

Hong Kong: Ten years on and no improvement in sight

IHLO (International Trade Union Hong Kong Liaison Office) report

30 June 2007

1 July 2007 marks the tenth anniversary of the Handover of Hong Kong from British to Chinese sovereignty. Now is the time to reflect on the conditions for workers and trade unionists in Hong Kong and the resultant lack of progress for labour rights and democracy made since July 1997.

In 1998, in a report looking at Hong Kong one year after Handover we commented that "Trade unions have never had many rights in Hong Kong, and the situation has become even worse since the hand-over in 1997. The pattern of labour relations in Hong Kong has always been, and continues to be one based on extensive freedoms for business, and extensive restrictions on the freedom of workers".

Little appears to have changed since then. Hong Kong is a place of great contrasts, home to some of the world's richest families and largest monopolies; Hong Kong is also a place where the poor remain extremely poor, with little welfare and little protection. Recent 2007 figures show inequality as measured by the Gini coefficient - high by international standards - has risen significantly in the past decade to a high of 5.33 while it has been shrinking in many other developed economies. The number of households earning less than HK\$4,000 a month has also risen.

After some one hundred years as a British colony Hong Kong was handed back to the Chinese People's Republic of China as a Special Administrative Region (SAR) - and along with Macau (a former Portuguese colony handed back in 1999) - its transfer of sovereignty saw the birth of "one country two systems". Under this system both SAR's laws and regulations would remain intact and protected for 50 years.

Hong Kong in the past ten years has had its fair share of ups and downs. Shortly after Handover the Asian Economic crisis hit Hong Kong hard bringing large scale unemployment and wage cuts. Avian Flu and SARS also hit the territory hard as has the ongoing fight with air pollution and food scares coming from across the border. The political crisis in 2003 sparked by the government's attempts to bring in anti subversion and sedition legislation under Article 23 of the Basic Law led to the resignation of the then Chief Executive Tung Chee-Hua and the appointment of his successor, Donald Tsang.

Throughout the years little has changed in terms of legislation on working conditions and trade unionism. "In the past ten years the central authorities have consolidated their hold in Hong Kong, working with the pro-business government to ensure that the bargaining rights of workers are steadily eroded and the number of working poor continues to rise while those in power resist any efforts to improve working conditions", said Lee Cheuk Yan, General Secretary of the ITUC-affiliated Hong Kong Confederation of Trade Unions (HKCTU).

Labour Legislation - two steps forward and two steps back

Immediately after Hong Kong was handed back to Chinese rule on 1 July 1997, the appointed Hong Kong leader, Chief Executive Tung Chee-hwa, suspended laws passed just prior to the hand-over allowing collective bargaining and guarding

against anti-union discrimination. The laws were later repealed altogether. The Hong Kong Confederation of Trade Unions together with the then ICFTU strongly condemned the scrapping of this law which "will facilitate the suppression of the wages of Hong Kong workers". It was just after this blow to working people's rights in Hong Kong that the financial crisis broke out. It led to a massive loss of jobs and huge wage cuts, which in turn gave rise to industrial disputes. Workers no longer had any laws protecting them, and a number of trade unionists were sacked in retaliation for their activities.

Working Hours

Hong Kong is the only developed economy without legislation on maximum working hours. Working weeks of up to 60 hours and more are not unusual and yet the share of national income that goes to workers is among the lowest among the industrialised countries.

One report found that the average working week was 55 hours, with some 80% of workers regularly undertaking unpaid overtime. Over 75% of those interviewed stated that they were suffering from stress and a lack of exercise. Another recent survey in 2006 found that some ten percent of Hong Kong workers had no paid leave despite regulations giving seven days annual leave. While the government has moved towards a five day working week the majority of employers were making no moves to change from the current system of five and a half days work a week.¹

