



**Convention on the Elimination
of All Forms of Discrimination
against Women**

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**Committee on the Elimination of
Discrimination against Women**

**Consideration of reports submitted by States parties under
article 18 of the Convention on the Elimination of All Forms
of Discrimination against Women**

Combined fifth and sixth periodic report of States Parties

Addendum

China*

* The present document is being issued without formal editing. The combined fifth and sixth periodic report of China was received by the Secretariat on 4 February 2004. For the initial report submitted by the Government of China, see CEDAW/C/5/Add.14, which was considered by the Committee at its third session. For the second periodic report submitted by the Government of China, see CEDAW/C/13/Add.26, which was considered by the Committee at its eleventh session. For the combined third and fourth periodic report submitted by the Government of China, see CEDAW/C/CHN/3-4 and CEDAW/C/CHN/3-4/Add.1 and Add.2, which was considered by the Committee at its twentieth session. For the fifth and sixth periodic report submitted by the Government of China, see CEDAW/C/CHN/5-6.

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INTRODUCTION

1. The present report is the first to be submitted, under the terms of Article 18 of the Convention on the Elimination of all Forms of Discrimination Against Women (hereinafter referred to as the Convention), by the People's Republic of China, with regard to the application of the Convention in its Macao Special Administrative Region (hereinafter referred to as the MSAR). It covers the period from 20 December 1999 to 31 January 2003.
2. The Convention was extended to Macao on 27 April 1999, with effect from 27 May 1999. Meanwhile the text of the Convention had been published in the Macao Official Gazette, No. 37, of 14 September 1998.
3. On 19 October 1999, the People's Republic of China notified the Secretary-General of the United Nations that it would assume responsibility for the international rights and obligations arising from the continuous application of the Convention in the MSAR, having then declared that the reservation to Article 29 (1) of the Convention made by the People's Republic of China would also apply to the MSAR.
4. This report, prepared in compliance with the Guidelines on the Form and Content of Reports to be submitted by States Parties to the Convention, adopted by the Committee on the Elimination of Discrimination Against Women (CEDAW/C/7/Rev.3, consolidated in document HRI/GEN/2/Rev.1), should be read jointly with Part III of the second revision of the Core Document of the People's Republic of China submitted to the Secretary-General of the United Nations (HRI/CORE/1/Add.21/Rev.2).
5. The information included in the former reports of China, with regard to the MSAR, on the application of the International Convention on the Elimination of all Forms of Racial Discrimination (CERD/C/357/Add.4) and the International Convention on the Rights of the Child (_____) is still accurate and updated, and, as such, reference should be made to those reports where applicable to the issues in question.

PART I – BASIC FACTS AND FIGURES

6. General information on the territory and the population, the political structure and the framework for the protection of human rights, within the legal system of the MSAR, is included, as mentioned above, in Part III of China's Core Document.
7. However, pursuant to the Census carried out in 2001 (the results of which were disclosed in the second semester of 2002), some statistical adjustments were registered. Therefore, the respective global results are hereby attached to this report, namely the publication of "Census 2001" as well as the Yearbooks of Statistics regarding the years 2000 and 2001, published by the Statistics and Census Department of the MSAR.
8. Furthermore, and with respect to each of the Articles of the Convention, the relevant information provided is updated.

PART II – IMPLEMENTATION OF THE PROVISIONS ESTABLISHED BY THE CONVENTION IN THE MSAR

ARTICLES 1 AND 2: LEGISLATIVE MEASURES FOR THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN

9. On 20 December 1999, the MSAR was established and its Basic Law was put into effect. In accordance with the principle “One country, Two systems”, the various principles, policies and provisions to be applied to the MSAR are established in this Law.

10. The Basic Law has constitutional value, thus prevailing over all the other laws. No law, decree, administrative regulations or normative acts of the MSAR may contravene it (Article 11 (2)).

11. Article 8 of the Basic Law provides for the maintenance of legislative, administrative and other normative acts, previously in force in Macao, except for those that contravene the Basic Law or that are subject to any amendment by the legislator or other competent organs of the MSAR in accordance with legal procedures. On the other hand, Article 18 determines that the laws in force in the MSAR are: the Basic Law, the laws previously in force in Macao, as provided for in its Article 8, as well as the laws enacted by the legislator of the MSAR (see also Article 145).

12. From the aforementioned provisions of the Basic Law results the maintenance under the referred terms of the legal system, which is a civil law system.

13. The Reunification Law, Law 1/1999, of 20 December, determined which laws and other normative acts previously in force were considered to contravene the Basic Law. These were consequently revoked. However, the Reunification Law admits that regarding some of the revoked legislative acts, and whilst the new legislation is not produced, the MSAR may deal with the subject matters therein regulated according to the principles included in the Basic Law, taking previous practices as reference.

14. It should be stressed that none of these revoked normative acts are in any way related to human rights.

15. One of the general principles of the Region itself, as stipulated in Article 4 of the Basic Law, is that the MSAR safeguards the rights and freedoms of the residents of the MSAR and other persons in the Region, in accordance with law.

16. In Chapter III of the Basic Law, which is specifically dedicated to “Fundamental Rights and Duties of the Residents”, express provisions are made not only for the fundamental right to equality and non-discrimination based on nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions (Article 25), but also for several other fundamental rights and freedoms expressing corollaries of legal and social equality. This is the case, inter alia, of equality regarding:

- the right to vote and to stand for election (Article 26);
- the freedom of speech, association and demonstration (Article 27);

- the guarantee of inviolability of personal freedom and the prohibition of arbitrary or unlawful arrest, detention or imprisonment, as well as the writ of habeas corpus, the prohibition of torture and inhuman treatment. (Article 28);
- the freedom of movement (Article 33);
- the freedom of conscience and religious belief (Article 34);
- the freedom to choose occupation and work (Article 35);
- the guarantee to resort to Law, to access to the courts, to lawyers' help for protection of lawful rights and interests, to judicial remedies, including against acts of the executive authorities and their personnel (Article 36);
- the freedom to engage in education, academic research, literary and artistic creation and other cultural activities (Article 37);
- the freedom of marriage and the right to form and raise a family freely (Article 38, (1)); and
- the right to social welfare in accordance with law (Article 39), *etc.*

17. In addition, it should be noted that Article 38 (2) of the Basic Law expressly provides for further special protection, at a constitutional level, for women's legitimate rights and interests. At the heart of this concept is the acknowledgement that differentiation of treatment is needed and legal, in order to compensate for the de facto discrimination and to achieve true equality.

18. Under Article 43 of the Basic Law, persons in the MSAR other than the residents of the MSAR enjoy, in accordance with Law, the rights and freedoms of the residents of the MSAR prescribed in its Chapter III. This means that some rights and freedoms, particularly those of a strictly political nature, are reserved to residents, specifically to permanent residents. However, this distinction is obviously not gender-based.

19. The fundamental rights established in the Basic Law, including the right to equality and non-discrimination, are only subject to the restrictions prescribed in Law. In fact, Article 40 (1) of the Basic Law makes provision for the application to the MSAR of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights and international labour conventions. Article 40 (2) of the Basic Law determines that the rights and freedoms of the residents of the MSAR may not be restricted unless as prescribed in Law and that such restrictions cannot contravene what is provided for in those treaties.

20. In accordance with all the aforementioned provisions laid down by the Basic Law, any women's *capitis deminutio* is considered inadmissible, whether in public and political life, family life, or in working life.

21. In fact, the right to equality and non-discrimination is not only expressly restated in several ordinary laws, but is also necessarily reflected at all levels of the legal system of the MSAR, not as an individual right, but as one of its fundamental principles.

22. Based on the social dignity of each and every person, the principle of equality is understood in a wide-reaching and actual way, since in addition to treating all persons equally before the law, it involves the obligation to compensate the lack of equal opportunities, arising from the de facto

inequalities of social, economic and cultural nature. This implies the elimination or attenuation by the public authorities of such inequalities – legitimate differentiation – in order to guarantee the actual implementation of legal-material equality.

23. First of all, it should be noted that a law, when establishing a specific legal regime, often expressly indicates that it will be ruled by the principle of equality.

24. The way in which relations between the Public Administration and private individuals are conducted is a prime example of this concept. In relation to this, Article 5 (1) of the Administrative Procedure Code states that “in its relations with private individuals, the Public Administration should comply with by the principle of equality, without favouring, benefiting, prejudicing or depriving of any right or exempt from any duty any of the administered individuals based on descent, gender, race, language, place of origin, religion, ideological or political belief, education, economic or social condition”.

25. On the other hand, the material principle of equality comprises several manifestations and is materialised in multiple specific rights of equality, with varied scopes of protection, according to the different branches of Law.

26. In the field of Civil Law, it should be stated, firstly, that this principle is asserted with regard to the acquisition of legal personality and to the rights of personality.

27. All natural persons, due to the simple fact of being persons, have legal personality and enjoy legal capacity.

28. The legal personality is acquired at full birth, with life and only ceases with death (Articles 63 and 65 of the Civil Code).

29. On the other hand, legal capacity consists of each and every person’s possibility, without any distinction, of being the subject of any legal relations, unless it is otherwise legally established. No person is allowed to waive, in whole or in part, his/her legal capacity (Articles 64 and 66 of the Civil Code).

30. There are no restrictions, whatsoever, to the legal capacity of women, as such, within the legal system of the MSAR.

31. In fact, the legally established restrictions to that capacity are within the scope of the exercise of rights and are justified by objective facts. Specifically, only minors, those who were interdicted or legally disabled are considered to be legally incapable to exercise their rights. Furthermore, only those that due to mental illness, deafness, dumbness or blindness reveal themselves as being incapable of managing properly their persons or property may be interdicted of exercising their rights. Moreover, only those suffering from mental illness, deafness, dumbness or blindness in such a degree, or those who due to their usual prodigality or addiction to alcohol or drugs reveal themselves as being incapable of managing properly their property may be considered as legally disabled. (Articles 122 and 135 of the Civil Code). Both interdiction and legal disability have to be judicially declared.

32. The rights of personality are recognised to all natural persons, being protected against any kind of unjustified discrimination, particularly for reasons of nationality, place of residence, descent, race,

ethnic group, colour, gender, language, religion, opinion, political or ideological belief, education and economic or social condition (Article 67 of the Civil Code).

33. Similar to Article 38 (1) of the Basic Law, which establishes the freedom of marriage and the right to form a family freely, the Legal Framework on Family Policy, Law 6/94/M, of 1 August, at the same time it elects the family as being a society's basic value, provides that everyone has the right to form a family and to marry freely and equally and guarantees equality regarding the protection of motherhood and fatherhood, the exercise of the rights of the holders of parental responsibility, as well as promotes favourable conditions for the foundation and development of families as fundamental human and social values that the Administration must respect and protect.

34. In what relates other aspects regarding equality and non-discrimination on the grounds of gender, particularly in the field of Civil Law, please refer to the sections regarding the respective Articles of the Convention.

