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Summary record of the 2962nd meeting*

Held at the Palais Wilson, Geneva, on Monday, 18 March 2013, at 3 p.m.

Chairperson: Sir Nigel Rodley

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* No summary record was prepared for the 2961st meeting.

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

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

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

1. *At the invitation of the Chairperson, the delegation of China took places at the Committee table.*

2. **Mr. Liu Zhenmin** (China) briefly recalled the particular status of the Macao Special Administrative Region (SAR) and explained that, in accordance with the policy “one country, two systems” and the Basic Law of the Macao Special Administrative Region, the provisions of the Covenant had remained in force in Macao following the restoration of the sovereignty of China and the establishment of the Special Administrative Region on 20 December 1999. The initial report of Macao, China on the implementation of the Covenant had been prepared independently by the SAR.

3. **Ms. Da Rosa Silva Chan** (Macao, China) said that, since the handover, there had been constant progress in the social development of the Macao SAR. Legislative texts had been adopted in order to fulfil the obligations arising from the Covenant and other international human rights instruments, particularly with regard to data protection, the fight against drugs and trafficking in human beings, labour relations, persons with disabilities, refugees, access to justice and legal assistance and the protection of women and children. A growing number of institutions for the promotion and protection of human rights, composed of eminent persons and representatives of NGOs, had been set up and the Government maintained a regular dialogue with NGOs. In 2012, with a view to further democratization of the political system, the Macao SAR had undertaken to modify the methods for forming the Legislative Assembly and for selecting the Chief Executive. A process of public consultation had been set in motion.

4. **Ms. Chu Lam Lam** (Macao, China) briefly introduced the State party’s written replies to the list of issues established by the Committee (CCPR/C/CHN-MAC/Q/1/Add.1). International instruments were applicable to the Macao SAR through incorporation; their provisions could be directly applied by the courts and invoked by individuals. The rights of Chinese nationals of the SAR who held Portuguese travel documents had not been restricted after the handover and those persons enjoyed the same rights and freedoms as residents, in accordance with the Basic Law. The Macao SAR guaranteed freedom of the press, freedom of speech and freedom of publication.

5. In order to protect women, minors, the elderly and persons with disabilities, the Government was currently drafting a law on the prevention of domestic violence and a legal framework for the protection of the rights and interests of the elderly. The legislation prohibited all forms of corporal punishment of children, in particular in schools, and Law No. 2/2007 on the Educational Supervision Regime for Youth Offenders expressly prohibited measures that could harm the physical integrity, health and dignity of minors under the care of the Young Offenders Institute. Discrimination in regard to the employment of non-resident workers was also prohibited; no such complaint had so far been brought to the notice of the Labour Affairs Bureau.

6. Efforts to combat terrorism did not affect the protection of human rights and any person suspected of terrorist activity or financing terrorism in the Macao SAR benefited from procedural guarantees, the right of appeal, habeas corpus, the right to compensation for illegal arrests and the right to fair public hearings. The Criminal Code provided for the penalization of the sexual exploitation of women and the Macao SAR cooperated with the International Criminal Police Organization (Interpol) in combating organized crime and

trafficking in human beings. Lastly, the Government encouraged the establishment of NGOs in the State party and provided financial support for those engaged in charitable, medical or educational activities, thereby showing its respect for the right to freedom of association.

7. **Mr. Kälin** said that it would be useful to know what exactly was meant by “incorporation” of the Covenant and which of its provisions had required the adoption of a legislative text in order to be applicable. Referring to paragraph 13 of the written replies, he noted that the fact that the Director of the Judiciary Police could be both the victim and an investigator in a case of libel was not fully consonant with the basic principles of a fair trial; that could be a point of conflict between local law and the Covenant. He asked how the Commission Against Corruption, which functioned as an ombudsman and whose mandate had been broadened to include many aspects of human rights, could truly monitor the implementation of all the rights guaranteed by the Covenant. Did it have authority to investigate cases not involving corruption and to what extent was it independent?

8. Referring to Law No. 6/2006 on Legal Cooperation in Criminal Matters, under which residents of the Macao SAR could not be transferred to countries where they would be at risk of ill-treatment, imprisonment for life or an indefinite period or the death penalty, but which was not applicable within the territory of the People’s Republic of China, he wished to know whether Macao SAR residents who had committed offences were ever transferred to the mainland of China, even if they risked the death penalty; that would not be compatible with the provisions of the Covenant. The Committee would also like to know whether the Macao SAR was intending to withdraw certain reservations it had entered to the Covenant in 1999.

9. **Ms. Motoc** inquired about the safeguards available to suspects under Law No. 3/2006 on the prevention and suppression of terrorism. She requested further information about its application in practice and whether, in particular, foreigners were expelled from the Macao SAR on suspicion of terrorist activity. It would also be interesting to know whether Law No. 9/2002 on internal security guaranteed the exercise of rights that could not be waived in states of emergency.

