

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	570
Land:	Kina
Kilde:	US Department of State
Titel:	2019 Country Reports on Human Rights Practices: China (Macau)
Udgivet:	11. marts 2020
Optaget på baggrundsmaterialet:	25. maj 2020

Document #2026351

USDOS – US Department of State

2019 Country Reports on Human Rights Practices: China (Macau)

Executive Summary

Macau is a Special Administrative Region (SAR) of the People’s Republic of China (PRC) and has a high degree of autonomy, except in defense and foreign affairs, according to the Basic Law. In 2017 residents elected 14 representatives to the SAR’s legislative assembly. In accordance with the law, limited franchise functional constituencies elected 12 representatives, and the chief executive nominated the remaining seven. In August a 400-member election committee selected Ho Iat-seng to be the chief executive, the head of government. He began a five-year term in December after being appointed by the government.

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.

Significant human rights issues included interference with the rights of peaceful assembly and restrictions on political participation.

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, Inhumane, or Degrading Treatment or Punishment

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

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 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.

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 report directly to the chief executive. The government has also established 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 law extends these rights to all residents.

The SAR’s unique civil-code judicial system derives from the judicial framework of the Portuguese legal system. The courts may rule on matters that are the responsibility of the PRC government 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 (NPCSC). The Basic Law requires that courts follow the NPCSC’s interpretations when cases intersect with central government jurisdiction, although judgments previously rendered are not affected, and when the NPCSC 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 NPCSC 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.

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 occasionally sought to restrict this right. In January the Legislative Assembly passed legislation to amend an existing law that criminalized some actions that disrespect the Chinese national anthem.

Press and Media, Including Online Media: Local media expressed a wide range of views, but the government took steps to restrict unfavorable news coverage.

Censorship or Content Restrictions: Media sometimes practiced self-censorship, in part because the government subsidized some media outlets. According to 2018 media reports, the Central Government Liaison Office in Hong Kong indirectly owns Plaza Cultural Macau, a local bookstore, raising concerns that central government authorities may restrict the sale of sensitive books.

Libel/Slander Laws: Macau law 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 September the Education and Youth Affairs Bureau director, according to media reports, said teachers should not discuss their own political viewpoint regarding protests in Hong Kong inside the classroom. 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.

In August, Macau police did not permit a silent protest against police brutality in Hong Kong. Despite organizers cancelling the protest, police still searched people at the intended protest site, according to media reports. In September a court upheld the police decision to disallow the protest.

Critics alleged that authorities were making a concerted effort to use both intimidation and criminal proceedings against participants in peaceful demonstrations to discourage their involvement. For example, in May a court upheld the conviction of Scott Chiang for illegal assembly, a charge which arose from his participation in a 2016 peaceful protest against the chief executive.

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/> (<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. The government banned several Hong Kong activists from entering Macau throughout the year, claiming the activists posed threats to internal security, according to media reports. In December, Macau denied entry to both the president and the chairman of American Chamber of Commerce in Hong Kong.

e. Internally Displaced Persons

Not applicable.

f. Protection of Refugees

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.

g. Stateless Persons

Not applicable.

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 by a 400-member election committee consisting of 344 members elected from four broad societal sectors (which themselves have a limited franchise) and 56 members chosen from and by the SAR's legislators and representatives to the National People's Congress and Chinese People's Political Consultative Conference. In June critics protested against this "small circle" election. Organizers of an unofficial online petition for universal suffrage said in August that the petition website suffered a severe cyberattack reportedly originating from mainland China, and unknown individuals physically threatened the petition's organizers.

Elections and Political Participation

Recent Elections: In August 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 particular 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.

Participation of Women and Minorities: No laws limit participation of women and members of minorities 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.

Corruption: The government’s Commission against Corruption (CAC) investigated the public and private sectors and had power to arrest and detain suspects. The Ombudsman Bureau within the CAC reviewed complaints of mismanagement or abuse by the CAC. An independent committee outside the CAC—the Monitoring Committee on Discipline of CAC Personnel—accepted and reviewed complaints about CAC personnel.

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 two of the 104 cases of domestic violence reported to them in 2018, 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.

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 (see section 7.) 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.

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 participation of minors in sex work.

International Child Abductions: The SAR 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> (<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/> (<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.

National/Racial/Ethnic Minorities

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

Acts of Violence, Discrimination, 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 workers the right to form and join unions, but the Legislative Assembly has not passed legislation to regulate this right. Workers may join labor associations of their choice, but employers and the government reportedly wielded considerable influence over some associations. The law does not provide that workers can collectively bargain, and, while workers have the right to strike, 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. The law imposes financial penalties for antiunion discrimination, but observers noted this may not be sufficient to deter discriminatory activity. 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, 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 CAC, 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 sufficient to deter the use of forced labor.

Children and migrants were vulnerable to sex and labor trafficking, including in construction and domestic work. The government investigated cases, 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/> (<https://www.state.gov/trafficking-in-persons-report/>).

c. Prohibition of Child Labor and Minimum Age for Employment

A law prohibits minors younger than age 16 from working, although minors from 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; 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 were sufficient to deter violations.

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 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.

Some discrimination occurred. According to official statistics, at the end of June, nonresident workers accounted for approximately 28 percent of the population. They frequently complained of discrimination in the workplace in hiring and wages.

e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. 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 employed in the SAR, 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 requires that employers provide a safe working environment, and the LAB sets industry-appropriate occupational safety and health standards. The law prohibits excessive overtime but permits legal overtime (a maximum of eight hours and irrespective of workers' consent) in force majeure cases or in response to external shocks, at the discretion of the employer.

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 LAB enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. The number of labor inspectors was adequate to enforce compliance.

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

ecoi.net summary:

Macao: Annual report on human rights in 2019



Country:

China

Source:

USDOS – US Department of State [\(/en/source/11558.html\)](/en/source/11558.html)

Original link:

<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/china/macau/> (<https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/china/macau/>)

Document type:

Periodical Report

Language:

English

Published:

11 March 2020

Document ID:

2026351

Austrian Red Cross

Austrian Centre for Country of Origin and Asylum Research
and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien

T (Telefon) +43 1 589 00 583

F (Fax) +43 1 589 00 589

info@ecoi.net

ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

