



International Covenant on Civil and Political Rights

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Human Rights Committee

List of issues in relation to the second periodic report of Macao, China*

Constitutional and legal framework within which the Covenant is implemented (art. 2)

1. Please provide information on specific training on the Covenant provided to government officials, members of the Legislative Assembly, prosecutors, judges and lawyers. With reference to the Committee's previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 5), please provide information on the application of the Covenant by courts of Macao, China, including specific cases in which provisions of the Covenant have been invoked or applied by courts and remedies provided for individuals claiming a violation of their rights as enshrined in the Covenant. Please also indicate whether Macao, China, has taken any steps to review its position on the declaration and reservation made with respect to articles 12 (4), 13 and 25 (b) of the Covenant.

2. With reference to the Committee's previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 6), please indicate the extent to which Macao, China, has made an effort to ensure that the interpretations of the Basic Law of the Macao Special Administrative Region of the People's Republic of China by the Standing Committee of the National People's Congress do not undermine the obligations of Macao, China, under the Covenant, particularly articles 2 and 14 of the Covenant, or conflict with the principle of the rule of law. Please clarify how Macao, China, deals with situations in which interpretations of the Standing Committee are not in conformity with the Covenant, and share any specific examples. Please provide information on interpretations of the Basic Law issued by the Standing Committee since the previous review by the Committee.

3. With reference to the Committee's previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 8) and the information supplied by Macao, China (CCPR/C/CHN-MAC/2, paras. 48–52), please provide information on the steps taken to establish an independent human rights institution that is fully in compliance with the principles relating to the status of national institutions for the promotion and protection of human rights (the Paris Principles), including by strengthening the independence and extending the mandates of the Commission against Corruption and other existing institutions to promote and protect the rights enshrined in the Covenant.

Non-discrimination and equality between men and women (arts. 2, 3, 25 and 26)

4. Please provide information on the measures taken to ensure that anti-discrimination legislation prohibits all forms of discrimination, including direct, indirect and multiple discrimination, in all spheres, in both the public and the private sectors, on all the grounds prohibited under the Covenant. Please indicate whether Macao, China, is considering developing comprehensive anti-discrimination legislation in this regard.

5. Please indicate any steps taken to legally recognize transgender persons and to enable them to change the gender marker on their birth records and identity documents, and

* Adopted by the Committee at its 129th session (29 June–24 July 2020).



provide information on the outcome of the study conducted by the Legal Reform Advisory Committee in this regard. Please also indicate the extent to which Macao, China, has taken steps to provide legal recognition of and protection for same-sex couples, and the measures taken or envisaged to extend the purview of Law No. 2/2016 to protect same-sex couples under the law.

Gender-based violence (arts. 2, 3, 6, 7 and 26)

6. Please comment on reports that cases of domestic violence are often reclassified from the crime of domestic violence to that of simple assault during legal proceedings owing to the vague definition of domestic violence provided by law. Please indicate the measures taken to enhance the enforcement of Law No. 2/2016. With reference to the information supplied by Macao, China (CCPR/C/CHN-MAC/2, para. 114), and in view of the minimal number of complaints lodged regarding sexual harassment in the workplace, please clarify the effectiveness of the amendments made to the Criminal Code, in particular article 164-A, which provides for sexual harassment as an autonomous crime.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment or punishment, and liberty and security of person (arts. 6, 7, 9, 10 and 14)

7. Please clarify the status of the draft law on interregional legal assistance in criminal matters and indicate the provisions of the draft law that protect offenders transferred from Macao, China, to mainland China from the risk of imposition of the death penalty or ill-treatment upon arrival. Please provide updated information on the negotiations with mainland China on the arrangement for the surrender of fugitive offenders and indicate the provisions included in the agreement to ensure its compliance with articles 6 and 7 of the Covenant. Please clarify reports that Macao officials have deported criminal suspects to mainland China despite the rulings of the Court of Final Appeal, and provide information on such cases, including the number of cases and the charges faced by the suspects.

8. Please provide information on the legislative and institutional measures taken to establish or strengthen an independent mechanism, with adequate investigative powers, to handle complaints about and monitor the conditions and treatment in prisons, psychiatric institutions and other places of detention. Please clarify the reasons for the high ratio of foreigners in the prison population. In view of the high prison occupancy rate, please provide information on the measures taken to mitigate the impact of the coronavirus disease (COVID-19) pandemic and to reduce the risk of infection in prisons and other places of detention.

