



**Convention on the  
Rights of the Child**

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**COMMITTEE ON THE RIGHTS OF THE CHILD**  
**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES**  
**UNDER ARTICLE 44 OF THE CONVENTION**

**Second periodic report of States parties due in 1997**

**Addendum**

**CHINA\***

[27 June 2003]

**Part Two**

**SPECIAL ADMINISTRATIVE REGION**

**MACAU**

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\* For the first and second parts of the second periodic report submitted by the Government of China, see document CRC/C/83/Add.9 and CRC/C/83/Add.9 (Part I). For the initial periodic report submitted by China, see CRC/C/11/Add.7; for its consideration by the Committee on 28 and 29 May 1996, see CRC/C/SR.298-300 and CRC/C/15/Add.56. The annexes may be consulted in the files of the Secretariat.

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## **Introduction**

1. The present report is the first to be submitted by the People's Republic of China under the terms of article 44 of the Convention on the Rights of the Child (hereinafter referred to as the Convention) for the application of the Convention to the Macao Special Administrative Region of the People's Republic of China (MSAR).
2. The Convention entered into force for Macao on 27 May 1999.<sup>1</sup>
3. This report, prepared as suggested in the general guidelines adopted by the Committee on the Rights of the Child regarding the form and contents of periodic reports to be submitted by State parties of the Convention, should be read jointly with the third part of the second revision of the People's Republic of China's core document (HRI/CORE/1/Add.21/Rev.2), submitted to the Secretary-General on 3 October 2000. Therefore, data concerning the territory and population, political structure and the general legal framework within which human rights are protected in MSAR concur with those in the above-mentioned third part of the core document that is referred to in full.

## **I. GENERAL MEASURES OF IMPLEMENTATION**

4. Prior to the extension of the Convention to Macao, no major inconsistencies were found between local law and the Convention. Thus, no significant changes in Macao's legal system were made in order to bring it into line with the Convention's provisions.
5. It should be noted, nevertheless, that since the Convention became applicable some legal measures were adopted with the intent of providing a better guarantee of some of the rights also provided for in the Convention. Such is the case of the legislation on: (a) the administration of juvenile justice; (b) compulsory education until 15 years of age; (c) adoption; and (d) the right of association.
6. After the establishment on 20 December 1999 of MSAR, its Basic Law was put into effect. MSAR's Basic Law has constitutional value and stipulates that local laws "and other normative acts previously in force in Macao shall be maintained, except for any that contravenes this Law, or are subject to any amendment by the legislature or other relevant organs of the Macao Special Administrative Region in accordance with legal procedures" (article 8, see also arts. 18 and 145).
7. Chapter III of the Basic Law enshrines the fundamental rights of all MSAR residents. Article 38 (3) affirms specifically the protection of the legitimate rights and interests of minors.
8. In recent years, treaties on international human rights in force in Macao have been extensively publicized. The Government and its departments have taken several measures to promote information on and dissemination of human rights - including the rights of the child - in the local community. This has been done mainly through the media and also via contests, quizzes and interactive technology as well as through the distribution of specially focused brochures and leaflets. The subject of fundamental rights is also incorporated in the school curricula of several courses.

9. Many of the initiatives to promote the awareness of fundamental rights and duties are specially targeted and organized in close connection with neighbourhood associations directed towards workers' unions and educational centres.
10. The Legal Information Division of MSAR's Justice Affairs Department also provides a service that offers legal information through some of the largest Chinese newspapers, including:
- In the daily *Ou Mun Iat Pou*, weekly publications since 1994, in the columns “Know the laws of Macao” and “A summary of the *Official Gazette*”;
  - In the daily *Va Kio*, since 1994, a weekly feature “Introducing recently published ordinances”, and since 1995 the weekly publication of “Various aspects of Macao Law”;
  - In the daily *Si Man Pou*, since 1996, the weekly feature “Talking about the Law in Macao”; and
  - In the daily *Correio Sino-Macaense*, the weekly publication “A summary of the *Official Gazette*”.
11. With reference to the rights of the child, the newspapers *Ou Mun Iat Pou*, *Va Kio* and *Si Man Pou* have already published 9, 12 and 5 articles, respectively.
12. Other special programmes on legal affairs have been aired over the radio and TV in addition to information campaigns at secondary schools.
13. The Chinese-language radio station *Ou Mun Tin Tóí* has been regularly broadcasting since 1994 the programme “Encyclopedia of the law”, as well as transmitting a summary of the *Official Gazette* - in both Cantonese and Mandarin - highlighting the most important laws published during that week. Children's rights are constantly in focus on the “Encyclopedia of the law”, with themes such as adoption, criminal responsibility, smoking and pornographic material, the right to education and minor's capacity.
14. The Chinese channel of Macao Television Broadcasting every Tuesday shows a programme entitled “Questions and Answers”, in which issues on justice are submitted to the lawyers in the studio, specifically on themes related to childhood and youth. Educational Television of Macao transmits three times a week a programme in which a lawyer and a scholar, both from the Judicial Affairs Department, talk about numerous legal subjects in a comprehensible style. Within this field, it is appropriate to refer to a series of four programmes dedicated to the Convention, broadcast between April and May 1999.
15. As soon as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights were extended to Macao, as of 27 April 1993, the Legal Information Division started publishing a bilingual brochure in Chinese and Portuguese, entitled: “Basic rights applicable in Macao”. Along the same lines, it also published brochures in Chinese on the following: “Rights, laws and guarantees”, “Residence in Macao”, “Workers' rights” and “The social security system”.

16. Lastly, worth mention is the existence in MSAR of a commission composed of representatives from several public services and social and youth organizations that annually prepare the celebration of International Children's Day. Amongst other things, the commemorative activities consist of shows, competitions, seminars and visits to MSAR's government bodies, and are essentially directed towards children and youth. The underlying objective of the commemorations is to create awareness of children's rights amongst the population.

## **II. DEFINITION OF THE CHILD**

17. According to article 1 of the Convention, a child is any human being below the age of 18, unless, under the law applicable to the child, majority is attained earlier. This corresponds to the status of minority for civil purposes in MSAR's legal order: minors are all persons who have not attained the age of 18 (article 111 of the Macao Civil Code).

### **Medical and legal counselling without parental consent**

18. There is no specific law governing the right of a child to consult a doctor or a lawyer without parental consent. Nevertheless, within certain limits, that right may result from some legal provisions. Firstly, parents have the duty to allow their children a certain degree of autonomy in running their own lives, depending on their level of maturity. An exception to the power of parents to represent their children is made in the case of "pure personal acts". Thus, it appears that children are legally entitled to consult a doctor or a lawyer when health or legal problems compatible with their age and maturity arise, provided that such problems are not especially serious and do not involve major costs (arts. 1733 (2) and 1736 (1) of the Civil Code).

### **Medical treatment or surgery without parental consent**

19. In the field of health, the law states that any medical act can only be carried out if the person concerned freely gives his/her informed consent. In cases of surgical intervention, consent shall be given in writing. Whenever in the terms of the law the minor is incapable of consenting to a surgical intervention, it cannot be performed without the authorization of the minor's legal representative. If the latter for any reason cannot grant that authorization, the court shall render the appropriate decision. For that purpose, the law requires the court to take into account the opinion of the minor, in accordance with his/her age and level of maturity (arts. 5 (1) (3) and 6 (2) of Decree-Law 111/99/M).

20. The donation of organs and tissues of human origin by a minor is also subject to the authorization of the minor's legal representative. Yet, it also depends on the non-opposition of the minor or, if the minor has capacity of understanding and free will, on his/her expressed consent (article 7 of Law 2/96/M).

21. Relating to mental health, Decree-Law 31/99/M states that a minor over the age of 14 years can: (a) decide to receive or refuse the diagnostic and therapeutic interventions proposed; (b) not be subjected to electroconvulsive therapy without his/her prior written consent; and (c) accept or refuse taking part in research, clinical experiments or academic training programmes. The legal representatives exercise these rights when the patient is a minor under the age of 14 years.

22. On the subject of abortion, a pregnant girl aged 16 years and over has the right to consent to her own abortion, in cases where abortion is permitted by law (Decree-Law 59/95/M).

### **Compulsory education**

23. All children aged between 5 and 15 years old are legally required to attend school. (Further details on compulsory education are given in paragraphs 368 to 370 below, in connection with article 28 of the Convention.)

### **Admission to employment or work, including hazardous work, part-time and full-time work**

24. The minimum age for admission to employment or work in the public service is 18 years old and in the private sector is 16 years old. Under the condition that the minor's required physical capacity for the exercise of a particular work has been previously attested, the law exceptionally allows the employment in the private sector of persons aged under 16 but not younger than 14 years old (article 11 of Decree-Law 87/89/M and arts. 39 and 42 of Decree-Law 24/89/M). (Further details are given in paragraphs 489 to 494 below, in connection with article 32 of the Convention.)

### **Marriage**

25. The minimum legal age for marriage for both sexes is 16 years of age. Yet, if the person is aged between 16 and 18, the law requires the parents or the guardian to give their consent to the marriage. Nevertheless, if there are convincing reasons that justify the celebration of marriage and the minors have sufficient physical and mental maturity, at their request the court can grant the necessary authorization (arts. 1479 (a) and 1487 of the Civil Code).

### **Sexual consent**

26. The minimum age of consent for sexual acts is 16 years, both for heterosexual and homosexual acts (articles 168 and 169 of the Macao Criminal Code).

### **Voluntary enlistment in the armed forces**

27. There is no conscription into the armed forces in MSAR. The Central People's Government of the People's Republic of China is responsible for the defence of MSAR (article 14 of the Basic Law).

### **Criminal responsibility**

28. The age of criminal responsibility is 16 years (article 18 of the Criminal Code). (Further details are given in chapter VIII, section B, which deals with children involved with the system of administration of juvenile justice.)

### **Deprivation of liberty, including by arrest, detention and imprisonment**

29. Starting from the age of 16, a young person may be subject to punishment by imprisonment or any other kind of deprivation of liberty penalty. Young offenders between 12 and 16 years old may be deprived of liberty if, according to their educational needs, the court decides that they have to be placed at an educational establishment (articles 6 (1) and 35 of Decree-Law 65/99/M). (These issues will also be further detailed in chapter VIII, section B, which deals with children involved with the system of administration of juvenile justice.)

### **Capital punishment and life imprisonment**

30. The Criminal Code forbids the death penalty and imprisonment for life, or for an unlimited or unspecified period of time. Additionally, the penalty of imprisonment can never exceed a duration of 30 years (arts. 39 (1) and 41 (2) (3)).

### **Giving testimony in court, in civil and criminal cases**

31. There is no age limit for children testifying in court. Under MSAR's law, any person who is not under judicial restraint on mental grounds can give testimony. A person cannot refuse to testify, unless otherwise specifically determined by law (article 517 of the Macao Civil Procedure Code and article 118 (1) of the Macao Criminal Procedure Code). Such is the case of descendants who can refuse to testify as witnesses in civil proceedings involving their ancestors and vice versa. The judge must draw attention to this right of refusal (article 519 (1) (a) and (2) of the Civil Procedure Code).

32. With reference to the criminal proceedings, there are special rules concerning the questioning of children below the age of 16 years. Solely the judge presiding at the trial carries out the hearing. At the end of the hearing, the Procurator (who in MSAR acts as the public prosecution) and the lawyers can request for the judge to pose additional questions to the witnesses. Evidence of a child under 16 years of age shall be given unsworn (articles 81 and 330 of the Criminal Procedure Code).

### **Lodging complaints and seeking redress before a court or other relevant authority without parental consent**

33. In accordance with article 44 of the Civil Procedure Code, a minor can only face trial through his/her legal representative, with the exception of acts within his/her legal capacity. Whenever parental authority is exercised jointly by both parents, the institution of civil actions in the interest of the minor requires the agreement of both of them.

34. It should be noted, however, that in some cases the minor has the necessary locus standi to institute legal proceedings. For example, the minor can plead to the court in order to obtain social protection or maintenance, and or the alteration of a previous decision relating to maintenance (article 79 (1) and 107 of Decree-Law 65/99/M). As already mentioned in paragraph 25, minors aged 16 to 18 can request a court authorization in order to get married.



### **Participating in administrative and judicial proceedings affecting the child**

35. There are several provisions within the Civil Code ensuring that the minor is heard in court.
36. For instance, when parental authority is exercised jointly by both parents, yet they disagree on some issue of particular importance, either of them can appeal to the court, which will attempt to reach conciliation. If an agreement is not reached, the court will hear the child over 12 years of age involved in the case, except when important circumstances advise against it (article 1756 (2) of the Civil Code).
37. The court, before appointing a guardian, shall also hear the minor who has reached 12 years of age (article 1787 (2) of the Civil Code).
38. In the proceedings for adoption, the judge must hear the adoptee over the age of 7 and under the age of 12 years, as well as the children of the adopter and the adoptee, if over the age of 12 years. Exception is made if these are deprived of the use of their mental capacities or for any other reason there are serious difficulties in having them heard (article 1836 of the Civil Code).
39. Within the system of juvenile justice, which comprises the social protection regime and the educational regime, there are specific rules concerning the hearing of minors. In fact, under those regimes a minor who has attained the age of 12 must always be heard whenever the application of appropriate measures is considered.

### **Legal capacity to inherit, to conduct property transactions**

40. Private property and inheritance rights are specifically guaranteed by the Basic Law (arts. 6 and 103).
41. Regarding the succession to estates of deceased persons, MSAR's law establishes that all persons born or conceived at the time of the deceased's death have the capacity to inherit. The descendants of the deceased, regardless of being marital or non-marital children, are legal heirs. They respectively make up, together with the surviving spouse or, as may be the case, alone, the first category of legal heirs (articles 1873 et seq. of the Civil Code).
42. A minor over 16 years of age has legal capacity to administrate assets acquired through his/her work. Moreover, the law recognizes as having legal efficacy the minor's acts regarding his/her current life to the extent of his/her natural capacity and provided that only petty expenses or small assets are involved. Acts related to the profession, trade or service that the minor was authorized to practise by his/her legal representative or practised within that trade, profession or service are also valid under the law (article 116 (1) of the Civil Code).

### **Choosing a religion or attending religious school teaching**

43. MSAR's Basic Law ensures the freedoms of religion and education (articles 25, 34, 37 and 128 of the Basic Law).

44. Parents have total liberty to choose their children's schools, other than those established by public authorities. They can object to their children being forced to receive teachings that are not in accordance with their own religious beliefs (article 15 (3) of Law 6/94/M).

45. Nevertheless, the parents' power/duty to determine the religious education of their children in conformity with their own convictions ceases when the minors attain the age of 16. Thus, minors aged between 16 and 18 have the right to freedom of religion and belief (article 1740 of the Civil Code).

### **Purchase of controlled substances**

46. In MSAR it is prohibited to sell or offer, for the purposes of promotion, publicity or commercial information, tobacco to minors. The presentation of an identification document before the act of purchase may be required whenever there are doubts concerning the age of the buyer; the refusal to present the identification document leads to the presumption of the minority of the buyer. In the areas where tobacco is sold, the correct warning signs should be posted, indicating that the sale or offer of tobacco to minors under 18 years of age is prohibited (article 1-A of Law 21/96/M, as modified by Law 10/97/M).

47. Regarding the premises where smoking is prohibited, local legislation states that it is forbidden to smoke in areas exclusively destined for minors under 18 years of age, notably in childcare establishments, recreational centres, holiday camps and other similar places. It is equally forbidden to smoke inside basic, secondary, technical-professional and higher education schools, except in the respective cafeterias or similar areas of the two latter (article 4 (1) (b) and (c) of the same law).

48. Decree-Law 34/99/M, which regulates the trade and lawful use of narcotic drugs and psychotropic substances, prohibits the sale to minors of substances and concoctions in accordance with its annexed tables I and IV.<sup>2</sup> If the minor has no one to represent him/her, these substances should be delivered to the person who is in charge of him/her or has the responsibility for his/her education or care. The violation of this provision is sanctioned with a fine of MOP\$ 20,000 to 50,000 (arts. 41 (1) (2) and 67 (1)).

## **III. GENERAL PRINCIPLES**

### **A. Non-discrimination (art. 2)**

49. Article 25 of the Basic Law states that "all Macao residents shall be equal before the law, and shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion or ideological belief, educational level, economic status or social conditions".

50. Fundamental rights, established in the Basic Law, including the non-discrimination right, can only be subject to limitations in cases provided by law. In fact, article 40 of the Basic Law,

reaffirming the application of the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights as well as the international labour conventions in MSAR, stipulates that any restriction to the rights and freedoms of MSAR's residents has to be prescribed by law and that such a restriction shall not contravene the aforesaid treaties.

51. The non-discrimination right is embedded in the whole of MSAR's legal system. Several laws expressly reinforce this right in a positive way as well as by means of repression of discriminating conducts or actions.

52. For instance, the Law on Protection of Human Rights and Human Dignity, which concerns biological and medical applications, establishes that any form of discrimination against a person in virtue of their genetic ancestry is prohibited (article 10 of Decree-Law 111/99/M). Another example is the Law on Freedom of Religion and Cult, which stipulates that no one can be harmed, persecuted, deprived of rights or exempt from responsibilities or civic duties for not professing any religion, or due to their convictions or religious practices (article 2 (3) of Law 5/98/M).

53. Furthermore, criminal law severely punishes the practice of acts carried out for discriminatory reasons. Hence, racial discrimination constitutes a specific and serious crime in MSAR, punishable with imprisonment from six months to eight years. The crime of homicide is aggravated when motivated by racial, religious or political hatred (articles 129 (1) (a) and 233 of the Criminal Code).

54. As far as children are concerned, in MSAR there is no discrimination between different groups of children, neither between adults and children. Even though all human beings are equal before the law, it is considered that children have particular needs. Therefore, differences of treatment on laws regarding children are solely based on the necessity of guaranteeing their protection.

### **B. Best interests of the child (art. 3)**

55. Several provisions of the Civil Code specifically state that certain decisions concerning the child must take into consideration the "best interests of the child". For instance:

- If the parents disagree on the choice of the child's name, the decision will be taken by a judge, who must decide in accordance with the child's interests (art. 1730 (2));
- In cases of divorce, de facto separation or annulment of the marriage, the agreement of the parents in reference to the future of the child, to his/her maintenance and the way in which this is to be provided will not be approved by the court if it is not in the interest of the minor, namely the interest of maintaining a personal and direct relationship with the non-custodial parent, should there be no agreement, the court shall decide in consistence with the interests of the minor (art. 1760); and
- In adoption, it can only be decreed if, amongst other circumstances established in the law, it presents genuine advantages for the adoptee (art. 1826).

### **C. The right to life, survival and development (art. 6)**

56. The right to life enjoys absolute protection in MSAR's legal system. Article 70 of the Civil Code states that all persons have the right to life. Such a right cannot be renounced or waived and is not subject to any legal or voluntary limitation. The death penalty is prohibited.

57. The protection of the right to life begins with the protection of intra-uterine life; however, abortion is not punishable except within circumstances determined by law.

58. The right to survival and development will be dealt with under chapter VI, section B.

### **D. Respect for the views of the child (art. 12)**

59. MSAR law recognizes a minor's right to be heard on important matters relating to his/her life. Whether within the family or at school, it is considered relevant to hear the child and the young, since the authoritarian concept of family relationships does not favour responsibility nor autonomy.

60. The views of the child should be given due weight according to the age and the maturity of the child in all family matters. In fact, even though the child is subject to parental authority until full legal age or emancipation, parents must take into account the child's opinions on important family matters and grant the child autonomy when organizing his/her life (articles 1732 and 1733 (2) of the Civil Code).

61. This right is reflected in several provisions of the Civil Code, namely when conflicts over the exercise of parental authority arise or within proceedings to appoint a guardian and to adopt a child (arts. 1756, 1787 and 1836). There are also other examples demonstrating how the greatest possible degree of autonomy must be given to children while running their lives. For instance, young people over 16 years of age are entitled to administer property that they acquired as a result of their work (art. 1743 (1) (d)), to decide on their religious education (art. 1740), and to recognize without authorization from their parents or guardians a child born out of wedlock (art. 1705 (2)).

62. It should also be noted that minors are entitled to seek judicial protection against abuse of authority either within the family or by the guardian or in the institutions where they are placed. The minor who has reached 12 years of age is always heard by the judge before the application of any general measure under the social protection regime (articles 67 (1) (b) and 82 of Decree-Law 65/99/M).

63. As already noted above, under the education regime applicable to minors between the ages of 12 and 16 years who have committed an act established by law as a crime, misdemeanour or administrative offence, the hearing of the minor must take place. Furthermore, that hearing has to be carried out by the judge and is a compulsory element of evidence in the investigation phase of such proceedings. In addition, if commitment measures are applied to the minor, he/she is entitled to lodge complaints or to make statements (articles 80 and 81 of Decree-Law 40/94/M applicable by virtue of article 45 (m) of Decree-Law 65/99/M).

64. Lastly, it should be highlighted that the Government of MSAR is preoccupied with promoting the right of young people to participate in taking their own decisions. As such, the attitude adopted is one that fosters the monitoring by the young of government policies, through the Youth Council.

#### **IV. CIVIL RIGHTS AND FREEDOMS**

##### **A. Name and nationality (art. 7)**

###### **Right to a name**

65. The right to a name, which includes the right to personal identity and personality, is enshrined in MSAR's civil law (article 82 (1) of the Civil Code).

66. Identity is protected in two ways. On the one hand, every person is entitled to use a name and to impose on others the obligation to address him/her by that name. Both the omission of the name of a person and the address by a different name are regarded as illegal. On the other hand, each person is safeguarded from the use of his/her name by a third party.

67. Articles 1730 and 1731 of the Civil Code discuss the issue of surnames, stating that the minor may use the surnames of his/her father and mother or of only one of them. The choice of a name and surname lies with the parents. In case of disagreement, the judge shall rule in accordance with the child's best interests. When paternity is not established, the minor may take the surnames of the husband of the mother should either party declare before the registrar that this is their wish.

68. The Macao Civil Registration Code stipulates, in its article 1, that all births taking place in MSAR are subject to registration. Births must be reported orally within 30 days at MSAR's birth registration office. Furthermore, hospitals have the obligation to report all births that have occurred in the previous week. If the birth is not registered within the appointed time limits, the registrar is compelled to inform MSAR Procuratorate which, having gathered the necessary information, shall request the judge to order a compulsory registration (arts. 76 and 78).

69. Abandoned children, or, newborns whose parents are not known and have been discovered abandoned anywhere in MSAR, must also have their births registered. In this case, the registrar shall give the abandoned child a complete name composed of a maximum of three commonly used names, without drawing attention to his/her status as an abandoned child (articles 85 and 88 of the Civil Registration Code).

###### **Right to a nationality**

70. In accordance with the provisions of article 18 of the Basic Law and of its annex III, the Nationality Law of the People's Republic of China is applicable in MSAR (published in MSAR's *Official Gazette* by notice of the Chief Executive 4/1999, of 20 December 1999).

71. Considering the specific MSAR situation, the Standing Committee of the National People's Congress of the People's Republic of China adopted on 29 December 1998 the "Interpretation on some questions concerning implementation of the Nationality Law of the People's Republic of China in the Macao Special Administrative Region".

72. Under the terms of point 1, paragraph 2 of the “Interpretation”, residents of MSAR of Chinese and Portuguese origins can voluntarily choose the nationality of the People’s Republic of China and the nationality of the Portuguese Republic. Whoever chooses one of these nationalities is not allowed to keep the other. Before choosing from one of these nationalities, these residents of MSAR enjoy the rights foreseen by the Basic Law of MSAR, except for rights that are conditional on the holding of a certain nationality.

73. In either case, the Chinese citizens of Macao who hold Portuguese travel documents can continue to use them for travelling purposes when passing through other countries or regions after the establishment of MSAR, but are not allowed to enjoy Portuguese consular protection in MSAR and in other regions of the People’s Republic of China by reason of holding such documents.

