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Summary record of the 2963rd meeting

Held at the Palais Wilson, Geneva, on Tuesday, 19 March 2013, at 10 a.m.

Chairperson: Sir Nigel Rodley

Contents

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

Initial report of Macao, China (continued)

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The meeting was called to order at 10.05 a.m.

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

Initial report of Macao, China (continued) (CCPR/C/CHN-MAC/1; CCPR/C/CHN-MAC/Q/1 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Macao, China, took places at the Committee table.*
2. **Ms. da Rosa Silva Chan** (Macao, China) said that, as of December 2012, there were 74 magistrates in Macao, 40 sitting as judges in courts of first and second instance and in the Court of Final Appeal, and the remainder as prosecutors in the Office of the Public Prosecutor. Magistrates would continue to be trained in Macao and, if necessary, professional magistrates could be hired in Portugal in order to meet the heavy caseload.
3. **Ms. Chu Lam Lam** (Macao, China) said that, under juvenile justice legislation passed in 2007, the toughest disciplinary measure imposed on juvenile offenders was to be confined to a single bedroom at night for up to one month. That measure had not been applied to more than 10 per cent of juvenile offenders since enactment of the law, and to date for not more than seven days.
4. Given that the Covenant did not expressly prohibit reservations to its provisions, Macao, China, was within its rights under international law to maintain reservations to articles 12 and 13. Article 6 of the Criminal Code expressly forbade trying a person twice for the same offence. Ongoing training programmes were conducted to ensure the highest possible quality of translation in the courts and the Legislative Assembly. Incentives were offered to translators specializing in legal translation. Magistrates trained in Macao, China, were obliged to master the Chinese and Portuguese languages.
5. **Ms. de Sousa Ferreira** (Macao, China) said that the Government was guided by Law 6/2006 in its ongoing negotiations with Hong Kong, China, and with the central Chinese Government on legal cooperation in criminal matters. The Chief Executive had a dual role as head of State and head of the Government and, in accordance with article 59 of the Basic Law, acted in the former capacity when appointing the Ombudsman. The Commission against Corruption, which doubled as the Office of the Ombudsman, was an independent body and could launch investigations of human rights violations on its own initiative or upon request. It could propose amendments to legislation and carry out awareness-raising activities.
6. **Mr. Iong Kong Io** (Macao, China) said that the Government cooperated closely with NGOs and provided them with financial and technical support, but did not interfere in their internal affairs. Joint efforts by the Government and NGOs had led to improvements in the provision of health care, education and other community services. NGOs had offered both criticism and recommendations to the Government, which welcomed such input and was determined to strengthen cooperation with civil society organizations.
7. **Ms. Teng Nga Kan** (Macao, China) said that about 25 per cent of entrepreneurs in Macao, China, were women and that the figure was rising. A non-profit business association for women had been established in 2005, bringing together businesswomen from a wide variety of sectors. The Government endeavoured to foster business growth by providing subsidies, interest-free loans and guarantees for bank loans to start-up companies. Business centres also provided nascent small and medium-sized firms with consultation services.
8. **Mr. Flinterman** (Country Rapporteur) asked how laws against trafficking in persons were enforced and whether statistics were available on the number of prosecutions

made under those laws, subsequent convictions and reparation offered to victims of trafficking. He also asked whether any effort was made to investigate allegations of complicity in human trafficking by officials. He wished to know what measures were taken to protect victims, particularly in cases where they were returned to their countries of origin, and whether more prosecutors had been assigned to human-trafficking cases.

9. He would like to know if the absence of complaints of discrimination by migrant workers in Macao, China, could be attributed to their fear of the consequences of doing so or to a lack of awareness of their rights. According to information in the Committee's possession, many migrant workers had no formal contracts with their employers and were therefore vulnerable to abuse and exploitation. Instead, contracts were arranged between employers and labour agencies, which in turn charged the workers excessive fees. Migrant workers earned less than half the wages of local residents for the same work and had no effective legal recourse in case of unfair dismissal. Was the law on non-resident workers truly non-discriminatory? He asked whether the Government intended to abolish the non-resident workers levy imposed on employers, lift the prohibition on transfers to different job categories by migrant workers and ease the six-month re-entry ban on migrant workers whose contracts had expired. He also wished to know what stage had been reached in discussions on the introduction of a minimum wage and whether progress had been made on drafting legislation to protect the rights of part-time workers.

10. **Ms. Motoc** said that the Committee would like the delegation to provide more information on the implementation of laws on sexual exploitation and any relevant cases that had been brought to trial. She wished to know more about the fate of residents in the territory who had had Portuguese nationality prior to 1999. She also asked what role civil society had played in drafting the initial report.

