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2020 Country Report on Human Rights Practices: China (Macau)

EXECUTIVE SUMMARY

ANNOUNCEMENT: The Department of State will release an addendum to this report in mid 2021 that expands the subsection on Women in Section 6 to include a broader range of issues related to reproductive rights.

Macau is a Special Administrative Region of the People’s Republic of China. In 2017 residents elected 14 representatives to its Legislative Assembly. In accordance with the law, limited franchise functional constituencies elected 12 representatives, and the chief executive nominated the remaining seven. In August 2019 a 400-member election committee selected Ho Iat-seng to serve a five-year term as chief executive.

The Secretariat for Security oversees the Public Security Police, which has responsibility for general law enforcement, and the Judiciary Police, which has responsibility for criminal investigations. Civilian authorities maintained effective control over the security forces. Members of the security forces committed isolated abuses.

Significant human rights issues included: interference with the rights of peaceful assembly; restrictions on political participation; and trafficking in persons.

The government took steps to prosecute and punish officials who committed human rights abuses.

Section 1. Respect for the Integrity of the Person, Including Freedom from:

a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings

There were no reports the government or its agents committed arbitrary or unlawful killings.

b. Disappearance

There were no reports of disappearances by or on behalf of government authorities.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and there were no reports that government officials employed them.

Impunity was not a significant problem in the security forces.

Prison and Detention Center Conditions

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions or inmate abuse.

Administration: The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of alleged deficiencies. Judges and prosecutors visited prisons at least once a month to hear prisoner complaints.

Independent Monitoring: The government permits monitoring by independent nongovernmental observers. According to the government, no independent human rights observers requested or made any visit to the prison in the Special Administrative Region (SAR).

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention and provides for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements. To supplement its 2009 National Security Law, improve external communications about national security, and promote law enforcement, in October the government developed new national security operations composed of four divisions: the

National Security Information Division, National Security Crime Investigation Division, National Security Action Support Division, and National Security Affairs Integrated Service Division. The units are to participate in the chief executive-chaired National Security Commission’s policy research and legislative work. Opposition groups expressed concern that the government’s new divisions mirrored those mandated by the June Hong Kong National Security Law, which threatened freedom of expression under the umbrella of criminalizing secession, subversion, terrorism, and collusion with foreign or external forces.

Arrest Procedures and Treatment of Detainees

Authorities detained persons with warrants issued by a duly authorized official based on sufficient evidence. Detainees had access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees had prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. Authorities informed detainees promptly of charges against them. The examining judge, who conducts a pretrial inquiry in criminal cases, has wide powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. Investigations by the prosecuting attorney should end with charges or dismissal within eight months, or six months when the defendant is in detention. The pretrial inquiry stage must conclude within four months, or two months if the defendant is in detention. By law the maximum limits for pretrial detention range from six months to three years, depending on the charges and progress of the judicial process; there were no reported cases of lengthy pretrial detentions. There is a functioning bail system. Complaints of police mistreatment may be made to the Macau Security Forces and Services Disciplinary Supervisory Committee, the Commission against Corruption, or the Office of the Secretary for Security. The Macau Security Forces and Services Disciplinary Supervisory Committee reports directly to the chief executive. The government also had a website for receiving named or anonymous complaints about irregular police activity or behavior.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence and impartiality.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. A case may be presided over by one judge or a group of judges, depending on the type of crime and the maximum penalty involved.

Under the law defendants enjoy a presumption of innocence and have a right to appeal. The law provides that trials be public except when the court rules otherwise to “safeguard the dignity of persons, public morality, or to provide for the normal functioning of the court.” Defendants have the right to be informed promptly and in detail of the charges (with free interpretation), be present at their trials, confront witnesses, have adequate time to prepare a defense, not be compelled to testify or confess guilt, and consult with an attorney in a timely manner. The government provides public attorneys for those financially incapable of engaging lawyers or paying expenses of proceedings.

