

To: Subcommittee on resolution under the Immigration Ordinance

From: Albert H Y Chen, University of Hong Kong

The main element in the proposal that deserves careful study is the proposed provision for paragraph 2(1) of Schedule 1 to the Immigration Ordinance.

The proposed provision for 2(a)(ii) is the same as the current provision, whereas that for 2(a)(i) is different from (and much more liberal than) the current provision and is proposed to apply to persons born before 1 July 1987.

And both of the proposed provisions differ in content from paragraph 1 of the Preparatory Committee's Opinion which has now been affirmed by the NPC Standing Committee.

Further research is required to clarify the position of persons born in HK before 1 July 1997 (including persons born before 1 July 1987 and persons born thereafter) to parents who were not settled in Hong Kong or did not have the right of abode in Hong Kong, or who did not satisfy the requirement in paragraph 1 of the Preparatory Committee's Opinion.

It should be noted in this regard that the current version of the Immigration Ordinance (Schedule 1, paragraph 1(5) defines the words "settled in Hong Kong" as being ordinarily resident in Hong Kong and not subject to any limit of stay. How this definition relates to the wording in paragraph 1 of the Preparatory Committee's Opinion (which excludes persons born to parents who have entered Hong Kong illegally, overstayed in Hong Kong or are temporarily resident in Hong Kong) remains to be studied.