Treatment of aliens, including migrants, refugees and asylum seekers (arts. 7, 9, 12, 13 and 24)

9. With reference to the information supplied by Macao, China (CCPR/C/CHN-MAC/2, para. 193), please clarify the status of the two pending applications for refugee status, which have been awaiting a decision for a considerable number of years. Please also provide information on the steps taken to expedite the process and on the protection provided to the asylum seekers in these cases.

Elimination of slavery, servitude and trafficking in persons (arts. 2, 7, 8 and 26)

10. With reference to the Committee's previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 17) and the information supplied by Macao, China (CCPR/C/CHN-MAC/2, paras. 59–60), please indicate the measures taken to enhance the effectiveness of the legislative framework and mechanisms in place to protect the rights of migrant workers. Please comment on reports that, despite Decree-law No. 32/94/M, recruitment agencies charge domestic workers two month's salary, and some employers of domestic workers deduct recruitment agencies' commission fees from their wages. Please indicate the extent to which Macao, China, has taken measures to strengthen the enforcement of labour laws, including Decree-law No. 32/94/M and minimum wage legislation, to protect the rights of migrant workers.

11. With reference to the information supplied by Macao, China (CCPR/C/CHN-MAC/2, para. 135), please provide information on the measures taken to address the difficulties in prosecuting and sentencing perpetrators for the crime of trafficking in persons

owing to the lack of evidence. With reference to the Committee's previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 13), please specify the measures taken to guarantee adequate protection, reparation and compensation for victims, including rehabilitation, and to provide legal alternatives to the removal of victims from Macao, China, in order to protect them from retribution. Please provide information on the protection and assistance for victims of trafficking in persons as provided for in the agreements that Macao, China, has concluded or is negotiating with other parts of China and other countries in order to combat trafficking in persons and/or to provide legal and judicial assistance.

Access to justice, independence of the judiciary and fair trial (arts. 2 and 14)

12. With reference to the information supplied by Macao, China (CCPR/C/CHN-MAC/2, paras. 212–213), please provide information on the effectiveness of the measures taken so far to reduce the backlog, including Law No. 9/2013 and the instructions of the Judicial Council, and provide updated data on the backlog of cases and the average time for adjudicating cases, at all levels of courts. Please also indicate the measures taken or envisaged to further reduce the backlog of cases at all levels of court. Please provide information on the measures taken to further promote bilingualism in court proceedings, particularly in civil and labour proceedings, and to provide interpretation services for individuals whose native languages are not Chinese or Portuguese. Please specify the progress made in improving the effectiveness of the legal aid system since the enactment of Law No. 13/2012 and the establishment of the Legal Aid Commission.

13. Please comment on allegations that article 19-A of Law No. 9/1999 (as amended), which provides for the preselection of prosecutors and judges by the Prosecutor General and the Judicial Council for the crimes defined in the national security law, violates the principles of independence and impartiality of the judiciary and that the preselection of Chinese judges amounts to the creation of a special court for certain types of crimes. Please also provide information on the criteria applied for the preselection of judges and prosecutors under article 19-A of Law No. 9/1999 (as amended).

Right to privacy (art. 17)

14. With reference to the information supplied by Macao, China (CCPR/C/CHN-MAC/2, para. 222), and in view of the increased number of complaints filed with and investigations conducted by the Office for Personal Data Protection, please specify the measures taken to improve the enforcement of Law No. 8/2005. Please provide information on the legal safeguards against abuse of wiretapping by law enforcement officials and the mechanisms put in place to monitor the practice of wiretapping, and clarify the status of the Government's proposal for a new regime on interception and protection of communications and whether it is in accordance with article 17 of the Covenant. In view of the plan of Macao, China, to introduce facial recognition technology, known as "Sky Eye", to the public CCTV system, please indicate the safeguards provided for in legislation against the abuse of data collected through Sky Eye and the restrictions on the use of Sky Eye.

