

LEARNING TO LOVE THE WAYS OF GOVERNMENT

Sadly, there can be no question about it: The Executive Branch of Government of the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) is interfering, and will continue to interfere, in the determinations of the Judicial Branch of Government.

And, it is a certainty that the HKSAR Executive is '*guided*', not so covertly, at that, by senior official in the Government of the PRC.

The question: Has it happened, surreptitiously, before?

It is, perhaps, lucky, for the inhabitants of the HKSAR that the PRC Government does not embrace either the Christian religion or the Catholic religion for, if it did, it is likely that Church and State would, also, not be separated.

If the PRC were a Christian country, or a Catholic country, there would be a valid excuse for numerous and periodic religious Inquisitions, similar to those that took place in Europe from the 5th Century to the 15th Century.

And very similar, in fact, to The Great Proletarian Cultural Revolution in the PRC from 1965 to 1968 when an attempt was made to oppose bureaucracy and pragmatism.

During those 3 years, untold tens of thousands of Chinese nationals died and millions of urban teenagers were forcibly sent to the countryside in order to teach them the spirit of revolutionary principles.

It was a period when the call went out for the people of the PRC to return to the basics, as laid down by the late Comrade Chairman Mao Ze Dong.

If a modern-day, PRC-Government type of Inquisition could take place, there could well be a series of autos-da-fé - public executions of heretics by burning them at the stake -- albeit using bullets rather than knives and stakes and fire, etc.

As it is, there is ample reason to believe that some of the purges, of Chinese free-thinkers in the PRC, from 1989 to today, were akin to the Spanish Inquisition of the 1478 when King Ferdinand V and Queen Isabela I decided to purge Spain of Jews who had, insincerely, claimed to have converted to Christianity.

This Inquisition was a true instrument of State, couched in the cloak of being an instrument of the Church.

The concept of the separation of Church and State is ingrained in the Constitution of the United States of America where it is held that there shall be 3 branches of government - the Legislative Branch, the Executive Branch, and the Judicial Branch - and that each branch of government is subordinate, only, to the Constitution from where it obtains its authority.

This guarantees a system of checks and balances, and, also, it guarantees the integrity and impartiality of the 3 branches of government.

At the same time, these branches of government are able to maintain interdependence.

While this idea may be a little foreign to the thinking of the Government of the PRC, the idea of the separation of the 3 branches of government is well rooted in history where, as may be seen, it is advisable for there to be this separation.

It was in the 4th Century AD that Constantine the Great obtained, for the Church, an official privileged status. This was the first recorded incidence of the Church, being able to obtain such status.

About one century later, Pope Gelasius I introduced the Two-Swords Doctrine. This Doctrine, in essence, proclaimed that the Church and State were equal in status.

Pope Innocent III, in the 13th Century, went further, proclaiming that the Emperor was, and should always be, subordinate to the Pope.

It was in the 15th Century that the Italian political theorist, Niccolo Machiavelli, wrote his famous treatise: The Prince. This work describes the achievement and maintenance of power by a determined ruler, indifferent to moral considerations.

In short, Niccolo Machiavelli was advocating a separation of Church and State.

In view of the fact that the PRC Government does not embrace Western religions, generally speaking, religious inquisitions, religious cleansing and ethnic cleansing are unlikely to become a major factor in the political structure of the PRC and the HKSAR, today or tomorrow.

But, having stated this, one notes that Beijing has decided to take the HKSAR Judiciary to task, thereby, effectively, coalescing the Judicial Branch of Government with the Executive Branch of Government.

(TARGET has trouble in believing that the actions of the HKSAR Chief Executive, Mr Tung Chee Hwa, are not governed by the requirements of Beijing, the seat of power in the PRC and the HKSAR)

The main problem, perceived by right-thinking men, with regard to there being no separation of power between the various branches of government, is that one branch of government may be concerned about making a potentially problematic determination for fear that it could impact on another branch of government.

This would be equivalent to a solicitor, coming into conflict with the Court and his duty of fidelity to the Court, and deciding that the interests of his client took precedence over the interests of the Court.

Thus, he forsakes his sworn duty to the Court and permits a miscarriage of justice to take place.

Also, it is more than likely, in the case of the HKSAR and the PRC, that the Judicial Branch of Government in the HKSAR may be constrained to make controversial determinations for fear that such determinations could, somewhere down the line, impact of he who made the determination, personally.

(As it is, TARGET wonders as to the courage of many of the judges, who sit in Courts in the HKSAR, today)

The so-called Right-of-Abode Crisis has brought all manner of horrors out of PRC cupboards, but one may begin to wonder how many other horrors could be forthcoming in view of the fact that the precedent has been established for the PRC to interfere in HKSAR affairs in spite of the written guarantee of interdependence of the HKSAR with the PRC.

On May 24, 1999, a spokesperson for Chief Executive Tung Chee Hwa stated that it was only reasonable that the PRC State Council *'should receive the (reinterpretation of The Basic Law of the HKSAR) Report first before we (the HKSAR) determine arrangement for making public (the Report).'*

The spokesperson made no bones, and neither has Chief Executive Tung Chee Hwa, that the object of this exercise was to overturn the determination of the HKSAR Court of Final Appeal in respect of the Right of Abode

Crisis.

Many people may start to think that, perhaps, Chief Executive Tung Chee Hwa has, what may be described as, a rare occurrence: Simultanagnosia -- unable to see more than one shape at one time.

Back in September 1997, Chief Executive Tung Chee Hwa addressed about 1,000 businessmen at the World Economic Development Congress in the HKSAR and the statements that he made, then, appear to be in direct conflict with his more recent statements and more recent actions.

At this World Economic Development Congress, he stated that the pace of democracy in the HKSAR would be accelerated; and, that the average HKSAR resident would have a greater degree of democracy, under his regime, than that which existed under the British Colonial rule.

He said: *'There are those who believe that the pace of democratisation is too slow. Others believe that it is too fast. I believe we have struck the right balance.'*

Chief Executive Tung Chee Hwa ended his little speech by saying that, for those who maintained that human rights and religious freedoms were imperiled in the PRC *'... go and see for yourselves.'*

The question that may be raised, today, is whether or not the interference by The Standing Committee of the National People's Congress is to be considered a forward step in the democratisation process, or a retrograde step, as far as political and judicial development in the HKSAR is concerned.

-- E N D --