

Free essay on hong kong basic law interpretation

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The Hong Kong basic law originated from the treaty of Nanking that was entered into in 1842 between Britain and mainland china. According to the terms of this treaty, China was to surrender Hong Kong to the rule of Britain and this lease would last for 99 years. Based on this lease agreement, Britain would hand Hong Kong back to china on 30th June 1997. Between 1979 and 1982, the people's republic of china came up with a system of two systems, one country as a way of absorbing Taiwan back into the country. During the enactment of the constitution of the people republic of china in 1982, article 31 was introduced and it allowed for the creation of special administrative regions (Gittings 6). These regions would be the only parts of mainland China that would be allowed the freedom to choose their own system different from socialist one in main land china. As the years went by, there were silent concerns among all the parties concerned about the future of property rights in Hong Kong after it was handed back to mainland china. Due to this increasing concern in both china and Britain, the British prime minister met with her Chinese counterpart and agreed to hold talks about the future of the disputed region.

After lengthy talks, the two countries agreed that Hong Kong would be handed back to China after the expiry of 99 years. However, the handing back was based on the requirement that china agreed to a policy of one country tow systems (16). According to this agreement, China would give Hong Kong the liberty to decide the kind of government that it wanted to adopt. This agreement was followed by the formation of The Basic Law Drafting Committee which worked under the close attention from the National People's Congress. Despite being set aside as a special

administrative unit, Hong Kong would remain under the rule of china. The national people's congress of the republic of china was handed the responsibility of coming up with basic which would be used to govern the region.

Although Hong Kong was to be handed back to china, it would continue to enjoy its freedom for fifty years without any pressure from China to adopt socialist policies. The central people's government of china would continue to exercise authority over the Hong Kong special administrative region.

According to the treaty, the government of Hong Kong would be comprised of the locals with the chief executive being elected through a national election after appointment by the central people's government (Gittings 10).

Although the national peoples' congress gave Hong Kong the right to have its own independent judiciary, the final judgment would be given by the final court of appeal in the region. Despite the freedom given to Hong Kong, its judiciary was not free since the court of final appeal came before the power of the standing committee. This was clearly demonstrated in *Ng Ka Ling v. Director of immigration* (1992) 2 HKCFAR 4 and *Director of immigration v. Chong Fung Yuen* (2001) 4 KHCFA 211. In these two cases, the final Court of Appeal overturned the ruling given by the National People's Congress regarding the right of abode in Hong Kong. These two cases are good examples of the tension that exists between the two legal systems in one country. Many of these tensions arise as a result of difference in the interpretation of the law.

Work cited

Gittings, Danny. Workbook on the Hong Kong basic law. HKU School of Professional and Continuing Education. 2012/13