

# **Asia Pacific Labour Law Review**

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## **Workers' Rights for the New Century**

**Asia Monitor Resource Centre**

**2003**

## **Asia Monitor Resource Centre Ltd.**

AMRC is an independent non-governmental organisation  
that focuses on Asian and Pacific labour concerns.

The Center provides information, research, publishing, training, labour networking  
and related services to trade unions, pro-labour groups, and other development NGOs.  
AMRC's main goal is to support democratic and independent labour movements in Asia and the Pacific.  
In order to achieve this goal, AMRC upholds the principles  
of workers' empowerment and gender consciousness, and follows a participatory framework.

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# Macao Labour Law: Subject to Change without Notice

Emily Su and Apo Leong

## Background information

The Macao Special Administrative Region (SAR) consists of Macao Peninsula, the islands of Taipa and Coloane, located on the west of the Pearl River delta in south China. It is a small enclave of 25 square kilometres with a population of 450,000; 95 percent of them are ethnic Chinese.

### The handover

Using gunboats and corruption, the Portuguese administered Macao after 1557. By 1987, an agreement was reached allowing the resumption of Chinese sovereignty on 20 December 1999.

Macao followed Hong Kong in becoming a SAR of China under a Basic Law. Its capitalist system will remain unchanged for 50 years under the notorious principle of 'one country, two systems'. The Basic Law guarantees that Macao SAR is governed by Macao people and that it enjoys a high degree of autonomy plus executive, legislative, and independent judicial powers, including that of final adjudication. However, central Government retains a certain power, being responsible for the SAR's foreign affairs and defence.



### **Laws: subject to change without notice**

The People's Republic of China Basic Law for the SAR of Macao maintains that the International Labour conventions operating in Macao pre-handover should remain the reigning labour law of Macao. The state claimed that no such laws would be greatly altered. Hence, the Macao Employment Ordinance is perpetuated to today with only minor modifications on the face of its text. It is supposed to remain so for the region's fifty years of special autonomy.

### **A brief overview of the Macao labour law<sup>1</sup>**

#### **'The right of association**

The Basic Law recognises the right and freedom of all workers to form and join trade unions. The Government neither impedes the formation of trade unions nor discriminates against union members....<sup>4</sup>

#### **'The right to organise and bargain collectively**

...The government does not impede or discourage collective bargaining, but there is no specific statutory protection for this right, since Portuguese laws that protected collective bargaining no longer apply.

...Workers who believe that they have been dismissed unlawfully may bring a case to court or lodge a complaint with the Labour Department or the High Commissioner against corruption and administrative illegality.'

#### **'The prohibition of forced or compulsory labour**

Forced and bonded labour is prohibited by law, and there were no reports of such practices, except for cases of trafficking in women. Children are covered under laws prohibiting forced or bonded labour, although they are not specified in the legislation.'

#### **'Status of child labour practices and minimum age for employment**

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can

be authorised to work on an 'exceptional basis.' Some children reportedly work in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labour Organisation conventions are applied.... Forced and bonded labour is prohibited by law; although child labour is not specified in the law, it is covered by the law's provisions....'

#### **'Acceptable conditions of work**

...Labour legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every seven days of work, worker representatives report that workers frequently agree to work overtime to compensate for low wages....

The Department of Labour enforces occupational safety and health regulations. Failure to correct infractions can lead to prosecution.... Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refuse to work under dangerous conditions.'

#### **'Trafficking in persons**

Specific legislation prohibits trafficking in persons; however, trafficking in women for the purpose of forced prostitution continues to be a problem.... [There] have been credible reports that women from Vietnam are trafficked into Macao as mail-order brides, with the assistance of organisations purporting to be travel agencies, international labour organisations, or marriage mediating services. Women from Malaysia [lured by promises of well-paying jobs] ... have been trafficked into Macao... by Chinese criminal syndicates. In late March, the Korean press reported that a Korean man was arrested on charges of forcing 40 Korean women, recruited as waitresses, into prostitution in Macao.'

A quick perusal of the Macao Labour Relations Law 1989 (MLRL) and the Employment Policy and Labour Rights Law 1998 (EPRL) text may prove to be deceptive. In plain, written language, there seems to be a concerted effort made to protect the rights of the workers. Effort is made to protect certain groups from exploitation. Women and children have certain laws that seem to

protect them from trafficking and child labour practices. It appears that all workers enjoy the preservation of laws concerning acceptable working conditions and collective bargaining. But upon a closer examination of the laws, it appears that the rights of the workers, though seemingly many and varied, are subject to flexibility of interpretation and whimsical alteration without notice.

On its face, these regulations appear to protect the interests of workers by maintaining minimum standards and rights. However, in practice, there are different means of legally evading the protective ordinances. Language and wording of the actual laws are vague, and courts easily bias the content in order to resolve disputes in favour of the employers. These tendencies are not purposely malicious since the Government's only aim is to ensure that corporations continue business practices in Macao and that factories are not withdrawn from the city during the economic slump. At present, hardships due to economic forces give employers almost complete supremacy in the region.