35. It is also noteworthy the inexistence of discriminatory criminal provisions.

36. Furthermore, any person may use the existing judicial and non-judicial resources of the legal system of the MSAR, should there be any violation of any of his/her rights, including the right to equality and the right to non-discrimination.

ARTICLE 3: MEASURES FOR THE PROMOTION AND PROTECTION OF THE WOMEN'S DEVELOPMENT

37. The MSAR Government is strongly committed to the defence of fundamental rights and freedoms, as they are considered to be essential human and social values.

38. As previously mentioned, both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights are applicable to the MSAR.

39. However, the MSAR Government has not only adopted legislative measures, but has also been developing, through its departments in the most varied areas, numerous concrete actions in the field of the promotion and protection of women.

40. The dissemination of women's rights has been carried out by the Legal Affairs Department, whose main task is to disseminate the Law, by means of promoting discussions, publishing articles in the media and distributing brochures to the public.

41. In 1999, a specific discussion was held exclusively regarding the Convention. In 2000, 2001 and 2002, several discussions took place, regarding women's rights in general and the legal regime of marriage and divorce in particular.

42. In addition to that, in four daily papers of Macao, a weekly column is published under the general topic "To know Macao's Law", which addresses a different specific issue every week. The establishment of maternity, the effects of divorce, the administration of the spouses' property, the division of the spouses' property, law applicable to maintenance obligations, the legal dispositions on marriage, on abortion, the legal regime of the spouses' debts, among others, are some of the issues that have already been addressed.

43. On Mondays, Wednesdays and Fridays, a programme called “Law Encyclopaedia” is broadcasted on the radio, addressing, in a way accessible to most of the population, legal issues, such as the safety of pregnant workers, prostitution and facilitation of prostitution.

44. Another weekly programme called “Questions and Answers” dedicated to Law is broadcasted on television, where various matters are discussed in a clear and more interactive way. Such matters as the guarantees of pregnant workers and the legal regime of divorce and marriage have been addressed in this programme.

45. On the other hand, the Education and Youth Affairs Department has invited couples to participate in several workshops and seminars to promote the common responsibility of both men and women regarding the education of their children. Among them, we point out: “ Understanding Children’s Development” and “Building Good Relationship with Children”.

46. Furthermore, the Education and Youth Affairs Department often organises and promotes conferences in schools. Within this scope, several seminars addressing sex education were held in primary schools in 2001 and 2002, among which we stress the following: “Sexual Education for Children”, “Seminar on Sexual Education” and “How to answer Children’s questions about sex”, the latter of which aimed at parents.

ARTICLE 4: TEMPORARY AND SPECIAL MEASURES

47. There are no temporary measures in the legal system of the MSAR, as understood by Article 4 (1) of the Convention.

48. However, as mentioned regarding the actual concept of the principle of equality, several cases of special measures are recorded throughout the legal system of the MSAR. Examples of this are the aforementioned Legal Framework on Family Policy, Decree-Law 52/95/M, of 9 October, Law 4/98/M, of 27 July, Decree-Law 87/89/M, of 21 December, and Decree-Law 24/89/M, of 3 April.

49. The Legal Framework on Family Policy establishes that female workers have the right to a period of leave from work before and after child delivery, without any loss of benefits and salary, and that women’s work during pregnancy and after child delivery, as well as the work of minors should be subject to special regulation in order to guarantee the efficient protection of their rights (Articles 7 and 17).

50. With regard to Decree-Law 52/95/M, of 9 October, Law on Equal Opportunities and Equal Treatment, it stipulates in Article 4 (2) that the measures establishing a preference on the basis of gender required by the need to correct a *de facto* inequality or to protect maternity as a social value are not considered to be discriminatory measures and forbids, in Article 8, that tasks involving actual or potential risks for the genetic function are attributed to women. That includes both the risks arising from those tasks, as well as those deriving from the work’s location or environment.

51. Furthermore, Law 4/98/M, of 27 July, which approves the legal framework on employment and labour rights, guarantees a special protection for female workers, particularly during pregnancy and after child delivery, under the terms of its Article 5 (2).

52. As far as the public sector is concerned, the Statute of the Public Administration's Employees (SPAЕ), approved by Decree-Law 87/89/M, of 21 December, which has undergone several changes throughout the years, makes provision for a series of special rights regarding pregnant workers.

53. Public Administration female workers have the right to a 90-day-period of maternity leave. From this period of leave, 60 days must be enjoyed compulsorily and immediately after the delivery, and the remaining 30 may be enjoyed, in whole or in part, before or immediately after the compulsory period of leave. Absences due to maternity interrupt or suspend the holiday period according to the interests of the female worker (Articles 92 (1), (2) and (3)).

54. In the event of a spontaneous, eugenic or therapeutic abortion, death of a live-birth or delivery of a still-born, the period of leave following the occurrence of this incident is from 7 to 30 consecutive days. The attending doctor will be responsible for regulating the period of work interruption according to the woman's health conditions (Article 92 (4)).

55. In the event of the child or the mother's hospitalisation following the delivery, maternity leave is suspended, provided the mother so requires, up to the date when the hospitalisation ends, and resumed then up to the end of the mentioned period (Article 92 (5)).

56. The mother who breastfeeds the child also has the right to be released one hour for each day of work until the child is one year old (Article 92 (7)).

57. Public Administration workers of the MSAR, regardless of gender, have the right, under the terms of Article 214 of SPAЕ, to a benefit at the time of a child's birth. The amount of the benefit is MOP 2,300.00.

58. As far as the private sector is concerned, it must comply with the provisions of Decree-Law 24/89/M, of 3 April, which establishes a set of rules that regulates labour relations in Macao. Article 34 (3) provides that temporary measures resulting in a preference based on gender, required by the need to correct a de facto inequality or to protect maternity as a social value, are not considered to be discriminatory measures.

59. This law prohibits or conditions the performance of services by women that by their own nature or by the respective environment may involve any actual or potential risks for the genetic function. During pregnancy and up to 3 months after delivery, women should not carry out tasks that are not advisable for their condition. (Article 35).

60. Pregnant women have the right to a 35-day-period of maternity leave with pay, up to a limit of 3 deliveries for each female worker. Of these 35 days of maternity leave, 30 are compulsory and immediately enjoyed after child delivery and the remaining 5 days may be enjoyed, in whole or in part, before or after child delivery (Article 37).

61. In principle, the employer is forbidden to dismiss a female worker during pregnancy and up to 3 months after child delivery. The employer who does not comply with this prohibition from dismissing female workers is obliged to pay the dismissed female worker compensation equivalent to 35 days of salary, notwithstanding any other compensation that are due to her (Article 37).

62. Female workers that are beneficiaries of the Social Security Fund are entitled to a maternity benefit, currently in the amount of MOP 1,000.00, under the terms and conditions established in Order

39/GM/97, of 30 June. For detailed information on the Social Security Fund operation, see the description of this report regarding Article 11 of the Convention.

63. At this moment, both public and private sector labour laws are being revised. The purpose is to adapt them to the new conditions defined by the Basic Law and to improve them, particularly as far as rights and social benefits of workers are concerned.

64. In what concerns the reform of labour law in the private sector, it should be noted that the MSAR Government has proposed, the elimination of the limit of three deliveries as a requirement for the granting of maternity leave and the increase of the number of days of leave.

65. Finally, it should be mentioned that medical assistance before, during and after delivery are completely free for any female residents of the MSAR as well as medical assistance to children (Articles 3 (2) (c), 8 (1) (a) and (b) and 9 (2) of Decree-Law 24/86/M, of 15 March, with the amendments introduced by Decree-Law 68/89/M, of 9 October). More detailed information on this matter may be found in this report regarding Article 12 of the Convention.

ARTICLE 5: ELIMINATION OF STEREOTYPED ROLES

66. The MSAR Government, through its several departments, has been adopting concrete measures aiming at changing men and women's socio-cultural behaviour schemes and models and at suppressing the prejudices and practices based on the idea of the inferiority or the superiority of either of the genders or on stereotyped roles for men and women.

67. Another concern has been to ensure that family education contributes to a correct understanding of maternity as a social role and to the acknowledgment of men and women's common responsibility for their children's education and development.

68. Therefore, apart from the previously mentioned measures undertaken by the Education and Youth Affairs Department, the Social Welfare Institute also organised, in 2000, a group for the exchange of experiences among women aiming at promoting their self-esteem and carried out, in 2001, a workshop addressed to social workers and to all the personnel working in the area of social services, in order to develop their knowledge and skills in respect of the work with women and families victims of domestic violence.

69. In fact, one of the problems that the MSAR Government has been strongly committed to tackle is domestic violence, the increase of which, albeit not dramatic, is considered worrying.

70. Although the actual causes of this phenomenon are unknown, it is suspected that economic recession is one of the factors that has most influenced it. It is not possible to present statistics in this field, as the data is not collected according to the gender of the offended, but according to types of crime. Estimates based on police records are as follows:

Estimates regarding domestic violence

| Year | No. of crimes against life | No. of crimes against physical integrity | Annual total no. of both types of crimes | No. of crimes reported as a result of domestic violence |
|-------------|-----------------------------------|---|---|--|
| 1999 | 42 | 1 146 | 1 188 | 127 |
| 2000 | 22 | 1 240 | 1 262 | 177 |
| 2001 | 16 | 1 310 | 1 326 | 225 |
| 2002 | 3 | 1 485 | 1 488 | 273 |

Source: Office for Security Co-ordination

71. In legislative terms, besides the traditional types of crimes against life and physical integrity, Article 146 of the Criminal Code of Macao provides for, and in the scope of these crimes, the specific crime of ill treatment of minors or spouse.

72. In fact, Article 146 (2) stipulates that he who physically and psychologically abuses the spouse, or the person bearing a similar situation to that, shall be punished with a penalty of 1 to 5 years of imprisonment, the criminal proceedings of which depend on a complaint being lodged. No. 3 and 4 of the same Article establish aggravations of the penalty in accordance with the results: serious offence to physical integrity (2 to 8 years of imprisonment) or death (5 to 15 years of imprisonment). In these cases, criminal proceedings no longer depend on a complaint being lodged.

73. Regarding practical aspects resulting from the problem of domestic violence, it is considered to be indispensable, along with the population awareness and education campaigns, to provide the victims of violence – mostly women – with conditions that allow them to recover and regain their own place in society.

74. For this purpose, the Social Welfare Institute runs a special unit, the Family Action Bureau, which comprises psychologists, jurists and social workers, providing multidisciplinary services to families at risk, particularly to women and their children who are victims of domestic violence.

75. In addition to this, the Social Welfare Institute has 5 Social Work Centres throughout the MSAR, which handle these cases in loco, providing support services to the courts and to urgent cases on a daily and continuous basis.

76. According to Law, the Social Welfare Institute maintains a close relationship with private social solidarity institutions and other entities with similar objectives, granting them support and cooperating with them (Article 18 (1) (j) of Decree-Law 24/99/M, of 21 June).