11. **Mr. Kälin** said that questions remained on the compatibility of the Law on Safeguarding National Security with the Covenant. He would like to know whether the law could be used to punish participants in peaceful demonstrations or strikes. There were concerns that the law could also be used to stifle criticism of the Government and the central Chinese authorities and thereby curb freedom of expression. The Committee had been informed that the law was regularly invoked to prevent the entry of journalists from Hong Kong, China. Noting that the dissemination of "false or demagogic information that could unsettle the people" was prohibited, he asked how such a norm was interpreted by the authorities and courts. The Committee had received reports of intimidation of persons seeking to express their opinions, self-censorship by the media and harassment of demonstrators. The overall message emerging from Macao, China, was that unfettered reporting was unwelcome. Finally, the exclusion of most of the population from the election of the Chief Executive continued to be a source of concern. Expansion of the Election Committee from 300 to 400 persons eligible to vote for the Chief Executive was insufficient.

12. **Mr. Ben Achour** said that there appeared to be a discrepancy between paragraph 116 of the State party's written replies (CCPR/C/CHN-MAC/Q/1/Add.1), which stated that residents, including legal immigrants, received tuition subsidies, and paragraph 117, which stated that visitors who were permitted to stay in Macao, China, for over 90 days were not entitled to any education allowance. He requested clarification in that regard. He welcomed the information provided on regulations prohibiting corporal punishment in schools and asked the delegation to provide disaggregated data on cases in which students had been subjected to corporal punishment or other prohibited treatment such as intimidation or pressure.

13. **Mr. Vardzelashvili** noted that the Government provided incentives to increase the competitiveness of the local press and asked whether it also provided the press with any other forms of financial support. He wished to know whether the civil and criminal liability

of press agents also applied in cases of defamation. He asked whether individual journalists could be ordered to pay compensation for damages, or whether such orders only applied to the companies that owned the media outlets.

14. He was concerned that the law criminalizing disrespect for national symbols was overly broad and could be applied to acts that were not intended to express disrespect. It was his understanding that there was no special law on the registration of political parties, and that they must therefore register either as NGOs or as private companies. He asked if that situation had hindered the work of those parties.

15. **Mr. Shany** asked whether the Government was prepared to commit to and announce a time frame for the gradual introduction of an electoral system that was in compliance with article 25 of the Covenant, and whether it acknowledged that the current system did not comply with that article. In the light of the strong representation of business interests among the 100 additional members of the Chief Executive Election Committee, he wished to know to what extent that reform constituted a step forward on the road to elections through universal suffrage.

16. **Mr. Bouzid** said that he wished to know exactly what was stated in paragraphs 78 and 79 of Law 6/2008 with regard to trafficking in persons. He asked what procedures were available to citizens who wished to request the repeal of a law that was not in line with the Covenant, and whether any complaints had been lodged claiming that a law adopted by parliament was in violation of article 40 of the Covenant.

17. **The Chairperson** asked if there were any civil society organizations in Macao, China, working to defend human rights. He wished to know more about the public consultation that had led to an increase in the membership of the Chief Executive Election Committee.

The meeting was suspended at 11.20 a.m. and resumed at 11.40 a.m.

18. **Ms. da Rosa Silva Chan** (Macao, China) said that Portugal had entered the reservation to article 25 (b) of the Covenant when it had extended its ratification of the Covenant to cover Macao in 1992. After sovereignty over Macao had been transferred to China in December 1999, the ratification of the Covenant, including the reservation to article 25 (b), continued to apply in Macao, China. The Government intended to maintain the current electoral system for both the Legislative Assembly and the office of the Chief Executive. Any change to that system would have to be approved by the National People's Congress of China. The number of seats in the Legislative Assembly had increased from 23 to 33 since the transfer of sovereignty in 1999, which was an indication of gradual change in the political system. Elections to the Legislative Assembly would be held on 15 September 2013, while elections to the office of Chief Executive would be held in 2014. The Government was therefore focusing on ensuring that those elections ran smoothly. A gradual process of democratization was under way in Macao, China, in accordance with the Basic Law of the Macao Special Administrative Region of the People's Republic of China (hereinafter "the Basic Law"), the reality in the State party, and the approval of the National People's Congress of China.

19. **Ms. Chu Lam Lam** (Macao, China) said that in 2012 the Government had held two public consultations on the need to expand the membership of the Chief Executive Election Committee. The first round of consultations had shown that the public did believe such an expansion to be necessary. Thus, in March 2012 a special website had been established, through which members of the public could download the consultation paper and express their views on the issue. Information on the proposed reform had been disseminated through leaflets and advertisements on radio and television and in the press. Different points of view had been aired in public debates, while students had attended seminars held in high schools and universities. Thanks to those measures to encourage citizens to actively

participate in the consultation, the Government had received a record number of submissions from the public.

