



# Convention on the Rights of the Child

Distr.: General  
28 December 2011  
English  
Original: French

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## Committee on the Rights of the Child Fortieth session

### Summary record of the 1065th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 20 September 2005, at 3 p.m.

*Chairperson:* Mr. Doek

## Contents

Consideration of reports of States parties (*continued*)

*Second periodic report of China* (continued)

*Initial report of China under the Optional Protocol on the sale of children, child prostitution and child pornography* (continued)

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*The meeting was called to order at 3 p.m.*

**Consideration of reports of States parties** (continued)

*Second periodic report of China* (continued) (CRC/C/83/Add.9; CRC/C/83/Add.9 (Parts I and II); CRC/C/Q/CHN/2; CRC/C/RESP/89; CRC/C/RESP/89 (Part III); HRI/CORE/1/Add.21/Rev.2)

*Initial report of China under the Optional Protocol on the sale of children, child prostitution and child pornography* (continued) (CRC/C/OPSA/CHN/1; CRC/C/OPSA/CHN/1/Part II)

1. *At the invitation of the Chairperson, the Chinese delegation resumed places at the Committee table.*
2. **Ms. Khattab** asked why the State party did not yet have a special helpline for children who had been victims of or were vulnerable to prostitution or pornography. Such a helpline could function as a monitoring mechanism, would facilitate the collection of relevant data, and could help identify solutions adapted to their special needs.
3. **Mr. Liwski** asked whether the State party provided medical and psychosocial assistance to child victims of prostitution and whether special judicial procedures that took account of their vulnerability were in place to protect them from being victimized a second time.
4. **Mr. Fisher** (Hong Kong Special Administrative Region of China) said that the Prevention of Child Pornography Ordinance adopted in December 2003 provided for the punishment of Hong Kong citizens who engaged in sex tourism abroad. Since its adoption, 42 persons had been arrested in Hong Kong; 28 of them had been brought to trial and 22 convicted.
5. The table at annex A of Hong Kong's written replies did not mention persons with mental disabilities, since the results of the sample survey included were too limited to be representative. According to estimates, however, between 60,000 and 80,000 persons in the Hong Kong Special Administrative Region were mentally retarded.
6. The Hong Kong authorities had adopted a "zero tolerance" policy on school bullying and had established self-help groups to help change attitudes. An information brochure on bullying that described ways to prevent that evil had been distributed to teachers and principals.
7. **Ms. Lee** asked whether the Hong Kong authorities planned to make parental education courses mandatory for parents suspected of ill-treating their children or convicted of violence against minors. She would like to know why there were no "baby-friendly" hospitals in Hong Kong, and to receive additional information on prostitution.
8. **Mr. Kotrane** asked whether reporting of child prostitution or child pornography was mandatory in Hong Kong and whether an early warning procedure had been established to facilitate rapid intervention by the authorities.
9. **Mr. Fisher** (Hong Kong Special Administrative Region of China) said that, although prostitution in Hong Kong was legal, operating a brothel or living off the proceeds of others' prostitution was not.
10. The Special Administrative Region had yet to establish an early warning procedure for child abuse. Thus far, it relied on persons whose work brought them in direct contact with children, such as teachers or doctors, to identify potential abuse and to report it to the authorities.