77. There are two shelters in the MSAR for women who are victims of domestic violence, Bom Pastor Centre and the Oi Chi Ká Temporary Women Care Centre, both operated by private social solidarity institutions. The Social Welfare Institute has been granting subsidies to the “Bom Pastor Centre” since 1978. Initially, this centre was only intended for young women but subsequently its services were broadened and it became a shelter also for women who are victims of domestic violence.

78. In 2001, the Social Welfare Institute began granting subsidies to an “outreaching service”, within that same centre, intended for women and children who have already left the centre and aimed at helping them to achieve their full insertion within their community. In the scope of this “outreaching service”, counselling is provided and group activities are organised, through which women and children are supposed to create their own mutual support network. The table below shows the number of cases handled by the Bom Pastor Centre as for care and the number of persons that were involved and have actually been sheltered.

Persons sheltered at the Bom Pastor Centre, supported by the subsidies of the MSAR Government

| Year | No. of cases | Adults | Minors | Total no. of persons |
|-------------|---------------------|---------------|---------------|-----------------------------|
| 1999 | 21 | 21 | 21 | 42 |
| 2000 | 25 | 25 | 26 | 51 |
| 2001 | 35 | 35 | 26 | 61 |
| 2002 | 30 | 30 | 20 | 50 |

Source: Social Welfare Institute

79. The Social Welfare Institute also sponsors seminars and workshops on domestic violence. Two seminars of this kind were held by a private social solidarity institution in March and April 2002.

80. It is noteworthy that, in 2000, 43 cases involving domestic violence were reported to the Family Action Bureau, and, in 2001, 54 help-request cases were handled (involving a total number of 200 people). Among these 54 cases, 27 concerned domestic violence problems, although some of them included more than just one problem. Almost all these cases were transferred by the 5 Social Works Centres.

81. Still in 2001, the Family Action Bureau carried out 723 interviews, that is, about 60 per month. The interviews' contents mainly concerned problems regarding marriage, relationships between parents and children and emotion. Furthermore, 245 visits to families, about 20 per month, were carried out.

82. As far as the legal advice service is concerned, the Family Action Bureau carried out, in 2001, 73 interviews with users and 10 interviews with the workers of the Social Work Centres, supplied legal information to users via telephone in 15 occasions, as well as legal advice services via telephone in 150 occasions to workers of the Social Work Centres and to other units of the Social Welfare Institute, accounting for 248 legal consultations in respect of problems dealing mainly with divorce, the exercise of parental responsibility and guardianship.

83. The Social Welfare Institute is preparing a campaign to be launched in 2003, dedicated to women's emancipation, which will include a series of conferences on the most varied topics - health, legal problems, employment, . – as well as the distribution of pamphlets, bookmarks, souvenirs and the broadcast of advertisements on TV and on radio.

84. In the current year of 2003, the Social Welfare Institute will also start a programme to promote the eradication of domestic violence, which will include the creation of a new shelter and a telephone line for abused women. Both services will be operating 24 hours a day.

85. These are examples of concrete measures demonstrative of the policy followed by the MSAR Government, with a view to reducing/eliminating several social problems, the genesis of which is in the existing schemes and models of stereotyped social and cultural behaviour. Actual improvement of the de facto situation as a result of such a line of action is expected.

86. Nevertheless, it is worth stressing that the recognition of a woman's role in society has been improving positively in the MSAR. Although this is more evident among the higher social groups, the progress achieved should not be minimized, since this is undoubtedly a dynamic factor spurring the evolution to be implemented among other population groups.

87. As a matter of fact, the growing importance of the social role of women in the MSAR is shown by the increasing number of women involved in its legislative (Legislative Assembly), executive (General Secretariats, Directorates of Services, Departments and Divisions) and judicial (courts and Procuratorate) bodies, as well as the number of women working in Public Administration.

88. Thus, the Legislative Assembly of the MSAR comprises 27 members, 5 of which are female, including its President. From the 27 members, 16 are elected, 4 of which are female. It is noteworthy that the President, the Secretary-General and the Deputy Secretary-General of the Legislative Assembly are female.

89. The Government is the executive body of the MSAR (the head of which is the Chief Executive) and it comprises General Secretariats (there are 5 Secretaries), Directorates of Services, Departments and Divisions.

90. The MSAR also has a Committee against Corruption and a Committee of Audit, that operate as independent bodies and the 2 Commissioners are accountable to the Chief Executive.

91. Among the above-mentioned main positions, 2 of them are carried out by women, more precisely, the Secretary for Administration and Justice — the second most important member of the MSAR Government — and the Commissioner of Audit.

92. In 2001, women accounted for 34.6% of all Public Administration workers. In that same year, and regarding the Public Administration's management and leadership positions, of a total number of 633 positions, women occupied 261, which corresponds to approximately 41.23%.

Distribution of Public Administration's management and leadership positions by gender

| Positions | 1999 | | 2000 | | 2001 | |
|-----------------------------------|------------|------------|------------|------------|------------|------------|
| | M | F | M | F | M | F |
| Director/ equivalent post | 39 | 7 | 38 | 37 | 14 | 12 |
| Deputy director/ equivalent post | 35 | 17 | 28 | 32 | 24 | 23 |
| Department chief/ equivalent post | 79 | 47 | 78 | 79 | 53 | 51 |
| Head of division/ equivalent post | 139 | 98 | 142 | 144 | 102 | 102 |
| Head of sector/ equivalent post | 22 | 19 | 24 | 24 | 14 | 13 |
| Head of section | 53 | 53 | 56 | 45 | 49 | 52 |
| Other positions | 23 | 5 | 20 | 11 | 5 | 5 |
| TOTAL | 390 | 246 | 386 | 372 | 261 | 258 |

Source: "Public Administration Human Resources" in 1999, 2000 and 2001, Public Administration and Civil Department.

93. As far as judicial power is concerned, and although the proportion of the number of men that occupy the position of magistrates, whether judicial or within the Procuratorate, has been markedly stable, there are some expectations as to a change in this trend, since from the 10 trainee magistrates that were admitted to the Judicial Training Centre in the year of 2002, 6 are female.

Judicial and Procuratorate Magistrates by gender

| 2000 | | | 2001 | | | 2002 | | |
|------|----|----|------|----|----|------|----|----|
| M | F | MF | M | F | MF | M | F | MF |
| 29 | 13 | 42 | 29 | 13 | 42 | 31 | 14 | 45 |

Source: "Public Administration Human Resources" in 1999, 2000 and 2001, Public Administration and Civil Department.

94. In the private sector, progress has been slower. However, women have achieved more and better means of education in recent years, and, at the present moment, the proportion of men and women in top positions is more equitable than in unskilled jobs, compared with the situation of some years ago.

Employed population, according to the work situation, by occupation and gender (10³)

| Profession and occupation | Gender | 1999 | 2000 | 2001 | 2002 |
|--|---------------|-------------|-------------|-------------|-------------|
| Total | MF | 196,1 | 195,3 | 202,8 | 200,6 |
| | M | 104,2 | 103,2 | 106,7 | 104,1 |
| | F | 91,9 | 92,1 | 9,1 | 96,5 |
| Members of the legislative body, public administration and associations senior officials, directors and company managers | MF | 11,9 | 12,0 | 10,6 | 12,0 |
| | M | 9,7 | 9,7 | 8,4 | 9,3 |
| | F | 2,2 | 2,3 | 2,2 | 2,8 |
| Specialists of intellectual and scientific professions | MF | 5,9 | 6,1 | 6,1 | 6,8 |
| | M | 3,4 | 3,5 | 3,5 | 3,9 |
| | F | 2,4 | 2,6 | 2,5 | 2,8 |
| Technicians and associate professionals | MF | 17,2 | 16,8 | 17,2 | 18,4 |
| | M | 8,8 | 9,1 | 9,1 | 9,8 |
| | F | 8,4 | 7,8 | 8,1 | 8,6 |
| Clerks | MF | 35,5 | 37,4 | 36,9 | 35,3 |
| | M | 13,2 | 12,7 | 13,9 | 12,3 |
| | F | 22,3 | 24,6 | 23,0 | 22,9 |
| Service and sales workers | MF | 39,2 | 39,4 | 40,3 | 42,4 |
| | M | 22,5 | 21,9 | 22,3 | 23,8 |
| | F | 16,7 | 17,6 | 18,0 | 18,6 |
| Skilled workers in agriculture and fishery | MF | 1,2 | 1,3 | 1,3 | 1,3 |
| | M | 1,2 | 1,0 | 1,1 | 1,0 |
| | F | 0,1 | 0,3 | 0,2 | 0,2 |
| Craft and similar workers | MF | 24,5 | 24,0 | 24,8 | 22,5 |
| | M | 20,3 | 19,9 | 20,2 | 18,1 |
| | F | 4,2 | 4,1 | 4,6 | 4,4 |
| Plant and machine operators, drivers and assemblers | MF | 28,8 | 24,9 | 29,6 | 27,0 |
| | M | 10,7 | 10,7 | 11,0 | 10,1 |
| | F | 18,0 | 14,2 | 18,6 | 16,9 |
| Unskilled workers | MF | 32,0 | 33,3 | 36,1 | 34,9 |
| | M | 14,3 | 14,8 | 17,2 | 15,8 |
| | F | 17,7 | 18,5 | 18,9 | 19,1 |

Source: Statistic and Census Department.

ARTICLE 6: ERADICATION OF TRAFFIC IN WOMEN AND FORCED PROSTITUTION

95. The traffic in persons, especially in women, is one of the major problems that has ravaged, in recent decades, particularly in Southeast Asia.

96. In Macao, the evident connections between the traffic in persons and organised crime led the authorities to wage an integrated fight against these phenomena since the end of the nineties. After the Reunification, this fight has been strengthened, particularly in the form of an effective international and regional cooperation.

97. Regarding this situation, it should be referred that several international treaties with the purpose of fighting slavery and similar practices as well as traffic in persons are applicable to the MSAR, in particular: the Slavery Convention of 25th September 1926; Convention No. 29 of the International Labour Organisation (ILO) concerning Forced or Compulsory Labour, of 28 June 1930; the Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others, of 2 December 1949; the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery of 7 September 1956; Convention No. 105 of the ILO concerning the Abolition of Forced Labour of 25 June 1957; and the International Covenant on Civil and Political Rights of 16 December 1966.

98. One of the questions underlying the traffic in persons is human dignity, as a fundamental and inviolable value. This value is expressly established in Article 30 (1) of the Basic Law.

99. In fact, the traffic in persons, as understood in this Convention, is largely related to forced labour, in particular forced prostitution. In the legal system of the MSAR, not only the traffic in persons constitutes a specific criminal offence but also several other conducts against personal freedom and sexual freedom and self-determination.

100. Another important aspect concerning the Criminal Law is the fact that it considers that minors do not enjoy the freedom to make decisions as far as sexual relationships are concerned; therefore crimes involving minors are autonomous and separately configured, not as crimes against sexual freedom, but only as crimes against sexual self-determination. In the legal types of those crimes, by rule, it is not necessary for coercion to have taken place.

