

# GEOGRAPHICAL, HISTORICAL, AND ADMINISTRATIVE BACKDROP ON THE "QUESTION OF MACAU"

Armando M. da Silva\*

## POSTLUDE AS PROLOGUE

On 26 March 1987 the People's Republic of China and the Republic of Portugal signed a joint declaration whereby China will resume the exercise of sovereignty over Macau. This transfer will go into effect on 20 December 1999, the Winter Solstice, the shortest day of the year, a signal day in the ancient Chinese solar-lunar-astrological calendar. For the symbolically-conscious Chinese this date should auspiciously presage a new era for Macau after 442 years of Portuguese administration. Macau has the distinction of being the first European-administered colony in China; it shall also be the last. Thus ends the final paragraph of the last chapter of European colonial rule in all of East and Southeast Asia.

## GEOGRAPHICAL SITE AND SITUATION

Macau is a territory of China presently under Portuguese administration. It is six square miles in area with a population of about 400,000, of which 98 percent is Chinese, and 2 percent Portuguese. The territory is located on the southeastern coast of China at lat. 22°11'N and 113°13'E. Some forty miles to the east-northeast across the Zhu-jiang (Pearl River) estuary is the British Crown Colony of Hong Kong. Jet-foil ferries today make this distance in approximately an hour. Guangzhou (Canton), the prime city and capital of China's Guangdong province, lies about 90 miles north-northwest upstream not the estuary from Macau. From its inception, Macau was sited to make the best use of its situational position to take advantage of trade routes focusing on and around Guangzhou. Macau today derives its income from legalized gambling, tourism, textiles, toys, plastic products, gold-crafts and trading in gold bullion.

## HISTORICAL PROVENANCE

In the century and a half preceding the foundation of Macau in 1557, an extensive trading linkage existed between Chinese ports on its southeastern seaboard and that of Malacca, on the west coast of the Malay peninsula. Malacca was then the focal point of the seaborne trade between South China, Southeast Asia, and India.<sup>1</sup> In 1511 the Portuguese stormed and captured Malacca. Two years later, in 1513, the Portuguese sea-captain Jorge Alvares arrived at the mouth of the Zhu-jiang estuary on a Chinese trading junk from Malacca. The goal of a European seaborne route to Cathay was reached. To put this event in European historical perspective, that same year, across the Pacific Ocean, the Spanish conquistador Vasco Nunez de Balboa first espied the Pacific Ocean atop a hill in Panama. From that point, the colonial purposes of the two Iberian countries would take different courses. For China and Japan, this initial incursion by Alvares would presage the coming of European seaborne nations which would affect the destinies of the two East Asian countries for the next three centuries.

For the next forty years, from their stronghold trading port in Malacca, the Portuguese would establish local seasonal trading markets along the coasts of Thailand, Cochin China and Annam

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\*Dr. Armando M. da Silva is an assistant professor of Geography at Towson State University. Documents in this article were translated from Chinese to English by Dr. da Silva.

<sup>1</sup>For details on this linkage between South China, Southeast Asia and India, see Fernand Braudel, *The Perspective of the World: Civilization and Capitalism: 15th-18th century*, volume 3, Harper and Row, (1979), 524-529.

(today's unified Vietnam), and along the Chinese coast in Guangdong, Fujian, and Chejiang provinces. By 1542 Portuguese deserters on Chinese trading junks would have arrived in Japan, *Jipon-go*, the "Cipangu" of Christopher Columbus' search and destination.

The Portuguese discovered that the Imperial China of the day, the Ming Empire, imposed and attempted to enforce a total ban on Chinese trade with Japan. The Portuguese traders from Malacca saw in this ban an opportunity not to be missed, to serve as middlemen of a nascent, profitable China-Japan trade. By 1557 the Portuguese, still unable to secure permanent footing in China, opted to remain in a small fisherfolk anchorage on a tiny peninsula at the mouth of the Zhu-jiang estuary. This anchorage for Fujianese coastal trading junks and sampans of local Tanka fisherfolks was soon to become Macau. In the first eight decades of its existence, Macau became the focal point of the India-China-Japan trade. As a trading emporium it catered in Chinese gold, silk and porcelain, Japanese silver bullion, Southeast Asian aromatic woods, European woollens and crystal-ware, Indian cotton, and Mexican silver coins from Spanish Philippines.<sup>2</sup> (As a historical footnote, until 1950, the Mexican Standard Silver Peso was accepted as an unofficial "coin of the realm" among fisherfolks and coastal dwellers on China's southeastern seaboard.)

