

Beginners Trade Union Guide to Macau [Macao]

Despite a growth in GDP of some 28 percent in 2004 and its recent entry into the UN World heritage Site, Macau remains a little known territory compared to its big sister Hong Kong. While freedom of association is respected and strikes are legal, most trade unions are organized in a pro-Beijing grouping and strikes remain rare despite long working hours, poor wages, and a lack of collective bargaining and written work contracts.

Background

Macau is located on the southern coast of China within the Pearl River Delta, some 35 miles west of Hong Kong. In 2004 Macau had an approximate population of 454,300. Macau is 8.6 square miles and comprises of a peninsula of Guangdong province and the islands of Taipa and Coloane. In the 1500s Macau was settled by the Portuguese, becoming a de facto Portuguese colony in the mid 1880's.

Macau faltered in the 1900's when its economy stagnated and it was by and large ignored by its colonial master. In 1967 and 1974 Portugal tried to hand Macau back to the mainland government but it was not until 1987, after the Hong Kong – China agreement had set a precedent that China agreed to take the colony back. The Joint Declaration on the Question of Macau set 20 December 1999 as the date on which China would resume sovereignty over Macau.

In December 1999 Macau became the Macau Special Administrative Region [MSAR] of the People's Republic of China. As with the former British colony Hong Kong, Macau is governed under the structure known as "one country, two systems," established by the 1987 Sino-Portuguese Joint Declaration and Macau's constitution on the basis of a mini-Constitution known as the Basic Law. One country two systems refers to Macau's capitalist economy and mainland China's 'socialist' economy. The Basic Law states that with the exception of foreign and defense affairs, Macau should maintain a high degree of autonomy for 50 years after the return to Chinese sovereignty. The non-elected Central government in Beijing maintains the ultimate right to interpret and sole right to amend the Basic Law. However, Article 40 stipulates that the provisions of the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Conventions of the International Labour Organization (ILO) as they apply to Macau will continue to be in place.

Government

Macau's Basic Law does not provide for universal suffrage or direct election of either the legislature or head of government, known as the Chief Executive (CE). In 2004, Macao held the second election of its Chief Executive and unlike Hong Kong where there is a growing demand for universal suffrage among the public, there were only a few such calls from civil society in Macao. Edmund Ho is the current CE. Ho was 're-elected' unopposed for a second five-year term in 2004 by a 300-member Election Committee appointed by the Beijing central government representing four different societal sectors. Ho reportedly gathered some 99 percent of votes. The one-chamber Legislative Council is composed of individuals elected by popular vote, or by functional constituency. Other members are appointed by the government. These arrangements facilitate a default majority for the government. The ability of citizens to change their government is limited, with restrictions on the capacities of legislators to introduce legislation – the CE has the right to veto all draft legislation by indicating disapproval.

Several civic associations and "political organisations" function as political parties and put

forward candidates in elections. Key political pressure groups are the Catholic Church, the Macau Society of Tourism and Entertainment (Sociedade de Turismo e Diversões de Macau (STD)) – a testament to Macau's casino-based economy – and the Union for Democracy Development. Freedom of assembly is provided for by the law, with required notification of public meetings or demonstrations, and is generally upheld by the government. There are criminal penalties for government officials and counter-demonstrators impeding this right. Currently there are only a few vocal government critics in the Legislative Council although there are several pro democratic NGO groupings which include legislators.

The consolidation of gaming as a mainstay in Macau's economy has allowed for the successful election of a member of the Macau Gaming Industry Laborers Association to the Legislative Assembly. Members from the gaming industry have been reported to be putting six candidates forwards for election and re-election in the September 2005 elections under the combined name of the 'Union of the General Federation of Gaming Sector Workers'. One major part of their election campaign is the [locally popular] opposition to the importation of foreign workers in the gaming sector.

Economic Facts: Background

Macau is generally lacking in natural resources, with its economy centered on tourism and gambling in the services sector, and textile and garment exports – up to 83% of exports – in manufacturing. Previously Macau relied on the production of fireworks and matches.