11. Under legislation in force, enrolment in parental education courses was optional for parents suspected of maltreating their children, and they could not be forced to do so.
12. In Hong Kong there were 12 hospitals with paediatric units providing high-quality health care for children.
13. **The Chairperson** asked whether the fact that prostitution was legal might encourage children entering Hong Kong illegally to engage in prostitution to provide for their needs.
14. **Mr. Fisher** (Hong Kong Special Administrative Region of China) said that in Hong Kong the age of consent for heterosexual relations was 16. Sexual relations with a child under the age of 16 were considered child abuse and liable to prosecution, while sex between two consenting minors between 16 and 18 years of age was not an offence. Homosexual relations between two men were punishable by law if one of them was under the age of 21. In the light of recent case law, the authorities were currently considering amending the legislation governing sexual consent, which distinguished between heterosexual and homosexual relations.
15. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that the number of minors engaged in prostitution in Macao since 2002 was provided in paragraph I.A.9 (a) of the written replies. To combat the phenomenon of child prostitution, the Macao authorities would continue to cooperate closely with mainland China.
16. Over the previous two years, cases of violence resulting in physical injury had occurred in Macao schools; in a very few cases serious damage had been inflicted, and statistics showed a slight increase.
17. **Ms. Cheng** (Macao Special Administrative Region of China) said that a special prevention-based programme had been introduced to combat violence against children in school and elsewhere. Teachers had been alerted to the problem and trained to respond to violence in schools. School counselling services had also been set up to assist affected children.
18. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that the Macao Government was yet to adopt the amendment to the Framework Law on Education designed to extend the duration of free compulsory education to 12 years. The next step was to provide all secondary education free of charge.
19. All decisions concerning children took account of the best interests of the child. However, Macao had not yet had time to set up all the institutions that the various international human rights treaty bodies might expect of it, such as an ombudsman for children, the creation of which had been recommended by the Committee on the Rights of the Child.
20. In Macao, family reunification was closely linked to the right of abode and subject to a quota set jointly by the competent authorities in mainland China and Macao. Between December 1999 and June 2004, 63 per cent of the approximately 48,000 new citizens of Macao had filed for family reunification. A small number of family reunification requests were still pending because those concerned had failed to provide the required documentation.
21. Article 1740 of the Civil Code enshrined the right to freedom of religion and belief and provided for parents' right to decide on their children's religious education until they reached the age of 16. Afterwards, the child was free to make his or her own choice.
22. Nearly 90 per cent of Macao schools were private and were mostly run by Jesuits. Pursuant to religious freedom provisions, parents were free to decide whether their children

should receive religious instruction. Children enrolled in secular schools could attend religious education classes at their parents' request.

23. Macao had a vibrant civil society and a considerable number of associations, partly owing to the fact that setting up an association required no prior authorization. Once created, the head of the association could simply deposit its by-laws with the Director of Public Prosecutions and register with the competent authorities.

24. The Government generally assumed the task of disseminating information relating to children's rights. However, it must be acknowledged that non-governmental organizations made an important contribution.

25. **Ms. Cheng** (Macao Special Administrative Region of China) said that the Youth Council, which comprised representatives of the Government, youth organizations and NGOs, was a consultative body that issued opinions and recommendations which fed into the formulation of child-related policies. It also promoted all issues pertaining to young people.

26. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that staff of institutions receiving complaints from children and persons who might learn of violence against children through their work were under an obligation to report cases of abuse to the competent authorities. Failure to do so was a punishable offence. That policy explained the numerous reports received from doctors in hospitals and social service employees.

27. **Ms. Lao** (Macao Special Administrative Region of China) said that Macao had created a body for the prevention of child abuse that conducted awareness campaigns and staff training in child welfare institutions. The authorities were also considering the possibility of placing children who were separated from their families in foster homes to provide them with a family environment.

28. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that he would provide the Committee with additional written information on pornography on the Internet.

29. The minimum age for marriage was 16 years for both boys and girls. However, marriages of minors between 16 and 18 years of age required the consent of the parents or legal guardian. If there were compelling reasons for the marriage, the minors could seek to obtain a court-ordered waiver.

30. The age of criminal responsibility was set at 16 years and young offenders were subject to special provisions. Pursuant to articles 67 and 68 of the Criminal Code, the maximum prison sentence of 30 years was reduced by one third if the perpetrator was aged 15–18 at the time of commission of the offence.

31. Macao was very small and therefore had no specialized family or juvenile courts. However, the establishment of a separate juvenile justice system was currently being discussed.

32. **Ms. Ip** (Macao Special Administrative Region of China) said that juvenile courts were more likely to impose educational measures than criminal sanctions. Juvenile justice reforms currently under way sought to extend the range of alternatives to imprisonment, in particular by introducing family group conferences. The idea was to ensure that the punishment imposed took account of the perpetrator's age, was of social benefit and conducive to the education and rehabilitation of young offenders. The social services comprised two separate departments; educational measures were imposed on minors aged 12 to 16 who had committed an offence, while children under the age of 12 were subject to special protection measures. In order to avoid stigmatization, deprivation of liberty was always a last resort. There were already several specialized foster care facilities that

enabled the juveniles to remain in contact with society, and three additional centres, for observation, probation and reform respectively, would shortly be opened. The new provisions were expected to be adopted by the end of 2005.

33. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that legislation authorized the employment of minors between 14 and 16 years of age in exceptional cases, provided that the child was physically able to perform the task in question. In accordance with International Labour Organization (ILO) Conventions concerning child labour, admission to employment that was likely to jeopardize young persons' physical, spiritual or moral development could be prohibited or made subject to certain conditions. The Government ensured that minors' working conditions were suited to their age.

34. Youth drug addiction and alcohol consumption were cause for grave concern in Macao. The authorities cooperated closely with NGOs at different levels to address the problem. Mandatory rehabilitation could only be ordered by a court following criminal proceedings. A dozen young drug addicts were currently registered, on a voluntary basis, for treatment at one of the five State-sponsored detoxification establishments.

35. The city of Macao had become a Las Vegas of the Far East. Casinos and gambling halls abounded, which posed certain problems in terms of child protection. The regulations in place conformed to international standards — casinos, gambling halls, bars and other entertainment venues nearby were off limits for children — and enforcement of those regulations was a government priority.

36. Despite the measures taken, the city lights continued to attract increasing numbers of people, particularly from mainland China, including children driven into prostitution and sexual exploitation. Prostitution was legal in Macao, but its exploitation was not. To prevent children from being doubly victimized, they were often sent back to their families without being prosecuted, which might distort official statistics on the number of cases brought to trial. The Government planned to step up cooperation with the authorities in mainland China as a matter of urgency, thus increasing its monitoring capacity.

37. **Mr. Xu Hong** (China) said that on 18 August 2005 Chinese women's NGOs had opened a 24-hour helpline for women and children. Although, owing to a shortage of staff, the helpline was currently open only from 8.30 a.m. to 5 p.m., it should receive additional resources in the future and was expected to become an important instrument in the protection of women and children. Similar helplines had been created in the provinces to address the problem of domestic violence.

38. **Mr. Kotrane** asked whether any programmes were in place to help couples who had problems conceiving to have a child.

39. **Ms. Yao Ying** (China) said that public assistance programmes and common methods of medically assisted procreation were available to couples who had difficulties conceiving. In fact, the one-child policy had been adopted to address challenges unique to China, and a number of communities adopted a flexible approach to its implementation. If the current demographic trend was sustained, the population of China would reach 1.5 billion by the middle of the century.

40. New strategies were needed to bring family planning policies into line with present-day realities. Therefore, studies were currently being carried out on the ageing of the population, demographic growth, and population structure and distribution. Social welfare had been strengthened to provide better care for older persons.

41. Male birth rates had been increasing in China since the 1980s. If that trend continued, men would soon outnumber women by 13 million, which would have disastrous effects on population composition, marriage rates and women's health, among other things.

It could undermine the social stability of the country, the inhabitants of which — 1.3 billion in 2004 — accounted for one fifth of the world population.

42. In the light of that acute challenge, the Government had decided to take a series of measures. There was no legislation penalizing doctors who performed prenatal gender tests or selective abortions. Distribution of certain medicines and the use of ultrasounds were monitored more closely. The State was also endeavouring to strengthen social welfare services in rural areas, with special emphasis on families with girl children only. Information campaigns and training courses were conducted to raise the awareness of the public and political leaders alike of women's role in society and the importance of their participation at the different levels of decision-making.

43. Surveys had shown that two spouses who had themselves been an only child wished to have two children, and that in major cities, especially in Beijing, 10 per cent of women, most of them white-collar workers, had no children.

44. **The Chairperson** asked whether data existed on the number of doctors punished for promoting prenatal gender determination and selective abortions, and requested additional information on reports that abortions were particularly common among middle-income families.

45. **Mr. Liang** Xiaofeng (China) said that the problem lay not in prenatal gender determination in itself, but rather the abortion that might ensue.

46. **Ms. Yao** Ying (China) said that the initial findings of a recent study carried out by the medical services on the phenomenon of prenatal gender determination revealed that more than 200 medical institutions and doctors suspected of carrying out such examinations and illegal abortions had been investigated. The final results were expected by the end of 2005.