Like many other developed countries, many employees are employed on short term contracts, which effectively deny them paid leave and adequate insurance benefits. Many cleaners are employed by sub contractors to clean government buildings and estates. In a classic example of the lives of many of these cleaners, in November 2006 a newspaper ran a story on the lives of a group of 13 cleaners employed at a housing estate in Kowloon; the thirteen cleaning women each work three shifts a day. Each morning, they begin work at 7am and finish at 11:30pm at night. They make between HK\$6,000 and HK\$6,500 a month. However, because the contractor states that the cleaners can earn money by recycling and selling garbage, each worker is obliged to pay back HK\$500 to the company each month. They also have to "sell" their allotted four days of vacation per month or if they take the vacation they need to pay another HK\$500.²

Minimum wages

There is no minimum wage in Hong Kong except for foreign domestic helpers. In the past few years the Hong Kong Confederation of Trade Unions has been coordinating a campaign to fight for a minimum wage – the government has been resisting efforts and instead has formed a voluntary "wage protection movement" (WPM), which calls on employers to sign up and pay for cleaners and security workers. Under the WPM, participating corporations are encouraged to offer cleaning workers and security guards wages not lower than the relevant average market rates and enter into written employment contracts. According to the WPM website, "In recognition of their support for providing wage protection to cleaning workers and security guards, the socially responsible enterprises/employers who have joined, and continued to comply with, the WPM will be presented with a specially designed logo".³

¹ Work Life balance in Hong Kong, Community Business and Work Life balance Survey of the Hong Kong Working Population: Final Report, October 2006

² Next Weekly: Three Shifts: A Housing Estate Cleaning Woman. Issue# 869. November 2, 2006, translated by EastSouthWestNorth at http://www.zonaeuropa.com/20061102_2.htm

³ <http://www.labour.gov.hk/eng/service/protection/index.htm>

Trade unions and labour groups argue rightly that this “movement” is a sham, offering employees little protection and that it allows the government to continue to resist efforts to discuss the introduction of a minimum wage amid the business sectors talk of a minimum wage “destroying Hong Kong’s “competitiveness”.

On several occasions, the HKCTU has attempted to use its representatives in the Legislative Council, combined with popular campaigning and protests, to force the government to introduce a legal minimum wage. The minimum wage bill put to the Legislative Council by HKCTU General Secretary Lee Cheuk-yan, in April 1999 was defeated, and the government continues to claim that the economy would suffer from such measures. Subsequent attempts also failed due to the unequal system of so-called “democratic” procedures in the legislative assembly.

A legal minimum wage (set at a level that would allow a decent standard of living) is both a fundamental right of working people and one of the measures necessary to reduce poverty and inequality. Hong Kong has one of the highest rates of inequality in the world. The refusal of the government to provide social welfare assistance and introduce minimum wage laws was condemned by the UN Committee on Economic, Social and Cultural Rights as a violation of economic and social rights of Hong Kong citizens.

The majority of people living in poverty in Hong Kong are in employment. (In 1999, when the unemployment rate reached its historic peak of 6.3%, less than one-fifth of poor households were directly hit by unemployment). The primary cause of poverty in Hong Kong is not unemployment, but low wages. In this context, HKCTU has argued that the absence of minimum wage legislation has allowed the growth in the number of working poor.

Migrant workers – discrimination and wage cuts

There are around 200,000 foreign domestic workers in Hong Kong (FDW) including mainly Filipino, Thai, Indonesia and Sri Lankan citizens. FDWs are estimated – conservatively - to contribute some 1 percent of Hong Kong’s GDP. This excludes the indirect benefit to the Hong Kong economy by freeing up both adult members of a family household to enter the workforce and reducing the need for government-subsidised child care. There is very little subsidised preschool and crèche care in Hong Kong – the majority of that work is done by family members or FDWs who also look after Hong Kong’s elderly and disabled persons. The Hong Kong government also saves from not having to provide social and health care services to the families of FDWs, who are denied residency in Hong Kong.⁴

Despite some protective measures– including a standard employment contract and minimum wage – FDWs are vulnerable to extensive rights and contract violations. They are extremely open to abuse and there are frequent complaints of mistreatment of domestic helpers at the hands of employers, immigration officials and others. Concerns include the underpayment of wages, denial of rest days, non-regulation of work hours, sexual and physical abuse and excessive agency fees. At least 15% of all FDWs in Hong Kong are underpaid; this problem is much worse among Indonesian (46%), Nepalese and Indian FDWs. Around 27% of FDWs are verbally and physically abused; 22% are not given their weekly days off; and 2% suffer from sexual abuse.