In 1962 the consolidation of gambling under a single syndicate, Sociedade de Turismo e Diversões de Macau (STD), marked the beginning of the revival of Macau as a tourist attraction and its slow economic recovery. Macau, along with the Shenzhen Special Economic Zone (SEZ), a portion of Guangdong Province and Hong Kong forms the so called Pearl River Delta which has been the most economically dynamic region of China since the start of the economic reforms. The region's GDP was reportedly over USD100 billion in 2001 - in 1991, almost 50% of foreign investment in China was in Guangdong, and 40% in the PRD. Previously Macau was slow to benefit from the economic growth in the surrounding region but in the past five years or so Macau has seen a remarkable rise in its fortunes.

There has been a significant rise in growth rates year on year as well as increased tourism and investment. The rise in tourism has been driven primarily by an increase in the number of mainland tourists - in 2000 more than 8 million tourists visited Macau and the number jumped to some 17 million in 2004. Since the resumption of Chinese sovereignty, gang violence has significantly declined, to the benefit of the tourism sector. [Some say this was due to covert agreements worked out between the local triad gangs and the new Chinese authorities to reduce overt gang activities after the Portuguese left]. Macau's recent entry into the list of United Nations World heritage Sites will further strengthen the growth of tourism. According to the Macau Economic Services Bureau, real GDP rose 28% in 2004 to MOP80 billion. The GDP per capita has been steadily rising, measuring US \$17,782 in 2003.

Foreign investment is welcomed by the government which offers land concessions and financial incentives to international capital. Since 2002, when Macau's gaming industry was opened up to foreign companies there has been a sharp surge in the number of foreign investors committing to development projects in Macau – both for casinos and for other ventures. It is estimated that gambling is now responsible for 40% of Macau's GDP.

Beginning in 2004, Macau and mainland China have been engaged in the Closer Economic Partnership Arrangement (CEPA), a free trade agreement opening up markets in both product and services sectors and facilitating trade. In addition, the cross-border industrial

zone between northern part of Macau and Zhuhai serves as a further point of economic contact. In July 2005, the European Union president Jose Manuel Barroso visited Macau and emphasized Macau's new role as "a platform" for the booming cooperation between China and EU".

Media

There are several media channels in Macau. These consist of Chinese and Portuguese-language daily and weekly publications, as well as three television networks, and Portuguese, Cantonese and Mandarin radio stations. Newspapers from Hong Kong and other international sources are widely available.

Freedom of speech and of the press are protected by law and have generally been upheld by the government, with no apparent change in policy following the 1999 the return to Chinese sovereignty. Articles critical of the government and its officials as well as opinion columns on political and economic policy appear on a regular basis. Voices within the pro-democracy movement have charged that the position taken by Chinese-language newspapers is sympathetic to official Chinese positions and do not give due attention to liberal and pro-democracy views. Several Portuguese-language publications and one Hong Kong paper sold in Macau are more likely to cover such views. However there have been reports of intimidation of those who do speak out against the Beijing government both politically and in terms of labour rights. Oppositional and overtly political civil society is relatively weak in Macau.

Workforce & Unemployment

Macau's total workforce numbers approximately 223,000 people and a median monthly wage of the employed population in 2003 was 4,801 patacas. Figures for 2004 indicate that between 20,000 and 30,000 people are employed in manufacturing which represents a significant decline in the last decade as production has moved to sites on the mainland. Government figures for the first quarter of 2005 report a shortage of 7,104 vacancies in the gaming sector. Despite the shortage, in December 2004 the average monthly wage in this sector was 10,370 patacas (US\$1,340) a drop of 1.4% on June 2004. The gaming sector currently employs over 21,000 people.

Unemployment reached 7% in mid-2000 and has been on the decline since, reaching a seven-year low of 4.1% in early 2005, affecting over 9,000 people. These changes reflect a process of structural change in employment. The relocation of manufacturing facilities across the border to Zhuhai in China drove up unemployment rates, but the more recent development of new casinos and hotels has created a large demand for workers, creating a labour shortage in the construction and casino industries of between 8,000 to 10,000 workers.

The shortages have fuelled a heated debate on importation of labour. Despite new regulations which seek to promote local employment opportunities in the gaming industry, Macau has also developed labour importation schemes for unskilled and skilled workers who cannot be recruited locally and is also considering additional measures. Some local labor groups have claimed that the high percentage of foreign labour is eroding the bargaining power of local workers and in May 2005, the General Union of Manufacturing Workers appealed to the Government to examine the applications for the importation of foreign workers, and to avoid importing non-technical labour. In July 2005, some 600 people held a demonstration which called upon the government to give priority in employment to mainland born offspring of Macau residents who are currently waiting for the right of abode in Macau.

