electoral Affairs Committee verified that candidates met the relevant criteria, declaring ineligible any candidate found to have engaged in activities that threatened national security or failed to uphold the Basic Law or demonstrate loyalty to Macao, China. Its decisions could be appealed before the Court of Final Appeal, which had upheld its decision in respect of the disqualification of the 21 electoral candidates mentioned earlier by Ms. Sancin.

13. **A representative of Macao, China**, speaking via video link, said that legislation made no provision for the organization of referendums, which were therefore unconstitutional. The ruling of the Court of Final Appeal in case No. 100/2014 had upheld the decision not to allow the mock referendum mentioned earlier on the grounds that it lacked legitimacy and might violate other residents' rights. In response to the COVID-19 pandemic, regulations governing the use of public spaces had been amended to stipulate that all uses must be in the public interest and in line with the functions of municipal bodies. Since the transfer of the territory from Portugal to China, power had been concentrated in the Government of Macao, China, and municipal authorities had become advisory bodies that submitted recommendations and opinions to the Government in addition to organizing recreational, health and other activities. Their members were not elected but appointed by the Government.

14. **A representative of Macao, China**, speaking via video link, said that the Government of Macao, China, had initiated public consultations on trade union legislation in 2020. Legislation on labour relations already guaranteed freedom of association for employees and established penalties for employers that hindered that freedom, and trade unions were permitted to participate in international activities. The consultations had found that there was broad agreement on the need for a monitoring mechanism to ensure that international trade union activities were not unlawful and did not jeopardize national security. The results of the consultations had been published in June 2022 and work to reconcile the needs of Macao, China, the National Security Law and other relevant legal requirements was ongoing.

15. **Mr. Furuya** said that he would welcome information on the applicability of existing laws to issues of non-discrimination and equality in the private sphere. As he was concerned that the severe restrictions imposed recently in response to a surge in COVID-19 infections might infringe upon the rights enshrined in the Covenant, he would welcome information on any measures adopted to ensure the compatibility of those restrictions with the Covenant and the Basic Law and, specifically, that they were necessary and proportionate. He would be interested to know whether the Government of Macao, China, intended to declare a state of emergency should the current COVID-19 situation continue.

16. **Ms. Sancin** asked whether the Government of Macao, China, might consider withdrawing its reservation to article 25 (b) of the Covenant since national legislation appeared to establish the same rights as those set out in that article. She would welcome information on the concrete evidence used to disqualify the 21 candidates from election to the Legislative Assembly and on any cases, in addition to that of Sulu Sou Ka-Hou, of the suspension or removal from office of members of the Legislative Assembly.

17. **Mr. Muhumuza** said that he wished to know whether the Government of Macao, China, intended to enact legislation to allow for referendums to be held.

18. **Ms. Abdo Rocholl**, noting that the bill on wiretapping contained provisions that would remove the requirement to notify persons subject to surveillance if such notification might compromise an investigation, said that it would be useful to know whether the bill set out a time frame and a procedure for the review of those provisions.

19. **Mr. Gómez Martínez** said that, although responsibility for controlling demonstrations had been transferred from the Municipal Affairs Bureau to the Public Security Police Force, the latter body was fully dependent on the authority exercised by the Government. Noting that the draft legislation on the interception and protection of communications provided that victims must be notified if a court ruled that wiretapping had been unlawful, he asked whether legal authorization would be required for all wiretapping activities once the new legislation was passed.

20. **Mr. Bulkan** said that, since, according to the delegation, any situations in which journalists were denied entry to Macao, China, were attributable to security concerns rather than issues of press freedom, he would like to know what circumstances, facts or evidence had led to the conclusion that journalists from independent and internationally recognized media might pose a security threat.

21. As there was no law prohibiting referendums, he failed to understand why a mock referendum on a simple political issue had been banned. The Court of Final Appeal had stated in judgment No. 100/2014 that a referendum was simply an opinion poll, yet the delegation maintained that any referendum that might be organized would have an impact on other peoples' rights and would therefore be unlawful. He wished to know how an opinion poll could have such an impact. Professor Chou Kwok-ping had been employed by the University of Macao, which was a public institution that should respect the rights and freedoms guaranteed in the Basic Law, yet the Government had refrained from taking any action on the ground that the University was free to determine its own affairs. Furthermore, the legal proceedings, which had begun in 2014, had been unreasonably protracted. He wondered why the case had extended over such a long period of time and why a hands-off approach had been adopted in respect of a public institution.

22. **Mr. Cheong Weng Chon** (Macao, China), speaking via video link, said that although no specific anti-discrimination legislation had been enacted, basic guidelines and principles had been incorporated in existing laws such as the legislation regulating labour relations and legislation establishing protection for women and children.

