



Use of Force by Police and Police Complaints

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

Framework in the HKSAR

The Hong Kong Police Force (HKPF) has an internal review board, the Complaints Against Police Office (CAPO), which oversees the investigation and successful resolution of all complaints made both externally and internally against members of the force. It is a division of the HKPF. The supervisory body for CAPO is the Independent Police Complaints Council (IPCC). It is established under the Independent Police Complaints Council Ordinance to observe, monitor and review the handling and investigation of complaints made to CAPO. However, there is no independent complaints handling body, despite consistent calls from UN treaty bodies.

Police General Orders (PGOs) outline the conduct of police officers. However, there are concerns from civil society with the lack of transparency of HKPF activities, increasingly disproportionate force in response to protests and rising surveillance at protests and of political parties.

The International Covenant on Civil and Political Rights (ICCPR) applies to the HKSAR. Article 39 of the Basic Law provides that it shall be implemented through HKSAR laws. The Convention against Torture (CAT) also applies to the HKSAR.

Challenges

- The HKPF has used excessive force during protests, in contravention of the International Human Rights Standards for Law Enforcement, United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, Article 9 of the ICCPR and Article 16 of CAT.
- The HKSAR government has provided incomplete data regarding complaints of torture and ill-treatment by the HKPF, which has been criticised by the CAT Committee.

- HKPF increasingly deploys plainclothes police officers at protests. There have been occasions where police powers have been used without identification.

Cases, facts and comments

- During the Umbrella Movement in 2014, the HKPF resorted to violence against more than 1300 people, and around 500 were admitted to hospitals.
- During the clearance of Umbrella Movement protests in October 2014, 7 police officers beat up activist Ken Tsang while his hands were tied behind his back and he was blindfolded. The 7 were convicted and sentenced to 2 years and 6 months imprisonment, reduced by 6 months after considering their backgrounds.
- A Ming Pao Journalist was kicked and beaten with batons by police during the 2016 Mong Kok unrest, even after showing his press card and cooperating.
- During the July 2017 visit of President Xi Jinping, HKPF assaulted two pro-democracy activists and substantially constrained peaceful assembly rights.
- In January 2018, the Junior Police Officers Association, representing 20,000 members, called for laws to exempt police officers from criminal liability.
- A plainclothes police officer denied her identity while she was collecting students' details at 4 June vigil in 2018. This is despite requirements that plainclothes officers "shall identify themselves and produce their warrant cards when exercising their police powers." The Secretary for Security refused to provide details.



<ul style="list-style-type: none">• The HKPF has not fully released the PGOs, which provide information on the conduct of police officers.	<ul style="list-style-type: none">• Some chapters of the PGOs are available on the Internet. However, the HKPF has refused to release several chapters, including Ch. 29 “Use of force and firearms”. This is despite requests from civil society.
<ul style="list-style-type: none">• There is no independent monitoring body to investigate police misconduct. This limits the level of oversight of police activities, in a manner consistent with Articles 12 and 13 of CAT.	<ul style="list-style-type: none">• Investigations of police misconduct are conducted by the police themselves through CAPO, while the IPCC has only advisory and oversight functions to monitor and review the activities of the CAPO.• No progress has been made in developing a fully independent police complaints mechanism, despite recommendations from the UN Human Rights Committee in 2013 and CAT Committee in 2015.• CAPO received 2,427 complaints related to the Umbrella Movement between September 2014 and March 2015. It submitted only 150 cases to the IPCC. Of those, the IPCC only investigated 16, because complainants withdrew or could not be reached.

Recommendations

- **Consistent with CAT concluding observations, HKSAR should immediately (i) conduct an independent investigation into excessive use of force by police during the Umbrella Movement; (ii) prosecute perpetrators, including police officers complicit in acts or who allowed their occurrence, with redress provided to victims and (iii) publicise the Police’s guidelines to the use of force, ensuring they comply with international standards.**
- **Consistent with HRC and CAT concluding observations, HKSAR should establish a fully independent mechanism to conduct independent, proper and effective investigation into complaints about inappropriate use of force or other abuse of power by the police.**
- **HKSAR should pass legislative amendments ensuring that searches of electronic devices can only take place with warrants within one year.**

Questions to ask in advance

- *What measures has the HKSAR government taken to ensure an independent investigation of Hong Kong Police Force actions, including violence committed against protestors or those who were complicit in such acts, during the Umbrella Movement?*
- *What measures will the HKSAR government take in the next two years to increase oversight of the Hong Kong Police Force? What actions is the HKSAR government taking to develop a fully independent complaints mechanism, consistent with concluding observations from the HRC and CAT committees?*

Contact

- Hong Kong UPR Coalition: Simon Henderson, Justice Centre Hong Kong (simon@justicecentre.org.hk, +852 3109 7359)
- Coalition Subject matter expert: Yik Mo Wong, Civil Human Rights Front, wongyikmo.de@gmail.com
- Hong Kong UPR Coalition submission: <https://bit.ly/2KyGreK>

