



ngo group for the crc

STATE PARTY EXAMINATION OF MACAO'S SECOND PERIODIC REPORTS

40TH SESSION OF THE COMMITTEE ON THE RIGHTS OF THE CHILD

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The People's Republic of China (China) ratified the Convention on the Rights of the Child (CRC) in 1992. It presented its Initial Report to the Committee in 1996. On agreement with the Government of Portugal, the Convention was extended to apply to Macao Special Administrative Region (SAR) in 1999. On 19 and 20 September 2005, the Committee on the Rights of the Child (the Committee) examined China's (including Hong Kong) Second Periodic Report. The delegation from Macao SAR consisted of nine representatives and was headed by Mr Jorge Costa Oliveira.

Opening Comments

Costa Oliveira referred to a number of different provisions in the region's Basic Law and other legislation explicitly covering the principles of non-discrimination, the best interests of the child as a primary consideration, the child's inherent right to life and the State's obligation to ensure its survival and development, and children's right to express their views. He noted the effective implementation of the CRC but acknowledged that there was room for improvement. Macao hoped to further extend the duration of free education from ten to twelve years to include pre-primary education, improve rehabilitation for children with disabilities in cooperation with NGOs so as to raise their capacity for independent living, revise the legal framework for adoption, and draft a new law on pornographic materials.

The country rapporteurs were Ms Lee, Ms Katthab and Mr Krappmann. One of the country rapporteurs noted that the Report listed various laws; some without any particular reference to children, and that although there was a general framework of civil and legal rights protecting citizens, the region did not fully conform to the CRC.

Domestic Legislation and the CRC

The Committee noted the contradiction between the statement that there were no inconsistencies between domestic legislation and the CRC and other parts of the Report pointing to differences between the two. The delegation responded that the error was in the French version of the Report: the original version in English stated that there were no major inconsistencies.

The delegation explained the difficulties with regard to providing accurate judicial data. There were no specific cases in which the CRC had been invoked due to the abundant domestic legislation. The latter was usually invoked rather than the CRC.

Information and Awareness

The delegation acknowledged the need for wide dissemination of the CRC, but maintained that there was a reasonable level of awareness in Macao. Measures to increase the awareness of journalists were covered in the Report. A centre for legal training provided immediate training activities in the event of new legislation to raise the awareness of citizens including families and children. Specific publications and brochures were produced that were aimed at schools, as well as programmes including cooperation with the European Union to increase "legal awareness".

Data Collection

The delegation agreed that the data collection system needed to be strengthened.

Coordination and Monitoring

The Committee asked if there was a body responsible for the coordination of policies regarding children. The delegation explained there was no single body but that it was not necessary in a small region with few problems of coordination between the four or five government departments. The prospect of creating a national plan of action was currently under discussion, as was the possibility of establishing mechanisms for the supervision and monitoring of rights in accordance with the CRC.

The Committee enquired about the role of the Youth Council. The delegation explained that it was an advisory body consisting of government representatives, youth associations, and NGOs (17 of the 23 members were NGOs). Its purpose was to define the law related to youth and provide opinions and recommendations on youth policy and on various youth-oriented activities and plans. Ad hoc working groups were set up to carry out studies and systematically follow-up. The system was performing well, playing a positive role in promoting work in the area of youth.

Definition of the Child

The Committee asked about the stipulation that younger children might be able to marry if they exhibited sufficient "physical and mental maturity". The delegation explained that the minimum age for marriage was 16. Children in the age group 16-18 could marry with the consent of their parents or legal guardian. In the absence of such consent, the child could ask the court to overrule the parents' refusal and grant permission for marriage.

Health

The Committee noted that Macao had good mortality and vaccination rates. The delegation pointed out that the Health Bureau had for the past 20 years provided free health care for new-born babies until they reached the age of 12.

The Committee asked what was done about chickenpox. The delegation noted that there was an increase in the incidence of chickenpox, partly as a result of the small size of the territory and the spread of the disease through children who were often placed in nurseries from the age of two.

In terms of mental health, the Committee asked for data and whether there were targeted programmes for adolescents. The delegation stated that there were 102 individuals with mental disorders in 2004.

The delegation enquired what was meant by the "local customs" which led to breastfeeding ending after a few months. The delegation explained that women traditionally breastfed their children but increasingly used powdered milk during the 1990s as a greater number of women went to work. Marketing of powdered milk and a misunderstanding of the benefits of breastfeeding led to a reduction in breastfeeding. Since 1994, however, breastfeeding was promoted in response to the WHO's requirements, and in 2001 a group was established to advocate breastfeeding.

HIV/AIDS

The Committee noted that there had been no cases of HIV/AIDS in previous years but asked if awareness among youths was being maintained. The delegation stated that prevention work had been very successful, including prenatal examinations giving every pregnant or fertile woman free screening as well as providing information in schools. In 1991, one child died of HIV at the age of six months. Before 2000, two children had HIV transmitted from their mothers. The disease was now under control.

Abuse of Drugs

The Committee asked for up-to-date information on the problem of drug abuse, noting that the approach seemed to be more repressive than educational and asking about the institutions and treatment for drug addicts. The delegation stated that alcohol consumption was a far more serious problem and cooperation was underway with NGOs and all levels of government. Compulsory treatment could only be ordered by a court if a crime had been committed. There were centres for the voluntary treatment of young people receiving financial and other forms of support from the government.

Alternative Care

Children separated from their parents were kept in an environment similar to that of the family, in small-sized home care. The possibility of foster care was also explored.