One such loophole written into the laws is the additional stipulation that, with the consent of its employee(s), an employer may be exempt from complying with any of the rules and regulations of the MLRL. Hence, in theory, an employee's rights at the workplace will be respected to the full letter of the MLRL unless the employee willing waives such rights. Thus, it may seem that the employee has every right to voice a dissenting opinion about any and all prospective abuse; after all, the law says that s/he may look to the labour department to redress grievances in case of the violation of working rights.

In reality, such a stipulation is a loophole that works against the protection of labourers. First and foremost, to exercise the option to dissent against employer dicta requires that the employee has leverage. In other words, there must be something that compels the employer to retain the employee despite the dissent. Since the courts tend to rule in favour of the employers in hopes that appeasing them will bring more activity to the local economy, there is little public pressure to retain 'disgruntled employees'. Hence the remaining motivating force is the invisible hand of the economy.

In economic terms, for any worker to feasibly address his/her concerns, optimal conditions must favour the employee so that s/he has equal leverage in the dispute.

For example, if market or other conditions cause the labourer to be on unequal footing with the management, s/he would be reluctant to make protests or to file claims against his/her employer for fear of losing his/her job to more compliant workers. When jobs are at a shortage and there is a plethora of able bodies seeking employment, leverage weighs heavily on the side of management.

In the present economy, work is scarce and workers in Macao do not have the luxury of job security. In fact, where workers' rights are concerned, unfair treatment and illegal practices tend to be of much lower priority to the labourer than earning wages and maintaining a necessary level of subsistence. Hence, employees usually dare not voice dissent lest they lose their jobs. If an employee does express discontent, s/he may be confronted with veiled threats of dismissal.

If the modest economy and the threat of greater financial hardship is not enough to dissuade the employee from taking action against his/her employer, s/he may still encounter greater difficulties. There are hurdles such as language barriers, ignorance (of rights and possible legal procedures), and the lack of avenues for legal recourse. Though there have been cases brought by workers against their employers, these cases remain very few and far between. For example according to the Macao Yearbook 2002, in 2001 there were only labour law enquiries, of which only 1,346 were handled by the labour department. In effect, employers and employees know that, in light of present circumstances, labourers in Macao have little voice and even fewer options.

### **Statute of limitations: a change to the eight-year rule**

Since the handover to China in 1999, only a few laws have been officially changed. The 1987 Sino-Portuguese Joint Declaration and the Basic Law ensure that Macao's economy and way of life are to remain unchanged for 50 years after the transition. Like Hong Kong, this SAR is to enjoy the benefits of the 'one country, two systems' principle during the period of autonomy. In this manner, it seems that only cursory legislation is effected with change.

However, legislation changes that are seemingly cursory can create an enormous burden on the general



Casino workers' demonstration against bad working conditions. (Credit: Apo Leong)

working populace. Since the handover in 1999, the statute of limitations has changed from eight years to one year for addressing disputes under labour law. Thus, workers who wish to challenge their labour disputes through legal recourse now only have one year after the alleged offending incident to process claims. After this one year statute of limitations, there can be no means of legal recourse for redressing labour grievances under Macanese labour law, and the worker can no longer bring suit against management for violation of the MLRL. The only recourse left to the labourer is a civil claim that examines work contract as the reigning law in the dispute, as there would be no protection under the labour law.

As a result of this change in the statute of limitations, many cases were dismissed in the Macanese court. Even cases that were well within being processed were dropped if the incident occurred before 1998. Needless to say, this was a great victory for management as it added yet another hurdle to worker dissent. Within the new law, employees must be exceptionally careful and pay particular attention to the time frame of their claim. Labourers are not only responsible for timely action, they must even ensure that the labour department's processing of their claim is in sync with their time limit restriction to redress the grievance. If the government is negligent with processing the claim, a worker can lose the right to dispute his/her claim under labour law

through no fault of his/her own. Additionally, ignorance of the rule is no exception. Unfortunately, too many labourers are not yet aware of the new law or its sweeping implications.

While s/he is barred from legal recourse under labour law, the employee may still make a claim under civil law against his/her employer. In this instance, s/he would have no protection under the MLRL, but s/he could make claims that the employer violated the work contract and bring suit based on those claims. As practical as this option may seem, there are several disadvantages to making claims based on the contract.

The biggest dilemma faced by the employee rests at the very threshold of the employment agreement. The employer is not required to present the employee with a written contract. It is the responsibility of the employee to request and acquire a contract. Should the employee fail to do so, management would not be faulted for hiring in the absence of a contract.