Although FDWs are already among the lowest paid in HK, the government and employers have specifically attacked their wages and benefits since the Handover – through wage freezes and cuts. The first wage cut of around 5% was imposed by the government in 1999 which brought the wage to HK\$3,670 a month while a second cut in February 2003 during the SARS epidemic further reduced it by HK\$400 (11%). This cut was the result of a “levy” or tax imposed on employers of

⁴ For more information see the Asian Migrant Centre publications as well as other groups in Hong Kong.

HKD400 with the same amount taken from the wages of the workers themselves - essentially making FDWs bear the cost of the economic hardship that followed the SARS epidemic.

A minimal pay rise was given in May 2005 of HK\$50 and a further HKD\$80 rise was awarded in June 2007. While these small rises are welcomed they are token gestures and advocates and local unions are asking for the pay to be brought back to pre 1998 levels of HK\$3,860 a month.

In addition while other expatriate workers are entitled to residency in Hong Kong after seven consecutive years of working and the right to bring in dependants while working in Hong Kong, this right is specifically denied FDWs who are given two weeks at the end of their contract with the employer to find another contract or to leave, regardless of the number of years of residency. FDWs are not allowed to bring in dependants nor are they allowed to reside anywhere except for the employer's residence. For many this means abuses in addition to cramped living conditions. Again the discriminatory treatment of FDWs has been criticised by the UN on Economic, Social and Cultural Rights which in 2005 again urged the Hong Kong government to *"review the existing "two-week rule", with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits. The Committee recommends that HKSAR enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund"*.

Discrimination

Neither of the ILO core conventions on discrimination (n° 100 and 111) applies to Hong Kong, despite the fact that China itself has ratified both of them (Convention 111 as recently as January 2006). Hong Kong's legislation prohibits discrimination on the grounds of gender, disability, and family responsibility, but no legal provision has yet been made to end discrimination against the large population of migrant workers or discrimination on grounds of sexual identity and race. The Hong Kong government has however recently issued a draft race discrimination Bill which remains worryingly vague on many issues including education.

Women

Women have been the hardest hit during recent years as production has moved to the special economic zones in mainland China, with the predominantly female workforce in the clothing industry falling from 300,000 in the mid-1980s to 80,000 in 1997. Women find it much harder to find work – especially with decent wages, as many of them are poorly educated. Discrimination against women remains a problem, especially with regards to pay and the representation of women in senior positions. Women earn up to 30 percent less than men for the same work.

Women are also the main victim of the casualization of labour. Many older women workers who have been displaced from the disappearing manufacturing industries now work in the service sectors and many suffer from discrimination against age and education qualification. A large proportion now work as manual workers in public housing estates, offices, and restaurants.⁵ Secondly women also form the majority of the working poor. In 2006 it was estimated that one out of seven employed women workers fall below the poverty line - earning less than half of the median monthly wage.⁶

⁵ Hong Kong Women Workers under Globalization, by Chan Po-ying, Hong Kong Women Workers Association, <http://www.isgnweb.org/pub/08-005.htm>, 2001

⁶ Joint Statement by Hong Kong NGOs before the 36th sessions of the CEDAW Committee, 7 August 2006