The SAR’s unique civil-code judicial system derives from the Portuguese legal system. The courts may rule on matters that are the responsibility of the government of the People’s Republic of China or concern the relationship between central authorities and the SAR, but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of the relevant provisions from the National People’s Congress Standing Committee. The Basic Law requires that courts follow the standing committee’s interpretations when cases intersect with central government jurisdiction, although judgments previously rendered are not affected, and when the standing committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, “shall follow the interpretation of the Standing Committee.” As the final interpreter of the Basic Law, the standing committee also has the power to initiate interpretations of the Basic Law.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters, and citizens have access to a court to bring lawsuits seeking damages for a human rights violation.

f. Arbitrary or Unlawful Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions. New facial recognition capabilities were added to the public surveillance system, raising concerns among lawyers and prodemocracy legislators that the capabilities would reach beyond the legal scope. Prodemocracy advocates warned that the system may deter political activities.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, including for the Press

The law provides for freedom of expression, including for the press, but the government sometimes restricted this right.

Freedom of Speech: An amended law criminalizes some actions that disrespect the Chinese national anthem. In September the Legislative Assembly adopted a civil protection law, which criminalizes creating and spreading rumors with the intention to cause public unrest. Four lawmakers and others who opposed the law expressed concerns that it could restrict freedom of expression and speech.

Freedom of Press and Media, Including Online Media: Local media expressed a wide range of views, but the government took steps to restrict unfavorable news coverage. In March the Chinese government expelled journalists with three foreign news organizations from mainland China and prevented them from working in Hong Kong and Macau, prompting local media in both regions to express concern. In response the Macau Portuguese and English Press Association requested clarification of the journalists’ activities and the two territories’ inclusion in the ban to ensure that press freedom was upheld, as guaranteed by the Basic Law.

In October an international press exhibition with photographs of the 2019 Hong Kong prodemocracy protests was scheduled to run for three weeks in a local park but closed more than a week early without explanation. The early closure prompted speculation of political pressure that the Macau Portuguese and English Press Association said would be “a serious and worrying incident that signals an erosion of freedom of expression.”

Censorship or Content Restrictions: Media sometimes practiced self-censorship, in part because the government subsidized some media outlets.

Libel/Slander Laws: The SAR criminalizes libel, slander, and defamation. If such offenses are committed through the media or online, they are punishable by up to two years’ imprisonment.

Internet Freedom

The government did not restrict or disrupt access to the internet or censor online content. Law enforcement entities may intercept communications under judicial supervision; there were no credible reports that the government monitored private online communications without appropriate legal authority.

Academic Freedom and Cultural Events

In January the Education and Youth Affairs Bureau director, according to media reports, stated that when discussing political unrest in Hong Kong, teachers should encourage diverse and objective analysis, rather than personal political views. Academics also reportedly practiced self-censorship.

b. Freedoms of Peaceful Assembly and Association

The law provides for the freedoms of peaceful assembly and association, but the government limited the freedom of peaceful assembly.

Freedom of Peaceful Assembly

The law requires prior notification, but not approval, of demonstrations involving public roads, public places, or places open to the public. Police may redirect demonstration marching routes, but organizers have the right to challenge such decisions in court. Civil rights advocates alleged that the conditions for assembly had become more restrictive due to procedural hurdles, including disallowing assemblies, recording protesters at close range, and detaining potential participants at protest sites. In May, SAR police disallowed an annual Tiananmen Square vigil, citing COVID-19 pandemic concerns, despite not having new cases in 42 days. Reacting to the first ban on the annual Tiananmen Square June vigil, which had been held for 30 years, opposition groups contended the government was “using administrative means to suppress freedom of expression and minimize the space for the civil society.”

Freedom of Association

The law provides for freedom of association, and the government generally respected this right. No authorization is required to form an association, and the only restrictions on forming an organization are that it not promote racial discrimination, violence, crime, or disruption of public order, or be military or paramilitary in nature.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

d. Freedom of Movement

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

The law grants police authority to deport or deny entry to nonresidents whom they regard under the law as unwelcome, a threat to internal security and stability, or possibly implicated in transnational crimes. As of October freedom of movement was restricted due to COVID-19-related border closures, but there were no reports authorities used the restrictions for other than public health concerns.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

The government communicated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations regarding the few applicants for refugee or asylum status.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Persons granted refugee status would ultimately enjoy the same rights as other SAR residents.

