



**International Covenant on  
Civil and Political Rights**

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**Human Rights Committee**

**Second periodic report submitted by Macao,  
China under article 40 of the Covenant, due in  
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## **I. Introduction**

1. The present report is the second to be submitted by the Macao Special Administrative Region of the People's Republic of China (MSAR) to the United Nations Human Rights Committee (HRC) through the Central People's Government (CPG). It covers the period from January 2011 to June 2017.
2. This report was prepared in the light of the guidelines adopted by the HRC regarding the form and content of reports to be submitted by States parties to the international human rights treaty bodies (HRI/GEN/2/Rev.6) in conjunction with the guidelines for the treaty-specific document to be submitted by States parties under Article 40 of the Covenant (CCPR/C/2009/1) and A/RES/68/268.
3. Information contained in the report should be considered in conjunction with Part III of China's Core Document (HRI/CORE/1/Add.21/Rev.2 and HRI/CORE/CHN.MAC/2010), as well as information provided in the MSAR's latest reports on human rights (HR) and connected documents, in particular the International Convention on the Elimination of All Forms of Racial Discrimination (CERD), Convention on the Rights of the Child (CRC), Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), International Covenant on Economic, Social and Cultural Rights (ICESCR) and Convention on the Rights of Persons with Disabilities (CRPD).
4. This report pertains to the implementation of the Covenant in the MSAR and it was prepared by the MSAR Government, based on the contributions from its relevant departments and entities and an online public consultation.
5. Information and data provided in the report is focused primarily on changes in legislation and measures relating to substantial developments occurred in the MSAR during the covered period. It will be presented in a summarised and updated form. The HRC's concerns and recommendations expressed in its concluding observations are considered in the respective provisions of the Covenant.
6. Progress was attained at several levels. New legislation related to HR was enacted (e.g. to counter domestic violence, sexual harassment and other crimes against sexual self-determination; to reinforce the legal aid system; to protect cultural heritage). Measures have been adopted to strengthen gender equality and to provide adequate assistance to vulnerable persons (disabled, children, women, elderly). Campaigns and specialised training courses designed for officials, the judiciary and different community sectors focused on HR have been undertaken. The role of the civil society as a partner of the Government and the Government's proactive nature on HR dissemination should be underscored, including the process of public consultation for major policies and legislation.
7. Notwithstanding the above, the Government acknowledges that there is still room for improvement and there are still shortcomings where progress should be attained. This is an ongoing responsibility, the Government being fully committed to overcome difficulties that hamper the full implementation of the Covenant in the Region.
8. A list of the quoted legislation is provided in Annex I. A CD-ROM of the 2016 Yearbook of Statistics is annexed to the report with data concerning the enjoyment of the rights enshrined in the Covenant.

## **II. Information relating to the Articles of the Covenant**

### **Articles 1 and 25**

#### **The MSAR autonomy and freedom to pursue economic, social and cultural development**

9. The MSAR was established on 20 December 1999, when China resumed the exercise of sovereignty over Macao. The MSAR is a local administrative region of China

and is directly subordinated to the CPG (Article 12 of the Basic Law (BL) of the MSAR). Its political and institutional structure is described in detail in the Core Document and in the initial report.

10. As stated, the MSAR exercises a high degree of autonomy and enjoys executive, legislative and independent judicial power (including that of final adjudication). Defence and foreign affairs are the responsibilities of the CPG, though certain external affairs competences were conferred to the MSAR (Articles 13 (3) and 136 of the BL).

11. Regarding paragraph 7 of the HRC's concluding observations, the MSAR's unique legal status should be underscored within China's "One Country, Two Systems" principle and policy.

12. The BL establishes the rules governing the MSAR's electoral system, including that for the Chief Executive (CE) and the Legislative Assembly (LA).

13. A high degree of autonomy is attained through the BL wherein it is assured that the MSAR shall be ruled by its own people. The executive and the legislature of the Region are solely composed of permanent residents of the MSAR.

14. The preservation of the previous social system and way of life and the self-governing powers and independent decision-making capacity of the MSAR in the areas laid-down in the BL (within its sphere of competence) are the key driven-factors of the MSAR's autonomy (Articles 2, 3, 5, 8 and 11).

15. National cohesion, territorial integrity and social stability are guaranteed under the BL.

16. In relation to the application of the Covenant in the MSAR, China notified the Secretary-General of the United Nations (UN) that, from 20 December 1999, its provisions as applied to Macao would be implemented through the laws of the MSAR and that China would assume the responsibility for the international rights and obligations placed on a Party to the Covenant, considering that the Covenant only binds sovereign States.

17. At that time, China made a declaration and a reservation to Articles 12(4), 13 and 25(b) of the Covenant.

18. Pursuant to the BL, the MSAR is an inalienable part of China.

19. The MSAR has been smoothly improving its electoral system, promoting steadily its democratic political development and the freedom of its residents to pursue their own collective economic, social and cultural development.

20. Indeed, the number of directly elected deputies of the LA has been gradually increasing. The 1st LA was composed of 23 deputies, of which 8 were directly elected; the 2nd LA was composed of 27 deputies, of which 10 were directly elected; the 3rd and 4th LA were composed of 29 deputies, of which 12 were directly elected; the 5th LA (et seq.) was composed of 33 deputies, of which 14 were directly elected (Law 12/2012). The term of office of the legislature is 4 years. Currently, Law 3/2001, the Electoral Law for the LA, as amended by Law 12/2012, established the number of deputies for the 5th and following LA terms till further revision.

21. Law 3/2004, on the CE election, as amended by Law 11/2012, increased the number of Election Committee members to elect the CE from 300 to 400 and the number of votes of each legal person with electoral capacity from 11 to 22. The number of signatories to propose a candidate was increased from 50 to 66 among Election Committee members. The number of members per sector was changed: 1st sector (industrial, commercial and financial) from 100 to 120, 2nd sector (cultural (26 members), educational (29), professional (43), sports (17)) from 80 to 115, 3rd sector (labour (59), social services (50), religious (6)) from 80 to 115 and 4th sector (representatives of the LA (22), representatives of the MSAR in the NPC (12) and in the National Committee of the Chinese People's Political Consultative Conference (16)) from 40 to 50.

## **Articles 2 and 26**

### **Rights to equal protection before the law and to non-discrimination**

#### **Guarantees of full and non-discriminatory enjoyment of the rights enshrined in the Covenant**

22. As illustrated in the Core Document, the MSAR legal system guarantees that all persons within the MSAR, or subject to its jurisdiction, are equal before the law, irrespective of their nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions. This principle is enshrined in Articles 25 and 43 of the BL, which is at the top of the MSAR's normative hierarchy followed by applicable international treaties and ordinary legislation.

23. The MSAR is a civil law system, thus publication of laws is a prerequisite for their effectiveness.

24. As stated in the Core Document and in the initial report, Article 40 of the BL determines that the provisions of the Covenant, the ICESCR and international labour conventions (ILO) as applied to Macao shall remain in force and shall be implemented through the MSAR laws. The rights and freedoms enjoyed by MSAR residents shall not be restricted unless as prescribed by law. Such restrictions shall not contravene the provisions of Article 40.

25. The rights to equality and non-discrimination are deeply enshrined in the MSAR legal system by a diversity of sources and at various layers of the normative system. Both find expression in the double meaning that everyone is equal before the law and through the law. They also encompass the prohibition of illegitimate subjective discrimination and constitute a guiding stricture at the legislative, administrative and judicial levels to the entitlement to, and the enjoyment of, fundamental rights, while requiring a distinct treatment of different situations when it is objectively justified and measured. Thus, positive discrimination is only admissible as a required measure to correct de facto inequalities (Article 38 of the BL).

26. As mentioned, the above principles are reiterated, in particular, in the Civil Code (CC) and Administrative Procedure Code. The Macao Criminal Code (MCC) also criminalises offences related to hatred and discrimination.

27. Macao is a place where various communities live together with a wide range of ethnic, religious, linguistic and cultural backgrounds. Tolerance and respect for cultural diversity continue to be the keystones of the MSAR lifestyle. Every ethnic group shares the same dignity and is entitled to its own cultural life, to practise its own religion and to use its own language.

28. The MSAR's HR framework described in the initial report is basically unchanged. The core fundamental rights and freedoms enjoyed by residents as well as by non-residents are enshrined in Chapter III of the BL (Articles 24 to 44), without prejudice to other rights and freedoms being recognised in ordinary law.

#### **Measures to give effect to Covenant rights**

29. The Government has undertaken substantial and effective measures to promote adequate education on issues of tolerance and bias, in particular through the teaching of, and the conducting of public awareness campaigns on, equality and other fundamental rights under the BL.

30. In reply to paragraphs 5 and 18 of the HRC's concluding observations, the MSAR's report on the Covenant and the HRC's concluding observations were disseminated on the government portal, on the Legal Affairs Bureau's website and by means of a special edition of the "Macao Law Journal" related to the overall reporting mechanism.

31. Concerning the judiciary, the Legal and Judicial Training Centre (LJTC), responsible for organising training programmes for the Judicial and Procuratorate Magistracies, plays a key role in HR training, dissemination and awareness.

32. Within the magistrate training programme, there are courses on constitutional law and fundamental rights and specific courses, such as the protection of fundamental rights under criminal law – detention, pre-trial imprisonment and gathering of evidence in criminal procedure law (2015), origin, reasons and meaning of crimes against humanity (2016), protection of fundamental rights under criminal law (2016) and domestic violence (2016).

33. The LJTC also organises courses, seminars and workshops on HR protection for the legal profession, often in cooperation with other institutions like the Legal Affairs Bureau and the Institute of European Studies of Macau, and entities including the European Union (EU) and foreign renowned universities.

34. Within the framework of the Legal Cooperation Programme between the MSAR and the EU, the following HR seminars/conferences were organised: “Human Rights and Fundamental Freedoms: the Right of Privacy and the Right of Personal Data Protection” (2011); “Sexual Violence against Children”, “Marriage Legal Regime, Matrimonial Property Scheme” and “System of Fundamental Rights” (2012); “Protection of Fundamental Rights – Cultural Rights: Culture and Patrimonial Heritage Protection” and “International Judicial Co-operation” (2013); “Trafficking in Persons” (2014); “Psycho-social Affairs in the Contemporary Family” (2015); “European Union and Fundamental Rights”, “Drug Addiction and Drug Trafficking” and “Revision of the Criminal Code – Crimes against Sexual Freedom and Self-determination” (2016).

35. The Government has endeavoured considerable efforts to widely and comprehensively disseminate HR and organise public awareness-raising campaigns. This responsibility falls primarily on the Department for Legal Dissemination of the Legal Affairs Bureau.

36. The Legal Affairs Bureau provides information about the BL, HR conventions and legislation through TV and radio programmes, newspapers, seminars, leaflets, brochures, awareness campaigns, school activities, fairs and government websites ([www.gov.mo](http://www.gov.mo)/[www.macaolaw.gov.mo](http://www.macaolaw.gov.mo)). Recently, it has also released a mobile app for the BL (Chinese and Portuguese). Legislation is available on CD-ROMs and on the Printing Bureau website ([www.io.gov.mo](http://www.io.gov.mo)) in both official languages.

37. On the Legal Affairs Bureau’s website, one can access all the MSAR’s HR reports, list of issues, concluding observations in Chinese, Portuguese and English ([http://www.dsaj.gov.mo/ContentFrame\\_en.aspx?ModuleName=Content/en/dadidir/hrreport\\_en.ascx](http://www.dsaj.gov.mo/ContentFrame_en.aspx?ModuleName=Content/en/dadidir/hrreport_en.ascx)). Efforts have been undertaken to translate into English some key legislation such as the laws to counter human trafficking, domestic violence and mutual legal assistance in criminal matters ([http://www.dsaj.gov.mo/ContentFrame\\_en.aspx?ModuleName=Content/en/dadidir/keyLeg\\_en.ascx](http://www.dsaj.gov.mo/ContentFrame_en.aspx?ModuleName=Content/en/dadidir/keyLeg_en.ascx)).

38. Another highlight is the public consultation mechanism on draft legislation and policies, including the revision of the Criminal Procedure Code (CPC) (2011), Framework Law of the Elderly Rights and Guarantees, Framework Demographic Policy, Youth Policy (2012), revision of the Press Law (2013), revision of the legislation of Consumers Protection Rights and Interests (2014), revision of the MCC – Sexual Freedom and Sexual Self-determination, Protection Mechanism for the Elderly, revision of the Special Education Regime, revision of the Electoral Law for the LA, Planning of Rehabilitation Services (2016), Minimum Salary and the Creation of a Municipal Body (2017).

39. Between 2011 and 2016, the Legal Affairs Bureau organised a Q&A TV programme (46 series) and assisted the production of an educational TV show (13 series) and a radio programme (80 series).

40. HR brochures and leaflets are freely available in government departments, community centres and libraries. During the referred period, around 4,781 brochures on the Covenant and 3,823 on the ICESCR (Chinese, Portuguese and English) were distributed. About the promotion and dissemination of the BL that incorporates the rights enshrined in the Covenant, 86,036 brochures (Chinese, Portuguese and English) and 40,968 leaflets (Chinese and Portuguese) were distributed.

41. In 2013, leaflets on CAT (Chinese and Portuguese) and CRPD (Chinese, Portuguese and English) were displayed/distributed. In 2016, leaflets and posters on “Combating Human Trafficking” (Chinese, Portuguese and English) and, in 2017, posters on CRPD (Chinese and Portuguese) and leaflets on CRC in the MSAR (Chinese) were displayed/distributed.

42. Special editions of the “Macau Law Journal” covering the implementation of the core HR treaties applicable to the MSAR should also be highlighted. Documents are assembled in a systematic manner, in Chinese, Portuguese and English, with the aim of producing a user-friendly ground-breaking compilation for legal practitioners and the public. The latest editions were about CAT and CRPD in 2013 and the Covenant in 2016.

43. During the covered period, the Legal Affairs Bureau organised 351 seminars in primary and secondary schools with 16,014 participants, reinforcing gender equality and anti-bias.

44. Since 2016, the Legal Affairs Bureau, together with other government entities, like the Education and Youth Affairs Bureau (EYAB), and non-governmental organisations (NGOs), has been disseminating legal information to juveniles through civic education activities, online and newspaper games, bazaars, booth game design, colouring and quiz competitions (average of 10 per year) and a Youth Law Centre was created (2015).

45. In cooperation with the Women’s General Association of Macau, the Legal Affairs Bureau organised women’s legal awareness activities, including legal training, local and overseas visits (average of 5 per year).

46. The LA continues to disseminate laws regarding fundamental HR, most of which are available online ([www.al.gov.mo](http://www.al.gov.mo)). In 2016, the LA published the 2nd and 3rd Conferences on Law and Citizenship of the LA of the MSAR on HR protection.

#### **Available remedies**

47. Information provided in the initial report remains basically unchanged. Article 36 of the BL guarantees that all persons have the right to resort to the law and to have access to the courts, to legal aid and to judicial remedies, as well as the right to institute proceedings in the courts against the acts of the executive authorities and their personnel. Judicial, quasi-judicial and nonjudicial remedies to safeguard their fundamental rights, including the right to lodge complaints to the LA and the right to petition to the CE and the LA (Law 5/94/M), are available.

