

Supplementary Information on the Government of the Macau Special Administrative Region in Serious Violation of Human Rights in an Incident

Submitted to the Office of Higher Commissioner of Human Rights of the United Nations by the New Macau Association on 03 March 2013

Abstract

On 21 February 2013, the Judiciary Police (PJ) abused their power to detain a journalist, delete video footages stored in the journalist's camcorder, and seized press materials from the hands of other journalists, during the visit of Chinese state leader Wu Bangguo to Macau. The incident exhibited the police authorities' disregard for the rule of law, infringement of the freedom of press, and arbitrary deprivation of personal freedom.

Summary of the Incident

Jason Teng Hei Chao, in his capacity of the Director of the "Macau Concealers" publication, was arrested while videotaping the action of two activists on 21 February 2013. Director Chao and the two activists were taken into police custody for approximately 5 and a half hours without justification. At the scene of the arrest, some police officers "snatched" press materials from the hands of other journalists.

The Incident

Jason Chao recalling the sequence of events in the incident of arbitrary event on 21 February 2013.

1. The Macau Concealers (MC) publication, registered with the Government Information Bureau (GCS) as numbered 456, phoned the GCS for signing up to the officials events of the state leader's visit. The GCS replied that the sign-up period had closed. The MC asked the reason for not being informed of the sign-up period. The GCS said they informed the press on the Information Broadcast System (IBS). Then the MC asked GCS for the way to apply to gain access to the IBS. The GCS said they needed to "observe" MC for period of time before granting MC access to the IBS.
2. Since the MC was denied covering the official events, the MC decided to cover a side event. The MC happened to learn that two activists - Lee and Leong had a plan to deliver petition letter to the visit state leader. Jason Chao, Director of the MC, with a camcorder in his hands, followed Lee and Leong on 21 February 2013 to the Macau Tower.
3. En route to the Macau Tower, Chao kept filming and maintained a distance between him and the two activists.
4. At the main entrance of the Macau Tower, Chao witnessed that there were buses offloading tourists. The police also did not cordon the area. The area was deemed

an unrestricted public area.

5. While Chao was filming Lee and Leong, a group of unidentified individuals (UI) surrounded Chao and the two activists. An UI ordered Chao to produce his identity document. Chao instantly declared his identity as the Director of the MC and questioned the reason for being disallowed to film in a public area. Chao also cited the "Internal Security Base Law" to ask the UI to show his identity document to prove his identity (as a police officer).

6. An UI produced to Chao the identity document as a PJ officer. After Chao learnt that the UI was a genuine police officer, Chao produced his own identity document.

7. A component (the microphone) of Chao's camcorder was detached from the main body and fell onto the ground, with wires exposed.

8. Chao was pushed onto the ground, levitated and "dragged" to a vehicle.

9. Inside the vehicle, a PJ officer attempted to take the camcorder away from Chao, but without success.

10. After Lee was also seated in the vehicle, the vehicle was driven to the PJ building in Cotai.

11. Chao was asked to hand over his identity document, mobile phone and camcorder to the PJ. Chao made a verbal statement that the camcorder had been damaged and warned the PJ not to further alter or damage the data inside.

12. Chao asked for the reason about his detention. A PJ officer said "you better ask my boss."

13. After being detained for several hours, Chao was sent to the photo-taking room where the PJ took photos of him from various angles. Chao was also asked to show his scars (if any) for photo-taking.

14. Chao was sent to the fingerprint room where his fingerprints and palmprints were captured. Chao cited the "Protection of Personal Data Law" to ask how long would his personal data be preserved. Initially, an officer said "you may write to us to ask that (question) later." Chao insisted the need for an explicit answer, the officer told "the preservation will be permanent."

15. Chao opened the camcorder immediately when he was returned his mobile phone and camcorder. He found that all videos were missing. Chao enquired the officers "have you ever touched the files in the camcorder?" An office reluctantly said "it (the camcorder) has been staying inside the plastic bag. Nobody has touched it."

16. Not long after Chao's release, Leong and Lee were consecutively released.

17. Chao returned to working computer of the MC and connected the camcorder to the computer. The folder structure of the camcorder was found altered. And the videos taken on the day of the incident (21 February 2013) went missing. Chao is trying various data recovery software to recover the deleted files. Unfortunately, no

positive progress has been made.

Allegations made by the New Macau Association against the Judiciary Police and Other Authorities

On 25 February 2013, the New Macau Association, the Macau Concealers, Legislative Deputy Antonio Kuok Cheong Ng and Legislative Deputy Paul Wai Chi Chan released the following statement.

