

Human Trafficking

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

Framework in HKSAR

There is no comprehensive law against human trafficking. Acts relating to human trafficking are prosecuted for offences including smuggling for sex work and conspiracy to defraud. The HKSAR Government introduced the Action Plan to Tackle Trafficking in Persons and to Enhance Protection of Foreign Domestic Helpers in Hong Kong (Action Plan) in March 2018, which includes enhanced prosecution, victim identification and protection, prevention and engagement with civil society, but the Action Plan entails no accountability and most new activities have no time frame.

The International Covenant on Civil and Political Rights (ICCPR) and the Convention against Torture (CAT) apply to HKSAR. The Palermo Protocol is not applicable to HKSAR, although it has been signed by China and extended to the Macau Special Administrative Region.

HKSAR has been placed on the Tier Two Watch List of the United States Trafficking in Persons Report since 2016.

Challenges

Cases, facts and comments

<ul style="list-style-type: none"> Legislation does not provide for victim protection. Victim identification is limited. The HKSAR Government fails to adequately protect rights under Articles 7, 8, 9, 12 and 23 of the ICCPR and Articles 12, 13, 14 and 16 of CAT. 	<ul style="list-style-type: none"> Only 9 victims were identified by the government in 2017, while civil society research found that 17% of migrant domestic workers in HKSAR were in forced labour and 14% of those were trafficked for that purpose (about 8,000 individuals). Although it is stated in the Action Plan that immunity from prosecution will be granted to victims in appropriate cases, the Government has not provided any information about what constitute 'appropriate cases' despite enquiries of civil society.
<ul style="list-style-type: none"> Legislation does not criminalise human trafficking as such, failing to protect rights under Articles 7, 8, 9, 12 and 23 of ICCPR and Articles 2 and 12 of CAT. 	<ul style="list-style-type: none"> Potential cases of human trafficking of migrant domestic workers have been handled as potential commission of offences that do not reflect the gravity of the conduct. For example, a suspected case of trafficking of a Filipino worker who killed herself in Mainland China was prosecuted for conspiracy to defraud.
<ul style="list-style-type: none"> Human trafficking investigations are inadequate, with the HKSAR Government failing to uphold Articles 7, 8, 9, 12 and 23 of ICCPR and Article 12 of CAT. 	<ul style="list-style-type: none"> From 1 January to 27 November 2017, the Police received 42 potential cases of the trafficking of migrant domestic workers, but only four were confirmed to be related to criminal offences as of 27 November 2017 according to a media report.
<ul style="list-style-type: none"> There is a lack of transparency about government policy on human trafficking, limiting access to remedies, in contrast to rights protected by Article 2 of ICCPR. 	<ul style="list-style-type: none"> The screening tool used by the government is not publicly available requests of civil society. Data that the government has failed to provide in response to Legislative Councillor questions or freedom of information requests include:



	<ul style="list-style-type: none">○ The gender, age ranges, nationalities and immigration status of identified victims;○ The number of cases of established credible claim that a defendant or intended defendant is a victim of trafficking; the number of suspicious transaction reports relating to human trafficking; and○ The number of non-refoulement claims made on human trafficking grounds.
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Recommendations

- **Consistent with the concluding observations of the Committee against Torture on HKSAR, the Palermo Protocol should be extended to HKSAR, within one year.**
- **HKSAR should adopt a comprehensive law on prevention, prosecution, and protection to combat human trafficking and forced labour, within one year.**

Questions to ask in advance

- *What is HKSAR's position on the extension of the Palermo Protocol to the territory? Has a target date been set for its extension to HKSAR?*
- *While elements of human trafficking are criminalised through different pieces of legislation in HKSAR, what legislative provisions cover victim protection or prevention? If not, what is the target date for adopting comprehensive legislation that covers victim protection, prosecution and prevention?*
- *Will HKSAR introduce measurable, time-bound key performance indicators and an accountability mechanism into the Action Plan? Will HKSAR consult civil society to this end?*
- *When will HKSAR publish comprehensive data about human trafficking that covers victim identification, investigation, prosecution and conviction as a basis for measuring progress towards achieving Social Development Goal 8.7 to eradicate forced labour and human trafficking?*

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