Freedom of expression (arts. 19 and 20)

15. Please clarify whether Macao, China, has taken any steps to decriminalize defamation, particularly defamation of public officials, disinformation, and insults to the national flag, emblem and anthem. Please also clarify the status of the draft law on the bases of civil protection and any intention to remove the provisions criminalizing disinformation in article 25 of the draft.

16. Please comment on reports that there have been an increased number of refusals to grant entry to journalists from Hong Kong for security reasons and an increased number of incidents of threats and harassment experienced by local journalists, particularly around politically sensitive events, including the visit by the President of China to Macao, China, in December 2019. Please provide information on the number of journalists whose entry into Macao, China, has been refused for security reasons in the past five years.

17. Please provide information on the measures taken to provide an enabling environment for the media, civil society and political groups to freely express their opinions, including dissenting opinions. Please comment on reports that:

(a) The polls and mock referendum organized by civil society organizations and political groups to consult the public on the political system have been forced to close down and their organizers have been subject to legal proceedings and other threats;

(b) Outspoken academics, namely Bill Chou Kwok-ping and Éric Sautedé, were dismissed by their respective universities in 2014 owing to their political opinions and were unable to obtain legal remedies;

(c) Local authorities have interfered with public expression of support for protests in Hong Kong and criticism of video surveillance, including by removing a so-called “Lennon Wall” of messages of support at Nam Van Lake;

(d) Obstacles have been placed on the ability of online media outlets to obtain access to GovInfo Hub, a government information portal for the media.

Peaceful assembly (art. 21)

18. In the light of the decision of the Macao police and the ruling of the Court of Final Appeal in 2019 to ban a rally protesting against the police brutality in Hong Kong for “purposes contrary to the law”, please provide a definition of “for purposes contrary to the law”, provided for in article 2 of Law No. 2/93/M, and indicate any guidelines provided to the Public Security Police Force as to how to interpret it. Please comment on reports that the conditions imposed on assemblies and demonstrations, particularly those of a politically sensitive nature, have been more restrictive since responsibility for receiving notifications about assemblies and demonstrations was transferred to the Public Security Police Force under Law No. 11/2018; and explain any changes introduced to the notification procedure since the adoption of Law 11/2018 and the criteria applied by the Municipal Affairs Bureau for granting permits to event organizers to use public places.

19. Please comment on reports that the authorities have relied too heavily on public health grounds during the COVID-19 pandemic to ban assemblies, particularly those of a political nature, including the Tiananmen memorial events on 6 June 2020. Please also specify the measures taken to ensure that the restrictions imposed by Macao, China, on the exercise of the right of peaceful assembly in the context of combating the COVID-19 pandemic are limited to the extent strictly required under articles of 4 and 21 of the Covenant. Furthermore, please provide information on applications for assemblies, including scattered vigils, and refusals thereof during the COVID-19 pandemic, including relevant statistical data and the purposes of the assemblies.

20. With reference to the Committee’s previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 16) and the information supplied by Macao, China (CCPR/C/CHN-MAC/2, paras. 260 and 261), please indicate the efforts made to ensure that the application of articles 298 and 300 of the Criminal Code is fully in accordance with article 21 of the Covenant. Please provide information on the cases of arrest and detention made under articles 311 and 312 of the Criminal Code during the reporting period. Please indicate the legal safeguards against the abuse and misuse of images and information obtained through video recording during demonstrations, and the avenues for complaints and legal remedies in this regard.

Freedom of association (art. 22)

21. Please provide information on labour legislation that protects the rights to form and join trade unions and to strike, and indicate whether Macao, China, plans to enact a trade union law to protect this right. Please indicate the measures taken to protect workers involved in trade union activities from discrimination and retaliation.

Participation in public affairs (arts. 25, 26 and 27)

22. With reference to the Committee’s previous concluding observations (CCPR/C/CHN-MAC/CO/1, para. 7), please provide information on any measures taken in connection with the introduction of universal and equal suffrage for all elections – for the Chief Executive, the Legislative Assembly and the Municipal Council – and on any measures taken to abolish or reduce the ratio of indirectly elected or appointed seats in the Assembly. Please also provide information on the criteria used by the Electoral Affairs Commission to disqualify candidates for the Legislative Assembly under Law No. 9/2016.

Furthermore, please provide information on the suspension from office of Sou Ka Hou, a member of the Legislative Assembly.
