



Environmental Rights

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

Framework in HKSAR

The Environmental Protection Department (EPD) is responsible for implementation of pollution control legislation. The Permanent Secretary for the Environment draws up policy measures for the prevention and abatement of pollution. The control of pollution is covered under the Air Pollution Control Ordinance. This empowers the EPD to impose licensing controls, issue notices and enforce remedial action relating to pollution offences.

Despite the well-intended statutory framework, HKSAR lacks the teeth to enforce a meaningful reduction in pollution levels. The EPD cannot be held accountable when pollutants exceed HKSAR targets. The remit of the EPD extends to achieve targets, as oppose to comply with prescribed standards. The Council for Sustainable Development was established to promote that purpose in HKSAR in 2003.

The HKSAR Government has a target to lower carbon emissions, but no target to reduce other environmental effects, such as ocean acidification or marine debris. HKSAR became a signatory to the Convention on Biodiversity (CBD) in 2011, which obligated the government to formulate a Biodiversity Strategy and Action Plan (BSAP) which they released in 2016. The Environment Bureau (ENB), in connection with the EPD and the Agricultural, Fisheries and Conservation Department (AFCD) was tasked with formulating and implementing the BSAP. The BSAP identified areas of focus for the government in short, medium and long-term, but lacks quantifiable targets to gauge the efficacy of the plan implementation.

The International Covenant on Economic, Social and Cultural Rights (ICESCR) has been extended to HKSAR. Article 39 of the Basic Law provides that it shall be implemented through HKSAR laws. Several environmental conventions and agreements apply, including the Paris Agreement, under the United Nations Framework Convention on Climate Change, and the Minamata Convention on Mercury. The Sustainable Development Goals (SDGs) apply to HKSAR.

Challenges

- Air quality in HKSAR remains below satisfactory, with various air pollutants breaching World Health Organisation (WHO) safety standards threatening public health, including increasing premature deaths. HKSAR is not sufficiently protecting the right to an adequate standard of living under Article 11 of ICESCR and the right to the highest attainable standard of physical

Cases, facts and comments

- Data released by EPD in 2017 revealed that the ozone has increased by 19% over the past 5 years. This is in contrast to the objectives issued under the Air Pollution Control Ordinance 5 years ago.
- Roadside pollution remains an acute problem. Clean Air Network, a local NGO, has compared the roadside pollutants (including NO₂, PM_{2.5} and PM₁₀) over the first six months of 2016 – 2018, and found that those pollutants are one to three times higher than WHO recommended levels.
- Air pollution has a substantial impact upon public health, leading to five premature deaths every day in 2016. Circulatory and respiratory diseases are the



health under Article 12 of ICESCR.	second and the third major causes of registered deaths in HKSAR.
<ul style="list-style-type: none">HKSAR does not keep sufficient data on how it is reaching the 17 SDGs, making it difficult to measure commitment, assess performance and for civil society to contribute to policy development.	<ul style="list-style-type: none">The United Nations Economic and Social Commission for Asia and the Pacific Statistical Yearbook for 2017 notes a lack in data for HKSAR on marine pollution, deaths from air pollution and statistics supporting policies that deal with climate change.WWF Hong Kong research shows that in HKSAR the per capita ecological footprint is the 2nd highest in Asia and rising rapidly.
<ul style="list-style-type: none">HKSAR has not taken sufficient action to comply with SDG 14 on life below water, with actions lacking measurable targets.	<ul style="list-style-type: none">The BSAP (2016) obligates the ENB to monitor and review progress regularly, but no framework for this process has been formulated or communicated.

Recommendations

- HKSAR should amend the Air Pollution Control Ordinance to set AQOs that are no less stringent than those in the WHO AQOs and make all relevant bureaus accountable for non-compliance with AQOs within one year.**
- HKSAR should incorporate health impacts on all government policies, with particular reference to air quality, immediately.**
- HKSAR should commission an independent study on the impact of air quality, with particular reference to health equality issues, in line with WHO recommendations, within one year.**
- HKSAR should immediately commence collecting data on all targets for the SDGs. HKSAR should immediately establish a target to reduce by two-thirds of the number of deaths and illnesses caused by pollution of air, soil, water by 2030.**
- HKSAR should develop specific and measurable targets for the Biodiversity Strategy and Action Plan, ensuring that they are in line with the SDGs, within one year.**

Questions to ask in advance

- What measures will HKSAR government take in the next 5 years to ensure that the right to the highest attainable standard of health under Article 12 ICESCR rights are protected and promoted, especially regarding air, soil and water pollution?*
- What measures will the HKSAR Government take in the next 2 years to ensure that it is collecting all necessary data for each target and indicator for the SDGs? How will the HKSAR Government work in a meaningful way with civil society to ensure this is done?*

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