Although most employers do sign a written contract with their employees, this contract may or may not be in a language that the employee understands or reads. Macanese law stipulates that both Portuguese and Chinese are official languages, and therefore, the document may be provided for the employees in either language. However, this presents a great dilemma as there are a multitude of non-Chinese/non-Portuguese migrant workers in Macao. For example, Filipino migrant workers read neither Portuguese nor Chinese, so they lobbied the legislature to require contracts to be written in English. Unfortunately there is still no such requirement. In fact, the Macanese law only recently conceded that employment contracts may be written in English, but that the burden of the document translation weighs on the employee and not the employer.

Finally, even if the employee successfully brings suit against his/her employer, s/he should not expect a warm reception from the courts. Taking a case to the Macanese Courts is not efficient since large corporations often have great leverage. Some big companies, like the major provider of security guards, Guardforce, have an exceptional amount of power. Guardforce management are so familiar with the local government and the courts that they tend to be able to 'work something out' in the event of a labour dispute. Management also has the leverage of economic resources on its side. Since money is a factor

of time (and vice versa), rich corporations have the luxury of evading prosecution by dragging out the cases in court for years on end. Their hope is that the labourer will tire of the process and eventually give up. Sometimes they do.

### **Labour union or neighbourhood association?**

The focus of the Macao Federation of Unions (FLU) lies predominantly in promoting social and cultural activities and in maintaining a stable workforce. The FLU is often likened to a local neighbourhood association in that it promotes some social welfare causes, but does not seriously represent the workers or address grievances in labour disputes. On these work-related issues, the FLU tends to take a neutral stance since its primary goal is to ensure minimum disruption to business and the local economy. The FLU leadership is very much pro-China and has strong links with mainland China's government controlled All China Federation of Trade Unions, to ensure that China's own interests are well represented. On the local level, the municipal government has strong ties to the commercial and trade unions. Even the FLU has a 'good relationship' with the commercial and trade union management. Hence, in many ways, the needs of the employees seem to rank last in priority.

While the FLU does not take an active role in representing workers in labour disputes, much has been accomplished by way of social services. Since the FLU has such strong ties to the local government and to the business associations there, it has been able to achieve a wide array of services for its members. In fact, during negotiations, the FLU only addresses questions of benefits and social assistance. As a result, the FLU has been successful in attaining social welfare services such as subsidies, health clinics, child care facilities, and community centres.

Macao has a very strong civil servants' union, but its power is contained within the department. For all other departments, there are a couple options for addressing complaints. First, employees may individually address their complaints to the city's labour department. This process can be long and arduous, and the employee might face immediate dismissal from work. For fear of losing their jobs workers prefer not to exercise this op-

tion until after they have completed their contract in full or after they have already been dismissed. Of course, it follows that this is a viable option only if the dispute in question has not yet violated its one-year statute of limitations. Waiting too long to file a claim will cause an employee to lose that right under labour law. But, again, labour dispute assistance from the government or the courts is not very efficient since certain large corporations have very intimate ties with the government officials. Almost inevitably, a comfortable solution for the corporation will be worked out.

Churches and non-governmental organisations offer the next alternative in dispute resolution for the labourer. Often church-based programmes provide the kind of counselling that despairing workers seek. Anyone may solicit organisations such as the Young Christian Workers (YCW) of Macao or the Industrial Evangelical Fellowship (IEF) Centre for help. In addition to providing personal counselling and guidance, these organisations tend to be a good resource for dispute resolution.

For example, the YCW offers counselling and instructions on legal and informal alternate dispute resolution (ADR). It provides guidance on how an employee might approach management with a certain complaint or how to talk to management regarding a specific request. But the guidance is limited; for the role of YCW is a passive one. While this centre helps workers find ADR avenues to address grievances, they do not actively participate in the dispute resolution process. Rather, the YCW enlightens workers on procedural matters and empowers them with the resources to act.

Like YCW, the IEF Centre also offers counselling and guidance for employees. But more importantly, the IEF provides another service that trains and re-trains workers with the necessary skills to fill positions (usually in manufacturing factories) in the economy. These programmes are primarily for the unemployed. The IEF hopes that the new skills would make them more competitive and desirable candidates in the search for work.

Some of these not-for-profit organisations also provide other useful and important services such as reading rooms, low-cost cafeterias, and temporary housing. The IEF, for example, has a modest-sized reading room at its entrance for workers seeking recreation. The privately subsidised lunches they offer are of great help to busy workers who have little time and few resources for food

preparation. Services of these organisations are freely offered to all.

Unfortunately, there has been a recent decline in the presence of these service groups. Many of them have left the area, bullied away by capitalists under the guise of supporting a free market economy. Such entrepreneurs may demand a 'laissez-faire' law, but in truth, it is in their best interest to suppress the services. By maintaining a low level of awareness in employees, management can ensure that they have as little disruption in production as possible. Other factors that also contribute to the decline of such service organisations are lack of funding and lack of human resources. With little capital and few hands, the future of such organisations is very uncertain.