47. **Ms. Lee** expressed concern about reports of sterilization and forced abortion programmes in China.

48. **Ms. Yao** Ying (China) said that abortions must be voluntary and legal; any decision in the matter could only be taken with the informed consent of the person concerned. The Government firmly supported the code of ethics of the medical services, and voluntary determination of pregnancies was not considered a family planning method. The forced abortions carried out in certain regions were considered a criminal offence.

49. **Mr. Liwski** asked whether there was a code of bioethics, or hospital committees, that monitored and regulated the medical profession and ensured respect for the law.

50. **Ms. Yao** Ying (China) said that, in addition to the administrative and criminal procedures in force, medical personnel were trained in good practices, discipline and ethics.

51. **Ms. Liu** Quan (China) said that adoption was the best way to reintegrate abandoned and orphaned children into society. In 1998, the People's National Congress had amended the 1992 adoption legislation to bring it into line with the Convention on the Rights of the Child and the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption.

52. At present, the Ministry of Civil Affairs was entrusted with overseeing domestic and intercountry adoption procedures to ensure that the best interests of the child were taken into account. Intercountry adoptions by foreign nationals were subject to strict controls and the China Centre for Adoption Affairs had been specially created to centralize and harmonize application procedures. The financial circumstances, sanitary conditions, living conditions and motivations of each adoptive family were carefully scrutinized to ensure that the child's real needs were met.

53. Children awaiting adoption were abandoned children whose natural family could not be traced through normal channels such as newspaper adverts or posters and who had been placed in institutional care. Adoption fees were determined by the Ministry of Finance and the National Development and Reform Commission, in cooperation with local civil affairs offices. However, the State encouraged adoptive parents to make donations to the orphanage to improve the children's living conditions. In such cases, the institution must give an account of how the money was spent, and any wishes the parents had must be taken into consideration. The Public Welfare Donations Law provided for periodic inspections.

54. China had recently ratified the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, which would translate into increased harmonization of adoption procedures and better child protection. Training programmes on the provisions and principles of the Convention for staff of adoption and childcare institutions would be launched shortly.

55. The main objective of institutions that took in abandoned children was to find a foster family. In 2001, the Ministry of Civil Affairs had published a set of standards applicable to premises, food, health care and education, among other things, and the salaries of doctors, social workers and other service providers were subject to annual reviews. All the children were examined by a doctor, and their medical file was kept up to date. There was a special budget for the rehabilitation of orphans with disabilities and by 2006 all those children would have access to rehabilitative care. The mortality rate of institutionalized children was higher than that of other children, because some had been abandoned because of disability or illness.

56. In addition to the existing courses, training courses were organized within institutions, especially for nurses and health-care personnel in north-west China. A genuine partnership had been established between families of children with disabilities and care institutions, which functioned as resource centres.

57. China had introduced a system of financial aid, which already benefited the poorest segments of the urban population and would be extended to eight provinces and rural communities. There were also family allowances for very poor families in certain regions, and the authorities at the various levels granted financial assistance to families one of whose members was ill. A total of RMB 1.8 billion had been allocated for the programme, which was expected to reduce the number of abandoned children.

58. **The Chairperson** said that he was surprised to read in the report that children's welfare homes housed 50,000 children with disabilities, abandoned and orphaned taken together since other sources indicated that the problem was graver, with some 100,000 children abandoned each year. A recent study carried out in eight cities in southern China had revealed that between 30 and 50 per cent of abandoned children were healthy girls. He wondered whether the data provided by the State party reflected reality or whether a large number of orphans and children's homes were disregarded, even if the data on the number of domestic adoptions were accurate. Further information was required and the situation must be examined more closely, especially in remote rural areas that might have large traditional overcrowded children's homes with appalling living conditions.

59. **Ms. Ortiz** asked what measures were taken prior to adoption to establish the abandoned child's identity; how many intercountry adoptions occurred each year; and how many foreign adoption agencies operated in China. She would also like to know whether foreign adoption agencies were required to establish a link with the family before the child was declared fit for adoption or whether a public body was entrusted with tracing the family of origin.

60. **Mr. Parfitt** asked what measures had been taken to ensure respect for the fundamental rights of institutionalized children.

