

THE HKSAR BECOMES A LITTLE PREGNANT

It is impossible for a fertile, female homo sapiens to be a little pregnant: She either has been inseminated with a male's sperm, and has conceived; or, she is barren.

A female homo sapiens, under normal circumstances, gets pregnant by having a male insert his penis into her vagina, and then to have his sperm fertilise her egg.

Nine months later, all things being equal, out will pop a new addition to the human family.

There is a parallel to be drawn from the laws of procreation in mammals and what is happening in the Hongkong Special Administrative Region (HKSAR) of the People's Republic of China (PRC) and, what used to be termed, the law.

The parallel is, simply put, that one cannot allow the Executive Branch of Government to interfere with the affairs of the Judicial Branch of Government: Once one allows this to take place, then it is consanguineous to the little girl, returning home and telling her mother: 'I'm afraid, I'm a little pregnant, Mommy.'

Worse would be -- and in the case of Chief Executive Tung Chee Hwa and the Right of Abode Issue -- if the Executive Branch of Government made it very clear that it intended, henceforth, to monitor, and to become involved in, the affairs of the Judiciary.

The Standing Committee of the National People's Congress has, in effect, interfered in the affairs of the HKSAR Judiciary to the extent that it has commanded the Court of Final Appeal to reverse its decision with regard to the Right of Abode Issue.

This is not the end of the matter: It is just the beginning.

Mr Qiao Xiao Yang, Vice Chairman, Standing Committee, Legislative Affairs Commission of the National People's Congress, has laid it on the line when he said that the HKSAR Court of Final Appeal was wrong in not having consulted the Beijing Government before making its judgment with regard to the Right of Abode in the HKSAR.

'In order to guarantee the correct implementation of The Basic Law (of the HKSAR), it is necessary and appropriate for the Standing Committee of the National People's Congress to make interpretations of the relevant provisions,' Mr Qiao said.

The HKSAR Government lawyers have acknowledged that it did not consult the National People's Congress before making its determination with regard to the Right of Abode Issue.

Hence, one assumes that the argument goes along the lines that unless the National People's Congress is consulted before a final determination is made with regard to matters which *may* be considered borderline legal-political issues, then any determination by the HKSAR Court of Final Appeal *may* be suspect.

And it must, logically, follow that the HKSAR Court of Final Appeal is not a Court of Final Appeal, at all.

It follows, then, from that premise, that in the event that the Government of the PRC does not appreciate the services of a certain HKSAR High Court Judge, for any reason, it would have the right to remove the judicial thorn because, it could claim, the 'true legislative intent' of all judicial appointees is that they should be loyal to the (PRC) 'motherland' -- in the same way that the US Government appoints members of the Supreme Court, using political criteria as the basis for selection.

High Court judges are supposed to hold their positions for life. That is one of the methods by which they are able to guarantee their independence, it is held.

This concept of independence may not be fully appreciated in the PRC where that Government is run, not by the most competent people, but by those who, through personal associations, are able to obtain positions of power through other means.

This is the direct result of a lack of accountability in a government; and, a Communist system, a type of which is practised in the PRC, does not appreciate prying eyes from those who are not in the in.

The individual, it is maintained in the PRC, may be sacrificed for the sake of the State.

This is the opposite of the precept that is held sacred in most Western democracies where countries' constitutions savagely defend the idea that the individual must be protected from the State.

When, prior to the PRC Government, assuming sovereignty over the HKSAR in 1997, senior cadre in the PRC Government, including former Paramount Leader, Mr Deng Xiao Ping, was sending offspring to the USA, the UK, Canada, etc in order for those lucky sons and daughters to obtain the best education that taxpayers in the PRC could afford.

And nobody in the PRC uttered a dickey bird.

If anybody had complained, openly, the Communist system of the PRC has a very effective method of handling such dissidents.

The Three Questions

Now that the PRC Government has successfully flexed its political muscles, effectively overturning a legal determination of the highest court in the HKSAR, 3 questions must be raised in the HKSAR.

These questions go along the following lines:

1. What is to be termed, in the HKSAR, a legal consideration?
2. How does a legal consideration differ from a political consideration? and,
3. In the event of a tie, between a legal decision and a political decision, at which point does the HKSAR Judiciary turn to Chief Executive Tung Chee Hwa in order for his good offices to request the Standing Committee of the National People's Congress '*to assist*' the HKSAR Judiciary in order that the determination of the Court of Final Appeal does not get overturned?

Any legal issue, now, could be considered a matter for re-interpretation by the Standing Committee of the National People's Congress in view of the latest Beijing Government edict.

This could apply to The Basic Law of the HKSAR, to any statute on the books of the HKSAR, to the terms of service of any branch of the HKSAR Government Civil Service.

And it appears that the PRC Government does intend to get involved whenever it serves that Government's fancy.

It has been stated, in very clear terms, that 'one country' comes before the 'two systems' of Government in the HKSAR.

When the late Deng Xaio Ping promulgated the concept of 'one-country, two systems', it was never his intention that there should be a distinction and separation between 'one country' and 'two systems' for he saw the HKSAR Government as being complementary to the PRC Government so that such a distinction and separation was never considered necessary.

Or, will it come to pass, now, that the Standing Committee of the National People's Congress will re-interpret the late Deng Xiao Ping's avowed intent with regard to the HKSAR when he sought a solution to the potential problem of keeping the HKSAR and its administration intact while, at the same time, making it part of the 'motherland' without interfering with the HKSAR's very successful economy?

The door has been opened for the PRC Government to interfere with any and all matters, relating to the HKSAR Government and that Government's Judiciary.

It is, going back to the pregnant-girl simile: The HKSAR Government has opened up (or has had it opened up -- rape, by another word) the political vulva, allowing PRC sperm to inseminate the HKSAR judiciary, thus causing the birth of a bastard '*child*'.

Strangely, those people of the HKSAR, who were staunch supporters of English Common Law and all that that entails, are, now, tergiversators of the best kind ... as cockroaches are drawn to rotten and decaying matter.

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