20. Representatives of business interests held relatively few of the additional 100 seats on the Chief Executive Election Committee, as the majority of seats were reserved for individuals representing fields such as education, culture, labour and social security. Macao, China, did have a special legal provision on the registration of political organizations, which stipulated that any group whose purposes and principles included participating in elections, making suggestions on ways to improve governance or criticizing the public administration could register as a political organization, provided that its membership included at least 200 permanent residents of Macao, China, who were over 18 years of age and had registered to vote.

21. Article 42 of the Basic Law stipulated that the interests of residents of Macao, China, who were of Portuguese origin should be protected in accordance with the law, and that their customs and cultural traditions should be respected. In 1998, the Standing Committee of the National People's Congress had issued its interpretation of the Nationality Law of China with respect to the transfer of sovereignty over Macao, China. That Committee had stated that all residents of Macao, China, who were of Chinese descent would become Chinese nationals, although those who held Portuguese travel documents could still use those documents to travel abroad. Residents of mixed Chinese and Portuguese descent could choose either Chinese or Portuguese nationality. Regardless of their choice, they would continue to enjoy all rights guaranteed by law.

22. **Ms. de Sousa Ferreira** (Macao, China) said that the Government had adopted a comprehensive approach to combating trafficking in persons. The membership of the Commission to follow up the Implementation of Dissuasive Measures against Trafficking in Persons had recently been expanded to include representatives of the Labour Affairs Bureau and the Human Resources Office. A 2011 study had shown that traffickers in persons used Macao, China, as a place of transit or destination, mainly for purposes of sexual exploitation. The Government's efforts had therefore focused primarily on that form of trafficking in persons, although in 2012 it had also established measures to combat trafficking in persons for purposes of labour exploitation. Key measures to combat the phenomenon included strengthening efforts to identify victims at border controls and conducting awareness-raising campaigns targeting potential victims and the general public.

23. Routine inspections and targeted raids were conducted in places such as saunas and massage parlours to detect cases of trafficking in persons for purposes of sexual exploitation and to establish contacts with business operators and encourage them to cooperate with the police. Inspections had also been conducted at places such as construction sites, hotels and restaurants to detect signs of trafficking in persons for purposes of labour exploitation, but no such cases had been identified. Cases of trafficking in persons could be reported to the police via e-mail or two 24-hour hotlines.

24. Communication procedures had been established among the relevant government departments to aid with victim identification and assistance. As soon as potential victims were identified, they were immediately provided with various support services. The police cooperated with the International Criminal Police Organization (INTERPOL) and other international organizations, and NGOs also played a key role in identifying victims and providing assistance. Specialized training had been provided for immigration officers and for female police officers who interviewed potential victims.

25. A law had been adopted establishing a number of rights for victims of trafficking in persons, including the right to legal aid, medical care and compensation. Victims whose lives were in danger were placed under police protection. There were three shelters for victims, one for men, one for women and another for minors. From 2008 to 2012, about 60

adult victims had received assistance, including 19 who had been housed in shelters. An agreement had been signed with the Government of Mongolia in 2010 providing for the safe return of victims of trafficking in persons, but thus far no cases involving victims from that country had been identified. The Government had also been exchanging experiences with other countries from the region to encourage best practices in combating the phenomenon.

26. A relatively small proportion of the cases of trafficking in persons investigated by the police were brought to trial. Since 2008, between 10 and 20 cases of trafficking in persons had been prosecuted each year, and 10 persons had received prison sentences of between 3 and 13 years as a result. There was no special prosecutor for human trafficking offences; the 34 prosecutors of Macao, China, were expected to handle all kinds of cases. The victims usually wished to leave Macao, China, as soon as possible and none had stayed long enough to claim the compensation to which they were entitled by law. There had been no complaints of public officials being complicit in human trafficking. To raise awareness about trafficking in persons, thousands of leaflets had been published in different languages, and training courses had been arranged for law enforcement officers and NGOs, as well as the public at large. Many of the measures to combat procurement for prostitution, such as community policing, had been implemented to combat human trafficking as well, by identifying victims and preventing sexual exploitation.

27. **Mr. Zhu Lin** (Macao, China) said that law-making in Macao, China, involved performing comparative studies of other countries' laws and holding public consultations to achieve a broad consensus. All laws aimed to protect citizen's rights, including those established in the Covenant. The national security laws condemned violent action but allowed peaceful and non-violent means of pursuing changes in government policy. They applied only to the most serious threats to national security, not to peaceful strikes and demonstrations. The provisions on the protection of State secrets applied only to materials classified as secret documents and covered only matters related to national defence, foreign relations and relations between Macao, China, and the central Chinese authorities, not financial or business information. Nobody had been prosecuted under the new national security laws.