Pending final decisions on their asylum claims, the government registered asylum seekers and provided protection against their expulsion or return to their countries of origin. There were few applicants for refugee or asylum status and no successful applicants. Persons with pending applications were eligible to receive government support, including basic needs such as housing, medical care, and education for children, but they were not allowed to work until their refugee status was granted.

Section 3. Freedom to Participate in the Political Process

The law limits voters' ability to change their government through free and fair periodic elections because there was no universal suffrage in elections for the majority of elected positions. Only a small fraction of citizens played a role in the selection of the chief executive, who was chosen in August 2019 by a 400-member election committee consisting partially of 344 members elected from four broad societal sectors: the industrial, commercial, and financial sectors; the cultural, educational, and professional sectors; the sports sector; and labor, social services, religious, and other sectors. The remaining 56 members were chosen from and by the SAR's legislators and representatives to the National People's Congress and the Chinese People's Political Consultative Conference.

Elections and Political Participation

Recent Elections: In August 2019 a 400-member election committee selected Ho Iat-seng to be chief executive. Ho was unopposed and received 98 percent of the vote. The most recent general election for the 14 directly elected seats in the 33-member Legislative Assembly occurred in 2017, with all Macau voters able to vote for candidate lists and seats, which were then allocated based on a proportional representation system. The election for these seats was generally free and fair. There were no reports of the government unduly restricting the list of candidates. In accordance with the law, limited franchise functional constituencies, which represent individual industries and social sectors, elected 12 Legislative Assembly representatives, and the chief executive appointed the remaining seven.

Political Parties and Political Participation: The SAR has no laws on political parties. Politically active groups registered as societies or limited liability companies were active in promoting their political agendas. Those critical of the government generally did not face restrictions, but persons seeking elected office must swear to uphold the Basic Law. Prodemocracy organizations criticized the chief executive election process as unrepresentative and undemocratic, as more than half of the legislature and the municipal districts were not directly elected.

Participation of Women and Members of Minority Groups: No laws limit participation of women and members of minority groups in the political process, and they did participate. Six of the 33 Legislative Assembly members were women.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for official corruption, and the government generally implemented the law effectively. There were no reports of government corruption during the year.

Corruption: The government's Commission against Corruption investigated the public and private sectors and had the power to arrest and detain suspects. The Ombudsman Bureau within the commission reviewed complaints of mismanagement or abuse by the commission. An independent monitoring committee outside the commission accepted and reviewed complaints about commission personnel. In December a commission investigation found no government "illegalities or maladministration" in the reclamation of 74 idle land parcels in previous years but stated the previous Land, Public Works, and Transport Bureau management had failed to inspect and monitor concessionaires' compliance with provisional contracts for those parcels.

Financial Disclosure: By law the chief executive, judges, members of the Legislative Assembly and Executive Council, and executive agency directors must disclose their financial interests upon appointment, promotion, retirement, and at five-year intervals while encumbering the same position. The information is available to the public on the website of the Macau courts. The law states that if the information contained in the declaration is intentionally incorrect, the declarant shall be liable to a maximum imprisonment of three years or a minimum fine equal to six months' remuneration of the position held. Furthermore, the declarant may be prohibited from appointment to public office or performing public duties for a maximum of 10 years.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

Domestic and international groups monitoring human rights generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were somewhat cooperative and responsive to their views.

Section 6. Discrimination, Societal Abuses, and Trafficking in Persons

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and domestic violence, but the domestic-violence law does not cover same-sex couples. The rate of investigation for domestic-violence cases was low, with police initiating investigations in only 17 of the 107 cases of domestic violence reported to them in 2019, according to official statistics. Domestic-violence law stipulates that a judge may order urgent coercive measures imposed upon the defendant individually or cumulatively, and the application of these measures does not preclude the possibility of prosecuting the perpetrators for criminal responsibilities as stipulated in the criminal code.

The government made referrals for victims to receive medical treatment, and social workers counseled victims and informed them of social welfare services. The government funded nongovernmental organizations to provide victim support services, including medical services, family counseling, and housing, until their complaints were resolved.

Sexual Harassment: The law criminalizes physical sexual harassment, but verbal and noncontact harassment are not covered by the law. Persons convicted of sexual harassment may be imprisoned for up to one year.

