Hong Kong and Macao Legal Information in English

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Roadmap

• Finding English translations of primary legal materials in Hong Kong
• Finding English translations of primary legal materials in Macao
• Comparing and Contrasting Hong Kong and Macao to look at some issues in finding and using English translations of laws
Hong Kong, A Brief History
HK Government Structure
Primary Legal Materials in HKSAR

• Basic Law
  – Constitution or Mini-Constitution*
• Legislation (ordinances, subsidiary legislation, etc.)
  – HKSAR Gazette
• Case law
• Treaties and International Agreements
Legal Language Framework in HK

• Official Language
  – Basic Law Article 9: English may be used officially by the executive, judicial and legislative authorities
  – Chapter 5 Section 3: Official languages and their status and use
  – Chapter 5 Section 4: Enactment of Ordinances in both official languages
  – Chapter 5 Section 5: Judicial Proceedings
WTO’s application to HKSAR and Macao

- WTO transparency obligation – trade-related laws, regulations and rules
  - GATT Art. X Publications and Administration of Trade Regulations
  - Circulating in one of the three working languages (English, Spanish or French)
Availability of Official English Translations
Basic Law

• Where can we find it in English?

Government of the HKSAR Gazette

- Legislative Council or LegCo
- What is in the Gazette?
  - Principal laws/ordinances: Supplement 1
  - Subsidiary laws/by-laws/orders/regulations/rules: Supplement 2
- Where can you find it?
  - HKSAR Government Website: [http://www.gld.gov.hk/egazette/?lang=e&agree=1](http://www.gld.gov.hk/egazette/?lang=e&agree=1)
  - Annotated Ordinances of Hong Kong (Lexis)
Case law

• Court of Final Appeal
• High Court
• District Court
• Magistrates’ Court

Where can we find it in English?


Hong Kong LII (HKLII): [http://www.hklii.hk/eng/](http://www.hklii.hk/eng/)

Lexis and Westlaw
LexisNexis HK and Westlaw HK

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Bonus in a multilingual legal system

• The English-Chinese Glossary of Legal Terms

• The Chinese-English Glossary of Legal Terms
Macao, A Brief History
Primary Legal Materials in Macao

- Basic Law
- Codes/Legislation
  - Civil Code, Commercial Code, Civil Procedure Code, Penal Code, Criminal Procedure Code, etc.
  - Gazette
- Treaties and International Agreements
- What isn’t available
Basic Law

• Where can I find it in English?
  – Macau Government Printing Bureau:
Legislation/Official Gazette

• Where can I find it?
  – Commercial Code: http://bo.io.gov.mo/bo/i/99/31/codcomen/ (English)
Legislation cont’d

• Unofficial Translations by Jorge A.F. Godinho

• Unofficial Translations at Asian LII: http://www.asianlii.org/mo/legis/laws/
What isn’t available:

• Case Law
• English translations – official or otherwise
Issue 1 – Accessibility of English Translations

- Hong Kong – no problem
- Macao – problem
  - Only selected codes and portions of codes are translated and almost all of them are translated by the same person
  - English index for the Gazette, but it limits searching capabilities
Issue 2 – Quality of Translations

• Translating between a civil and common law systems?
  – Independence – duli
  – shenpanyuan (adjudication personnel) or fayuan ganbu (court cadres/officials) faguan (legal officials)
  – “mini-constitution” versus Fangzhen or fangzhen zhengce (basic indicator policy)
  – Xianfa/constitution
  – Judicial Review

• Inconsistency
Issue 2 – Quality of Translations

• Omission or addition of words
• Specific Example
  – Chan Fung Lan v Lai Wai Chuen HCMP4210/1995
• More generally
  – Omission of articles in English when Chinese texts are translated into English
  – Losing meaning when definite article or plural form when translating from English to Chinese
Additional strategies of using English translations

• Learn more about the legal system and laws and recognize the challenge of dealing with a system different than your own

• Recognize the linguistic differences

• Recognize the cultural differences