74. Any person born in China (including Macao) or abroad whose parents, or one of them, are Chinese nationals, has Chinese nationality. Nevertheless, a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth does not have Chinese nationality (articles 4 and 5 of the Nationality Law).

75. Foreigners and stateless persons, who are permanent residents of MSAR, may acquire Chinese nationality through means of naturalization. Petitions relative to nationality can include the minor children of the petitioner (articles 4 (1) and 3 (3) of Law 7/1999, of 20 December).

#### **Right to know his or her parents**

76. Regarding the right to know one’s origins, it should be pointed out that the birth certificate must bear the names of the mother and father alike (article 81 (1) (e) of the Civil Registration Code).

77. The person declaring the birth must identify, if possible, the mother of the child. If the mother is not named on the birth certificate, the court will conduct an informal inquiry. Maternity may also be established by means of proceedings especially instituted by the child for that purpose (articles 1658, 1667 and 1673 of the Civil Code and article 89 of the Civil Registration Code).

78. There is a presumption that the father of a child born or conceived in wedlock is the husband of the mother, although this presumption may be set aside. The presumed paternity is obligatorily mentioned in the child’s birth certificate (articles 1685 and 1694 of the Civil Code and article 95 of the Civil Registration Code).

79. In the case of a child born or conceived out of wedlock, paternity can be established if the father recognizes the child as his own or by an appropriate judicial decision (articles 1657 (2) and 1701 of the Civil Code and article 97 of the Civil Registration Code).

80. It should be noted that there is an official inquiry as to the paternity of the child whenever the birth certificate of the minor only mentions maternity (articles 1716 et seq. of the Civil Code and article 98 of Civil Registration Code).

### **B. Preservation of identity (art. 8)**

81. With regard to the change of a name, the Civil Registration Code, in article 83, establishes that such an alteration is subject to authorization by the Chief Executive, except in some cases where changes are recorded in the registrar through verbal request by the interested party (for example, in the cases establishing parent-child relationships, adoption and marriage).

82. In the case of adoption, the first name of the adopted child is maintained but he/she is given a new surname composed of the surnames of their adopters. However, the court can, at the request of the adopter and whenever it is justified, modify the first name of the adopted child, if the modification safeguards his/her legitimate interests, namely the right of personal identity, and favours the integration in the new family (article 1840 of the Civil Code).

83. Even though the adoption proceedings are and remain secret, identifying information can be disclosed solely upon a court order if there are strong reasons for it and at the request of legally concerned persons, on the grounds and to the extent decided by the court.

### **C. Freedom of expression (art. 13)**

84. The fundamental rights of freedom of opinion and of expression are fully guaranteed under MSAR's Basic Law, which not only specifically establishes in its article 27 these rights, but also ensures its existence by virtue of its article 40.

### **D. Freedom of thought, conscience and religion (art. 14)**

85. The Basic Law also ensures the freedoms of conscience and religious belief as well as the freedoms to preach and to conduct and participate in religious activities in public (art. 34).

86. Consistent with the right of freedom of religion, article 128 of the Basic Law states that the Government of MSAR shall not interfere in the internal affairs of religious organizations, nor in their efforts and those of their believers in Macao to maintain and develop relations with their counterparts outside Macao, or restrict religious activities that do not contravene the laws of the region.

87. Furthermore, article 128 determines that religious organizations may, in accordance with the law, run seminaries and other schools, hospitals and welfare institutions and provide other social services. Schools run by religious organizations may continue to provide religious education.

88. Law 5/98/M, of 3 August, regulates freedom of religious belief and worship and of profession of faith. This law recognizes and safeguards the freedom of religious belief and worship, ensuring that professions of religious faith and other religious entities are given the appropriate legal protection. It also establishes the inviolability of religious belief. It stipulates that no one shall be the object of prejudice, persecution, or be deprived of his/her rights, exempted from obligations or civic duties for not professing a religious faith, or because of his/her religious beliefs or practices, except for the right to conscientious objection, under the terms of the law.

89. According to the same law, MSAR does not profess any religious faith, and its relations with religious faiths are based on the principle of separation and neutrality. To this effect, its article 3 (3) states that MSAR “does not interfere in the organization of religious faiths or the exercise of their activities and worship and does not make any comments on religious issues”. Article 4 affirms the principle of equality of religions before the law.

90. Article 5 of the law mentioned above proclaims adequately the content of freedom of religion, describing the rights therein contained, to follow or not to follow a religion, to convert or to renounce one’s beliefs, to fulfil or disregard the obligations of the espoused religion, to express personal convictions, display these convictions, separately or together, in private or in public, to spread by any means the doctrine of the religion they follow, practising the worship and rites pertaining to the religion espoused.

91. The freedom to learn or to teach any religion in educational establishments is also protected under article 10 of Law 5/98/M. The teaching of any religion and its moral doctrine is carried out in institutions that have the capability for such, without harming their pedagogic autonomy and the students whose parents or whoever is exercising the parental authority so request. This right can be exercised by students aged 16 years old or above. Enrolment at schools managed by religious organizations implies acceptance of an education in their religion and doctrine.

92. Law 11/91/M, establishing the general framework for MSAR’s education system, enshrines the right of all residents to education regardless of race, belief and political or ideological convictions.

93. Criminal law protects the principle of freedom of religion and cult, punishing those who offend religious feelings, as well as the damage or theft of religious cult objects (articles 198 (1) (c), 207 (1) (e) and 282 of the Criminal Code).

94. The guarantee of freedom of conscience and religion is further illustrated by the public holidays calendar applicable in MSAR, which reflects the sociological and cultural variety that is typical of the region. Thus, public holidays include the days commemorating: Universal Brotherhood, the death of Christ (Easter), Buddha’s Day, the Commemoration of Ancestors (Chong Yeong), the Immaculate Conception and Christmas.

95. The MSAR public hospital has two mortuary chapels, for the celebration of Christian and Buddhist rites, respectively. Appropriate religious facilities are available even to prisoners, as are visits by the corresponding clergy.

96. Finally, not only are there no restrictions in MSAR on freedom of intellectual, artistic and scientific expression, but the law also protects authors, both residents and others, since in the latter case there is material reciprocity (article 37 of the Basic Law and article 50 (1) (2) of Decree-Law 43/99/M, of 16 August).



**E. Freedom of association and peaceful assembly (art. 15)**

97. Rights of association, meeting, procession and demonstration as well as the right and liberty to organize and take part in associations and strikes are guaranteed by article 27 of the Basic Law.

**Right of association**

98. The right of association is regulated under Law 2/99/M, and articles 140 et seq. of the Civil Code.

99. Any group of persons may form an association without the need for an authorization, provided that their objective is neither the promotion of violence, nor the infringement of criminal law, nor contrary to public order. Quasi-military armed associations, militarized or paramilitary ones, and racist associations are prohibited under article 2 of Law 2/99/M.

100. Another aspect of the right of association is that nobody can be coerced into joining an association or remain in it against his/her free will. Anyone who coerces someone else under these terms is criminally responsible (article 4 of Law 2/99/M).

101. Young people's associations are very popular in the MSAR. They promote friendly contacts and community spirit coupled with a mutual assistance between its members, by way of several cultural and sporting activities. Young people's associations also foster the involvement of its members in different civil activities, exploring the creativity of the young and training their leadership skills, providing them with a sense of belonging, vocation and identification with the society.

**Table 1**

**Activities of young people's associations (number of participants)**

Activity	1998/99	1999/2000	2000/01
Training activities	318	557	506
Competitions	655	517	388
Meetings/discussions	1 050	905	335
Exchanges	523	88	105
Exhibitions	2 750	4 000	- <sup>a</sup>
Inquiries and studies <sup>b</sup>	1 668	2 791	1 678
Youth Prize for Social Services	403	481	494
Youth festivals	2 350	1 230	3 598
Other activities	85	-	370
Total	11 652	10 569	7 474

*Source:* "Education and training in numbers", 2000/01, Education and Youth Department.

<sup>a</sup> There were no activities in this school year.

<sup>b</sup> Organized by the Education and Youth Department and the Macao Sports Development Board.

102. Young people's associations intervene as social partners of the Government of MSAR, participating in the definition and execution of youth policies when represented in the appropriate bodies (article 13 (2) of Law 6/94/M).

103. The Youth Council, created at the end of 1988, is composed by (and in addition to persons nominated by the Chief Executive) the presidents of 12 associations or organizations linked to education or youth affairs.

104. The purpose of the Youth Council is to support the Chief Executive in the making of policies for the young and to ensure the active involvement of young people's organizations in the coordination of programmes, measures and actions promoted and carried out by the Government. To date, within this Council, there has been debated, amongst other matters, the economic and social situation of the young in MSAR, the role of young people's associations, the issue of the young looking for their first jobs and juvenile crime.

### **Right to meet and demonstrate**

105. Law 2/93/M, as amended by Law 7/96/M, regulates the right of meetings and demonstrations. This law, in its article 1, states that MSAR's residents "shall have the right to meet peacefully and without arms, in public spaces, places open to the public or in private, without requiring any authorization" and also that MSAR's residents are entitled to demonstrate.

106. Only meetings or demonstrations for purposes contrary to the law are prohibited, though in all cases the right to criticize is safeguarded. The exercise of these rights may only be restricted, limited or placed under conditions in the cases provided by law.

107. The most remarkable feature and a true touchstone of the rationale behind these regulations lies in the establishment of a legal regime that assigns the exercise of the rights to meet and demonstrate with no need for prior authorization, stating that it is enough to indicate in advance the intention to meet or demonstrate.

108. Meetings or demonstrations may not be carried out through illegal occupation of public premises, open to the public or to individuals. There are also time restrictions, since meetings or demonstrations are not allowed between 00.30 a.m. and 7.30 a.m., except in closed premises, show halls, uninhabited buildings or, where there are occupants, after having obtained their written consent.

109. Police authorities can interrupt the course of meetings or demonstrations only when organizers have been informed through the official channels that they have not been authorized to hold these gatherings, because their aim is contrary to the law or when they fail to stay within the law and cause a serious disturbance to public security or the free exercise of individual rights.

110. Counter-demonstrations are not prohibited, but police authorities should take necessary precautions to permit meetings and demonstrations to proceed without interference from counter-demonstrations, which could disturb the free exercise of the participants' rights.

111. Counter-demonstrators who interfere with meetings or demonstrations, preventing them from proceeding freely, shall be subject to the sanctions provided for the crime of coercion. Persons carrying arms in meetings or demonstrations, and persons holding meetings and demonstrations that are against the law shall be subject to the penalty provided for the crime of qualified disobedience, regardless of other sanctions to which their actions may give rise. Any authority who oversteps the legal conditions and prevents or attempts to prevent the free exercise of the right to meet or demonstrate shall be subject to the punishment provided for the crime of abuse of authority and to disciplinary proceedings.

#### **F. Protection of privacy (art. 16)**

112. The Basic Law guarantees the right of all MSAR's residents to their private and family life (art. 30 (2)).

113. The right to privacy is also recognized by the Civil Code. In accordance with article 74 of the Civil Code, no person shall disclose the private life of others. The extent of the right to privacy depends on the situation and status of the individual.

114. The Framework Law on Family Policy equally recognizes the right to private family life, with respect to initiative, organization and autonomy of families and their communities (article 6 of Law 6/94/M).

115. The Criminal Code establishes penalties for certain acts that adversely affect the right to privacy, such as the disclosure of information relating to the intimacy of private life (art. 186), violation of privacy by computer devices (art. 187), breach of secrecy (art. 189) and unlawful records and photographs (art. 191). Besides, evidence obtained by means of wrongful interference in private life without the consent of the concerned person is void (article 113 (3) of the Criminal Procedure Code).

116. In order to ensure that the child's right to privacy is respected, procedures and proceedings within the educational and social protection regimes are secret. Breach of the secrecy is a crime of violation of judicial secrecy. Furthermore, the hearing of the minor takes place in the judge's chambers; aside from the Procurator, only those that the judge considers as suitable can assist the hearing. If commitment or entrustment measures are to be applied, a court hearing will take place. Such hearings are held in camera and are open only to persons expressly authorized by the court to attend (articles 18, 20, 29, 35 and 77 (1) of Decree-Law 65/99/M).

117. In regard to the inviolability of the home, it must be emphasized that article 31 of the Basic Law states that "the homes and other premises of Macao residents shall be inviolable. Arbitrary or unlawful search of, or intrusion into, a resident's home or other premises shall be prohibited".

118. The Criminal Code punishes by imprisonment of up to one year anyone who enters and remains in the home of another person against the will of the owner. In certain circumstances this penalty of imprisonment may be aggravated up to three years (art. 184).

119. All searches must be ordered by the court in the circumstances and manner prescribed by law (articles 161 and 162 of the Criminal Procedure Code).

120. Evidence obtained by means of wrongful interference in the home without the consent of the concerned person is void (article 113 (3) of the Criminal Procedure Code).

121. Concerning the inviolability of correspondence, article 32 of the Basic Law stipulates that “the freedom and privacy of communication of Macao residents shall be protected by law. No department or individual may, on any grounds, infringe upon the freedom and privacy of communication of residents except that the relevant authorities may inspect communication in accordance with the provisions of the law to meet the needs of public security or of investigation into criminal offences”.

122. Both the violation of correspondence and telecommunications and the breach of secrecy of correspondence and telecommunications committed by mail, telegraph, telephone or telecommunications employees are considered as crimes (articles 188 and 349 of the Criminal Code).

123. The seizure of correspondence and recordings of telephone conversations or communications are subject to specific legal requirements and only the court can order or authorize it. Evidence obtained by means of wrongful interference in correspondence or telecommunications without consent of the concerned person is void (articles 113 (3), 164 and 172 of the Criminal Procedure Code).

124. The inviolability of correspondence is also safeguarded in articles 75 and 76 of the Civil Code concerning the duty of non-disclosure of confidential letters, personal and family memorabilia or other confidential written material. Even in the case of a non-confidential letter, the receiver may only make use of such a letter in the manner in which the writer intended it to be used (article 77 of the Civil Code).

125. Imprisoned minors of 16 years of age and over have the right to receive and mail correspondence. The director of the prison can forbid the correspondence of prisoners with specific persons should this threaten the security and order of the institution, or if the correspondence has a harmful effect on the prisoners or renders their social reintegration difficult (article 30 of Decree-Law 40/94/M).

126. Correspondence written or mailed to the prisoner is subject to inspection and censorship. The director of the prison can authorize the retaining of any correspondence that endangers the security or order of the institution, or could have a harmful influence on the recipient. The prisoner is always informed of any confiscated correspondence (article 31 of Decree-Law 40/94/M).

127. These provisions of Decree-Law 40/94/M are also applicable to minors aged between 12 and 16 years, who have committed an act established by the law as a crime, misdemeanour or administrative offence, and on whom were applied commitment measures within the educational regime (article 45 (d) of Decree-Law 65/99/M).

128. On the other hand, it is worth stressing that article 88 (1) of Decree-Law 65/99/M establishes the right to the inviolability of correspondence of minors who are entrusted to institutions within the social protection regime.

129. As to the right to honour and reputation, article 30 of the Basic Law recognizes the right of MSAR's residents to their good name and reputation, stating that "humiliation, slander and false accusation against residents in any form shall be prohibited".

130. Anyone who infringes the right to honour and reputation is liable to punishment under the Criminal Code for the crimes of libel, slander and calumny (arts. 174, 175 and 177). Victims may obtain compensation for moral and/or material damages suffered.

131. The Civil Code also safeguards this right, stating that all persons have the right to protect themselves against accusations or offensive judgements of their honour and respect, good name and reputation, credibility and decorum. The right to honour cannot be renounced or waived (art. 73).

### **G. Access to appropriate information (art. 17)**

132. The freedoms of the press and of publication benefit from special protection by virtue of article 27 of the Basic Law.

133. Law 8/89/M, establishing the legal framework for television and radio broadcasting, considers that the aim of broadcasting is, amongst others: (a) to contribute to information, promotion of social and cultural progress and civic and social conscience of residents; (b) to promote the dissemination of educational or training programmes; and (c) to contribute by way of balanced programming towards information, recreation and the promotion of the public's education and culture, taking into consideration their diversity of ages, occupation, interests and origins.

134. Television and radio broadcasting is carried out in an independent and autonomous manner as far as programming is concerned, and no public or private body can prevent or enforce the broadcasting of programmes.

135. There are, however, certain limits to this freedom. It is prohibited to broadcast any programmes that: violate rights, freedoms and fundamental guarantees; incite the practice of crimes or promote intolerance, violence or hatred; or are considered by law as pornographic or obscene. Also, it is mandatory to include in the general programming news on local, Portuguese, Chinese and international current information, as well as programmes of a cultural and sports nature.

136. With reference to cable television, it is important to note that for the broadcasting of programmes or audio-visual segments with adult content, it is compulsory that the viewing channel not be directly accessible, through the use of electronic decoders or other equipment that obstruct viewing or listening.

137. To contribute efficiently to the expansion and intensification of education for the masses, namely within the fields of education and civic formation, a special project called the "Educational Television of Macao" was created within the Polytechnic Institute, specially conceived to teach the MSAR's official languages and to broadcast civic educational programmes (Order 2/GM/95).

138. MSAR's law also contains special provisions aimed at protecting children in their access to information in general and to public events and entertainment.

139. Access by children to pornographic or obscene material is prohibited. Law 10/78/M forbids obscene billboard posting or display in public spaces, sales display or sale, exhibition, broadcasting or publicity of any forms of pornographic or obscene material, except in appropriate establishments that must be exclusively run for such purposes and duly authorized to that effect. Such establishments must be located at least 300 metres away from educational establishments, parks or kindergartens and they are not allowed to sell to minors under the age of 18, neither to employ them in such sales.

140. In the establishments of rental and sale of videos, "laser" discs and computer equipment, the packaging and display of material of a pornographic nature must take place in a duly protected and separate area from the other equipment (article 36 of Decree-Law 47/98/M).

141. Law 7/89/M which establishes the framework for advertising activity, contains specific rules on advertising addressed to minors. Advertising messages directed to children and the young should take into account their psychological vulnerability and should abstain specifically from: (a) containing any phrases, visual aspects or other element capable of causing them physical, mental or moral damages; and (b) implicitly inculcating them with a sense of inferiority for not using or consuming the advertised good or service.

142. In addition, the use of minors in advertising is only permitted when there is a direct connection between them and the product or service being advertised. The publicity for alcoholic drinks and tobacco cannot make use of the presence of minors or incite children to consume them, and cannot be broadcast over the radio and television between 7 a.m. and 9 p.m.

143. The Show Classification Committee, aiming at the pedagogical and educational formation of the population and the defence of public moral and customs, defines the age classification of entertainment events, according to the following levels: Group A, for all; Group B, not advisable to minors under 13 years of age; Group C, not advisable to minors under 18 years of age and forbidden to minors under 13 years of age; and Group D, forbidden to minors under 18 years of age (article 8 of Decree-Law 15/78/M).

144. Group D includes performances that carry a theme which advocates crime and the use of drugs, dignifies violence for its own sake, or exploits sexuality and perversion. Sports, circus and bullfighting events, if taking place in the morning or afternoon, are generally classified "for all" (Group A); however, boxing and professional fighting events, including martial arts films, are generally classified under Group C.

145. On the other hand, it is prohibited for minors under 18 years of age to attend public places where professional dancers perform, notably in nightclubs, discotheques and cabarets as well as saunas and massage establishments. Minors under 16 years of age are prohibited from entering establishments where billiards, bowling and karaoke take place (article 10 (3) of Decree-Law 15/78/M and articles 31, 33 and 35 of Decree-Law 47/98/M).

146. Finally, it must be stressed that numerous books and magazines suitable for children and young people are available in MSAR. There are various libraries, two of them itinerant, offering different services like thematic exhibitions and consultation. All of the libraries have access to computers that are connected to the Internet.

147. Other than this, the majority of primary and secondary schools have their own libraries. As soon as students enrol in primary school, they are encouraged to visit these libraries, so that they can learn to find, handle and take care of the available books.

#### **H. The right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment (art. 37 (a))**

148. MSAR's law forbids torture or inhuman treatment at all levels.

149. In fact, the prohibition stipulated in article 37 (a) of the Convention that "no child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment" corresponds to the guarantee laid down in article 28 of the Basic Law.

150. The International Covenant on Civil and Political Rights and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment are applicable to MSAR. As already mentioned, the death penalty cannot be imposed in any circumstances. Equally, there is no life imprisonment penalty.

151. Under the Criminal Code, torture or other cruel, inhuman or degrading treatment is an offence when carried out by a public official or someone who usurps that function by his/her own initiative or by a higher order. The crime covers any act by which severe pain or suffering, whether physical or psychological, is inflicted on a person, or through the application of chemical substances, drugs or the employment of any other means, for the purpose of disturbing the victim's free will or the victim's capacity of exercising that free will (arts. 234 to 238).

152. Punishments pertaining to the precedent paragraph go from two to eight years of imprisonment. This penalty is increased by up to 3 to 15 years, if:

- (a) The physical integrity of the victim is seriously affected;
- (b) Torture methods of a particularly serious nature, namely beatings, electroshocks, simulation of execution or hallucination substances are applied; or
- (c) The offender carries out these acts frequently.

The penalty is increased by up to 10 to 20 years if the offence results in suicide or death of the victim.

153. A hierarchical superior who, being aware that his/her subordinate has committed such a crime, does not denounce him/her within a maximum period of three days, shall be punished by imprisonment of one to three years.

154. The Criminal Code establishes additional penalties for those who commit these crimes, while aware of their seriousness and influence on the offender's civic character. The offender can be deprived of the right to elect or to be elected as a member of the Legislative Assembly for a period of 2 to 10 years.

155. The use of torture is also a serious circumstance that aggravates other crimes foreseen by the Criminal Code, such as the case of homicide and other serious offences against physical integrity of a person.

156. Punishment applicable to other types of crimes that threaten life or physical integrity are listed in table 2 below:

**Table 2**

**Punishment for violent crimes**

Type of crime	Penalty	Aggravated penalty
Homicide	From 10 to 20 years of imprisonment	-
Qualified homicide	From 15 to 25 years of imprisonment	-
Voluntary manslaughter	From 2 to 8 years of imprisonment	-
Infanticide	From 1 to 5 years of imprisonment	-
Manslaughter	Up to 3 years of imprisonment	Up to 5 years of imprisonment
Exposure or abandonment	From 1 to 5 years of imprisonment	From 2 to 5 years of imprisonment (if carried out by an ascendant, descendant, adopter or adoptee of the victim). From 2 to 8 years of imprisonment (if it causes a serious offence against the physical integrity of the victim). From 5 to 15 years of imprisonment (if it causes death)
Offence against inter-uterine life	From 2 to 8 years of imprisonment	The limits of penalties are aggravated by one third (if it causes a serious offence to physical integrity or the victim's death)
Abortion	Up to 3 years of imprisonment	
Serious offence against physical integrity	From 2 to 10 years of imprisonment	From 5 to 15 years of imprisonment (if it results in death)



**Table 2 (continued)**

Type of crime	Penalty	Aggravated penalty
Simple offence against physical integrity	Up to 3 years of imprisonment or a fine penalty	From 2 to 8 years of imprisonment (if it results in death)
Offence against physical integrity with negligence	Up to 2 years of imprisonment or a fine penalty	Up to 3 years of imprisonment or a fine penalty (if it causes a serious offence against physical integrity)
Partaking in a dispute	Up to 3 years of imprisonment or a fine penalty	
Ill-treatment or excessive loads on minors, the disabled or spouse of the offender	From 1 to 5 years of imprisonment	From 2 to 8 years of imprisonment (if there is a serious offence against physical integrity). From 5 to 15 years of imprisonment (if it causes death)
Threat	Up to 2 years of imprisonment or a fine penalty	Up to 3 years of imprisonment or a fine penalty (if threat consists of the infliction of another crime)
Coercion	Up to 3 years of imprisonment or a fine penalty	
Serious coercion	From 1 to 5 years of imprisonment	
Abduction	From 1 to 5 years of imprisonment	From 3 to 12 years of imprisonment (if there is a serious offence against physical integrity, torture or other cruel, inhuman or degrading treatment). From 5 to 15 years of imprisonment (if it causes death)
Slavery	From 10 to 20 years of imprisonment	
Kidnapping	From 3 to 10 years of imprisonment	From 5 to 15 years of imprisonment (if there is a serious offence against the physical integrity, torture or other cruel, inhuman or degrading treatment). From 10 to 20 years of imprisonment (if it causes death). The limits of penalties are aggravated by one third (if the victim is incapable of defence or is a minor under 16 years of age)

**Table 2 (continued)**

Type of crime	Penalty	Aggravated penalty
Genocide	From 15 to 25 years of imprisonment if there is homicide From 10 to 25 years of imprisonment in other cases	

157. It must be stressed that any evidence obtained through means of torture, force or in violation of the physical or moral integrity of the individual is void (article 113 (1) of the Criminal Procedure Code).