61. **Ms. Lin Shuli** (China) said that, in 2002 and 2004, the Government had taken steps to strengthen legislation governing the employment of minors. Employers were now required to verify their employees' identity, and companies were financially and criminally liable. China had established a standardized system involving the central Government's occupational health and safety authorities and a network of 3,272 provincial and cantonal health and safety inspectorates that carried out regular workplace inspections and reported any irregularities. Trade unions and women's associations, as well as the Ministry of Public Security, the Ministry of Education and the Ministry of Commerce, participated in those monitoring activities and exchanged information in order to identify and combat child labour. Media information campaigns were also conducted to inform the public of the prohibition of child labour and to alert businesses.

62. The minimum legal age for admission to employment was 16 years; special safeguards were in place for juvenile workers between 16 and 18 years of age. China had ratified the ILO Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (No. 182) in 2002 and the Government had conducted awareness campaigns on the matter. Companies were obliged to declare all employees, and offenders were subject to severe penalties. Inspections and monitoring measures had been put in place and the various institutions concerned coordinated efforts to eliminate child labour.

63. **Mr. Kotrane** requested clarification on compulsory work as a rehabilitation measure, which the Committee on Economic, Social and Cultural Rights had mentioned in its 2005 report.

64. **Ms. Lin Shuli** (China) said that compulsory work did not fall within the remit of the Ministry of Labour, and China was actively considering signing the Forced Labour Convention and the Labour Administration Convention.

65. **Ms. Zhu Yantao** (China) said that the sale of women and children had been prohibited in China for over 20 years. Efforts to prevent and combat the phenomenon fell within the purview of Women's Affairs Bureau, while the Ministry of Public Security was responsible for the criminal aspect. A national plan of action was currently being formulated and should be approved shortly. The Criminal Code criminalized the sale of women and children and all related activities, including trafficking, which were referred to as "abduction". A series of legislative provisions had been adopted and the maximum penalty, which had been 7 years' imprisonment prior to 1987, had been increased to life imprisonment; the sale of more than three children was punishable by death. China had signed cooperation agreements with its neighbours in Viet Nam, Cambodia, Laos and Thailand; extradition treaties with 21 countries; mutual judicial assistance treaties with 22 countries; and 72 agreements on judicial cooperation with 41 countries. Recently, in the context of a cooperation project between China and Viet Nam aimed at preventing and combating the sale of women in China, 117 Vietnamese women had been released and repatriated and 70 traffickers, including some 50 Vietnamese nationals, had been detained.

66. Six projects had been launched on the prevention and elimination of the sale of children, in cooperation with UNESCO, the Australian Human Rights and Equal Opportunities Commission and British child rights organizations; other projects were carried out in cooperation with ILO. Awareness campaigns had been conducted in rural areas, and posters had been put up in companies, ports and train stations. In 2000, the Ministry of Public Security had set up an information centre that published information on abducted women and transnational crime, and the names of suspected or convicted traffickers.

67. The report mentioned only the number of women who had been released, since no other data was available. While cases of child abduction were generally reported to the



police, the abduction of women was not and their exact number was therefore unknown. An estimated 400 women were currently in the hands of traffickers.

68. Although prostitution and brothels were illegal in China, in recent years they had become a serious problem. Since 1997 the Criminal Code prohibited the prostitution of children and young girls. The Ministry of Public Security, women's organizations, youth councils and the Ministry of Commerce had tightened controls of massage parlours and other "pleasure centres", and registration procedures had become much stricter. Between 2000 and 2004 the courts had adjudicated 53 cases of forced prostitution of women and handed down 81 convictions; 240 convictions had been handed down in cases relating to the prostitution of young girls and 125,000 in cases involving rape of minors.

69. Sex tourism was expanding and the youth league of the Greater Mekong region, in cooperation with other organizations, had launched a cross-border campaign against prostitution, which had yielded good results. Child pornography was a complex and cross-cutting issue. Since China had signed the Optional Protocols, efforts to fight the phenomenon had been stepped up. A special body had been created to block pornographic material from entering the country, in particular pornographic comics aimed at children; and an expert group had been established to coordinate efforts to ban video and audio cassettes with pornographic or violent content. A national body had been created to weed out pornographic text messages, and some mobile phone operators had had their licences revoked. Pornography on the Internet targeting children via "chat rooms" and e-mail to obtain sexual favours was prohibited. Children under 18 were banned from Internet cafés to ensure that they were supervised by parents or teachers, and efforts were made to eradicate illegal Internet cafés so children could use computers to learn about the world without being exposed to pornographic materials.