### FOUNDATION OF MACAU

The year 1557 is generally regarded as the foundation date of permanent settlement by the Portuguese in Macau. This settlement served as a convenient convergent point for an annual periodic market-fair. Up-country merchants from surrounding villages and towns could proceed by river sampans, using inland waterways to meet with entrepreneurial traders plying the coast aboard sea-going junks. The venue for trading was often the coastal fisherfolk temple; such a temple served as the economic and religious center for trade and worship. The custom was for traders to seal business transactions with propitious offerings to the local temple god and goddess, to ensure a safe and secure passage for their return.

The name Macau is derived from a local fisherfolk temple dedicated to A-Ma. The original name, Amacao, meant the "anchorage-bay of the sea-goddess A-Ma." Later, the Portuguese would refer to this place as "Porto de Nome de Deus na China," the Port of the Name of God in China.<sup>3</sup>

The legal status of this settlement remained unclear. Tradition relays that the Portuguese were allowed to settle permanently in Macau as a reward for clearing the surrounding waters of local pirates who had made the anchorage their stronghold. The Portuguese at Macau first dealt with the imperial county administrator at the nearby county seat of Xiangshan. Throughout the centuries, in Imperial China direct administration ended at the county level. Below the county level, powerful village clan leaders and influential market town merchants set the rules of local governance. Merchants and guildsmen at the local county seat exerted power due to their close association with the Imperial District Magistrate and the Imperial Salt Commissioner. Then, it appeared that the early Portuguese trader-settlers dealt with persons of influence who served as unofficial trade agents for officials at the county seat of Xiangshan, perhaps even without the knowledge of higher-ups in the Chinese imperial bureaucracy.

The earliest record which establishes any sort of evidence regarding the formal tenure of Portuguese stay at Macau appears to be a system of ground rent (*foro da chã*) paid in silver in 1578

<sup>2</sup>For the history of early Portuguese contacts with China and Japan, in English, consult Charles R. Boxer, *Seventeenth Century Macau*, University of Illinois Press, (1984).

<sup>3</sup>Luiz Gonzaga Gomes, "Os diversos nomes de Macau," *Renascimento (Macau)* (1943) 1: 55.

to the county district magistrate.<sup>4</sup> The Portuguese were also levied a five percent tax on the value of goods. In return, the Portuguese appeared to have maintained local autonomy over the actual governance of the settlement in the manner enjoyed elsewhere by Chinese market-towns. Here then was the basis of conflicting claims over the centuries. To the Chinese, Macau was never ceded at all, and there has never been any evidence in the early days of Macau that the Chinese had alienated any portion of their territory to the Portuguese. From its earliest days to 1849, the Portuguese at Macau paid a ground rent to the district magistrate at Xiangshan county. The Portuguese, in turn could claim direct, uninterrupted administration of Macau since its inception as a Portuguese trading settlement in 1557.

One of the basic problems of Macau's administrative history was the absence of a permanent Portuguese envoy in Beijing. China chose to deal with the Portuguese at the county and provincial level, not at the national level. Political relations between Macau and Beijing were subject to frequent changes. Periods of close co-operation between Chinese and Macau administrators alternated with periods of hostility, depending on the ebb and flow of political power and historical circumstances in China and in Macau. Occasions of Chinese administrative pressure on Macau were many. Since 1688, the Chinese maintained custom houses in the city. In 1736, a Chinese representative was installed, to reside within the city's walls. By 1749, it was no longer possible to build a new house or repair an old one without the permission of the residing mandarin. The Portuguese often disregarded Chinese directives, when they were strong enough to resist. At the same time, the Portuguese in Macau frequently served as bounty-hunters for the Chinese mandarins at Guangzhou, suppressing local piracy all over the Zhu-jiang estuary.