101. Obviously, the Criminal Code of Macao provides for and punishes several crimes that are specifically related to the protection of personal freedom, sexual freedom and self-determination, which consequently function, both directly and indirectly, as mechanisms susceptible of being used in the fight against traffic in persons and exploitation of forced prostitution. However, in the present report, references will only be made to those crimes considered more relevant. Crimes against minors shall be excluded since this subject is described in detail in the part of China's report concerning the application of the Convention on the Rights of the Child to the MSAR.

102. Thus, in the domain of crimes against personal freedom, the most noted is slavery, provided for in Article 153 of the Criminal Code of Macao, that consists of the sale, transfer or purchase of a person made with the intention to reduce that person to the status or condition of slave. This crime, notwithstanding the fact it does not imply economic or sexual exploitation, covers all situations of the reduction of a person to a "thing" that the offender uses as its property, in particular, servitude in lieu of debt, feudal serfdom, and the alienation or acquisition, at any title, of the rights of total disposal over a person. Due to its seriousness it is punished with a penalty of 10 to 20 years of imprisonment.

103. Also, kidnapping with the intention to commit a crime against sexual liberty or self-determination is punished with a penalty of 3 to 10 years of imprisonment (Article 154 (1) (b) of the Criminal Code of Macao).

104. In what concerns the criminal provisions that aim at protecting sexual liberty, the specific crime of international traffic in persons is contemplated in Article 7 of Law 6/97/M, of 30 of July, law on organized crime. The penalty applicable is of 2 to 8 years of imprisonment. However, if the victim is a minor under 14 years old, the penalty is of 5 to 15 years of imprisonment; in case of a minor between 14 and 18 years old, the penalty of 2 to 8 years of imprisonment is increased by one third in its minimum and maximum limits.

105. Although prostitution is not a crime in the MSAR, the activities of exploitation of prostitution are typified under various autonomous crimes.

106. An example is the crime of procurement, that consists of instigating, favouring or facilitating the practice of prostitution or of relevant sexual acts by another person, exploiting their state of abandonment or necessity, for the purposes of profit or as a way of life. The penalty foreseen is of 1 to 5 years of imprisonment (Article 163 of the Criminal Code of Macao). If the offender uses violence, serious threat, trick or fraudulent manoeuvre, or takes advantage of the mental incapacity of the victim, it constitutes another crime - aggravated procurement and the penalty is of 2 to 8 years of imprisonment (Article 164 of the Criminal Code of Macao).

107. The same applies to the crime of exploitation of prostitution provided for in Article 8 of the aforementioned Law 6/97/M that includes soliciting, luring or deviating another person, even with his/her consent, for the purpose of prostitution, as well as exploiting another person's prostitution activity, even with his/her consent. The penalty is of 1 to 3 years of imprisonment. Article 8 (2) also provides for and punishes as a crime the activity of recruiting clients for persons that prostitute themselves, as well as favouring or facilitating prostitution, by any means. The penalty for this crime is of up to 3 years of imprisonment.

108. Also concerning the protection of sexual liberty, it should be noted that rape includes both the copula with a woman, by means of violence, as well as coercion of a woman to copulate with a third person. The penalty is of 3 to 12 years of imprisonment. The same penalty is applicable to the person that, by means of violence, practises anal coitus with another person or coerces he/she to have it with a third person (Article 157 of the Criminal Code of Macao).

109. Reference should also be made to the crime of sexual coercion, that is, the coercion of another person, by means of violence, serious threat, or making the victim unconscious, or putting the victim in a position in which he/she may not offer resistance, to endure or practise, with the offender or a third person, a relevant sexual act. The penalty for this crime is of 2 to 8 years of imprisonment (Article 158 of the Criminal Code of Macao).

110. Other activities that are usually associated with the traffic in persons and forced prostitution are also considered crimes in the legal system of the MSAR, for instance, crimes of extortion under the pretext of protection and unlawful retention of documents (respectively, Articles 3 and 6 of the aforementioned Law 6/97/M).

111. It is also important to remind that, as prostitution is not a crime, the fact that the victim is or is not a prostitute is irrelevant for the enforcement of criminal law.

112. The MSAR Government, aware that traffic in persons involves cross-border activities which means that it must be fought not only internally but also through cooperation with other regions and States, has been making the best endeavours in that direction.

113. In order to increase police efficiency, a working group with the neighbouring regions of Hong Kong and Guangdong was created, in which information exchanges on criminal investigations as well as specific training are carried out. Among these, the meetings on cross-border prostitution and criminality are noteworthy.

114. Representatives of the MSAR have been taking part in several international meetings concerning the traffic in persons and illegal immigration, such as the meetings held within the scope of the “Asian Regional Initiative against Trafficking in Women and Children (ARIAT)”, and of the V Session on “Illegal Migration and the Trafficking in Women and Children” of the “International Law Enforcement Academy (ILEA)”.

115. In regard to the de facto situation, no traffic in women of the residents of the MSAR into other countries or regions was detected. In what concerns the traffic in women from other regions and countries into the MSAR, the situation of traffic in women is approximately the one presented in the table below.

Crimes against sexual liberty

| | 1999 | 2000 | 2001 | 2002 | Total |
|-----------------|-------------|-------------|-------------|-------------|--------------|
| Rape | 7 | 6 | 9 | 13 | 35 |
| Procurement | 9 | 23 | 20 | 22 | 74 |
| Sexual Coercion | 2 | 0 | 2 | 1 | 5 |
| Others | 0 | 2 | 3 | 0 | 5 |

Source: Office for Security Co-ordination.

116. Within the medical protection and assistance plan, since November 1992, the Health Department has been implementing an HIV/AIDS infections control and prevention programme specifically targeted at entertainment industry workers, especially those that are non-residents. The objective is to control and prevent the spreading of the disease. This programme includes not only blood analysis (repeated every 4 months) but also distribution of condoms, as well as several information, education and counselling measures, in particular about forms of transmission and prevention of sexually transmissible diseases, video shows, discussion groups, *etc.*

ARTICLE 7: PARTICIPATION OF WOMEN IN PUBLIC AND POLITICAL LIFE

117. As explained, any type of negative discrimination, particularly gender-based, is not allowed in the MSAR. Women have the same political and public status as men.

118. Article 26 of the Basic Law guarantees all permanent residents of the MSAR the right to vote and the right to stand for election in accordance with Law.

119. Regarding ordinary legislation, in both Law 12/2000, of 18 December, Law on the Registration of Voters, and Law 3/2001, of 3 May, Electoral Law for the Legislative Assembly, gender is not a factor in determining whether a person is eligible to vote or to stand for election.

120. The first elections, after the Reunification, for the Legislative Assembly of the MSAR were held on 23 September 2001.

121. Without prejudice to the electoral campaign, the MSAR Government, through its competent departments, carried out several public awareness campaigns for the purpose of promoting the registration of voters and the conscious and active participation of the people in the elections.

122. Presently, in a universe of 160,189 voters, 78,054 are women, which corresponds to 48.73% of the voters as presented in the table below.

Age and sex of registered voters

| Ages | Male | | Female | | Total No. |
|--------------|---------------|--------------|---------------|--------------|----------------|
| | No. | % | No. | % | |
| 18-19 | 812 | 51.59 | 762 | 48.41 | 1,574 |
| 20-24 | 5,265 | 51.57 | 4,945 | 48.43 | 10,210 |
| 25-29 | 6,810 | 51.95 | 6,298 | 48.05 | 13,108 |
| 30-34 | 6,566 | 49.93 | 6,585 | 50.07 | 13,151 |
| 35-39 | 9,045 | 47.42 | 10,028 | 52.58 | 19,073 |
| 40-44 | 14,178 | 50.46 | 13,921 | 49.54 | 28,099 |
| 45-49 | 13,523 | 53.44 | 11,780 | 46.56 | 25,303 |
| 50-54 | 9,238 | 55.77 | 7,326 | 44.23 | 16,564 |
| 55-59 | 5,639 | 57.17 | 4,225 | 42.83 | 9,864 |
| 60-64 | 3,222 | 55.31 | 2,603 | 44.69 | 5,825 |
| 65-69 | 2,763 | 50.66 | 2,691 | 49.33 | 5,454 |
| 70-74 | 2,260 | 45.48 | 2,709 | 54.52 | 4,969 |
| >74 | 2,814 | 40.23 | 4,181 | 59.77 | 6,995 |
| Total | 82,135 | 51.27 | 78,054 | 48.73 | 160,189 |

Source: Public Administration and Civil Department, September 2002

123. As mentioned above, women occupy some of the most important political and public positions in the MSAR.

124. Regarding other types of access to and participation in public life, in particular access to and exercise of other public functions, besides the fundamental right to equality and non-discrimination guaranteed by the Basic Law, ordinary legislation also expressly establishes equality of conditions and opportunities to all candidates to public services and equality concerning the right to promotion in Public Administration. More detailed information on this subject is supplied in this report in the section concerning Article 11 of the Convention.

125. Regarding freedom of speech in its several components, it should be stressed that Article 27 of the Basic Law enshrines this fundamental liberty in a broad way by stating that "Macao residents shall

have freedom of speech, of the press and of publication; freedom of association, of assembly, of procession and of demonstration; and the right and freedom to form and join trade unions, and to strike.”

126. Law 2/99/M, of 9 August, that establishes the regime of the right of association, determines the right to constitute associations and the freedom to participate in them (Articles 2 and 4).

127. There are presently 25 women associations in the MSAR, including 1 association of public administration female workers.

ARTICLE 8: PARTICIPATION OF WOMEN IN INTERNATIONAL AFFAIRS

128. The Central People's Government shall be responsible for the foreign affairs concerning the MSAR. However, it authorizes the MSAR to conduct relevant external affairs on its own, in accordance with the Basic Law (Articles 13 (1) and (3) of the Basic Law).

129. The participation of the representatives of the MSAR in international organizations, whether as members of governmental delegations of China, or autonomously, in the appropriate domains, is determined by objective criteria based on competence and merit.

ARTICLE 9: CHILDREN AND WOMEN NATIONALITY

130. According to Article 18 and Annex III of the Basic Law, one of the national laws applicable to the MSAR is the Nationality Law of the People's Republic of China.

131. Considering the specific situation of the MSAR, the Standing Committee of the National People's Congress of the People's Republic of China provided several clarifications regarding the application to Macao of the mentioned Nationality Law, which were adopted on 29 December 1998, by the Sixth Session of the Standing Committee of the Ninth Legislation of the National People's Congress.

132. There is no negative discrimination based on gender concerning the acquisition or loss of nationality.

133. Likewise, Law 7/1999 and Law 8/1999, both dated 20 December 1999, that approve, respectively, the Regulation on the Requirements regarding the Nationality of the Residents of the MSAR and the regime concerning Permanent Residents and the Residence Right in the MSAR, do not establish any type of discrimination based on gender.