### **Social services and social welfare**

Macao has a very beneficial Social Security Programme for permanent residents. Each month, every employee contributes MOP15 (US\$1.88) to the city's welfare fund, and employers add another thirty (US\$3.75).<sup>2</sup> Since the 1990s this fund has contributed to ensuring a basic standard of living by providing monthly subsidies for the retired, disabled, unemployed, and the diseased. This Fund also provides grants MOP1,000 (US\$125) in the event of a marriage, child birth, or the death of an employed family member.

These social services are also extended to migrant labourers who have a legal working status in Macao. But while the Social Security Programme is certain to offer a basic level of protection for the residents of Macao, it is much more difficult to assess whether or not the migrant workers are actually enjoying the same benefits. Migrant workers tend to be less aware of their rights and of the benefits to which they are entitled. They also tend to be more reluctant to pursue those rights and benefits.

One 'advantage' that migrant workers seemingly enjoy over their Macanese counterparts is the benefit of a minimum wage policy. Macao does not offer a minimum wage policy for its residents. Pay for work performed is ruled by the invisible hand of the economy for all residents. However, legal migrant workers enjoy the advantage of a minimum wage and receive at least MOP75 (US\$9.40) per full working day.

Ironically, this measure was not established as a means to protect migrant workers. Rather, it was enacted

in order to deter the importation of migrant workers and to reduce the influx of migrant employees to the local job market. The minimum wage discourages employers from importing labour by ensuring that wages paid to migrant workers are as close as possible to the average of wages paid to permanent residents. Hence, the local government depends on this delicate balancing act to ensure that local jobs are not all usurped by migrant workers. Non-legal migrant workers, on the other hand, have no means of protection under this or any other government sponsored welfare programme. Illegal migrant workers are, thus, very dependent on employers and very vulnerable to exploitation.

Another means of financial support is the Macao Public Assistance Programme. This programme strives to equip the city's poor with monthly stipends for personal use. No contribution in the form of income tax goes into this fund. Rather, the subsidy comes directly from the government. In order to qualify for assistance, a legal resident must be among the elderly, physically disabled, diseased, a single parent, or must earn less than MOP1,300 (US\$163) per month. In fact, qualifications for this type of assistance are very stringent in order to ensure that the money only goes to those most in need. Benefits do not extend to those without legal residency status.

A third category of social welfare addresses the Basic Living Needs of all legal resident labourers. Under this programme are provisions for public medical care, housing subsidies, and subsidies for education costs. Medical benefits include all primary medical care and/or financial support for victims of work-related injuries and primary medical care for illnesses. Secondary medical care, such as long term care for chronic diseases, are only available to children, the elderly, students, pregnant women, and prison inmates. Secondary medical care may be covered by insurance policies. According to the MLRL, all health and accident insurance is to be paid by the employer.

In order to qualify for social housing, a household must earn less than MOP1,200 (US\$150) per month. If a family qualifies, it could receive substantial reductions to rental housing. Education subsidies are available for families with incomes lower than MOP1,500 (US\$187.50) per month. Education is expensive in Macao, with only a few of the schools run by govern-

ment entities. Most schools are private, especially those for children under six years of age; and daycare services are very costly. Hence, providing education and childcare subsidies is crucial to ensuring the working status of local residents.

### **A conflict of the peoples**

Once booming with development and foreign investment, in recent years Macao has turned into something of an industrial ghost town as skeletons of abandoned and unfinished skyscrapers litter the landscape. Like all states encountering economic hardship, the local residents of Macao have been increasingly mindful of migrant workers in the vicinity. With so few jobs to go around, even social services and labour unionists have adopted a protective stance and would like to impede the infiltration of immigrants to the local job market. Hence, the city implemented the migrant worker minimum wage policy to ensure that there would be no monetary benefit to importing and hiring an immigrant rather than simply hiring a permanent resident.

On the other side of the coin are the economic realities faced by the migrant workers within their own respective countries. Foreign wages in nearby states are often only a fraction of those available in Macao for the same amount of work. Workers even have a difficult time finding any employment at all. For this reason, they are usually willingly solicited by recruitment agencies whose primary concern is to make easy money through the exploitation of labour imports and exports.

The term ‘migrant worker’ evokes images of old women or men who follow waves of crop from farm to farm, season by season. One would hardly expect young faces, now weary from labour, filing hastily in and out of grey, smoky factories. Young women from the Guangdong area of China are often recruited to work in the Macanese factories by mainland agencies. Filipino women represent the majority of domestic workers in Macao, while Filipino men are usually recruited for work as security guards.

Documented migrant workers make up over 12.5 percent of Macao’s total workforce. There are three levels of work visas with which immigrants are allowed to enter and be employed in the Macao SAR. The differences in visa status are divided into three colours, represented by the white, yellow, and blue cards.

