

Vigilance will be vital to ensure employers don't try to skirt around the new minimum wage law, writes Rick Glofcheski

Maximum alert

The enactment of the Minimum Wage Ordinance marks arguably the most serious legislative incursion to date into Hong Kong's much vaunted free-market economy. It will, no doubt, jeopardise Hong Kong's standing in the US Heritage Foundation rankings as the freest economy in the world.

However, there is nothing terribly revolutionary about a minimum wage law. Indeed, it is surprising, with a civil society as developed as Hong Kong's, even taking into account the absence of a legislature fully elected by universal suffrage, that a minimum wage law is so late in coming. Such laws have been in place in developed economies overseas since the beginning of the 20th century. The International Labour Organisation recently reported that 90 per cent of its 183 members have such laws. Unknown to most, minimum wage legislation has been on the books in Hong Kong for 78 years, a colonial legacy that was never activated.

So why the delay in introducing a general minimum wage law? For at least 50

The success of the new law will also depend on the spirit in which it is received by the employers' side

years, successive Hong Kong governments, with the support of the business lobby, have jealously guarded the laissez-faire economic policy of positive non-interventionism introduced in the 1960s by financial secretary John Cowperthwaite, in the belief that free-market principles were the best guarantor of economic prosperity for Hong Kong. This view persists today. For that reason, the enactment of the new law is a breakthrough of some magnitude. The Minimum Wage Ordinance would not have been enacted but for the persistence of trade unionists, NGOs and labour representatives in the Legislative Council, whose campaign can be traced back to the Asian financial crisis of the late 1990s.

The government's first response came in the form of the controversial 2006 "wage protection movement", little more than an invitation to employers of cleaners and

security guards to pay decent wages. When this failed, a public consultation on a minimum wage law was finally initiated. Regular media attention regarding Hong Kong's Gini co-efficient, exposing Hong Kong's wealth gap as the largest in the developed world, increased pressure on the government to include all employees in the new law. The initial minimum wage rate of HK\$28 per hour has now been fixed, with the law to come into full effect on May 1.

The ordinance provides for a minimum hourly wage and applies to every employee except apprentices, live-in domestic workers and student interns. There are special provisions regarding people with disabilities who, after a productivity trial, may agree a rate that is not less than half of the prescribed minimum wage.

A concern with the new law is that it provides nothing in the way of an enforcement mechanism. It is of course an offence under the Employment Ordinance to pay less than the statutory minimum wage, but it will be left to employees to police the system, and to bring civil actions in the Labour Tribunal for underpayment. This will be cumbersome.

A useful step would be to appoint and empower compliance officers under the Labour Department to enter work premises to inspect employee pay records without notice.

A further useful step would be to establish a hotline for employees to report recalcitrant employers. The reporting system should be designed to ensure the reporting employee's anonymity.

The success of the new law will depend on the resolve of the government to ensure its enforcement, and on the approach of the future minimum wage commission in recommending the statutory minimum wage in its periodic reviews.

It is of some concern that the considerations identified in the ordinance that are to guide the commission place more emphasis on safeguarding Hong Kong's economy than on minimising poverty and reducing the wealth gap.

The success of the new law will also depend on the spirit in which it is received by the employers' side. The much-publicised skirmish between the Café de Coral restaurant chain and its staff provides

an example of the sort of attitude that could derail the objectives of the new law. In anticipation of the pay rises required under the Minimum Wage Ordinance, Café de Coral offered to raise wages, in exchange for the withdrawal of a paid lunch break, a benefit that it had always offered its staff. The effect was to leave many workers with a net decrease in take-home pay. After much negative publicity, threats of industrial action and consumer boycotts, the company backed down, to the relief of all, including, no doubt, the government.

It is to be hoped that this incident and its outcome will deter other employers from this or similar forms of creative wage-cutting. However, Hong Kong employers have a history of evading employment law obligations.

The Minimum Wage Ordinance applies to "employees", those working under a contract of employment. It is to be hoped

that this configuration will not trigger an escalation of the practice of engaging staff as self-employed workers. Sham agreements will not be recognised by the courts, but some employers will engage in this practice in the knowledge that many employees will not know their rights, or will not bother to pursue them in litigation.

The Labour Department and the courts must be vigilant to ensure that the law does not become a "Minimal" Wage Ordinance. For the moment, the enactment of the law is a victory of sorts, not least for its symbolic value, signalling the possibility of other quality-of-life assurances lacking in Hong Kong but long an integral part of the social protection framework in developed economies overseas.

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Short-term visionary

Has a year made a difference? Do you think things have changed for the better from a year ago? Last year, at around this time, we were bombarded with Financial Secretary John Tsang Chun-wah's face on TV. Every few hours he intruded into our living rooms in a government ad, promising to make things better. The ad showed him eavesdropping on people's conversations about what the government should be doing for them. He looks into the camera, assuring everyone he'll listen to their views.

This year's ad slips a bit into silliness, with people donning fake moustaches to mimic him. Again, he says he'll listen to views. Did he listen last year and, if he did, what difference did it make? Will he listen this year? Perhaps a better question is whether he is capable of really understanding the views of ordinary people without a bureaucratic bias. Does he draw up his budget based on what people want or what his bureaucratic mind thinks they want?