158. The Civil Code also establishes that all people have the right to their physical and psychological integrity (art. 71 (1)).

## **V. FAMILY ENVIRONMENT AND ALTERNATIVE CARE**

### **A. Parental guidance (art. 5)**

159. The Civil Code defines parental authority. The exercise of parental authority is perceived simultaneously as a power and a duty. Article 1733 stipulates that parents are responsible, in the interest of their children, for their safety and health, to support them financially, to guide their education, to represent them, even before birth, and to manage their property. Nevertheless and as mentioned above, parents should consider their children's views in important family matters, according to their maturity, and should allow them to organize their lives independently.

160. Maternity and paternity constitute human and social values that the Government of MSAR should respect and safeguard. The Framework Law on Family Policy specifically stipulates that the Government shall guarantee the exercise of the parental authority rights and cooperate with its holders regarding the execution of their powers/duties relating to their children (article 7 of Law 6/94/M).

161. Thus, it is an obligation of the Government, in collaboration with the associations concerned with family interests, to promote the improvement of quality of life and the moral and material situation of families and their members. The Government supports those associations in view of fostering family educational activities, namely activities related to a responsible exercise of motherhood and fatherhood.

162. The Government of MSAR also promotes the creation of family support centres intended to help families in special situations. Aside from other activities, these centres should give special assistance to single-parent and prisoners' families. These centres should also develop efficient mechanisms to deal with crisis situations provoked by any member of the family, namely those situations arising from marital separation or imminent family break-ups and violence, especially when children are involved.

163. The Bureau for Family Action was created in November 1998 as a subordinate body of the Department of Family and Community of the Social Welfare Institute. Its aim is to support families with problems or at risk with the help of a team of specialized technical staff (social workers, psychologists, nursery teachers, legal advisers, etc.).

164. Family counselling is available directly or by way of a special hotline that receives an average of 13.5 calls per month. Information on legal issues is also provided, particularly on conditions and formalities for divorce, the exercise and regulation of parental authority, and matrimonial property regimes.

165. During 2001, this Bureau attended to 54 cases involving 200 users. The most common cases were related to the education of children, abuse of children, suicide and marital problems (domestic violence and sexual aggression within a marriage, amongst others).

### **B. Parental responsibilities (art. 18, paras. 1-2)**

166. Article 18 (1) of the Convention confirms the principle that both parents are responsible for the upbringing and development of the child. This principle is also present in MSAR's legal order. In fact, article 1756 (1) of the Civil Code stipulates that within a marriage both parents exercise parental authority. The Framework Law on Family Policy reaffirms this principle when it states that child support and education are a parent's responsibility other than their fundamental right and duty (article 7 (2) of Law 6/94/M).

167. Parental authority is usually exercised jointly and through common agreement. As already mentioned (in para. 36), if an agreement cannot be reached in matters of importance, any one of the parents can appeal to the court, which will try to reach reconciliation. If this is not possible, the court will hear the child over 12 years of age, except if specific circumstances advise against such a hearing (article 1756 (2) of the Civil Code).

168. In cases of divorce, de facto separation or annulment of a marriage, the future of the child, his/her upbringing and the way in which maintenance is to be provided are regulated by agreement of both parents, which is subject to court approval. Approval is denied if the agreement does not meet the interests of the minor. In the absence of an agreement, the court will decide consistently in the interests of the minor. The minor may be entrusted to either one of the parents or, in the event of danger to his/her personal security, health, moral upbringing and education, to a third party or establishment (article 1760 of the Civil Code).

169. Parental authority is exercised by the parent who has custody, while the parent who has no parental control shall have the power to check the education and living conditions of the child. When the child is entrusted to a third person or an institution, the duties and responsibilities of the parents shall be exercised by them.

170. The Civil Code has been, however, an innovator regarding this issue, by making the option of a joint exercise of parental authority available, thus allowing the parents to choose a system that does not exclude the responsibility of either one of them (art. 1761).

171. When one of the measures established in Decree-Law 65/99/M is applied to a minor aged between 12 and 16 years, the parents still exercise parental authority over all issues that are not incompatible with those measures. In case of doubt, it is the responsibility of the judge to define the limitations of the exercise of parental authority.

172. This applies equally within the social protection regime. If the measures of assistance to a minor under the care of a relative, a third person, a family or an institution are applied, a visiting system is established for his/her parents, unless this is considered exceptionally to be against the interest of the minor (article 76 of Decree-Law 65/99/M).

173. In order to help mothers and fathers exercise their responsibilities, the law establishes that working women have the right to a period of leave before and after giving birth, without loss of remuneration or any other right or benefit (article 7 (5) of Law 6/94/M).

174. Decree-Law 24/89/M, which governs work and employment in the private sector, states in article 37 (1) that “pregnant women who have been in employment for over one year, are entitled to thirty-five days’ maternity leave without loss of remuneration or employment”. Of these 35 days, 30 must be taken after the birth and the remaining 5 may be used either before or after the birth. Article 37 (3) provides for the possibility of the period of 35 days to be increased in exceptional cases. Article 35 (2) states that “during pregnancy and for three months following the birth, women should not engage in any tasks which could cause discomfort”.

175. The law governing public employment grants 90 days’ maternity leave. Of these days, 60 must be used immediately after the birth, while the remaining 30 may be used either before or after the birth. The period of 90 days may be increased in exceptional cases. It should also be underlined that mothers are allowed to have special working hours in order to return home to breastfeed their children. This law not only protects motherhood but also fatherhood: when a child is born, the father is entitled to five days’ leave. In the event the mother dies in the period following childbirth, the father is entitled to a leave of absence to take care of the child for a period equal to that to which the mother would have been entitled to, and lasting at least 20 days.

176. In the case of the adoption of a newborn, public employees are entitled to 30 days’ leave. With respect to sick leave, one will be granted a leave of up to 15 days in order to take care of relatives (parents, spouse or children) each year.

### **C. Separation from parents (art. 9)**

177. In MSAR’s legal order, the right to respect family life is ensured in a broad manner. This right comprises, as already mentioned and other than the Government’s assistance and support to the family to fully assume its responsibilities within the community, the respect for the privacy of family life and family union, including the non-interference therein. Family union is regarded not only as an aspect of parental duty but also as a child’s right. Children shall, whenever possible, grow up in the care and under the responsibility of their parents.

178. The Framework Law on Family Policy stipulates that children cannot be separated from their parents, except when the parents do not carry out their fundamental duties, and always by way of a judicial decision (article 7 (4) of Law 6/94/M).

179. In cases of dissolution of marriage, children may be separated from their parents when parental authority is judicially entrusted to only one of the parents. The parent who does not exercise parental authority assists in overseeing the education and living conditions of the child (article 1761 of the Civil Code).

180. The court may order that the minor be entrusted to a third person, a family, or an institution when the security, health, moral upbringing or education of that minor is endangered. The parents continue to exercise parental authority in all issues that are compatible with the entrustment. Parents still have the right to visit the child unless it is against the child's interests (articles 1772 and 1773 of the Civil Code and article 76 of Decree-Law 65/99/M).

181. A minor can also be separated from his/her parents if they have been prohibited from exercising parental authority. This includes those who have been convicted for a crime punishable with such a penalty, or those declared as mentally disabled by a court decision (article 1767 (a) and (b) of the Civil Code).

182. If any of the parents violates his/her duties towards the child or when any parent is not in a condition to fulfil those duties owing to inexperience, sickness, absence or other reasons, the court can prohibit the exercise of parental authority. The court's decision for the inhibition of the exercise of parental authority may only be revoked when the original causes for such cease to exist (articles 1769 (1) and 1770 of the Civil Code).

183. Another situation involving a child's separation from parents is when the mother or father is serving a prison sentence. If the mother is in a prison establishment, she is legally allowed to keep the children with her until they attain the age of 3, and as such will occupy a separate cell. Children will receive food, medical care and other forms of assistance. When children attain the age of 3, they are then removed from their mothers. If the mother has no one to entrust the children to, the head of the institution will inform the bodies responsible for child assistance and will make sure that frequent contacts between the mother and children take place (article 43 (1) (2) of Order 8/GM/96 relative to the Regulations of Coloane Prison).

184. It should be emphasized that prison establishments have the obligation to promote the contact of the prisoner with the outside world, especially with the family (article 21 of Decree-Law 40/94/M).

#### **D. Family reunification (art. 10)**

185. Under the terms of article 10 of Decree-Law 55/95/M, of 31 October, a person remaining within MSAR can be authorized for the purposes of family reunification. The authorization for family members (that includes amongst others, descendants of small age) of a non-resident specialized worker to remain in MSAR is granted for the period of employment. On the other hand, Decree-Law 14/95/M, allows family members of head staff posts and experts to have residence in MSAR.

#### **E. Illicit transfer and non-return (art. 11)**

186. The obligation that can be inferred from article 11, paragraph 1, of the Convention, namely to stop the illicit transfer and non-return of children abroad, is fulfilled in MSAR. Whoever seizes or refuses to return a minor to his/her lawful parent, guardian or legal keeper shall be punished by imprisonment of up to three years (article 241 of the Criminal Code). Any parent or, in urgent cases, the person to whom the child was entrusted, can file for the minor's return with the help of the court or other competent authority (article 1741 of the Civil Code).

187. One treaty that especially serves to promote international cooperation and the fight against abduction of children abroad, both issues addressed in article 11, paragraph 2, of the Convention, is the Convention on the Civil Aspects of International Child Abduction of 25 October 1980. This convention is applicable to MSAR.

#### **F. Recovery of maintenance for the child (art. 27, para. 4)**

188. MSAR's law does not provide the Government with the possibility of ensuring or advancing the maintenance for children in cases where parents, or other persons who have financial responsibility, evade the payment. Nevertheless, there are mechanisms to enforce the decisions relating to the payment of maintenance by parents or other persons who are financially responsible for the child.

189. If the maintenance debtor is an employee, a pensioner or receives by any means periodic payments from a private or public entity, after a period of 10 days starting from the day at which the maintenance payment was due, the court may order the direct deduction of the amount due from the debtor's salary, pension or other income. The entities responsible for such payments shall give the maintenance directly to its creditor (article 110 (1) of Decree-Law 65/99/M).

190. Furthermore, failure to comply with maintenance obligations may constitute a crime if it puts the satisfaction of fundamental needs of the creditor's maintenance at risk. The crime of "breach of maintenance obligation" is punishable by imprisonment of up to two years or a fine. Criminal proceedings depend on a complaint being lodged by the offended party. If the offended party is a minor and the offender is his/her legal representative, the Procurator shall promote the appointment of a special curator in order to present the complaint on behalf of the minor.

191. The Hague Convention on the Law Applicable to Maintenance Obligations towards Children of 24 October 1956 and the Convention concerning the Recognition and Enforcement of Decisions relating to Maintenance Obligations towards Children of 15 April 1958, are both applicable to MSAR.

#### **G. Children deprived of their family environment (art. 20)**

192. The Government of MSAR, in collaboration with the associations related to family interests and institutions of social solidarity, promotes a policy of protection of minors deprived of a normal family environment, trying to provide them with better living conditions, family unification and integration within the community (article 9 (1) of Law 6/94/M).

193. The social protection regime applies to situations where minors have been victims of ill-treatment or abandonment, helplessness or other situations that have endangered their well-being, health, moral upbringing and education. It also applies to cases of abusive exercise of parental authority.

194. Within this regime, the court can apply one or more of the following measures:  
(a) assistance to the minor's parents, guardian or any entity to whom the minor is entrusted;  
(b) assistance to a minor under the care of a relative; (c) a minor's entrustment to a third person;  
(d) assistance for autonomous living; and (e) a minor's entrustment to a family or institution.

195. The first and second above-mentioned measures have a social, psycho-pedagogical and financial nature. Their aim is to provide help to minors and concerned persons (articles 69 and 70 of Decree-Law 65/99/M).

196. The third measure cited above, "entrustment to a third person", consists of placing the minor under the care of a person who does not belong to his/her family, but with whom the minor has established an emotional relationship. Its purpose is to provide the minor and the family with assistance of a social or psycho-pedagogical nature, namely making them attend training programmes in view of enhancing parental responsibilities, as well as providing financial support when necessary. The person to whom the minor is entrusted can be a prospective adopter chosen by the Social Welfare Institute (article 71 of Decree-Law 65/99/M).

197. "Assistance for autonomous living", the fourth measure cited above, consists of providing the minor who has attained the age of 15 years financial support as well as psycho-pedagogical and social guidance in order to enable the minor to live alone and progressively acquire autonomy (article 72 (1) of Decree-Law 65/99/M).

198. "Entrustment to a family" consists of placing the minor in the care of a person or of a family that is qualified by the Social Welfare Institute, who will integrate the minor into their own family life. This measure enables the minor to receive the necessary and adequate care and education (article 73 (1) of Decree-Law 65/99/M).

199. "Entrustment to an institution" involves the placing of the minor under the care of an entity that has the conditions to receive children on a permanent basis (article 74 (1) of Decree-Law 65/99/M).

200. Institutions that take care of children or youths who find themselves temporarily or permanently deprived of their families should provide these with a living structure that is as close as possible to a real family, while offering them emotional stability, as well as educational conditions in order to enable them a physical, intellectual and moral development and their integration into society. These homes cooperate with the families or replace them, completely or partially, when all other social actions have failed. The technical staff working at these homes has adequate training in social and pedagogical areas (articles 2 and 28 of Regulation 160/99/M).

201. It should be stressed that the "Regulations for the establishment and operation of the homes for children and young people" were adopted in May 1999. The objective of these regulations is the improvement of the existing facilities and of those to be created in the future, thus providing the sheltered with an adequate and qualified service.

202. The homes for children and young people are “open institutions”, which means that minors are free to come and go. These homes are preferably mixed (for boys and girls), allowing in all cases the social interaction between minors and adults of both sexes (article 74 of Decree-Law 65/99/M and article 18 of Regulation 160/99/M).

203. There are presently eight homes in MSAR for children and young people with the capacity to receive 540 children. It falls under the competence of the Social Welfare Institute to subsidize these institutions and supervise their activities in order to guarantee their proper operation. In the years 2000 and 2001 these eight homes were subsidized as shown in table 3 below.

**Table 3**  
**Subsidies for childcare homes**

Name	Maximum capacity	Yearly fixed subvention 2000 (in MOP\$)	Yearly fixed subvention 2001 (in MOP\$)
Fountain of Hope	20	226 696	690 714
Cradle of Hope Home	16	816 588	852 188
Helen Liang Institute	70	1 138 200	1 138 200
Mong Ha Youth Centre	40	1 989 468	1 971 968
EFC Fellowship	24	728 916	728 916
Luís Versiglia School	84	1 764 588	1 768 404
Rainbow Residential Centre	51	2 354 796	2 354 796
St. Joseph's Home	235	3 063 504	3 063 504

*Source:* Social Welfare Institute, May 2002.

204. Finally, an ultimate response to children permanently deprived of a family environment is adoption.

#### **H. Adoption (art. 21)**

205. A thorough revision of the adoption regime was conducted in 1999. Presently, there are two major legal instruments governing adoption: the Civil Code and Decree-Law 65/99/M. The former includes a specific chapter regarding the basic principles of adoption. It defines the profiles of the adopter and the adoptee, the effects of the adoption and its conditions. Decree-Law 65/99/M contains provisions relating to the procedures and formalities necessary to conclude an adoption process.

206. This new legislation maintains the importance of adoption. In fact, the changes in the legal system bring out its full potential, strengthening it as one of the most important resources for responding to the situation of children deprived of a normal family environment.



207. Adoption is always enacted by a court order. It can only be decreed if it presents genuine advantages for the child. It must be based on legitimate interests and should not imply unfair sacrifices by the other children of the adopter or by the adoptee. Also necessary is a reasonable presumption that a bond similar to a parent-child bond will be established between the adopter and the adoptee.

208. For an adoption to take place, it is necessary for the adoptee to have been under the care of the adopter for a sufficient period of time to allow a proper evaluation of the advantages of the adoption. The prospective adopter can only take the adoptee under his/her care, in view of a future adoption, by means of a judicial or an administrative entrustment (article 1827 of the Civil Code).

209. The whole adoption process is subject to a previous verification of the adoption's requirements. Adoption cannot be decreed unless several circumstances are demonstrated, such as those related to the age of the prospective adopters, the duration of the marital relationship and the establishment of mutual bonds of affection between the child and the prospective adopters.

210. The verification of all these requirements requires a follow-up assessment during the preliminary phase of the proceedings, to guarantee the accuracy of the information and the adequate protection of the child. This follow-up assessment, which is accompanied by an evaluation incorporated in the social report to be presented to the judge, is carried out by specialized staff of the Social Welfare Institute (SWI). Its Child and Youth Division is the only MSAR body authorized to handle the various procedures in connection with domestic or intercountry adoption.

211. Age is the main legal condition governing eligibility to adopt in MSAR. A child can only be adopted by:

- Two persons who have been married for more than three years (as long as they are not de facto separated) or living together for more than five years, if both are more than 25 years of age; or
- A person who is more than 28 years of age.

However, if the adoptee is the child of the spouse of the adopter, or of the person with whom the adopter has been living with for more than three years, the adopter is merely required to be over the age of 25 (article 1828 of the Civil Code).

212. In addition, the adopter cannot be over 60 years of age at the time of the adoptee's entrustment. An age differential between the adopter and the child is also required: more than 18 years and less than 50 years, except when significant reasons can be given otherwise.

213. Articles 1830 and 1831 of the Civil Code establish who can be adopted and when the adoption can take place. If the conditions imposed by those two articles are not fulfilled, the child is considered unadoptable.

214. Article 1831 (1) expressly defines that a child is considered adoptable if he/she meets one of the following requirements:

- (a) Has deceased or unknown parents;
- (b) Prior consent to the child's adoption has been given;
- (c) Has been abandoned by his/her parents;
- (d) Has parents who, by action or negligence, have endangered his/her security, health, moral upbringing and education in a way that has sincerely jeopardized the affective bonds particular to a parent-child relationship; or
- (e) Has been in the care of an institution or person since the child's parents have revealed evident unconcern about him/her in a way that has unequivocally jeopardized the affective bonds particular to a parent-child relationship, for at least six months prior to the entrustment petition.

215. Even if the child meets the requirements referred to in subparagraphs (a), (c), (d) and (e) above, the adoption order cannot be decreed if the child is living with or being cared for by an ascendant, a collateral relative until the third degree or a guardian. Exceptions can be granted:

- If those persons have endangered the child's security, health, moral upbringing or education; or
- If the court decides that the circumstances do not conveniently ensure the child's interests.

216. Article 1830 of the Civil Code states that a child must be under the age of 16 years at the time of the adoption petition or under 18 years at that time if before attaining the age of 16 the child has been, by law or de facto, under the adopter's care.

217. Regardless of age, MSAR's law allows the adoption of:

- The child of the adopter's spouse or of the person with whom the adopter lives; and
- Mentally disabled persons under restraint;

if, while aged under 16, those persons have been, by law or de facto, under the adopter's care.

218. Adoption requires the consent of the persons interested in the establishment of the new family bond and the dissolution of the relationship of the adoptee with his/her original family. The persons whose consent is required by law are those mentioned in article 1833 of the Civil Code, namely:

- (a) The spouse of the adopter, if not de facto separated;
- (b) The parents of the adoptee, even if they are minors and do not exercise parental authority, if there has not been a judicial entrustment; and

(c) The ascendants, collateral relatives until the third degree or guardian with whom the child has been living or is being cared by due to the absence or evident unconcern of his/her parents, except if the judicial entrustment of the adoptee has already been decided.

219. The court can dispense with the consent, if the persons who should give it are deprived of their mental capacities or in case there are serious difficulties at having them heard. Moreover, the consent by the persons referred to in subparagraphs (b) and (c) can be dispensed with if those persons have abandoned, showed disinterest in or endangered the security, health, moral upbringing or education of the adoptee.

220. MSAR law also guarantees the participation of the child in the adoption process and gives due weight to his/her feelings, opinions and wishes, according to his/her age and maturity. A court hearing must be provided to a child over the age of 7 and under the age of 12 years, unless he/she is deprived of his or her mental capacity or if, for any reason, it is very difficult to have him/her heard. Over the age of 12 years, the child's consent to be adopted is mandatory (articles 1833 and 1836 of the Civil Code).

221. Article 1834 (1) of the Civil Code states that consent must be given before a judge. This legal requirement ensures that all necessary consents to the adoption (including the consent of the child) are given freely and without the influence of illicit compensation.

222. To prevent any decision from being taken hastily or under emotional duress, a waiting period before the mother's consent can be executed is required by law. A mother's consent to the adoption of her child is not legally accepted if given less than six weeks after the child's birth (article 1834 (3) of the Civil Code).

223. Concerning the effects of an adoption, the Civil Code stipulates that through an adoption order the adopted child becomes a child of the adopter(s), as if he/she was the latter's natural child. The child is recognized as a member of the adoptive family and enjoys all the rights pertaining thereto. Ties between the adopted child and his/her family of origin are considered dissolved, except for marriage impediments (article 1838 (1) of the Civil Code).

224. However, if one of the spouses adopts the child of the other, the family relationship between the adopted, the spouse of the adopter and the respective relatives are maintained. The same applies in the case of adoption of a child of a person with whom the adopter has been living in a de facto union (article 1838 (2) of the Civil Code).

225. Once adopted, the child loses his/her original surnames. At the request of the adopter, the court can modify the first name of the adopted if this modification safeguards his/her interest and favours his/her integration in the family (article 1840 of the Civil Code).

226. Adoption is irrevocable. However, the adoption order can be reviewed by the court, on grounds of serious violation of the legal requirements of the adoption (articles 1841 et seq. of the Civil Code).

227. Caution has been taken to cover the possibility of an intercountry adoption. Decree-Law 65/99/M regulates, inter alia, the placement abroad of an MSAR resident minor in view of his/her adoption, as well as the adoption by an MSAR resident of a minor residing abroad, introducing regulations that seek to guarantee the transparency and safety of the procedures.

228. The principle of subsidiarity is enshrined in the domestic legislation. In fact, the placement of a child abroad in view of his/her adoption is not permitted whenever adoption in MSAR is feasible. Adoption is considered feasible when, at the time of the child's entrustment petition, there are prospective adopters residing in MSAR whose applications for adoption could proceed, taking into account the child's interests. The court has to be convinced that adoption in MSAR is not feasible before granting a child's entrustment - a sine qua non condition to a child's placement abroad (articles 162 and 165 (3) of Decree-Law 65/99/M).

229. The adoption law seeks to prevent one from obtaining improper financial or other gains from an activity related to an adoption, establishing that a person may only assume responsibility for a child, with view to his/her adoption, pursuant to a court or administrative decision of entrustment. The law is even more stringent and always requires a court decision of entrustment when a child residing in MSAR is to be placed abroad.