ARTICLE 10: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN IN EDUCATION AND SPORT

134. Article 37 of the Basic Law guarantees that the residents of the MSAR enjoy the freedom to engage in education, academic research, literary and artistic creation and other cultural activities. Teaching and academic freedom are restated and developed in Article 122 of the Basic Law. In paragraph 2 of that same Article, it is foreseen an important corollary the freedom of students to choose an educational institution and to pursue their education outside the Region.

135. The combination of these provisions with the aforementioned Article 25 of the Basic Law makes it unequivocal that all the residents of the MSAR, regardless of gender, have equal rights in the areas of education and culture.

136. Furthermore, the MSAR Government, under the terms of Articles 121, 124, 125, and 127 of the Basic Law, defines by itself, not only the education policy, but also science, technology, culture, and sport policies. It is the duty of the MSAR Government to promote compulsory education under the terms of the Law (Article 121 (2) of the Basic Law).

137. Regarding the protection of equality of both genders in areas of education and culture, in addition to the mentioned International Covenant on Economic, Social and Cultural Rights, it is also applicable to the MSAR the Paris Convention against Discrimination in Education, of 14 December 1960.

138. Concerning ordinary legislation, it should be mentioned in the first place Law 11/91/M, of 29 August, which establishes the legal framework on educational system.

139. In this Law, it is reasserted, as a general principle, the right of everyone to education, which comprises equal opportunities in school access and school achievement. The Administration must promote and develop adequate mechanisms for effective opportunity equality. Specifically in what regards access to education, this Law guarantees the respect for the freedom to learn and teach in accordance with the legally determined principles. Therefore, it is stipulated, on one hand, the inadmissibility of the Administration to ascribe itself the right to programme education according to any philosophical, aesthetic, political, ideological, or religious guideline, and on the other hand, the private institutions' obligation, whose free creation and existence are foreseen, to comply with the principles determined by Law when defining their educational projects.

140. Law 11/91/M imposes, therefore, a concept of the educational system with reference to the necessities and characteristics of Macao's social reality, detailing that it should have a sufficiently flexible and diversified expression, that allows the integration of its different communities and meets the concrete conditions of insertion in the regional and international context.

141. Consequently, several objectives of the educational system are determined by Law, inter alia, to promote the development of civic awareness, of democratic and pluralist spirit, respectful of others and their ideas, open to dialogue and to the free exchange of opinion, educating persons capable of judging with critic spirit and of intervening creatively in the society problems; to contribute to the harmonious and full development of the individual's personality, stimulating the education of free, responsible, autonomous and jointly responsible persons; as well as to contribute to the reinforcement of the friendship relationships with all the peoples of the world (Article 3 of Law 11/91/M).

142. The educational system comprises pre-school education, the preparatory year for primary school, primary school, secondary school (general secondary school and complementary secondary school), higher education, special education, education for adults and technical and professional education (Article 4 of Law 11/91/M).

143. In development of the aforementioned Law, Decree-Law 42/99/M, of 16 August, establishes that all children and young people between 5 and 15 years old are obliged to attend the preparatory

year for primary school, primary school, and general secondary school, in public or private education institutions (Article 1).

144. Men and women have the same conditions regarding vocational guidance, access to education and obtaining diplomas in education institutions of all categories, as well as to access to the same curriculum, to the same exams, to a teaching personnel with qualifications of the same level, to schools and equipment with the same quality.

145. The curriculum takes into account the necessity to provide information on health, sexual education and family planning. These matters are included in such subjects as “Social and Individual Development”, “Natural Sciences” and “Health and Hygiene”.

146. The de facto situation in education demonstrates that the efforts made by the MSAR Government to allow women to access to all levels of education are attaining positive results.

Students per education level (2001/2002 school year)

| Education level | Students Total number | Male | | Female | |
|------------------------|-----------------------------|---------------|-------------|---------------|-------------|
| | | Number | % | Number | % |
| Preparatory year | 13,620 | 7,133 | 52.4 | 6,487 | 47.6 |
| Primary school | 43,724 | 23,075 | 52.8 | 20,649 | 47.2 |
| Secondary school | 41,534 | 20,684 | 49.8 | 20,850 | 50.2 |
| Special education | 644 | 424 | 65.8 | 220 | 34.2 |
| Recurrent education | 468 | 234 | 50.0 | 234 | 50.0 |
| Total | 99,990 | 51,550 | 51.6 | 48,440 | 48.4 |

Source: Education and Youth Affairs Department

School drop out per education level (2001/2002 school year) ⁽¹⁾

| Education level | Students Total no. | Male | | Female | |
|------------------|-----------------------|--------------|--------------|--------------|--------------|
| | | No. | % | No. | % |
| Preparatory year | 285 | 146 | 51.23 | 139 | 48.77 |
| Primary school | 1,004 | 640 | 63.75 | 364 | 36.25 |
| Secondary school | 2,936 | 1,821 | 62.02 | 1,115 | 37.98 |
| Total | 4,225 | 2,607 | 61.70 | 1,618 | 38.30 |

Source: Education and Youth Affairs Department

Note: ⁽¹⁾ The data include emigrant children as well as those that are studying outside the MSAR.

147. The total percentage of female students in the various education levels is of 48.4%, the female drop out percentage being 38.3% against 51.6% percentage of male students and 61.7% drop out percentage among those same male students.

148. Regarding higher education, it should be mentioned that in the University of Macao, during the 2001/2002 school year, 2,488 of the 4,148 students were females.

149. Also, in the Macao Polytechnic Institute, the majority of students in the 2001/2002 school year were female. Of a total of 2,237 students, 1,333 were females.

150. There is no specific programme for women that dropped out of school prematurely, since the fact of being a woman is not considered in the MSAR as a reason of school drop out.

151. According to the principle of equal opportunities in school access and success, the existence of educational compensation activities, psycho-pedagogical assistance and educational and professional guidance is guaranteed, as well as social assistance in schools to students with educational needs. (Articles 19, 20, 21 and 22 of Law 11/91/M).

152. The educational compensation activities are aimed at students of all educational levels except for higher education and can be presented as supplementary classes, individual or group assistance activities, alternative curriculum and study rooms with teaching assistance (Article 6 of Order 7/SAAEJ/92, of 13 July).

153. Regarding psycho-pedagogical assistance and educational and professional guidance, under the terms of Article 21 of Law 11/91/M, it is the MSAR Government's duty to guarantee, directly or by means of support given to non-official institutions, the existence of such services.

154. The assistance and guidance service to students in private schools are guaranteed directly by personnel appointed by the Education and Youth Affairs Department or indirectly through personnel provided by voluntary associations financed by this Department.

155. Social assistance in schools, governed by Decree Law 62/94/M, of 19 December, comprises all levels of education, consisting of a diversified series of economic supports and supplementary assistance services to students and schools, that include scholarships, subsidies for tuition fees and subsidies to buy educational material.

156. Women do not constitute a disadvantageous group within the educational system of the MSAR, therefore, there are no subsidies or scholarships specifically for women, with the exception of the International Ladies Club of Macao's scholarship (private association), that is attributed exclusively every year to 2 women.

157. Nevertheless, the statistical data on this subject shows that women have tended to benefit the most from educational assistance in general.

Educational Assistance

| Type of action | | 1999/2000 | | 2000/2001 | | 2001/2002 | |
|---|--------------|----------------------|--------|----------------------|--------|----------------------|--------|
| | | Male | Female | Male | Female | Male | Female |
| Subsidies ⁽¹⁾ | No. | 1,181 | 1,647 | 1,212 | 1,695 | 1,232 | 1,730 |
| | % | 40.7 | 56.7 | 39.9 | 55.8 | 40.3 | 56.5 |
| | Total | 2,905 ⁽³⁾ | | 3,040 ⁽³⁾ | | 3,060 ⁽³⁾ | |
| Financial aid from the Social Action Fund ⁽²⁾ | No. | 5,914 | 6,970 | 6,998 | 8,585 | 7,492 | 9,044 |
| | % | 45.9 | 54.1 | 44.9 | 55.1 | 45.3 | 54.7 |
| | Total | 12,884 | | 15,583 | | 16,536 | |
| Financial aid from the Education and Youth Affairs Department | No. | 6,252 | 8,745 | 5,678 | 8,397 | 4,911 | 8,052 |
| | % | 41.7 | 58.3 | 40.3 | 59.7 | 37.9 | 62.1 |
| | Total | 14,997 | | 14,075 | | 12,963 | |
| Food Services ⁽²⁾ | No. | 729 | 825 | 753 | 828 | 767 | 856 |
| | % | 46.9 | 53.1 | 47.6 | 52.4 | 47.3 | 52.7 |
| | Total | 1,554 | | 1,581 | | 1,623 | |

Source: Education and Youth Affairs Department.

Notes:

⁽¹⁾ Regarding students attending university inside or outside the MSAR.

⁽²⁾ Regarding students from primary and secondary schools, both public and private, in the MSAR.

⁽³⁾ Due to the incorrect introduction of some data, the information on the gender of some of the beneficiaries is not available.

Scholarships granted during the 2001/2002 school year

| Scholarship | Male | Female | Total |
|---|-------------|---------------|--------------|
| Direct Admission Scheme for the University of Macao scholarship | 20 | 64 | 84 |
| Macao Foundation scholarship | 23 | 20 | 43 |
| BNU scholarship | 9 | 17 | 26 |
| Vodatel scholarship | 3 | 3 | 6 |
| Sir Run Run Shaw scholarship | 2 | 11 | 13 |
| Monetary Authority from Macao scholarship | 1 | 4 | 5 |
| Lisboa Holdings scholarship | 1 | 2 | 3 |
| Hong Kong & Shanghai Banking Corporation Ltd scholarship | 2 | 4 | 6 |
| ILCM scholarship | 0 | 2 | 2 |
| P & G Tai Sang Lei scholarship | 2 | 1 | 3 |
| CTM scholarship | 5 | 0 | 5 |
| Smartone scholarship | 3 | 2 | 5 |
| Fundação AIA scholarship | 1 | 1 | 2 |
| UEAGCAA scholarship | 0 | 2 | 2 |
| Chen Xiang Mei scholarship | 0 | 3 | 3 |
| Wong Seng Hong scholarship | 1 | 0 | 1 |

Source: University of Macao.

158. Also regarding continuing education programmes, including adult and functional literacy programmes, there is equal access between men and women to these kinds of programmes.

159. It is noteworthy the existence of a specific educational programme for adults in the female prison establishment, which although voluntary, has in the current school year of 2002/2003 the participation of 26 students.

160. Regarding sports and physical education, there are, in the educational system, mandatory curricular activities as well as supplementary activities with optional attendance, which include sports. Both genders have access to them without any type of distinction (1 and 2 of Decision 18/SAAEJ/93, of 26 July).

161. Special importance is given to physical education since it is considered desirable to practise sports in school. Sports in school aims not only at promoting student's physical condition, but also at understanding sports as a cultural factor in order to stimulate solidarity, cooperation, autonomy and creativity.