Following on the heels of overpowering European imperialistic demands on the territories of China during the period from 1840 to 1898, the government of Portugal wrangled a treaty with China in 1862, whereby the latter confirmed the perpetual occupation of Macau. A further agreement was reached in Lisbon on 26 March 1887.<sup>5</sup>

Portuguese pride and pretensions to the contrary, Macau existed at the sufferance of China. For the Chinese, Macau served as an open window on foreigners. Macau's size never posed any threat to the mighty Chinese nation, and it was this very vulnerability which secured its existence as a foreign enclave on Chinese soil.

### EARLY GOVERNANCE OF MACAU

After Macau was founded, the profitable trade with Japan followed in its wake. Each year for the next eighty years, the mighty Macau *naus* (akin to the English Carracks) built of Indian hardwood, and in many respects the largest ocean-going vessels of their time, sailed for Japan. Catching the southwesterly summer monsoons in June, they weighed anchor in Macau for the month-long trip to Nagasaki, Japan. The cargoes seldom varied, if at all: fine Chinese silks and gold bullion. The Macau *naus*, called by the Japanese *kurofune*, the Black Ships, returned with the northwesterly winter monsoons in November through March. Each *nau* was commanded by a Captain-major (Capitao-mor). The right of trading between Macau and Nagasaki was restricted to the Captain-major of the Japan Voyage. This post was conferred yearly by the Crown of Portugal as a royal monopoly upon a member of the Portuguese nobility. If the Captain-major could not nor would not make the potentially dangerous voyage himself, he could sell his privileges to a proxy

<sup>4</sup>Benjamin V. Pires, "O foro da chão de Macau," *Boletim de Instituto "Luis de Camoes"* (1943) 1; 319-334.

<sup>5</sup>For details on the frequent changes of political relations between Macau and China, in English, consult Montalto de Jesus, *Historic Macao*, Oxford University Press (Asia), 1984.

who then made the voyage with the same prerogatives. For the duration of the voyage, the Captain-major was the recognized official representative of the Portuguese Crown vis-a-vis the Chinese mandarins in Guangzhou or the Japanese *daimyos* at Nagasaki. As money flowed into the coffers of Macau, with attendant "squeeze money" paid to Chinese officials, unwritten tacit understandings were maintained between the Guangdong provincial authorities and the Captain-majors; which in fact secured the continued existence of Macau.<sup>6</sup>

The precedent was thus set for Macau-Chinese relationships for the next few centuries. The Captain-majors and their successors, the governors of Macau, dealt with the governors of Guangdong province rather than with the imperial mandarins in the national capital of Beijing. This precedent continued under successive Chinese administrations from 16th century Imperial Ming China through to the first three decades of the existence of the People's Republic of China.

While the executive branch of Macau's early government existed in the role of the Captain-major as the senior administrator, in 1587 the Portuguese Crown arranged for a special magistrate (*ouvidor*) to perform judicial functions, in effect establishing a judicial branch of the administration. On occasions when the Captain-major could not be present, the *ouvidor* governed in his stead. He was assisted by an administrative assistant known as the Land Captain (*Capitao da terra*).

By this time as well, influential resident-inhabitants (*moradores*) wanted more vested interest in the running of the city. They petitioned and received from the Crown permission to form a senate, called the Macau Senate (*Senado da Camara de Macau*). The Senate passed laws and was empowered to raise funds to run the city. In effect, the Senate functioned as the legislative branch of the administration.

The Macau Senate was composed of three alderman (*vereadores*), two adjudicators-common (*juizes ordinarios*) and the city's legal-political representative (*procurador da cidade*). The last was the accredited city representative in all dealings with Chinese official business. He was accorded the grade of junior mandarin by the Chinese authorities. To assist him in his dealings with Chinese officials, he had an official translator (*lingua*), and two assistant interpreters (*jurabaças*). The term *jurabaças* was originally applied to Chinese Christians born in Macau, but later was extended to include Eurasian *mestiços* and *criolhos* who spoke both Chinese and Portuguese.