10. **Mr. Flinterman** asked whether, in the event that article 18 of Law No. 9/2002 authorizing the police to engage in wiretapping would one day be applied, the person concerned would benefit from legal safeguards and could appeal against the decision of the judge authorizing the monitoring of communications. He wished to know the exact number of juvenile offenders, how many juveniles were interned and what alternative penalties were actually applied.

11. **Mr. Ben Achour** requested precise figures to supplement the written reply of the State party concerning the employment of men and women (para. 39). Information about the scale and causes of the wage gap between men and women in the private sector would also be welcome. Was the State party considering the possibility of granting financial compensation to women who chose to stay at home? Concerning the Labour Affairs Bureau, there seemed to be a discrepancy between the activities described in paragraph 41 of the written replies and the fact that the Bureau had not received any complaints between January 2009 and November 2012. He wished to know what stage had been reached in the preparation of the law on domestic violence and to have fuller information about the reported decrease in the number of cases of violence against children. Did the Government have statistics on sexual harassment and was it intending to adopt a law on the issue? Data concerning the prison population, disaggregated by age in particular, and on disciplinary measures other than solitary confinement would also be desirable. He requested the State party to provide information about the changing rate of bilingualism in the population and any effects that it might have on the use of the two official languages in legislative texts and judicial procedures.

12. **Mr. Shany** recalled that the absence of a law on sexual harassment had already been noted by the Committee on the Elimination of Discrimination against Women and the International Labour Organization and said that he too was curious about the State party's intentions in that regard. He also recalled that the Committee against Torture had also expressed concern about the placing of juveniles in solitary confinement for periods of up to a month and asked whether the State party was planning to review the law authorizing such a measure. It would also be appreciated if the delegation could tell the Committee what measures were planned to increase the number of judges and reduce delays in the handling of cases.

13. **Ms. Seibert-Fohr** requested clarification of the significance of China's declaration of 3 December 1999 concerning the application of the Covenant in the Macao SAR, noting in particular that such application should not be subject to local law and that, needless to say, any restrictions to rights and freedoms must not run counter to the provisions of the Covenant.

14. **Ms. Waterval** asked whether the Macao SAR had any rehabilitation programmes for perpetrators of domestic violence.

15. **Ms. Chanet** noted that the power to interpret the Basic Law of the State party rested with the Standing Committee of the National People's Congress, which could delegate it to the Macao SAR courts but was itself not bound by the Covenant. Moreover, in some cases the courts had to consult the Standing Committee before reaching a decision. It would be interesting to know whether that had already happened, particularly on issues relating to implementation of the Covenant.

The meeting was suspended at 4.35 p.m. and resumed at 5 p.m.

16. **Ms. da Rosa Silva Chan** (Macao, China) said that the State party was not planning to set up an institution for human rights but that such rights were currently protected, in particular, by the Basic Law, the judicial bodies, the Ombudsman, the system of legal assistance, the Legal Affairs Bureau and the Data Protection Bureau. In addition, NGOs, the media and civil society monitored the human rights situation.

17. **Ms. Chu** Lam Lam (Macao, China) said that the vast majority of people in the Macao SAR spoke only Chinese. Efforts were nevertheless being made for Portuguese speakers and bilingual persons, for historical reasons and in order to promote cooperation with other Portuguese-speaking countries. Various steps were being taken to encourage the learning and use of Portuguese.

18. **Ms. Fernandes de Sousa Ferreira** (Macao, China) said that, under article 1 of the Civil Code, international law took precedence over local law. Some articles of the Covenant had already been invoked during court proceedings, but no conflict with local law had arisen so far. In accordance with article 40 of the Basic Law, the provisions of the Covenant were implemented through local legislation, even if they were self-enforcing, as in the case of the prohibition of torture, for example. The declaration of China concerning restrictions that could be placed on the rights of residents of the Macao SAR was in accordance with article 12, paragraph 3, of the Covenant, which stipulated that such restrictions must be provided by law and not be inconsistent with the Covenant. While it was true that sexual harassment in the workplace was not penalized as a specific offence, there were nevertheless provisions that made it punishable. In addition, article 171 of the Criminal Code provided for heavier penalties in cases of sexual abuse when a hierarchical relationship existed between the perpetrator and the victim.