Race

Migrants from neighbouring countries and mainland China continue to represent a stigmatised underclass. Ethnic minorities in Hong Kong are discriminated against in terms of recruitment and promotion. Hong Kong currently has no law barring racial discrimination and the government is currently in the process of drafting a law. However proposed bill fails to remove much of the systemic causes of racial discrimination in employment and does little to address fundamental causes of racial discrimination. It also fails to cover migrant workers who come from the mainland. There are insufficient school places for ethnic minorities - in 2001 there were only seven schools for the whole ethnic minority population in Hong Kong with some 3,069 students are enrolled in these schools while there were some 5,300 ethnic minority children aged between 5-14 - some 39.3% of children from ethnic minorities have difficulties in even finding a school. Additional issues concern the problem of language provision as there is little or no native language teaching for Nepali and other South Asian children and few classes in Cantonese for ethnic minority children (as opposed to classes run for new immigrants from the mainland. Such endemic discrimination means that the majority of children have little options in employment after school and few opportunities for advancement.

In general ethnic minorities in Hong Kong face severe problems in finding jobs, and the unemployment rate is significantly higher than for the indigenous population. A 2003 survey showed that while 42 percent of Nepalese construction workers were out of jobs by the end of 2003, the figure was 19 percent for Hong Kong's overall construction labour population (while HK's seasonally adjusted unemployment rate stood at 7.3 percent in the fourth quarter of 2003). Figures from other surveys, which include other minority groups, reveal the same tendency of a disproportionately higher unemployment rate among the minorities. Seventy percent of ethnic minorities in Hong Kong work in primary industries and current unemployment for the community as a whole stands at around 40 percent. Almost 60 percent have been rejected from jobs because of their inability to speak Cantonese while over 40 percent have been subject to racial bullying and unequal treatment at work including unreasonable sackings and unequal health and safety provisions. For those in work, over half receive a lower salary than local Cantonese workers.⁷

Sexual Identity

Despite Hong Kong's decriminalisation of homosexuality in 1991, inequalities in the law *vis-à-vis* sexual minority individuals remain. The Hong Kong Bill of Rights Ordinance protects against any form of discrimination including sexual orientation. However, the Ordinance only binds the Government and public authorities or persons acting on behalf of the Government which means that, like race discrimination, there is currently legislation prohibiting private individuals or organizations to discriminate on the ground of sexual orientation, nor are there imminent plans to introduce such legislation, despite public campaigning.

The Home Affairs Bureau established a special Gender Identity and Sexual Orientation Unit which has issued a Code of Practice against discrimination in employment on the grounds of sexual orientation. The code is however only a very general list of recommendations and the vast majority of employers are unaware of its existence. Although people who have suffered discrimination or dismissal on the grounds of sexual orientation can take their complaint to the unit, most cases are considered "outside" the code's remit and not dealt with in it. The unit itself states

⁷ For more information see IHLO: Construction in Hong Kong: Failure to provide English language information symptomatic of endemic discrimination against Ethnic minority workers?, April 2006, <http://www.ihlo.org/HKM/140406.html>

that "The complainant must understand that we have no legal power to direct any individual or organisation to act in accordance with our request or suggestion".⁸

Sex workers

The provision of sex work is allowed under Hong Kong but sex workers face discrimination, suppression and violence. The selling of sex between consenting adults is entirely legal but other activities such as soliciting or loitering in a public place with the purpose of selling sex is illegal. Many complaints are directed at the Hong Kong police who are often accused of making use of their power to obtain a sexual service before arrest, and also violence when they meet resistance. From 2004 to 2005, Ziteng, a local sex workers concern group received over 330 complaints from sex workers against the police while in 2006 the number rose to 200 for that year alone. Complaints include arbitrary arrest, strip searches, denial of legal assistance and intimidation. In addition complaints were targeted at the police after they locked 80 sex workers arrested during a vice raid in an open cage in a police station car park in 2005. Illegal mainland Chinese sex workers are particularly vulnerable to abuse as they face deportation and imprisonment for immigration reasons in addition to other alleged crimes.⁹

Children

Hong Kong is home to an estimated 2,000 children who perform menial labour to help their families. One recent study found that most of these poor children undertake cleaning, dumping garbage or collect newspapers, cardboards, aluminium cans and other recycled material. They work an average of 6.7 hours a week, with some for as long as 23.5 hours, earning HK\$156 a month on average. More than 60 percent of the children give all their earnings to their parents, many of whom are "working poor". The survey found that one child in every 154 from impoverished families in Sham Shui Po had jobs.¹⁰

