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# And we shall fight on the breaches . . .

**G**OVERNOR Patten's political reforms had to eventually come under fire from the highest levels of the Chinese Government.

After weeks of persistent criticism by middle-ranking Chinese officials, Prime Minister Li Peng himself last week entered the fray. He rejected any compromise on Patten's package.

Any perceptive political observer should have seen it coming, particularly when Beijing suspected the Hongkong issue was being internationalised. So, shortly after the official *People's Daily* fired a broadside, accusing Patten of launching a Western "conspiracy" against China, it was only a matter of time before the leadership joined battle.

Premier Li had told a local pro-Beijing group that any counter proposal or compromise plan on Patten's package was unacceptable. He, as other Chinese officials before him, has said Patten's proposals breach both the Joint Declaration and the Basic Law.

Since Premier Li was speaking to the converted, one supposes there was no need for him to spell out which articles of the Joint Declaration had, in his perception, been violated. Had he said that black was indeed white, this particular group would probably have rushed to worship him at the perfumed altar. So a doctrinal statement by Li Peng would surely have sufficed to put the stamp of incontrovertibility on it. But preaching to the converted is one thing, convincing the uncommitted or doubtful is another.

It is incumbent on those who argue that the present proposals breach the Joint Declaration to set out specifically which articles have been transgressed.

## Open File



with Neville de Silva

While such a breach has been asserted, little evidence has been adduced to corroborate it. I have still to see any argument, quoting chapter and verse, showing how Patten has violated this bilateral agreement. Unless and until that is done any claim that it has been breached must be treated with scepticism.

China and local critics claim that the Patten proposals violate the Basic Law, too. My concern here is with the Joint Declaration for the obvious reason that this is the more important document, being an agreement between two sovereign states and having the status of an international treaty.

The Basic Law, after all, was to give constitutional expression to the Joint Declaration and therefore was born out of the bilateral agreement. The difference then is that, while the Joint Declaration is an agreement between two sovereign states, the Basic Law is a unilateral product of China.

Premier Li Peng is also believed to have said that as a matter of principle China will not discuss the Patten proposals. There is, I think, some point in this argument, although adopting such an attitude could well lead to a cul de sac.

China's refusal to discuss the Patten package, appears to stem from a perception that Britain has reneged on understandings on political reform which are tantamount to assurances.

Selina Chow was correct in asking Constitutional Affairs Secretary Michael Sze in the Legislative Council last week whether the British Government had changed its policy.

Predictably Sze denied any change. It might not have changed its policy, if by policy is meant a commitment to implement the basic terms of the Joint Declaration. But it would be extremely difficult to maintain that Britain has not changed its position in relation to the Basic Law.

The problem actually stems from this difference in approach. This shift is, to my mind, a product of a change in the power equation in Britain itself, though officials would naturally scoff at the suggestion. It might be recalled that long before the Basic Law was promulgated, British officials were talking of convergence with what was to be called, to my mind wrongly, Hongkong's "mini constitution".

Way back in 1986, Timothy Renton, a Foreign Office minister with special responsibility for Hongkong, gave his blessings to the concept of convergence. Later, Governor Sir David Wilson said quite clearly that the British position was to "mirror image" the Basic Law.

As recently as January 1990, British Foreign Secretary Douglas Hurd, who still heads the Foreign Office and now

backs the Patten package, was speaking in terms of changes to Hongkong's political structure having to conform with what China intended to do after it assumes sovereignty. These statements from British officials, including a cabinet minister, were perceived by Beijing to be firm assurances that whatever plans Britain had for expanding democratic representation in Hongkong before 1997 would conform to the post-1997 Basic Law.

Scant wonder then that China considers Britain's current plans for Hongkong as a breach of faith, a broken promise which typifies the actions of a departing colonial power with insidious intentions.

If China firmly believes so, Britain has only itself to blame. For years the sinologists in the Foreign Office had fashioned British policy on China with little consideration for Britain's moral obligations to the Hongkong people.

**T**HESE people were the expendable pawns in the much more important chess game of safeguarding Whitehall's larger interests. British diplomats were able to do so even under the imperious Margaret Thatcher because it was she who ultimately sold the Hongkong people down the river, though now she does appear to suffer annual pangings of conscience or whatever. But the Foreign Office overreached itself when it had the new Prime Minister, John Major, make his first official trip to China to sign the airport Memorandum of Understanding which had the effect of devaluing the British premier. After such an experience, Major was doubtless determined to curtail the influence of Foreign Office sinologists in making China policy.

He found the ideal man in Chris Patten when fortuitous circumstances made him available for the Hongkong governorship. Patten's political clout and access to No 10 effectively cut the umbilical cord that tied Hongkong to the Foreign Office sinologists.

While those who previously fashioned policy on Hongkong turned to the Basic Law for guidance, Patten has gone back to the roots, the Joint Declaration. Rightly so, because that is the agreement under which both countries have international obligations and obligations to the Hongkong people. His starting point is this agreement. He also seems to draw inspiration from the 1989 British Foreign Affairs Committee report which called on the Hongkong Government to establish ahead of 1997 the "institutions and systems best designed to guarantee Hongkong's future autonomy and stability".

Nothing that Chris Patten has proposed violates the Joint Declaration. That is why neither China nor Patten's local critics can put their finger on the Declaration and say he had breached a particular article.

But previously Britain pledged its political changes would converge with the Basic Law and accepted it without a murmur even when it violated the Joint Declaration as it obviously does. The accountability of the chief executive is a case in point.

Having acquiesced in China's violations of the Joint Declaration and pledged its undying faith to the god of convergence, London has suddenly announced allegiance to another god. That to China is sacrilege, but to Patten a return to the true faith. So now we have what the French call a dialogue of the deaf.

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