48. The HRC in its concluding observations (paragraph 8) urged the Government to ensure that the Ombudsman’s mandate of the Commission against Corruption (CCAC) is independent and in full compliance with the Paris Principles and to raise awareness among the public of its mandate.

49. The CCAC accumulates the Ombudsman functions, to promote and protect rights and freedoms, to safeguard interests of individuals and to ensure that the exercise of public powers abides by the criteria of justice, legality and efficiency. Law 10/2000 on the Legal Framework of the CCAC, as amended by Law 4/2012, aims at increasing the responsiveness of the CCAC and reinforcing the Ombudsman’s supervision powers of public acts.

50. The Head of the CCAC, the Commissioner, is appointed by the CE within his status as head of the Region (Articles 45 and 59 of the BL). The Commissioner is bound by the fundamental law and Law 10/2000 to exercise his Ombudsman’s functions with total independence. Adequate financial and human resources are provided to guarantee this exercise in an independent and autonomous manner (Article 37(2) of Law 10/2000). These requisites and features are in line with the Paris Principles.

51. Within its Ombudsman powers, the Commissioner can directly propose to the CE the enactment of normative acts or suggestions concerning their interpretation, amendment or repeal. The CCAC may also initiate ex officio enquiries that may lead to recommendations aiming at correcting illegal or unfair administrative acts or misconducts, including those challenging the exercise of HR, as well as redress measures.

52. Another noteworthy CCAC's function is to raise awareness of the Ombudsman's mandate. Accordingly, the CCAC proactively carries out integrity education to raise awareness of probity in the community.

53. In 2015 and 2016, 463 and 401 seminars and symposia were organised, respectively, for public servants, association members, employers and employees, primary and secondary students.

54. The CCAC maintains close communication with the Ombudsman of other countries and regions, being a member of the International Ombudsman Institute and the Asian Ombudsman Association.

55. There are also other local monitoring mechanisms to promote and safeguard HR. The majority is composed of prominent members of the civil society and NGOs.

56. Regarding the Commissions on HR issues mentioned in the initial report, it should be noted that, in 2016, the Consultative Commission for Women's Affairs (CCWA) was renamed as the Commission for Women and Child Affairs (CWCA) (Administrative Regulation (AR) 27/2016). A Council on Cultural Heritage was created in 2014 (AR 4/2014) and a HR interdepartmental working group was created to follow up the implementation of HR treaties and their treaty bodies' recommendations in 2016.

57. The Public Information Centre (PIC) of the Public Administration and Civil Service Bureau (PACSB) receives complaints, opinions and suggestions and refers cases to the competent services. Complaints may be lodged in person or by any other means, including online. Between 2011 and 2016, the PIC received 1,913 complaints: 215, 288, 334, 322, 390 and 364 respectively.

58. The PIC also provided free legal counselling. Between 2011 and 2016, there were 19,065 counselling meetings: 3,180, 3,333, 3,093, 3,196, 3,080 and 3,183 respectively. Since December 2016, legal counselling and information are provided exclusively by the Procuratorate and the Legal Affairs Bureau.

59. Concerning the HRC's recommendations (paragraph 17), labour rights and guarantees of non-resident workers are established under Law 21/2009, on the Employment of Non-resident Workers (as amended by Law 4/2010 and Law 4/2013), Law 7/2008, on Labour Relations (as amended by Law 2/2015), Law 4/98/M that establishes the Framework Law on Employment Policy and Worker's Rights and other labour legislation.

60. The labour relations framework has been subject to gradual positive changes, such as the improvement of the legal system for compensation of damages arising from work accidents and occupational diseases (Decree-law 40/95/M as amended by Law 6/2015), a Labour Creditor's Rights Protection System (Law 10/2015) and the current revision of Decree-law 32/94/M that establishes the licensing regime of employment agencies.

61. Non-resident workers enjoy the same working conditions, labour rights, duties and guarantees as resident workers as prescribed in Article 20 of Law 21/2009 (to read together with Law 7/2008).

#### **Non-resident workers by origin**

<i>Place of origin</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Africa	52	67	71	77	88	92
Americas	532	529	563	606	683	570
Asia pacific	92 598	109 086	136 128	168 365	179 535	175 804
Europe	593	656	804	971	985	874
Oceania	253	214	272	327	355	298
<b>Total</b>	<b>94 028</b>	<b>110 552</b>	<b>137 838</b>	<b>170 346</b>	<b>181 646</b>	<b>177 638</b>

*Source:* Statistics and Census Bureau (SCB).

62. Article 23(1) of Law 21/2009 provides that all employers must enter into a written contract with non-resident workers; otherwise, the employer will be fined between MOP\$5,000 and MOP\$10,000.

63. The Labour Affairs Bureau (LAB) is the main government body responsible for the implementation and execution of labour policies in the private sector, as well as for monitoring, investigating and sanctioning. It has been reinforcing the protection of migrant workers against abuses and exploitation.

#### Complaints for lack of contract

	2011	2012	2013	2014	2015	2016
Cases	11	20	13	16	36	25
Non-resident workers involved	13	28	37	23	179	37
Results (Non-resident workers involved):						
Substantiated	13	27	11	16	161	25
Unsubstantiated	0	1	26	5	18	5
Under investigation	0	0	0	0	0	7

Source: LAB.

#### Labour disputes involving non-resident workers

	2011	2012	2013	2014	2015	2016
Complaints	560	717	638	819	1 337	1 156
Non-resident workers involved	1 369	1 462	1 243	1 834	4 175	2 834

#### First 10 complaint subjects (sorted by 2016 results)

	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Wages	437	10%	771	16%	486	12%	938	18%	2 596	19%	1 254	15%
Mandatory holidays	288	7%	326	7%	327	8%	395	7%	1 498	11%	1 081	13%
Weekly rest	383	9%	459	9%	374	9%	530	10%	1 671	12%	1 032	12%
Overtime work compensation	746	17%	608	12%	514	13%	654	12%	1 515	11%	1 048	12%
Annual leave	257	6%	261	5%	187	5%	288	5%	934	7%	707	8%
Dismissal compensation	200	5%	356	7%	308	8%	455	9%	895	6%	649	8%
Work suspension	138	3%	205	4%	199	5%	343	6%	1 098	8%	604	7%
Prior notice	97	2%	245	5%	315	8%	385	7%	688	5%	466	6%
Accommodation	430	10%	298	6%	206	5%	440	8%	887	6%	505	6%
Transportation cost to home country	195	4%	252	5%	228	6%	258	5%	483	3%	262	3%
Others	1 180	27%	1 191	24%	908	22%	665	12%	1 668	12%	783	9%
<b>Total</b>	<b>4 351</b>	<b>100%</b>	<b>4 972</b>	<b>100%</b>	<b>4 052</b>	<b>100%</b>	<b>5 351</b>	<b>100%</b>	<b>13 933</b>	<b>100%</b>	<b>8 391</b>	<b>100%</b>
Case results	No.	%	No.	%	No.	%	No.	%	No.	%	No.	%
Resolved by administrative authority	4 010	92%	4 854	98%	3 952	98%	5 272	99%	12 262	88%	6 504	78%
Sent to judicial authority	341	8%	118	2%	100	2%	79	1%	1 142	8%	143	2%
Under investigation	0	0%	0	0%	0	0%	0	0%	529	4%	1 744	21%

Source: LAB.

64. The Government has a non-discriminatory labour policy. Non-resident workers that do not receive equal pay for equal work or whose employer denies, totally or partially, the payment of salary in violation of Article 62(3) of Law 7/2008 should report the situation.

65. In 2015, the LAB opened 546 cases involving 2,022 non-resident workers. Of these, 824 workers made their claims successfully, 659 failed, 526 settled by agreement with entitlement to compensation/redress and 13 are waiting for conclusion. In 2016, the LAB opened 333 cases involving 1,075 non-resident workers. Of these, 464 made their claims successfully, 231 failed, 200 settled by agreement with entitlement to compensation/redress and 180 are waiting.

66. Article 16(a) of Decree-law 32/94/M prohibits employment agencies from charging jobseekers fees except when they provide accommodation, in which case they can only charge till 1/6 of their salary (together with its Article 17(3)). Agencies are also forbidden to receive any form of payment of workers' salary. Violation is punished with fines ranging from MOP\$10,000 to MOP\$40,000. Another prospective sanction is the cancellation of licence (Article 12).

67. Between 2011 and 2016, the LAB opened 23 cases regarding extra fees charged. Of these, 3 were substantiated and fined, 19 were unsubstantiated and 1 is pending.

68. The LAB provides counselling on labour legislation, including workers' rights and obligations. There is a 24-hour "Interactive Voice Response System", a hotline for labour issues (Mandarin, Cantonese, Portuguese and English) and an email enquiry system. These services are freely available to employers and workers.

69. The LAB uses multiple strategies to enhance employers' and employees' legal knowledge and develop harmonious labour relations like promoting workers' rights and interests in different languages through talks with case analysis and discussion (contents covering maternity and marriage leave, pregnant women's rights, work safety), short videos, mobile app, WeChat, YouTube, TV and radio, video advertising on buses and in lobbies of residential and commercial buildings. Infographics and promotional leaflets on labour rights are available in various languages (Chinese, Portuguese, English, Vietnamese and Indonesian).

### **Article 3 Equality of rights between women and men**

70. As outlined in the initial report, discrimination, including gender-based, is strictly prohibited. There are no restrictions on equal rights vis-à-vis women. In the MSAR, women share the same political, civil, economic, social, educational and cultural rights as men. The rights to equality and non-discrimination, as general principles, are reflected at all levels of the MSAR legal system and expressly restated.

71. Notwithstanding the gender equality principle, de facto inequalities still exist mainly due to cultural factors. Consequently, Article 38(2) of the BL provides for the special protection of the legitimate rights and interests of women aiming at eradicating such inequalities.

72. In December 2016, the MSAR had an estimated resident population of 644,900, of which 52.6% were female and 47.4% were male. In June 2017, the female population accounted for 66.8% of the total labour force and, as of December 2016, 43.2% of the labour force in the Public Administration.

#### **Employment, unemployment and underemployment rates**

<i>Rate (%)/gender/year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Employment	72.5	72.4	72.7	73.8	73.7	72.3
Male	78.1	78.6	78.4	79.9	79.6	77.8
Female	67.5	66.8	67.5	68.1	68.0	67.2

Rate (%)/gender/year	2011	2012	2013	2014	2015	2016
Unemployment	2.6	2.0	1.8	1.7	1.8	1.9
Male	3.0	2.3	2.2	1.9	2.0	2.3
Female	2.1	1.7	1.4	1.4	1.6	1.5
Underemployment	1.1	0.8	0.6	0.4	0.4	0.5
Male	1.8	1.3	0.9	0.6	0.6	0.9
Female	0.4	0.2	0.2	0.1	0.1	0.2

Source: SCB.

#### Public Administration personnel by gender\*

Gender	2011	2012	2013	2014	2015	2016
Male	15 248	15 624	15 990	16 536	17 041	17 507
%	58.7%	58.0%	58.2%	57.6%	56.8%	56.8%
Female	10 746	11 319	11 507	12 165	12 935	13 324
%	41.3%	42.0%	41.8%	42.4%	43.2%	43.2%
<b>Total</b>	<b>25 994</b>	<b>26 943</b>	<b>27 497</b>	<b>28 701</b>	<b>29 976</b>	<b>30 831</b>

Source: PACSB.

\* Excluding University of Macau, Macau Polytechnic Institute, Macao Foundation, Civil Aviation Authority, Macao Trade and Investment Promotion Institute and Macao Monetary Authority.

73. As mentioned, women have the same political rights as men, including the right to vote and to be elected, to hold any public office and to perform any function. As of 31 December 2016, women corresponded to 52.1% of all voters.

#### Registered voters by gender

Gender/Year	2011	2012	2013	2014	2015	2016
Male	122 428	133 577	135 790	136 181	137 499	147 170
Female	129 114	143 576	145 410	146 407	148 500	159 850
<b>Total</b>	<b>251 542</b>	<b>277 153</b>	<b>281 200</b>	<b>282 588</b>	<b>285 999</b>	<b>307 020</b>

Source: PACSB.

74. Some women hold high-ranking positions in the legislative, executive and judicial bodies. The Secretary for Administration and Justice – the second most important member of the Government – and one of the deputies of the Commissioner against Corruption are women. In December 2016, women accounted 41.8% of all the high-ranking or leading positions in the Public Administration.

#### Deputies of the LA by gender

Gender/Year	2011	2012	2013	2014	2015	2016
Male	25	25	26	26	26	26
Female	4	4	7	7	7	7
<b>Total</b>	<b>29</b>	<b>29</b>	<b>33</b>	<b>33</b>	<b>33</b>	<b>33</b>

Source: LA.

\* From January to October 2013, the number of female was still 4 and male 25.

75. Regarding gender equality at work, besides the applicable international treaties regarding equal rights between men and women (including work-related ones), the

legislation related to labour relations in the private and public sectors mentioned in the initial report remains in force.

76. The Government continues its efforts to foster gender equality in the workplace, as well as working conditions and equal pay for equal work within the private sector. The proportion of men and women in top positions is more symmetrical in skilled jobs. However, there are still gaps between their salaries with more incidence in some economic activities and unskilled jobs.

77. Despite the Government's efforts, it will take some time for gender equality and women empowerment to be a reality. Nevertheless, a steady and favourable progression of women's role in society is being witnessed.

78. In response to paragraph 9 of the HRC's concluding observations, it should be noted that, besides Article 6 (2) of Law 7/2008 that enshrines the principle of equality, determining that no employee or job-seeker shall be unjustifiably privileged, discriminated against, deprived of any right or exempt from any duty on grounds of, including, gender, Article 57(2) of the same Law reiterates the same principle of equal remuneration for work of equal value, as well as Article 9 of Decree-law 52/95/M.

79. From 2011 to 2016, the LAB did not receive any complaints related to gender discrimination at work.

80. Although there is no specific research on the wage gap between male and female workers, the LAB observed that the wage gap dropped from MOP\$2,500 in 2011 to MOP\$1,700 in 2016 (a further drop to MOP\$1,000 in 2015), demonstrating a gradual narrowing trend.

81. To strengthen the awareness of employers and employees on labour rights, including the understanding of the principles of equality and of equal pay for equal work, the LAB continues to promote the law through a wide range of channels, including launching a mobile app containing a function "simulation calculator for labour rights and interests", allowing users to calculate remunerations and compensations for the work performed on mandatory holidays and weekly rest, for unused annual leave or for overtime work. Moreover, the mobile app has a notification function for mandatory holidays and updated news of the LAB.

82. Regarding healthcare, the MSAR continues to offer specific services to women. The Health Bureau (HB) provides independent and appropriate services, sometimes even free assessment, on a case-by-case basis, such as emotional support, medical assistance, and transfers cases to the Social Welfare Bureau (SWB) for appropriate support (e.g. temporary shelter), whenever necessary.

