

Chapter 7

The Main Principles of “One Country, Two Systems” & the *Basic Law of the Macao SAR of the PRC*

The background of “One Country, Two Systems”

The establishment of the Macao Special Administrative Region

The principles of the *Basic Law of the Macao Special Administrative Region of the People's Republic of China*

The background of “One Country, Two Systems”

The Origin of the “One Country, Two Systems” Principle

The principle of “One Country, Two Systems” was proposed by Deng Xiaoping, the leader of the PRC, aiming at solving the “Question of Taiwan”.

- On 1st January 1979, the *Message to Compatriots in Taiwan* (《告台灣同胞書》) was announced.
- On 10th October 1981, Ye Jianying, the Chairman of the NPCSC, announced the *Nine Principles* (葉九條) related to the return of Taiwan.
- In September 1982, Deng concluded the Nine Principles as the principle of “One Country, Two Systems”.
- In November 1982, *Article 31* of the 1982 Constitution sets the legal basis for the implementation of the principle.



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Source of picture: <https://news.cgtn.com/news/3d4d544f7a556a4d/img/29b904e0-f141-4faf-b82b-e681782dde54.jpg>

The “Hong Kong Question” and the “Macao Question”

1984

Sino-British Joint Declaration (《中英聯合聲明》)



Source of picture: https://www.chinadaily.com.cn/china/2007-06/20/xin_340604200917353105732.jpg

1987

Sino-Portuguese Joint Declaration (《中葡聯合聲明》)



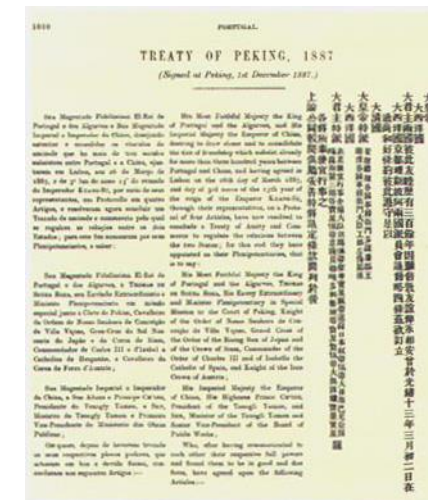
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A Brief history of Macao

- In mid-16th Century during the Age of Discovery, the Portuguese explorers reached China and started to stay in Macao in small groups, for trade and for missionary purposes. The Portuguese community existed in a form of self-governance.
- After the Opium War in the mid-19th Century, João Amaral, the Portuguese Governor of Macao, started to the Portuguese expansion in Macao. He sent away the Chinese officers and basic took the control of the territory.
- On 1st December 1887, the *Sino-Portuguese Treaty of Peking* (《中葡和好通商條約》) was signed. It gave Portugal the perpetual colonial rights to Macao.



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A Brief history of Macao

- In June 1986, the Chinese and the Portuguese governments started the negotiation about the “Macao Question”.
- On 26th March 1987, the *Sino-Portuguese Joint Declaration* was signed in Beijing. Macao entered the transitional period before the handover.
- On 31st March 1993, the *Basic Law of the Macao Special Administrative Region of the People's Republic of China* was adopted by the 8th NPC at its first session.
- On 20th December 1999, Macao was returned to the PRC, and the *Macao Special Administrative Region* was established.



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The Establishment of the Macao Special Administrative Region



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“一國兩制”
“澳人治澳”
高度自治

The principles of
“One Country, Two Systems”
“Macao People Ruling Macao”
A High Degree of Autonomy

The Principle of “One Country, Two Systems”

- After the reunification of the country, “the main part of China must continue under socialism, but a capitalist system will be allowed to exist in certain areas, such as Hong Kong and Taiwan. (中國的主體必須是社會主義，但允許國內某些區域實行資本主義制度，比如香港、台灣。)” Said the late leader of China, Deng Xiaoping.
- The purpose is the peaceful reunification of the country.
- “One Country” is the prerequisite, the core and the basis of the “One Country, Two Systems” policy, because it is the target. “Two Systems” is the means to achieve the target.