230. The prevention of improper gain and safeguards against trafficking in children are the reasons why all administrative adoption procedures converge in one official authority - the Social Welfare Institute (SWI). It is important to emphasize that it constitutes a crime of corruption when a civil servant, while exercising his/her functions, demands or accepts, for him/herself or for another person, any undue gain, be it financial or not.

231. To preclude coercion or extortion, the adopter's identity cannot be disclosed to the biological parents, unless the adopter has made an express declaration to the contrary (article 1837 of the Civil Code).

232. The purchase or sale of a human being, regardless of age, is illicit and void. When done with intent to reduce a human being to slavery, the act is punishable by imprisonment of 10 to 20 years. In addition, the abduction of a human being, of any age, constitutes a crime against the freedom of that individual.

233. It is expected that the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption of 29 May 1993 will apply to MSAR since the People's Republic of China signed the Convention on 30 November 2000, signalling its intent to proceed with efforts to ratify it. The Government of MSAR, having a substantial interest in monitoring the international process on the protection of children, already forwarded to the Central People's Government its favourable opinion regarding the eventual future application of the said Convention in the Region.

#### **I. Periodic review of placement (art. 25)**

234. The protection laid down in article 25 of the Convention is aimed at recognizing the right of a child who is under a placement measure to a periodic review of that measure. This right is guaranteed in MSAR law.

235. In fact, within the educational regime, judicial decisions that have ordered the application of commitment measures have a mandatory review at the end of the period of one year, counting from the day the last decision was proffered by the judge (article 61 (2) of Decree-Law 65/99/M, of 25 October).

236. Also, the judicial decision entrusting the minor to an institution, under the social protection regime, has a mandatory review in the same terms referred to in the previous paragraph (article 89 (2) of Decree-Law 65/99/M).

237. Regarding the mental health regime, the decision for compulsory commitment at a public health establishment must be submitted within 72 hours by the director of MSAR's Health Services to the court for confirmation. On the other hand, the compulsory commitment at a private health establishment is subject to a court authorization. In both cases, regardless of any request, the review of the commitment is mandatory after two months have elapsed since the beginning of the commitment or the decision that has maintained it. The mandatory review takes place with the hearing of the Procurator, the defence lawyer and of the patient, except when the health of the latter would make his/her hearing useless or infeasible (articles 12 (3) (4) and 17 (2) (5) of Decree-Law 31/99/M).

#### **J. Abuse and neglect, including physical and psychological recovery and social reintegration (art. 19)**

238. The values enshrined in article 19 of the Convention are also protected under the law of MSAR.

239. According to article 135 of the Criminal Code, one who endangers the life of another person by abandoning him or her despite his/her age, and having the duty of guarding, looking after or assisting him/her, shall be punished by imprisonment from one to five years. If the parent or guardian of the victim commits the act, the imprisonment shall be from two to five years. These penalties are further aggravated if the act constitutes a serious offence against the physical integrity or results in the death of the victim (imprisonment can go up to 8 and 15 years, respectively).

240. In addition, if one who has the lawful care or charge of a minor, or is responsible for the education of a minor: (a) inflicts upon him/her physical or mental ill-treatment or treats him/her in a cruel manner; (b) employs him/her in dangerous, inhuman or prohibited activities; (c) loads him/her with excessive work; or (d) does not provide the care or the assistance imposed by the duty of his/her functions, shall receive a prison sentence of one to five years, if the act is not otherwise punishable under article 138 on serious offences against physical integrity (article 146 of the Criminal Code).

241. Besides criminal responsibility, there are special intervention mechanisms in order to take effective action at ensuring the child's best interests should the parents or persons exercising the parental authority endanger the child's security, health, moral upbringing and education.

242. Those range from the restriction of the exercise of parental authority to the total disqualification from it (prohibition). The judge can also order for the child to be put in the care of another family member, third person or institution. (In this respect, see paras. 192 to 203 above.)

243. Several social institutions provide shelter and assistance to minors of different ages who, for whatever reason, have been forced out of their homes. These are the Mong Ha Youth Centre, the Fountain of Hope Centre, the Helen Liang Institute, the EFC Fellowship Orphanage, the St. Joseph's Home, the Luís Versiglia School, the Rainbow Residential Centre, and the Cradle of Hope Home. In this respect, the important role carried out by the charity organizations of the local Chinese community and Catholic institutions should be underlined.

244. In 2000 and 2001, the Division of Children and Youth of the Social Welfare Institute registered the number of cases of ill-treatment and abandonment of children as set out in table 4 below:

**Table 4**  
**Types of ill-treatment of children**

Type of problem	Number of cases registered	
	2000	2001
Physical abuse	11	10
Psychological abuse	2	0
Negligence	1	2
Sexual harassment	0	5
Abandonment	5	5
Total	19	22

*Source:* Social Welfare Institute, May 2002.

## VI. BASIC HEALTH AND WELFARE

### A. Disabled children (art. 23)

245. Article 38, paragraph 3, of the Basic Law states that “(...) the disabled shall be taken care of and protected by the Macao Special Administrative Region”.

246. The Framework Law on Family Policy stipulates that the government of MSAR should promote a policy that aims at the full social and family integration of the disabled and guarantees their financial security. Special assistance should be provided to physically and mentally disabled children in order to provide them with the adequate conditions for their development (arts. 11 and 8, para. 4).

247. The social right corresponding to article 23 of the Convention is also recognized in Decree-Law 33/99/M which endorses the regime for the integration and rehabilitation of the disabled. This regime, applicable to anyone with psychological, intellectual or physical

disabilities, aims at correcting or minimizing the disability and re-establishing, developing or potentiating the aptitudes and capacities of a disabled person, making him/her more independent and active in the community to which he/she belongs.

248. Article 4 of Decree-Law 33/99/M enshrines the principle of equality by stipulating that a disabled person enjoys the same rights and has the same duties as all other residents of MSAR, under conditions of full equality, with the exception of the exercise or observance of those for which he/she is incapacitated.

249. At present, no statistical data on the number, type and living conditions of the disabled in MSAR is available. However, some arrangements have been made to set up a centralized system of registration of the disabled that aims at the creation of a database, which would assist in the study and planning of the respective policies and services. It should be stressed that the number and type of disabled persons will be one of the items in the population census in 2001. In this respect, a pilot inquiry was conducted in 2000 and its results will be disseminated later in 2002.

### Education

250. The education system in MSAR provides a set of diversified answers to children and young people with special educational needs, thus promoting, in adequate pedagogic, human and technical conditions, their integration in regular schools or their attendance of specialized institutions, depending on the circumstances of each case (article 19, paragraph 1, of Decree-Law 33/99/M). (Further details on education for special needs are given in paragraphs 354 to 360 below, in connection with article 28 of the Convention.)

251. It should be noted that there are three pre-school education centres, dedicated exclusively to disabled children.

**Table 5**

Institution	Objectives of services provided	Capacity
Kai Chi Centre	To assist children with mental retardation aged between 0-6 in the development of gross and fine motor skills, cognition, language and communication skills, self-care and social skills To assist children with mental retardation to develop their fullest potential and to assist them to integrate back into society	55
Kai Kin Centre	Same as above	27
Kai Chung Centre	Through early intervention, to assist children who are one year of age or above with hearing or language impairments to develop their language skills in order for them to integrate back into mainstream education	32

Source: Social Welfare Institute, May 2002.

252. The maximum total capacity of the three centres is 112 persons. In 1999, these centres provided services to 135 users, a small increase of 3.85 per cent over 1998.

**Table 6**

Institution	Capacity <sup>a</sup>	1998	1999
Kai Chung Centre	32	31	31
Kai Chi Centre	55	68	68
Kai Kin Centre	25	31	36
Total	112	130	135

*Source:* Social Welfare Institute.

<sup>a</sup> The reason why the capacity is less than the number of users is due to the fact that the users do not make use of the facilities all at the same time.

### **Health care and rehabilitation services**

253. It falls under the competence of MSAR Health Services to guarantee the access of the disabled to all aspects of health care, such as health promotion and monitoring, illness and disability prevention, examination and diagnosis, premature stimulation and medical rehabilitation (article 18, paragraph 1, of Decree-Law 33/99/M).

254. Another governmental department that fulfils an important role in this area is the Social Welfare Institute (SWI). With the support of this Institute, MSAR Health Services promote the development of programmes of house-call medical assistance and others carried out in cooperation with social welfare institutions that work with the disabled.

255. SWI also assists the disabled in developing their capacities and strengthening their self-confidence and independence, providing them and their families with counselling and direct financial support.

256. The Rehabilitation Division of the Social Solidarity Department of SWI keeps active contacts with civic institutions and associations for the disabled and provides these with the necessary conditions to carry out their activities through technical assistance, financial subsidies and provision of facilities.

257. Until 1986, all assistance conferred to the disabled was provided by private institutions that received subsidies and support from the Government. The first operational institution specifically established to serve in the area of rehabilitation of the disabled was opened in 1986, created by the Government but entrusted to the community, called the Centre for Social Support and Protected Workshop for the Disabled. Since then, several other similar institutions have been created, and presently there are 4 residential centres and 11 day centres in MSAR.



**Table 7**  
**Residential centres in MSAR**

Institution	Services provided
<b>Centre Santa Lúcia</b>	To provide care and training for females age 16 and above with mental retardation or chronic psychiatric conditions and to assist them in the development of their potential and in the improvement of the quality of their lives
<b>Centre Santa Margarida</b>	Same as above
<b>Home São Luíz Gonzaga</b>	To provide assistance for males age 16 and above with mental retardation or chronic psychiatric conditions to reduce the difficulties they may encounter in their daily lives, and to provide all residents with a good living environment and care so that they can live a normal life
<b>Home Nossa Senhora da Penha</b>	To provide residential services and training for children aged between 0 and 15 with mental retardation or physical impairment and to assist them in developing their potential and to provide them with a better quality of life

*Source:* Social Welfare Institute, May 2002.

**Table 8**  
**Day centres in MSAR**

Day centres	Services provided
<b>Centre of Social Support and Vocational Assistance for the Disabled</b>	To provide training in sewing for persons age 16 or above with slight mental retardation, physical disabilities or hearing impairments in order to accomplish the centre's mission of "self-confidence, perseverance, independence"
<b>Kai Lung Centre</b>	To provide systematic and functional training for people age 16 or above with mental retardation, and to enable them to learn various daily living skills, to build self-confidence and to live an independent life
<b>Kai Chi Centre</b>	1. To assist children with mental retardation aged 0 to 6 in the development of gross motor skills, fine motor skills, cognition, language and communication skills, self-care and social skills; 2. To assist children with mental retardation to develop their fullest potential and to assist them in integrating in society
<b>Kai Kin Centre</b>	Same as above

**Table 8 (continued)**

Day centres	Services provided
<b>Kai Chung Centre</b>	Through early intervention, to assist children as of one year of age with hearing or language impairments to develop their language skills in order to integrate them into the mainstream education system
<b>Centre of Social Support for the Deaf</b>	1. To assist juveniles and adults with hearing impairments to solve their problems arising from communication barriers; 2. To enhance the abilities and awareness of persons with hearing impairments in order to allow them to participate equally in the society
<b>Day Centre Nossa Senhora da Penha</b>	To provide day training for children aged 0 to 15 with mental retardation or physical disabilities in order to develop their potential and to enhance their quality of life
<b>Centre O Amanhecer</b>	1. To provide day-care services for children between 2 and 16 years of age with mental retardation in order to alleviate the pressure on their families while taking care of them; 2. To provide children with mental retardation with more contacts with the outside world so that they can integrate in the community
<b>Centre A Madrugada</b>	1. To provide day-care services for persons age 16 and above with mental retardation in order to alleviate the physical and mental pressure on their families 2. To provide basic training, including self-care training, daily living skills and social skills in order to build up their self-confidence and independent abilities
<b>Centre for the Rehabilitation of the Blind of Macao</b>	To provide social and recreational gatherings for visually impaired people aged 16 or above
<b>Centre for Vocational Training for the Mentally Retarded</b>	To provide vocational training for those with mild to moderate mental retardation age 16 and above and to develop their vocational interests in order to prepare them to adapt to a working and independent life

*Source:* Social Welfare Institute, May 2002.

258. Likewise, the Family and Community Department of SWI provides direct financial support and counselling to the most indigent disabled and their families, through its five social welfare centres and the Family Welfare Office.

### **Training and preparation for employment**

259. According to Decree-Law 33/99/M, the employment policy should include measures and technical and financial incentives that promote the professional integration of the disabled in the labour market as well as the creation of alternative work opportunities, namely: self-employment, pre-professional training, re-adaptation to work and protected jobs (art. 21, para. 2).

260. Within this area, and worth a mention, are the activities carried out by two private institutions: the “Centre for Social Welfare and Protected Workshop for the Disabled” and the “Macao Special Olympics Training Centre”. The former provides professional training to the moderate mentally disabled and to the physically disabled of both sexes aged over 16, while the latter promotes the professional formation of the mild to medium mentally disabled with self-supporting capacity aged over 16.

261. SWI provides technical and financial support to these private institutions, other than monitoring their activities and giving its cooperation. Moreover, activities related to professional training, protected jobs and work re-adaptation aimed at helping the social and labour reintegration of persons with physical or behavioural disability who are unemployed can be subsidized by the Social Security Fund (article 5 of Order 54/GM/98).

### **Recreation opportunities**

262. Sports, culture and recreation are seen as a constituent part of the rehabilitation process of the disabled, while being privileged mediums for the recovery of their psychic balance and the development of their capacity for social interaction (article 15 of Decree-Law 33/99/M).

263. In the area of sports, the Macao Sports Association for the Deaf, the Macao Recreational Association of the Disabled and the Macao Special Olympics are three private institutions that organize activities for disabled youth. The Macao Sports Development Board (MSDB) provides financial support to these institutions.

264. In 2001, 365 male and 177 female disabled persons were registered in the MSDB and participated in several local, regional and international sports events with the support of the Government.

265. To encourage the disabled to participate in sports activities, the Government of MSAR awards athletes who achieve remarkable results in major sports competitions for the disabled prizes ranging between MOP\$ 2,000 to MOP\$ 10,000 per athlete, as an incentive for their efforts (Order of the Secretary for Social Affairs and Culture 37/2000).

266. In the areas of culture and recreation, it should be mentioned that SWI annually organizes, in collaboration with the Association for the Support of the Disabled and the Young Volunteers Associations, the “fashion parade” event in which students from the three above-mentioned pre-school education centres present a show that includes songs, dances and theatre sketches.

267. Finally, the World's Day of the Disabled is marked annually, in a joint initiative of SWI and other public and private institutions. In 2001, the theme for the World's Day of the Disabled was a barrier-free environment. Seven government departments and 19 NGOs organized the main events. Seminars and workshops were held to increase the awareness of the public and related professionals. A large-scale celebration fair took place and included stage performances by persons with disabilities, games and sale of artefacts made by the disabled, a ceremony honouring employers who hired persons with disabilities and an exhibition area demonstrating examples of barrier-free public facilities, offices and homes, showing the public that sometimes very small changes in our environment can greatly improve the quality of life of the disabled persons.

### **Accessibility and mobility**

268. Accessibility and mobility include measures and techniques that aim at conferring on the disabled greater autonomy and complete participation at school, social and professional life, trying to overcome situations imposed by physical barriers and means of transportation (article 13 of Decree-Law 33/99/M).

269. In the area of accessibility, it should be pointed out that Law 9/83/M establishes regulations to suppress architectural barriers. Taking into account that architectural barriers are one of the major obstacles to the (re)integration of the disabled, Law 9/83/M establishes a series of technical requirements to improve the accessibility of persons with reduced mobility to public administration buildings, buildings open to the public, collective dwellings and sidewalks.

270. The adaptation of already standing facilities and buildings can benefit from tax exemptions or reductions (article 21 of Law 9/83/M). The suppression of architectural barriers, in order to facilitate the social and professional integration of unemployed persons with a physical or behavioural disability, can benefit from subsidies by the Social Security Fund (article 5 of Order 54/GM/98).

271. Moreover, within the area of mobility, it should be mentioned that the Caritas Rehab Bus has provided, since November 1999, transportation and escort services for those with physical impairment and visual impairment.

### **B. Health and health services (art. 24)**

272. It could be said that children in MSAR enjoy a standard of health that is very acceptable when compared to industrialized countries. The rate of neonatal and child mortality is very low (respectively 3.4 and 4.1 per cent in 1999), the vaccination rate is high and life expectancy rate is also high (in 1994-1997, 76.79 years; 75.32 for male and 79.89 for female). This is due to a health-care system that offers a comprehensive range of promotional, preventive, curative and rehabilitative services.

**Table 9**  
**Major demographic indicators**

Indicators in per cent	1998	1999	2000
Natural growth rate	7.2	6.4	5.7
Crude birth rate	10.4	9.6	8.8
Crude death rate	3.2	3.2	3.1
Infant mortality rate	6.1	4.1	2.9
Neonatal mortality rate	4.3	3.4	2.1
Perinatal mortality rate <sup>a</sup>	6.8	6.0	6.7
Late foetal mortality rate	2.9	2.4	3.1

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

<sup>a</sup> Including those weighing 500 grams or more.

**Table 10**  
**Live births and foetal deaths in Macao**

	1998			1999			2000		
	Male/ Female	Male	Female	Male/ Female	Male	Female	Male/ Female	Male	Female
Live births	4 434	2 279	2 154	4 148	2 108	2 039	3 849	2 031	1 818
Foetal deaths	13	4	9	15	10	5	19	14	5

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

**Table 11**  
**Live births according to gender of child and age of the mother**

	Total live births	
	Male/Female	Male
1999	4 148	2 108
2000	3 849	2 031
2001	3 241	1 645
Age of mother < 15	1	1
15-19	92	46
20-24	400	208
25-29	1 071	543
30-34	1 059	557
35-39	550	262
40-44	68	29
45-49	1	-
> 50	-	-

Source: *Monthly Bulletin of Statistics, March 2002*, Census and Statistics Department.

**Table 12**

**Foetal deaths by gender and cause of death**

Causes of death	1998		1999		2000	
	Male/ Female	Male	Male/ Female	Male	Male/ Female	Male
Total	13	4	15	10	19	14
Complications during pregnancy, childbirth and puerperium	-	-	-	-	-	-
- Premature or false labour	-	-	-	-	-	-
- Umbilical cord complications	-	-	-	-	-	-
Congenital anomalies	-	-	1	1	3	2
- Congenital anomalies of ear, face and neck	-	-	1	1	-	-
- Congenital anomalies of the respiratory system	-	-	-	-	1	-
- Cleft palate and cleft lip	-	-	-	-	1	1
Certain conditions originated in the perinatal period	11	4	14	9	16	12
- Foetus or new-born affected by complication of placenta, cord and membranes	1	-	-	-	7	4
- Unspecified disorders relating to short gestation period and low birth weight	1	-	-	-	1	1
- Intrauterine hypoxia and birth asphyxia	8	4	13	8	5	5
- Foetal and neonatal haemorrhage	-	-	1	1	1	1
- Other and ill-defined conditions originated in the perinatal period	1	-	-	-	2	1
Symptoms, signs and undefined conditions	2	-	-	-	-	-
Other undefined and unknown causes of morbidity and mortality	2	-	-	-	-	-

Source: Yearbook of Statistics, 2000, Census and Statistics Department.

**Table 13**

**Deaths of children under one year old by gender and age (in days)**

Age (in days)	Gender					
	1998		1999		2000	
	Male/ Female	Male	Male/ Female	Male	Male/ Female	Male
Total	27 <sup>a</sup>	16	17	12	11	6
Less than 1 day	9	6	7	5	3	1
1 day	2	-	2	2	1	1
2 days	-	-	-	-	-	-
3 days	-	-	-	-	-	-
4 days	2 <sup>a</sup>	1	-	-	-	-
5 days	2	1	-	-	1	-
6 days	2	1	1	1	2	-
7-27 days	2	2	4	2	1	-
28-59 days	3	2	1	1	-	-
60-179 days	4	3	1	1	2	2
From 180 to less than 1 year	1	-	1	-	1	1

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

<sup>a</sup> One case with sex unknown.

**Table 14**

**Deaths of children in 2000, by gender and age group**

	<1 year	1-4 years	5-9 years	10-14 years	15-19 years
Male	6	4	2	5	5
Female	5	2	2	-	4

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

273. MSAR's health services, following the World Health Organization target of "health for all in the year 2000", guarantees access to universal and free health care for the entire population of MSAR. This principle is dealt with in Decree-Law 24/86/M.

274. Health-care costs are fully or partly covered by the MSAR budget, depending on the type of illness or the socio-economic condition of the patient, and also on whether he/she is an MSAR resident or not (article 3 of Decree-Law 24/86/M as modified by Decree-Law 68/89/M).

275. The cost of health care in MSAR has been increasing every year. In 1995, the entire health-care budget was MOP\$ 851 million. It has grown steadily to MOP\$ 1.235 billion in 1999. During the same period the population has grown from 415,030 to 437,455. In 1995, the gross domestic product (GDP) was MOP\$ 55.3 billion. It grew to MOP\$ 55.9 billion, then dropped to MOP\$ 49.2 billion in 1999.

**Table 15****Health-care expenditures**

	1995	1996	1997	1998	1999
Population (in thousands)	415.030	415.850	422.046	430.549	437.455
GDP (in billions MOP\$)	55.3	55.3	55.9	51.9	49.2
Total health-care expenditures in millions (MOP\$)	851	952	1 049	1 088	1 235
Health-care expenditure as percentage of GDP	1.54	1.72	1.87	2.09	2.51
Health-care expenditure per capita (US\$)	2 050	2 289	2 486	2 527	2 823

*Source:* Census and Statistics Department, 22 June 2000.

276. Health care is free of charge in the following cases:

- At health centres (medical care, including medication);
- To carriers or suspected carriers of infectious/contagious diseases, drug addicts, cancer and psychiatric patients and in the context of family planning;
- To population groups at risk: pregnant women, women in and after labour, children below 10 years of age, and primary and secondary school students;
- Prisoners;
- Civil servants;
- Individuals or families with difficulties; and
- Persons aged 65 and over.

277. In addition, emergency health care provided at MSAR's public hospital is completely free of charge.

278. The institutions under the health service that provide services in this area include the Conde São Januário Hospital (CSJH) and various health centres that attend to patients of their respective zones. There are seven health centres in the MSAR strategically located in several zones of the city and islands.



279. These health centres, besides offering general care for disease prevention and health promotion, namely in the forms of pre-natal care, post-birth care and vaccination, also provide the following personalized care: medical ambulatory care; nursing care, both in the centre or at home; health education and information; medication listed as essential medication for primary care; complementary means of diagnosis and therapeutics; and social assistance to individuals or groups at risk, through the participation of social workers in the health teams. One of the seven health centres provides alternative care in the form of traditional Chinese medicine.

280. Health promotion and supervision are based on permanent and diversified actions aimed at the health education of the community. In this context, health centres provide free information on the advantages of breastfeeding and childcare in the fields of health, hygiene, nutrition and accident prevention. In the year 2001, these health centres conducted a total of 8,216 collective education sessions on health problems, with the participation of 262,422 persons.

281. Patients requiring special health care are sent to CSJH, which has a paediatric unit (with 33 beds and 20 cots) and a paediatric emergency service where children under 12 years of age are attended. In the year of 2001 a total of 56,657 children were attended there. Seventeen paediatricians are presently working in the CSJH.

282. Besides CSJH, there is also a private hospital in the MSAR, the Kiang Wu Hospital (KWH). CSJH reimburses KWH for services provided to eligible patients.

### **Family planning**

283. The Government of MSAR should create and support, in collaboration with the families, adequate means to promote proper training and family planning that guarantee free, responsible and conscious fatherhood and motherhood (article 10 (1) of Law 6/94/M).