White card holders are considered permanent residents; and therefore, they enjoy all benefits by way of social welfare and the MLRL when, and if, they become applicable. As always, enforcement of the labour laws is a different matter. The next level, the yellow card, has semi-permanent status. Migrant workers holding a yellow card must renew their visas every few years. The blue card is the most restrictive of all the visas, as it must be renewed each year. Most migrant factory workers and Filipino domestic workers tend to fall into the last category, since blue cards are the easiest to secure and, logistically, are the most convenient for the employer. Since the time span for the validity of a blue card is the most limited, the sponsoring employer’s obligations are also respectively less significant.

Last and least protected of all are the undocumented immigrant labourers whose working conditions are subject to the whims and temperament of the employer. They are the most vulnerable workers in Macao. Undocumented immigrants receive no protection under the MLRL, the social welfare services, or otherwise.

### **Migrant worker case studies: adversity from all angles**

#### **Tsui: legal factory migrant worker from Guangdong, China**

Tsui Hua He<sup>3</sup>, a factory migrant worker from Jiangmen, in the Guangdong area of China, has been at her workplace for almost three years. S/he earns the minimum wage rate for migrant workers of MOP75 (US\$9.40) per day (about MOP1,500 or US\$188 per month). Unusual at her factory is the fact that minimum wage is guaranteed despite the amount of work performed each day. This practice is not usually adhered to by the management of other factories. Still, Tsui contends that money is easier to gain in Macao than it is in Guangdong, where a month’s salary rarely exceeds RMB500-600 (US\$60.50-72.50) per month when work can be found.<sup>4</sup>

Tsui heard about the opportunities in Macao through word of mouth and decided to enlist with the local recruitment agency. In her home town, s/he was among the factory workers making RMB500-600 per month, which hardly paid for her son’s education fees. So when the recruitment agency demanded over RMB5,000 (US\$604)

in registration, fees, taxes, and deposit, Tsui decided that it was a necessary sacrifice.

However, the agency fees, which include an initial RMB3,000-plus (US\$362-plus) in non-refundable placement fees and a RMB2,000 (US\$242) deposit (if an employee is fired or leaves without consent of the management during her contract, the placement agencies keep the deposit), do not stop once Tsui hands over the RMB5,000-plus to the recruitment officials. Each month that Tsui works in Macao, s/he must also pay RMB300 (US\$36 or roughly 20 percent of her monthly wages) in maintenance and service fees to the agency. Employers do not assist their employees with these payments, so Tsui had to bear the costs alone. For migrant workers who made little to nothing in their home countries, these charges amount to an enormous sum that they must gather and surrender.

Tsui's daily schedule, Monday through Saturday	
Work in the factory	9:00 a.m.-1:00 p.m.
Break for lunch	1:00 p.m.-2:00 p.m.
Work in the factory	2:00 p.m.-6:00 p.m.
End of standard working day	6:00 p.m.
Overtime (normal hours)	6:00 p.m.-8:30 p.m.
Overtime (busy season)	6:00 p.m.-10:30 p.m.
Overtime (extra busy seasons)	6:00 p.m.-12 midnight

Although any work that is performed after 6:00 p.m. is considered overtime, employees are not paid extra for this period. Workers are paid hourly, on a pro-rata calculation of the daily wage. Tsui contends that employees tend to want to work until 8:30 p.m. This 9:00 a.m. to 8:30 p.m. schedule is considered the optimal schedule for most workers since there is little for the migrants to do after work. Without the benefits of family and friends nearby, the labourers seek to fill their spare time earning money to send back home.

Overtime, however, is not as appealing as it may appear, for sometimes it is mandatory. If the season demands much work from the labourers, management stresses that no one may leave until after midnight. According to Tsui, this occurs fairly frequently. Moreover, mandatory overtime that runs until 10:30 p.m. everyday for an entire month is not rare. If an employee is disgruntled and decides not to do the work, management will

dismiss her, and she will lose her job. Tsui does not feel that there are any means of addressing unfair dismissal. She and her co-workers see no possible means of addressing this problem. But at least, she says, they do make sure to pay the employees every month.

Each person has her own locker at the factory so they can lock up their personal belongings for safe keeping. But unlike the factories in China, factories in Macao do not provide housing or food. So the migrant workers there must find and pay for their own housing. This is not difficult, as there is a surplus of affordable housing available. Tsui shares a two-room flat (living room plus one bedroom and a kitchen) with four others from her factory. Her share of the rent comes to about MOP166 per month (US\$21).

Fortunately, Tsui and her fellow workers need not work in the oppressive and humid summer heat. The work place is air conditioned, although their homes are not. Since she does not have a refrigerator, and the factory does not supply one, she cannot prepare her lunch in the morning or bring her own food to the factory. Tsui runs home in the blistering heat to cook. She cooks a hot meal, eats it, and runs back to the factory. All the while, her shirt is soaked in sweat as she rushes into her cooled workplace. This is how she catches colds.