The Principle of “Macao People Ruling Macao”

- After the handover, the Macao SAR shall be governed by the Macao people.
- It is totally different from the time of Portuguese administration. The Governor of Macao was appointed and sent by the Portuguese emperor or president.

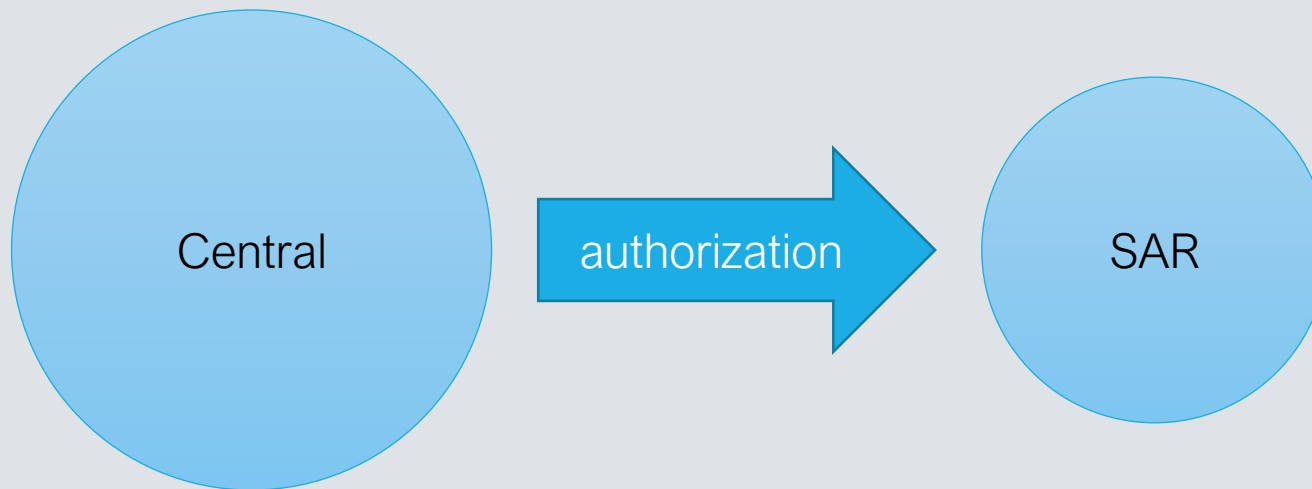


The three Chief Executives of the Macao SAR:

1. Edmund Ho Hau-wah
2. Fernando Chui Sai-on
3. Ho Iat-seng

A High Degree of Autonomy

Under the unitary system, the state authorizes a high degree of autonomy to the special administrative region; but, it is not a complete autonomy, otherwise the SAR would become an independent political entity and it would not be “One Country”.



The Basic Law of the Macao Special Administrative Region of the People's Republic of China

The Basic Law of the Macao SAR of the PRC



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Although there is **Article 31** in the *Constitution of the People's Republic of China*, a particular legal document for the establish of the Macao SAR is still needed.

The *Basic Law of the Macao Special Administrative Region of the People's Republic of China* is the **institutionalization** or the carrier of the “One Country, Two Systems” principle.

- The Basic Law is commonly known, though not really accurate, as the “mini constitution”.
- It resembles the Constitution in some aspects:
 - it holds a supreme legal status in the Macao SAR. Subordinate to the *Constitution of the PRC*;
 - it protects the fundamental rights of the Macao SAR residents;
 - it states the organization of the government institutions in the Macao SAR.