284. Family planning is intended to improve the health and well-being of the family, and consists of providing individuals and couples with information, knowledge and the means that will enable them to decide freely and in a responsible way the number of children they wish to have and when.

285. On a more concrete basis, family planning includes pre-marriage and genetic counselling, information on birth-control methods, treatment of infertility and prevention of genetic and sexually transmitted diseases (article 10 (2) of Law 6/94/M).

286. Various health centres provide a family planning programme that is free of charge. All medication and devices used in family planning are also totally free of charge and provided at the expense of the Government of MSAR (arts. 6 (2) and 7 (1) (d) of Decree-Law 24/86/M).

### **Primary care to pregnant women and children**

287. As mentioned above, primary care to pregnant women is free of charge and is carried out at health centres. The future mother receives periodic examinations, mother-and-child counselling and education throughout the pregnancy.

288. At the health centres, children, especially those in their first years of life, undergo regular examinations aimed at the early detection of disabilities and congenital deficiencies. They also benefit from MSAR's vaccination programme, which is free of charge.

289. Pregnant women jailed in a prison establishment, including those who are about to give birth or who have had a pregnancy interruption, are assisted and treated by an adequately specialized doctor. A child who remains with the mother in the prison establishment has the right to undergo a prompt diagnosis for any diseases that could endanger his/her physical and intellectual development (article 43 of Decree-Law 40/94/M).

### **Immunization system**

290. The vaccination programme (VPM) of MSAR is outlined in Order 18/GM/96. The vaccinations included in VPM are free of charge (article 5 (1) of Decree-Law 13/96/M). The VPM scheme covers the following: anti-tuberculosis vaccine (BCG); anti-hepatitis B vaccine (VAHB); anti-poliomyelitis vaccine (VAP); anti-diphtheria, tetanus and pertussis vaccine-triple (DTP); anti-measles vaccine (VAS); anti-measles, mumps and rubella vaccine-triple (VASPR); anti-diphtheria and tetanus vaccine (DT); anti-rubella vaccine (VAR); and anti-tetanus vaccine (VAT).

291. VAHB and VAR are administered, without the need of prior immunity tests, to all children up to the age of 12 years inclusive and to all girls aged between 10 to 13 years old inclusive, respectively (paras. (a) and (b) of Order 18/GM/96).

292. The vaccinations of VPM are recorded in an individual vaccination record, which is issued free of charge by the health service and by the institutions with which this department has signed cooperation protocols under the VPM scheme (arts. 1 and 2 of Decree-Law 13/96/M).

293. The presentation of the individual vaccination record is compulsory upon registration at any public or private schools, including nurseries. The record must also be presented during all medical examinations conducted on any individual up to the compulsory education age (article 4 of Decree-Law 13/96/M).

294. The World Health Organization has declared in October 2000 that poliomyelitis has been eradicated in MSAR. The last detected case was in 1975. Yet, and to avoid the reoccurrence of new cases, the vaccination campaign against this disease will continue to be carried out.

**Table 16**  
**Routine immunization in Macao (1999)**

Vaccines	Target age group	Number in target group	Number of doses administered	Coverage (percentage)
Tuberculosis - BCG	New-born	4 387	4 325	98.6
Poliomyelitis	2 years	5 030	4 264	84.8
Diphtheria, tetanus and pertussis	2 years	5 030	4 273	85
Measles	2 years	5 030	4 579	91
Measles, mumps and rubella	2 years	5 030	4 417	87.8
Hepatitis B	2 years	5 030	4 654	92.5

Source: Health Services, 2000.

**Table 17**  
**Routine immunization in MSAR (2000 and 2001)**

Vaccines	Target age group	2000			2001		
		Number in target group	Number of doses administered	Coverage (percentage)	Number in target group	Number of doses administered	Coverage (percentage)
BCG	Births	3 925	3 800	96.8	4 118	4 029	97.83
Hepatitis B - birth dose	Births	3 925	3 917	99.8	4 118	4 112	99.85
DTP1	Surviving infants	3 801	3 801	96.8	4 118	3 983	96.72
DTP3	Surviving infants	3 925	3 621	92.3	4 118	3 780	91.79
Polio3 (e.g. OPV3)	Surviving infants	3 925	3 620	92.2	4 118	3 781	91.81
HepB3	Surviving infants	3 925	3 543	90.3	4 118	3 749	91.06
Hib3	Surviving infants	-	-	-	NR	NR	NR

**Table 17 (continued)**

Vaccines	Target age group	2000			2001		
		Number in target group	Number of doses administered	Coverage (percentage)	Number in target group	Number of doses administered	Coverage (percentage)
MCV1 <sup>a</sup> Measles-containing vaccine	9 months	3 523	3 523	89.8	4 118	3 694	89.7
MCV1 <sup>b</sup> Measles-containing vaccine	24 months	4 194	3 722	88.7	4 406	3 904	88.6
Yellow fever	Surviving infants	NR	NR	NR	NR	NR	NR

Source: Health Services, May 2002.

<sup>a</sup> MCV1 is the first dose of measles-containing vaccine (i.e. measles vaccine, measles-rubella vaccine, or measles-mumps-rubella vaccine).

<sup>b</sup> MCV1 is the second dose of measles-containing vaccine (if this is a part of the routine immunization schedule).

**Table 18**

**Reported incidence of vaccine-preventable diseases and other important notifiable diseases among children under 15 years of age (number of cases)**

International classification of diseases (ICD/10)	1999	2000	2001
A01.0 Typhoid fever	-	3	0
A02.0 Salmonella enteritis	-	33	19
A03.0 Shigellosis due to Shigella dysenteriae	-	1	1
A04.0 Enteropathogenic E. Coli infection	-	0	1
A15.0 Tuberculosis of the lungs, confirmed by sputum microscopy	-	2	2
A15.1 Tuberculosis of the lungs, confirmed by culture only	-	2	2
A15.3 Pulmonary Tuberculosis confirmed unspecified means	-	0	0
A15.6 Tuberculosis pleurisy, confirmed	-	1	1
A15.9 Respiratory Tuberculosis, unspecified conf by lab	-	0	0
A16.0 Tuberculosis of lungs, bacteria and history negative	-	2	2
A16.2 Tuberculosis of lungs, no mention of laboratory test	-	0	2
A16.3 Tuberculosis intrathoracic lymph nodes	-	1	0

**Table 18 (continued)**

International classification of diseases (ICD/10)	1999	2000	2001
A16.7 Primary respiratory Tuberculosis, unknown lab result	-	0	0
A17.0 Tuberculosis meningitis	0	0	0
A18.0 Tuberculosis of bones and joints	-	0	1
A18.2 Tuberculosis peripheral lymphadenopathy	-	2	1
A19 Miliary tuberculosis	0	1	0
A30 Leprosy	0	0	0
A33 Tetanus neonatorum	0	0	0
A37 Whooping cough	-	0	0
A38 Scarlet fever	-	15	9
A39.8 Other meningococcal infections	-	0	0
A50 Congenital syphilis	0	3	1
A54 Gonococcal infections	0	1	0
A63 Other predominantly sexually transmitted diseases	-	0	0
A71 Trachoma	-	1	0
A90 Dengue fever	-	0	230
B01 Varicella (chickenpox)	-	669	1 458
B05 Measles	1	2	3
B06 Rubella (German measles)	5	7	2
B15.0 Acute hepatitis A without coma	-	0	0
B15.9 Acute hepatitis A without coma	2	0	0
B16.9 Acute hepatitis B without delta	1	7	0
B17.1 Acute hepatitis C(4)	-	4	2
B17.8 Other acute specified hepatitis	-	0	1
B24 Unspecified HIV diseases	-	0	0
B26 Mumps	17	39	30
B54 Unspecified malaria	0	0	0
P35.0 Congenital rubella syndrome	-	0	1
Z21 Asymptomatic HIV infection	1	1	0

Source: Health Services, May 2002.

**HIV/AIDS**

295. During the years 1998, 1999 and 2000 only one HIV-positive case was detected, in 1999, that of a female infant who was infected in the womb and died aged 6 months. In 2001 there were no reported cases of children infected with HIV.

**Nutrition**

296. The importance of breastfeeding and a balanced diet are emphasized to the future mother during health checks within maternal and child health consultations. Mothers are encouraged to start breastfeeding their babies as soon as they are born. Guidance and support continues in hospital maternity wards and health centres.

297. Breastfeeding tends to decline rapidly after the first month of a child's life, owing to local customs.

**Table 19**

**Infant nutrition, 2000 (until 30 November) on the  
basis of consultations at the health centres**

Feeding method	Less than 1 month		1 to 2 months		2 to 3 months		3 to 4 months		4 months		Total
		%		%		%		%		%	
Breastfeeding only	52	1.40	24	1.11	8	0.42	2	0.11	6	0.01	92
Predominantly breastfeeding	104	2.80	40	1.84	25	1.30	18	0.95	184	0.30	371
Mixed feeding	376	10.11	133	6.13	97	5.05	32	1.69	109	0.18	747
Artificial feeding	946	25.44	602	27.75	577	30.02	343	18.08	2 708	4.47	5 176
Has been breastfeeding	840	22.59	264	12.17	187	9.73	181	9.54	2 812	4.65	4 284

*Source:* Health Services.

298. At the nurseries, food is generally well prepared and adequate to the children's age both in terms of quality and quantity. Menus are shown in a visible and accessible place for consultation by the parents. When requested by medical prescription, special diet food is prepared (article 20 of Regulation 156/99/M).

299. In Homes for children and young people, the young enjoy food that consists of a balanced diet that incorporates good quality and varied ingredients, adapted to the age of the users, as it is recognized that the intake of food has a determining role in the development of children and young people (article 26 (1) of Regulation 160/99/M).

300. The Social Welfare Institute supplies daily meals to students coming from families with financial difficulties. These meals are free of charge or might merely cost a token price. That institute also supplies students from six different schools with additional supplements of food (in 2001, this service covered a total of 1,193 students, with an expenditure of MOP\$ 1,149,526.50).

### **Dental care**

301. Although water in MSAR is treated, the level of fluoride present in the public water supply is rather insufficient, which might explain the high number of children seeking assistance of a stomatologist.

302. The health service carried out in 1996 a sample study on the incidence of dental caries amongst young people of Macao. The results were as follows: of the 114 6 year olds observed, 91 (79.8 per cent) already had caries in their milk teeth; of the 211 9 year olds observed, 178 (84.4 per cent) already had caries in their milk teeth: of these 211 children, about half of them, that is 111 (52.6 per cent), already had caries in their permanent teeth; from the 191 observed 12 year olds, 137 (71.7 per cent) already had caries in their permanent teeth.

303. Supplements of fluor were given to 2,348 children in 1999, 3,393 in 2000 and 3,640 in 2001.

## **C. Social security and childcare services and facilities (arts. 26 and 18, para. 3)**

### **Social security**

304. According to the law governing public employment, there are two kinds of social benefits offered to civil servants relating to children, those being family allowances and childbirth allowances.

305. Furthermore, under the social welfare system and within the category of permanent subsidies, there is the pension to single parents' families and the pension for the disabled. Within the category of temporary subsidies, there are the childbirth subsidy and the education subsidy.

### **Childcare services and facilities**

306. The Government of MSAR should promote the creation and operation of a maternal-infant mesh and nurseries (article 8 (3) of Law 6/94/M).

307. Nurseries are establishments intended for the reception of children ages 3 months to 3 years, which provide them with the adequate conditions for their development, as means of support to families during their working hours or in other situations whereby the child cannot be left at home during that time interval (article 3 (1) (a) of Decree-Law 90/88/M).

308. Nurseries should provide for the individual accommodation of children under an atmosphere of affectionate and physical security, creating adequate conditions for their physical, social, emotional and intellectual development. They should also collaborate with the family in sharing the cares and responsibilities in the evolution process of the children, taking into consideration that they are undergoing one of the most important phases of their physical and mental development (article 2 (1) and (2) of Regulation 156/99/M).

309. The Social Welfare Institute (SWI) manages directly the Monte da Guia Nursery. This establishment has a maximum capacity for 250 children and in the year 2001 had 99 users. There are currently 52 nurseries in MSAR run by private entities, with the capacity of accommodating 4,800 children.

310. Private nurseries can only operate after having received an operative licence conferred by the Social Equipment Management and Licensing Division of SWI. This division is also responsible for the inspection of the nurseries' equipment and its activities (article 25 (a) of Decree-Law 90/88/M). In the year 1999, SWI financially subsidized private nurseries with the amount of MOP\$ 21,877,746.

311. It is worth pointing out that the Regulations concerning the Setting-Up and Operation of Nurseries were adopted in May 1999, aiming at guaranteeing the improvement of existing equipment and the setting-up of future ones, in order to ensure an adequate and qualified nursery service.

312. It should also be stressed that in MSAR it is very common for grandparents to assume the responsibility of taking care of babies and young children under 3 years of age while the parents are away at work.

#### **D. Standard of living (art. 27, paras. 1-3)**

313. The average monthly employment income in MSAR was MOP\$ 5,240 in 1997, MOP\$ 5,063 in 1998 and MOP\$ 4,889 in 1999.

314. There are a number of mechanisms established by law that allow residents to live with dignity, even in situations of particular difficulty or adversity, namely through the social security system and the social welfare system.

#### **Social security**

315. The Social Security Fund was created in 1989 with the objective of providing a guarantee of social support to workers employed by an entity.

316. Under Decree-Law 58/93/M only workers registered at the Fund are beneficiaries and their employers should be registered as contributors.



**Table 20**

**Beneficiaries who pay by deduction to the Society Security Fund, by gender**

Gender	1998	1999	2000
Total	113 234	115 698	122 327
Male	52 519	52 800	55 488
Female	60 715	62 898	66 839

*Source: Yearbook of Statistics, 2000, Census and Statistics Department.*

317. The financing of the fund comes from the contribution of the workers and employers (each worker contributes MOP\$ 15 each month and each employer contributes either MOP\$ 30 or MOP\$ 45, in case the worker is a resident or not, each month) added to 1 per cent of the budgetary donations annually transferred from the MSAR budget and of the receipts from investments of the fund. In 1998 the sum had a return of MOP\$ 700 million.

318. The fund covers old-age pensions, disability pensions, unemployment subsidies, sickness subsidies, payments for pneumoconiosis, credits from work, social pensions, supplementary social pensions, childbirth subsidies, marriage subsidies and funeral subsidies.

319. Unemployment payments are available to all those who are in an involuntary unemployment situation and are registered at the fund (article 21 (1) of Decree-Law 58/93/M).

320. Considered under involuntary unemployment are those beneficiaries not exercising any remunerated activities, after their work contract has been terminated as a consequence of: a decision of the employer; termination of the contract with a rightful cause through the worker's initiative; the work having reached its completion date; and mutual agreement in situations that permit resorting to collective termination of employment (article 21 (2) of Decree-Law 58/93/M).

321. The unemployment benefit has a per diem of MOP\$ 70 (Order 84/GM/99).

322. The fund also has support and incentive programmes to specially assist the locally unemployed with particular difficulties, namely: training them in view of reintegration in the labour market; integration in the labour force of those who have job placement difficulties; support for the social-labour integration of those who have physical or behavioural disabilities; training in new skills for the transfer of the unemployed; hiring of youth searching for their first jobs; and granting of social subsidy to the unemployed in a destitute situation (article 2 of Order 54/GM/98 as amended by Order 23/GM/99).

323. To the companies employing youth (aged under 26), as long as these are recruited amongst those registered in the "Labour Market" of MSAR's Labour and Employment Department, financial subsidies up to the amount of MOP\$ 15,000 can be granted (article 7 of Order 54/GM/98 as amended by Order 23/GM/99).

324. Owing to the crisis in the labour market over the last few years, MSAR's unemployment rate has risen. The Government, however, is currently studying measures to overcome this situation.

**Table 21**

**Structure of the active population by gender**

Gender	Total (in thousands)			Employed			Unemployed		
	1998	1999	2000	1998	1999	2000	1998	1999	2000
Male/female	210.7	216.2	214.6	201.0	202.5	200.1	9.6	13.8	14.5
Male	116.4	115.7	113.7	109.8	106.4	103.9	6.6	9.4	9.9

*Source: Yearbook of Statistics, 2000, Census and Statistics Department.*

**Social welfare**

325. The social welfare system is designed to protect individuals and social groups who are in conditions of indigence, by extending to them financial assistance in cash and social assistance in the form of equipment and services. It also aims at the social advancement of individuals and families as well as community development (article 1 of Decree-Law 52/86/M).

326. Social welfare is based on the principles of equality, efficiency, solidarity and sharing. Equality is achieved by eliminating all forms of discrimination, notably in respect to gender or nationality, without prejudice to the resident's condition. Efficiency is achieved by duly granting financial aid and services with a view to preventing situations of destitution and encouraging dignified living conditions. Solidarity involves teaching the community to accept responsibility for the achievement of the social welfare objectives. Sharing means making all persons responsibly involved in the entire process (article 2 of Decree-Law 52/86/M).

327. SWI, through its social welfare centres scattered around the city of Macao and the two islands (there are five to date), develops social welfare that includes, amongst others services, offering support to individuals and families, supplying meals and nursery services.

328. Support to individuals and families includes financial subsidies allocated to old people, needy families, physically disabled who are not covered by the social security system and all those who are not beneficiaries of social security pensions. Subsidies can be permanent or temporary. The permanent subsidies include: old age pensions; pensions for the needy; disability pensions; unemployment subsidies; sickness pensions; pneumoconiosis pensions; and pensions for single parents' families. Temporary subsidies include: funeral subsidies; household remodelling subsidies; support for catastrophe victims; subsidies for purchase of furniture, prosthetics and other specific equipment; subsidies for expenses with the abode at nursing homes or hospital stay; and subsidies for education and rent. Currently, the sum of a permanent subsidy to be allocated to a single person is set at MOP\$ 1,200 per month.

329. In the canteens of SWI (the D. Augusta Silvério Marques Canteen, the Taipa Island Canteen and the Coloane Island Canteen), three daily meals are provided for the old-aged, persons with financial difficulties and destitute children from school establishments. These meals are free of charge or merely cost a token price that is defined according to the person's/families' income. In the year 2001, 324,768 meals were provided to 917 persons in these canteens. That represented an expenditure of MOP\$ 1,772,322.

330. As mentioned above, SWI has under its supervision several nurseries within MSAR.

## Housing

331. Regarding housing, the MSAR's Housing Institute provides economical or temporary housing to individuals who have financial problems and are incapable of acquiring or renting accommodation.

**Table 22**

**Public housing (as of 31 December 2000), by year of construction and type**

Year	Total	Studio flat					T1	T2	T3	T4 and more
		T0	T0I	T0II	T0III	T0IV				
Total	9 084	259	218	318	182	77	1 889	5 244	824	73
1965-1970	140	120	-	-	-	-	20	-	-	-
1971-1975	270	-	-	-	-	-	210	60	-	-
1976-1980	464	42	-	-	-	-	76	321	25	-
1981-1985	1 047	-	-	-	-	-	470	577	-	-
1986-1990	1 945	96	154	294	182	77	263	722	137	20
1991-1995	2 393	1	64	-	-	-	432	1 655	218	23
1996	85	-	-	-	-	-	-	36	39	10
1997	807	-	-	-	-	-	109	431	262	5
1998	673	-	-	24	-	-	309	182	143	15
1999	1 260	-	-	-	-	-	-	1 260	-	-
2000	-	-	-	-	-	-	-	-	-	-

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

## VII. EDUCATION, LEISURE AND CULTURAL ACTIVITIES

### A. Education, including vocational training and guidance (art. 28)

332. All MSAR residents, independent of race, gender, religion and political or ideological conviction, are entitled to receive education (article 37 of the Basic Law and article 2 of Law 11/91/M).

333. The right to education consists of equality of opportunity in the access to and study at schools and the freedom to learn and teach, which is characterized by the prohibition of stereotyped education and protection of the right to the creation and existence of private institutions.

334. The need to integrate the various communities that exist in MSAR is recognized, and to this end a sufficiently flexible and diversified educational system is created, which involves fostering the development of a democratic and multifaceted attitude, respect for others and their ideas, and dialogue and free exchange of opinions (article 3 (1) of Law 11/91/M). This attitude guarantees respect for the freedom to learn and to teach, taking into account that the Government of MSAR does not arrogate to itself the right to determine education in accordance with any philosophical, aesthetic, political, ideological or religious directives. The right to the creation and existence of private institutions is assured, these being free to elaborate for themselves their own educational curricula.

335. Article 122 (1) of the Basic Law asserts that all educational institutions in MSAR shall enjoy their autonomy, their teaching and academic freedom in accordance with the law.

336. In addition, article 122 (2) of the Basic Law stipulates that all students enjoy freedom of choice over educational institutions and freedom to pursue their education outside the Region. Correspondingly, the Framework Law on Family Policy states, in its article 15 (2), that “parents have the right to freely choose the schools and other necessary means to educate their children, in conformity with their convictions, their pedagogical preferences and geographical location or the available class timetables”.

337. Education is considered, in the conception of the MSAR budget, as one of the fundamental priorities. The budget of the year 2002 assigned the amount of MOP\$ 1,087,725,100 exclusively for the area of education (this amount does not include higher education, scientific investigation and professional education).

338. The right to education becomes concrete through the educational system, whose essential principles are present in Law 11/91/M. The educational system comprises: pre-school education; the preparatory year for primary school; primary school; secondary school; higher education; special education; education for adults; and technical and professional education.

### **Pre-school education**

339. Pre-school education, which intends to complement the family educational action in its training, is directed towards children aged 3 and 4 years old (article 5 of Law 11/91/M).

340. In pre-school education, the pedagogical approach is far-reaching and progress evaluation does not take place. The curriculum plan is comprised of activities aimed at the physical and motor, social-emotional and cognitive development of each child. It should also attend to the specificity of each child, namely in the aspects pertaining to the social/cultural background to which he/she belongs (article 4 of Decree-Law 38/94/M).

### **Basic education**

341. Basic education includes the preparatory year for primary school, primary school and the general secondary school (article 6 (1) of Law 11/91/M).

342. Access to the preparatory year for primary school is conferred to all children who reach the age of 5 before 31 December on the year they enrol. The curriculum plan gives continuity to pre-school education, providing for the acquisition of basic knowledge and developing capacities in order to prepare children for the entry into primary school (article 7 of Law 11/91/M and article 5 of Decree-Law 38/94/M).

343. Primary school lasts six years, with access conditioned on attendance in the preparatory year. Access to the first year of primary school is granted to children who attain the age of 6 before 31 December of the year of their enrolment; the maximum permitted attendance age is 15. Primary school should ensure that the child is able to acquire and master knowledge, values and attitudes that are indispensable for the full development of his/her cognitive, social-affectionate and motor capacities, stimulating his/her interest at learning and for self-improvement (article 8 of Law 11/91/M and article 6 of Decree-Law 38/94/M).

344. Those who graduate from primary school are allowed access to the general secondary school, which lasts three years and is organized according to a curriculum plan that introduces components of both general and vocational training (article 9 of Law 11/91/M and article 3 of Decree-Law 39/94/M).

345. Basic education is universal, free of charge and compulsory in official establishments and in those subsidized by the Government of MSAR. This free assistance covers exemption from fees or other enrolment charges, attendance or certification fees and the granting of subsidies for tuition to pupils of unsubsidized private schools (article 6 of Law 11/91/M and article 1 of Decree-Law 42/99/M).

### **Supplementary secondary school**

346. Other than the general secondary school, secondary school also comprises the supplementary secondary school, which is optional.

347. With a minimum and maximum duration of two and three years, respectively, the supplementary secondary school is organized on the basis of diversified curriculum plans that make it possible to prepare students who wish to access into higher education, other than the basic preparation for those who wish to join the job market. Access is conferred to those who graduate from general secondary school (article 9 of Law 11/91/M).

### **Higher education**

348. Higher education may be either public or private, and consists of university education and polytechnic education (article 3 (1) of Decree-Law 11/91/M). Access to university and polytechnic education is conditioned on graduation from the secondary school.