162. All sports programmes, both professional and recreational, are conceived regardless of gender.

163. In the MSAR, there are women athletes, referees, and presidents of sports clubs. Statistics show that the percentage of women athletes reaches almost 30%, representing 7,245 women in 39

different types of sports. The percentage of women coaches is 20 %, which is similar to the percentage of women referees.

164. The number of men and women representing the MSAR at international sports events has been similar. In October 2002, the delegation representing the MSAR in the “Busan Asian Games” consisted of 38 women, 20 athletes and 18 officials.

ARTICLE 11: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN IN WORK

165. The Basic Law enshrines the freedom of choice of occupation and work and guarantees the right to welfare benefits in accordance with Law (respectively, Articles 35 and 39).

166. Several important ILO conventions regarding equal rights between men and women in work are applicable to the MSAR, namely, the ILO Convention No. 81 concerning Labour Inspection in Industry and Commerce, of 11 July 1947; ILO Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, of 29 June 1951; ILO Convention No. 111 concerning Discrimination in respect of Employment and Occupation, of 25 June 1958, and ILO Convention No. 122 concerning Employment Policy, of 9 July 1964.

167. Article 4 of Law 4/98/M, of 27 July, that approves the legal framework on employment and labour rights, establishes the general principles of prohibition of any discriminatory restriction to equal access to work and to equal opportunities of promotion, subject only to seniority and individual skills.

168. The Law on Equal Opportunities and Equal Treatment is more specific by stipulating expressly the principles of equal access to employment, of equal opportunities and access to vocational training, equal payment, equal access to the career, equal treatment concerning social welfare and equal opportunities for the exercise of independent activities (Articles 5, 6, 9, 10, 11 and 12 of Decree-Law 52/95/M).

169. In the private sector, Decree-Law 24/89/M, of 3 April, that establishes a set of rules that regulates labour relations in Macao, determines, in Article 4, that all workers have the right to equal opportunities and treatment in work, regardless of their race, gender, religion, association membership, political opinion or ideological belief, economic status or social conditions, as a consequence of the right to work provided for all. Furthermore, Article 34 (1) of that same Decree-Law stipulates that the right to work and the principle of equality established in Article 4 imply the inexistence of discrimination, direct or indirect, based on gender, in particular with reference to marital status or family situation and Article 34 (2) guarantees expressly equal opportunities and treatment between men and women in work and employment.

170. Article 36 of the same Decree-Law guarantees equal payment between male and female workers for equal work or work of equal value. In the cases where salary is determined by piece or production output, the basic-unit of calculation must be the same for men and women for equal work or work of equal value.

171. It is forbidden or conditioned to ask women to perform tasks that due to their nature or their location may involve actual or potential risks of genetic function, regarding the protection of the

reproductive function. During pregnancy and up to 3 months after child delivery, women cannot perform tasks that are not advisable for their condition (Article 35).

172. The reproductive function is also protected in the Law on Equal Opportunities and Equal Treatment that forbids the attribution to women of tasks that involve actual or potential risks of genetic function (Article 8 of Decree-Law 52/95/M).

173. It should also be mentioned that Article 152 of Decree-Law 57/82/M, of 22 October, that approves the regulation on health and safety in industrial work sites, prohibits pregnant women to work with machinery, tools or dangerous substances and also establishes the obligation to prevent pregnant women to access to places where any toxic, asphyxiating, infectious, corrosive, explosive, or in any way susceptible of provoking dangerous reaction substances or toxic mixtures are made, stored, used or released.

174. The same idea is reasserted in Decree-Law 37/89/M, of 22 May, that approves the regulation on health and safety in commercial establishments, offices and services. Article 22 (2) of this Decree-Law prohibits the manipulation or use, by pregnant women, of dangerous products that may put their health at risk.

175. It is forbidden to dismiss a female worker due to pregnancy, the enjoyment of her maternity leave period or her marital status (Articles 37 (7) and (8) of Decree-Law 24/89/M and Article 4 (1) conjugated with Article 14(1), both from Decree-Law 52/95/M).

176. Similarly, it is also expressly forbidden for an employer to dismiss, to apply sanctions or to damage by any other form the female worker's interests due to her claim of discrimination. Violation of this prohibition gives the female worker the right to be compensated under the terms of the law regulating labour in case of termination of contract by the employer without a justified reason or previous notice (Article 14(2) of Decree-Law 52/95/M).

177. Women have the right to a period of maternity leave with pay, after delivery, with the guarantee that their job positions will be maintained, as it has already been mentioned in the present report regarding Article 4 of the Convention.

178. The legal labour regime of the public sector does not contain any negative discriminatory rules. Public Administration female workers enjoy full equality of rights, in particular the right to have the same conditions to access to work, the same conditions and opportunities in work, equal payment, access to training and equal treatment in the social welfare system.

179. The recruitment criteria of Public Administration workers must comply with the principles of freedom of application, equal conditions and opportunities for all applicants, information on the selection methods, programmes and grading systems that will be used, the application of objective methods of selection, and the right to complain and appeal (Article 46 of the SPAE).

180. For what concerns the right to a period of maternity leave and the prohibition of dismissal due to pregnancy, please refer to the information already provided in the present report concerning Article 4 of the Convention.

181. In the MSAR, the social welfare systems differ in the private and public sectors.

182. In the private sector, the Social Security Fund guarantees the social welfare system. According to what is established in Decree-Law 58/93/M, of 18 October, workers residents of the MSAR, including workers hired to perform specific, casual or seasonal tasks, are obliged to register in the Social Security Fund as beneficiaries. Employers that have at their service workers are also obliged to register themselves in that same Fund, as contributors. Both registrations are the responsibility of the employer (Articles 3, 4 and 40 (1)).

183. The Social Security Fund grants old-age benefits, unemployment benefits, invalidity benefits, pneumoconiosis benefits, social assistance benefits, maternity benefits, marriage benefits and funeral benefits.

184. In Public Administration, workers have the right to several benefits according to their family situation, in particular housing allowance, family benefits, marriage benefits, maternity benefits, holiday allowance, Christmas bonus, and shift work benefit. They also have the right to other benefits such as death allowance and funeral benefit.

185. The retirement system is an autonomous system, where the amount of the retirement pension depends on the number of years working in Public Administration and on the salary received according to the worker's category at the date of retirement (Article 258 and following Articles of the SPAE).

186. In what concerns the provision of the necessary means to allow parents to conciliate their family obligations with their professional responsibilities, it is worth noting that the MSAR Government has the duty to promote the creation and functioning of a network of nurseries (Article 8 (3) of Law 6/94/M, of 1 August).

187. The nurseries are institutions with the objective of receiving children with ages ranging from 3 months to 3 years, that provide them with adequate conditions for their development, as a means of support to their families during working hours or in other situations that do not allow parents to keep their children within the family unit for a certain period of time (Article 3 (1) (a), of Decree-Law 90/88/M, of 27 September).

188. Until September 2002, the total number of children in the 51 nurseries in the MSAR was 3,673. 3 of these nurseries are public and 26 receive Government subsidies.

189. As to women's de facto situation regarding work, it should be noted that the employment survey results regarding the periods prior to 2002 were adjusted according to the revision of the population estimates, which was carried out following the disclosure of the 2001 Census results. It is possible to infer this situation from the tables below.

Employed population by gender (10³)

| Gender | | Total | | | | Employed | | | | Unemployed | | | |
|--------------|----|-------|-------|-------|-------|----------|-------|-------|-------|------------|------|------|------|
| | | 1999 | 2000 | 2001 | 2002 | 1999 | 2000 | 2001 | 2002 | 1999 | 2000 | 2001 | 2002 |
| Total | MF | 209,4 | 209,5 | 216,7 | 214,0 | 196,1 | 195,3 | 202,8 | 200,6 | 13,2 | 14,2 | 13,9 | 13,4 |
| | M | 113,2 | 113,0 | 116,2 | 112,9 | 104,2 | 103,2 | 106,7 | 104,1 | 9,1 | 9,8 | 9,4 | 8,9 |
| | F | 96,1 | 96,5 | 100,5 | 101,0 | 91,9 | 92,1 | 96,1 | 96,5 | 4,2 | 4,4 | 4,4 | 4,5 |

Source: Statistic and Census Department.

Employment, unemployment and underemployment rates by gender (%)

| Gender | | Activity Rate | | | | Unemployment Rate | | | | Underemployment Rate | | | |
|--------------|----|---------------|------|------|------|-------------------|------|------|------|----------------------|------|------|------|
| | | 1999 | 2000 | 2001 | 2002 | 1999 | 2000 | 2001 | 2002 | 1999 | 2000 | 2001 | 2002 |
| Total | MF | 65.5 | 64.3 | 64.8 | 62.3 | 6.3 | 6.8 | 6.4 | 6.3 | 1.3 | 3.0 | 3.6 | 3.4 |
| | M | 76.4 | 74.6 | 74.7 | 70.6 | 8.0 | 8.6 | 8.1 | 7.9 | 1.6 | 3.4 | 4.3 | 4.2 |
| | F | 56.1 | 55.3 | 56.2 | 55.1 | 4.4 | 4.6 | 4.4 | 4.5 | 0.9 | 2.4 | 2.7 | 2.6 |

Source: Statistic and Census Department.

190. It is a well-known fact that there are still differences regarding salaries between the two genders, especially in unskilled jobs. The average monthly salary earned by men in unskilled jobs in 2001 was approximately MOP 5,567.00, whereas that earned by women was MOP 3,695.00.

ARTICLE 12: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN IN HEALTH

191. In the MSAR, there is no discrimination against women concerning health matters.

192. In fact, one of principles, which the health system is based on, expressly established in Decree-Law 24/86/M, of 15 March, that regulates the access of the population of the MSAR to health care services, is precisely the free and universal right to health care.

193. The MSAR Health Department guarantees the right to health care to all the population of the MSAR.

194. As to what concerns public health establishments, apart from a public hospital (the Hospital Centro Conde São Januário), there are also 15 public health centres, which provide health care to the

population of the respective areas of the Region. Apart from this, there is also a private hospital (the Kiang Wu Hospital) and 350 private health centres (including clinics and consultation offices).

195. The public health centres provide general health care for disease prevention and health promotion, prenatal care, postpartum care and vaccination, as well as personalised care, inter alia, ambulatory medical care, nursing care, health information and education. Medication for primary health care, included in a list of essential medicines, is also supplied.

196. Health care costs are totally or partially supported by the budget of the MSAR, depending on the circumstances, in particular on the type of disease and on the patient's social and economical situations (Article 3 of Decree-Law 24/86/M as amended by Decree-Law 68/89/M, of 9 October).

197. Medication and medical assistance are free in the context of family planning, for those who are suffering or suspected of suffering from infectious diseases, for drug addicts, for cancer patients, for psychiatric patients, for risk groups – such as pregnant and parturient women, children up to 10 years of age, primary and secondary school students, and persons older than 65 years of age (inclusively) – for prisoners, for Public Administration workers and for persons or families that are in a social rupture situation that determines their economic incapacity. Furthermore, health care in public hospital emergency services is also free.