The Structure of the Macao Basic Law

- 145 articles
- Preamble + 9 chapters + 3 annexes

Preamble

Chapter I General Principles

Chapter II Relationship between the Central Authorities and the Macao Special Administrative Region

Chapter III Fundamental Rights and Duties of the Residents

Chapter IV Political Structure

Chapter V Economy

Chapter VI Cultural and Social Affairs

Chapter VII External Affairs

Chapter VIII Interpretation and Amendment of the Basic Law

Chapter IX Supplementary Provisions

Annex I Method for the Selection of the Chief Executive of the Macao Special Administrative Region

Annex II Method for the Formation of the Legislative Council of the Macao Special Administrative Region

Annex III National Laws to Be Applied in the Macao Special Administrative Region

The Relationship between the *Constitution of the PRC* and the *Macao Basic Law*

- The *Constitution of the PRC* is the source of law of the *Macao Basic Law*.
- The *Macao Basic Law* is a special extension of the content in the *Constitution of the PRC* under the “One Country, Two Systems” policy.
- The *Constitution of the PRC* is the supreme law of the country. It is the centre of the national legal system. The Macao SAR is an inalienable part of the PRC, thus, the *Constitution of the PRC* is definitely applicable in the Macao SAR.
- The *Macao Basic Law* is a national law enacted by the NPC in accordance with the provisions of the *Constitution of the PRC*. Therefore, all the legal norms and spirits of the *Macao Basic Law* shall align with those in the *Constitution of the PRC*.
- Local legislation in the Macao SAR shall not contravene the *Macao Basic Law*. As a result, local legislation in the Macao SAR shall not contravene the spirit of the *Constitution of the PRC*.



Source of picture: <http://202.175.64.187/esf/download/basiclawbook.pdf>

The *Macao Basic Law* was enacted in accordance with the provisions of the *Constitution of the PRC*

Para. 2, Preamble, the *Macao Basic Law*

Upholding national unity and territorial integrity, contributing to social stability and economic development, and taking account of its history and realities, the People's Republic of China has decided that upon China's resumption of the exercise of sovereignty over Macao, a Macao Special Administrative Region will be established in accordance with the provisions of Article 31 of the Constitution of the People's Republic of China, and that under the principle of "one country, two systems", the socialist system and policies will not be practiced in Macao. The basic policies of the People's Republic of China regarding Macao have been elaborated by the Chinese Government in the Sino-Portuguese Joint Declaration.

《澳門基本法》序言 第二自然段

為了維護國家的統一和領土完整，有利於澳門的社會穩定和經濟發展，考慮到澳門的歷史和現實情況，國家決定，在對澳門恢復行使主權時，根據中華人民共和國憲法第三十一條的規定，設立澳門特別行政區，並按照“一個國家，兩種制度”的方針，不在澳門實行社會主義的制度和政策。國家對澳門的基本方針政策，已由中國政府在中葡聯合聲明中予以闡明。

The *Macao Basic Law* was enacted in accordance with the provisions of the *Constitution of the PRC*

Para. 3, Preamble, the *Macao Basic Law*

In accordance with the Constitution of the People's Republic of China, the National People's Congress hereby enacts the Basic Law of the Macao Special Administrative Region of the People's Republic of China, prescribing the systems to be practiced in the Macao Special Administrative Region, in order to ensure the implementation of the basic policies of the People's Republic of China regarding Macao.

《澳門基本法》序言 第三自然段

根據中華人民共和國憲法，全國人民代表大會特制定中華人民共和國澳門特別行政區基本法，規定澳門特別行政區實行的制度，以保障國家對澳門的基本方針政策的實施。

The *Macao Basic Law* was enacted in accordance with the provisions of the *Constitution of the PRC*

Article 11, the *Macao Basic Law*

In accordance with Article 31 of the Constitution of the People's Republic of China, the systems and policies practiced in the Macao Special Administrative Region, including the social and economic systems, the system for safeguarding the fundamental rights and freedoms of its residents, the executive, legislative and judicial systems, and the relevant policies, shall be based on the provisions of this Law. No law, decree, administrative regulations and normative acts of the Macao Special Administrative Region shall contravene this Law.