Last year, at this time, the people were hurting. The economy hadn't recovered. People wanted quick relief. But they also wanted something more. They wanted imagination from the government. Aside from one-off sweeteners, they wanted something that would give them hope of not having to be hooked on quick relief indefinitely. They didn't get it. There was no imagination from Tsang, only the same tired act of short-term appeasement, which defines the vision of our bureaucrats.

Perhaps Tsang really believes vision is handing out one-off sweeteners, giving handouts year to year to keep the masses happy. The trouble with that is how long can you keep it up? Most of last year's relief measures have already run out. Others are about to end. The people now want another dose. They've become addicted. What's Tsang going to do at his next budget in February? Inject some more sweeteners into them to keep them high for another year? Or will he wean them off with a better alternative?

The government itself has said sweeteners aren't the long-term answer. But it hasn't said what is. I don't think our bureaucrats really know. Or, if they do, they lack the will to proceed. To do that requires a complete turnaround in thinking. It means reshaping the old order, defying vested interests and throwing out the worn guidebook with which our bureaucrats have governed for so long.

But just last week Chief Secretary Henry Tang Ying-yen showed how incapable our bureaucrats are of thinking like the people. He couldn't understand why everyone was so angry that the government had allowed a retiring housing chief to work for a property developer. When legislators expressed astonishment

that bureaucrats had ignored a red flag in giving the job clearance, he scolded them.

Legislators were simply reflecting public sentiment when they found it incredible that Leung Chin-man was allowed to work for a New World subsidiary even though he had been involved in selling a government housing estate cheaply to a sister company. But Tang retorted that the bureaucrats who cleared the job saw no conflict of interest because Leung would work for a New World mainland firm with no Hong Kong business.

His defiance shows how out of sync our bureaucrats are with public perception of right from wrong. It matters little to the people whether the job involves mainland or Hong Kong business. Leung would still be working for New World. And that legitimately arouses public suspicion the job was a payback for Leung treating New World favourably while in office.

But our bureaucrats were incapable of anticipating such public sentiment. Their rule book says nothing about public perception, only their own. And they saw nothing wrong with a retiring housing chief working for a developer.

Go ahead and give your views to the financial secretary. Sweeteners are fine but explain that you want him to think like you, not like a bureaucrat. Tell him a better alternative to handouts is a shake-up of the old order so that wealth is fairly distributed. See if he'll listen.

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Voices: Foreign policy

Extra ammunition for PLA's hardline stance

Yoshikazu Shimizu

There seems to be a dispute within the Chinese leadership over the defence of maritime resources in the East China Sea. Since the time of Deng Xiaoping (鄧小平), China has proposed joint development of the Senkaku Islands by setting aside the sovereignty dispute while maintaining its territorial claim over the islands. However, nothing has been reported of what President Hu Jintao (胡錦濤) said about the islands during his meeting with Japanese Prime Minister Naoto Kan last month, the first since the collision between a Chinese fishing trawler and Japanese Coast Guard vessels near the islands in September.

The People's Liberation Army has taken a hard line in this maritime power game. It was the first to warn against the joint military exercises planned by the US and South Korean navies in the Yellow Sea following the sinking of a South Korean Navy corvette. Ma Xiaotian (馬曉天), deputy chief of the PLA's general staff, said he opposed the exercises because the site was "too close to Chinese territorial waters". A week later, the Chinese government, which had until then avoided making clear its stance out of consideration for Washington, officially expressed its opposition.

Amid the abnormal situation of the military determining China's foreign policy direction, a high-ranking Chinese diplomat warned that "the military should not meddle in diplomacy". To call the situation abnormal, however, is a taboo in China. The Chinese foreign policy heavyweight who cautioned against

media appearances by the military was intensely attacked on websites as a "traitor". The internet has become a mainstream outlet of public opinion in China.

Yet we should not forget that it remains under state control and that only those strong opinions that arouse patriotic feelings are allowed to go public. The patriotic fervour provides ammunition for the military's hardline foreign policy.

The PLA is an unusual military supported by public finance, but sees itself as the military arm of the Communist Party

for a modern state. It is supported by public finance, but recognises itself as the military arm of the Communist Party of China. Among the 12 members of the CPC's Central Military Commission, which holds supreme command, all but two – President and CPC General Secretary Hu serving as chairman and Vice-President Xi Jinping (習近平) serving as a vice-chairman – are uniformed officers. The National People's Congress and the central government are virtually excluded from military policymaking.

The control of the military has been a thorny problem since the top military position was assumed by Jiang Zemin (江澤民) and then by Hu. Unlike Mao Zedong (毛澤東) and Deng, the two men had no military

background. To retain their positions, they needed to cater to the military's demands by, for example, allowing the double-digit growth of the defence budget for 21 consecutive years and promoting officers more often than before. Even if Hu steps aside as CPC general secretary and is succeeded by Xi in 2012, he may well want to retain influence by remaining the chairman of the Central Military Commission for a further two years just as Deng and Jiang did. Such ambition will only make it more difficult for him to ignore the hardline policy of the military.

