



SPECIAL REPORT ON THE SUPPRESSION OF MACAU SYMPATHIZERS OF THE DEMOCRATIZATION MOVEMENT OF HONG KONG

A submission to the United Nations Human Rights Committee at its 129th
Session for the Adoption of List of Issues on Macau, China

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Background

1. *Macau People Stand with Hong Kong* was established in 2019 by a group of Macau citizens in support of the ongoing struggle of the people Hong Kong for democracy. Our primary goal is to express solidarity with the people of Hong Kong protesters and disseminate factual information about the movement in Macau. We have offered help and advice to Macau citizens who tried to organize peaceful protests and events related to the Hong Kong movement.
2. This submission is aimed exclusively at revealing breaches of the human rights of Macau citizens who tried to voice their support for the 2019-20 democratization movement in Hong Kong and their opposition to police brutality in Hong Kong.
3. The wave of protests in Hong Kong was triggered by a government bill that would allow the extradition of criminal suspects to the Mainland China, where the judicial system is highly questionable. As the tension escalated, democracy and an independent investigation into the police violence became the main demands of the protesters. The protests drew global support and empathy. The people of Macau are among them.
4. Macau and Hong Kong share the same “One Country Two Systems” constitutional framework promised by the Chinese Central Government. Historical, cultural, and communal ties between the people of Macau and Hong Kong have been very close. Macau and its people paid close attention to the development of the protests in Hong Kong.
5. There is a trend that oppressive laws which disproportionately restrict fundamental rights could be justified in the name of the protection of “One Country”. All dissenting voices which may be associated with alternative ideas to the existing “One Country Two Systems” constitutional framework should be silenced at all cost.
6. Public information suggests that the Macau government and the Chinese Central Government conceive the Hong Kong movement as a “national security threat”. The Chinese authorities worried that the call for democracy in Hong Kong might spread to Macau, and then to elsewhere in China. Therefore, any sign of support for the Hong Kong movement became the primary target of suppression in Macau.
7. Although the Macau people may organize protest relatively freely on non-sensitive issues like individual grievances and labor rights, the Macau authorities are especially sensitive and oppressive to sympathizers of the Hong Kong movement.

8. **Recommendations:** We sincerely urge the Human Rights Committee to pay special attention to the freedoms of expression, assembly and association of the Macau people who support the Hong Kong democratization movement.

The Banned August 19 Vigil

9. Assemblies in Macau are regulated by Law No. 2/93/M “Rights of Assembly and Demonstration.” Citizens intended to organize a rally must first submit a written notice to the police. Article 2 of the said law allows the police to ban protest or assemblies “for purposes contrary to the law” (in Portuguese: *para fins contrários à lei*).
10. In August 2019, a citizen notified the authority that a vigil would be held on August 19 at night at the Senado Square in Macau. The topic or purpose of the protest was “Opposing the excessive use of force by the Hong Kong Police (in Chinese: 反對港警使用過份武力)¹.”
11. On August 15, the police issued a ban on the vigil, arguing that the purpose of the assembly is contrary to the law. The police claimed that the protesters in Hong Kong had violated the laws of Hong Kong law and posed a great threat to the social order. The planned vigil in Macau would equate to the support for illegal and violent activities. The police also claimed, without any supporting evidence, that the planned vigil would lead to Macau people imitating the behaviours of Hong Kong protesters.² Any any activity which may be associated with Hong Kong at the declared location would be treated as unlawful assembly, which is a crime punishable by two years’ imprisonment under Article 14 of the Law No. 2/93/M, according to the police.
12. Even though the vigil was subsequently cancelled, a large area at the planned vigil site was suddenly closed by the government for “putting up Mid-Autumn Festival decorations.”
13. On the night of August 19, there was a large police presence at Senado Square (more than 100). Police officers aggressively conducted stop-and-search and checked the identity

¹ “Local netizens call for protest on August 19 against HK police conduct,” *MNA Macau*, 14 August 2019, retrieved from: <https://www.macaubusiness.com/local-netizens-call-for-protest-on-august-19-against-hk-police-conduct/>.

² “Police reject request for Senate Square protest in support of Hong Kong protesters,” *MNA Macau*, 15 August 2019, retrieved from: <https://www.macaubusiness.com/police-reject-request-for-senate-square-protest-in-support-of-hong-kong-protesters/>.

documents of passers-by, particularly young people and those wearing in black, a common outfit of the protesters in Hong Kong³.