Education

The Committee noted that almost all children attended school from pre-school to secondary school but was concerned that only 83 per cent completed primary school and 68 per cent completed compulsory secondary school. The delegation explained that the length of free compulsory education would be extended from ten to twelve years, pending the implementation of the amended law. There would be further consideration of perhaps extending this to cover all secondary education. In 1996, 99.5 per cent of children aged 6-16 were enrolled in school. The lower completion rate was a result of children repeating school and a great deal of mobility. Macao was working to improve the quality of schooling, trying to reduce the number of students in a class and providing more financial resources to train teachers.

The Committee noted that there was little information about vocational training and enquired about the preparation for the labour market. The delegation explained that there were classes conducted in public institutions to help children master the skills required for particular professions as well as technical schools and schools for vocational training. Technical schools were managed by administrative organs and specialised in particular activities, while vocational schools were managed by labour organs to better satisfy the demands of the labour market.

The Committee asked for more information on bullying and other aggressive acts in schools. The delegation admitted the slight increase in the number of cases involving physical injury, with around 120 cases of physical injury in schools and neighbourhoods usually connected with theft. The focus was on prevention rather than cure. There was education for students to learn values, training activities to enhance the awareness of teachers about measures to prevent violence and to handling cases once they occurred, as well as larger-scale, community-based activities for parents. Special advisors had also been set up in schools.

The Committee noted that pre-school education existed for children from the age of three months and enquired about provisions for non-government employees without three months' maternity leave. The delegation noted that Macao remained committed to ILO Convention 183 but acknowledged the discrepancy between the private and public sectors. Measures were needed within the general framework of individual labour contracts. The process suffered from the usual search for consensus among different sectors of the community and was therefore delayed.

Primary Consideration of the Best Interest of the Child

The delegation noted that the principle of the primary consideration of the best interest of the child ran through all legislation. There was no children's ombudsman but the delegation pointed out that Macao was a young SAR with new institutional bodies and there had not yet been any decision taken on this matter.

Refugees, Migrants, and Asylum Seekers, and the Right of Abode

The Committee noted that there was no information on refugee and asylum-seeker children. The delegation explained that the authorities had created a separate quota of 400 persons per month in 2000 as well as an official channel for the confirmation of eligibility. The delegation noted that developments had so far been quite satisfactory. Measures were taken to enhance coordination, and there were only a small number of cases of problems with the assessment of eligibility. Around half a million migrants were living in Macao, with 63 per cent having been reunited with their family.

Freedom of Religion

The Committee asked about legislation regarding the child's freedom of religion. The delegation declared that the principle was clearly stated in the Civil Code, with parents deciding on the religious education of children until the age of 16. More than 90 per cent of Macao's schools were private. In schools belonging to a particular religious entity, classes were provided on religious teachings and parents or children if older than 16 could ask to waive such classes. If the school did not belong to a particular entity, parents had to specifically request religious teaching.

Freedom of Association

The Committee asked how the legislation on associations worked in practice and enquired about the role of civil society in promoting and protecting the rights under the CRC. The delegation explained that no a priori authorisation was required to set up an association and that civil society was very active. Associations had to register with authorities, but this was not a measure of control. Instead it provided information on which organisations existed, for example, to calculate the number of votes in "indirect constituencies". The government worked closely with these associations but the delegation declared that the largest amount of work regarding the dissemination of information on the rights of the child was carried out by the government.

Juvenile Justice

The Committee noted that the possibility of a 30-year sentence for children of age 16-18 was a concern. The delegation explained that the minimum age of criminal responsibility was 16. For children in the age group 16-18, there could be special mitigating circumstances and the age of the

offender would be taken into account in giving a sentence. Those under the age of 12 would be disciplined by a regime of social protection and education if 12-16. The emphasis was on protection and re-education, with counselling, supervision, and other guidance to assist with reintegration into society. Institutionalisation was always the last resort. A law reform consultation paper had been presented to the public in April 2005 on the possible reform of the education regime, involving a proposal to introduce alternative measures to avoid the stigma attached to a young offender. The reform process, which was in its last stage, would hopefully be approved by the legislative council by the end of 2005 and would provide an observation centre, a probation centre, and a reformatory centre.

There were no specialised courts for family issues, although this issue had been discussed over the past two or three years.

Child Abuse and Neglect

The Committee enquired about the system of reporting cases of child abuse in the family and the regulations in place for such cases. The delegation explained that a number of entities could receive complaints. Reporting was mandatory for any civil servant with knowledge of a case of child abuse. Cases were reported to the police by various social welfare institutes, hospitals, and other public entities. Macao had followed the example of Hong Kong in cooperating with NGOs, providing training for personnel, an information campaign, and a further reporting mechanism. Institutions involved in the care of children needed a licence and were placed under supervision, while the personnel in such institutions required the necessary technical qualifications and training.

Child Labour

The Committee noted that the provision for children as young as 14 to be permitted to work if they possessed adequate "physical capacity" was not fully consistent with ILO Convention 138. With regard to Convention 182, the Committee asked about children under the age of 16 being allowed to engage in employment despite the existence of a threat to their physical health. The delegation explained that minors aged 14-18 could be employed according to the law if their physical capacity was attested by a doctor. With regard to hazardous work, Macao was compliant with the ILO conventions and children were not allowed to engage in any employment if it could jeopardise their moral, spiritual, physical, or other development.

Concluding Remarks

The head of the delegation reaffirmed that the principles of the CRC were embedded in Macao's legal system. He noted that delays with regard to adopting various international treaties were a result of the need to change domestic legislation, and welcomed the Committee's suggestions and a continuing dialogue.