Labour and Trade Union Rights

Prior to Macao's reunification with mainland China in December 1999, the right to collective bargaining, to organise and to freedom of association were protected under Portuguese law which was applied in the colony. These laws were replaced by a series of decrees, introduced in 1999, which the government claims are in compliance with International Labour Conventions.

Freedom of association is guaranteed (section 4 of Law No. 2/99/M), trade unions may be formed and anyone can join one. The dismissal of workers on the grounds of their trade union membership or trade union activities is prohibited (section 45 of Decree-Law No. 24/89/M) and there are also regulations in the penal code which protect from interference in a workers right to freedom of association.

Undermining all of Macau's labour laws and regulations is the right of any employee to agree to waive his or her employer's obligation to comply with any of the territory's labour law or regulations. Another major flaw is the reduction on the statute of limitations for processing labour disputes from eight years to one year which has resulted in employers resorting to delaying tactics. There are also clauses in the labour related regulations which specifically exclude public servants and migrant workers from the protection of the labour law.

Freedom of Association

While there are no restrictions on workers joining trade unions, the right is not protected in law. While the right to strike is supposed to be protected by law, there is no legal protection against retribution by employers for involvement in strike action. Striking workers may therefore be easily dismissed during or after industrial action, regardless of the negotiated outcome as can be seen by the Sands Casino dispute in October 2004 (see below).

Unions may freely form federations and affiliate with international bodies. Most trade unions in private sector are affiliated to the pro-Beijing Federation of Trade Unions which aligns itself with the both the local and central government on most issues and does not engage in direct industrial action. There are six independent unions in the private sector, two in the public sector three independent civil service trade unions. The General Association of Trades Union of Macau is independent.

At the end of 2004, there were reportedly 173 registered trade unions, including 3 new unions that registered during the year. Approximately 79 percent of public sector employees were members of a union. The number of private sector workers belonging to a union is unknown.

There is no provision for collective bargaining in Macau and IHLO has been unable to find any collective bargaining agreement.

Trade union officials at Sands Casino sacked

Over 20 cleaners working at the Sands Casino staged a brief strike on 3 October 2004, six months after the casino opened. The cleaners walked out and two after two union officials were fired in a pay dispute with one of the casino's contractors. The union officials were the chair and vice chair of the Macau Cleaning Workers union. They filed the complaint to the

Labour Affairs Bureau, accusing the company of anti-trade union activity.

The officials were sacked after objecting to the contractor's demand that 60 Workers' refund wages for hours that were not logged due to a technical problem with a timecard machine stopped working. After sackings, the company dropped its demand for a refund but has refused to reinstate the two union activists.

Migrant workers

Non-resident workers in Macau numbered approximately 30,000 in May 2005, mainly coming from mainland China and principally employed in construction and the garment industry. There are also several thousand Filipino, Thai and Indonesian workers employed mainly in the cleaning and security industries.

Migrant workers are excluded from the social welfare system and their children must pay to attend local public schools. Most migrant workers generally earn less than half the wage of local workers employed at the same job and contracts are between labour recruitment agents and the employer, rather than directly between the employee and his or her boss. Migrants do not have right to collective bargaining and most live in dormitories that are subject to strict supervision by employers and/or employment agencies. There is hardly any effort by the government to inform migrants of their rights and discrimination at all levels is commonplace.

The use of illegal (and hence unprotected) labour is also a problem for Macau authorities who regularly launch crackdowns on the use of illegally imported workers, mainly working in construction. The Macau Labourer and People's Spirit Association has estimated there are a further 30,000 undocumented migrants in the territory. In late 2004, several groups of overstaying or otherwise illegitimate Filipino workers in Macao were deported and some faced possible arrest.

Trafficking of women and forced labour

There is a thriving trafficking network that provides women for the local sex industry. Macao is a reported destination of trafficked women from Ukraine and Russia and increasingly there are reports that it is now the newest destination for trafficked South African women. Prostitution is widespread and is not a crime, although living off the proceeds of prostitution is a crime. Local police generally turn a blind eye to the sex trade which is seen as going hand in hand with the booming mainland tourism. There are also regular cases of women who reported that they were brought to Macau under false pretences and on arrival have had their passports confiscated and are forced to work in prostitution to pay off the debts they have incurred in traveling to Macao.