Throughout the centuries, frictions between the Senate and the governors of Macau were common. The governors were always expatriate appointees, but the senators were mostly established local residents. Most senators were merchants with traditional suspicions of bureaucrats of royal patronage. The Senate became the real governing body in Macau. It took upon itself to engage in foreign relations on Macau's behalf. The Macau Senate corresponded with the Tokugawa Shogunate of Japan, the kings of Thailand, Cochin China and Annam, and the Sultan of Borneo. It was also the Macau Senate which negotiated with the mandarins of Guangdong province on municipal matters, and communicated indirectly with the Imperial Chinese Administration at Beijing through the help of Portuguese and Italian Jesuits at the Imperial Court into the first half of the 18th century.<sup>7</sup>

Duties levied on all goods carried into Macau on non-Chinese vessels were the principal source of the Senate's income. Often the Senate invested in the Black Ship to Japan. Profits went into the municipal coffer. All military, civil, and ecclesiastical expenditures in Macau had to be financed directly or indirectly by the Senate. This income paid for the local militia, supported all Roman

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<sup>6</sup>For details on early Macau-Nagasaki trade, in English, consult Charles R. Boxer, *The Great Ship from Amacon: annals of Macao and the Old Japan Trade, 1555-1640*. Centro de Estudos Historicos Ultramarinos, Lisbon, Portugal, 1959.

<sup>7</sup>For details on Macau's early form of city government, in English, consult Charles R. Boxer, "The Municipal Council of Macao," in *Portuguese Society in the Tropics*, University of Wisconsin Press, (1965), 42-71.

Catholic churches, orphanages, hospitals, hospices, and provided important money for bribes to Chinese officials, local smugglers, and nearby pirates. Portuguese Macau had a pay-as-you-go municipal government. This offered a contrast to the Spanish Manila of that time, which could only be economically viable through the annual *situado* of remittance of Mexican silver from Acapulco to balance the Spanish Crown's administrative expenses there.

The Macau Senate recognized from its early days that its existence and viability depended on Chinese goodwill, and that the city of Macau existed at Chinese sufferance. This realistic approach did not always go well with official Portuguese colonial policy and pride. In 1833, after almost 250 years of quasi-autonomy, the Portuguese Crown decided to relegate the proud Senado da Camara de Macau to the status of a mere municipal council. This measure was designed to reinforce the Crown's jurisdiction and to stress imperial will at the expense of local authority. By the manner it treated other colonies of Portugal, the Portuguese Crown increasingly assumed greater control over Macau.

Events in China at this time (during the mid-19th century) changed the tacit political arrangement which Macau had with China. The demands of European nations on a weakened Qing China resulted in the ceding of Hong Kong island to Britain in 1842. China further conceded to military and diplomatic pressure by opening many of its ports to foreign nations. At these Treaty Ports, foreigners exercised court-house and customs-house jurisdiction. For instance, foreigners in Treaty Ports could not be tried under Chinese law for offenses committed on Chinese soil, and they would have the right to establish customs-house fees adapted to conditions of trade at each Treaty Port.

It did not take long for the Crown of Portugal to take notice of China's vulnerability. On the wake of the forced leasing of Kowloon peninsula opposite already-ceded Hong Kong island to Britain, special leasing rights at Zhanjiang in the Leizhou peninsula to the south to France, and similar rights at Qingdao in the Shandong peninsula to the north to Germany, Portugal acted also to secure the political status of its territory in China. On 26 March 1887 in Lisbon, Portugal negotiated an agreement with China, whereby China would confirm Macau as Portuguese territory. The tide of history has since turned in China's favor. On 26 March 1987 in Beijing, in a deliberate symbolic gesture acted out a hundred years to the date, China would re-negotiate its agreement with Portugal, whereby Portugal would formally revoke its claims to Macau as Portuguese territory, and confirm Chinese sovereignty claims to Macau.

#### EXTERNAL POLITICAL EVENTS AND INTERNAL ADMINISTRATIVE CHANGES

The Chinese communist revolution in 1949, and the Portuguese *coup d'état* in 1974, signalled new changes in the administration history of Macau. With the arrival of Mao Zedong's communist troops at Macau's border in the autumn of 1949, Macau faced an invincible, powerful China whose troops could have but did not brush aside any token Macau military resistance in a matter of hours. For reasons of trade and diplomacy the new government in Beijing deemed it not quite yet the time to resolve Macau's fate. Meanwhile, at the same time, with the interests of Hong Kong in mind, Britain quickly recognized the People's Republic of China. Portugal, however, under the right-wingish regime of Premier Antonio Salazar did not do so. Macau was once more in a political quandary. However, commerce proved lucrative and profitable for both sides of the Macau-China border. Trade and commerce would not and did not stop across China's political and ideological border with Macau. Macau depended on China for foodstuffs and goods; China benefitted by not having to feed an additional 300,000 mouths. Furthermore, China benefitted from the hard foreign exchange currencies flowing their way in its favor, year after year.