《澳門基本法》第11條

根據中華人民共和國憲法第三十一條，澳門特別行政區的制度和政策，包括社會、經濟制度，有關保障居民的基本權利和自由的制度，行政管理、立法和司法方面的制度，以及有關政策，均以本法的規定為依據。

The *Macao Basic Law* holds a supreme legal status in the Macao SAR, but subordinate to the *Constitution of the PRC*.

The Macao Basic Law – the institutionalization of the “One Country, Two Systems” principle

The *Macao Basic Law* is a special extension of the content in the *Constitution of the PRC* under the “One Country, Two Systems” policy.

The Government of the People’s Republic of China resumed the exercise of sovereignty over Macao and established the Macao Special Administrative region.

There are three main principles:

- “One Country, Two Systems” “一國兩制”
- “Macao People Ruling Macao” “澳人治澳”
- A high degree of autonomy 高度自治

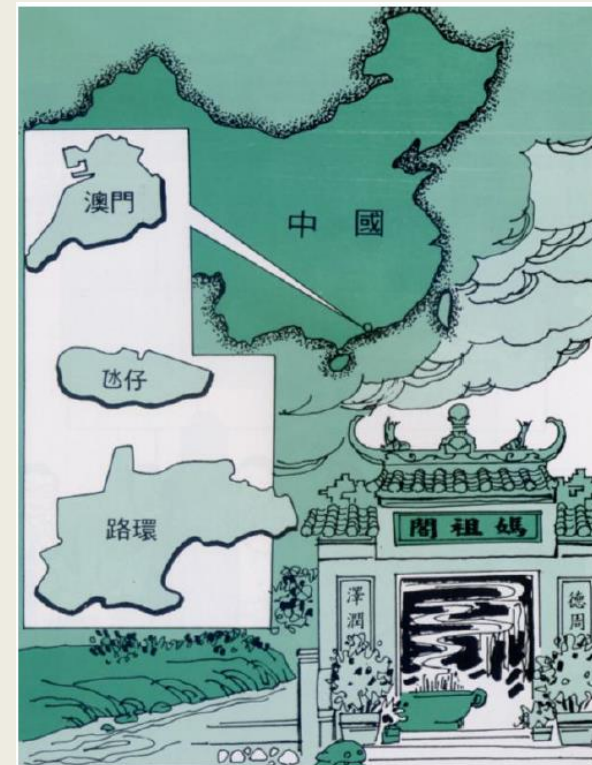
“One Country” Principle

Para. 1, Preamble, the *Macao Basic Law*

Macao, including the Macao Peninsula, Taipa Island and Coloane Island, has been part of the territory of China since ancient times; it was gradually occupied by Portugal after the mid 16th century. On 13 April 1987, the Chinese and Portuguese Governments signed the Joint Declaration on the Question of Macao, affirming that the Government of the People's Republic of China will resume the exercise of sovereignty over Macao with effect from 20 December 1999, thus fulfilling the long cherished common aspiration of the Chinese people for the recovery of Macao.

《澳門基本法》序言 第一自然段

澳門，包括澳門半島、氹仔島和路環島，自古以來就是中國的領土，十六世紀中葉以後被葡萄牙逐步佔領。一九八七年四月十三日，中葡兩國政府簽署了關於澳門問題的聯合聲明，確認中華人民共和國政府於一九九九年十二月二十日恢復對澳門行使主權，從而實現了長期以來中國人民收回澳門的共同願望。



“One Country” Principle

Article 1, the *Macao Basic Law*

The Macao Special Administrative Region is an inalienable part of the People's Republic of China.

《澳門基本法》第1條

澳門特別行政區是中華人民共和國不可分離的部分。

- The land and natural resources as State property (Article 7)
- The Chinese language as an official language (Article 9)
- The use of the national flag and national emblem (Article 10)



“Two Systems” principle

Article 5, the *Macao Basic Law*

The socialist system and policies shall not be practiced in the Macao Special Administrative Region, and the previous capitalist system and way of life shall remain unchanged for 50 years.