Coercion in Population Control: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

Discrimination: Equal opportunity legislation mandates that women receive equal pay for equal work. The law prohibits discrimination in hiring practices based on gender or physical ability and allows for civil suits. Penalties exist for employers who violate these guidelines and the government generally enforced the law effectively. Media reports, however, indicated that discrimination persisted and gender differences in occupation existed, with women concentrated in lower-paid sectors and lower-level jobs.

Children

Birth Registration: According to the Basic Law, children of Chinese national residents of the SAR who were born inside or outside the SAR and children born to non-Chinese national permanent residents inside the SAR are regarded as permanent residents. There is no differentiation between these categories in terms of access to registration of birth. Most births were registered immediately.

Child, Early, and Forced Marriage: The minimum legal age of marriage is age 16; however, children from ages 16 to 18 who wish to marry must obtain approval from their parents or guardians.

Sexual Exploitation of Children: The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The criminal code sets 14 years as the age of sexual consent. The law forbids procurement for prostitution of a person younger than age 18. The law also prohibits child pornography. The government generally enforced these laws effectively, but there were concerns about the exploitation of minors in commercial sex.

International Child Abductions: Macau is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

Anti-Semitism

The Jewish population was extremely small. There were no reports of anti-Semitic acts.

Trafficking in Persons

See the Department of State’s *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities, and the government generally enforced these provisions. The law mandates access to buildings, public facilities, information, and communications for persons with disabilities. The government enforced the law effectively.

Members of National/Racial/Ethnic Minority Groups

There were reports of societal discrimination against members of ethnic minority groups, and the law did not fully define and criminalize racial discrimination.

Acts of Violence, Criminalization, and Other Abuses Based on Sexual Orientation and Gender Identity

The law prohibits discrimination in employment on the grounds of sexual orientation; however, the law does not prohibit discrimination based on sexual orientation in other areas, such as housing.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The Basic Law provides for the right of workers to form and join unions, but the Legislative Assembly has not passed legislation to regulate this right. Workers have the right to join labor associations of their choice, but employers and the government reportedly wielded considerable influence over some associations. The law does not provide for workers to bargain collectively, and while workers have the right to conduct legal strikes, there is no specific protection in the law from retribution if workers exercise this right. The law prohibits antiunion discrimination, stating employees or job seekers shall not be prejudiced, deprived of any rights, or exempted from any duties based on their membership in an association. There were no reports that the government threatened or was violent towards union leaders. The law does not stipulate the financial penalties for antiunion discrimination and cannot be compared to other laws involving denials of civil rights, such as discrimination. The law does not require reinstatement of workers dismissed for union activity.

The law forbids workers in certain professions, such as the security forces, to form unions, to take part in protests, or to strike. Such groups had organizations that provided welfare and other services to members and could speak to the government on behalf of members. Vulnerable groups of workers, including domestic workers and migrant workers, could freely associate and form associations, as could public servants.

Workers who believed they were dismissed unlawfully could bring a case to court or lodge a complaint with the Labor Affairs Bureau (LAB) or the Commission against Corruption, which also has an Ombudsman Bureau to handle complaints over administrative violations. The bureau makes recommendations to the relevant government departments after its investigation.

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor. Penalties range from three to 12 years' imprisonment, with the minimum and maximum sentences increased by one-third if the victim is younger than age 14. Observers previously noted these penalties generally were commensurate with those for other analogous serious crimes, such as kidnapping. The government did not effectively enforce the law.

Children and migrants were vulnerable to sex and labor trafficking. Migrant construction and domestic workers were vulnerable to exploitative conditions such as recruitment fees, withholding of passports, and debt coercion. Victims were compelled to work in the commercial sex industry, entertainment establishments, and private homes where their freedom of movement was restricted, they were threatened with violence, and forced to work long hours. The government investigated trafficking cases (which typically total one or two annually), but there were no convictions during the year.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits all the worst forms of child labor. A law prohibits minors younger than age 16 from working, although minors ages 14 and 15 may work in “exceptional circumstances” if they get a health certificate to prove they have the “necessary robust physique to engage in a professional activity.” The law defines “exceptional circumstances” as: the minor (younger than age 16) has completed compulsory education and has the authorization of the LAB after hearing the Education and Youth Affairs Bureau's opinions; minors between ages 14 and 16 may work for public or private entities during school summer holidays; and minors of any age may be employed for cultural, artistic, or advertising activities upon authorization of the LAB after hearing the Education and Youth Affairs Bureau's opinions and when such employment does not adversely affect their school attendance. The law governing the number of working hours was equally applicable to adults and legally working minors, but the law prohibits minors from working overtime hours. According to the civil code, minors who are age 16 can acquire full legal capacity if they marry.