Unlike growing and bustling Hong Kong, Macau remained relatively quiet. Officially Macau was still considered an Overseas Portuguese Colony, but after the forcible take-over of Portuguese Goa by India the status of Macau was up-graded to that of Overseas Province of Portugal, to be in line with the "overseas provinces" of Angola, Cape Verde Islands, Guinea-Bissau and Mozambique.

Macau's relations with Guangdong province continued to remain warm and cordial, although Portugal still maintained diplomatic relations with the government at Taiwan, and not with Beijing. Macau's knack for survival rested in its 400-odd years old experience in knowing how to appease and to stroke its more powerful neighbor next door. It did not follow exactly its mandated role from Lisbon to behave as a Portuguese province should behave.

The concept of "diplomatic face" is important in East Asia. Macau and the two Chinas are adept in ascertaining delicate moves among one another without politically upsetting any of the parties involved. While Portugal still recognized the government at Taiwan, it also had diplomatic dealings with the People's Republic of China. This was effected through its arrangements with the Nan Guang Trading Company. This company served as the People's Republic of China's political and commercial bureau in Macau until 1979. Thus, Macau authorities had an unofficial though direct pipeline to Beijing in matters requiring delicate policy moves between Macau and China. This role is reversed today for the "other China" which now has a trading company in Macau, tolerated by the Beijing government, that fronts for the government at Taiwan. This model was indeed mimicked by the United States Government. After the United States government recognized the People's Republic of China, it continued to maintain commercial and documentation relations with Taiwan through a United States State Department bureau called "The American Institute of Trade" at Taipei, Taiwan.

Ideological, internal turmoils in China during the Mao years did not seem to affect Macau: not the "Five Anti-vermins" campaign, not the "One hundred Blooming-flowers" episode, not the "Great Leap Forward" mis-step. But in the winter of 1966, riots in China related to Mao Zedong's "Great Proletariat Cultural Revolution" reached into Macau. Stirred by a small localized incident involving some perceived rudeness by some Portuguese bureaucrats, frustrated and angry local Red Guards stormed through the streets of Macau for three days in December 1966. The government in Macau was about to capitulate to the demands of the youthful Red Guards. But calmer individuals prevailed among Macau's powerful leftist trade unions, professional guilds, and commercial associations. The government of Macau was maintained at a slight cost. These groups now insisted on veto power over administrative decisions they disagreed with in principle. While these groups had a strong say in the governance of the territory, none was ready yet to kill the economic "Golden Goose" for the sake of political ideology.<sup>8</sup>

Events in far-away Portugal in the spring of 1974 affected Macau's future. On 25 April 1974 a group of senior military officers supported by seasoned junior officers of Portugal's colonial wars in Africa staged a peaceful *coup d'etat*.<sup>9</sup> The forty-eight year rightist regime of Premier Antonio Salazar ended, and a politically broad-based military government was established. This military government soon turned over its powers to a civilian government after a nationwide free election. The process of Portugal's colonial devolution had started, soon to affect Macau.

The "Winds of Change" began to sweep across Portugal's African empire. Within two years of

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<sup>8</sup>*Noticias de Macau* (Portuguese language newspaper) 10 Dec. 1966.

<sup>9</sup>*Journal de Macau* (Portuguese language newspaper) 28 April 1974.

Portugal's 1974 "Revolution of the Flowers", Angola, Cape Verde Islands, Guinea-Bissau, and Mozambique gained their independence. But not Macau, Portugal's last colonial hold-out.

In early 1976, alarmed by a centrist Portuguese government ready to rescind all colonial ties to the territory of Macau, and by the possibility that Macau might be given total independence, Beijing initiated secret talks with Lisbon. China was adamant that Macau had always been considered Chinese territory and as such could not condone any alienation of its territory by Portugal's giving of independence to Macau. On 17 February 1976 the Portuguese Assembly in Lisbon granted the territory of Macau a new political status. Macau would not be considered part of Portuguese territory, but merely under Portuguese administration.<sup>10</sup> This maneuver allowed the Portuguese Republic, which still had no diplomatic relations with the People's Republic of China, to continue to administer Macau, yet at the same time concede to China its sovereign claims to the territory. Both sides preserved their dignity.