25 February 2013

In regard to the incident that Jason Chao, Director of the “Macau Concealers” publication (MC), was forcibly taken into the custody of the Judiciary Police (PJ) without just cause on 21 February 2013, the New Macau Association (NMA) is making the following statement:

1. Violation of Freedom of Press

The PJ has made an impudent infringement of the freedom of press guaranteed by the Basic Law. At the time Jason Chao was surrounded by PJ officers, Chao made it very clear to the officers that he was the director of the Macau Concealers (MC), a publication registered with the Government Information Bureau (GCS) and he was fulfilling his duty of filming (covering) the action of two activists. In turn, in an attempt to stop the recording, one officer, without Chao’s consent, pressed the “REC” button of Chao’s camcorder in a very “proficient” manner. It indicates that the **police officers may have good knowledge of the layout of camcorder buttons, which supports the possibility that the police officers are well trained to interfere with camera-holding reporters or citizens.**

2. Damage to Intellectual Property

Chao was required to hand over his mobile phone and camcorder to the PJ after his arrival at the PJ building in Cotai. Chao made a verbal statement that a component of the camcorder had been damaged and warned the PJ not to “touch” the files stored in the camcorder. Despite Chao’s warning, videos taken on 21 February 2013 were found removed when the camcorder was turned to Chao at the moment of his release. Nonetheless, the folder structure of the hard drive of the camcorder was also found altered. The NMA employed various brands of data recovery software to recover the files but no attempt has yet been successful. The PJ possesses computer forensic technologies and, unavoidably the by-product, the skills necessary to ensure total destruction of data beyond repair, in NMA’s belief. It raises a reasonable doubt that **the PJ has abused its knowledge in computer forensics to permanently delete the video files in the camcorder.**

When the camcorder was returned to Chao, Chao demanded an answer from the PJ officers whether or not the data inside the camcorder had stayed intact. The PJ officers claimed the camcorder had just stored in a plastic bag and no one had touched it. If the PJ chooses to deny the allegation of erasing the files, showing the relevant CCTV footages is necessary to convince the public. Based on Chao’s

observation, enormous CCTV cameras have been installed in the PJ building, which means that the PJ is in possession of the evidence to prove or disprove the saying that “the camcorder data have not been tampered with.”

3. Release of False Information

Roy Choi, Vice Director of the MC, sought assistance from the GCS about Director Chao’s detention. The GCS reverted a response from the PJ to Choi that Chao had been doing “something inconsistent with news reporting”. And, at the press conference held by the PJ the next day, the PJ insisted that Chao had “handed out flyers” on the spot of the arrest. In contrary to the fact that Chao was just filming by holding a camcorder while he did not and could not hand out flyers simultaneously. If the PJ insists not to withdraw explicitly the saying of “Chao handing out flyers”, without proving it with the footages taken by the PJ officers at the scene, alongside with MC’s formal complaint to the prosecutor, the PJ will be the one who jeopardises its own reputation, credibility and integrity.

4. Arbitrary Arrest

Being deprived from the right to and the means of communicating with the outside world, Chao was in solitary confinement in a holding cell while in PJ’s custody for approximately 5 hours. Chao demanded the reason (crimes allegedly committed) for being detained. One PJ officer replied “not about a crime”. Chao insisted the need for the reason, one PJ officer told “you ought to ask my boss.”

This case is beyond doubt an instance of arbitrary arrest - a practice prohibited by the “Basic Law” and the “International Covenant on Civil and Political Rights” (ICCPR) ratified in Macau. The government must guarantee to the public the authorities’ refrain from the practice of arbitrary arrest and must launch disciplinary procedure against the decision-making officials in the case of Chao’s detention.

In addition, despite the lack of connection between Chao and a crime, he was required to be photographed and having his fingerprints and palmprints captured as a suspect or a criminal. The mandatory collection of excessive personal data, in practice, acts as a psychological deterrent against citizen reporters and those who often film or take photos in public places.

5. Distortion of Facts by the Government Information Bureau (GCS)

As early as on 18 February 2013, the MC tried to contact the GCS to register for the official events of the state leader’s visit. The GCS replied to the MC that the registration period had closed. The MC then asked why MC had not been informed about the registration period. The GCS claimed that they published the information on the IBS. The MC immediately requested for access to the IBS in a bid to know and register for the events sooner next time. Unexpectedly, the GCS said the MC must be observed for a period of time before granting access to the IBS. The MC immediately questioned GCS for the factors, length of time and the regulation (if any) regarding the so-called “observation.” But the GCS has not yet responded to the MC on this issue.

The MC was covering the action of two activists outside of the Macau Tower, not the official event inside (the Convention and Exhibition Centre of) the Macau Tower, thus

“registration” was by no means required. Seconds prior to the arrest, Chao witnessed coaches stopped by at the entrance of the Macau Tower to load / offload groups of tourists. Furthermore, the place was not cordoned or declared off-limit to the public by the police. Chao’s filming outside of the Macau Tower should have been unrestricted, not to mention the absence of the need for a qualification or permission.

.....

New Macau Association
Macau Concealers
Legislator Paul Wai Chi Chan
Legislator Antonio Kuok Cheong Ng

In the news

Protest and petition to coincide with NPC chief's visit

<http://www.macaudailytimes.com.mo/macau/41781-protest-and-petition-to-coincide-with-npc-chief%E2%80%99s-visit.html>

PJ justifies action against activists, apologizes for obstructing reporters

<http://www.macaudailytimes.com.mo/macau/41826-pj-justifies-action-against-activists-apologizes-for-obstructing-reporters.html>

Press associations condemn police intervention

<http://www.macaudailytimes.com.mo/macau/41825-press-associations-condemn-police-intervention.html>

Detained activist to file police human rights abuse complaint to UNHRC

<http://www.macaudailytimes.com.mo/macau/41824-detained-activist-to-file-police-human-rights-abuse-complaint-to-unhrc.html>

Jason Chao turns the tables on the gov't

<http://www.macaudailytimes.com.mo/macau/41851-jason-chao-turns-the-tables-on-the-gov%E2%80%99t.html>