349. By law, the Government of MSAR has the obligation to create conditions that guarantee its residents the possibility of reaching higher education, in order to offset the discriminatory effects resulting from former economic inequalities or social disadvantages, as well as from ascendancy, gender, race and philosophical convictions.

350. MSAR residents thus enjoy a reduction in tuition fees of between 40 and 85 per cent, depending on the courses and establishments. Apart from this reduction subsidized by the Government, the latter also joins other institutions at giving financial support for tuition fees in the form of scholarships.

**Table 23**

**Scholarships for higher education (by relevant areas  
and number of beneficiaries)**

Subject areas	Year		
	1998/99	1999/2000	2000/01
Economics/management	700	753	756
Engineering	369	368	332
Computer science	159	197	247
Medical science	326	371	438
Languages/literature	172	215	228
Social sciences	147	156	166
Architecture/design	77	57	50
Law	61	61	84
Communications	153	177	157
Natural sciences	88	106	119
Education	308	336	353
Pre-university	96	72	75
Others	36	36	35
<b>Total</b>	<b>2 692</b>	<b>2 905</b>	<b>3 040</b>

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

**Table 24**  
**Scholarships for higher education (by country or region**  
**and number of beneficiaries)**

	Year		
	1998/99	1999/2000	2000/01
China (mainland)	1 019	1 130	1 120
Macao Special Administrative Region (MSAR)	1 075	1 208	1 392
Taiwan	495	475	437
Portugal	50	36	31
United States of America	23	26	25
Hong Kong Special Administrative Region	8	8	10
Australia	8	9	10
Canada	4	4	4
Others	10	9	11
Total	2 692	2 905	3 040

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

351. In the course of the year 2001, and with the objective of promoting access into higher education, three seminars were conducted in 33 secondary school establishments, which included the participation of 1,200 students.

352. According to statistical data gathered by the Office for Assistance to Higher Education (OAHE), 38 private consultations and 146 telephone consultations for information concerning the access into higher education were registered in the year 2001. In order to boost the extent of services that OAHE has to offer, it is possible to access this sort of information through the Internet as starting from May 2000 (in 2001, 103 e-mails were answered).

353. Equally relevant is that, in 1999, OAHE proceeded with the introduction of the programme "Searching Software" in its homepage, with which Internet users can search in an easier and swifter manner the web-site addresses of different local or foreign higher education establishments. The number of Internet consultations registered by OAHE in 2001 was 2,000.

### **Special education**

354. Special education aims at guaranteeing the principle of equality of educational opportunities and the promotion of the social adjustment of those who have special education needs. These needs can either be permanent or temporary, resulting from mental characteristics,

sensory aptitude, neuromuscular or body characteristics, emotional or social behaviour, communication aptitude or multiple deficiencies. Children who are generally gifted are also covered by this education (article 13 of Law 11/91/M).

355. Article 3 of Decree-Law 33/96/M provides that special education consists of the adjustment or adaptation of the programmes, methodologies and evaluation processes belonging to normal education, and of the conditions in which instruction and learning is achieved, namely in:

- (a) Access to special equipment used for compensation or for the refinement of learning;
- (b) Adaptation of the school's physical environment;
- (c) Curriculum adaptations or introduction of alternative curricula;
- (d) Adjustment of administrative procedures, namely in enrolment, attendance and absenteeism procedures;
- (e) Adjustment in the organization of classes;
- (f) Special conditions for evaluation; and
- (g) Enhanced pedagogic assistance.

356. Educational plans and programmes are developed and carried out in compliance with the capacities and needs of students. Moreover, the education of students with special-education needs is carried out in a straight and articulated collaboration involving the family, the school, health-care institutions and the community.

357. Special education can take place in a normal classroom or class, to which the student belongs, and also in spaces specially conceived for this purpose, located at the educational institution and designated as special training units.

358. In the academic year 2001/02, there were 752 students registered with special-education needs, of which 113 were integrated into normal classes and the remainder in special training units located either in normal schools or in independent units.



**Table 25**

**Special education - transit of students by gender and education level**

Years	Enrolled		Entries during the academic year		Drop-outs during the academic year		At the end of the academic year			
							Total		Passed or graduated	
	Male	Female	Male	Female	Male	Female	Male	Female		
Total										
1997/98	293	140	14	4	6	3	301	141	214	98
1998/99	316	162	13	6	2	1	327	167	248	128
1999/2000	356	192	17	9	8	3	365	198	107	50
Education level										
Pre-primary	11	6	-	2	-	-	11	8	4	5
Primary	34	14	5	1	1	1	38	14	24	8
Secondary	15	5	-	-	-	-	15	5	13	3
Special	296	167	12	6	7	2	301	171	66	34

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

**Table 26**

**Establishments that provide special education, by body of supervision and education levels instructed**

Year	Total	Body of supervision			
		Charity association or organization	Government of MSAR	Macao diocese	Other
1997/98	11	4	6	1	-
1998/99	12	4	5	2	1
1999/2000	13	4	8	1	-
Education level					
Pre-primary and primary	1	-	-	1	-
Pre-primary, primary and secondary	1	1	-	-	-
Special	11	3	8	-	-

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

359. In the academic year 2000/01, the Government of MSAR subsidized six educational institutions for around MOP\$ 8,252,475.

360. All staff working under the special-education regime has special qualifications in this area, given by MSAR's Education and Youth Department (EYD) in collaboration with local and foreign higher education institutions. The technical staff are holders of bachelor's to master's degrees, encompassing areas of training such as: social services, special education, medical science (general practice and paediatrics), physical and occupational therapy and psychology. They also benefit from progressive training; in the academic year 1999/2000, various workshops were organized, such as "Pedagogic methods for students with reading and writing difficulties", "Pedagogic methodology for children with autism", "Training of teachers in special education" and "How to communicate with students".

**Table 27****Special-education teachers by gender and education levels instructed**

Education level instructed	Male/Female			Male			Female		
	1997/98	1998/99	1999/2000	1997/98	1998/99	1999/2000	1997/98	1998/99	1999/2000
Total	91	81	93	13	10	12	78	71	81
Pre-primary	4	5	3	-	-	-	4	5	3
Pre-primary, and primary	1	2	1	-	1	-	1	1	1
Pre-primary, primary and secondary	1	2	1	-	1	-	1	1	1
Pre-primary, and secondary	-	1	-	-	-	-	-	1	-
Primary	9	6	8	2	-	1	7	6	7
Primary and secondary	7	9	10	2	2	3	5	7	7
Secondary	3	-	1	-	-	-	3	-	1
Special	66	56	69	9	6	8	57	50	61

*Source: Yearbook of Statistics, 2000, Census and Statistics Department.*

**Technical and professional education**

361. Technical and professional education, while still a distinct educational course within the framework of the educational system, has as its objective to provide qualifications for youngsters and adults who wish to take on social roles and to enter into the job market. This education is divided into two fields: professional training and technical-professional school (article 15 of Law 11/91/M).

362. Professional training envisages securing basic skills for the exercise of a professional activity and is conducted in public or private professional training institutions. Access is conferred to youngsters and adults who have completed primary school (articles 16 and 17 of Law 11/91/M).

363. Technical-professional school has as its objective the preparation of technical workers and professionals of an intermediary level, through the acquisition of knowledge and the necessary skills for carrying out a qualifying professional activity. Technical-professional instruction is conducted in public or private schools. Access to this education is granted to youngsters and adults who have completed at least the general secondary school (article 18 of Law 11/91/M).

364. At the moment, there are three establishments that teach technical-professional subjects, namely: the Sino-Portuguese Technical-Professional School; the Technical-Professional Secondary School of the General Association of Macao Labourers; and the Sam Yuk Secondary School of Macao.

**Table 28**

**Number of technical-professional students and classes**

Schools	2000/01	2001/02
Sino-Portuguese Technical-Professional School	1 315 (44 classes)	1 344 (43 classes)
Technical-Professional Secondary School of the General Association of Macao Labourers	727 (19 classes)	803 (20 classes)
Sam Yuk Secondary School of Macao (Chinese section)	557 (13 classes)	405 (10 classes)
Total	2 599 (75 classes)	2 552 (73 classes)

*Source:* Education and Youth Department, May 2002.

**Table 29**

**Number of technical-professional courses**

Schools	Courses in 2001/02
Sino-Portuguese Technical-Professional School	Technical-professional general secondary education, Computer Science techniques, Tourism techniques, Administrative and business techniques, Electro-mechanics and industrial maintenance techniques, Social services
Technical-Professional Secondary School of the General Association of Macao Labourers	Accounting, Computer Science, Business
Sam Yuk Secondary School of Macao (Chinese section)	Computer Science, Sewing, Business

*Source:* Education and Youth Department, May 2002.

365. In the academic year 2000/01, a seminar on “methodology for technical-professional education” was organized by the Education and Youth Department (EYD). In 2001 the staff and teachers of the three establishments above participated in the “International Meeting on Technical-Professional Education, Beijing 2001”. At the local level, seminars were conducted as well as exchange visits, between the three establishments, which allowed for the exchange of knowledge relating to curricula, classroom management and pedagogics.

### **Non-formal education**

366. Within the scope of non-formal education in MSAR, vocational artistic education is worth a reference. It consists of a specialized kind of training, directed towards individuals with confirmed aptitude or talent in a specific artistic area, namely music, dance and plastic arts (article 9 of Decree-Law 4/98/M).

367. Vocational artistic education is conducted in official or private specialized educational institutions. These institutions exclusively teach vocational artistic subjects, while students attend the remaining subjects in other educational establishments (article 11 of Decree-Law 4/98/M).

### **Compulsory education**

368. Article 121 (2) of the Basic Law states that “the Government of the Macao Special Administrative Region shall, in accordance with law, gradually institute a compulsory education system”. Compulsory education in MSAR comprises the preparatory year for primary school, primary school and the general secondary school. It covers children and the young between the ages of 5 and 15 and is provided in official or private educational establishments (article 1 of Decree-Law 42/99/M).

369. Even though compulsory education was only established in mid-1999, EYD’s statistics show that in 1996 the school attendance rate of children aged between 6 and 11 was 99.5 per cent. A 100 per cent rate was not reached due to the existence of a sector of the population that is mobile, which is reflected through the entry of new immigrants and in the emigration of MSAR’s residents to foreign countries.

370. EYD seeks to render compulsory education effective through the following measures: (a) strengthening the dissemination (in schools, social welfare services, mass-media and in the immigration department) of information concerning government assistance that children and youngsters have the right to receive, the extent of free education and the array of available measures of social compensation; (b) work meetings with those responsible for the private educational institutions in order to reinforce the access to education; and (c) involvement of government departments who intervene on social, employment, justice and public safety areas, in order to locate and guide children and youngsters likely to drop out of school or who are out of the regular educational system.

### **Compensatory education**

371. In accordance with the principle of equal opportunities in access to and achievement in education, the existence of compensatory education activities is assured to students with educational needs (articles 19 and 20 of Law 11/91/M).

372. Compensatory education is provided to students at lower education levels. However, priority is conferred to basic education students who are in the following situations: have certified physical or/and intellectual disabilities and are not covered by the special-education regime; have not received lectures, in the previous academic year, in at least two thirds of the number of classes foreseen by their curriculum; have not been instructed of the significant contents of the programmes; display learning deficiencies in the language medium that is being used; or reveal, for any other reasons, learning difficulties (Nos. 4 and 5 of Order 7/SAAEJ/92).

373. Compensatory education activities can assume the form of additional classes, individual or group support activities, alternative curricula, and study-rooms with pedagogical guidance (No. 6 of Order 7/SAAEJ/92).

374. Compensatory education is maintained as long as its legitimate need remains. Once parental or the guardian's consent is obtained, attendance to classes and/or educational compensation activities can become mandatory (Nos. 2 and 12 of Order 7/SAAEJ/92).

### **Psycho-pedagogical assistance, and professional and school orientation**

375. Under the terms of article 21 of Law 11/91/M, the Government of MSAR is responsible for securing, directly or through assistance to non-official institutions, the existence of services for psycho-pedagogical assistance and for professional and school orientation.

376. Counselling to students in private schools is directly guaranteed by specially assigned personnel from EYD, or indirectly by staff made available by the voluntary associations financed by that governmental department. In the academic year 2000/01, 59 schools were covered by this service. In 2001, EYD went further and provided a social counsellor for every school with more than 1,000 students (or more than 1,500 students if the school engaged in both primary and secondary education), benefiting a total of 36 schools. The amount spent in this last programme was MOP\$ 3,178,000.

377. Following the organization in the academic year 1999/2000 of initiation courses in counselling practices, equivalent advanced courses were also organized in the academic years 2000/01 and 2001/02 for teachers interested in acting as counsellors. Further to that, 180 actions related to counselling services were organized both inside and outside school establishments in the year 2000. The total number of activities grew to 700, which included a total of about 42,000 participants. In the same year, EYD also promoted the training of parents or other persons in charge of a child's education, through seminars, group sessions, workshops and gatherings in which 590 persons participated.

**Social-educational support**

378. As noted above, all MSAR residents have the right to education. Other than the measures already mentioned, which aim at diversifying instruction so that the school carries out its social integration and education roles, there are still those measures of social-educational support.

379. Social-educational support consists of economic support schemes and supplementary support services offered to students and schools. It contributes as such to the generalization of the concept of a universal and gratuitous education (article 13 of Decree-Law 62/94/M).

380. Economic support schemes, intended for the various school levels, include subsidies for tuition, subsidies for the purchase of school material and scholarships. In March 2002, the Government decided that children in need coming from single-parent families are entitled to receive a financial subsidy to attend school.

**Table 30****Subsidy for tuition (number of students benefiting)**

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	1 372	1 060	1 097
Primary	888	778	778
Secondary	2 343	2 474	3 503
Total	4 603	4 312	5 378

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

**Table 31****Subsidies for the purchase of school material (number of students benefiting)**

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	2 360	1 802	1 828
Primary	6 399	6 016	6 985
Secondary	4 544	4 897	6 611
Total	13 303	12 715	15 424

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

381. In its turn, supplementary support services are directed towards completing the support that is extended to students for the creation of better study conditions and well-being. These services comprise, namely, food supply, school health service and school insurance.

**Table 32**

**Food supply service (number of students benefiting)**

School level	Year		
	1998/99	1999/2000	2000/01
Pre-school and the preparatory year for primary school	928	860	847
Primary	1 475	1 399	1 432
Secondary	315	343	329
Total	2 718	2 602	2 608

*Source:* “Education and Training in Numbers”, 2000/01, Education and Youth Department.

**Table 33**

**School insurance (number of students benefiting)**

School insurance and accidents	Year		
	1998/99	1999/2000	2000/01
Reported accidents	991	1 147	1 311
Accident rate	1.03%	1.20%	1.37%

*Source:* “Education and Training in Numbers”, 2000/01, Education and Youth Department.

**Teachers**

382. Under MSAR’s educational system, teachers and educators carry out an activity considered as of public interest and benefit from a statute that is dignified and compatible with their professional qualifications and social responsibilities.

383. By law, teachers and educators have the right and duty to professional training, the Government being accountable for promoting the conditions and creating the necessary means. Teacher training assumes varied and flexible forms, ranging from the initial training, the internship and the continued training (articles 25 (2) and 26 of Law 11/91/M).

384. In the academic year 2000/01, EYD has collaborated with the University of Macao at the organization of courses aimed at the training of teachers working at pre-primary and primary school establishments. The Macao Polytechnic Institute provides those professionals with specialized courses in sports and physical training, musical education and the arts.

385. In collaboration with the Macao Education Association and the Vá Nam University, courses in childhood psychology and in the tutoring of mathematics and English were also organized. These courses provided for the training of 314 teachers. A series of progressive and diversified continued training programmes were provided by EYD to teachers in 2001. In total, 113 seminars, conferences, meetings and workshops took place with the participation of 8,873 persons.

386. Attending to the development of information technology education, three courses in computer science were organized in 2000, in which 63 teachers belonging to private teaching institutions that lecture in this area participated. Furthermore, throughout that year there were a series of courses and sessions for the demonstration of techniques, specially conceived for teachers and in which 1,327 persons participated (1,288 persons concluded the said courses and sessions).

387. According to EYD, the number of teachers from non-higher education establishments, relating to the academic years of 1998/99, 1999/2000 and 2000/01, was as shown in the table below:

**Table 34****Types of school establishment (not higher education)**

Type of schools	Year		
	1998/99	1999/2000	2000/01
Sino-Portuguese schools (using Chinese as teaching language)	334	348	361
Sino-Portuguese schools (using Portuguese as teaching language)	36	21	17
Private schools (using Chinese and English as teaching languages)	3 305	3 403	3 534
Private schools (using Portuguese as teaching language)	126	74	71
Total	3 801	3 846	3 983

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

**Table 35****Enrolment by level of instruction (not higher education)**

Level of instruction	Year		
	1998/99	1999/2000	2000/01
Pre-school and the preparatory year for primary school	545	531	494
Primary	1 505	1 496	1 530
Secondary	1 382	1 465	1 599
Special education	74	83	83
Duties equated to those of a teacher	295	271	277
Total	3 801	3 846	3 983

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.



388. Regarding the training of teachers, EYD registered in the academic years of 1998/99, 1999/2000 and 2000/01 the following number of student teachers, as outlined in the table below.

**Table 36**  
**Training of teachers**

School establishments training teachers	Year		
	1998/99	1999/2000	2000/01
Macao University	566	680	708
Macao Polytechnic Institute	36	32	19
Vá Nam Normal University	322	197	139
São José Diocese College	120	126	121
EYD	4 999	6 508	6 806
Total	6 043	7 543	7 793

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

### Language of instruction

389. Official education institutions, covering 6.2 per cent of all pupils in the educational programme, may only use as their teaching language either Chinese or Portuguese. The institutions using Chinese as a teaching language shall adopt Portuguese as their second language and, conversely, those using Portuguese shall adopt Chinese as their second language (article 35 (7) (8) of Law 11/91/M).

390. In the academic year 2001/02, of the 23 official education institutions, 20 used Chinese as a teaching language and 3 used Portuguese. Private teaching establishments are entirely free to decide on the language to be used and also the second language to be included on a mandatory basis in the corresponding curriculum (article 35 (6) of Law 11/91/M). The majority use Chinese as the teaching language. During the academic year 2001/02, 95 establishments were using Chinese while Portuguese was used by 2 and English by 9 private establishments.

### General statistics concerning education

**Table 37**  
**Establishments in Macao by education levels**

Education level taught	Total
1997/98 <sup>a</sup>	147
1998/99	151
1999/2000	133
Pre-primary	18
Pre-primary and primary	34
Pre-primary, primary and secondary	9
Primary	23

**Table 37 (continued)**

Education level taught	Total
Primary and secondary	12
Primary and vocational technical college	5
Secondary	19
Vocational technical college	4
Higher	9

*Source:* Yearbook of Statistics, 2000, Census and Statistics Department.

<sup>a</sup> One establishment of higher education suspended the educational activities in the academic year 1997/1998.

**Table 38**

**Number of students, by attendance and level of education  
(does not cover higher education)**

Education level	Year		
	1998/99	1999/2000	2000/01
Pre-school and preparatory year for primary school	17 092	16 162	14 847
Primary	46 587	46 933	45 211
Secondary	31 612	35 316	38 913
Special education	477	553	605
Total	95 768	98 964	99 576

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

**Table 39**

**Number of students, by attendance (does not cover higher education)**

School establishments	Year		
	1998/99	1999/2000	2000/01
Sino-Portuguese schools (using Chinese as teaching language)	5 078	6 098	6 201
Sino-Portuguese schools (using Portuguese as teaching language)	228	115	102
Private schools (using either Chinese or English as teaching languages)	88 851	91 683	92 364
Private schools (using Portuguese as teaching language)	1 611	1 068	909
Total	95 768	98 964	99 576

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

**Table 40**

**Students who passed or graduated at the end of the academic year,  
by gender and education level**

Education year	Number of students						Success rate (percentage)
	At the end of the academic year			Passed or graduated			
	Male/Female	Male	Female	Male/Female	Male	Female	
1997/98	102 187	51 990	50 197	86 517	43 268	43 249	84.7
1998/99	107 419	54 818	52 601	89 786	44 689	45 097	83.6
1999/2000	104 997	53 253	51 744	90 113	45 226	44 887	85.8
Education level							
Pre-primary	16 083	8 433	7 650	15 976	8 367	7 609	99.3
Primary	47 059	24 619	22 440	43 307	22 293	21 014	92.0
Secondary	30 685	14 447	16 238	25 910	11 852	14 058	84.4
Vocational technical college	4 076	2 679	1 397	3 119	2 007	1 112	76.5
Higher	7 094	3 075	4 019	1 801	707	1 094	25.4 <sup>a</sup>

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

<sup>a</sup> In higher education only graduates are counted.

**B. Aims of education (art. 29)**

391. The aims of education as referred to in article 29 of the Convention are recognized by MSAR's educational system and most of them are expressly provided for in the Framework Law on Education.

392. The educational system has as objectives, amongst others, to:

- (i) "Contribute for the harmonious and broad development of the individual personality, encouraging the formation of free, responsible, autonomous and solidaristic persons (...);
- (ii) Promote the development of a civic conscience through the conveyance of Macao's own culture, imperative for the reinforcement and consolidation of an identity (...);
- (iii) Contribute for the reinforcement of the friendship and solidarity ties with all the people of the world (...); and
- (iv) Promote the development of a democratic and pluralistic spirit, as respecting others and their ideas, open to dialogue and the free exchange of opinions, enriching residents into becoming capable of judging with a critical spirit and to intervene creatively on the problems of the society (...)" (article 3 of Law 11/91/M).

393. These principles are then developed and strengthened in the provisions with reference to pre-primary, primary, secondary and higher education. Therefore, and as an example, pre-school education should "favour the development of ethical concepts, personal interests and creative capacity"; primary school should "provide for the awareness of the reality in Macao and for the

favour of the development of the characteristic values of its identity”; secondary school should “stimulate the interest of students on the problems of the regional life and of the international community in general”; and higher education should “contribute for the international cooperation and approach of the peoples” (articles 5, 8 and 9 of Law 11/91/M and article 2 of Decree-Law 11/91/M).

394. The respect for human rights and fundamental freedoms is enshrined in the Framework Law on Education. Equally relevant is that both human rights and the respect for natural environment occupy a crucial place in the subject “Personal and Social Development” integrated in the school curriculum.

395. All training provided to teachers should guarantee scientific-pedagogical knowledge and skills. It should also integrate a component of personal and social training that is adequate to the curriculum needs of the respective levels of education and schooling. Furthermore, training programmes should be outlined in consonance with the general principles and objectives of the educational system (article 26 of Law 11/91/M).

396. According to article 49 of Law 11/91/M, the administration of educational institutions should allow for the participation of teachers, parents, students and others involved in the educational process.

397. As mentioned above, private education is recognized by the Basic Law and by the Framework Law on Education as a specific expression of the freedom to learn and teach. Private school institutions are free to define, by themselves, their educational project, without disregarding the principles defined by the Framework Law on Education (articles 121 and 122 of the Basic Law and article 2 (3) (b) of Law 11/91/M).

### **C. Leisure, recreation and cultural activities (art. 31)**

398. Access to and participation in cultural activities and demonstrations is a right guaranteed by the Basic Law (art. 37).

399. The principle that curriculum activities should be complemented with actions geared towards the integral formation and personal fulfilment of the students, in order for them to employ creatively and rewardingly their spare time, is enshrined by the Framework Law on Education (article 51 of Law 11/91/M).