83. Gender equality is one of the key principles of the education system, to which women and men are guaranteed access on an equal footing. The right of everyone to education, which comprises equal opportunities in school access and school achievement, is legally guaranteed.

84. Law 9/2006 that sets up the non-tertiary education system legal framework imposes as general principles of the education system the right to education without discrimination and the obligation of the Government to develop appropriate mechanisms to promote effective equal opportunities in education. These principles are reiterated in the law for tertiary education (Law 11/91/M).

85. Universal primary education is ensured to all children, boys and girls alike. According to the 2016 Population By-Census, the overall literacy rate of 15–24 years old was of 99.8%. Female literacy rate of the age group between 15–19 years old was 100% while that of the age group between 20–24 years old was 98.8%.

#### Academic Year (%)

<i>Net Enrolment Rate</i>	<i>Gender</i>	<i>2011/2012</i>	<i>2012/2013</i>	<i>2013/2014</i>	<i>2014/2015</i>	<i>2015/2016</i>	<i>2016/2017</i>
Primary Education	M	88.3	89.6	93.8	91.9	94.9	98.0

<i>Net Enrolment Rate</i>	<i>Gender</i>	<i>2011/2012</i>	<i>2012/2013</i>	<i>2013/2014</i>	<i>2014/2015</i>	<i>2015/2016</i>	<i>2016/2017</i>
	F	91.4	92.6	96.1	97.3	98.3	100.0
	MF	89.8	91.1	93.8	94.5	96.5	100.0
Secondary Education	M	78.2	79.3	81.5	80.2	78.4	79.7
	F	81.0	81.6	84.7	86.1	87.1	84.9
	MF	79.6	80.4	83.0	83.0	82.5	82.2
Tertiary Education	M	43.72	43.58	43.59	43.70	43.64	41.78
	F	56.28	56.42	56.41	56.30	56.36	58.22
	MF	58.7	n/a	69.3	76.2	79.9	n/a

*Source:* SCB.

86. About measures aimed at promoting the principles of non-discrimination and equality between women and men in schools, the Government, through the EYAB, provides guidelines to strengthen moral and cultural development. The school curricula also embody the principle of gender equality.

87. The establishment of the CCWA in 2005 was one of the major achievements as to monitoring mechanisms on women's issues/gender equality. This Commission was the genesis of the newly-established CWCA, a high-level advisory body aiming at, in the area of women and children, defending the opportunities, rights and dignity, supporting policy-decision making and measures, presenting views and proposals in different areas of governance (AR 27/2016).

88. The CWCA is headed by the Secretary for Social Affairs and Culture and the Director of the SWB and comprises representatives of public services in the areas of social affairs, justice, labour, public security, health, culture and education, as well as 15 NGOs and individuals with recognised social merit (Article 4 of AR 27/2016). The participation of NGOs enhances the policy process on the promotion and protection of gender equality and ensures transparency on allocation of resources and quality of services and the direct participation of the local community in government affairs.

89. The CWCA has been raising public awareness on gender equality, women's empowerment, women's legal rights and domestic violence through different channels, including publications and other media. In 2014, it published the "Status of Women in Macao 2012" after assessing the MSAR's ranking relating to gender inequality, with the Gender Gap Index as a tool. With an average of 0.7003 in 2011, the MSAR was at the highest level among 135 countries/regions.

- Sub-indicators "economic participation and opportunities", "educational opportunities" and "health and survival rate" were those with higher scores.

90. Further information on gender-related issues can be found in China's CEDAW report.

#### **Article 4** **Restrictions to the derogation of rights**

91. As mentioned in the initial report, pursuant to Article 14 of the BL, the CPG is responsible for defence (external security), whereas the MSAR Government is responsible for maintaining public order (internal security) in the MSAR (read together with Article 18(4) of the BL). There are certain circumstances, wherein the adoption of special measures may restrict the rights enshrined in the Covenant.

92. Nevertheless, these norms must be read in tandem with Article 40(2) of the BL, which expressly stipulates that the rights and freedoms enjoyed by MSAR residents shall not be restricted unless if and as established by law, and that such restrictions shall not contravene, inter alia, the applicable provisions of the Covenants therein referred to. Any

measure that may restrict, compress or derogate fundamental rights and freedoms are subject to these limits.

93. As mentioned in the Core Document and in the initial report, Law 9/2002 on the Legal Framework on Internal Security, as amended by Law 1/2017, aims at safeguarding public order and public tranquillity, protecting personal and property safety, preventing and investigating crimes and controlling immigration to ensure stability of the society and the exercise of fundamental rights and freedoms of persons. In pursuing such tasks, special measures may be adopted in case of civil protection due to a public calamity or in case of its prevention or in the case of a serious threat to internal security. Such measures intend to protect or to re-establish public peace and order and protect persons or to counter violent crime or organised crime, including transnational crime and terrorism (Article 1).

94. However, the adoption of measures to maintain internal security must respect the rights, freedoms and guarantees of persons and must abide by fundamental principles of law (including the principles of equality, proportionality and non-discrimination), criminal law, criminal procedure law, organisational law of corporations and law enforcement departments and general police regulations and shall be applied only when necessary (Article 2).

95. Pursuant to its Article 8, whenever there is a case of emergency posing a serious threat to the internal security, to ensure public order and tranquility, the CE may, subject to Article 40 of the BL, determine the adoption of restrictive measures, provided that they are necessary, suitable and proportional to maintain or restore security and in compliance with Article 4(2) of the Covenant. The temporal limit for such measures is 48 hours. Prorogation is subject to the consultation of the Executive Council and immediate communication to the Head of the LA.

96. Under Article 17(1), law enforcement authorities may also adopt restrictive measures for internal security purposes, namely: to allow police surveillance of persons, buildings and venues for a limited period of time; to ask for the identification of a person whenever he/she is in a public place or under police supervision; to seize arms, munitions and explosives temporarily; or to refuse the entry of non-residents into the MSAR or expel anyone who may pose a threat to internal security or is considered inadmissible to the MSAR or seen as a suspect connected with transnational crime, including terrorism. Stricter restrictions may be adopted in the last case, such as to close temporarily some venues, to suspend or terminate the activities of some enterprises that are linked to organised crime or terrorism (Article 17(2)).

97. Its Article 18 also permits the monitoring of communications, including written, telephone and computer (Articles 172 to 175 of the CPC), if there is compelling evidence of disturbance of internal security due to criminal activities. In this case, the Unitary Police Service (UPS) may request the judge in charge to give an order.

98. In this respect, Article 32 of the BL and Law 8/2005, on Personal Data Protection, should be reminded. Based on Article 8 of Law 8/2005, access to personal data is not allowed, except when there is suspicion of illegal activities or under an international legal instrument. However, even if personal data is legally obtained, relevant provisions must be complied with.

99. Any affected person may resort to administrative or judicial mechanisms to guarantee compliance with the Law. Criminal and administrative offences are provided for. An urgent judicial protection for appealing to the court against decisions made regarding personal data is also provided for in the Law (Articles 28 to 44).

100. Another law that may impose some restrictions is Law 2/2009, the National Security Law. As stated in the reply to the list of issues (CCPR/C/CHN-MAC/Q/1/Add.1), this Law does not restrict unreasonably the freedoms of expression, of peaceful assembly or of association. Restrictions are placed only when there is a violation of the law or when the exercise of these rights poses a threat to national security, being in line with other jurisdictions' standards. Moreover, the Covenant expressly stipulates that these rights may be restricted for safeguarding national security, public safety and public order when

necessary (Articles 19(3)(b), 21 and 22(2)). Until now, no individuals have been charged under this Law, nor criminal proceedings initiated.

101. Law 2/2012 that regulates the use of CCTV in public spaces may also interfere in an individual's freedom. Yet, while being empowered with public authority to ensure internal security and public order, including for the prevention of crimes and assistance in criminal investigation (Articles 1, 2(1) and 5), law enforcement authorities are bound by the principles of legality, exclusivity and proportionality (Article 4).

102. The Law establishes limits (Article 6) and prohibitions (Article 7), such as the elimination of excessive data or the prohibition of capturing images and sounds of a house or a building or the duty to inform the use of CCTV in public spaces.

103. The treatment and protection of personal data must observe Law 8/2005 and respect the right to private life and other fundamental rights, freedoms and guarantees established in the BL and in other legislation (Article 2(2)).

104. As mentioned in the initial report, Law 2/2004 on the Prevention, Control and Treatment of Contagious Diseases sets up a list of diseases and some restrictive or preventive measures of an exceptional, urgent and temporary nature that may be applied, in case of emergency, to prevent the propagation of contagious diseases in the MSAR. The list of diseases was last updated by Law 1/2016 (<http://bo.io.gov.mo/bo/i/2016/08/lei01.asp>).

## **Article 5**

### **Prohibition of restrictive interpretation**

105. It should be reiterated that fundamental rights may only be subject to limitations as provided for in law (Article 40 of the BL).

106. In the MSAR, neither the legal doctrine nor the jurisprudence has ever interpreted any provision of the Covenant as implying the possibility of derogating the rights and freedoms therein recognised.

## **Article 6**

### **Right to life**

107. The MSAR legal framework remains unchanged, wherein life remains a prime value that is ethically and legally protected, including by applicable international treaties pertinent to the protection of human life.

108. An update of the data of the initial report is provided below.

#### **Cases of crimes against life and physical integrity**

<i>Crime/Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Homicide ( <i>e.g.</i> use of knives)	0	3	0	0	0	1
Homicide (other means)	4	0	2	0	1	0
Negligent homicide due to traffic accident	0	3	5	5	6	4
Offences against physical integrity	1 729	1 755	1 701	1 783	1 620	1 714
<b>Total</b>	<b>1 733</b>	<b>1 761</b>	<b>1 708</b>	<b>1 788</b>	<b>1 627</b>	<b>1 719</b>

*Source:* Office of the Secretary for Security (OSS).

109. As explained in the initial report, according to Law 6/98/M, on the protection of victims of violent crimes, a special compensation may be applied by a victim of a violent crime or by his/her relatives in case of death. This monetary compensation is granted even if the offender's identity is unknown or if, for any reason, the offender cannot be accused or convicted.

110. According to the Commission for the Protection of Victims of Violent Crimes, in 2012, 1 application resulted in a compensation of MOP\$80,000. In 2014, of 3 applications, 2 were granted MOP\$80,000 and MOP\$370,000, respectively, while 1 was not approved. In 2016, there were 2 applications: 1 was granted MOP\$120,000 and the other was not approved.

### Sexual harassment

111. Concerning the HRC's recommendation in paragraph 10, it should be stressed the amendments to the MCC with the insertion of a new provision – Article 164-A, making sexual harassment an autonomous crime.

112. Any person that harasses another person by compelling him/her to suffer or to engage in, with him/her or with a third person, physical contacts of a sexual nature through body parts or objects, shall be punished with imprisonment of up to 1 year or with a fine of up to 120 days, if a heavier penalty is not imposed under another legal provision. The offender may also be subject to disciplinary and civil actions.

113. Moreover, Article 158, together with Article 171 (1) (b) of the MCC for the crime of sexual coercion, states that anyone that, by means of force or serious threat, takes advantage of a hierarchical, economic or employment relationship, and compels the victim based on such relationship to suffer or commit relevant sexual acts with the offender or with a third person, shall be punished with imprisonment of up to 10 years.

114. To combat discriminatory situations in the workplace, several mechanisms were developed, including awareness campaigns and monitoring by the LAB. During the covered period, 2 complaints on sexual harassment in the workplace were lodged in 2013, involving 2 female victims; the cases were found unsubstantiated.

## Article 7 Prohibition of torture

115. The MSAR legal framework remains unchanged on the prohibition of torture or inhuman treatment (Article 28(4) of the BL, the CAT, Articles 234 to 237 of the MCC and Article 113 of the CPC).

116. An update of the data of the initial report is provided below.

### Cases on the use of violence by on-duty police officers and prison guards

Year	Cases	Victims	Gender		Age	
			M	F	≥18	<18
2011	14	16	12	4	16	0
2012	13	13	10	3	12	1
2013	10	10	10	0	10	0
2014	14	14	12	2	14	0
2015	9	9	9	0	9	0
2016	17	17	14	3	17	0

Source: OSS.

### Cases on the use of violence by off-duty police officers and prison guards

Criminal offences	2011	2012	2013	2014	2015	2016
Offences against physical integrity	9	12	9	10	16	15
Threat	1	3	0	0	1	2
<b>Total</b>	<b>10</b>	<b>15</b>	<b>9</b>	<b>10</b>	<b>17</b>	<b>17</b>

Source: OSS.

117. Concerning death cases under police custody, there were 5 cases between 2011 and 2016. There was 1 case in 2011. A Mainland Chinese man was brought under custody in the Police Station because his travel document expired. During detention, the man felt unwell but refused to go to hospital. Later, the police found him dead on a chair. After investigation by the Judiciary Police (JP) and Procuratorate, the case was deemed unsuspecting and no one was accountable. There was 1 case in 2012. A male prisoner (MSAR resident) hanged himself in the Coloane Prison. There was also 1 case in 2013. A Mainland Chinese man involved in fraudulent gambling in a casino swallowed some gambling chips (crime evidence). The police sent him to hospital. During treatment, the man escaped and fell from height. He died during rescue. There were 2 cases in 2015. A Vietnamese woman hanged herself in the detention centre. A Filipino man illegally consumed drugs and, during enquiry in the Police Station, felt unwell and was sent to hospital. Despite efforts to save him, he died of myocardial infarction.

118. According to the Correctional Services Bureau (CSB), there were no torture and ill treatment complaints by prisoners between 2011 and 2016.

119. According to Law 7/2006, on the statute of correctional officers, all prison guards entering the career are required to pass training courses and an internship. The course content includes the prohibition of the use of torture and other cruel, inhuman or degrading treatment or punishment, and other HR issues.

120. From 2011 to 2016, 238 new prison guards received such training, i.e. 12, 34, 49, 30, 60 and 53 respectively. Among them, 11, 33, 43, 29, 59 and 51 assumed office.

121. Another monitoring body on HR violations by law enforcement agents is the CCAC.

#### HR violations by law enforcement agents

Type/Year	2011	2012	2013	2014	2015	2016
Assault against physical integrity	1	1	1	0	0	1
Threat	2	3	0	3	1	0
Torture	4	1	0	1	1	0
Unlawful opening of correspondence or breach of telecommunications privacy	1	0	0	0	1	0
Unlawful detention	2	2	0	0	0	0
<b>Total</b>	<b>10</b>	<b>7</b>	<b>1</b>	<b>4</b>	<b>3</b>	<b>1</b>

Source: CCAC.

122. Of the 10, 7, 1, 4, 3 and 1 complaints on HR violations from 2011 to 2016, 8, 6, 1, 2, 2 and 1 case were dismissed respectively for lack of evidence. The other cases were subject to enquiries and recommendations/administrative procedures. Of all 26 complaints, 11 concerned HR violations committed by on-duty law enforcement agents.