As a point of supreme irony, the People's Republic of China, which had earlier in the past decades provided strong military and moral support to African liberation movements, now opted for a colonial *status quo* policy on Macau. Beijing insisted that future governors of Macau be expatriates born in Portugal, and that they hold a military title! In short, Portugal was asked to continue in the same colonial tradition of choosing Macau governors following upon the trend started in 1557. This policy served two purposes. It off-set any aspirations towards independence for local-born Macau Portuguese nationals, and it maintained the convenient fiction that Macau should be seen as a territory administered over the centuries through military duress by a foreign power. (It was not until the summer of 1987, after the Joint Declaration was initialled and signed, that Macau enjoyed its first civilian governor, Portugal-born Senhor Carlos Melancia, a nuclear engineer.)

On 8 February 1979 Portugal finally broke diplomatic relations with the government at Taiwan, and established formal diplomatic relations with the People's Republic of China.<sup>11</sup> To remove any doubt about the territorial status of Macau, Lisbon and Beijing both formally and openly accepted the premise that Macau is Portuguese-administered Chinese territory. This premise offered the People's Republic of China two diplomatic openings. Beijing, with strong conviction and authority, could now use the example of Macau's territorial status as the negotiating model on the future of British Hong Kong and Chinese Nationalist Taiwan. This premise also provided Portugal with a diplomatic exit. Since Macau is considered Chinese territory, no alienation of Portugal's sovereign territory ever occurred. In effect though, China has formally admitted to allowing a foreign power to administer a parcel of its territory, although no sovereign claim to the land could be made. The cycle had come full circle, for this arrangement was in effect the same one the Portuguese settlers in early Macau had established with the Ming Empire four hundred-odd years ago.

Following the granting of independence to Angola and Guinea-Bissau in 1974, and Mozambique and Cape Verde Islands in 1975, the Portuguese government in 1976 specifically provided Macau with a local constitution appropriate to its unique territorial position. This constitution, the Organic Statute of Macau (*Estatuto Organico de Macau*), provided for the intersection of certain elements of both the national Portuguese constitution and the local Macau constitution. Basically, Portuguese national law would prevail, unless the matter fell within the exclusive purview of Macau's own legislature. In such a case, Portuguese legislation becomes

<sup>10</sup>*Boletim Oficial de Macau* (Official Portuguese Government Gazette) 24 February 1976.

<sup>11</sup>*Ou Mun Yat Po* (Chinese language newspaper) 9 February 1979.

subordinate of Macau law. For instance, in matters pertaining to Macau's financial and currency systems, local taxation, labor relations, industry and trade, Macau-made laws would predominate.

The laws of Macau are made by the Macau Legislative Assembly (*Assembleia Legislativa de Macau*). It is composed of seventeen assembly-members (*deputados*) who hold office for a term of four years. These assembly-members are drawn from three different sources. The Governor of Macau appoints five assembly-members, who are usually highly visible and powerful residents of the territory. Six others are provided seats from local elections. Eligible voting in local elections is restricted to persons eighteen years or older who live and work in Macau, and who hold a Macau resident voter's identification card. These holders need not be Portuguese citizens, but may be Portuguese, Chinese, or foreign nationals. Six other legislative assembly-members are drawn from candidates submitted by recognized civic, labor, and business circles.<sup>12</sup>

Macau's "troika" system of legislative representation is a particular response to the territory's peculiar political status. It has served so far in accommodating the diverse interests of Portuguese administrators, Portuguese-speaking resident Eurasians, Macau-born capitalist financiers, and local leftist trade union members.

Macau was soon to fall into the treadmill of history behind Hong Kong. After the recapture of the Falkland Islands from Argentina by British forces in May 1982, a confident but tactless Margaret Thatcher, Prime Minister of Britain visiting Beijing in September 1982, re-iterated the position of Hong Kong as a British territory ceded to Britain in perpetuity under the Treaty of Nanking signed in January 1842. Deng Xiaoping, then Prime Minister of the People's Republic of China, thought otherwise. He held the belief that Hong Kong, as with Macau, has always been Chinese territory, and that Hong Kong was acquired by Britain from the Qing Empire through military and political duress. He also suggested to the British government, in no uncertain terms, that negotiations over the future status of Hong Kong be started forthwith to resolve what the Chinese often call "yet unresolved historical disputes over Chinese territories."