400. Activities that complement the curriculum aim at cultural and civic enrichment, physical and sports education, artistic education and integration of the students in the community. With optional attendance, these types of activities are namely of a sportive, leisure, science-technological and artistic character (Nos. 1 and 2 of Order 18/SAAEJ/93). Within this extent, schools offer students activities that complement their curriculums, which are arranged into groups or clubs that are constituted by a minimum of 10 and a maximum of 30 students. Along these lines, sports are conferred a particular importance, since the Framework Law on Education considers it desirable for students to practice sports throughout their time at school. School sports not only aim at promoting physical condition, but also the understanding of sports as a cultural factor, stimulating feelings of solidarity, cooperation, autonomy and creativity.

**Table 41**  
**School sports, by number of participants**

School sports	Year		
	1998/99	1999/2000	2000/01
Sports nucleus	8 310	9 428	10 844
School championships	6 261	6 687	6 594
School "Intersports" - Macao, Hong Kong, Fuzhou, Canton	112	188	228
School representative teams	465	539	673
International tournaments	12	34	32
Other activities to occupy spare time	1 951	2 050	3 011
<b>Total</b>	<b>17 111</b>	<b>18 926</b>	<b>21 382</b>

*Source:* "Education and Training in Numbers", 2000/01, Education and Youth Department.

401. In order to support and encourage participation in sports activities, certain privileges are granted to students who are sports practitioners, relating namely to their school timetable, absenteeism and dates of their evaluation tests (articles 47 et seq. of Decree-Law 67/93/M).

402. There is a considerable number of sports participants in MSAR, especially among the younger age groups, which is reflected in the great number of practitioners registered at the Macao Sports Development Board (MSDB) and the number of local sports associations. MSAR also provides great and modern facilities for the practice of various sports activities.

**Table 42**  
**Number of athletes under 18 years of age, registered at the Macao School Development Board in 2001, by gender and sports activity**

Sports activity	Male	Female	Total
Aikikai	15	12	27
Handball	48	48	96
Archery	15	10	25
Chinese martial arts	696	310	1 006
Track and field	750	750	1 500
Motorcar club <sup>a</sup>	0	0	0
Badminton	64	28	92
Dragon boats <sup>a</sup>	0	0	0
Basketball	1 352	240	1 592
Billiards <sup>a</sup>	0	0	0
Bowling	48	22	70
Boxing	72	10	82
Bridge <sup>a</sup>	0	0	0

**Table 42 (continued)**

Sports activity	Male	Female	Total
Canoeing	126	34	160
Cycling	44	20	64
Dancing	10	114	124
Fencing	61	36	97
Soccer	486	0	486
Mini-soccer	200	0	200
Gateball <sup>a</sup>	0	0	0
Gymnastics (choreographed)	40	45	85
Golf <sup>a</sup>	0	0	0
Chess	270	59	329
Hockey	160	0	160
Judo	1 167	712	1 879
Karate-do	174	62	236
Kendo	5	0	5
Swimming	517	423	940
Skating <sup>a</sup>	0	0	0
Rugby	30	3	33
Squash	135	49	184
Tennis	48	30	78
Table-tennis	458	91	549
Target practice <sup>a</sup>	0	0	0
Triathlon	74	18	92
Sailing	46	19	65
Volleyball	84	192	276
Chinese chess	6	1	7
“Wei Qi” chess	79	38	117

Source: Macao Sports Development Board, May 2002.

<sup>a</sup> There is no calculation based on age done by the sports associations.

**Table 43****Sports facilities in MSAR in 2000 and 2001**

Type of sports facilities	Number of sports facilities	
	2000	2001
Soccer fields	5	5
Mini-soccer fields	3	4
Indoor soccer fields	1	1
Tennis courts	43	45
Hockey fields	2	1
Basketball courts	17	21
Volleyball courts	2	3
Badminton courts	23	33

**Table 43 (continued)**

Type of sports facilities	Number of sports facilities	
	2000	2001
Target-practice fields	4	4
Multi-purpose fields	114	131
Exercise track	13	13
Gymnasiums	0	8
Pavilions	11	15
Swimming pools	49	49
Athletic grounds	3	4
Skating rinks	6	6
Squash courts	14	14
Bowling facilities	22	22
Billiards facilities	13	13
Table tennis facilities	53	62
Bodybuilding facilities	38	42
Sports facilities	48	48
Nautical centres	2	2
Golf fields	1	1
Mini-golf fields	9	9
Gateball	1	3
Remote-control vehicles track	1	1
Karting track	1	1
Multi-purpose facilities	0	3
Beach volleyball	0	5
Motorized sports	0	0
Dance saloons	31	31
Climbing facilities	3	3
Horse-riding tracks	2	2
Others		
Ice skating rink	1	1
Skating rink	2	3
Acrobatic skate slope		
Hac Sá dam aquatic centre	0	1

*Source:* Macao Sports Development Board, May 2002.

403. MSDB, through the coordination of the 50 sports associations, organizes periodically 143 junior championships at the local level. In compliance with the statistical data provided by the sports associations, the number of young athletes participating in sports activities and championships in the year 2000 was 6,868.

404. In the year 2001, MSDB subsidized, for a total of MOP\$ 689,000 the junior selection teams (about 150 registrations) at the participation in 10 junior events as organized by the international, Asian and world federations.

405. For several years, MSDB has introduced the necessary means to assist sports entities in the training of young athletes, namely in the areas of basketball, volleyball, table tennis, badminton, swimming and Chinese martial arts (with a total of around 25,000 registered members). In the year 2001, MSDB subsidized with more than MOP\$ 730,000 the 10 teams of the "Macao Hockey Association" (220 young athletes) for specific hockey training programmes and more than MOP\$ 1,148,000 for the training of 17 teams in under-17 and under-19 divisions of the Macao Football Association (300 young athletes).

406. MSDB annually subsidizes various youth associations in the organization of different types of activities, namely: the "Macao Police Agents Association" in the organization of the *Ursa-Maior de Macao* programme and *Águia em Vôo* (with the participation of 180 youngsters); and the Youth Delinquency Assessment Association for the organization of "O Brotar 2000" with youths from Beijing and Macao showing their development (with the participation of 40 youngsters). By the same token, MSDB grants regular subsidies to young teams for the rental of their facilities, hoping to offer more room for manoeuvre to these youths.

407. Various cultural activities take place in MSAR throughout the year. Other than the Arts Festival and the International Music Festival, there are concerts of classical and modern music, variety shows that count on the participation of local and international groups and artists. Full-time students receive a 50 per cent reduction on tickets fees.

**Table 44**

**Public shows and exhibitions**

Type of show	Number of shows			Attendance		
	1998	1999	2000	1998	1999	2000
Total	8 713	10 280	10 969	479 139	769 704	829 653
Ballet	-	15	18	-	8 848	11 515
Concerts	93	167	210	47 434	121 120	105 015
Operas (variety shows)	75	84	77	131 854	173 146	169 093
Chinese opera	19	59	51	10 305	22 401	19 505
Theatre	52	81	54	12 162	19 336	23 001
Contests	32	42	32 <sup>a</sup>	11 580	10 214	16 511 <sup>a</sup>
Films/shows	8 325	9 525	9 920	177 698	155 410	207 191
Exhibitions	70	111	120	72 798	196 646	237 286
Others	47	196	214	15 308	62 583	40 536

Source: *Yearbook of Statistics, 2000*, Census and Statistics Department.

<sup>a</sup> The data on attendance to 20 contests were not available.

408. In the year 2000, MSAR's Education and Youth Department (EYD) carried out 74 actions specially conceived for the young, which included cultural, recreational and sports activities, art and training courses, counting on the participation of 91,000 youngsters.



**Table 45**

**Recreational cultural activities, by number of participants**

Activities	Year		
	1998/99	1999/2000	2000/01
Cultural nucleus	6 111	5 882	6 994
School competitions	3 930	4 140	4 611
International tournaments	1	1	580
International Dance Festival for Youth	958	-	1 300
Other activities of spare-time occupation	1 509	1 284	252
<b>Total</b>	<b>12 509</b>	<b>11 307</b>	<b>13 737</b>

*Source:* “Education and Training in Numbers”, 2000/01, Education and Youth Department.

409. EYD arranges and supports the creation of spare-time occupational activities along the following parameters, amongst others: energy-release in a free but safe environment; training; personal assertion; promotion of personal/social interaction; promotion of family harmony as the support for a child/youth’s development. Attending to these parameters, EYD organizes recreational, sportive, cultural and artistic activities directly or subsidizes its organization by schools, youth associations and social solidarity organizations.

410. There are various polyvalent spaces, managed by EYD, dedicated to the practice of educational, recreational and cultural activities, which favour the creative and rewarding occupation of spare time of the young, namely: the Barra Youth Centre; the Areia Preta Youth Centre; the Forum Youth Centre; the Caixa Escolar Youth Centre; the Bairro do Hipódromo Centre for Youth Activities; and the Taipa Centre for Educational Activities.

411. During the summer months and coinciding with school holidays, the young of MSAR have at their disposal a series of sports and recreational-cultural activities as an alternative for the occupation of their spare time.

**Table 46**

**Summer activities, by number of participants**

Summer activities	Year		
	1998/99	1999/2000	2000/01
Cultural and recreational	17 431	17 276	19 717
Sports	21 558	16 531	17 444
In schools	8 410	11 987	11 371
In youth associations	2 589	2 343	1 667
Programme for youth activities during summer	210	225	296
Voluntary service programmes	30	42	26
<b>Total</b>	<b>50 228</b>	<b>48 404</b>	<b>50 521</b>

*Source:* “Education and Training in Numbers”, 2000/01, Education and Youth Department.

412. In the months of July and August, EYD and MSDB organize in a joint venture summer activities specially conceived for youths aged between 4 and 21. They are aimed at providing these young people with a healthy occupation of their spare time, encouraging them to get together and creating conditions for the development of their physical, psychological and moral aptitudes.

## **VIII. SPECIAL PROTECTION MEASURES**

### **A. Children in situations of emergency**

#### **1. Refugee children (art. 22)**

413. The Convention relating to the Status of Refugees of 28 July 1951 and its Protocol of 31 January 1967 entered into force for Macao on 26 July 1999 and 27 April 1999, respectively.

414. The Social Welfare Institute is accountable for providing assistance to refugees who arrive in MSAR, through forms of shelter, supplying of various items and the allocation of subsidies.

415. Throughout 1999, 263 Timor refugees were accommodated, and MOP\$ 1,848,579.40 was advanced in the form of subsidies, such as: regular subsidy, transportation subsidy, food subsidy and others. At the time of the reunification, these refugees had already left the Ilha Verde Refugee Camp. In fact, 15 of them settled down in MSAR and the remaining refugees returned to East Timor or went to Portugal.

#### **2. Children in armed conflicts (art. 38), including physical and psychological recovery and social reintegration (art. 39)**

416. In this respect, it should be stressed that the four Geneva Conventions of 12 August 1949 and their two Additional Protocols of 8 June 1977 are applicable to MSAR.

### **B. Children involved with the system of administration of juvenile justice**

#### **1. The administration of juvenile justice (art. 40)**

417. At present, minors under the age of 16 are not criminally responsible in MSAR (article 18 of the Criminal Code).

418. The MSAR law concerning juvenile justice was recently subject to revision. The Statute for Legal Assistance for Minors Overseas, which dated from 1971, was superseded at the end of 1999 by Decree-Law 65/99/M, which approved the educational and the social protection regimes on juvenile justice.

### **Educational regime**

419. Minors aged 12 to 16 who have committed an act that can be qualified as a crime, a misdemeanour or an administrative offence under the law are subjected to the educational regime, and measures will be applied to them depending on their educational needs (article 6 (1) of Decree-Law 65/99/M).
420. The measures applicable to minors have solely an educational character, aiming at the socialization of the child. The judge should choose the most adequate measure on a case-by-case basis, attending to the educational needs of the minor at the moment of its application.
421. The law enumerates the educational measures in an ascending order of restriction of liberty that the application entails, namely: admonition; imposition of specific conducts or duties; educational monitoring; semi-commitment; and commitment (article 7 of Decree-Law 65/99/M).
422. The admonition consists on the solemn reprimand done by the judge to the minor, censuring his/her conduct and urging the minor to correct his/her actions.
423. The imposition of specific conducts or duties may consist of: the obligation of the minor to present apologies to the victims for his/her conduct; compensation for damages caused; the obligation of the minor to pursue school or professional training or, when legally possible, to carry out a professional activity; performance of an activity with a social character and interest; and payment of an amount in cash or in specie to benefit a social institution.
424. The educational monitoring consists on carrying out an individual plan of education embracing the areas established by the court.
425. The commitment measures consist of placing the minor in an educational establishment. Under a semi-commitment measure, the minor takes a school or professional training or, when legally possible, carries out a professional activity at a location outside the educational establishment. In this case, the minor is free to leave the premises without an escort within strictly necessary schedules. In full commitment, the minor is always accompanied, be it outside or inside the educational establishment.
426. Moreover, commitment measures are carried out in accordance with an individual educational plan elaborated by the Minors Institute and comprising the areas determined by the court.
427. Proceedings relating to the educational regime are instituted at the request of the Procurator or through a verbal or written communication by any person. The minor must be presented to the court. Such a presentation can be done through law enforcement bodies. Whenever immediate presentation is impossible, the minor is entrusted to his/her legal representatives or, exceptionally, to an educational establishment, when there are doubts concerning the practice of new acts of analogous nature (article 24 of Decree-Law 65/99/M).

428. Once the minor is presented to the court, the judge can: stop the proceedings; apply an educational measure, should that be possible; free the minor, regardless of the progress of the proceedings; or order the minor to remain under the care of an establishment if doubts over the practice of new acts of a similar nature arise and commitment measures are to be applied (article 25 of Decree-Law 65/99/M).

429. If, immediately or after a brief oral investigation, a judge reaches the conclusion that a minor carried out the acts or that the application of a measure to this minor is necessary, an investigation phase is declared open. Evidence is reduced in written form and may consist of: a hearing for the minor; depositions by the parents, guardian, or by the entity having the minor in custody; social reports; observation of the minor; and information requested from other entities. Whenever the application of a measure is to be considered, the minor must be heard.

430. Once the investigation phase reaches its close, and if the commission of the acts is proven and a non-institutional measure is to be applied to the minor, the court can order for the latter. If the court considers the acts as proven and that a measure of semi-commitment or commitment can be applicable to the minor, the judicial hearing then takes place.

431. The court's decisions regarding the application of measures are appealable by the Procurator, the minor aged 14 or over and the parents, guardian or entity that has the minor in custody or by a lawyer on their behalf (article 39 (2) and (3) of Decree-Law 65/99/M).

432. A lawyer can assist the minor in all phases of the proceedings. The lawyer's intervention is mandatory in the appeal phase.

433. In the proceedings, one of the official languages of MSAR is to be used. When a person who does not understand or command the language has to intervene in the proceedings, an interpreter is then appointed without charges to the said person (article 89 (1) and (2) of the Civil Procedure Code, applicable by virtue of article 41 of Decree-Law 65/99/M).

434. The proceedings have an urgent character (being carried out also during judicial holidays) and are secret (even after being filed).

435. According to information supplied by MSAR's First Instance Court, in the years 1999, 2000 and 2001 the number of minors presented to the court for carrying out offences was 186, 184 and 255, respectively. The most frequent offences carried out by minors were larceny, bodily harm and extortion of other minors. Admonition and educational monitoring were the most applied measures.

### **Social protection regime**

436. The minimum age for the application of the educational regime is 12 years old, since the law considers that a minor under this age does not meet the necessary psychobiological conditions in order to undergo such a regime. Therefore, acts qualified as crimes, misdemeanours or administrative offences when committed by minors aged less than 12 years are covered by the social protection regime, which is equally applicable to minors in situations of danger (e.g., victims of ill-treatment, those abandoned, etc.). Under this regime, the measures applicable to the minor take into account his/her educational and social protection needs.

437. The proceedings regulated in article 77 of Decree-Law 65/99/M are ruled by the relevant provisions of the educational regime, except for a few exceptions.

### **General regime**

438. As was previously mentioned, minors are criminally responsible starting from the age of 16 years and are consequently subject to criminal law should they be accused of having infringed it.

439. The principles of presumption of innocence, non-retroactivity of the criminal law as well as of the procedural swiftness are enshrined in MSAR's legal order. In fact, the Basic Law states that "Macao residents shall not be punished by the law, unless their acts constitute a crime and they shall be punished for it as expressly prescribed by the law at the time. When charged with criminal offences, Macao residents shall enjoy the right to an early court trial and shall be presumed as innocent until convicted" (art. 29).

440. On its own account, the Criminal Procedure Code recognizes that the accused has the following rights, amongst others:

- The right of not replying to the questions posed to him/her concerning the case or to the content of any statement he/she gives regarding the case (art. 50 (1) (c));
- The right to choose and be assisted by counsel in the proceedings and, in case of detention, to be allowed to communicate even in private with counsel (art. 50 (1) (e));
- The right to produce evidence and request evidence that he/she deems to be necessary (art. 50 (1) (f));
- The right to appeal, under the terms of the law, against decisions that have been unfavourable (art. 50 (1) (h)); and
- The right to have free assistance of an interpreter if he/she cannot understand or speak the language used (art. 82).

### **2. Children deprived of their liberty, including any form of detention, imprisonment or placement in custodial settings (art. 37 (b)-(d))**

441. According to MSAR law, deprivation of liberty is always used as a measure of last resort. Moreover, deprivation of liberty for an unspecified period of time is prohibited.

### **Minors who have reached 12 years of age but not 16 years**

442. Concerning the educational regime applicable to minors with ages ranging from 12 to 16 who have committed an act qualified as a crime, a misdemeanour or an administrative offence under the law, the court can only order the minor's entrustment to an educational establishment during the period of the ongoing proceedings when there is a risk that he/she will commit new offences and commitment measures are presumably applicable.

443. The measure of entrustment of the minor to an educational establishment cannot total more than 21 days, except when observation of the minor is carried out through a commitment regime. The measure of observation, having as its goal the understanding and definition of the minor's personality, his/her aptitudes and tendencies and the conditions of the social milieu in which he/she is integrated, has a maximum duration of three months (articles 25 and 31 of Decree-Law 65/99/M).

444. Within the array of measures that can be applied to the minor by the court - admonition, imposition of specific conducts or duties, educational monitoring - commitment is used as a measure of last resort, viable only when other measures do not accurately satisfy the educational needs of the minor (article 7 of Decree-Law 65/99/M).

445. The duration of the minor's commitment at an educational establishment is always determined by a court decision.

446. Commitment measures are always carried out under court supervision. Judicial intervention has, specifically, the following purposes: approval and execution of the individual plan of education; visit to the educational establishment; examination of the minor's complaint; and appreciation of the appeal from disciplinary decisions proffered by the competent bodies of the educational establishment (article 56 of Decree-Law 65/99/M).

447. The judicial decisions that have ordered the application and the execution of commitment measures have a mandatory review at the end of one year, counting from the day of the last decision by the judge. Besides this mandatory review, the law provides for other cases of review, namely when the educational needs of the minor do demand such a review (article 61 of Decree-Law 65/99/M).

448. During the review the judge can, depending on the cases, decide to sustain the measure, replace it with one that is less restrictive of the liberty, reduce its duration or terminate it immediately. In cases of mandatory review, the judicial decision that maintains the reviewed decision is appealable (article 63 (2) of Decree-Law 65/99/M).

449. If commitment or semi-commitment of the minor at an educational establishment is ordered, the measure will be carried out at the Minors Institute (MI), which is an entity under MSAR's Justice Affairs Department.

450. The maximum capacity of the MI is 68 minors, of which 53 can be housed in the boys' chambers and 15 in the girls' chambers. These two chambers operate independently from each other, with separate dormitories, recreational areas as well as studying and training centres. At present, there are 59 minors in the MI (48 males and 11 females). From those, eight males and one female are under semi-commitment, all of them in a normal situation. The rest are under the measure of commitment, of which eight are under observation and the others in a normal situation. There are different sections in each home for minors under different measures.

**Table 47**

**Minors in the Minors Institute according to the measures applied by the court**

	Semi-commitment		Commitment	
	Normal	Observation	Normal	Observation
Male	8	0	34	8
Female	1	0	10	0
Total	9	0	42	8

*Source:* Minors Institute, May 2002.

**Table 48**

**Minors in the Minors Institute by age and gender**

Age	11	12	13	14	15	16	17	18	19	20
Male	0	1	0	12	16	10	6	2	1	0
Female	0	0	0	3	7	0	1	0	0	0

*Source:* Minors Institute, May 2002.

451. The implementation of commitment measures should respect the minor's personality and should be carried out with absolute impartiality, without discrimination founded in ascendancy, gender, race, language, country of origin, religion, political and ideological convictions, instruction, economic situation and social condition (article 2 of Decree-Law 40/94/M, applicable by virtue of article 45 (a) of Decree-Law 65/99/M).

452. The minor is housed in a room with capacity for at least three persons and wears his/her own clothing (articles 46 and 47 of Decree-Law 65/99/M). The minor will be served meals that are adequate to the culture of the community to which he/she belongs and in a sufficient quantity and quality. Breakfast, lunch, dinner and a light refreshment at the evening are served at the Minors Institute.

453. Visiting and correspondence arrangements are regulated in detail in articles 21 to 36 of Decree-Law 40/94/M, applicable by virtue of article 45 (d) of Decree-Law 65/99/M.

454. The minor has the right to receive regular visits, which should not be for a period of less than one hour per week. The director can prohibit visits by minors aged under 16 who are not siblings of the committed minor, as well as persons who endanger the safety and order of the Minors Institute, have a bad influence over the minor or can hamper his/her social reintegration. The visits by the minor's lawyer and other persons considered as having urgent and legitimate interests might be authorized by the director, outside of normal visiting hours or days.

455. Likewise, the director of the Minors Institute can authorize the minor to go out without an escort during weekends, summer holidays and official holidays, in order to visit his/her

parents, tutor or guardian, as long as both parties have given their consent and the return to home reveals to be useful to the minor's educational needs. Minors under the semi-commitment measure can even, upon the director's authorization, eat and stay overnight on weekdays at their parents', tutor's or guardian's home (article 53 of Decree-Law 65/99/M).

456. Mailing and reception of correspondence is permitted but is subject to inspection and censorship under the terms of the law.

457. Regarding religious practice, it should be noted that the minor is free to profess, study and practise his/her faith. MI should ensure the satisfaction of the minor's demands concerning his/her religious, spiritual or moral life, facilitating the adequate means towards that end (article 37 of Decree-Law 40/94/M, applicable by virtue of article 45 (e) of Decree-Law 65/99/M).

458. The minor has the right to receive free and adequate medical treatment for his/her ailments, when these are considered as first-aid care. Furthermore, the minor should undergo frequent and periodic examinations in order to track down any physical or psychological ailment (article 41 of Decree-Law 40/94/M, applicable by virtue of article 45 (f) of Decree-Law 65/99/M).

459. Treatment is carried out whenever possible in the minor's chamber and accordingly in MI's infirmary. In this respect, it is worth referring that there is a clinical treatment room in MI with one part-time doctor and one part-time nurse. Dental service is provided by the clinic at Macao Prison. In more serious cases and upon the doctor's advice the minor would be hospitalized (article 47 of Decree-Law 40/94/M, applicable by virtue of article 45 (f) of Decree-Law 65/99/M).

460. When the minor enters MI, he/she undergoes a meticulous medical examination involving several tests leading to a clinical evaluation. The tests include taking urine and blood samples and a chest X-ray. In addition, all minors are vaccinated against tetanus.

461. The minor has the right to attend the necessary classes for the fulfilment of the compulsory education, as well as to participate in other school activities as organized by the establishment (article 58 (1) of Decree-Law 40/94/M, applicable by virtue of article 45 (g) of Decree-Law 65/99/M).

462. MSAR's Education and Youth Department assists MI in what concerns primary education. A full-time teacher is assigned to the MI to develop teaching programmes supported by a governmental school for all students under primary education. At present, classes from Form 1 to Form 3 are available for secondary school students. Subjects include Chinese, Mandarin, English, mathematics, science, computer science, physical education, and arts and crafts.