123. The Commission for Disciplinary Control of the Security Forces and Services (CE Order 14/2005, as amended by CE Order 134/2010) has inter alia the competence to follow up complaints on misconducts or infringements against fundamental rights by law enforcement agents.

124. The Commission may act on its own initiative or at request. It drafts opinions on each decision and issues recommendations to the Secretary for Security. Although it has no investigative or prosecution powers, its activity has important impacts in what concerns the exercise of disciplinary action regarding law enforcement agents' misconducts.

125. Furthermore, it visits corporations and services, including places of detention, and frequently promotes seminars, with full respect for human dignity as a key topic.

126. The Commission is composed of 7 persons of recognised social merit, designated by the CE. It is currently headed by a lawyer. Its activity complies with strict criteria of legality, justice, impartiality, objectivity and celerity.

127. Between 2011 and 2016, it received 37 complaints on HR violations. In 2011, there were 5 complaints, 3 related to assault against physical integrity and 2 to abuse during body search. From the 7 complaints of 2012, 4 were of assault against physical integrity, 2 of threat and 1 of unlawful detention. There were 7 complaints in 2013, 5 regarding assault against physical integrity, 1 relating to refusal to provide water to the complainant and 1 about abuse during body search. In 2014, of the 4 complaints, 1 was of assault against physical integrity, 1 of rape of minor, 1 of threat and 1 was related to the refusal to provide water to the complainant. In 2015 and 2016, there were, respectively, 9 and 5 complaints of assault against physical integrity.

128. The outcomes of the complaints were: the cases of 2011, 2012 and 2013 were dismissed for lack of evidence; of the 4 cases of 2014, 3 were dismissed for lack of evidence and 1 was referred to the Procuratorate for criminal prosecution; of the 9 cases of 2015, 8 were dismissed for lack of evidence while 1 is pending; of the 5 cases of 2016, 4 were dismissed for lack of evidence and 1 was withdrawn.

129. Between 2011 and 2016, the Commission issued 4 recommendations: police enquiries should be done, in all circumstances, in places with CCTV to safeguard the parties' rights; body searches should be done by a customs officer and should also respect the person's feelings and dignity; handcuffs should only be used in the event of detention order breach or risk of escape; and officers should ensure that legal rights and interests are not only of the demonstrators, but also of the non-demonstrators and users of the public area.

130. The legislation and measures mentioned in the initial report regarding the protection of minors and patients in educational and medical institutions and forced abortion/forced serialization, as well as medical and scientific experimentation and donation, removal and transplant of human organs and tissues remain the same.

## **Article 8**

### **Prohibition of slavery and forced labour**

131. The MSAR constitutional and criminal legal framework remains unchanged. Human dignity constitutes a fundamental and inviolable legally-protected value of the MSAR legal order, expressly recognised in the BL (Articles 28 and 30).

#### **Trafficking in persons**

132. As stated in the initial report and the reply to the list of issues, Article 153-A of the MCC defines the crime of trafficking in persons (TIP) in line with international law, covering TIP for the purposes of sexual or labour exploitation and trafficking of human organs and tissues. This regime is reinforced with the key applicable international treaties on the subject.

133. Law 6/2008 on the fight against TIP establishes a comprehensive set of measures aiming at preventing and suppressing TIP (e.g. training, awareness campaigns and cooperation), and ensuring victim's rights and assistance (e.g. clinical and psychological assistance, interpreter, legal aid, counselling, shelter, occupational training and police protection). Victims may also apply for the compensation established under Law 6/98/M.

134. The inter-departmental and multidisciplinary Commission to Follow up the Implementation of Dissuasive Measures against TIP continues to be deeply and actively involved in most of the actions undertaken to prevent and suppress TIP, in cooperation with other government departments and NGOs, such as running awareness campaigns (for the public and especially for potential victims at border arrival halls in different languages, i.e. Chinese, Portuguese, English, Japanese, Korean, Thai, Tagalog, Vietnamese, Indonesian, Mongolian and Burmese, through different media); setting up 24-hour hotlines (to report and assist in Chinese, Portuguese and English); providing shelter and assistance programmes for the victims (male, female, minors); promoting seminars and training with local and overseas experts (mostly targeting law enforcement agents, legal experts, social workers, healthcare professionals and NGO staff); planning operational and victims referral

guidelines for police forces, HB and SWB, and enhancing international cooperation, especially with neighbouring regions.

### TIP cases investigated by police

Year	Cases investigated	Cases qualified by the Procuratorate as TIP		Cases pending	Cases prosecuted	Persons prosecuted	Judgment		
		Cases filed					Acquittal	Convicted as TIP	Other convictions
2011	13	11	10	0	1	1	0	0	3
2012	19	14	9	0	5	17	1	7	9
2013	34	32	30	1	1	2	0	0	2
2014	5	4	4	0	0	0	0	0	0
2015	5	2	1	0	1	1	1	0	0
2016	4	2	0	2	0	0	0	0	0

Source: OSS.

### Cases qualified by the Procuratorate as TIP

Year	Cases	Victims	Gender	Age		Place of origin	
				≥18	<18	Mainland China	Others
2011	11	11	F	5	6	11	0
2012	14	25	F	12	13	25	0
2013	32	38	F	24	14	26	2
2014	4	4	F	3	1	4	0
2015	2	2	F	0	2	1	1
2016	2	2	F	1	1	2	0

Source: OSS.

135. Prosecuting and sentencing individuals for the crime of TIP is a challenge considering the difficulties to gather strong indicia and to persuade victims to testify as they are often afraid to collaborate. Most TIP cases are converted during court proceedings (lack of evidence) to crimes of procurement, illegal lodging, assisting illegal immigration or organised crime.

136. Nevertheless, there are some landmark sentences to underscore. In March 2013, 10 male suspects (7 from Mainland China and 3 from the MSAR) were accused of TIP for sexual exploitation. Of the 10 suspects, 9 were found guilty: 1st defendant: sentenced to 13 years and 3 months for TIP and procurement; 2nd defendant: 13 years for TIP, procurement, illegal immigration and illegal sheltering; 3rd defendant: 13 years and 1 month for TIP, procurement and false declarations; 4th to 7th defendants: 12 years and 9 months for TIP and procurement; 8th defendant: 5 years for procurement and illegal employment; and 9th defendant: 4 years and 6 months for procurement and illegal employment. There was another one in April 2013, where 2 male suspects from Mainland China were accused and convicted not for TIP but for procurement (imprisonment of 1 year and 6 months and 1 year and 3 months, respectively). Both cases were from 2012.

137. The SWB provides diversified assistance to victims, including financial assistance, drug treatment services and legal counselling.

### Services to TIP victims and potential victims

Service/Year	2011	2012	2013	2014	2015	2016
Shelter for adults (No. of persons)	8	14	13	2	2	1
Shelter for minors (No. of persons)	3	9	19	4	4	3
Counselling & follow up	62	119	133	55	18	12

<i>Service/Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Medical and healthcare referrals	10	25	49	8	7	4
Skills trainings	1	-	-	2	-	-
Repatriation Service through the International Organisation for Migration (IOM) (No. of persons)	-	-	2	1	1	-

*Source:* SWB.

### Assistance to victims

<i>Year</i>	<i>Victims</i>	<i>Gender</i>	<i>Age</i>		<i>Place of origin</i>	
			<i>≥18</i>	<i>&lt;18</i>	<i>Mainland China</i>	<i>Others</i>
2011	13	F	7	6	12	1
2012	29	F	17	12	29	-
2013	33	F	13	20	31	2
2014	6	F	2	4	5	1
2015	6	F	2	4	5	1
2016	4	F	1	3	4	-

*Source:* SWB.

138. As for paragraph 13 of the HRC's concluding observations, the cooperation agreement on the risk assessment and escort service for TIP victims between the Hong Kong SAR Office of IOM and the SWB, signed in April 2011, should be underlined as a way to assist victims to return to their places of origin.

139. The MSAR law enforcement agencies (UPS, Customs Services, JP and Public Police Security Forces (PSPF)) continue to prevent and suppress TIP. Regular raids and targeted operations against TIP for sexual exploitation are carried out in potential black spots, such as saunas, massage establishments, nightclubs and illegal guesthouses. To tackle TIP for labour exploitation, they are undertaken in construction sites, hotels, restaurants and employment agencies.

140. Cooperation with neighbouring jurisdictions is strengthened; intelligence sharing and collection system(s) are established and large-scale tripartite anti-crime joint operations are organised with the Mainland Chinese and Hong Kong SAR police authorities yearly. The Macao Sub-bureau of the National Central Bureau of China of INTERPOL plays a significant role in strengthening communication with countries/regions to counter TIP. The Agreement between the Governments of the MSAR and Mongolia on the Cooperation to Combat TIP, signed in 2010, should be emphasised within this cooperation context.

141. One of the adopted preventive measures has been a stricter control at border checkpoints and visa requirements, where particular attention is paid to visitors and non-resident workers from identified high-risk countries.

142. Since 2012, the Migration Services of the PSPF has been performing random checks and questionnaire surveys on arriving visitors (females aged between 18 and 35), and, whenever necessary, identification checks.

143. For young female illegal immigrants and workers engaged in prostitution, the PSPF scrutinizes whether they are victims of TIP and/or labour exploitation. In the affirmative case, prompt rescue operations and protective measures will be provided in cooperation with relevant government departments.

144. Law enforcement agencies have also tackled exploitation of prostitution by blocking certain mobile apps and prohibiting the distribution of pornographic leaflets. Consequently, the access to sex service information has been reduced.

145. To enhance public awareness, considerable efforts have been undertaken to disseminate information on combating and reporting TIP in schools and the community

through videos, posters, calendars, booklets, newspaper, radio programmes, TV commercials (including at border checkpoints) and seminars.

### **Forced Labour**

146. The Labour Inspection Division of the LAB conducts on-site visits to detect irregularities and investigate workers' complaints. During inspections, if any suspected case of forced labour is found, the LAB will forward information to the JP for follow up. In 2016, the LAB referred 3 suspected forced labour cases involving 31 non-resident workers.

## **Article 9 Right to freedom and security**

147. Information provided in the initial report and in the reply to the list of issues remains basically unchanged. Within the MSAR legal framework, the right to freedom and to the security of persons is a fundamental right deeply allied to the principle-right of inviolability of human dignity (Articles 28 to 30 of the BL, Article 1 of the MCC and Articles 176 and 178 of the CPC).

148. According to the Court of Final Appeal (CFA), between 2011 and 2016, there were 12 habeas corpus petitions. Of these, 2 were adjudicated favourably, respectively in 2013 and 2014. Of the 10 that were denied, 4 petitions in 2013 were dismissed as subsequent proceedings were impossible or invalid, 1 in 2014 was invalid as no appeal could be filed against the conviction, and 5 petitions, 3 in 2015 and 2 in 2016, were unsubstantiated.

149. Between 2011 and 2016, there was no request for compensation for unlawful arrest or detention.

## **Article 10 Right to dignity and humane treatment of persons deprived of their freedom**

150. In general, information provided in the initial report remains accurate. Decree-law 40/94/M, Order 8/GM/96, Law 2/2007, Decree-law 65/99/M and Decree-law 86/99/M continue to be the core legislation governing the regime of persons deprived of their freedom where human dignity and human treatment are fundamental guiding principles underneath the overall system.

151. The main change was at the institutional level. The Juvenile Offenders Institute (now the Youth Correctional Institution (YCI)) merged with the Prison Establishment on 1 January 2016. Currently, both constitute part of the CSB (AR 27/2015). Prison guards, responsible for surveillance, maintain a just, firm and humane relationship with prisoners.

### **Prisoners**

	<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
As at 1 January	MF	929	1 030	1 112	1 154	1 205	1 280
	M	788	872	933	959	994	1 068
	F	141	158	179	195	211	212
Entered during the year	MF	421	488	505	552	621	545
	M	340	403	405	457	515	457
	F	81	85	100	95	106	88
Released during the year	MF	320	406	463	501	546	554
	M	256	342	379	422	441	440
	F	64	64	84	79	105	114

	<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
As at 31 December	MF	1 030	1 112	1 154	1 205	1 280	1 271
	M	872	933	959	994	1068	1085
	F	158	179	195	211	212	186

*Source:* CSB.

### **Prisoners and persons on pretrial detention**

<i>Year</i>	<i>Prisoners</i>		<i>Persons on pretrial detention</i>		<i>Total</i>
	<i>MF</i>	<i>F</i>	<i>MF</i>	<i>F</i>	
2011	844	126	186	32	1 030
2012	874	146	238	33	1 112
2013	898	150	256	45	1 154
2014	982	176	223	35	1 205
2015	999	174	281	38	1 280
2016	1,023	162	248	24	1 271

*Source:* CSB.

152. In June 2017, foreign prisoners were mostly from the Philippines (31), Vietnam (23), Malaysia (18) and Mongolia (13).

153. The MSAR guarantees to all prisoners access to adequate facilities, food and basic hygienic conditions, clothing, healthcare, medical treatment and psychological support services, including therapies (e.g. drug addicts), either individual or group oriented (Article 42 of Decree law 40/94/M). Pregnant and postpartum prisoners continue to receive specialised assistance and treatment.

154. As mentioned in the initial report, prisoners are free to profess religious beliefs and have the right to religious worship. The prison assures the necessary means for assistance by ministers of prisoners' faith. Prisoners may possess religious items in their cells and are free to participate in activities held by religious organisations in the prison (Article 37 of Decree-law 40/94/M and Article 44 of Order 8/GM/96).

155. Regardless of other rights, prisoners have the right to be visited by family and friends an hour weekly or, under special circumstances, to special or face-to-face visits. The prison has installed a video visit service for the elderly, pregnant women, people with disabilities.

156. The CSB has also a "Children Assistance Scheme" to strengthen the relationship between prisoners and their children aged 16 or under by allowing them to meet at the parent-child room of the prison on Saturdays or Sundays.

157. To foster prisoners' psychological well-being, cultural, recreational and sport activities are available (e.g. football, badminton, chess, drama, martial arts, dance classes).

158. The Government continues to be highly committed in promoting prisoners' social rehabilitation, thus educational, vocational guidance, training and work programmes are provided to prepare prisoners for a new life after release (Articles 51 and 56 of Decree-law 40/94/M).

159. Educational activities may include primary and secondary education, and for those aged under 25 who have not finished compulsory education, there are language courses and professional training, including professional certification programmes (e.g. professional make-up, library management or magazine editing) and workshops (e.g. carpentry, laundry, manufacture of garment and shoes, handicrafts, car maintenance, hardware, plumbing, electrics, bakery and cake production).

160. The temporary shelter financially supported by the SWB and managed by the Macao Caritas (NGO) continues to house former prisoners. Several activities are provided by the

Department of Social Rehabilitation (DSR) of the SWB in cooperation with NGOs aimed at prisoners' social and community reintegration (e.g. vocational training, employment scheme, family relationship enhancement, adaptation to life, drug treatment).

161. The regime for disciplinary measures within the prison facility remains unchanged (Article 75 of Decree-law 40/94/M).