Should a migrant employee fall ill, s/he must pay for doctor visits out-of-pocket since management does not help pay for such costs. But seeing a doctor in Macao is quite expensive, and the city does not offer free clinics to migrant workers. Hence when migrants get sick, they tend to self-medicate with over-the-counter drugs at the pharmacy. If the illness is quite serious, the worker might go home to Guangdong, where healthcare costs are lower, and see a doctor there. But the costs of such visits are rising in China, too.

Another medical option available to Tsui is the physician services rendered by the local IEF, which offers general medical care on Wednesdays for free. Tsui heard about IEF by word of mouth and through church affiliations. After work, she goes to the church to read and relax.

Tsui is fortunate in that she does not work far away from home. Instead of sending money home each month, she has the option of going home and taking that money to her family. She goes home every Saturday night, on a one-and-a-half hour trek, and she returns

Sunday. There, her husband and ten-year-old child await her.

The problem in Macao, says Tsui, is that the workers do not have a voice. She contends that in Guangdong, they could at least complain if they disagreed with the management's actions or policies. But here, should an employee express any dissent at all, the management threatens them with dismissal. But Tsui would still rather remain working in Macao because of its economic benefits. She hopes to be the type of model employee that management expects, since her factory offers severance pay of one month per year worked if the employee was dismissed through no fault of her own, and since she really hopes to have her deposit refunded to her someday.

**Filipino migrant worker:  
Hernandez, domestic worker**

Julietta Hernandez<sup>5</sup> is a domestic worker from the Philippines. When she is not at work, she shares a two-room house (living room plus one bedroom) with more than ten other women who are also domestic workers. This living arrangement is tolerable because most domestic workers sleep at their place of employment a few nights each week. It also makes housing much more affordable, as Hernandez only has to pay a fraction of the MOP900 (US\$112.50) per month. Each person that inhabits the house pays rent on a sliding scale, according to how often she is present.

Contrary to what her Macanese counterparts might think, Hernandez actually yearns to return to her family and friends in the Philippines. She has been in Macao for almost a decade, but since the MOP is much stronger than the currency at home, and since she has small children in the Philippines for whom she must pay tuition, Hernandez feels as if she has no other option. Even if she did have the time to visit home, a return ticket would cost nearly MOP2,500 (US\$313), which is far more than she could afford.

Her stay in Macao, however, has not been without its share of trials and tribulations. For example, in 2000, Hernandez fell ill with a stomach malady (possibly an ulcer) that left her in the hospital for four days and cost MOP3,000 (US\$375) out-of-pocket. This was a significant setback for her, as she only makes MOP1,500 (US\$188) per month from her primary place of employment.

Other expenses include the MOP200 (US\$25) yearly fee for her blue card work permit and the mandatory yearly accident insurance fee of MOP271 (US\$34). The accident insurance is obligatory for acquisition of the work permit. With all these fees and the tuition bills to pay for her children, it is a wonder that Hernandez can manage to survive on her meagre wage.

As a matter of necessity, Hernandez actually occupies several positions as a domestic worker. At her primary place of work, she toils Monday through Saturday, four hours each day for MOP1,500 per month. While employers of domestic workers are legally required to offer housekeepers meals or a food stipend of at least MOP500 (US\$62.50) per month, Hernandez is not offered any recompense by her employer. She is afraid to request a stipend for fear of dismissal.

After working for her sponsors, Hernandez heads to her next place of employment where she spends another six hours, Monday through Friday, caring for three children ages fourteen, nine, and three. As this position requires much more work from Hernandez, she is remunerated more generously at MOP3,250 (US\$406) per month. Though it is still quite a lot of work with minimal pay, Hernandez is pleased that this employer recognises her contributions to the family and pays her accordingly.

Work does not end at the finish of Hernandez's 10-plus hour workday. On weekends, Hernandez contracts to work for a couple of other families. On Saturdays, after Hernandez works for her sponsors, she heads to another home and works three hours for MOP45 (US\$5.50) per hour. On Sundays, she works a few more hours in yet another household where she earns MOP120 (US\$15) for the day.

In the end, Hernandez is very tired. But she contends that she is very fortunate for several reasons. She has always been able to hold down her job, and she has never been treated brutally. Unfortunately, her friends and fellow domestic workers have not all been so lucky. Some of her housemates were domestic workers who once had been thrown out into the streets by an angry employer. Such an employer often would not hesitate to raise a fist against a young, cowering housekeeper. That is why, Hernandez says, it is very important to find her own place of residence while employed as a domestic worker in Macao. But her friends were thrown out on account of

the protests they voiced against unfair employers. As long as she keeps quiet, she believes her job remains safe. And to Hernandez, that is most important.

