

National Human Rights Institution & Human Rights Legislation

There were no recommendations made on the Hong Kong Special Administrative Region, China (HKSAR) in the Second UPR Cycle.

Framework in HKSAR

The Equal Opportunities Commission (EOC) was set up in 1996 and has jurisdiction to handle complaints and investigations under the Sex, Family Status, Disability and Race Discrimination Ordinances. HKSAR has no human rights institution that complies with the Paris Principles. The mandate of the EOC mandate relates only to equality and non-discrimination. While legislation gives the EOC wide ranging functions and powers, the EOC has long been criticised by civil society for taking a passive role and being reluctant to investigate institutional discrimination. There is no consolidated comprehensive legislation that applies to discrimination on grounds including language, nationality, sexual orientation, gender identity, gender expression and sex characteristics.

Challenges	Cases, facts and comments
<ul style="list-style-type: none"> There is no human rights institution in HKSAR. The EOC does not comply with the Paris Principles. 	<ul style="list-style-type: none"> The EOC is graded C, meaning non-compliance with the Paris Principles, by the Global Alliance of National Human Rights Institutions. Other oversight bodies do not sufficiently protect or promote human rights. For example, the Office of Ombudsman only has powers to investigate complaints about government maladministration and access to information issues and to investigate into issues of public interest.
<ul style="list-style-type: none"> The EOC often takes a passive role and regularly citing its limited mandate as a reason for not acting. This is inconsistent with Principle 2 of the Paris Principles. 	<ul style="list-style-type: none"> Only two formal investigations have been conducted by the EOC, the last one being in 2010. The EOC only gave legal assistance in 26 cases in 2017 although it had eight in-house lawyers. The EOC has no published key performance indicators. While two of the leading legal experts in HKSAR were recommended and agreed to lead the review of its complaint handling mechanism, the EOC recently hired someone with no experience in human rights law.
<ul style="list-style-type: none"> The government has shown no commitment to establish statutory bodies that are independent and have investigative powers in line with the Paris Principles. 	<ul style="list-style-type: none"> In May 2018, the Government established a Commission on Children within the Administration and headed by government officials. There is no plan of transition into an independent model with investigative powers, despite civil society advocacy for over twenty years and consistent recommendations of the Committee on the Rights of the Child (CRC).
<ul style="list-style-type: none"> There is no comprehensive human rights and anti-discrimination ordinance. 	<ul style="list-style-type: none"> The International Covenant on Civil and Political Rights is incorporated domestically, through the Hong Kong Bill of Rights, but all other international human rights treaties are not. Rights that are not provided for by the Basic Law or the Bill of Rights, including many economic, social and cultural rights and children's rights, cannot be enforced in court through judicial review.



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<ul style="list-style-type: none">• There is no panel in the HKSAR Legislative Council to review policies or bills for their compliance with the HKSAR's international human rights law obligations.	<ul style="list-style-type: none">• The Panel on Constitutional Affairs covers a wide range of issues, but lacks a standing capacity to monitor and examine government policies relating to human rights.• Sub-committees, which may cover select human rights issues, only operate for a period of 12 months, with the possibility of extension for another 12 months.
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Recommendations

- **Consistent with concluding observations of the Committee on Economic, Social and Cultural Rights (CESCR), HKSAR should adopt a comprehensive human rights ordinance to incorporate all international human rights treaties that apply to HKSAR in domestic legislation within two years.**
- **Consistent with concluding observations of the CESCR, HKSAR should adopt comprehensive anti-discrimination legislation within two years. Such legislation should establish a public sector duty to promote equality.**
- **Consistent with concluding observations of the Human Rights Committee (HRC), the CESCR and the CRC, HKSAR should establish a human rights institution within three years that has a broad mandate in line with the Paris Principles and is provided with adequate financial and human resources.**
- **Consistent with the concluding observations of the HRC, HKSAR should introduce policies to strengthen the provision of legal assistance and advocacy efforts of the EOC within one year.**
- **HKSAR should recommend the Legislative Council establish a standalone human rights panel within one year.**
- **HKSAR should establish a database of treaty body and UPR recommendations and a transparent central monitoring and evaluation mechanism for their implementation, following meaningful consultation with civil society, within one year.**

Questions to ask in advance

- *Has HKSAR set a target date for implementing the recommendation of the ICESCR Committee that HKSAR take all appropriate measures to incorporate ICESCR in domestic legislation and to guarantee their direct applicability by domestic courts?*
- *Has HKSAR set a target date for implementing the recommendation of the ICESCR Committee that HKSAR take steps to adopt comprehensive anti-discrimination legislation?*
- *What steps, if any, has HKSAR taken to implement the recommendation of the Human Rights Committee and the CESCR that HKSAR establish a human rights institution in accordance with the Paris Principles? How does HKSAR plan to undertake meaningful and considered consultation with civil society to implement the recommendation?*
- *What steps, if any, has HKSAR taken to implement the HRC's recommendation that HKSAR strengthen the mandate and the independence of the EOC?*

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