#### Prisoners and applied disciplinary measures

Category/Year	2011	2012	2013	2014	2015	2016
Isolation in disciplinary cells and deprivation of right to leave their cells for exercise or relief	44	38	26	35	39	45
Isolation in ordinary cells and deprivation of right to leave their cells for exercise or relief	48	73	26	32	78	45
Individual reprimand	10	3	4	8	8	5
Global reprimand	21	10	19	38	27	13
<b>Total</b>	<b>123</b>	<b>124</b>	<b>75</b>	<b>113</b>	<b>152</b>	<b>108</b>

Source: CSB.

#### Incidents in the Coloane Prison

Type/Year	2011	2012	2013	2014	2015	2016
Possession of unauthorised objects	16	15	5	3	13	6
Destruction or damage of prison property	3	2	4	5	6	2
Physical assault	30	29	30	4	33	37
Unauthorised correspondence*	37	27	33	28	25	40
Extortion/threat	3	7	8	6	0	2
Bad behaviour**	55	44	37	45	32	26
<b>Total</b>	<b>144</b>	<b>124</b>	<b>117</b>	<b>91</b>	<b>109</b>	<b>113</b>

Source: CSB.

\* Cases of search of cell phones;

\*\* prisoners involved in theft, delivery of items and letters without permission, suicide, selfmutilation, damages of others' items and bad attitude, etc.

162. The regime mentioned in the initial report (Decree-law 40/94/M and Order 8/GM/96) regarding prisoners' effective legal means remains valid.

#### Juvenile justice system

163. The age of criminal responsibility is 16 (Article 18 of the MCC). Juvenile offenders aged between 16 and 17 that are sentenced are placed in a separate hall in the prison, while those aged between 12 and 15 are subject to an educational regime and may be subject to compulsory commitment at the YCI if they have committed a criminal offence of a maximum term of over 3 years imprisonment or if they have repeatedly committed criminal offences or misdemeanors punishable by imprisonment terms, or if other educational measures prove to be inadequate (Articles 4(1)(8), 25(2)(1) and (2) of Law 2/2007).

164. As mentioned in the initial report and in the reply to the list of issues, the juvenile justice system is regulated by Law 2/2007, which partially revoked Decree-law 65/99/M, replacing the educational regime provided therein. Law 2/2007 introduced the concept of restorative justice for juvenile offenders, wherein internment is the last resort measure. To serve the purpose of youth rehabilitation, community-based measures were adopted: restorative justice order, rule abiding order, community service order, probation order and half-way home order (Articles 4(1)(5), (6), (7), 19, 21 to 23).

165. The DSR is responsible for supervising the execution of the 5 non-institutional measures ordered by a court on a juvenile offender.

#### Juvenile offenders at the YCI

	<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
As at 1 January	MF	43	26	20	20	14	17
	M	36	21	17	16	10	15
	F	7	5	3	4	4	2
Entered during the year	MF	12	8	8	10	10	3
	M	10	6	6	8	10	3
	F	2	2	2	2	0	0
Released during the year	MF	29	14	8	16	7	5
	M	26	10	7	14	5	4
	F	3	4	1	2	2	1
As at 31 December	MF	26	20	20	14	17	15
	M	21	17	16	10	15	14
	F	5	3	4	4	2	1

*Source:* CSB.

#### Measures applied

<i>Measure</i>	<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Restorative justice order	M	9	11	4	3	0	0
	F	9	4	0	0	0	0
<b>Total</b>		<b>18</b>	<b>15</b>	<b>4</b>	<b>3</b>	<b>0</b>	<b>0</b>
Rule abiding order	M	13	19	16	18	9	5
	F	6	10	13	5	3	0
<b>Total</b>		<b>19</b>	<b>29</b>	<b>29</b>	<b>23</b>	<b>12</b>	<b>5</b>
Community service order	M	5	3	9	14	14	8
	F	1	0	4	1	4	0
<b>Total</b>		<b>6</b>	<b>3</b>	<b>13</b>	<b>15</b>	<b>18</b>	<b>8</b>
Probation order	M	44	30	22	19	23	20
	F	22	9	11	2	7	4
<b>Total</b>		<b>66</b>	<b>39</b>	<b>33</b>	<b>21</b>	<b>30</b>	<b>24</b>
Half-way home order	M	17	14	11	10	10	8
	F	7	8	2	3	1	2
<b>Total</b>		<b>24</b>	<b>22</b>	<b>13</b>	<b>13</b>	<b>11</b>	<b>10</b>

*Source:* SWB.

166. From 2011 to 2016, there were, respectively, 4, 10, 5, 1, 1 and 2 juvenile offenders at the Coloane Prison.

167. Regarding paragraph 12 of the HRC's concluding observations (Articles 7 and 10 of the Covenant), it should be noted that such disciplinary action is a measure of last resort and is only for serious misbehaviours of the minor (Article 96(5) of Law 2/2007).

168. Order 91/DSAJ/2009 states that placement of a juvenile offender in an individual bedroom has to follow certain criteria: the severity of the offence, conduct and personality

of the minor; only when no other disciplinary punishment is adequate or sufficiently effective; placement aims at minor's reflection on his/her behaviour; daytime education and normal activities are guaranteed; number of days may be reduced considering the minor's repentance and behaviour.

169. From 2011 to 2013, juvenile offenders were placed in an individual bedroom for 24 times. Since 2014, this disciplinary action has not been applied.

170. Pursuant to Order 19/SS/2009 of the Secretary for Security, prisoners aged between 16 and 17 are not subject to the solitary confinement measure as imposed on adults (Article 75 of Decree-law 40/94/M).

171. Between 2011 and 2016, there were no complaints lodged by juvenile offenders at the YCI.

172. Education and social reintegration of juvenile offenders are of the utmost importance for the Government. To this end, the YCI and DSR, together with the Coloane Prison, continue to collaborate closely to provide education, vocational guidance and training workshops in response to the multi-fact needs of juvenile offenders and to facilitate their reintegration into community life.

173. Various services are provided including psychological counselling, family relationship mediation, employment arrangement, school re-adaptation, vocational training and drug rehabilitation services.

174. The YCI also organises life planning group activities to empower juvenile offenders to cherish social values, to have a positive and pro-active attitude, to motivate and improve their self-esteem as well as to help them plan their future and occupational options. From 2011 to 2016, 79 juvenile offenders participated in these activities.

175. Regarding social reintegration, the YCI, together with the DSR, offers a "pre-departure programme", involving the YCI's social workers, the young offender, his/her parents/guardians and the DSR's staff to prepare for the post-departure follow-up measures and to build up a strong counselling relationship.

176. Three months prior to departure, if a juvenile offender is willing to enter into the labour market, a job interview with a potential employer will be prearranged by the DSR. In case he/she is hired, a promise of employment will be signed. This job placement scheme aims at ensuring a smooth integration into society.

177. The subject of children deprived of their liberty is exhaustively addressed in Part III of China's report on the implementation of the CRC.

#### **Psychiatric compulsory internment**

178. Decree-law 31/99/M, the mental health regime, continues to govern the compulsory internment of persons with severe mental illness.

179. According to the HB, there were 79 compulsory internment requests between 2011 and 2016: 10, 16, 17, 12, 8 and 16 respectively. During the same period, the Psychiatry Department referred 56, 114, 77, 51, 76 and 78 cases respectively to community rehabilitation institutions.

180. For prisoners with psychological disorder or mental impediment, a multi-disciplinary team assesses their condition by using a multi-disciplinary model, provides counselling, medical appointments, treatments and makes suggestions and proposals. Between 2011 and 2016, only one prisoner required such treatment.

#### **Prisoners with psychological disorder or mental impediment**

Year	Male		Female		Total
	Psychological disorder*	Mental impediment**	Psychological disorder*	Mental impediment**	
2011	5	2	1	1	9

Year	Male		Female		Total
	Psychological disorder*	Mental impediment**	Psychological disorder*	Mental impediment**	
2012	13	3	4	0	20
2013	22	6	9	1	38
2014	16	5	3	1	25
2015	21	6	6	1	34
2016	25	5	8	1	39

Source: CSB.

\* The psychologist of the prison will use the “Violence and Suicide Scale” to evaluate the violence or suicidal tendency of prisoners during their admission. Prisoners with “psychological disorder” means that they were assessed to have serious propensity to violence or suicidal tendency;

\*\* Prisoners detained for security measures, or those with history of psychiatric illness prior to imprisonment, or have ever had an onset of such illness in prison are put under “mental impediment”.

### **Article 11 prohibition of imprisonment for the non-fulfilment of a contractual obligation**

181. There is nothing to complement in respect of this Article.

### **Article 12 freedom of movement**

182. The MSAR legal framework remains unchanged. Under Article 33 of the BL, residents, without discrimination, shall have the right to obtain travel documents and shall not be subject to limitations to this right unless prescribed by law.

#### **Permanent and non-permanent residents**

Year	Permanent residents	Non-permanent residents	Total
2011	541 597	77 164	618 761
2012	567 952	68 412	636 364
2013	589 073	62 793	651 866
2014	605 017	63 191	668 208
2015	621 358	64 144	685 502
2016	638 829	60 208	699 037
30/06/2017	646 484	57 852	704 336

Source: Identification Bureau (IB).

183. Restrictions on freedom of movement, as described in Article 4, either relate to force majeure cases, state of emergency, civil protection, public health threat or to coercive measures and must abide by the principles of equality, proportionality and non-discrimination.

#### **Visa agreements**

184. With the assistance or authorisation of the CPG, the Government may negotiate and conclude visa abolition agreements with foreign States or regions (Article 140 of the BL).

185. As of 30 June 2017, 22 countries/territories have signed mutual visa exemption agreements with the MSAR. The MSAR passport holders have visa-free or visa-on-arrival access to 132 countries or regions ([http://www.dsi.gov.mo/download/visa\\_free\\_list\\_e.pdf](http://www.dsi.gov.mo/download/visa_free_list_e.pdf)).

## Article 13

### Prohibition of expulsion except as provided by law

186. The MSAR legal framework remains unchanged.

#### Illegal immigration

187. The MSAR has a high migration flow within the neighbouring regions. Illegal immigration continues to be a major concern.

#### Illegal immigrants and overstayers

Year	<i>Illegal immigrants from Mainland China</i>		<i>Overstayers from Mainland China</i>		<i>Other overstayers</i>	
	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>	<i>M</i>	<i>F</i>
2011	747	519	18 181	11 327	804	2 203
2012	739	412	21 331	12 687	875	2 187
2013	929	406	25 313	14 525	936	2 035
2014	980	429	28 837	16 424	858	2 035
2015	1 272	506	15 795	9 258	1 004	2 136
2016	945	279	14 952	9 065	835	1 656

Source: OSS.

188. From 2013 to 2016, there were respectively 130 (42 from Hong Kong, China, 2 from Taiwan, China, 85 from Vietnam and 1 from other places), 121 (15 from Hong Kong, China, 1 from Taiwan, China and 105 from Vietnam), 535 (13 from Hong Kong, China, 3 from Taiwan, China, 511 from Vietnam and 8 from other places) and 329 illegal immigrants (18 from Hong Kong, China, 309 from Vietnam and 2 from other places). Other places included Burma, Sri Lanka, Russia and the Philippines.

#### Surrender of fugitive offenders and transfer of sentenced persons

189. Concerning paragraph 11 of the HRC's concluding observations, it should be mentioned that, in February 2015, the MSAR and Mainland China initiated negotiations as regards an arrangement for the surrender of fugitive offenders (SFO). There is a consensus on the main aims and studies are being conducted to accommodate the distinct characteristics of each legal system. The arrangement will respect the "One Country, Two Systems" principle.

190. Meanwhile, 3 framework agreements on mutual legal and judicial assistance with Portugal, Cape Verde and East Timor, a Transfer of Sentenced Persons (TSP) agreement with Portugal and an Agreement on the Cooperation to Combat TIP with Mongolia were concluded.

191. Four legal cooperation agreements in criminal matters were initiated: a mutual legal assistance and an SFO agreements with South Korea, a TSP agreement with Mongolia and a TSP Agreement with Nigeria. Meanwhile, negotiations were proposed to other jurisdictions, including Portugal, Vietnam and the Philippines.

#### Refugee status

192. The legal framework on the recognition and loss of refugee status (Law 1/2004) remains unchanged.

193. Between 2011 and 2016, the Commission for Refugees handled 8 applications involving 13 persons. Two individual applications are pending while the other 6 were closed. Of the 6 closed applications, 2 were withdrawn as the applicants voluntarily returned to their countries of origin. One application involving a family of 3 was denied followed by an appeal to the Court of Second Instance (CSI), which was pending as of 21

November 2017 but then it was withdrawn. Two individual applications were also denied but the applicants did not appeal and returned to their countries of origin. One application involving a family of 4 was denied and the applicants appealed but finally they withdrew the application and moved to Canada.

194. The applicant must always be informed of his/her rights, including the rights to contact the Office of the UN High Commissioner for Refugees, to interpreters, legal protection, confidentiality, free legal consultation, include spouses and children in the application, basic living conditions (e.g. food, accommodation and monthly economic assistance) and special support (e.g. medical services, school for minors). If necessary, social and economic assistance can be maintained after he/she has acquired the refugee status.

## **Article 14**

### **Equality before the courts and the right to a fair and public hearing by an independent court established by law**

195. As mentioned in the initial report, equality before the law and access to the courts are fundamental rights under the MSAR legal system (Articles 36 and 43 of the BL), guaranteed in ordinary legislation (Article 6(1) and (3) of Law 9/1999, as amended by Law 9/2004 and Law 9/2009, that approves the organic structure of the judiciary, Article 4 of the CPC together with Article 4 of the Civil Procedure Code).

196. Law 13/2012 superseded Decree-law 41/94/M on the Legal Aid System and partially revoked Law 21/88/M, regulating the access to law and to the courts.

197. Access to law includes the access to legal information, legal protection, legal consultation and legal aid. No one shall be restrained or obstructed from seeking justice, and no one shall be discriminated against in the pursuit of the right of access to the courts based on social or cultural conditions. Moreover, the protection of rights and legally protected interests and the respective judicial remedies may not be denied on the grounds of insufficient economic resources or other discriminatory grounds.

198. According to Law 13/2012, all residents (individuals and non-profit legal persons) are entitled to legal aid, in case they do not possess sufficient financial means for court proceedings. This aid comprises 3 modalities: (1) exemption from payment of legal expenses; (2) exemption from payment of court costs; (3) the appointment and payment of pro bono lawyers.

199. This also applies to persons staying in the MSAR with insufficient financial capacity, including non-resident workers, holders of refugee status and holders of special permits, such as foreign students.

200. A Legal Aid Commission was created to assess and approve applications as well as to decide matters such as appointments of pro bono lawyers (AR 1/2013).

### **Judicial system and structure**

201. Information provided in the Core Document and in the initial report remains accurate.

202. The MSAR courts have jurisdiction over all cases in and related to the Region including that of final adjudication (Article 19 of the BL). The main rules concerning the exercise of the judicial function are established in Articles 82 to 94 of the BL, Law 9/1999, as amended, and Law 10/1999, on the legal statute of the members of the judiciary.

