

COMMENT ON THE RESIGNATION OF THE CHIEF JUSTICE

TARGET () isn't buying it.

This medium is not a political 'orphan', too, because it is highly unlikely that many free-thinking, right-minded people in the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) bought, in full, the statements of Mr Andrew Li Kwok Nang () who, quite unexpectedly, threw in the towel as Chief Justice of the territory after 13 years of holding down the top job in the Judicial Branch of the HKSAR Government.

Mr Andrew Li Kwok Nang is 60 years old and, normally, he would consider a retirement at the age of 65 years – in about 2014.

Last Wednesday, however, he announced his intention of retiring, within a period of about one year.

In giving the reasons for his decision to tender his resignation, now, he said, inter alia, that they were predicated on leaving the field clear for an orderly succession since a number of justices of the territory would be retiring, during the next 5 years.

He maintained that it would be in everybody's interests to allow the incoming Chief Justice to decide who was best suited to replace outgoing justices.

Word for word, the following are some of the statements, made by this erudite and well-respected justice:

'I believe it is now appropriate for a new chief justice to deal with the succession planning, rather than a chief justice who will be retiring at the same time...'

'I want to make it absolutely clear, looking you in the eye, the reasons stated...are the only reasons I have taken this decision ...'.

When, last week, he informed the Chief Executive of the HKSAR, Mr Donald Tsang Yam Kuen (), of his decision to retire early, it was reported that this Catholic gentleman attempted to dissuade Mr Andrew Li Kwok Nang from his avowed determination to leave the field clear for his successor, 4 years before the date that was expected for him to leave his post.

It is going to be very interesting to see whether or not controversial and draconian legislation will be 'suggested' or 'proposed' in the Legislative Council in the coming months, legislation that may well cause the hackles to stand up straight and high on the backs of HKSAR diehard democrats who sit in the Legislative Council Chamber.

Not long before the Chief Executive of the Macau Special Administrative Region (MSAR) of the PRC, Mr Edmund Ho Hau Wah (), was ushered out of office, to be replaced by the lone candidate for his job, Mr Fernando Chui Sai On (), a piece of legislation was hurriedly pushed through the MSAR Legislative Council ... passed, unanimously.

That piece of legislation was, in fact, very similar to what has come to be known in the HKSAR as Article

23.

The gist of Article 23 – the so-called Security Law – is that there should be a proscription on:

1. Any act of treason;
2. Any act of sedition;
3. Any act of secession;
4. Any suggestion of subversion against the Government of the PRC;
5. Any theft of State secrets;
6. Any foreign political organisations in the territory;
7. Any and all bodies, conducting political activities in the region; and,
8. Any and all political organisations of the territory from establishing ties with foreign political organisations, or organs thereof, or bodies, aligned with such organisations.

As can be seen, Article 23 is wide-sweeping and, when it was first proposed in the HKSAR in September 2002 by the, then, Secretary of Security, Ms Regina Ip Lau Suk Yee (), the outcry of disapproval was deafening.

More than half a million people took to the streets in protest of the proposed legislation.

The problem, as was pointed out at the time, with Article 23 includes that it is extremely wide-sweeping, non-definitive in nature, and the interpretation of many of the terms, used therein, ambiguous.

Without any real accountability in the territory with regard to, potentially, the expansive definition of the wording of a piece of legislation, that is legislation that could be interpreted in a number of different ways, a person could, easily, be accused of a crime(s) under the '*umbrella*' of Article 23.

Further, even on appeal of an accused, charged and found guilty under Article 23, to the highest HKSAR Court, the matter could, easily, be referred to Beijing for its interpretation of the legislation as to its original intent – politically.

The matter, therefore, would become one of politics rather than one of law.

And, therein, are among the cruxes of the matter.

When Ms Regina Ip Lau Suk Yee fought for the passing of Article 23 into law, she was determined and fought, hard, for its passage through the Legislative Council, as an HKSAR Government servant, stating that, if it were not passed into law, she would step down.

In fact, she lost the gamble and kept her word, resigning from her position in Government.

Today, she sits in the Legislative Council as an Elected Member of this august body of lawmakers.

It is strongly believed that she will succeed Mr Donald Tsang Yam Kuen as the next Chief Executive of the territory.

When asked, recently, of this suggestion, she refused to be drawn on the subject and would not give a negative response about her intentions, politically, to lead the HKSAR at the next election for the Chief Executive.

TARGET is not suggesting that the early retirement of Chief Justice Andrew Li Kwok Nang has anything to do with the probability of the phoenix of Article 23, rising from its ashes, but if the Chief Justice were placed in a position of a conflict between his duty as head of the HKSAR Judiciary and a gnawing conscience, which caused him discomfort, it is quite likely that he would opt to step down.

-- **END** --

*While **TARGET** makes every attempt to ensure accuracy of all data published,
TARGET cannot be held responsible for any errors and/or omissions.*

*If readers feel that they would like to voice their opinions about that which they have read in **TARGET**, please feel free to e-mail your views to editor@targetnewspapers.com. **TARGET** does not guarantee to publish readers' views, but reserves the right so to do subject to the laws of libel.*