14. The police took six men and one woman into custody in the name of identity verification. Two of them were taken away because the police found small stickers showing support for the Hong Kong movement in their bags. They were released a few hours later⁴. It is reported that they were not informed formally about the reason for being taken into police custody.
15. **Recommendations:** We urge the Human Right Committee to question the Macau Government on this string of police actions and how they are compatible with international human rights norm. We also urge the Human Rights Committee to provide guidance and inquire into whether the ban on the vigil was legitimate and compatible with Article 21 of the ICCPR.

The Banned October 4 Rally and the Appeal

16. Two Macau citizens notified the police that three rallies would be held on September 18, September 27 and October 4. The object of the rallies, as declared by the organizers to the police, was “Calling on the police authorities all over the world, especially those in Hong Kong, strictly abide by the Convention against Torture, and that they do not use forces that constitute ‘torture’ and ‘cruel, inhuman... treatments...’ prohibited by Article 1 and Article 16 of the Convention, against peaceful demonstrators and individuals deprived of liberty (in Chinese: 促請各地（尤其香港）警察機關嚴格遵守《禁止酷刑公約》，不要向和平示威者及被剝奪自由之人士實施足以構成《公約》第一條所禁止之「酷刑」及第十六條所禁止之「殘忍、不人道……待遇」之武力)⁵.”
17. The police once again issued an order banning the rallies. The reason given in the order was that there had not been any competent authority in Hong Kong coming to the conclusion that the Hong Kong police had used excessive force. The planned rallies might “mislead” people to believe that the police in Hong Kong and Macau have tortured the citizens. The Macau police regarded planned rallies as an abuse of fundamental rights and hence contrary to the law.⁶

³ “Why Macau is impervious to the turmoil in Hong Kong,” *The Economist*, retrieved from:

<https://www.economist.com/china/2019/08/22/why-macau-is-impervious-to-the-turmoil-in-hong-kong>

⁴ “Hongkonger among seven detained in Macau over rally in support of anti-government protests,” *South China Morning Post*, 20 August 2019, retrieved from <https://www.scmp.com/news/hong-kong/politics/article/3023509/hongkonger-among-seven-detained-macau-over-rally-support>.

⁵ TUI Case No. 94/2019, retrieved from <http://www.court.gov.mo/sentence/pt/27716>.

⁶ *Ibid.*

18. The organizers then filed an appeal to the highest court in Macau – the Court of Final Appeal (Tribunal de Última Instância), arguing that the ban was illegal. The organizers reasoned the international ban on torture, and cruel, inhumane and degrading treatments is absolute and applies to all police and military forces around the world at all times, even during warfare. Organizing a rally aimed at promoting a peremptory norm in international law was by no means “contrary to the law”.
19. In the end, the Court ruled in favor of the police⁷. The Court agreed with the police that no Hong Kong authority had recognized an instance of torture and inhumane treatments in the Hong Kong police’s response to the ongoing protests. If the Macau police had allowed such rallies, according to the TUI, it would have caused a “misunderstanding” that the Macau police also agree with the accusation made by the organizers (the actions of the Hong Kong police amounting to torture and inhumane treatments).
20. The Court saw the Macau government’s respect for private citizens’ exercise of assembly right could constitute a breach of the “One Country Two Systems” constitutional framework. The Court stressed that Macau authorities must not allow or create a platform to allow anybody or entity trying to interfere with the “high degree of autonomy” of the Hong Kong government to manage its own affairs.
21. This ruling is not only based on faulty reasoning but also creates long-term damage to the predictability of the law. The Court virtually equated “the police allowing an assembly” to “the police agreeing with the topic of the assembly”. In light of this ruling, the police may disallow an assembly which they do not want to be seen as “agreeing with the topic”.
22. In dissent, Portuguese judge Viriato Manuel Pinheiro de Lima sitting on the appeal panel voted against the judgement and stated that “the object of the assemblies does not constitute an end contrary to the law.”⁸
23. **Recommendations:** We urge the Human Rights Committee to provide guidelines and inquire into whether the appeal was rejected on legitimate grounds in compliance with Article 21 of the ICCPR. We also request the Committee to ask the Macau authority whether protests related to the Hong Kong movement would be allowed in the future.
24. Effectively, Macau people are deprived of any right to assembly on the support of the Hong

⁷ *Ibid.*

⁸ *Ibid.*

Kong movement. As of May 29 2020, no public protest or assembly related to the Hong Kong movement has successfully and legally taken place in Macau. The Court ruling and the series of police actions successfully deter people from voicing their support for the Hong Kong movement in public spaces.

