

DON'T DANCE TO NERO'S FIDDLE

When the British ruled the roost, called Hongkong, the major difference between these 412-odd square miles and the rest of Southeast Asia was, simply put, politics: The British maintained a hands-off policy; and, Hongkong thrived to the melodies of *laissez faire*.

In days of yore, the People's Republic of China (PRC), the Philippines, South Korea, Taiwan, Thailand, Malaysia, Indonesia, Vietnam, Cambodia, and Myanmar, entrepreneurs were not as lucky as their Hongkong counterparts because, when doing business in those Asian countries, very often success was measured in terms of whom one knew ... and whether or not that party was satisfied with the amount of bribe money that he extracted from certain parties in order to oil the wheels.

The lone exclusion to the above statement was, probably, and still is, most likely, Singapore, where that authoritarian government is just about bribe-proof – with certain high-ranking, government exceptions, no doubt.

The situation, with regard to doing business in the Hongkong Special Administrative Region (HKSAR), has not changed, appreciably, since the British pulled out on June 30, 1997: Politics is, still, an important factor in determining whether or not a venture will succeed or fail.

The major difference, however, between the British rule of the Colony of Hongkong and the rule of the HKSAR Government, controlled by the PRC Government, naturally, is that, sadly, there is more and more evidence of PRC Government interference.

This is a no-no, as far as international investment is concerned, regardless of how the PRC Government interference is couched.

The Right-of-Abode Controversy is a good example of PRC Government interference, with PRC 'yes-men', living in the HKSAR, making a case for the Standing Committee of the National People's Congress to reinterpret The Basic Law of the HKSAR.

A Court of Final Appeal of the HKSAR has ruled on this matter, and that determination is that the second generation of PRC residents, the first generation, now living, legally, in the HKSAR, have a right of abode in the HKSAR.

This determination is being challenged, not on the basis of law, but on the basis of politics.

This is about as bad a policy as can be envisaged by anybody with a modicum of intelligence because, if the PRC Government has its way with this issue on Day One, then, on Day Two, it just may use the precedent, established on Day One, to influence thinking with regard to the next thorny issue, which is, also, considered controversial.

It is well known that the Rule of Law in the PRC is not that well understood since, from the days of the late Chairman Mao Tse Tung (now known as Mao Ze Dong), the Founder of the People's Republic of China, Law by Rule has been the way in which difficult matters of law, more often than not, were settled.

It was only on Wednesday, May 12, that The Honourable Mr Justice Godfrey, a Justice of Appeal, wrote a most intelligent letter to the South China Morning Post. The letter was, conveniently, buried in the inside of this English-language daily.

The letter is worthy of repeating:

'It has recently been suggested in some quarters here that a "re-interpretation" of the Basic Law by the mainland National People's Congress may serve to relieve the Government of the Hong Kong SAR from the inconvenience of implementing the "right of abode" decisions of the Court of Final Appeal, without doing any damage to the most important difference, within our "one country", between the "two systems" it embraces, that is, the mainland's "system" and the SAR's "system".

'I refer to the rule of law, a concept perhaps less well understood on the mainland than in the SAR.

*'In this connection, it is worth recalling the words of Wilson J in **In re Bachand v. Dupuis [1946] 2 DLR 641, at pp. 645, 655:** "The whole value of the legal system – the integrity of the rule of law – is at once destroyed if it becomes possible for officials by arbitrary decisions made, not in the public court rooms but in the private office of officialdom, without hearing the parties, without taking evidence, free of all obedience to settled legal principles, and subject to no appeal, effectively to overrule the Courts ..."*

'It might make for more informed debate if those involved in it could be brought to understand that what is at stake here is a legal issue, not a political one.'

Aside from politics, the only factor which influences business in the HKSAR, and, naturally, the direction of the Hang Seng Index, is fundamentals.

About 2 weeks ago, an self-proclaimed economist, from a well-respected, international brokerage house (TARGET does not intend to give publicity to this US-based brokerage house), went on record as saying that, in spite of the fundamentals of business in the HKSAR, one must realise just how wonderful are HKSAR business people and, as such, this is the time to buy stock, listed on The Stock Exchange of Hongkong Ltd.

This was said, obliquely, mind you, so that if one took this gentleman to task, no doubt he could hide behind his statements, claiming that he was misunderstood.

TARGET came out on Monday, May 10, warning investors that the stock market could, and probably, would, fall further.

We were right; and, the self-proclaimed, stock-market guru was wrong.

The fundamentals, with regard to companies whose shares are listed on The Stock Exchange of Hongkong Ltd, are far from being such that one may have untold confidence in the immediate future.

And all the claims to fame by high officials of property companies, operating in, and out of, the HKSAR, will mean nothing but obfuscations of fact, perpetrated by those with vested interests.

Until the fundamentals are with us, like Star Wars's famous statement, 'Let The Force Be With You!', can prices of stock on the Market rise any appreciable amount.

Stock markets, always, anticipate the future so that one may not wait for the statistics to be recorded before taking the stock-market plunge.

At the same time, one must be especially careful of foreign interests, which would prefer to paint a picture of tranquility – while Nero fiddles on the roof.

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