

Engagement with Civil Society

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

Framework in HKSAR

The HKSAR Government conducts consultations for UPR and treaty body reporting exercises, but they are generally one-off exercises. Civil society reports that they are inadequate, with government officials not engaging in considered and meaningful consultation. For policy and legal developments, the HKSAR Government often conducts ‘public engagement exercises’ instead of full public consultations. Attempts by civil society to improve consultation methods are generally not accepted, with government officials often citing ‘established practice’ as a standard response. In 2007, the HKSAR Government introduced the “Be the Smart Regulator” Programme, which includes a push towards incorporating ‘open and inclusive’ consultation. However, civil society and business have found that it is generally not applied. Additionally, it is not binding on government agencies. There is no effective regulatory impact assessment mechanism in HKSAR, which aligns with principles of transparency and accountability.

Challenges

- Civil society are often not consulted for major legal and policy developments. The capacity for civil society to participate in public debate is limited in a manner inconsistent with Human Rights Council resolution 32/31 on ‘civil society space’.
- Efforts to engage with the Government are often ignored. This is inconsistent with the Goal 17 of the Sustainable Development Goals (SDGs), especially improving policy and institutional coherence.

- There is little transparency about how the Government considers views raised in consultations or public engagement exercises. There is no requirement for departments to respond internally or externally.

- Consultations for UPR and treaty bodies are one-off rather than continuous.

Cases, facts and comments

- Civil society organisations, especially those that take a rights-based approach, receive replies to letters or emails without substantive information from the Government. Direct questions are often ignored.
- The Government turned down invitation to a conference with overseas experts in September 2017 on setting up a Children’s Commission. Also, it has turned down invitations to participate in training on refugee law held by civil society even though they were conducting studies on these topics.
- Meetings with government are difficult to obtain. For example, in attempting to meet the officials responsible for the UPR, requests were refused several times. Eventually a meeting was held, more than 3 months after the request.
- Requests for meetings often receive responses of “unable to accept”, without explaining why. For example, requests for meetings with the Chief Executive or the Secretary for Home Affairs.

- Civil society who lodged submissions do not know which Government departments have considered them or responded internally.
- For example, there was no deadline for the consultation for the Budget 2018-19. Civil society was advised that they could be made after the Budget was announced. Many issues raised by civil society organisations for the Budget 2018-19 were not passed onto relevant bureaus or they had no knowledge of them.

- The Human Rights Forum, cited by HKSAR in its part of China’s national report for the Second Cycle UPR is only held shortly before or after treaty body and UPR sessions. There

<ul style="list-style-type: none"> The government does not release their reports in consultations. 	<p>was no meeting for one and a half years in 2016 and 2017. Engagement is limited outside of those periods. In the UPR Forum, matters giving rise to civil and political rights, officials are reluctant to engage in a dialogue.</p> <ul style="list-style-type: none"> The government only releases the outlines of their reports for consultations for UPR and treaty bodies. It refused to publish its input to China’s report despite repeated calls from civil society and Legislative Councillors.
<ul style="list-style-type: none"> ‘Public engagement exercises’ are often conducted instead of consultations, which may suggest that the objective is not to heed the views of civil society or the wider public. 	<ul style="list-style-type: none"> For example, the government conducted public engagement exercises for major studies or developments such as establishing a Commission on Children and land supply. Issues are often considered outside of the scope of such exercises, despite their relevance, such as discussing use of idle military land in the Land Supply Task Force. The government conducted a ‘study’ instead of a consultation for the Policy Address for the first time in 2017, citing inadequate time as there were 86 days available before the Policy Address. However, there were 83 days in 2015, and a consultation was held.
<ul style="list-style-type: none"> Consultations or public information are not accessible to people with disabilities or non-Chinese speaking people, breaching, inter alia, Article 29 of the Convention on the Rights of Persons with Disabilities on participation in public life. 	<ul style="list-style-type: none"> The government’s consultation document for the UPR, although available in minority languages, was not available in Braille or easy read, despite requests from civil society. The website of the Rehabilitation Programme Plan public engagement was inaccessible to persons with vision loss. Some blog posts of the government or appointed bodies are only available in Chinese, for example those of the land supply public engagement exercise.

Recommendation

- 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.**
- HKSAR should adopt a policy of timely and fulsome public consultation for any policy and legislative development, with special regard to persons with disabilities, indigent and non-Chinese speaking communities, within six months.**
- HKSAR should issue directives to all departments that encourage face-to-face meetings with civil society.**

Questions to ask in advance

- Are all consultations of HKSAR accessible to persons with disabilities and non-Chinese speaking individuals? If not, what steps will HKSAR will take to ensure they are accessible to all?*
- Has HKSAR receive complaints or feedback from civil society that consultations are not considered or meaningful? If yes, what steps will HKSAR will take to ensure that consultation processes are considered and meaningful?*

Contact

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