

Children's Rights

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

Framework in HKSAR

HKSAR established a Commission on Children in May 2018. However, it is not independent, with the Chair being the Chief Secretary and the Vice-Chair, being the Secretary for Labour and Welfare. Additionally, it lacks any legal mandate. Several bureaus have responsibility for children's issues, including Labour and Welfare, Education, Food and Health and Home Affairs.

The Convention on the Rights of the Child (CRC) applies to HKSAR but has not been incorporated into domestic legislation. Despite consistent concluding observations from the CRC Committee, China continues to hold reservations for HKSAR regarding the entry into, stay in and departure from HKSAR for those who do not have the right to enter or remain in HKSAR; under Article 32(b) on the hours and conditions of employment of children; and under Article 37(c) on the dignity of treating children who have been deprived of their liberty.

Challenges

Cases, facts and comments

<ul style="list-style-type: none"> • There is no independent Children's Commission with children's participation or investigative powers in line with the Paris Principles. This is despite the CRC Committee calling for such a body to monitor policies relating to children since 1996. • There is no central databank about children, making it hard to monitor the protection of rights and to develop informed policy. This limits the capacity of the HKSAR to fulfil its obligations under Article 4 of the CRC. Such a measure has been recommended by the CRC Committee. 	<ul style="list-style-type: none"> • Without an independent commission, there are no complaint or investigation mechanisms for violations of children's rights. For example, there has been serious concern over the omission of kindergartens to report suspected cases of child abuse in recent years. No independent investigation has been conducted. • There is a lack of mechanism to promote children's participation in the formulation of policies. For example, there is no child-specific documents or communication channels in the land supply public engagement exercise in 2018.
<ul style="list-style-type: none"> • HKSAR has made wide reservations to the CRC. The CRC is not incorporated domestically and difficult to enforce in court. 	<ul style="list-style-type: none"> • China reserves the right for HKSAR to apply legislation relating to entry into, stay in and departure from Hong Kong, which excludes the application of the CRC from many matters affecting migrant children. • China reserves for HKSAR the right not to apply Article 37(c) of the CRC about the detention of children and adults together. • Additionally, China holds a reservation under Article 32(b) of the CRC.
<ul style="list-style-type: none"> • Child abuse is not effectively identified, investigated or prevented, violating children's right to life, right not to be tortured, and right to security, breaching 	<ul style="list-style-type: none"> • In 2017, 947 cases of child abuse were reported to the government. In 2018, a child died after repeated abuse and another was neglected so severely that she was left in vegetative state.



Article 19 of the CRC on protection from abuse.	
<ul style="list-style-type: none">Children's right to play, as enshrined in Article 31 of the CRC, is not sufficiently protected.	<ul style="list-style-type: none">The Planning Standards and Guidelines have no provision for play spaces, raising concern over the sufficiency of land for play spaces, the suitability of such land to be play spaces and the adequacy of supporting facilities.

Recommendations

- All treaty reservations should be withdrawn within four years and reports on the progress issued every year in the meantime.
- HKSAR should establish an independent and statutory Children's Commission with investigative powers that comply with the CRC and the Paris Principles within three years. The Commission's mandate should relate to all children aged under 18. Children, especially the most vulnerable, should be consulted and encouraged to participate in policies involving children, with child-friendly platforms developed.
- Consistent with CRC concluding observations, HKSAR should establish a central data bank with independently verifiable data and assess progress of the implementation of the Convention on the Rights of the Child on the basis of such data, within one year.
- HKSAR should legislate to domestically implement the CRC, particularly Article 3 to consider the best interests of the child in all statutory and administrative decision-making, and Article 12 to ensure the views of children are expressed and heard, within three years.
- HKSAR should review Chapter 4 of Hong Kong Planning Standards and Guidelines on the provision of children's playgrounds, introducing a supplementary planning guidance on "Play and Informal Recreation", ensuring adequate provision of inclusive play space for all children, within one year.
- For further related recommendations, see paragraphs 81 and 89 of the submission.

Questions to ask in advance

- What steps will HKSAR take in the next year to establish an independent Children's Commission that comply with the CRC and the Paris Principles?*
- What steps will HKSAR take to withdraw reservations to the CRC and to incorporate the CRC domestically? What measures will HKSAR take in the next two years?*
- What steps will HKSAR take in the next two years to ensure adequate identification, investigation and prosecution for child abuse cases? What steps will HKSAR take to protect victims and prevent child abuse? What is the time frame?*
- What steps will HKSAR in the next two years to improve policies on education, town planning, air quality control, to protect the right to play under Article 31 of the CRC?*

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