198. Specifically in what concerns maternity, the MSAR Health Department provides a programme for the protection of maternity, which includes health care before, during and after delivery, all totally free.

199. The above-mentioned programme includes information and services on family planning, prevention of sexually transmissible and infectious diseases, a minimum of 6 medical consultations during pregnancy, advice on nutrition and diet, detection and follow-up of postpartum complications both of the mother and of the child, breastfeeding incentive and treatment of breastfeeding problems, detection and prevention of neonatal infections and child vaccination.

200. In 2001, this programme was used by 72.8% of the female population in reproductive age. There was an average of 8 medical consultations per pregnant woman in public health centres.

201. Prisoners who are pregnant, who have recently given birth or who have suffered an interruption of pregnancy are assisted and treated by physicians of the suitable medical field. The child that remains in prison with his/her mother has the right to undergo medical examinations to diagnose any disease that might endanger his/her normal physical and mental development (Article 43 of Decree-Law 40/94/M, of 25 July, which approves the system for the execution of freedom deprivation measures).

202. As to family planning, it is worth noting that the MSAR Government is legally obliged to create and support, in cooperation with the families, capable means of promoting proper training and family planning to guarantee free, responsible and conscious paternity and maternity (Article 10 (1) of Law 6/94/M).

203. The aim of family planning is to improve family health and well being, by allowing persons or couples to be able to decide, in a free and responsible way, how many children they wish to have and when they wish to have them. More precisely, family planning includes pre-nuptial and genetic

counselling, information on birth control methods, infertility treatment and prevention of genetic and sexually transmissible diseases.

204. Therefore, public health centres not only provide counselling services on family planning, but also distribute freely different contraceptive methods (I.U.D., pill and condoms), according to each specific case.

205. As to abortion, although it is considered a crime under Article 136 of the Criminal Code of Macao (abortion without the consent of the pregnant woman) and under Article 1 of Decree-Law 59/95/M, of 27 November (abortion with the consent of the pregnant woman), in certain cases, the latter, which rules voluntary interruption of pregnancy, excludes criminal responsibility.

206. That is, according to Article 3 of the above-mentioned Decree-Law 59/95/M, the interruption of pregnancy is not punishable when it is carried out by or under the guidance of a physician in an official or officially recognised health establishment and with the consent of the pregnant woman when, according to medical knowledge and expertise:

- (i) it is the only means of removing death risk or serious and irreversible damage for the body or for the physical or mental health of the pregnant woman;
- (ii) it is proven to be the appropriate way to avoid death risk or serious and permanent damage to the body or physical and mental health of the pregnant woman and is carried out in the first 12 weeks of pregnancy;
- (iii) it can be foreseen with certainty that the future child will suffer in an incurable way from a serious disease or malformation and is carried out in the first 16 weeks of pregnancy; or
- (iv) there are serious reasons to believe that the pregnancy is the result of a crime against sexual freedom or self-determination and is carried out in the first 12 weeks of pregnancy.

207. The MSAR Government also pays special attention to the issue of groups of vulnerable women.

208. Consequently, health centres have services specially directed to more vulnerable women, such as home assistance to elderly women.

209. Besides, the MSAR Government, through the Social Welfare Institute, supports financially and technically institutions and day care centres for the physically handicapped and mentally ill, including women. These institutions and centres provide, among others, home assistance, lessons on social relations skills, personal counselling and group activities. There are 10 institutions of this kind, two of them being exclusively for women, which currently shelter a total of 109 women.

210. Health professionals are trained on the treatment process for sexually abused victims. There is a special procedure when treating a victim of sexual violence. According to this procedure, the victim must be examined by at least two physicians, be informed about the examination she will undergo and must consent to it. In case the victim consents, a thorough register of the incident is carried out in conformity with the victim's testimony (her story, the place where the incident took place, the causes and duration, etc.). This medical examination includes a series of analyses and specific tests, in particular to the hymen, prevention of venereal diseases and prevention of pregnancy.

211. In the MSAR, a programme for HIV/AIDS control and prevention has been carrying out since 1986 by the Health Department. Its essential strategy is the mandatory, but confidential, notification of the HIV/AIDS cases, diagnosis, medical treatment and counselling, totally free, free supply of “safe” blood and the monitoring of all the blood donated in the Region.

212. In the scope of this programme, campaigns, workshops and seminars specifically for women are systematically carried out including discussions of matters such as sex and sexuality, the use of condoms, the “negotiation” of safe sex with husbands or boyfriends, an HIV hotline, psychological support to women suffering from HIV, the distribution of pamphlets and posters, etc. On the other hand, focused on certain specific risk groups, the programme includes the periodical and systematic performance of tests aimed at specific risk groups, such as blood donors, tuberculosis patients, prisoners, pregnant women, drug addicts and entertainment industry workers.

ARTICLE 13: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN IN THE AREAS OF FINANCE AND CULTURE

213. In the MSAR, women also enjoy the same rights as men in the areas of finance and culture, in particular in family benefits, bank loans, mortgage loans and other types of financial credit. The same may be said in what concerns equality regarding the participation in leisure activities, in sports and in all other aspects of cultural life.

214. As previously mentioned, Article 37 of the Basic Law enshrines the freedom to engage in education, academic research, literary and artistic creation and other cultural activities. As to equal rights between men and women in culture and sports, as well as family benefits, please refer to what has been stated, respectively, about Articles 10 and 11 of the Convention.

215. As to bank loans, mortgage loans and other types of financial credit, issues that are related to legal personality and capacity, it is worth noting that, as previously mentioned, the legislation of the MSAR does not allow any kind of distinction based on gender.

216. Article 1545 of the Civil Code states that both husband and wife, regardless of the matrimonial property regime (which may be freely established by the spouses and, if not it will be the regime of participation of acquisitions), are free to make bank deposits in their own names and to make movements in bank accounts. Article 1557 of the Civil Code also foresees that both husband and wife have the right to conclude contracts and assume debts without the consent of the other.

217. There is no record of the existence of any discriminatory practice as to bank loans, mortgage loans and other forms of financial credit. As previously explained, such practices would constitute a blatant violation of the fundamental right to equality, totally illicit, which may be invoked by the concerned person before a court and, as such, susceptible of generating civil liability.

ARTICLE 14: RURAL WOMEN

218. Agriculture activities have no expression in the MSAR and, therefore, the distinction between rural and urban women does not exist.

219. The whole Region is equipped with sophisticated basic infrastructures and there is no gender-based discrimination in the access to them.

ARTICLE 15: EQUAL TREATMENT AS TO LEGAL CAPACITY AND CHOICE OF DOMICILE

220. As thoroughly explained, in the MSAR, all human beings are considered equal before the Law.

221. Article 6 of the Basic Law assures the right to private ownership and Article 103 foresees the protection, in accordance with Law, of the right of individuals and legal persons to the acquisition, use, disposal and inheritance of property, as well as their right to compensation for lawful deprivation of their property.

222. On the other hand, Article 33 of the Basic Law guarantees the residents the freedom of movement and of settlement in any part of the Region, as well as the freedom of emigration to other countries or regions.

223. According to what was previously mentioned on Articles 1, 2 and 13 of the Convention, there is no legal limitation to the legal capacity of women as such. No person is allowed to waive, in whole or in part, his/her legal capacity and any legal relations contrary to Law are considered void (Articles 64, 66 and 273 of the Civil Code).

224. Therefore, men and women enjoy equal rights in what concerns entering into any form of contract and administering property. It does not even exist, in the legal system of the MSAR, the concept of the head of the family.

225. As also previously mentioned, both spouses are equal and hold the administration of their own property, as well as of their income from work and are free to practise any profession or activity without the previous consent of the other spouse (Articles 1543 (1) and (2) (a) and Article 1542 of the Civil Code).

226. In what regards equal treatment in all stages of procedure in courts and tribunals, it is worth mentioning that Article 36 of the Basic Law assures to all persons, as a fundamental right, to resort to Law and to have access to the courts, to lawyers' help for protection of their lawful rights and interests and to judicial remedies.

227. Regarding ordinary Law, as negative discrimination is inadmissible in any domain, there is also no difference between persons at the level of Procedural Law (be it civil procedure, administrative procedure or the criminal procedure), whatever the status of the person may be (author, witness, defendant, .).

228. Therefore, the requirements foreseen by Law for attaining legal assistance are also not based on the gender of the applicant but mostly with the economical needs of the applicant.

ARTICLE 16: EQUALITY OF RIGHTS BETWEEN MEN AND WOMEN IN ALL MATTERS RELATED TO MARRIAGE AND FAMILY RELATIONS

229. Equality between men and women in all matters related to marriage and family relations is totally assured in the MSAR.

230. Men and women have the same right to marry on their own free will and freely choose their spouse (Article 38 of the Basic Law and Article 1 of the previously mentioned Law 6/94/M).

231. Polygamy is not allowed. In fact, marriage is understood as the contract between two people of opposite sex who aim at raising a family through a common life. The existence of a previous non-dissolved marriage is susceptible of generating the annulment of the second marriage (Articles 1462, 1479 (c) and 1504 (a) of the Civil Code).

232. Both spouses enjoy the same rights and have the same responsibilities in marriage, as well as in its dissolution (Articles 1532, 1533, 1643 of the Civil Code and Article 2 of Law 6/94/M).

233. One of the duties of both husband and wife is to provide for and contribute to family expenses according to each one's possibilities. This duty, which may subsist in case of de facto separation and even after the dissolution of matrimony as maintenance obligation, although with different regimes depending on the spouse to whom the separation or divorce is ascribable, is reciprocal and regardless of gender. (Articles 1536, 1537, 1556 and 1857 and following Articles of the Civil Code).

234. De facto marriage is recognised in the legal system of the MSAR, as the relationship between two persons who voluntarily live together in conditions similar to a married couple (Article 1471 of the Civil Code). However, the de facto marriage is only relevant for those over 18 years of age, that do not have any of the impediments foreseen for the celebration of marriage and that have been living in conditions similar to a married couple for at least 2 years. For the counting of these 2 years, if cohabitation started when one or both of the couple of the de facto marriage was a minor, the period will only start counting as from the date when the youngest has become an adult and, if any of the two has ever been married, the period will only start counting as from the date of his/her de facto separation (Article 1472 of the Civil Code).

235. As parents, men and women have the same rights and responsibilities, regardless their marital status, and the best interests of the child stand above any other considerations.

236. As a matter of fact, in marriage, the exercise of parental responsibility belongs jointly to both spouses (Article 1756 (1) of the Civil Code).

237. In case of divorce, de facto separation or marriage annulment, the child's custody, the maintenance obligations due to him/her and the way it is paid are ruled by an agreement between both parents subject to court approval. The approval is refused if the agreement does not correspond to the best interests of the child. In the absence of an agreement, the court will decide according to the child's best interests. The custody of the child may be given to any of the parents or, in case of risk of the child's security, health, moral formation or education, to a third person or to an institution (Article 1760 of the Civil Code).