Union Recognition

Although independent and democratic trade unions are allowed to exist in Hong Kong, unlike mainland China, and the right to strike is enshrined in legislation, various loopholes in both law and practice deny the free exercise of these rights. There remain serious problems concerning the lack of union recognition, obstacles to collective bargaining, and persistent trade union discrimination. In addition while both of the ILO core conventions on the protection of trade union rights (n° 87 and 98) apply to Hong Kong, restrictions on these rights remain in both law and practice.

The Employment and Labour Relations Ordinance (ELRO) was introduced in 1997 specifically to repeal the laws brought in immediately prior to Hong Kong's reunification with China, which had been designed to implement the ILO core conventions. The ordinance withdrew the right to collective bargaining while retaining the basic right of workers to form trade unions. Two conditions apply to the formation of a union: a minimum number of seven people is necessary at the union's inception, and the union must be registered under the Trade Union's Ordinance. The Employment Ordinance includes provisions that protect workers against anti-union discrimination, but other fundamental trade union rights are denied to workers.

⁸ Home Affairs Bureau Gender Identity and Sexual Orientation Unit, Enquiries and Complaints Hotline Guide to Complaint Procedures, http://www.hab.gov.hk/file_manager/en/documents/public_forms/racedoc/Complaint_Form_guide_e.pdf

⁹ http://www.ziteng.org.hk/aboutus/2006DEC20_e.html

¹⁰ Child Labour in Hong Kong, Society for Community Organisations, 2004

The ICFTU Executive Board, at its 111th meeting held in Brussels from 17 to 19 December 1997 passed a resolution in response to the government's decision to suspend five labour Ordinances passed by the former Legislative Council and to repeal the Employees' Right to Representation, Consultation and Collective Bargaining Ordinance as well as the Employment (Amendment) (No 4) Ordinance. With the support of the ICFTU, the HKCTU lodged a complaint with the ILO for violations of Conventions 87 and 98. The Committee on Freedom of Association issued a set of recommendations but Hong Kong workers have not yet regained the basic right to collective bargaining. The Hong Kong Government has persistently refused to follow the recommendations of the ILO Committee on Freedom of Association.

As there is no real recognition of trade unions and respect of collective bargaining, workers are left to the mercy of their employers; firstly with regards to whether they can negotiate jointly with them, secondly as to whether agreements reached are actually implemented and upheld. Collective bargaining is neither promoted nor encouraged by the authorities, and employers generally refuse to recognise unions. Although almost 25 per cent of the workforce is unionised, unions are not strong enough to force management to engage in collective bargaining. Thus less than one per cent of workers are covered by collective agreements, and those that exist are not legally binding. This is clearly contrary to international conventions Hong Kong claim to uphold.

Harassment and discrimination against trade union members by employers are further obstacles to workers when seeking effective representation and a breach of internationally agreed fundamental principles applying to the world of work. Workers who have been sacked by their employer because of their trade union membership have no means to enforce their reinstatement under Hong Kong law.

Since 1998, the International Labour Organisation has consistently criticised Hong Kong for this practice, but so far the Government has shown no will to address the issue. Similarly, the right to strike is rendered ineffective by clauses in employment contracts which stipulate that absence from work can be considered a breach of contract that may lead to dismissal.

Democracy – No progress

Hong Kong's government is a big business government and no friend of labour. The struggle for universal suffrage has dominated Hong Kong's political life since the government's failure in 2003 to introduce a new security law. In the past four years, Hong Kong people have increasingly been pushing towards the promised universal suffrage, guaranteed under the Basic law, Hong Kong's mini-constitution. The Basic Law, while guaranteeing that the aim is for the Chief Executive to be elected through universal suffrage, makes no comment on when this might take place. Currently, the Chief Executive is handpicked by a nomination committee of 800 members. The HKCTU has been at the forefront of the struggle for democracy– a struggle which will have a lasting impact not only on the future of Hong Kong but also wider implications for Chinese citizens over the border.