For the next two years, British negotiators, but not those from Hong Kong, held meetings with their Chinese counterparts at Beijing to hammer out an agreement over the future of Hong Kong. On 26 September 1984, Britain and China initialled a joint declaration on Hong Kong's status. Briefly and basically, Hong Kong would be treated as a Special Administrative Region (SAR) of China after 31 July 1997. Hong Kong will be allowed to retain its capitalistic system and local life-style for the next fifty years under the provision of China's "One nation, two systems" policy.<sup>13</sup>

Macau's turn was soon to come. On 30 June 1986, the Republic of Portugal and the People's Republic of China began talks on the "Question of Macau," culminating in the 26 March 1987 Joint Declaration, which was signed in Beijing on 13 April 1987 by Prime Minister Cavaco Silva of Portugal and Prime Minister Zhao Ziyang of China.<sup>14</sup>

The following is the author's own free, but not legally binding, translation derived from the original Chinese and Portuguese texts of the seven main points of the Joint Declaration.<sup>15</sup>

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<sup>12</sup>For the structuring and the description of Macau's Legislative Assembly, see *Anuario de Macau de 1976* (The 1976 Yearbook of Macau).

<sup>13</sup>*South China Morning Post, Hong Kong* (English language newspaper) 28 September 1974.

<sup>14</sup>*Ou Mun Yat Po* (Chinese) and *Journal de Macau* (Portuguese), 14 April 1987.

<sup>15</sup>The author's translation comes from a special magazine issue of *Ou Mun Yat Po*, August 1987, Macau.



**JOINT DECLARATION BY THE GOVERNMENT OF THE REPUBLIC OF PORTUGAL AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF CHINA OVER THE QUESTION OF MACAU**

The Government of the Portuguese Republic and the People's Republic of China, noting with satisfaction the development of friendly relations between the two Governments and of their people since the establishment of diplomatic relations between the two countries, have reached an appropriate accord to the legal position of Macau arising from negotiations between the two governments such to serve the economic development and the social stability of Macau, and to further strengthen the friendly relations and cooperation between the two countries. To this effect, the two governments agreed, at the meetings of their representatives, to make the following declaration:

I. The Government of the Portuguese Republic and the Government of the People's Republic of China declare that the territory of Macau (including the peninsula of Macau, the island of Taipa and the island of Coloane, collectively designated as Macau) is part of Chinese territory, and that the Government of the People's Republic of China will assume the exercise of sovereignty over Macau after 20 December 1999.

II. The Government of the People's Republic of China declares that in conformity with the principle of "one country, two systems," the People's Republic of China shall apply, in relation to Macau, the following fundamental policies:

A. In accordance with Article 31 of the constitution of the People's Republic of China, the People's Republic of China shall establish after return and the assuming of the exercise of sovereignty over Macau, a Special Administrative Region (SAR) of the People's Republic of China.

B. The Special Administrative Region of Macau (SAR of Macau) shall directly be subordinate to the People's Central Government of the People's Republic of China, and shall enjoy a high degree of autonomy, except in external relations and in defense, which are the prerogatives of the People's Central Government. The SAR of Macau shall be accorded wide independent executive, legislative, and judicial powers.

C. The Government of the SAR of Macau and the legislative organ of the SAR of Macau shall compose of local inhabitants. The chief executive shall be nominated by the People's Central Government based on the results of elections or by consulted choices in Macau. The positions of principal persons in public charge shall be chosen by the Chief Executive of the SAR of Macau, who shall be nominated by the People's Central Government. Chinese and Portuguese nationals, as well as foreigners, who previously have been employed in the public services (including those of the police) of Macau, could maintain their functional posts. Portuguese nationals as well as those of other countries could be chosen or contracted out to carry out certain public functions in the SAR of Macau.

D. The current social and economic systems in Macau shall remain unchanged, as well as the way-of-life, and operative laws. The SAR of Macau shall assure within the law all rights and liberties of its inhabitants and of other persons in Macau, and maintain such features as personal freedoms, the freedom of expression, of the press, of assembly, of association, of movement and migration, of the right to strike, of professional schools, of academic institutions, of religion and of beliefs, of communication and the right to private property.