238. In the cases where filiations are established to both parents and they did not marry after the child's birth, the exercise of parental responsibility belongs to the one who holds the child's custody

and it is presumed that the mother has the custody of the child. This presumption is only judicially refutable (Articles 1765 (1) and (2) of the Civil Code).

239. In case the parents are living in a de facto marriage, the exercise of parental responsibility belongs to both when they declare so to the civil registry. In the absence of such an agreement, it is the responsibility of the court to decide and the best interests of the child are the criteria (Article 1765 (3) of the Civil Code).

240. For the concrete actions taken by the MSAR Government in the scope of family planning, please refer to the aforementioned information in this report regarding Article 12 of the Convention.

241. Men and women enjoy the same rights and responsibilities in terms of guardianship and adoption of children.

242. Minors whose parents have deceased, have been withdrawn their parental responsibility in taking any decisions concerning their child, have been forbidden to exercise their right to parental responsibility for over six months or are unknown, are legally subject to guardianship (Article 1778 of the Civil Code).

243. The guardian will be the person chosen by the parents, subject to court approval, or the person designated by the court. Gender is not a determinant nor impeditive factor for being a guardian, nor does it make any difference in the determination of the responsibilities to which the guardian is subject to (Articles 1784, 1789 and 1791 of the Civil Code).

244. As to adoption, being a woman does not imply any kind of discrimination, both in the establishment of the adoption relation and in the responsibilities arising from that relation (Articles 1828, 1830, 1831 and 1838 of the Civil Code).

245. Husband and wife enjoy the same personal rights, including the choice of family name, profession and occupation.

246. Regarding family name, Article 1538 of the Civil Code foresees that husband and wife keep their own surnames, and may, according to their will, add their spouse's surnames up to a number of two. The right to add the spouse's surnames cannot be exercised by the spouse that maintains surnames from a previous marriage.

247. The child will have the surnames of the father and the mother or of only one of them. The choice of the first name and surnames of the child is decided by the parents and when they fail to do so, the judge will decide according to the best interests of the child (Article 1730 of the Civil Code).

248. According to Article 35 of the Basic Law, Article 1542 of the Civil Code states that each spouse may practise any profession or activity without the other's consent.

249. As previously mentioned, both spouses have the same rights regarding ownership, acquisition, management, administration, enjoyment and disposition of property.

250. The only differences result from the matrimonial property regime, which is chosen by the spouses on their own free will (if not established by the spouses it will be the regime of participation of acquisitions). The other matrimonial property regimes are separate property, community of acquisitions and community property. The definition of what is considered to be common property or not depends on which type of matrimonial property regime was chosen. Notwithstanding what is

considered to be common property or not according to the matrimonial property regime, Article 1543 of the Civil Code stipulates that each spouse has the administration of their own property, as well as of:

- (i) his/her income from work;
- (ii) his/her intellectual property;
- (iii) the common property he/she took into the marriage or freely acquired after the marriage, as well as those subrogated in their place;
- (iv) the property which has been donated to or inherited by both spouses with the exclusion of the administration of the other spouse, except if it is the case of property donated or inherited as the other spouse's legitimate portion;
- (v) the movable property, common or not, exclusively used by him/her as a work instrument;
- (vi) the common property or the property belonging to the other spouse, if he/she is unable to administer them for being in a distant or unknown location or for any other reason (and provided that a procuration for the administration of this property has not been given to another person); and
- (vii) the common property or the property belonging to the other spouse if he/she grants him/her that power.

251. As to the disposition or burden of movable property, when it is common property whose administration is the responsibility of both spouses, the disposition or burden needs the agreement of both spouses, except if it is an act of ordinary administration (Article 1547 (1) of the Civil Code).

252. Regarding movable property, common or not, over which one of the spouses has the administration, each one of the spouses can dispose or burden without the consent of the other, except if it is movable property used by both in their family life, or as a common work instrument, or if it is movable property belonging exclusively to the spouse who does not administer them, except in this latter case if it is an act of ordinary administration (Articles 1547 (2) and (3) of the Civil Code).

253. In what regards real estate property, the disposition, burden, renting or constitution of other rights in rem over the common real estate property or business, requires the consent of both spouses. Each spouse may freely dispose, burden, rent or constitute other rights in rem over his/her real estate property (Article 1548 of the Civil Code).

254. Disposition, burden, renting or constitution of rights in rem over the family house always needs, regardless the matrimonial property regime, the consent of both spouses (Article 1548 of the Civil Code).

255. Under the terms of Article 1550 of the Civil Code, none of the spouses needs the other's consent to accept donations, inheritances or legacies, nor to refuse inheritances and legacies, except if, as far as a refusal is concerned, the marriage is ruled by the regime of common property.

256. In the same way, both husband and wife have the right to conclude contracts and to assume debts without the other's consent (Article 1557 of the Civil Code).

257. The minimum age to marry is 18, when a person becomes an adult (Article 118 of the Civil Code).
258. However, a minor with age ranging from 16 to 18 may marry, given he/she has the consent of his/her parents, who exercise their parental responsibility, or of his/her guardian. The court may, however, supersede the absence of consent if there are ponderous reasons that justify the celebration of the marriage and the minor proves to be sufficiently mature both physically and psychologically (Article 1487 of the Civil Code).
259. Under the terms of Article 120 of the Civil Code, the minor is emancipated by marriage.
260. Marriage celebrated by a minor of age between 16 and 18 with no consent from the parents (or guardian) or the court has as a consequence the non-emancipation of the minor as to the administration of property that he/she brings to the marriage or that he/she later acquires freely until he/she becomes an adult. He/she is, nevertheless, given the necessary means for his/her survival (Article 1521 of the Civil Code).
261. The marriage of a 16-year-old minor (minor under the legal age of marriage) may be annulled. This annulled marriage may however be considered valid if, before the judicial decision of annulment acquires the effect of *res judicata*, the minor becomes an adult and confirms the marriage (respectively, Article 1479 (a), conjugated with Article 1504 (a) and Article 1506(1) (a) of the Civil Code).
262. Marriages that have taken place in the MSAR have to be registered and all marriages that do not contravene the public order of the MSAR are also admitted to register, upon requirement (Article 1523 of the Civil Code and Article 1 (1) (d) of the Civil Registration Code).
263. When marriages are not registered, they cannot be invoked by the spouses or their heirs, or by a third person, until its registration. Its civil effects retroact to the date of the marriage as soon as it is registered (Articles 1530 and 1531 of the Civil Code).

ANNEX I – QUOTED LEGISLATION

1. Basic Law of the Macao Special Administrative Region of the People's Republic of China;
2. Civil Code;
3. Criminal Code of Macao;
4. Administrative Procedure Code;
5. Civil Registration Code;
6. Decree-Law 57/82/M, of 22 October, which approves the Regulation on Health and Safety in Industrial Work Sites;
7. Decree-Law 24/86/M, of 15 March, as amended by Decree-Law 68/89/M, of 9 October, which regulates the access of the Macao's population to health care services;
8. Decree-Law 90/88/M, of 27 September, which establishes the general conditions which the social equipment is subject to, as licensed by the Social Welfare Institute;
9. Decree-Law 24/89/M, of 3 April, which establishes a set of rules that regulates labour relations in Macao;
10. Decree-Law 37/89/M, of 22 May, which approves the Regulation on Health and Safety in Commercial Establishments, Offices and Services;
11. Decree-Law 87/89/M, of 21 December, as last amended by Law 24/96/M, of 19 August, which approves the Statute of the Public Administration's Employees (SPAÉ);
12. Law 11/91/M, of 29 August, which establishes the legal framework on educational system;
13. Order 7/SAAEJ/92, of 13 July, which defines the conditions in which the educational compensation actions, in Portuguese schools and in Chinese schools, are carried out – revokes Order 36/85/ECT;
14. Order 18/SAAEJ/93, of 26 July, which approves the rules concerning the development of extra-curricular activities;
15. Decree-Law 58/93/M, of 18 October, which approves the social security regime – revocations;
16. Decree-Law 40/94/M, of 25 July, which approves the regime for carrying out the measures of deprivation of liberty – revocations;
17. Law 6/94/M, of 1 August, which approves the legal framework on family policy;
18. Decree-Law 62/94/M, of 19 December, which approves the social security fund for education/educational purposes and social educational support – revokes Decree-Laws 17 and 18/90/M, of 14 May;
19. Decree-Law 52/95/M, 9 October, which sets the rules for labour relations to guarantee equal opportunities and treatment for workers of both genders – revokes;

20. Decree-Law 59/95/M, of 27 November, which rules the interruption of pregnancy;
21. Order 39/GM/97, of 30 June, which rules the conditions on which Social Security Fund beneficiaries may benefit from maternity benefits as well as its amount;
22. Law 6/97/M, of 30 July which establishes the legal regime against organised crime;
23. Law 4/98/M, of 27 July, which approves the legal framework on employment and labour rights;
24. Decree-Law 24/99/M, of 21 June, which restructures the Macao Social Welfare Institute, including the Bureau for the Prevention and Treatment of Drug Addiction – revocations;
25. Law 2/99/M, of 9 August, which establishes the regime of the right of association;
26. Decree-Law 42/99/M, of 16 August, which establishes the compulsory education system and young persons between the ages of 5 and 15;
27. Law 1/1999, 20 December, which approves the Reunification Law;
28. Law 7/1999, 20 December, which approves the Regulation on the Requirements regarding the Nationality of residents of the MSAR;
29. Law 8/1999, 20 December, which approves the regime on Permanent Residents and the Residence Right in the MSAR;
30. Law 12/2000, 18 December, which approves the Law on Registration of Voters;
31. Law 3/2001, 3 May, which approves the Electoral Law for Legislative Assembly.

ANNEX II – QUOTED MULTILATERAL TREATIES

1. Slavery Convention, signed at Geneva on 25 September 1926;
2. Convention No. 29 concerning Forced or Compulsory Labour, adopted at Geneva on 28 June 1930;
3. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of others, adopted at Lake Success, New York on 2 December 1949;
4. Convention No. 81 Concerning Labour Inspection in Industry and Commerce, adopted at Geneva on 11 July 1947;
5. Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, adopted at Geneva on 29 June 1951;
6. Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, done at Geneva on 7 September 1956;
7. Convention No. 105 concerning the Abolition of Forced Labour, adopted at Geneva on 25 June 1957;
8. Convention No. 111 concerning Discrimination in Respect of Employment and Occupation, adopted at Geneva on 25 June 1958;
9. Convention Against Discrimination in Education, adopted at Paris on 14 December 1960;
10. Convention No. 122 concerning Employment Policy, adopted at Geneva on 9 July 1964;
11. International Covenant on Civil and Political Rights, adopted at New York on 16 December 1966;
12. International Covenant on Economic, Social and Cultural Rights, adopted at New York on 16 December 1966.