Currently Hong Kong has sixty seats in the "elected" Legislative Council. Thirty members are elected through direct elections while the other thirty remain in the hands of the "functional Constituencies", seats that are almost entirely held by pro business and pro government candidates. Functional Constituencies were created by the British Colonial authorities in the last years of colonial administration as a way of meeting demands for more democracy and at the same time allaying the fears of big business. Believing that even this was too radical, the new administration narrowed this already narrow electorate directly after handover – at the same time as dismissing the first directly elected Legco (elected in 1995 and

consisting predominately of democrats) and installing their own selected "Provisional Legislature" despite international condemnation in 1997.

With each passing year, the anniversary of the Handover has now become synonymous with mass protests at the lack of progress towards democracy. The first march for democracy and in opposition to the proposed subversion laws saw over half a million Hong Kong people march on 1 July 2003 – almost one in ten residents. In 2004, as the calls for democracy became stronger, the central government in Beijing stated that existing clauses in the Basic Law relating to the introduction of universal suffrage expressly rule out any such moves for the 2007 elections. The Central authorities have the right to "interpret" the Basic law in the event of ambiguities but this obviously anti-democratic "interpretation" of a clause, which quite obviously does not contain any such limitations, served to further highlight the growing demands for democracy emerging after the public's battle with the proposed and now scrapped security legislation required under Article 23 of the Basic Law. The interpretation also stressed that any moves towards expanding democracy must be previously approved of by Beijing and it set the limit for the number of directly elected seats to remain equal with those seats elected by business sectors.

When one looks at the difference between functional and directly elected seats, this contrast becomes ridiculous in a so called "democratic system". In the 2004 Legco election, over three million voters elected 30 members while the 30 "functional members" were elected by some 200,000 registered voters. For example; three "labour" seats were up for election and the three successful incumbents from the pro-Beijing Federation of Trade Unions had to receive only some 300 odd votes apiece to get in, while elsewhere a total of 11 of the 30 seats were in fact uncontested. However, Lau Chin Shek and Lee Cheuk-yan, respectively President and General Secretary of the Hong Kong Confederation of Trade Unions (HKCTU) were both successfully reelected as Legislative Councilors in the 12 September 2004 election.

President Hu Jintao will be spending 1 July in Hong Kong for the ten year anniversary celebrations, meeting with members of the government and the business community, while several hundred thousand people will be marching in the streets in protest at the central governments interference in Hong Kong's progress to democracy and the HKSAR government's own resistance to meeting the needs of its citizens.

Background

Concluding observations of the Committee on Economic, Social and Cultural Rights

People's Republic of China (including Hong Kong and Macao) ¹¹

HONG KONG SPECIAL ADMINISTRATIVE REGION

D. Principal subjects of concern

78. The Committee regrets that HKSAR has not implemented a number of the Recommendations contained in its concluding observations of 2001. The Committee wishes to reiterate in particular its concern at the following issues:

(a) The present anti-discrimination legislation does not cover discrimination on the basis of race, sexual orientation and age;

¹¹ COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, Thirty-fourth session, 25 April-13 May 2005, E/C.12/1/Add.107

(b) The absence of a human rights institution with a broad mandate, while noting the position of HKSAR that the Equal Opportunities Commission has comparable functions;

(c) The lack of effective protection from discrimination and abuse, of foreign domestic helpers, affected by the “two-week rule”, upon expiration of their contract;

(d) The continuing spread of poverty and lack of effective access to social services, which affects the disadvantaged and marginalized groups;

(e) The exclusion of many individuals, including women who are homemakers, persons with disabilities and older persons, from the Mandatory Provident Fund Scheme, due to their inability to make sufficient voluntary contributions;

(f) The hardship arising from the right of abode policies in relation to permanent residence and split families; and

(g) The persistence of inadequate housing in the form of cage-homes and bed-space apartments, despite measures taken by HKSAR to provide alternative housing to residents who choose to remain in such homes.