203. The judicial structure remains with 3 levels of courts: Courts of First Instance (CFI), CSI and CFA. The CFI includes the Administrative Court and the Lower court comprising the civil, criminal, small claims, labour and family and minors sections. The CSI has general appellate jurisdiction and the CFA is vested with the power of final adjudication (Articles 10 and 27 to 54 of Law 9/1999, as amended).

204. In response to paragraph 14 of the HRC's concluding observations, the number of training in the judiciary has been increased, efforts have been made to promote and ensure bilingualism in the courts and measures have been adopted to tackle backlog of court cases, ensuring the fundamental right of access to justice.

205. All 43 judges of the MSAR read and write Portuguese; among them, 35 speak Chinese while 34 write Chinese. There are 35 judges from Mainland China and 8 from Portugal.

### Judges

<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Male	23	22	25	24	24	22
Female	17	18	21	21	21	21
<b>Total</b>	<b>40</b>	<b>40</b>	<b>46</b>	<b>45</b>	<b>45</b>	<b>43</b>

*Source:* CFA.

206. There are currently 39 procurators. All speak and write Portuguese; among them, 36 speak and write Chinese. Nineteen are from Macao, China, 15 from Mainland China, 2 from Hong Kong, China and 3 from Portugal.

### Procurators

<i>Gender</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Male	20	20	23	24	22	22
Female	15	14	17	17	17	17
<b>Total</b>	<b>35</b>	<b>34</b>	<b>40</b>	<b>41</b>	<b>39</b>	<b>39</b>

*Source:* Office of the Prosecutor General.

207. Since 20 December 1999, 5 magistrate training courses have been organised (Article 17 of Law 10/1999). The gradual increase of magistrates may respond to the ongoing increase of cases.

### Magistrate training courses

<i>Courses</i>	<i>Trainees</i>
Course III – 29/6/2009 ~ 28/6/2011	9 trainees: 4 for the judicial magistracy, 5 for the Procuratorate; 4 males and 5 females
Course IV – 18/7/2011 ~ 17/7/2013	12 trainees: 6 for the judicial magistracy, 6 for the Procuratorate; 6 males and 6 females
Course V – 7 /9/2015 ~ 6 /7/2017	14 trainees: 8 for the judicial magistracy, 5 for the Procuratorate; 1 was not appointed; 6 males and 8 females

*Source:* LJTC.

208. As explained in the initial report, lawyers must hold a law degree and pass a training course of the Macao Lawyers Association to practise in the MSAR. In 2016, there were 374 lawyers in the MSAR. Among them, 190 speak and write Chinese (96 males and 94 females) and 184 speak and write Portuguese (124 males and 60 females). Meanwhile, there were 124 trainee lawyers. Among them, 109 speak and write Chinese (59 males and 50 females) and 24 speak and write Portuguese (16 males and 8 females).

**Lawyers**

<i>Gender/Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Male	147	159	185	191	214	220
Female	84	86	101	117	148	154
<b>Total</b>	<b>231</b>	<b>245</b>	<b>286</b>	<b>308</b>	<b>362</b>	<b>374</b>

*Source:* Macao Lawyers Association.

**Trainee lawyers**

<i>Gender/Year</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Male	N/A	N/A	N/A	68	66	68
Female	N/A	N/A	N/A	42	49	56
<b>Total</b>	<b>115</b>	<b>106</b>	<b>108</b>	<b>110</b>	<b>115</b>	<b>124</b>

*Source:* Macao Lawyers Association.

209. As far as possible, judgments and decisions are delivered in a language that the parties can master. For instance, in the 2015/2016 judicial year, among the 90 judgments (including 49 Collegiate Bench judgments and 41 decisions) of the CFA, 41.11% were delivered in both Chinese and Portuguese, 24.44% in Chinese and 34.44% in Portuguese. Judgments were in Portuguese when both parties engaged lawyers or when none of the parties could master Chinese or when the parties could master both languages.

210. Among the 461 Collegiate Bench judgments related to criminal proceedings of the CSI, 73.75% were delivered in Chinese and 26.25% in Portuguese. And among the 220 Collegiate Bench judgments related to civil and labour law, 13.18% were delivered in Chinese and 86.82% in Portuguese. The relatively low percentage of judgments in Chinese was due to the allocation of judges (when at least one judge was from Portugal) and the language used by lawyers at the appeal court. Among the 14,786 judgments delivered by the Lower Court, 6.57% were in both Chinese and Portuguese, 78.92% in Chinese and 10.35% in Portuguese.

**Effectiveness of the judicial system**

211. As stressed in the initial report, the average waiting period between filing a civil case and scheduling its hearing depends on the type of action and claims, which set out different proceedings and deadlines under the CPC.

212. The 2013 revision of the CPC (Law 9/2013) introduced new specifications to appeal cases tried by a higher court, which have decreased the timeframe for judgments and have simplified procedures. For instance, pursuant to Article 407 of the revised CPC, when the reasons are evidently unsubstantiated or when the court has assessed the subject repeatedly, the judges of the CSI may make summary decisions by themselves. Another example is Article 409, which allows appeals to be tried in a conference.

213. Apart from increasing the number of judges and setting up an expeditious regime, other measures have been adopted. The Judicial Council, which oversees judges, has issued instructions to reduce the backlog of court cases: trial work for criminal cases should not be less than 2 days per week, excluding Collegial Bench meetings and reading of decisions; cases of persons in custody should be heard and tried within 6 months; traffic accident cases should be heard and tried within a year; delayed traffic accident cases should be finished within 3 months; judges are designated, by accumulation, to judge cases backlogged in an unusual manner.

214. The Procuratorate has also set specific requirements to expedite the overall procedure. Procurators give priority to cases when residents' fundamental rights are seriously offended, setting deadlines and controlling execution of procedural measures.

**Average time (day) by the CFA for adjudicating cases**

	2011	2012	2013	2014	2015	2016
Civil/labour	41	54	106	103	101	49
Criminal	36	47	60	49	36	45

Source: CFA.

**Average time (day) by the CSI for adjudicating cases**

	2011	2012	2013	2014	2015	2016
Civil/labour	604	358	297	408	125	133
Criminal	189	147	164	263	159	202

Source: CFA.

**Article 15****The principle of *nullum crimen sine lege, nulla poena sine lege***

215. There has been no change in the MSAR legal system concerning this subject.

**Article 16****The right to recognition as a person before the law**

216. There has been no change in the MSAR legal system concerning this subject.

**Article 17****Rights of a person**

217. As pointed out in the Core Document and in the initial report, the rights of a person are at the very heart of the MSAR legal system, being, therefore, enshrined and safeguarded under the fundamental law (e.g. Articles 4, 11(1), 25, 28(3), 30, 31, 32 of the BL). The relevant legal framework was not subject to considerable changes (e.g. Articles 67 to 82 of the CC, Articles 128 to 135, 137 to 146, 157 to 170, 174, 175, 177 and 184 to 193 of the MCC).

**Crimes against honour investigated by police**

Type/Year	2011	2012	2013	2014	2015	2016
Defamation	28	23	33	59	49	55
Slander	118	137	136	162	147	115
Publicity/calumny	0	6	14	13	45	30
<b>Total</b>	<b>146</b>	<b>166</b>	<b>183</b>	<b>241</b>	<b>241</b>	<b>200</b>

Source: OSS.

218. According to the Procuratorate, in 2016, 92 crimes against honour were prosecuted: 16 of defamation, 72 of slander, 1 of publicity/calumny (Articles 174, 175 and 177 of the MCC, respectively) and 3 others.

**Crimes against private life investigated by police**

Type	2011	2012	2013	2014	2015	2016
Violation of a person's home	27	24	25	18	37	43

<i>Type</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Disclosure of private life	86	79	64	55	16	32
<b>Total</b>	<b>113</b>	<b>103</b>	<b>89</b>	<b>73</b>	<b>53</b>	<b>75</b>

*Source:* OSS.

219. Between 2011 and 2016, according to the Office of the Prosecutor General, there were respectively 7, 5, 7, 6, 2 and 8 cases prosecuted for violation of a person's home (Article 184 of the MCC).

220. Within this context, the adoption of Law 8/2017 must be stressed. It reinforces the protection of physical and psychological integrity, sexual freedom and sexual self-determination by amending the MCC. Law 2/2016, on preventing and combating domestic violence, should also be underscored. More detailed information is provided in Articles 23 and 24, respectively.

221. Concerning dissemination, monitoring and promotion of personal data protection, new measures have been adopted by the Office for Personal Data Protection (DPO), under Law 8/2005. The DPO operates in an independent and autonomous manner (CE Order 83/2007) on personal data protection matters. All private and public entities are obliged to cooperate with the DPO.

222. Between 2011 and 2016, 776 investigations were completed and 266 recommendations issued. And, 78 administrative penalties under Article 33(1) and (2) of Law 8/2005 were applied (fines from MOP\$4,000 to MOP\$80,000).

#### **Investigations regarding violations**

<i>Year</i>	<i>Investigations initiated</i>	<i>Investigations concluded</i>	<i>Initiated by</i>			<i>DPO</i>
			<i>Complaint</i>	<i>Report</i>	<i>Transfer</i>	
2011	86	76	38	26	14	8
2012	118	118	50	44	11	13
2013	141	103	67	44	17	13
2014	194	143	144	29	12	9
2015	155	255	104	33	13	5
2016	224	111	163	46	9	6

*Source:* DPO.

#### **Nature of the violations**

<i>Nature/Cases</i>	<i>2011</i>	<i>2012</i>	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>
Violation of professional secrecy	5	6	4	8	3	3
Lack of security measures	15	17	20	18	15	22
Inadequate protection of the rights of data subject(s)	8	20	33	39	27	46
Non-compliance with the principles of data processing	46	43	36	52	70	75
Lack of criteria for making data processing legitimate	26	67	88	123	98	147
Undue access	2	3	2	5	0	3
Others	8	4	7	27	19	19

*Source:* DPO.

*Note:* some cases had a mixed nature.

223. The DPO uses multi-stranded approaches to intensify the knowledge and awareness of Law 8/2005. Between 2011 and 2016, it organised a variety of activities targeting the public and personal data processing entities, including briefing sessions, seminars, talks, trainings, games and competitions, publications and media publicity, online surveys and awareness campaigns.

224. From 2011 to 2016, the DPO organised 79, 79, 175, 208, 170 and 94 activities respectively. Among them, from 2013 to 2016, 1, 12, 3 and 1 seminars were specifically organised for personal data protection staff with, respectively, 151, 534, 263 and 100 participants.

225. Between 2011 and 2016, the DPO published different materials: 15,000 leaflets on Law 8/2005; 39,900 newsletters; documents adopted by Article 29 of the Data Protection Working Party of the European Union (2016); 280,500 pamphlets; 10,000 colouring books; promo clips and audio.

226. Information provided regarding the conditions and limits for evidence gathering established in the CPC (Articles 122, 156 and 157, 162 and 167) and professional privilege in other ordinary law remains unchanged.

227. As referred, restrictions to the rights of a person are admissible for internal security, health and criminal investigation purposes, but only when expressly provided by law. Evidence obtained with the interference or violation of private life, home, correspondence or telecommunications without a person's consent, except in cases strictly provided by law, is null and void (Article 113(3) of the CPC).

## **Article 18**

### **Freedom of thought, conscience and religion**

228. As mentioned in the initial report, freedoms of conscience, religion and worship are safeguarded under Articles 25, 34, 43 and 128 of the BL, Law 5/98/M on the freedom of religion and worship, and Articles 198(1)(c), 207(1)(e), 230, 231, 233 and 282 of the MCC. The Convention on the Prevention and Punishment of the Crime of Genocide and the CERD are both applicable to the MSAR.

229. Freedom of religion is protected unconditionally. There are no changes on this subject.

230. According to the IB, 66 religious associations (2 Confucian, 4 Taoist, 31 Buddhist, 19 Christian, 2 Catholic, 1 Islamist and 7 of other religions) were registered between 2011 and 2016. In June 2017, there were 428 religious associations.

231. The diversity and number of existing religious associations mirror the recognition and respect for the enjoyment and exercise of freedom of religion in the MSAR.

232. The Government continues to be firmly committed to ensure that public and private institutions provide necessary conditions on the exercise of freedom of thought, conscience and religion (e.g. the curricula at different education levels teach about freedom of expression, "understanding that different people have different beliefs" and "respect for the beliefs and life style of other cultures").

## **Article 19**

### **Freedom of expression**

233. As stated in the initial report, freedom of expression is expressly safeguarded under the BL and ordinary law of the MSAR and encompasses freedom of speech, press and publication; the right to form and hold an opinion and to freely express, including through art and academic work; the right to information and access to information without discrimination (Articles 27 and 37 of the BL). Access to all may be attained through different media, such as printed press, radio, TV, libraries, cinemas, theaters, Internet.

234. Law 7/90/M, the Press Law, continues to regulate the exercise of the freedom of expression through the press, the right to information and the press activity rules, as well as Law 8/89/M that establishes the legal framework of radio and TV broadcasting. Information previously provided remains accurate.

235. The Press Law ensures the independence of journalists and the protection of their sources (Article 6(1) and (2)). No one can seize, withhold legitimate publications, or impede their composition, printing, distribution and free circulation (Article 8). Professional secrecy can only be waived by a court decision (Article 6(3)).

236. The media industry continues to thrive in the MSAR. The number of Chinese language dailies has increased from 8 to 11, one being a free newspaper founded in 2011, while a weekly turned into a daily newspaper. The number of Portuguese dailies has increased from 2 to 3 while there have been 3 English dailies. In 2014, a Chinese-Portuguese bilingual weekly was launched. A Portuguese weekly switched into a trilingual (Chinese, Portuguese and English) weekly in the same year.

### Publications registered

	2011	2012	2013	2014	2015	2016
Daily newspapers	17	19	18	20	20	21
Weekly magazines	26	24	25	29	32	31
Editions	78	106	88	86	76	73
<b>Total</b>	<b>121</b>	<b>149</b>	<b>131</b>	<b>135</b>	<b>128</b>	<b>125</b>

Source: Government Information Bureau (GIB).

237. There is no exact record of the number of journalists, including photo-journalists in the MSAR. However, 240 work in the local press and are registered at the health insurance scheme. There are 8 press associations and 15 regional and international media organisations working in the MSAR.

238. Newspapers comment actively on current affairs while electronic media have launched programmes with guests and residents discussing current issues.

239. Information regarding TV and radio services remains unchanged.

240. The Government continues to provide regular aid to the local press. To encourage and support the media, it provides an annual and renewable incentive to increase their competitiveness, including financing projects for technological modernisation and training and professional qualification (CE Order 145/2002).

241. Residents can easily connect to the Internet for information and discussion on forums, social media and other platforms. According to the GIB, in 2016, households with internet connection accounted for 88.6%. Internet users aged 3 and above reached 499,900 and the internet usage rate was 81.6%. The mobile phone usage rate was 91.7%, while the proportion of Internet users using mobile phone to access the Internet was 91.9%.