The law prohibits minors younger than age 16 from certain types of work, including but not limited to domestic work, employment between 9 p.m. and 7 a.m., and employment at places where admission of minors is forbidden, such as casinos. The government requires employers to assess the nature, extent, and duration of risk exposure at work before recruiting or employing a minor. These regulations serve to protect children from physically hazardous work, including exposure to dangerous chemicals, and jobs deemed inappropriate due to the child's age.

The LAB enforced the law through periodic and targeted inspections, and prosecuted violators. Penalties fall under the labor ordinance and are financial; thus these are not comparable to those for other analogous serious crimes, such as kidnapping. If a minor is a victim of forced labor, however, then the penalties are commensurate with those for kidnapping.

d. Discrimination with Respect to Employment and Occupation

The law provides that all residents shall be equal before the law and shall be free from discrimination, irrespective of national or social origin, descent, race, color, gender, sexual orientation, age, marital status, language, religion, political or ideological beliefs, membership in associations, education, or economic background. Equal opportunity legislation states that women are to receive equal pay for equal work. The labor law does not contain any legal restrictions against women in employment, to include limiting working hours, occupations, or tasks.

In November the government put into effect a minimum wage law that excludes disabled workers and domestic workers. The government justified the exclusion based on other benefits received and for the domestic workers, a pre-established minimum rate and housing allowance. The law prohibits discrimination in hiring practices based on gender or physical ability and allows for civil suits. Penalties exist for employers who violate these guidelines, and the government generally enforced the law effectively. Penalties were commensurate with those for other laws involving denials of civil rights, such as election interference.

Some discrimination occurred. In January security companies disclosed informal government requests to hire ethnic Chinese security guards. According to official statistics, at the end of July, nonresident workers accounted for approximately 30 percent of the population. They frequently complained of discrimination in workplace hiring and wages.

In March the chief executive ordered a blanket ban on the entry of foreign nonresident workers to stem the further spread of COVID-19. The order stated that in exceptional cases, the Health Bureau could allow the entry of foreign nonresident workers “in the public interest” such as for prevention, control, and treatment of the disease, and aid and emergency measures. Nonresident workers from China, Hong Kong, and Taiwan were not covered by the ban.

e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. In April the Legislative Assembly passed a law guaranteeing a minimum wage of 32 patacas (\$4) per hour for all employees except for domestic workers and persons with disabilities. The SAR does not calculate an official poverty line. The law provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. The law provides for a 24-hour rest period each week. All workers, whether under a term contract or an indefinite contract, are entitled to such benefits as specified working hours, weekly leave, statutory holidays, annual leave, and sick leave. It was not clear whether penalties were sufficient to deter violations. The law prohibits excessive overtime but permits legal overtime (a maximum of eight hours per day and irrespective of workers’ consent) in force majeure cases or in response to external shocks, at the discretion of the employer. Overtime laws are part of the labor ordinance, which is civil, and involve a financial penalty that is not commensurate with those for crimes, such as fraud, which violate the criminal ordinance and subject perpetrators to incarceration.

All workers, including migrants, have access to the courts in cases in which an employee is unlawfully dismissed, an employer fails to pay compensation, or a worker believes his or her legitimate interests were violated. If an employer dismisses staff “without just cause,” the employer must provide economic compensation indexed to an employee’s length of service.

The LAB provides assistance and legal advice to workers upon request, and cases of labor-related malpractice are referred to the LAB.

The law requires that employers provide a safe working environment. The LAB set industry-appropriate occupational safety and health standards and enforced occupational safety and health regulations. Failure to correct infractions could lead to prosecution. The number of labor inspectors was adequate to enforce compliance. Penalties for violations were not specified in the labor ordinance, other than holding the employer liable.

The law allows workers to remove themselves from hazardous conditions without jeopardy to their employment.

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