28. **Ms. Teng Nga Kan** (Macao, China) said that half of the 10,000 complaints handled by the Labour Affairs Bureau in 2012 had been filed by non-resident workers, but none had involved complaints of discrimination. Most of the 110,000 non-resident workers in Macao, China, came from mainland China or the Philippines. Non-resident workers were imported to compensate shortages in the local labour supply. To obtain a work visa, they had to specify their chosen area of work and have a labour contract prior to entering the territory. The regulations therefore did not interfere with their freedom to choose their occupation; they merely regulated the work they performed once they were in Macao, China.

29. **Ms. de Sousa Ferreira** (Macao, China) said that, in the past 10 years, only 586 persons had been denied entry to Macao, China, on the grounds that they posed a threat to public security, which was a tiny fraction of the total number of visitors the territory received. The journalists who had recently been denied entry had been barred on account of their profile as activists, not their profession. The videotaping of demonstrations was a public security measure that did not target specific persons or groups and was carried out in accordance with the pertinent laws. The recent reports of possible police misconduct in the removal of persons from a public place during a visit by important dignitaries was being investigated, and disciplinary measures would be imposed if misconduct was confirmed. The police had internal procedures for addressing such problems, which were isolated incidents that did not reflect government policy, and police officers were receiving more training in how to handle such situations.

30. **Ms. Lam Pui Cheng** (Macao, China) said that the Macao Government protected freedom of expression and the independence of the press. Under a new scheme, whereby each government department had a spokesperson for liaising with the press, the media had better access to information, and cooperation between the Government and the media had improved. Although it was a small territory with a small population, Macao, China, had a very active press. Inhabitants had access to the media of Hong Kong, China, as well as to 16 local newspapers and local television and radio stations. The Government had been providing financial subsidies to the Macao media to boost their human and technological capacities in the face of the competition from neighbouring areas and to ensure that the press was not unduly influenced by political or economic interests. Libel offences have been established in the press laws.

31. **Ms. Chu Lam Lam** (Macao, China) said that both the Basic Law and local laws protected the right to peaceful assembly. Since the new national security laws had been passed, about 400 peaceful assemblies and 20 demonstrations had been held each year, which showed that freedom of assembly had not been curtailed. There were over 5,000 NGOs in Macao, China, working in many fields, mainly those related to the protection of particular social groups. To prepare the initial report for the Committee, government departments had been asked to report on their activities and they in turn had consulted NGOs. The report, as well as the ensuing list of issues and the Government's replies, had been posted on the government website for comment, and the Committee's observations would be made available to all stakeholders, including the press and NGOs.

32. **Mr. Iong Kong Io** (Macao, China) said that children of all residents of Macao, China, were entitled to 15 years' free education. Children of non-residents who had been in the country for over 90 days could enrol in fee-paying schools. Corporal punishment was prohibited, and guidelines on the matter had been published by the education authorities. No cases of corporal punishment in schools had been reported to date.

33. **Mr. Shany** asked the delegation to clarify whether amendments to electoral law required the approval of mainland China or whether they could be approved by a two-thirds majority of the Legislative Assembly and with the consent of the Chief Executive and then reported to the Standing Committee of the National People's Congress. He also wished to know how many members of the Chief Executive Election Committee were drawn from the Legislative Assembly.

34. **Ms. Chu Lam Lam** (Macao, China) said that the number of members of the Legislative Assembly on the Election Committee had increased from 16 to 22. Under the Basic Law, the Chief Executive had to be elected by a broadly representative election committee. Decisions had to be reported to the Standing Committee for approval by the National People's Congress. The scope of the public consultation of the decisions was then determined. The Government then submitted the amendment to the Legislative Assembly for adoption and subsequent approval by the Chief Executive, and finally for approval and filing by the Standing Committee.

35. **The Chairperson** said that the delegation had provided valuable information in a highly professional manner. The Committee had been reassured by the Government's serious response to the problem of trafficking in persons and the sex trade and appreciated the explanation that the anti-corruption commission also served as the ombudsman. Not all of its concerns had been dispelled, however. With regard to the interpretation of the Basic Law, for example, the Committee found it odd that a legislature should be responsible for interpreting its own legislation. Clarification of which body had submitted a request for the Law to be interpreted in 2003 would be appreciated, since article 143 of the Law envisaged only the courts submitting such requests. With regard to universal suffrage, it was hard to imagine that, upon consultation, the population at large had proposed that the Chief Executive should be elected on the basis of the two-thirds majority vote of 1 per cent of the

population. The exchange on the issue of freedom of expression had been useful, but the Committee could not understand how Hong Kong journalists might be considered a threat to the security of Macao, China. The fact that another incident involving the curtailment of freedom of expression had resulted in the institution of police disciplinary procedures was nevertheless encouraging, and the Committee looked forward to learning the outcome of the corresponding inquiry.

The meeting rose at 1.05 p.m.