242. AR 24/2002 regulates the licensing of Internet service providers. There are no imposed limits or restrictions on Internet access. In the MSAR, there are 7 Internet service providers.

### Restrictions to the freedom of expression

243. As referred in the initial report, the exercise of freedom of expression may be subject to certain restrictions to protect individual freedoms and rights, the community or the MSAR in accordance with law.

244. As mentioned earlier, crimes against the honour of a person are provided for in the MCC.

245. The Press Law also covers the civil and criminal liability of press agents, including the right to compensation for damages caused through the press. The publication of written

texts or images that are harmful to the rights or interests protected under criminal law may constitute the crime of abuse of freedom of the press (Articles 28 and 29).

246. There are certain prohibitions to free programming, namely if they: (a) violate fundamental rights and freedoms of persons; (b) incite the commission of crimes or promote intolerance, violence or hatred; (c) are considered by law to be of a pornographic or obscene nature; or (d) incite totalitarian behaviour or aggression towards social, racial or religious minorities (Article 52 of Law 8/89/M).

247. In this respect, a reference to the new Article 170-A (Pornography of minors) of the MCC, added by Law 8/2017, should be made. This provision should be read together with Law 10/78/M, on the measures regarding the sale, exhibition and dissemination of pornographic and obscene material.

248. Concerning paragraph 15 of the HRC's concluding observations, journalists qua tale are free to enter the MSAR and the Government respects the freedoms of speech and of press.

249. The MSAR is a small territory of 30.5 km<sup>2</sup> with the highest population density in the world. Around 2.8 million tourists cross its borders per month, accounting around 31 million per year.

250. Thus, the maintenance of public order and security is a priority. Social peace includes freedom and security which are fundamental values of society and social equilibrium.

251. Any threat that may cause distress or disturbance to public security is seriously assessed since it may provoke spillover effects with unpredictable consequences, posing risks to residents and tourists. Hence, it cannot be straightforwardly analysed, depending on several factors and criteria, including on the tactic level.

252. In fact, the number of entry refusals based on security reasons is minimal if one compares it with the number of tourists per year (e.g. 27,105 and 29,461 refusals in 2015 and 2016, respectively).

## **Article 20**

### **Prohibition of propaganda for war and inciting national, racial or religious hatred**

253. Information provided in the initial report is still accurate. A detailed account relating to the MSAR legal framework on the prohibition of propaganda for war and inciting national, racial or religious hatred can be found in the relevant part of China's latest report on the implementation of the CERD.

## **Article 21**

### **Right to peaceful assembly**

254. The legal framework for the right of peaceful assembly and demonstration remains unchanged. Such right is guaranteed under Article 27 of the BL and is regulated under Law 2/93/M, as amended by Law 7/96/M and Law 16/2008.

255. A key characteristic of this Law lies in the possibility of exercising the right to meet peacefully and demonstrate in public spaces, places open to the public or in private without prior authorisation. All that is required is a simple notice, in advance, of their intention. The procedure and conditions are described in detail in the initial report.

256. Between 2011 and 2016, there were respectively 171, 202, 286, 255, 268 and 304 applications for assemblies, protests or demonstrations and 32, 19, 34, 32, 16 and 11 refusals.

257. Major reasons for refusal were: lack of prior notice to the Civic and Municipal Affairs Institute (CMAI) (Article 5(1) and (2) of Law 2/93/M); or lack of subject, objective, date, time, location or clear route (Article 5(3) of Law 2/93/M).

258. Between 2011 and 2016, there were respectively 7, 11, 13, 11, 11 and 16 cases in which procession routes were altered on the grounds of safeguarding public order and safety.

259. Between 2011 and 2016, 6 rulings concerning the right of assembly were rendered by the CFA. The Court upheld 5 appeals of the demonstrators (2, 1 and 2 respectively in 2011, 2013 and 2014). In all cases, the main issue was the restriction to use certain public places to hold public meetings.

260. Concerning paragraph 16 of the HRC's concluding observations, it should be mentioned that the right to freedom of assembly is safeguarded under the MSAR law, which in no way differs from other jurisdictions, comprising a chapter of crimes against the MSAR (incitement to promote a violent change of the political, economic and social system and incitement to civil collective disobedience in the MCC) (Articles 298 and 300, respectively). Actually, few cases of this nature were investigated but none resulted in prosecution.

261. Demonstrators or journalists can be, as any resident, detained if they disturb public pacific demonstrations or incite the use of violence or attempt against public order and public safety. Resistance or disobedience to a police officer are crimes under the MCC (Articles 311 and 312).

262. Record of images during demonstrations is used as an auxiliary measure to prevent situations that can generate into serious and effective disturbance to public security or to the free enjoyment of other persons' individual rights. It also helps to identify police-strategy flaws for debriefing and amendment. It cannot be used to record a person in particular.

263. The MSAR police officers act in good faith and are identified. Images that are recorded for public security reasons are eliminated as soon as their purposes end. This record obeys the principles of legality, necessity and proportionality, respecting individuals' fundamental rights (Law 2/93/M, Law 9/2002, Law 8/2005 and Law 2/2012).

264. During demonstrations, the authorities must act in accordance with and within the limits of law. Cases of behavioural excess or deviance are exceptional. In those cases, agents will be subject to inquiry and disciplinary measures. The core principles of police actions are: legality, prohibition of excess and hierarchy. The police guidelines reinforce such principles, which are the basis of any police order (verbal or written), operational actions or emergency plans.

## **Article 22**

### **Freedom of association**

265. The MSAR legal framework provided in the initial report remains unchanged (Article 27 of the BL, applicable ILO Conventions, Articles 140 to 192 of the CC and Law 2/99/M that establishes the regime for the freedom of association). Associations are legal persons under MSAR legislation.

266. In the MSAR, engagement and participation in community life, as well as civic intervention, are typically performed through local associations. Civic associations play an important and active role and are recognised by the Government. There are many associations of different nature, being a core characteristic of the MSAR.

267. In June 2017, there were 704 professional associations, 324 labour, 584 employers, 315 educational, 1,525 charity, 1,668 cultural and 1,540 sports.

268. The Government encourages and supports NGOs with charitable, medical, educational or other purposes with tax exemptions and financial subsidies.

269. As explained in the initial report, political associations aim at contributing to the exercise of political and civil rights and at participating in the political life of the MSAR

through elections (Election Committee, CE and LA), submission of suggestions and opinions, participation in the activity of the government and local bodies and promotion of civic and political education (Article 27 (1) (1) of Law 3/2001, as amended by Law 11/2008, Law 12/2012 and Law 9/2016).

270. Labour organisations continue to be active, acting politically and defending the interests of workers, including collective bargaining at the Standing Committee for Social Affairs. Members of labour associations cannot be discriminated or subject to any restrictions by the fact that they are members.

### **Article 23**

#### **Protection of the family, right to marriage and equality of spouses**

271. As noted in the initial report, family is a fundamental unit of society. Article 38 (1) of the BL establishes the freedom of marriage and the right to constitute and raise a family. These rights are reaffirmed by Law 6/94/M on the legal framework on family policy, and by the CC. Maternity and paternity constitute human and social values, respected and safeguarded by law.

272. The major change under this Article is the adoption of Law 2/2016, which creates a legal and institutional framework to criminalise domestic violence as an autonomous crime and adopts specific procedural criminal norms and law enforcement measures. It also sets up preventive, intervention and victim protective measures, engaging all the key departments and the civil society.

273. This action is in line with paragraph 10 of the HRC's concluding observations that recommended the MSAR to adopt a law to prevent domestic violence and to strengthen assistance, services and remedies to victims.

274. Pursuant to Article 18(1) of Law 2/2016, whoever within a family relationship or equivalent inflicts on a family member any kind of physical, psychical or sexual maltreatment or abuse shall be punished with imprisonment of 1 to 5 years. Article 18(2) states that if such actions are committed under particular serious circumstances or censorship of the offender, he/she shall be punished with imprisonment of 2 to 8 years. These circumstances may be: (i) the victim is a minor under 14, an incapacitated or a vulnerable person due to age, pregnancy, sickness or physical or mental deficiency; (ii) the act happened in front of a minor under 14; or (iii) other circumstances provided for in Article 129(2)(b)(c)(f) and (g) of the MCC in relation to qualified homicide.

275. If the acts committed under Article 18(1) result in a serious offence to physical integrity, the offender shall be punished with imprisonment of 2 to 8 years; in case of the acts under Article 18(2), the offender shall be punished with imprisonment of 3 to 12 years. In case of death of the victim, the offender shall be punished with imprisonment of 5 to 15 years.

276. To prevent the re-occurrence of domestic violence, accessory penalties may also be imposed, individually or cumulatively, including prohibition of any kind of contact with the victim, prohibition to stay or to have access to specific areas, such as the house of the victim or his/her family members or place of work or school, prohibition to own weapons, objects or tools that can be used for perpetrating acts of domestic violence, prohibition to perform some professional occupations (Article 19).

277. The major change to the Law is the nature of the crime, which became a public crime, i.e. a complaint from the victim is no longer required to initiate criminal proceedings.

278. Urgent coercive measures such as the removal of the offender from the victim's family residence may be ordered by a judge, if there are strong indicia that the crime of domestic violence has been committed (Article 25(1)).

279. Between October and December 2016, the police recorded 9 domestic violence cases, involving 9 perpetrators (8 males and 1 female), who were detained. The Procuratorate qualified 15 cases as domestic violence; 1 case was filed and 8 are pending.

### Domestic violence cases handled by the police

Type/Year	2011	2012	2013	2014	2015	2016	2016
							(Oct-Dec)
Domestic violence cases	352	341	296	353	273	383	9
Spousal abuse cases	260	258	203	241	207	275	8
Female victims	243	231	186	229	194	239	8
Male victims	17	27	17	12	13	36	0
Abuse cases involving other family members	92	83	93	112	66	108	1
Victims	68	65	73	90	50	74	0
Victims under 18	16	11	8	15	8	28	1

Source: OSS.

### Domestic violence cases handled by the SWB\*

Type/Year	2011		2012		2013		2014		2015		2016	
	Cases	Victims	Cases	Victims								
Wife abuse	33	33	24	24	34	34	31	31	46	46	90	90
Husband abuse	1	1	1	1	1	1	10	10	4	4	7	7
Child abuse	17	22	14	17	20	24	8	10	14	16	31	32
Elder abuse	3	3	1	1	4	4	2	2	5	5	2	2
Violence from family member	27	32	18	18	14	14	18	18	11	11	10	11
<b>Total*</b>	<b>76</b>	<b>89</b>	<b>58</b>	<b>61</b>	<b>73</b>	<b>77</b>	<b>69</b>	<b>71</b>	<b>80</b>	<b>82</b>	<b>140</b>	<b>142</b>

Source: SWB.

\* Some cases involve more than one type of abuse.

280. A holistic approach has been adopted by the Government to tackle domestic violence. The SWB, as the main body responsible for coordinating and implementing Law 2/2016, has set up cross-sectoral cooperation mechanisms with the PSPF, JP, HB, EYAB, LAB and the Housing Bureau, as well as NGOs.

281. Law 2/2016 prescribes the following services to victims: temporary shelter; emergency financial assistance; legal aid; free healthcare; assistance in education or employment; personal or family counselling; legal information and counselling and other protection/assistance measures, to ensure their safety and well-being (Article 16). According to the SWB, 566 victims benefited from temporary shelter from 2011 to 2016 (72, 81, 71, 70, 139 and 133 respectively).

282. New tools for assessing/identifying domestic violence and other family crises were introduced. A Family Crisis Support Service Network was established to assess the crisis risk, physical and mental condition of victims, repeated violence risk, extent and history of abuse and other potential victims, and to adopt appropriate interventions (follow up, crisis management and counselling measures).

283. The duty to communicate was set out for public entities and their workers while performing their duties as well as for private entities providing medical and nursing services, care for children, the elderly and persons with disabilities, or engaged in teaching, social work or counselling activities, and their workers in the exercise of their activity. All must immediately report situations of domestic violence of which they suspect or are aware (Article 6).

284. To understand the magnitude and root causes of domestic violence, as recommended in paragraph 10 of the HRC's concluding observations, the Government has taken some significant steps.

285. A centralised record system was created to: (i) collect data to study the phenomenon, including its characteristics and trends; (ii) identify the causes of domestic violence, behavioural patterns and typical social and legal responses and; (iii) develop appropriate activities to prevent and combat domestic violence (Article 7). Relevant data will be collected and analysed to serve as reference to define policies to prevent and combat domestic violence and to adjust resources and plans.

286. Experts were invited to address domestic violence, inter alia to study the actual situation in the MSAR, envisage measures, improve the functional cooperation mechanisms of different departments, formulate guidelines on procedures and reporting of suspicious cases; and a Macao Domestic Violence Indicators Study was commissioned in 2012.

287. In addition to the 3 existing support hotlines of the Women's General Association of Macau and Macao Caritas, the SWB also established a 24-hour Domestic Violence Hotline in November 2015.

288. Since 2011, the SWB has held several training courses on domestic violence in various fields, including law, social work and psychology. The participants were mainly social workers and psychological counselling personnel. Specialised training was also provided to around 4,000 professionals from different areas including the police, health/medical, education and legal practitioners, as well as staff from private entities that may encounter domestic violence cases. The PSPF organised training courses for its staff, one in 2014 with 30 trainees and 21 in 2016 with 706 trainees.

289. Social assistance includes family service centres, day care centres, crisis situation management, marriage counselling, family education, free meals and economic assistance, which are provided to individuals or families who are at risk, in need or vulnerable, in particular those experiencing marital or family break-ups or domestic violence, single-parent families and low-income families, especially when children, elderly or persons with disabilities or chronically illness are involved.

#### Cases handled by the SWB

Type/Year	2011	2012	2013	2014	2015	2016
Suicide	34	22	17	16	11	10
Emotional distress	282	235	225	246	254	203
Child abuse	22	17	24	10	16	32
Wife abuse	33	24	34	31	46	90
Husband abuse	1	1	1	10	4	7
Elder abuse	3	1	4	2	5	2
Child neglect *	4	2	12	7	NA*	NA*
Marriage problems	234	227	213	207	201	175
Parent-child relationship	186	183	176	169	141	121
Individual counselling **	509	480	453	448	733	748
Family counselling**	198	198	157	137		

Source: SWB.

\* Statistics will no longer be included from 2015.

\*\* Two categories were combined from 2015.

290. According to the SWB, 6,197, 5,930, 5,683, 5,413, 4,637 and 4,456 households/families received regular economic assistance between 2011 and 2016 respectively.

291. Public awareness-raising, education and community services relating to the value of the family, the importance to prevent and combat domestic violence and the protection of children, elderly and disabled are ongoing tasks of the SWB, e.g. the Happy Family Serial

Activities and Campaign against Domestic Violence were organised for 5 consecutive years, attracting more than 100,000 participants.

292. In relation to labour, one proposed amendment to Law 7/2008 for public consultation is the addition of 14 days of unpaid leave to the current 56 days of paid maternity leave. Another one is to revise the current 2 working days of paid paternity leave to 3 to 5 working days.