Suppression of Small-Scale Direct Actions

25. The police do not tolerate any spontaneous peaceful protests and often took high-profile and aggressive measures against such protests. The police and the Court also adopted a broad definition for “assembly” and “protest”. Basically, any action involving the expression of an opinion in public, such as displaying signs or placards or giving speeches, may be considered an “assembly” and the police expect a prior notification. Otherwise, offenders can be prosecuted for holding an unlawful assembly. The police abused the requirement of prior notification in conjunction with the broad definition for “assembly” to suppress even the mildest direct actions.
26. *Macau People Stand with Hong Kong* was directly approached by two students and received their consent to share what they have encountered. In September 2019, the two students held placards in the vicinity of the Institute for Tourism Studies (IFT) to show support of the student on strike in Hong Kong. The school asked them to leave the area. Minutes later, police officers arrived at the scene. Later, the police and the Secretary for Security openly warned the students and the public of the legal consequences of having an unlawful assembly in a press conference, despite no plan to prosecute the students.
27. It would be at odds with the international human rights standard to require a handful of individuals displaying placards peacefully to notify the authorities beforehand. The requirement of prior notification should be used as a means to facilitate the people’s exercise of the right to peaceful assembly rather suppress that right. Peaceful and small-scale events seeking to voice an opinion should be tolerated. Any attempt by the police to prosecute citizens who express an opinion in the public space without causing any disruptions solely for the lack of prior notification is disproportional.
28. **Recommendations:** We urge the Human Rights Committee to review the handling of unnotified assemblies by the Macau government and offer authoritative guidance that the prior notification requirement is not abused to suppress the fundamental rights of Macau citizens.

29. *Macau People Stand with Hong Kong* was also approached by people related to an incident where two citizens were arrested by the police for putting up posters against the government's CCTV surveillance system and for the Hong Kong movement (it reads "SUPPORT EACH OTHER HONG KONG AND MACAU"). The police threatened to press criminal damage charges initially. They were then fined heavily for posting bills on the façade of a public building.
30. A similar incident also happened in August 2019 when a number of secondary school students were stopped by the police for questioning for an hour. They were reportedly creating post-it notes on a wall at Anim'Arte Nam Van space which is known as "Lennon Wall" - a symbol of the Hong Kong protest. The "Lennon Wall" was quickly removed by the authority⁹.
31. **Recommendations:** We urge the Human Rights Committee to question the Macau government on whether it would exercise restraint in the use, or the threat of use, of the criminal law to punish small-scale, peaceful and direct actions taken by the citizens in the future.

The Chilling Effect of National Security Legislation

32. Law No. 2/2009 "Law on the defense of national security" was approved in 2009. The law primarily prohibits secession, sedition and subversion against the Central People's Government of China. Local legislation on the matter of national security is required by Article 23 of the Basic Law of the Macau Special Administrative Region.
33. It is now widely known that China's National People's Congress passed a resolution in May 2020 authorizing the National People's Congress Standing Committee to enact a national security law for the Hong Kong Special Administrative Region. The Chinese Central government cited the Hong Kong protesters as a target for the new legislation since some of them used violence and called for independence. As mentioned before, Chinese authorities considered the protest a major threat to national security.
34. Some people in Macau are now deeply worried about whether showing support of the Hong Kong movement would constitute an offence under Macau's national security law.
35. In the name of protecting "national security", the Macau government has enacted laws and has plans to enact more laws that entail further restrictions on the fundamental rights of Macau

⁹ "Police remove Lennon Wall installed at Nam Van Lake," Macau Business, 26 August 2019, <https://www.macaubusiness.com/police-remove-lennon-wall-installed-at-nam-van-lake/>

citizens. For example: A National Security Commission led by the Chief Executive was established in 2018; Law no. 4/2019 was approved to establish *de facto* special courts for national security criminal cases¹⁰; Legislation is pending to expand wiretapping measures to national security offence suspects.

36. **Recommendations:** We urge the Human Rights Committee to ask the Macau government to clarify whether or not sympathizers of the Hong Kong movement would be prosecuted under the existing and future national security laws. Questions should also be asked on the plans for new laws in the area of national security.

¹⁰ The law provides that for the crimes defined in the national security law, a number of the prosecutors and judges are pre-selected by the Prosecutor General and the Council of Judicial Magistrates.