70. **The Chairperson** asked whether the measures taken to combat pornography on the Internet, especially the obligation for service providers to identify websites containing child pornography, were effective.

71. **Ms. Zhu Yantao** (China) said that the Ministry of Communication and Information Technology monitored the contents of Internet sites and reported all illicit activities. The implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography was multifaceted and the Government endeavoured to mobilize non-governmental and civil society organizations to assist child victims. Areas where progress had fallen short of expectations included public awareness and the care and social rehabilitation of child victims of trafficking.

72. **The Chairperson** requested clarification on the Government's position on girl prostitutes.

73. **Ms. Zhu Yantao** (China) said that young girls forced into prostitution were considered victims and in need of State protection; those responsible were liable to prosecution. If the girl had become a prostitute of her own volition and if she was over 16 years of age, she was placed in a rehabilitation centre for three months and then sent back to her parents.

74. **Ms. Li Jing** (China) said that rehabilitation through labour was imposed for minor offences. Persons subject to such punishment could appeal the sentence and had the right to be represented by a lawyer. The Government was aware that the current system, established as long ago as 1957, was not necessarily compatible with present-day realities and had decided to embark on far-reaching reforms.

75. **Mr. Ma Dong** (China) said that if the penalty imposed on a Chinese citizen who had committed a crime abroad was less than 3 years' imprisonment, the Chinese authorities did not prosecute and the person was judged and sentenced in the country where the offence

had been committed. When a foreigner committed a crime against a Chinese citizen, the same system applied. If the penalty incurred under the Chinese Criminal Code was over 3 years' imprisonment, and if the penalty imposed by the country concerned was deemed inadequate, China could institute additional proceedings. However, that situation had never arisen.

76. The Chinese authorities refused extradition requests for Chinese citizens. However, the requesting State was encouraged to submit all available evidence so that proceedings could be instituted in China, in conformity with article 5, paragraph 5, of the Optional Protocol.

77. Child victims could either attend court hearings or request to be represented by someone else. They could also testify in writing in order to spare them the potentially difficult experience of attending the proceedings. Confidentiality was guaranteed before, during and after the trial so as to avoid any type of reprisal. The various child protection organizations provided children with legal, social and psychological assistance.

78. **Mr. Krappman** said that he welcomed the frank and constructive dialogue with the Chinese delegation and urged the State party to make the implementation of the Committee's recommendations a priority. Commendable progress had been made in mainland China and the two special administrative areas over the previous decade, including the expansion of health services; better support services for children; and increased school enrolment. Given China's ageing population, children would soon become a minority; ensuring respect for their rights was therefore particularly important.

79. **Mr. Sha** Zukang (China) said that the Committee's recommendations would be carefully examined. Despite considerable progress made in the protection of children's rights in China, much remained to be done. In that regard, the Government relied on the participation of civil society and the cooperation of the international community.

80. **Mr. Fisher** (Hong Kong Special Administrative Region of China) said that the Hong Kong authorities cooperated closely with civil society organizations, which contributed actively to the promotion and protection of children's rights. A forum for children's rights would be established shortly to promote dialogue and cooperation among the Government, children and civil society organizations. The Hong Kong Special Administrative Region would do its utmost to implement the Optional Protocol on the sale of children, child prostitution and child pornography.

81. **Mr. Costa Oliveira** (Macao Special Administrative Region of China) said that the Macao authorities ensured, without discrimination, children's full enjoyment of the rights enshrined in the Convention. The authorities were committed to cooperating with non-governmental organizations, particularly in the areas of education, social security, health and recreation. The Macao Special Administrative Region had been created only six years previously and, thus far, efforts had focused on the most pressing issues such as family reunification. The Region's organizational structure certainly needed improving and the Committee's suggestion to create new human rights protection mechanisms would be duly considered.

*The meeting rose at 6.05 p.m.*