293. The LAB continues to promote women's rights at work such as work arrangements for pregnant women, maternity leave, marriage leave through different channels and media. Between 2014 and 2016, the LAB, with different associations, organised 11 talks mainly for female workers, attracting around 850 participants.

294. To encourage breastfeeding, breastfeeding rooms were introduced in public services in 2016.

## **Article 24**

### **Rights of the child**

295. Concerning the rights of the child, information provided in the initial report and the reply to the list of issues remains valid.

296. The main change is the adoption of Law 8/2017, which broadened the scope of crimes against sexual self-determination related to minors in the MCC, reinforcing the protection of children.

297. Paragraphs 1, 3 and 4 of Article 166 (Sexual Abuse of Children) of the MCC were revised. The scope of the conducts of paragraph 1 was broadened to include whoever entices a minor under the age of 14 to perform upon himself any relevant sexual act (before, it only covered whoever performs a relevant sexual act with a minor under the age of 14, or entices him to perform with another person). The scope of paragraph 3 was equally broadened to cover not only those who perform vaginal or anal intercourse with a minor under 14 but also those who perform oral sex with a minor under 14 or introduce any part of the body or objects into the victim's vagina or anus. Penalties shall be imprisonment of 3 to 10 years.

298. Child pornography provided for in paragraph 4(b) of Article 166 was also revised and a new provision was adopted, whereby it became an autonomous crime.

299. Under paragraph 1 of Article 170-A of the MCC, regardless of the age of the minor, whoever: a) uses or entices a minor for a pornographic performance; b) uses or entices a minor for a pornographic photo, film or recording regardless of its medium; c) produces, distributes, sells, imports, exports or disseminates in any name or by any means or acquires or detains for those purposes the said material shall be punished with imprisonment of 1 to 5 years.

300. Whoever transmits, exhibits, provides in any name or by any means or acquires or detains for those purposes the above material shall be punished with imprisonment of up to 3 years (paragraph 2).

301. Those that perform the acts of paragraphs 1 and 2 as a means of living or for profit shall be punished with imprisonment of 2 to 8 years and 1 to 5 years, respectively (Article 170-A(3)).

302. The crime of child prostitution provided for in Article 170 of the MCC ("Procurement of a Minor") was also reinforced with a new provision.

303. Article 169-A "Recourse to the Procurement of a Minor" states that whoever performs a relevant sexual act with a minor aged between 14 and 18 by providing or promising to provide remuneration or other return by himself or by a third person shall be punished with imprisonment of up to 3 years. If the relevant sexual act consists of vaginal, anal or oral intercourse or of the introduction of any parts of the body or objects into the victim's vagina or anus, the offender shall be punished with imprisonment of up to 4 years.

304. Apart from other aggravated circumstances provided for in Article 171 of the MCC, in any given situations (Articles 166(4), 169-A, 170 and 170-A), penalties shall be increased by one third in its minimum and maximum limits if the victim is an ascendant, descendent, adopter or adoptee or a relative or has kinship with the offender up to the second degree, or if the victim is under his guardianship or curatorship (Article 171(1)). Moreover, according to Article 173, the exercise of parental power, guardianship or curatorship may be inhibited for a period of 2 to 5 years.

305. "Pornography of Minor" was also added to Law 6/97/M, Law against Organised Crime, where secret associations or societies are now punished for exploitation of prostitution, procurement and pornography of a minor.

306. The recommendation in paragraph 12 of the concluding observations about night-time solitary confinement is addressed in Article 10 of the Covenant.

307. The Government continues to eradicate child labour through the adoption of targeted measures. The legal framework remains the same. More work inspections were undertaken, and penalties applied accordingly.

#### Child labour cases

Year	2011	2012	2013	2014	2015	2016
Cases opened	111	75	281	170	70	60
Workers involved	150	143	412	209	96	73
No. of complaint subjects	242	250	591	262	139	90

Source: LAB.

#### Contraventions

Year	2011	2012	2013	2014	2015	2016
Contravention	129	141	282	146	57	42
Substantiated	40	14	61	11	27	7
Unsubstantiated	89	127	221	135	30	30
Under investigation	0	0	0	0	0	5

Source: LAB.

308. Most cases concerned the employment of minors without meeting the requirements, or without a medical certificate, or written authorisation from the lawful representative.

#### Administrative infringements

Year	2011	2012	2013	2014	2015	2016
Administrative infringement	113	109	309	116	82	48
Substantiated	82	38	244	102	75	36
Unsubstantiated	31	71	65	14	7	4
Under investigation	0	0	0	0	0	8
Violations rectified	4	2	7	1	11	0

Source: LAB.

309. Most cases concerned the failure to notify the LAB of the conclusion of labour contracts with minors or lack of a written contract.

310. The Government continues to adopt targeted measures to protect children's interests; (i) at the legislative level; (ii) with the CWCA; and (iii) by providing specialised support and undertaking effective actions focused on vulnerable children/young people, including

activities in the areas of health, education and environment as well as prevention programmes on drugs, alcohol, tobacco, HIV/AIDS and gambling and social rehabilitation programmes.

311. The SWB, through funded NGOs, provides shelter for orphans, foundlings, children and young people who are abandoned, in crisis or not adequately cared for due to family problems, for them to live and grow in a healthy and safe environment. These include 9 children's homes, covering those aged between 0 and 21.

312. Accommodation, daily care in foster families and community-based accommodation services are also assured to children and young people to help them overcome temporary difficulties, and to grow in a caring and loving environment. Between 2011 and 2016, 279 (2011), 263 (2012), 301 (2013), 283 (2014), 316 (2015) and 302 (2016) minors between 0 and 18 stayed in children's homes and foster families.

313. Undocumented children, refugee or those seeking the status of refugee are provided with appropriate accommodation, care and development plans for their needs, like education, counselling and health services. From 2011 to 2016, the SWB provided assistance to 63 minors aged between 0 and 17.

314. Between 2011 and 2016, 86, 124, 140 persons benefited from the Learning Assistance Programme for New Immigrant Students in Macao in academic years 2010/2011, 2011/2012 and 2012/2013 and there were respectively 98, 91, 85 beneficiaries in 2014, 2015 and 2016.

315. In 2016, the HB, EYAB and SWB created the Children Comprehensive Assessment Centre, providing one-stop comprehensive assessment services for children aged under 6, aiming at achieving the goals of early detection, assessment, diagnosis and treatment. Through this crossdepartmental coordination, the time for queuing, assessment, treatment, educational placement and other social services can be shortened. Simultaneously, the Centre supports families with disabled children to overcome difficulties and challenges appeared from the early stage of suspicion to rehabilitation.

316. In December 2016, 568 children aged under 6 have undergone a total of 630 assessments in the Centre. Among them, 125 children were assessed with an intellectual disability, 62 with a hearing impairment, 156 with a speech disorder, 132 with a motor coordination disorder and 155 received other assessments and follow up.

#### Students with special educational needs

Academic year	2010/2011		2011/2012		2012/2013		2013/2014		2014/2015		2015/2016		2016/2017	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
3-5	89	39	90	39	102	34	135	52	169	49	194	54	239	68
6-11	226	99	241	100	283	121	321	140	374	158	463	183	587	222
12-17	256	142	287	155	278	130	316	151	341	155	334	155	349	170
18-24	83	43	84	48	92	58	118	71	116	68	129	80	130	76
<b>Total</b>	<b>654</b>	<b>323</b>	<b>702</b>	<b>342</b>	<b>755</b>	<b>343</b>	<b>890</b>	<b>414</b>	<b>1 000</b>	<b>430</b>	<b>1 120</b>	<b>472</b>	<b>1 305</b>	<b>536</b>

Source: EYAB.

Note: Students with special educational needs refer to students who have been assessed by the authorised public department or the entity recognised by the education authority and confirmed to be students with special needs for learning and adaptation, including inclusive students, students in small class of special education and students of special education class.

317. Specialised programmes were launched to support children with autism or learning disorder, as well as young people with mental health disorder. The Affection for Teens – Youth Mental Health Promotion Programme (2012) targets young people aged 12 to 21, including those with symptoms of emotional disorder or confirmed emotional disorder, assisting 1,430, 852, 951, 1,028, 3,528 users respectively from 2012 to 2016. The Early

Intervention Programme (2014) of the Macau Child Development Association, designed for children with autism or learning disorder, assisted 24 (2014), 16 (2015) and 31 (2016) users.

318. Concerning rehabilitation residential care service, there is currently one residential care home, providing meals, accommodation, professional therapy and counselling service to minors with intellectual or physical disability aged 0 to 15. From 2011 to 2016, there were respectively 26, 23, 24, 25, 25 and 18 service users.

### Services and service users

Type of services	Year					
	2011	2012	2013	2014	2015	2016
Social protection system	61	64	65	68	65	113
Adoption service	4	4	1	3	0	0
Community support services	4	1	2	4	4	0
“Refuel Back to School” – adjustment service programme	99	123	80	129	109	124
Development project: ‘Dream Come True Adolescent’	0	0	0	0	50	50
Hidden and Internet addicted youth service (Pilot Service)	0	0	0	0	11	101
Nurseries referral services	7	3	7	7	10	6
Community youth project teams	671	803	733	580	712	623
<b>Total</b>	<b>846</b>	<b>998</b>	<b>888</b>	<b>791</b>	<b>961</b>	<b>1 017</b>

Source: SWB.

319. To promote the rights of students in schools, the EYAB carries out thematic counselling activities, in collaboration with the school, family and community and student counsellors. Main topics include sexuality education, career planning, prevention of deviant behaviour, development of positive behaviour, caring for society and personal development, promotion of a healthy lifestyle.

320. Between 2011 and 2016, in the Healthy Life Education Programme, targeting K3 to primary 6 and special education students, there were 22,243, 87,150 and 1,450 participants respectively from K3, primary 1 to 6 and special education. Within the same period, 22,408 secondary students (form 1 to 3) participated in the Drug Education Programme for Secondary Students. Besides, 24,172 primary 4 to secondary students participated in the drug prevention workshops and special programmes. A Healthy Life Education Centre was created in 2016 and 941 primary 4 to university students participated in anti-drug experiencing activities in the Centre in the same year.

321. Detoxification clinical services, counselling and support services were provided to drug addicts, families and friends. The number of registered users aged between 13 and 18 at the Central Registration System for Drug Abusers was: 72 (2011), 47 (2012), 35 (2013), 16 (2014), 38 (2015) and 21 (2016).

322. Law 5/2011, on the Regime of Tobacco Prevention and Control, expressly protects minors from tobacco. Locations frequented by children and young people are designated as no smoking areas and it is prohibited the sale of tobacco products to minors. The HB works closely with NGOs and consistently devotes resources to educate children about the hazards of smoking.

323. The SWB and Youth Macao Christian Association have been conducting the Smart Financing Promotion Programme (2014) and other activities as a preventive response to the MSAR’s gaming environment, with 7,953 participants between 2014 and 2016.

324. To promote children's rights, the SWB adopts different methods to raise the public and children-related workers' awareness of the CRC and child protection. Since 2011, the SWB has been promoting children's rights with a specific theme every year.

## **Article 25**

### **Right to participate in public affairs, voting rights and the right of equal access to public services**

325. Information provided in the initial report is still valid, except the parts mentioned in the introduction and Article 3. Equal access to, and the exercise of, public office and positions is guaranteed as is the right to participate in public life in the MSAR.

## **Article 27**

### **Rights of minorities**

326. The legal framework remains basically unchanged. However, the adoption of Law 11/2013 on the Protection of Cultural Heritage should be highlighted. It follows closely and protects the rights enshrined in the UNESCO Conventions concerning the Protection of the World Cultural and Natural Heritage, the Safeguarding of the Intangible Cultural Heritage and the Protection and Promotion of the Diversity of Cultural Expressions (applicable in the MSAR).

327. The Government pays great attention to and promotes the cultural diversity of the MSAR. Tangible and intangible cultural heritage are equally guaranteed, protected and safeguarded under this Law.

328. The UNESCO "Historic Centre of Macao" has been preserved and widely promoted.

329. The Cultural Affairs Bureau (CAB) is the main department responsible for promoting culture and cultural life. It works closely with other government departments (e.g. CMAI, EYAB, Tourism Office), entities (Macao Foundation or private) and NGOs.

330. Following Law 11/2013, the CAB has established an inventory of the MSAR's tangible and intangible cultural heritage. As regards the latter, 15 elements were included: Yueju Opera (Cantonese Opera), Herbal Tea Brewing, Woodwork – Religious Figure Carving, Taoist Ritual Music, Cantonese Naamyam (Narrative Songs), Festival of the Drunken Dragon, Belief and Customs of A-Ma, Belief and Customs of Na Tcha, Macanese Gastronomy, Patuá Theatre, Belief and Customs of Tou Tei, Belief and Customs of Chu Tai Sin, Craft of Bamboo Scaffolding, Procession of the Passion of Our Lord the God Jesus and the Procession of Our Lady of Fatima, recognising Mainland Chinese, Portuguese and Macanese cultural manifestations.

331. Macanese Patuá is a local dialect. The Macao Arts Festival, as a cultural platform, promotes the patuá-language drama group, attracting nearly 10,000 viewers since 2011. Macanese gastronomy is also promoted, e.g. with the publication of *The Cuisine of Macao from my Grandfather's House Cookbook*, printed in Chinese and Portuguese-English.

332. The Chinese New Year is a major cultural event, involving different manifestations, such as lion dances, parades and fireworks. During this event, the CAB promotes traditional ethnic minorities crafts workshops, costumes exhibitions, storytelling, creative booths, concerts and performances (e.g. from Yunnan province, Inner Mongolia). Other local celebrations include Buddha's Birthday, when the Feast of the Drunken Dragon is performed, as well as Ching Ming Festival, Chung Yeung Festival, Mid-Autumn Festival and Tung Ng Festival.

333. Portuguese cultural heritage is also promoted through cultural activities such as concerts, theatre, literature, exhibitions and gastronomy events involving Portuguese-speaking countries and regions like Angola, Brazil, Cape Verde, Guinea Bissau, Goa, Daman and Diu, Mozambique, Portugal, São Tomé and Príncipe and East Timor. The annual Lusofonia Festival is one of the highlights, with 318 participants in 2016, attracting approximately 18,000 visitors.

334. Other minority celebrations are the annual Thai Cultural Festival (including Thai food, arts and dances, distribution of rice and massages) and the annual Sinulog Festival, one of the biggest events of the Filipino community (including dance groups representing different tribes and a religious procession).

335. Since 2011, the CAB has been organising the “Parade through Macao, LatinCity”/“Macao International Parade”, including different ethnic minority associations of the MSAR, such as the Myanmar Overseas Chinese Association, Association of Thais in Macau, Filipinas Associação do Santo Niño de Cebu em Macau, Capoeira Sports and Cultural Association of Macau and Macau Samba School. The Parade provides a platform for promoting cross-cultural interaction among different ethnic groups, with the participation of over 1,000 local and overseas performing groups and artists every year. It is broadcast live, locally and internationally.

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