

United Nations Convention on the Rights of the Child

At its meeting on 1 November 2001, the Legislative Council Panel on Security requested a written response on whether the removal of Mainland children adopted by Hong Kong permanent residents will contravene the United Nations Convention on the Rights of the Child (the Convention). Government's response is set out in the following paragraphs.

2. The HKSAR Government is committed to honouring its obligations under the various international covenants and conventions that apply to Hong Kong. In respect of the Convention, the Government of the United Kingdom extended its ratification to Hong Kong and other dependant territories in 1994. The People's Republic of China notified the Secretary General of the United Nations on 10 June 1997 that with effect from the resumption of sovereignty on 1 July 1997 the Convention would apply to Hong Kong. The People's Republic of China made a number of declarations on the extent to which the Convention would apply to Hong Kong, one of which states –

“The Government of the People's Republic of China reserves, for the Hong Kong Special Administrative Region, the right to apply such legislation, in so far as it relates to the entry into, stay in and departure from the Hong Kong Special Administrative Region of those who do not have the right under the laws of the Hong Kong Special Administrative Region to enter and remain in the Hong Kong Special Administrative Region, and to the acquisition and possession of residency as it may deem necessary from time to time.”

3. Under section 19(1)(b)(ii) of the Immigration Ordinance, Cap 115, a removal order may be made against a person requiring him to leave Hong Kong by the Director of Immigration if it appears to the Director that that person has landed in Hong Kong unlawfully or is contravening or has contravened a condition of stay in respect of him.

4. Hence the Director of Immigration is empowered under the law to remove any person, including those Mainland children adopted by Hong Kong permanent residents, who have entered Hong Kong illegally or overstayed. Given the reservation mentioned above, this will not be a contravention of the Convention.

Security Bureau
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