23. Although highly effective prevention and control measures had been adopted since the outbreak of the COVID-19 pandemic, the new variants had led to a sharp increase in infections in the past month and posed a major threat to public security. While a total lockdown had not been imposed, effective measures had reduced the number of infections in the past few days from a peak of about 100 to between 20 and 30 per day. The measures were based on the Law on the Prevention, Control and Treatment of Infectious Diseases, which stipulated that any restrictions imposed on movement and other freedoms must be

proportionate as well as effective. Legal proceedings had been instituted in a small number of cases, with convictions being handed down in fewer than 10 and fines rather than a prison sentence being imposed.

24. **A representative of Macao, China**, speaking via video link, said that the evidence that had led to the disqualification of candidates was detailed in the decision of the Electoral Affairs Committee and the judgment handed down by the Court of Final Appeal. Sulu Sou Ka Hou was the only member of the Legislative Assembly whose office had been terminated. If legal proceedings were instituted against a member, the judge informed the Assembly of any serious offences involved and disqualification was automatic. In proceedings related to less serious offences, a meeting was convened to decide whether disqualification was required.

25. **A representative of Macao, China**, speaking via video link, said that the Government was not planning to draft legislation that permitted the conduct of referendums. According to the judgment of the Court of Final Appeal, there was no individual right to hold a civil referendum as a referendum would occupy public space and could prevent other citizens from exercising their rights. The Government also had no plans to withdraw its reservation to article 25 (b) of the Covenant, although it complied with its obligations thereunder.

26. **A representative of Macao, China**, said that decisions regarding the entry of non-residents to Macao, China, were governed by applicable international legal instruments. Entry could be denied if there was evidence that the persons in question were members of or had links with criminal gangs or the triads, or if they were involved in international terrorism. Such decisions were based on administrative or court rulings stating that the persons concerned posed a threat to law and order.

27. The Law on the Rights of Assembly and Demonstration stated that the purpose of such events should not contravene the law and that no rights should be abused. Article 322 of the Civil Code prohibited assemblies if their purpose undermined political stability and violated social and moral values. The police could take action to prevent any serious impacts on State security or on public health and sanitation. Requests for the authorization of assemblies and demonstrations were examined by law enforcement agencies on a case-by-case basis.

28. The Criminal Code permitted persons whose communications had been intercepted to review the corresponding written records to ascertain whether they were consistent with the recordings. Telecommunication operators were under a legal obligation to protect data privacy and provided assistance to law enforcement agencies only if instructed to do so by court order. Assistance and avenues of redress were available for victims of unlawful interception through the courts. The draft regime for the interception and protection of communications was based on a very strict supervisory mechanism, the Procuratorate was entitled to investigate the lawfulness of all interceptions and victims could report unlawful interceptions to the courts.

29. **Mr. Cheong Weng Chon** (Macao, China), speaking via video link, said that there had been no prosecutions for the offence of insulting the national flag, anthem or emblem. Members of the Legislative Assembly were chosen by the electorate, and the Government had never considered imposing legal restrictions of any form on persons seeking election or introducing gender quotas.

30. He trusted that, through the proactive and constructive dialogue, the Committee had gained a relatively full understanding of the determination of Macao, China, to implement the Covenant. The Government attached great importance to the Committee's role in promoting its implementation. It would study its conclusions and recommendations thoroughly and would take all action relevant in the light of the legal system and practical situation in Macao, China.

31. Since the return of Macao, China, to the motherland nearly 23 years previously, under the protection of the "one country, two systems" policy and the Basic Law, the general public had enjoyed wide-ranging rights and freedoms. The Government would continue to improve the relevant legal systems and to optimize policies and measures. It was also willing to engage

in dialogues and exchanges with all parties and to continuously improve levels of human rights protection. At a meeting celebrating the 25th anniversary of the return of Hong Kong to the motherland, President Xi Jinping of China had commended the “one country, two systems” policy and recommended its continuing implementation. The Government of Macao, China, would therefore fully implement that policy, would act in strict accordance with the National Constitution and the Basic Law, would safeguard the sovereignty, security and development interests of China and would promote the social and economic development of Macao, China.

32. **The Chair** said that the Committee was reassured by the continued commitment of Macao, China, to the implementation of the Covenant. However, it was concerned about the lack of a specific national human rights institution, the failure to enact comprehensive anti-discrimination legislation and to ensure a gender balance in electoral processes, and issues relating to trafficking in persons and refugees. While the Committee welcomed the useful exchange of views on freedom of assembly and freedom of expression, it had difficulty understanding why some journalists and academics were deemed to pose a threat to national security. In general, however, a great deal of insight had been gained from the positive and constructive dialogue.

The meeting rose at noon.