E. The SAR of Macau shall define, whenever possible, such cultural aspects, as education, science, and technology, and shall protect, within the law, the cultural patrimony of Macau.

Besides the Chinese language, Portuguese could be used as well in government and legislative organs, and in the courts of the SAR of Macau.

F. The SAR of Macau can establish economic relations of mutual benefits with Portugal and other countries. It shall take into consideration the economic interests of Portugal and of other countries in Macau. The interests of those inhabitants of Portuguese ascendancy in Macau shall be protected in conformity with the law.

G. Under the name, "Macau, China," the SAR of Macau can maintain and develop appropriate economic and cultural relations, and within this ambit reach agreements with other interested countries, regions, and international organizations. The Government of the SAR of Macau may issue travel documents relating to arrivals to and departures from Macau.

H. The SAR of Macau shall maintain its free port and its separate customs status for the development of economic activities. It shall continue to maintain its free flow of capital. Regarding the legal currency in the SAR of Macau, the Pataca of Macau shall continue to be used and shall remain freely convertible.

I. The SAR of Macau shall maintain its financial freedom. The People's Central Government shall not impose duties on the SAR of Macau.

J. The maintenance of public order in SAR of Macau shall be the responsibility of the Government of the SAR of Macau.

K. The SAR of Macau can use its own appropriate flag and regional emblem as well as the national flag and emblem of the People's Republic of China.

L. The fundamental policies mentioned above appearing in the joint declaration enshrine the Basic Law of the SAR of Macau and shall be unchanged for the next fifty years.

M. The Government of the Portuguese Republic and the Government of the People's Republic of China declare that during the period of transition understood to be in force from the date of signing to 19 December 1999, the Government of the Portuguese Republic shall be responsible for the administration of Macau. The Government of the Portuguese Republic shall continue to promote the economic development and continue to preserve the social establishment of Macau, and the Government of the People's Republic of China shall provide support to these sentiments.

N. The Government of the Portuguese Republic and the Government of the People's Republic of China declare that to finally ensure the effective application of the Joint Declaration, and to create appropriate conditions for the transfer of power in 1999, a Portuguese-Chinese Joint Declaration Committee shall be formed.

O. The Government of the Portuguese Republic and the Government of the People's Republic of China declare that the terms of concessions of the territory of Macau shall be treated in conformity with the contents of the appendices present in the Joint Declaration.

P. The Government of the Portuguese Republic and the Government of the People's Republic of China agree in the administration of the above-mentioned and of the appendices present in the Joint Declaration which constitute as an integral part of the declaration.

Q. The Joint Declaration and its appendices go into effect on the date when the instruments of change shall be ratified at Beijing. The joint declaration and its appendices as presented shall be equally binding.

Signed in Beijing on 13 April 1987, in two volumes in Portuguese and in Chinese, both carrying similar versions.

For the Government of the Portuguese Republic - Cavaco Silva (signed).

For the Government of the People's Republic of China - Zhao Ziyang (signed).

**Memorandum 1**

In relation to the Joint Declaration of the Government of the Portuguese Republic and of the People's Republic of China on the Question of Macau, signed today, the Government of the People's Republic of China declares that: In conformity with Portuguese legislation those inhabitants of Macau who on 19 December 1999 are Portuguese citizens holding titled Portuguese passports shall be allowed to use those after that date. After 20 December 1999 none shall be granted Portuguese citizenship by reason of the person's territorial link with Macau.

**Memorandum 2**

In relation to the Joint Declaration of the Government of the People's Republic of China and of the Government of the Portuguese Republic over the Question of Macau, signed today, the Government of the People's Republic of China declares that: Those inhabitants of Macau, under the articles of the Nationality Law of the People's Republic of China who are Chinese nationals are considered as such even if they hold or do not hold Portuguese travel documents. Nevertheless, in consideration of the historic social fabric and the real circumstances in Macau, the responsible administrative department of the Government of the People's Republic of China shall allow, after the establishment of the SAR of Macau, those Chinese nationals of Macau who earlier held Portuguese travel documents to continue to use such documents for travel to other countries and regions. Those Chinese nationals aforementioned cannot enjoy the protection of the Portuguese Consulate in the SAR of Macau, nor can those in other regions of the People's Republic of China.

# MACAU GEOGRAPHICAL SETTING