463. In the Minors Institute, a small-group strategy is adopted. There are study rooms in each section and the staff assists minors in their studies. MI provides intensive counselling sessions to minors in order to motivate them to return to their studies and to help them in their academic and psychological preparation, as most of them have already dropped out of school for a lengthy period of time.



464. Minors have the right to perform remunerative work, while tasks that go against their dignity, or are especially dangerous or unhealthy cannot be assigned to them. In the selection of work, the intellectual and physical capacities as well as the professional aptness and the aspirations of the minor are considered, along with the activities that the minor can dedicate himself/herself to after the end of the measure (article 51 (4) of Decree-Law 40/94/M, applicable by virtue of article 45 (g) of Decree-Law 65/99/M).

465. Vocational training courses are provided for all minors of the Minors Institute. At present, the following courses are available: electricity, electronics, air-conditioning installation and repair of electrical appliances.

466. Concerning the use of spare time, MI promotes the organization of cultural, recreational and sports activities, namely: listening to music, reading books, magazines and newspapers, TV viewing, the arts workshop, playing table tennis, football and basketball.

467. During festive seasons such as Christmas, MI's staff prepares and conducts cultural activities and parties for the minors. During summer holidays, extracurricular activities outside MI are organized, such as jogging, barbecues, study visits to museums and exhibitions, swimming and other sports activities conducted by the Macao Sports Development Board. Additionally, non-governmental organizations such as *Ser Oriente* (an anti-drug association) and the Pan-Mac Junior Chamber offer recreational, sports or educational activities for the minors.

468. Social service has been introduced to MI since June 2000. MI has a joint programme with the Richmond Fellowship of Macao, which is a well-known non-profit organization whose aim is to provide preventive and aftercare service as well as educational programmes for psychiatric-service users. Several minors have joined their volunteer training programme. Minors have had the opportunity to organize recreational activities for the service users as well as to do volunteer work, such as cleaning municipal parks and fund-raising activities for the organization.

469. Social and family support is provided by social workers and psychologists, whose goal is to study the behaviour of the minors, encourage their rehabilitation, protect their relationship with their families and prepare them for their social reintegration. At present, MI has two social workers and two psychologists working as in-house caseworkers.

470. For minors undergoing the measure of semi-commitment, MI helps them to adapt to their school or working life outside the institute in order to reinforce their self-confidence and social skills so that they can reintegrate into society. Furthermore, social workers go to the minors' schools or working places to follow up and discuss their situation with the school director or the work supervisor. When minors encounter any emotional or social problems, counselling sessions and other kinds of intervention are arranged as early as possible.

471. For minors undergoing the measure of commitment, three main areas of service are provided: vocational and educational counselling; individual or group counselling in accordance with the minor's cognitive, emotional and behavioural problems; and family therapy.

472. Periodically, social workers and psychologists interview the minor's family in order to provide them with therapy. Objectives include: enhancing relationship ties amongst family members; improving communication between family members and supplying them with communication skills; enforcing parental skills; and seeking cooperation with family members for the minor's re-education. In cases where social, economical or housing problems are encountered, MI tries to assist the minor's family by seeking help from the "resources" of the society, such as the Social Welfare Institute, Caritas and MSAR's Housing Department.

473. As to the right to complain and make remarks, the minor can address MI's director, social workers and psychologists to disclose issues that are of his/her interests or related to life at the institute, or to complain about an illegitimate order. Decision over the complaint or remark is taken in the shortest time possible.

474. In the Minor's Institute, almost all complaints received concerned trivial issues about the minor's daily life. Formal complaints have seldom been received. All forms of complaints, however, are handled in a serious manner.

**Table 49**

**Transit of minors in the Minors Institute**

Year	Gender	Minors					
		Variations				Age group	
		Balance as of 1 January	Entered during the year	Released during the year	Balance as of 31 December	14 to 16 years old	Over 16 years old
1998	Male/female	23	10	19	14	8	6
	Male	20	10	16	14	8	6
	Female	3	-	3	-	-	-
1999	Male/female	18	22	14	23	21 <sup>a</sup>	2
	Male	17	19	12	22	20	2
	Female	1	3	2	1	1	-
2000	Male/female	23	29	15	37	30 <sup>b</sup>	7
	Male	22	26	15	33	26	7
	Female	1	3	-	4	4	-

*Source: Yearbook of Statistics, 2000, Census and Statistics Department.*

<sup>a</sup> Includes three minors aged below 14.

<sup>b</sup> Includes seven minors aged below 14.

**Minors aged 16 and over**

475. As previously noted, minors aged 16 and over are criminally responsible and therefore the criminal law is applicable to them.

476. Under article 237 (a) of the Criminal Procedure Code, an individual can only be held in detention for a maximum period of 48 hours within which he/she has to be presented before the judge of criminal instruction for a summary hearing, for interrogation or for the application of a coercive measure.

477. The judge can only order “preventive imprisonment” in cases where there is a strong indication that the accused committed a deliberate offence punishable by imprisonment with a maximum length of over three years and if the other coercive measures set forth in the law are considered to be inadequate or insufficient (article 186 (1) (a) of the Criminal Procedure Code).

478. Furthermore, any person who is held in preventive imprisonment is entitled to a trial within the shortest time possible, as consistent with the right of defence. Once the maximum period for it expires, this measure can no longer be applied and the accused must be freed at once (article 201 of the Criminal Procedure Code).

479. According to criminal law, if there are two alternative penalties that could be applied to a crime, being one restrictive and the other non-restrictive of liberty, the court must only apply the latter (article 64 of the Criminal Code).

480. When inflicting a penalty, the court must take as a mitigating circumstance the fact that the offender was still under 18 years old at the time of the commission of the offence. The penalty for the offence in question is therefore reduced in its maximum and minimum limits. On the other hand, the maximum and minimum limits of a penalty are aggravated by one third if the offender uses a minor under 16 years of age to carry out the offence (articles 66 (2) (f), 67 and 68-A of the Criminal Code).

481. The right to an appeal is an important safeguard of the accused’s defence. This right is subject to extensive regulations in the Criminal Procedure Code and, except in some cases provided for by the law, the accused can always lodge an appeal against a decision. In case of arbitrary or unlawful detention or imprisonment, all persons have the right to apply to the court for the issuance of a writ of habeas corpus (article 28 (2) of the Basic Law).

482. As to the conditions inside the prison establishments, Decree-Law 40/94/M regulates the implementation of measures that deprive minors of their liberty.

483. It is important, however, to stress that once inside the establishment, untried detainees are separated from convicted prisoners. They are housed in separate blocks with absolutely no contact between them. Furthermore, besides being separated according to gender, prisoners are also isolated based on age. Prisoners aged 21 or under do not come into contact with those aged over 21. This is achieved by housing each group in separate blocks (article 7 (1) (2) of Decree-Law 40/94/M).

### **3. The sentencing of children, with particular reference to the prohibition of capital punishment and life imprisonment (art. 37 (a))**

484. As mentioned above, in MSAR there are no capital-punishment nor life-imprisonment sentences. In MSAR’s criminal law, the maximum prison terms are not allowed to exceed 30 years (article 41 of the Criminal Code).

#### **4. Physical and psychological recovery and social reintegration of the child (art. 39)**

485. The Division for Social Reinsertion (DSR), under MSAR's Justice Affairs Department, allocates support for minors in liberty who are either involved in criminal proceedings or are under the educational regime, providing for the creation of temporary shelter conditions and for their labour, education and social reintegration (article 3 (1) of Administrative Regulation 36/2000). For this reason, DSR acts in straight collaboration with the Minors Institute and the Macao Prison Establishment.

486. Two psychologists, two sociologists, eight social workers and one anthropologist are currently working for the DSR. They provide all sorts of assistance to the minors and their families and accompany them throughout their reintegration into family, school or professional life.

487. DSR organizes, amongst other things, various leisure initiatives for the minors under their supervision, such as visits to museums and exhibitions, summer campings and field trips. These initiatives reinforce the friendship ties between the participating minors and broaden their interests. Also, *Caritas de Macau* provides minors with activities to occupy their spare time, through an emphasis on voluntary community service.

488. Regarding professional training, the Protocol celebrated between DSR and the D. Luís Versiglia Centre for Professional Training should be singled out. Within the scope of this Protocol, minors attend training courses in this institution (electronics, joinery, mechanics, etc.) of four to six months' duration. Since January 1999, the date the Protocol was signed, 26 minors have attended these courses.

#### **C. Children in situations of exploitation, including physical and psychological recovery and social reintegration**

##### **1. Economic exploitation of children, including child labour (art. 32)**

489. The policy of employment and labour rights, structured on the basis of Law 4/98/M, provides for the adoption of measures aimed at eradicating child labour. Decree-Law 24/89/M, which governs work relations in MSAR, regulates child labour.

490. The minimum age for admission to employment or work in the private sector is 16 years of age. The employment of minors under the age of 16 but not younger than 14 is exceptionally authorized by law if the physical capacity required for the exercise of the work is previously attested (articles 39 and 42 (1) of Decree-Law 24/89/M).

491. To this purpose, attention should be drawn to the fact that cases of work performed by minors under the age of 16 and detected by the Inspection Division of MSAR's Labour and Employment Department are only sporadic.

492. The admission of minors to employment or work that by its nature or conditions is likely to jeopardize their physical, spiritual or moral development can be prohibited or conditioned. Employers should make available to their employed minors working conditions adequate to their age, in order to prevent any damage to their physical, spiritual and moral development. At least once a year, minors are submitted to regular and periodic physical fitness and health examinations (articles 38, 40 and 42 of Decree-Law 24/89/M).

493. In the event of violation of these stipulations, the Labour and Employment Department can levy fines of up to MOP\$ 12,500. In cases of recurrence, the fine limits are doubled (article 50 of Decree-Law 24/89/M).

494. It is important to stress once again that, according to article 146 of the Criminal Code, putting excessive work loads on minors is a serious crime. The penalty is aggravated when it results in a serious threat to the physical integrity or in the death of the minor: imprisonment is for 2 to 8 years or 5 to 15 years, respectively. Given that the offender's actions deserve to be considered as especially censurable, this crime has a public nature, which means that the criminal proceedings in these cases do not depend on a complaint.

## **2. Drug abuse (art. 33)**

495. MSAR is devoted to the fight against drug dependence, in particular as concerns child consumers.

496. The Single Convention on Narcotic Drugs, of 30 March 1961, the Protocol Amending the Single Convention on Narcotic Drugs, of 25 March 1972, the Convention on Psychotropic Substances, of 21 February 1971 and the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, of 20 December 1988, are applicable to MSAR.

497. Decree-Law 5/91/M establishes as criminal offences the traffic and consumption of narcotic drugs and psychotropic substances, and determines measures to combat drug dependence. Under this Decree-Law, one who, without being authorized to do so, cultivates, produces, manufactures, extracts, prepares, offers, sells, distributes, purchases, gives to or in any title provides to another person, transports, imports, exports narcotic drugs and psychotropic substances shall be punished by imprisonment of 8 to 12 years and a fine of MOP\$ 5,000 to 700,000. This penalty is aggravated by one quarter at its minimum and maximum limits when the substances and prepared concoctions were destined to minors (arts. 8 and 10).

498. On the other hand, whoever induces another person to illicitly use narcotic drugs and psychotropic substances or instigates, in public or private, the use of these substances shall be punished by imprisonment of one to two years and a fine of MOP\$ 2,000 to 225,000. The minimum and maximum limits of this penalty are increased by one third when one of these acts is committed in the disadvantage of the minor (article 16 of Decree-Law 5/91/M).

499. Decree-Law 34/99/M, which regulates the trade and use of narcotic drugs and psychotropic substances, prohibits in its article 41 the supply of narcotic drugs and psychotropic substances to minors. Its violation is punished with a fine of MOP\$ 20,000 to 50,000.

500. Worth noting is that, even though medication containing codeine or dextrometorphan in doses not over 2.5 per cent are not subject to Decree-Law 34/99/M, the health services, following information provided by the emergency room of the public hospital and the judicial police on the abuse by youngsters of these types of medication, has since 1994 put under restrictive control the import, distribution and dispense of medication that contains either codeine or dextrometorphan in any dosage.

501. The Department for the Prevention and Treatment of Drug Dependence (DPTD) of the Social Welfare Institute ensures services in the area of prevention and treatment of drug dependence. This department is chiefly responsible for the planning and execution of the education and dissemination actions for the prevention of drug abuse, other than offering treatment and rehabilitation services. To carry out its functions, DPTD can resort to two sub-units: the Primary Prevention Division and the Treatment and Social Reinsertion Division.

502. The Primary Prevention Division (PPD) is responsible for bringing about programmes for the prevention of the consumption of drugs in school environments, families and the community, as well as to develop awareness and information for children and youths.

503. In the area of primary prevention, a number of seminars, training courses, exhibitions, group activities, competitions, television and radio campaigns and the distribution of leaflets in schools on drug prevention, prevention of medication abuse and rehabilitation from drug dependency have been organized in MSAR. In 1999, 86 seminars were conducted on the prevention of abuse of medication, directed towards schools, families and public services. This included the participation of 6,736 persons. In addition, nine exhibitions were organized in two primary schools, three secondary schools, three technical schools and in a special-education school intended to make youngsters aware of the forms of preventing drug consumption.

504. The International Day against Drug Abuse and Illicit Trafficking is duly signalled every year in MSAR. In 2001, the "Walk Against Drug and Drug Addicts Support" was organized to commemorate that day, together with exhibitions, game tents and shows against drugs.

505. Notably, and to this end, the Healthy Lifestyle Programme course organized in September 2000 and directed towards students aged between 5 to 12, is worth a mention. Through the use of advanced didactic material and an innovative form of instruction, this course has as its objective to incite in the children knowledge on the correct handling of medication and the dangers deriving from its abuse. It had the participation of 3,469 students and 142 teachers from 14 schools.

506. PPD also ensures the operation of facilities directed towards the prevention of drug dependence, namely the Youth Community Centre. This centre aims at creating, in a healthy manner, a gathering place and spare-time opportunities, thus promoting behaviours and attitudes that aid youths at resisting pressures. This permits them to acquire the necessary knowledge to cope with the trials of life. As such, this centre has at its disposal various rooms for meetings, theatrical performances, computer science, recording, music, dance, cinema, multifunctional recreation and a photographic dark room.

507. In the extent of its functions, PPD also guarantees the operation of a 24-hour hotline service, which offers information and explanations on the drug issue. In the year 2000, 102 calls were received.

508. In its turn, the Treatment and Social Reinsertion Division (TSRD) is responsible for offering detoxification and rehabilitation services, especially through its External Consultation Centre.

509. At the External Consultation Centre, counselling is provided by social workers while psychologists, psychiatrists and qualified nurses also offer assistance. A treatment plan is elaborated for each drug user and this is complemented by certain forms of therapy, such as “moral detoxification”, reinforcement of the intention of detoxification, medical treatment and training for social reintegration. After the treatment has been concluded, the centre continues to offer to the former drug-user assistance for his/her social reinsertion. This centre started to operate in October 1991; in 2001 it offered detoxification services to 255 patients.

510. In addition, a 24-hour hotline was created at the end of 1999 to people undergoing detoxification and their respective families, which registered 2,417 requests for information in the year 2001.

511. In the extent of treatment and rehabilitation, MSAR’s Health Services have collaborated with TSRD in the laboratory sampling of drug users who were attended to by the External Consultation Centre, and have put at their disposal psychiatrists to assist them with therapy treatment. Equally, there are in MSAR six private institutions with direct intervention in offering detoxification services (for men and women), namely: Youth Challenge, Christian New Life Fellowship of Macao, House of Promise, Jesus Family Association and *Ser Oriente*. In 2001, these institutions offered services to a total of 145 persons, 66 of whom had registered for the first time.

512. The Social Welfare Institute (SWI) grants financial support to these private detoxification institutions and associations. In the year 2001, a total sum of MOP\$ 2,500,268 was awarded as subsidies. Other than that, TSRD offers concrete technical orientation, staff training, legal counselling and, in a broader sense, ensures the efficiency and quality of its services.

513. MSAR’s health services also provide support to private institutions connected to the prevention and treatment of drug dependence, within the domain of HIV awareness and of various infectious diseases.

514. The *Casa de Reabilitação* is a rehabilitation centre operated by a private institution that provides assistance to former drug users who are not yet capable of returning to their family life or to society. A semi-residential regime is provided to these people with the duration of six months, which aims, through a series of activities and training courses, to prevent their relapse and assist them in the first phase of their social reintegration. The quarters, technical and financial resources of the *Casa de Reabilitação* are provided by SWI.

515. According to information supplied by SWI, in the last three years (1999, 2000 and October 2001) there were no reported cases of minors under 16 years of age resorting voluntarily to the services of the External Consultation Centre and other private detoxification institutions.

In these three years, and amongst youngsters aged 16 to 21, SWI registered: 17 cases at the External Consultation Centre and 17 cases in private detoxification institutions. Of the 17 cases registered at that Centre, 94 per cent were male and their place of origin was Macao or mainland China. The majority was addicted to heroin administered through the nose, while 24 per cent was administered intravenously.

### **3. Sexual exploitation and sexual abuse (art. 34)**

516. The Criminal Code dedicates an entire chapter to sexual crimes. This chapter is divided into three sections: section I refers to crimes against sexual freedom; section II concerns crimes against sexual self-determination; and section III covers common provisions that pertain to previous sections.

517. Within section I, the classification of crimes was not specifically established according to the victim's age, even though it constitutes ground for the aggravation of the penalty. Thus, sexual coercion, rape and non-consensual artificial procreation, which constitute crimes when committed against an adult, are considered as aggravated crimes when the victim is under 14 years old. In this section, the crime of sexual abuse of a hospitalized person should be emphasized since it is also applicable to minors confined at an establishment for serving penalties of deprivation of liberty, hospital, asylum, clinic or other establishments that provide assistance or treatment, as well as at an educational establishment (art. 160).

518. Section II provides for a special category of crimes - crimes against sexual self-determination - that aim at punishing certain acts that only constitute crime due to the circumstance in which they were carried out with or in relation to a minor. An important element of the crime is the child's age. The crimes that are comprised in this section are: sexual abuse of children (art. 166), sexual abuse of pupil and dependants (art. 167), statutory rape (art. 168), sexual act with minors (art. 169) and procurement of minors (art. 170).

519. Sexual intercourse or anal coitus with a minor under 14 years of age is punishable by imprisonment of 3 to 10 years. Sexual intercourse or anal coitus with a minor aged between 14 and 16 is punishable with up to four years' of imprisonment if the perpetrator has engaged in such an act by taking advantage of the minor's inexperience (arts. 166 (3) and 168).

520. Whoever practices a sexually related act<sup>3</sup> with or on a minor under the age of 14, or leads the minor to practise it with him/her or with someone else, shall be punished by imprisonment of one to eight years. The same penalty is applied to one who practices a sexually related act in the presence of a minor under the age of 14 and directly related with the minor. If the sexually related act is performed with a minor aged between 14 to 16, thus profiting from his/her lack of experience, or if the victim is led to perform such an act with another person, the perpetrator shall be punished by imprisonment of up to three years (arts. 166 (1), (2) and 169).

521. One who: (a) practices exhibitionistic acts of a sexual nature in the presence of a minor aged under 14; or (b) interacts with a minor under 14 years old through means of an obscene conversation or of a pornographic writing, demonstration or object, or who uses the minor in pornographic photography, film or recording, is punished by imprisonment of up to three years. If the acts were committed with a profit-making intent, the penalty is of one to five years of imprisonment (art. 166 (4) and (5)).



522. Sexual abuse of pupils and dependants (between 14 and 16 or between 16 and 18 years old, whether or not the perpetrator is abusing his/her role or relationship with the victim) is punished by imprisonment that ranges from one to eight years, except for those acts described in paragraph 521 above, in which penalties are up to one year of imprisonment if it does not carry a lucrative intention or up to three years if this intention exists (art. 167).

523. The procurement of minors is also provided for and punished under article 170. According to this article, one who fosters, promotes or facilitates child prostitution or the practice by a minor of sexually related acts shall be punished by imprisonment of one to five years. If the victim is under the age of 14 or if the perpetrator uses violence, serious threats, trickery or fraud, or engages in procurement as a way of life or for profit, then imprisonment is for 2 to 10 years.

524. In all the crimes referred to in the previous paragraphs, the penalties are increased by one third at both its minimum and maximum limits if the victim is a descendant, adopted or relative up to the second degree of the perpetrator, or is under his/her guardianship or curatorship (art. 171 (1) (a)).

525. In addition, whoever is convicted of any of these sexual crimes may be inhibited from exercising parental authority, guardianship or curatorship for a period of two to five years, given the specific seriousness of the act and its connection with the role played by the perpetrator (art. 173).

526. By rule, the criminal proceedings for these sorts of crimes depend on the lodging of a complaint, except if the crime results in suicide or in the victim's death. However, when the victim is under 12 years of age, the Procurator shall initiate the proceedings if special reasons of public interest so require (art. 172).

**Table 50**

**Sexual acts against minors as registered by the MSAR police**

Type of crime	1997	1998	1999
Sexual abuse of children	8	5	1
Sexual abuse of pupils and dependent minors	-	-	-

**4. Sale, trafficking and abduction (art. 35)**

**Sale and trafficking of children**

527. Regardless of age, the sale, transfer or purchase of a human being is illicit and void. When done to reduce the human being to slavery, the act is punishable by imprisonment of 10 to 20 years (article 153 of the Criminal Code).

528. In addition, one who, in order to satisfy the interests of another, seeks to obtain, suborn, seduce, or divert a person for the practice of prostitution in another country or territory, even if the various acts that are constituents of the infraction have been performed in different countries or territories, shall be punished by imprisonment of two to eight years. The penalty is increased

by one third either at its minimum and maximum limits when the victim is a minor. If the victim is under 14 years of age, this crime shall be punished by imprisonment of 5 to 15 years (article 7 of Law 6/97/M of 30 July).

529. So far, no cases of international trafficking of children have been reported or known in MSAR. Nor have there been any complaints either from residents or foreigners regarding the disappearance of children for the purposes of suspected sale or trafficking.

### **Abduction**

530. According to the Criminal Code, abduction is punishable by imprisonment for up to five years (art. 152). The unlawful retention of the minor also constitutes a specific crime.

531. Moreover, anyone who, by violence, threat or trickery kidnaps another person with the intention to submit the victim to extortion; commit a crime against the sexual freedom or self-determination of the victim; obtain a ransom or compensation; or coerce a public authority or a third person to an act of omission or to tolerate an activity, shall be punished by imprisonment of 3 to 10 years. If the kidnapping results in the victim's death, the perpetrator shall be punished by imprisonment of 10 to 20 years. In addition, if the victim is under the age of 16 or is unable to defend him/herself or to resist to the kidnapper, the penalties shall be aggravated by one third at its minimum and maximum limits (article 154 of the Criminal Code).

532. The Hague Convention on the Civil Aspects of International Child Abduction is applicable to MSAR.

### **5. Other forms of exploitation (art. 36)**

532. Beggary does not constitute an alarming phenomenon in MSAR. In the year 1999, only two cases of exploitation of children for the purpose of begging were detected, as perpetrated by non-residents who used their children as beggars. The police arrested the offenders and, as they were illegal immigrants, they were expelled from Macao.

### **Notes**

<sup>1</sup> By letter of notification deposited with the Secretary-General of the United Nations on 27 April 1999, the Government of the Republic of Portugal extended the Convention to Macao. On 19 October 1999, the Government of the People's Republic of China notified the Secretary-General on its assumption of the responsibility for the international obligations arising from the application of the Convention to the MSAR. The text of the Convention was published in the *Macao Official Gazette*, No. 37, of 14 September 1998.

<sup>2</sup> These table are in conformity with the World Health Regulations and international treaties on drug substances.

<sup>3</sup> Sexually related act covers any abusive act of sexual nature, excluding intercourse and anal coitus.