### **Bakhtik: illegal sex workers and the prostitution ring**

Centrally located in the Lisboa, the largest and most renowned casino in Macao, sits the Café Lisboa. It is among many restaurants and cafes where hungry tourists and locals can find a delightful meal during their respite from gambling. It is also among the many sites where men can solicit young women for services to satiate quite a different appetite.

Yet the Café Lisboa is not unique in this respect. Sex workers fill casino hallways, pepper hotel restaurants, and walk the streets of Macao. Travel agents in Hong Kong pile books upon books of half-naked women and girls, ready for call at a moment's notice. Certain hotels even reserve entire floors, dedicated to the art of 'escort entertainment'. All such evidence discloses the very organised nature of the prostitution ring in Macao. But the Café Lisboa offers something many other restaurants and dives cannot. The Café is a sanctuary for high-end prostitutes and their high-end gambling counterparts. No uniformed police officer may enter the Café, nor may arrests be made within the restaurant without a warrant.

Near the entrance of this café is where Natasha Bakhtik, 31, sits with a couple of younger Russian sex workers.<sup>6</sup> They wear provocative clothing and carry the newest cell phone models. Tall, blonde, and blue-eyed, Bakhtik claims she is the object of Asian men's fantasies. And, according to her revenue gained as a migrant sex worker, she may be right.

Bakhtik and her female companions are from Russia. A plane ticket costs about US\$300 each way. Yet all three would contend that the trip was well worth the cost since much money is gained from their ventures. In one month, Bakhtik claims she can make as much as US\$10,000. But much depends on the gambling season. Average earnings are MOP5,000 (or US\$625) per night for Bakhtik, versus the US\$300 (if she's lucky) per month she would be making if she worked in a factory in Russia. And the hours are better, too. In Macao, Bakhtik works from 8:00 p.m. to roughly 6:00 a.m. and then sleeps for about ten hours. One of her younger colleagues discos until noon, before heading to bed.

'You keep what you make, sometimes MOP5,000 (US\$625), sometimes nothing.... Thursday and Friday [nights] are the best.'<sup>7</sup>

Both of these colleagues claim to be around 20 years of age, but they certainly look very, very much younger. Conversely, as Bakhtik recounts her story through a heavy mask of crusted make-up, tell-tale signs of wear and age appear. She reveals extensive knowledge in her field and is exceptionally well versed in English, while the two girls can hardly communicate. Bakhtik also speaks some Mandarin Chinese and obviously has no trouble understanding the desires of clients. Her entrepreneurial character seems to suggest that she does more than service the casino's clientele. While she says nothing to betray that her relationships with the two young girls amount to more than just friendship, her translation services and her communication with the girls as she sends them away with strange men convey that she enjoys a madam-like status.

Bakhtik visits Macao on a two-month visa every couple of months, but contends that, in Russia, if anyone has a friend in immigration, she can get a visa for as long as eight months to one year. At home, there's a husband and a four-year-old child waiting for her. She tells them, and anyone who asks, that she is a manager in a restaurant. Her family and friends do not know and will not know what she does in Macao. Bakhtik also says that her husband does not and will not know about the extent of her salary. She keeps her money in her own bank account, in her own name, and as a secret from him.

One of Bakhtik's young colleagues has also travelled to Korea for the same purpose. There, she had an eight-month visa and worked as a restaurant 'hostess'. Essentially, she had the same duties as she does at present, but in Korea, she had more work in terms of entertaining guests at five different tables. There, she talks and drinks with the guests before entertaining them privately. As soon as her Macao visa expires, she plans to go back to work in Korea.

Sometimes the clients are nice and they treat the girls well, sometimes not. Sometimes, Bakhtik even receives tips. If Bakhtik feels that her client is a nice man, and he seems fond of her, she readily asks for gratuity. Tips run about MOP200 (US\$25), since she charges MOP1,000 (US\$125) per hour. Sometimes a client will solicit her escort service for an entire evening (MOP5,000 or US\$625)

and she will accompany him to dinner and karaoke etc. Bakhtik contends that these evenings tend to be more pleasant. On the other hand, prices drop during 'low season' when she might offer a discount MOP800 (US\$100) per job. Obviously, Bakhtik and her colleagues tend to be rare specimens in the Macao sex worker market. Hence, they are more expensive than their Asian counterparts who charge around MOP500 (US\$62.50).

The biggest hurdle facing these women and girls is the Macao City Police Department. Like most police departments, officers are not keen on the idea of sex workers on the streets. A few women (about three or four) are arrested each night for soliciting. When an immigrant is arrested, she is immediately deported. As a preventative measure, she is listed in a computer database that supposedly restricts her from re-entry to Macao forever.

However, impositions of such restraints do little to deter migrant sex workers. According to Bakhtik and her colleagues, it is fairly easy to re-enter Macao. In fact, one of the young girls had been deported in the past. To re-enter, she simply changed her name and attained a new Russian passport and identification card. Then she applied for another travel passport (Russia requires two types of passports). All this can be achieved within three months. Of course, contends Bakhtik whose friend got all the paperwork done in two weeks, it is all just a matter of paying the issuing officers.