Wages and working conditions

The Macau Employment Ordinance (MEP) provides for a 48-hour working week, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. According to the ILO the average number of hours worked per week in 2003 was 47. Maternity leave in the private sector does not match conditions in the public sector and the entitlement of male workers to five days of paternity leave is only applicable in the public sector.

There is a minimum wage for migrant workers but not for local workers. The law establishes the general principle of 'fair wages' and compliance with wage agreements. A labour

shortage is starting to push wages up but holiday time is under attack from employers and although the law provides for a 24-hour rest period for every seven days of work, workers frequently agree to work overtime to compensate for generally low wages-levels. While the average per capita GDP has increased in Macau dramatically over the last three years, the General Association of Trades Union of Macau has pointed out that workers are not necessarily benefiting from this increase and that some have suffered a fall in their standards of living – indeed a recent trend has been conversely decreasing benefits (such as paid holidays) for workers in the past two years as the economy has taken off. Although wages have increased steadily they are reportedly not kept up with rising living costs – rent has doubled in the past few years for example.

In 2003 the average monthly wage according to ILO figures was 4,801 patacas [approximately USD600] with a low of 2,755 for those working in private households (predominately cleaning and other domestic duties) and a high of 14,075 for those in public administration. Women had an average wage of only 3,888 compared to the male figure of 5,732 [a gender wage difference much higher than Hong Kong]

Employers' power

Labour contracts – when they exist – often use deliberately obscure terminology and many workers, especially migrants, do not receive a copy. Until 2004 when English was added following lobbying by migrant workers groups, Macau law stated that contracts must be in Portuguese or Chinese. If an employee needs a contract to be translated, he or she must bear the costs.

The power of employers to change unilaterally the wages and working conditions of employees or to terminate their employment (which is equivalent to dismissal) is therefore unchecked. In the context of this excessive employer power and with no legal-institutional framework for collective bargaining workers are easily victimised and discriminated against for their union activities. The use of temporary and short term contracts has reportedly been increasing thereby reducing the number of workers covered by pensions, sick leave, paid holidays and other benefits as well as effectively reducing wage bills.

The Future

Currently some 20 percent of Macau's workforce is still employed in the textile industry (estimated to be some 27,000 people) and there are fears that the ending of the Textile Arrangement in December 2004 may lead to the further decimation of the textile sector in Macau. In the first quarter of 2005, Macau's economic expansion slowed to 8.5 percent as the growth in tourism slowed slightly and textile exports fell. Textile and garment exports which count for almost three quarters of Macau's exports fell 22 per cent in the first quarter.

However, according to local media, the introduction of new trade curbs on certain Chinese clothing items has meant that some firms who were reportedly planning to move production over the border have remained in Macau [and Hong Kong]. The longer term health of Macau's textile industry post-MFA remains unlikely.

There are also some signs that the construction and property bubble is beginning to burst as the economy is starting to slow down. While some locals state that the slowdown is a temporary setback others point to the slowing numbers of mainland tourists and the rising number of empty flats bought as investments but still without tenants. Hotel occupancy is now at the lowest level since the SARS epidemic in 2003. Despite these conflicting trends most analysts still remain confident of Macau's economic future.

In July 2005, the Macau Legislative Assembly debated a proposed trade union bill which was rejected after massive lobbying from business interests. The bill was designed to establish a legal framework to regulate union activities [spelling out many of the vague provisions contained in existing legislation] and would also have allowed unions to represent workers in lawsuits and would have given equal rights to migrant workers. Votes in favour of the bill outnumbered votes against, 11-8, but passage required support from a majority of the legislature's 27 members. Opponents attacked the bill saying it would adversely affect local business. One casino senior manager and legislator was quoted in the local media; "I won't vote for this law because, once in effect, I won't be able to sack a worker who decides to go on strike." According to one Macau academic the current labour shortage and continued lack of specific labour laws and union related provisions on collective bargaining will lead to an increase in strikes and union demands for wage increases unless relevant legislation is passed.