79. The Committee is concerned that in the proposed racial discrimination law, the protection it affords will not cover migrants from the Mainland despite the widespread de jure and de facto discrimination against them on the basis of their origin. The Committee is also concerned that according to the proposals made by the Hong Kong Home Affairs Bureau, the new law will not affect the existing immigration legislation in HKSAR.

81. The Committee is concerned that the wage disparity between men and women continues to be a problem despite the position of HKSAR that the Sex Discrimination Ordinance provides sufficient protection for women in the field of employment, in accordance with the principle of equal pay for work of equal value.

82. The Committee is concerned that the social security system in HKSAR does not include unemployment benefits.

83. The Committee expresses its concern about the particularly precarious situation of foreign domestic workers, a majority of whom are from South-East Asia, who are underpaid and are not entitled to social security.

84. The Committee is seriously concerned that under the existing social security system, and in particular under the Comprehensive Social Security Assistance (CSSA), the levels of benefit are not sufficient to guarantee a decent standard of living and that many low-income persons, in particular older persons, are not covered by the scheme. The Committee is further concerned that new migrants are unable to apply for CSSA due to the seven-year residence requirement.

85. The Committee expresses concern about reports of the high incidence of trafficking in persons, especially women and children, into HKSAR, mainly for the purpose of sexual exploitation. The Committee regrets that it did not receive sufficient information regarding this problem and the measures taken in this respect by HKSAR.

86. The Committee notes with regret that the information provided on the extent of poverty and social exclusion in HKSAR was insufficient. The Committee is also concerned about reports of increasing poverty among older persons, the more so as HKSAR is facing the problem of a rapidly ageing society.

E. Suggestions and recommendations

90. The Committee once again urges HKSAR to implement the Committee’s relevant suggestions and recommendations, contained in its concluding observations made in 2001 (E/C.12/1/Add.58), as well as in the current ones, and

urges it to undertake whatever relevant concrete measures may be necessary towards their implementation.

91. The Committee strongly urges HKSAR to extend the protection afforded by the proposed racial discrimination law to internal migrants from the Mainland, and to put a stop to the widespread discriminatory practices against them on the basis of their origin. The Committee further recommends that the relevant provisions of the existing immigration legislation governing entry into, period of stay, and departure from, HKSAR are amended to ensure full conformity and consistency with the new racial discrimination legislation.

93. The Committee requests that HKSAR provide, in its next periodic report, the results of the Equal Opportunities Commission Study on Gender-based Pay Inequalities and the measures to follow up the findings of the study.

94. The Committee recommends that HKSAR consider extending its social security system to cover unemployed workers through the payment of an unemployment benefit based on contributions from employers and employees.

95. The Committee urges the State party to review the existing “two-week rule”, with a view to eliminating discriminatory practices and abuse arising from it, and to improving the legal protection and benefits for foreign domestic workers so that they are in line with those afforded to local workers, particularly with regard to wages and retirement benefits. The Committee recommends that HKSAR enable domestic helpers to acquire pension rights through their inclusion in the Mandatory Provident Fund.

98. The Committee urges HKSAR to strengthen its efforts to combat poverty and social exclusion, in particular with regard to disadvantaged and marginalized groups and older persons. The Committee also recommends the State party to adopt an official poverty line, which would enable the State party to define the extent of poverty and to monitor and evaluate progress in alleviating poverty. The Committee requests that the State party provide, in its next periodic report, disaggregated and comparative annually collected data on the number of people living in poverty, on the progress made in reducing the incidence of poverty, and on the impact, if any, that the newly-established Commission on Poverty has had on the issue of poverty in HKSAR.

101. The Committee urges HKSAR to amend its legislation to provide for the right to education of all school-age children in its jurisdiction, including children of migrants without the legal right to remain in HKSAR.