19. There was no interregional agreement whereby fugitive offenders could be transferred between the mainland of China and the Macao SAR. However, negotiations were in progress with a view to the conclusion of interregional agreements on judicial

cooperation in criminal matters. Situations in which a person could be refused entry into the Macao SAR were clearly defined in the internal security law. Such was the case when a person represented a threat to internal security or was suspected of having links with transnational crime, particularly terrorist organizations. The police authorities exchanged intelligence with their foreign counterparts and with Interpol. Law No. 9/2002 provided for the possibility of restricting the exercise of certain rights during states of emergency, but the necessity, proportionality and appropriate character of restrictions were subject to prior evaluation; the duration of such measures was limited to 48 hours and could be extended only with the approval of the Legislative Assembly and the Executive Council. Restrictions were temporary measures to enable the police to keep a watch on individuals or buildings, carry out identity checks, confiscate weapons, refuse entry to non-residents or expel anyone representing a threat to internal security. No restriction could be applied to non-derogable rights and freedoms. Wiretapping was allowed only in cases of a threat to internal security and by order of the courts, which were required to decide whether it was necessary. The rights of suspects were thus respected.

20. With regard to the fact that, in case No. 792/2010, the Director of the Judiciary Police who had filed a complaint for libel could be both victim and investigator, it needed to be made clear that in the Macao SAR justice system, the Public Prosecutions Office was the body responsible for investigating criminal offences. In the case in point, the Judiciary Police had carried out the investigation under the supervision of that Office, but as the Director of the Judiciary Police had not been the one who had collected evidence, impartiality had been ensured. However, in such cases, where suspects considered that they had not benefited from fair treatment, they could refer the matter to the Ombudsman or the Public Prosecutions Office.

21. **Mr. Zhu Lin** (Macao, China) said that the Standing Committee of the National People's Congress was indeed responsible for interpreting the Basic Law, which was not a law of the Macao SAR; it had been adopted by the National People's Congress, which therefore itself interpreted its laws. However, article 143, paragraph 2, of the Basic Law provided that the Standing Committee could authorize the State party's courts to make their own interpretation in cases directly concerning the Macao SAR administration. Moreover, article 83 provided that they reached their rulings independently. They had not as yet been led to request an interpretation from the Standing Committee in accordance with article 143.

22. **Mr. Iong Kong Io** (Macao, China) said that a bill on the prevention of domestic violence and increased protection for victims was currently being finalized. In addition to punitive measures, the bill included the obligation for those perpetrating such acts to participate in a programme in order to change their behaviour. In 2012, only one case of a child victim of domestic violence had been reported. The Government had made huge efforts to combat domestic violence by organizing, in cooperation with civil society, consultations and awareness-raising campaigns on children's rights and their protection.

23. **Ms. Teng Nga Kan** (Macao, China) said that, in 2012, women represented 67 per cent of the total labour force, that the widest wage gaps between men and women were in the manufacturing sector and that elsewhere the differences were less marked. The general trend was towards a narrowing of the gaps. The Government had adopted temporary measures to enable low-income groups, for example those in part-time jobs, to receive allowances, while women who stayed at home to look after their children could also apply for assistance.

24. **Ms. Chu Lam Lam** (Macao, China) said that international law formed a direct part of the SAR's law and prevailed over local legislation in cases of conflict. There was no need to enact laws for its implementation. However, certain provisions had to be spelled out in a local law. For example, although freedom of association enshrined in the Covenant

could be directly invoked, the way in which associations were formed was determined on the basis of administrative regulations; nevertheless, that did not mean that the rights set out in international instruments needed to be integrated into local legislation in order to be implemented.

25. In case No. 792/2010, the persons accused of libel had claimed a violation of their rights under article 14 of the Covenant since the presumed victim was the Director of the Judiciary Police. The court had found, however, that those allegations were not founded as the investigation had been conducted by the Public Prosecutions Office and by the Judiciary Police, which was not inconsistent with article 14 of the Covenant.

26. **Mr. Kälin**, reverting to the question of the establishment of a national human rights institution, asked whether existing human rights protection mechanisms were sufficiently independent. More precise information on the role of the Commission against Torture and the Ombudsman in matters of human rights would be welcome, and also, with reference to the Covenant, on how negotiations were being conducted with Mainland China with a view to an interregional agreement on the handing over of fugitive offenders.

27. **Mr. Matadeen** asked the delegation to comment on certain NGO reports that translations into official languages of the laws adopted by the Legislative Assembly and final judgements were of poor quality.

28. **Mr. Shany** said that, 10 years earlier, according to statistics at his disposal, a very small number of businesses were run by women (about 1.3 per cent). He asked whether there was a problem in that respect in the State party and whether steps were being taken to encourage women to be more present in the business world.

29. **The Chairperson**, referring to case No. 792/2010, asked whether it was therefore to be understood that the presumed victim, namely, the Director of the Judiciary Police, had not himself taken part in the investigation and whether steps had been taken to make sure that police officers tasked with the investigation, although placed under the authority of the Public Prosecutor, felt free to investigate. He thanked the delegation for its replies and invited it to continue the dialogue with the Committee at the following meeting.

The meeting rose at 6.05 p.m.