The collision incident near the Senkaku Islands showed China that pressure works better than co-operation. Even if Hu wants to improve relations with Japan, he is likely to encounter strong opposition from the party, the government and the public. To cope with these growing hardliners, Japan needs to come up with a strategy to hedge against and encourage China to pursue co-operative diplomacy by co-ordinating with Washington and neighbouring countries.

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Voices: China

Energy security a risky business with Iran

Paul Letters

Despite China's long-standing ties to Iran, the rising Middle Eastern power is increasingly considered too risky – even for Beijing.

In addition to the economic and energy security gains to be made from supporting a state rich in natural resources, China has in the past tried to position itself at the head of the developing world with Iran as a key ally. China respects an old civilisation and a rising power seeking nuclear parity with others. Beijing's past military aid for Iran was designed partly to counterbalance US interests in the region. Yet China's support seems to have passed its peak.

Traditionally, China stressed Iran's right to nuclear energy and argued that wealthy powers used economic sanctions to bully developing nations that did not match the West's democratic ideal. However, no doubt with American and European Union (EU) trade benefits in mind, China began to re-evaluate its approach to Iran in 2006, finally endorsing UN sanctions. Beijing has since supported a series of UN Security Council resolutions, imposing ever-tighter sanctions and demanding the suspension of uranium enrichment activities.

However, in October *The Washington Post* reported that the US had intelligence on Chinese companies known to be providing illegal technology to Iran, including materials needed for enrichment. More recently, WikiLeaks cables indicate that Russian and North Korean missile technology was illicitly flown to Iran via China. There is no suggestion from the US that Beijing approved these transactions. Since the Clinton administration,

the US has been convinced that China is no longer intentionally proliferating nuclear weapons. US officials have also recently credited China with major improvements in its export-control regulations. But Beijing must now allocate resources to ensure the regulations are enforced. Otherwise, a growing number of Chinese companies will face sanctions from the West.

Rather than overcommit to investments in Iran's natural resources, China would benefit from spreading its energy security risks. And, this process seems to have begun. While oil imports from its other main providers increased this year, China has significantly reduced its deliveries from Iran. This indicates China is taking a step away from Iran.

Earlier this year, the US passed its own sanctions targeting fuel importers and the EU banned investment in Iran's oil and gas industries. China is seeking to meet its energy needs from sources unthreatened by such political instability – a move encouraged by the West.

Next month, China will again join representatives of the four other permanent members of the UN Security Council plus Germany to meet Iranian officials. It is in China's interests to press hard for curbs to Iran's nuclear programme. This would bring greater stability for the region – diminishing the likelihood of Israeli or US military action – and mean greater security for Chinese investments; Iraq's oilfields were an early casualty in the conflict there.

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Voices: Energy

Switch off-grid homes on to renewable power

Malavika Jain Bambawale

There are close to 1.5 billion people in the world without access to electricity, more than half in the Asia-Pacific region. Unfortunately, in today's world, it is almost impossible to find viable income-generating activities without access to electricity.

Renewable energy technologies are invaluable to those who live beyond power grids. The Renewable Energy Policy Network for the 21st Century estimates that millions of rural households around the globe are served by renewable energy. But this is still a drop in the ocean.

Why doesn't the power grid reach these households in the first place? For starters, they are typically located in remote villages where grid access is prohibitively expensive. These households resort to traditional fuels such as wood, oil and candles for heating and lighting, leading to severe indoor pollution and chronic fire hazards. Study after study has shown the devastating effects this pollution has on women, children and public health finances. Moreover, these fuels are not cheap.

Off-grid renewable energy technologies are a viable solution, and come in various forms: solar home systems, mini-hydroelectric generators and rooftop wind turbines, to name a few.

Many ask why the most expensive technology should be used for the poorest people. A 20-watt solar panel could cost roughly US\$200 – a huge sum for households. But, with instalment financing, monthly costs become not only manageable, but competitive with traditional fuels. And such technology offers tangible benefits: better lighting, a safe and

smoke-free home environment, and the opportunity to connect to the world through TV or radio.

With support, governments in developing countries have been promoting projects to distribute off-grid renewable energy technologies for decades. The private sector has typically stayed out, owing to long cost-recovery periods, small market size and lack of consumer credit.

But new projects are more market-driven, with donors' focus gradually shifting to building the capacity of domestic regulatory and technical institutions, and to strengthening the position of private-sector firms to serve the market. It was precisely such a model that led to the emergence in China of the World Bank's "Golden Sun" standard for solar panels. The project is often credited for leading to the boom in production of photovoltaic panels in China.

There are many ways to undertake rural electrification using off-grid renewable energy technologies. Governments can choose household-level technology or village-level microgrids; involve aid donors or use other modes of financing; offer subsidies to encourage entrepreneurs or energy-service concessions to utilities; lease the equipment by providing consumer credit or sell it up front.

The important thing is to know that there is a broad spectrum of options, and that efforts need to be ramped up on a massive scale.

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