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LEARNING FROM THE PAST, MR CHINA ?

Any student of politics knows that one of the foundation stones of democracy is that the individual must be protected from the State.

And, that the individual is more important than the State, thus paving the way for the individual to launch a legal action against the State.

In the Totalitarian State, the interests of the individual are subordinate to the interests of the State, thus paving the way for the State to sacrifice the individual in the interests of the State.

Last week, 2 legal experts, domiciled in the People's Republic of China (PRC), were reported in the China Daily as stating that the Court of Final Appeal of the Hongkong Special Administrative Region (HKSAR) was wrong in its determination in respect of the Right of Abode Issue.

These experts were reported as stating that it was absurd that the HKSAR should challenge, or question, the ruling of the National People's Congress, a sub-committee of which had made a determination of the Right of Abode controversy by reinterpreting The Basic Law of the HKSAR in order to reach a decision.

The decision, as everybody is well aware, was that the Court of Final Appeal was wrong since provisions of The Basic Law were in variance to certain HKSAR statutes, which were the foundation of the Court's judgment.

The PRC experts maintain that the National People's Congress, while guaranteeing the Rule of Law in the HKSAR, took into consideration that the interests of society took precedence over the rights and privileges of any individual within the State.

The result of the Standing Committee's decision on the Right of Abode Issue, the experts and the China Mail (in an editorial) said, was to strengthen the rule of law in the HKSAR.

Professor Xu Chong De, of Renmin University, said: 'Nobody, including the Court of Final Appeal, can restrain the powers of the National People's Congress.

'Legal autonomy and legal independence have a limit.'

Mr Wu Jian Fan, of the Chinese Academy of Social Sciences' Law Institute, was quoted as saying that to act in accordance with the Rule of Law is more important than a determination of any and all members of the Court of Final Appeal in the HKSAR.

What is, perhaps, shameful for the HKSAR, including but not limited to the constructive shame of the man who is supposed to uphold the importance of democracy, Mr Martin Lee, Queen's Counsel, is that few people took issue with the China Mail or the utterances of the PRC legal experts.

By not stating an objection to the China Mail's report, and by not taking issue with the statements of the PRC legal experts, it is tantamount to an acceptance of the statements, contained in the PRC's propaganda medium.

It was over just such issues that the British colonists, of what is now the United States of America, instituted a challenge to Great Britain in the 18th Century, thus laying the groundwork for the drafting of the Declaration of Independence and The Bill of Rights.

The first 10 Amendments of the Constitution of the United States safeguards fundamental individual rights.

These rights include, inter alia, that no individual within the State shall suffer the wrongful seizure or exercise of authority or privilege, belonging to another, by the State or any agent of the State.

Also, the Federal Government is prohibited from interfering with existing rights of man.

At the time of the drafting of The Bill of Rights, many states, of the US, demanded that the individual must be protected from the State.

This goes back to 1791.

The erudite legal experts of the PRC appear to have forgotten; and, appear to have yet to allow themselves to be taught the lessons of the past, thus equipping them for the lessons of the future.

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