《澳門基本法》第5條

澳門特別行政區不實行社會主義的制度和政策，保持原有的資本主義制度和生活方式，五十年不變。



“Two Systems” principle

- The safeguard of the rights and freedoms of the Macao SAR residents and other people in the Macao SAR (Article 4)
- The protection of private ownership of property (Article 6)
- The management of the land and natural resources by the Macao SAR government (Article 7)
- The maintaining of the laws, decrees, administrative regulations and other normative acts previously in force (Article 8)
- In addition to Chinese, Portuguese as an official language (Article 9)
- The use of regional flag and emblem of the Macao SAR (Article 10)

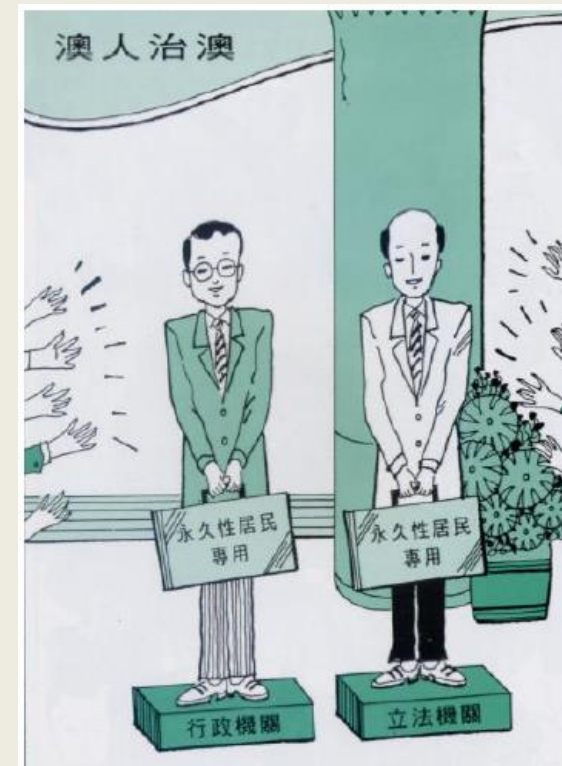
“Macao People Ruling Macao” Principle

Article 3, the *Macao Basic Law*

The executive authorities and legislature of the Macao Special Administrative Region shall be composed of **permanent residents of Macao** in accordance with the relevant provisions of this Law.

《澳門基本法》第3條

澳門特別行政區的行政機關和立法機關由**澳門特別行政區永久性居民**依照本法有關規定組成。



A high degree of autonomy

Article 2, the *Macao Basic Law*

The National People's Congress authorizes the Macao Special Administrative Region to exercise **a high degree of autonomy** and enjoy **executive, legislative and independent judicial power, including that of final adjudication**, in accordance with the provisions of this Law.

《澳門基本法》第2條

中華人民共和國全國人民代表大會授權澳門特別行政區依照本法的規定實行**高度自治**，享有**行政管理權、立法權、獨立的司法權和終審權**。



Important knowledge points

- The relationship between the *Constitution of the People's Republic of China* and the *Basic Law of the Macao Special Administrative Region of the People's Republic of China*
- The three main principles of the establishment of the Macao SAR:
 - “One Country, Two Systems”
 - “Macao People Ruling Macao”
 - A high degree of autonomy
- The relationship between “One Country” and “Two Systems”

Assignment

The three main principles guiding the establishment of the Macao Special Administrative Region are “One Country, Two Systems,” “Macao people ruling Macao” and a high degree of autonomy. They are institutionalized through the *Macao Basic Law*.

(1) What is your understanding on these principles? Pick one of them and explain its meaning and how it is institutionalized in the *Macao Basic Law*.

(2) Do you think the implementation of this principle is beneficial or harmful to the development of Macao? Give examples and explain your reasons.

Write an short essay of no less than 200 words, and submit it on Canvas before 11th April 2023.

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