Since Bakhtik and her young colleagues wait for clients in the Café Lisboa, they need not fear the wrath of the local police department. The hotel Lisboa is explicit about where the uniformed officers may visit. There can be no disruption or upsets to the extravagant guests. It is quite another story outside the café.

On the other side of the coin, men enjoy extensive privileges from the local police department. While the police arrest lone women in the casino and on the streets, they will not harass men. If a man solicits an escort or if he is accompanied by a known prostitute, he is still at liberty to proceed as he pleases. He will not be stopped or detained.

## Conclusion

Aptly named 'Macanese Labour Law: Subject to Change without Notice', this chapter demonstrates the plight of labourers in the SAR. Few laws have been

changed since Portugal's 1999 handover to the People's Republic of China. However, as the workers of Macao did not enjoy the benefits of an effective or protective labour system prior to handover, the non-revolutionary change of hands does little to ameliorate the status quo.

On the other hand, there is hope yet for the SAR. As new officials are ever filling the ranks of the local political system, and newer political parties spring forth to mind the concerns of the common labourer, quality of life can be improved though changes effected to the law. However, this transformation for the better cannot be attained without close scrutiny of the present MLRL in its present written form, and in practice.

## References

- Lo Shiu Hing, 'Political Development in Macau', (Chinese University Press, 1995).
- Steve Shipp, 'Macau, China – A Political Historical of the Portuguese Colony's Transition to Chinese Rule', (McFarland Publishers, 1997).
- Mario Murteira, 'Hong Kong and Macau at the Times of Transitions', (Macao Foundation, 2000).
- J A Berlie, 'Macao 2000', (Oxford Univ. Press, 2000).
- Macao Image*, various issues.
- Jill McGivering, 'Macao Remembers', (Oxford Univ. Press, 1999).
- Herbert Yee, 'Macau in Transition – From Colony to Autonomous Region', (Palgrave, 2001).

## Notes

1. USA Consulate General, 'Human Rights Report: Macao', at <http://www.usconsulate.org.hk/usmo/hr/2000/022501.htm> (2/2000).
2. All MOP - US dollar calculations are based on the average annual exchange rate of MOP 8.0 to US\$1.0, and rounded to the nearest half-dollar.
3. Names have been changed to protect those giving testimonies.
4. All such RMB-US\$ calculations are approximate, based on the average annual exchange rate of RMB8.28 to US\$1, and rounded to the nearest half-dollar.
5. Names have been changed to protect those giving testimonies.
6. Names have been changed to protect those giving testimonies.
7. Bakhtik, when asked whether there is profit sharing among the sex workers.

## **Appendix 1**

### **Key statistics (2001)**

Labour force participation rate - 64 percent  
Unemployment rate - 6.4 percent  
Median age of employed population - 37.9  
Median monthly earnings of employed population - MOP4,630 (US\$580)  
Average monthly income of households - MOP15,000  
Employed population - 200,000 (22 percent manufacturing, 26 percent wholesale, hotels, etc, 28 percent social, public services)  
Migrant workers - 25,000  
GDP per capita at current prices MOP114,700

## **Appendix 2**

International Labour Organisation conventions ratified

Convention No. 1	Hours of work (Industry)
Convention No. 6	Night Work of Young Persons (Industry)
Convention No. 14	Weekly Rest (Industry)
Convention No. 17	Workmen's Compensation (Accidents)
Convention No. 18	Workmen's Compensation (Occupational Diseases)
Convention No. 19	Equality of Treatment (Accident Compensation)
Convention No. 26	Minimum Wage-Fixing Machinery
Convention No. 27	Marking of Weight (Packages Transported by Vessels)
Convention No. 29	Forced Labour
Convention No. 68	Food and Catering (Ships' Crews)
Convention No. 69	Certification of Ships' Cooks
Convention No. 73	Medical Examination (Seafarers)
Convention No. 74	Certification of Able Seamen
Convention No. 81	Labour Inspection
Convention No. 87	Freedom of Association and Protection of the Right to Organise
Convention No. 88	Employment Service
Convention No. 92	Accommodation of Crews
Convention No. 98	Right to Organise and Collective Bargaining
Convention No. 100	Equal Remuneration
Convention No. 105	Abolition of Forced Labour
Convention No. 106	Weekly Rest (Commerce and Offices)
Convention No. 108	Seafarers' Identity Documents
Convention No. 111	Discrimination (Employment and Occupation)
Convention No. 115	Radiation Protection
Convention No. 120	Hygiene (Commerce and Offices)
Convention No. 122	Employment Policy
Convention No. 144	Tripartite Consultation (International Labour Standards)
Convention No. 148	Working Environment (Air Pollution, Noise and Vibration)
Convention No. 155	Occupational Safety and Health