



1-1-1997

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## Recommended Citation

22 S. Ull. U. L. J. 325

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# HONG KONG'S ECONOMY UNDER CHINESE RULE: PROSPERITY AND STABILITY?

Anna M. Han\*

## I. INTRODUCTION

On July 1, 1997, the world witnessed the transition of Hong Kong from British to Chinese rule.<sup>1</sup> Many questions about Hong Kong's future remain unanswered. The question presented at the International Law Section's Panel Discussion at the American Association of Law Schools ("AALS") Conference in San Francisco is: does international law matter to the future of Hong Kong? Specifically this author was asked: are there any international restraints on China's activities, vis-a-vis Hong Kong's economy, which could be imposed on China for violating Hong Kong's political or economic autonomy? The conclusion this author reached is that while Hong Kong is a member of numerous treaties, none of these treaties provide for an effective enforcement mechanism with which to protect Hong Kong.<sup>2</sup> Therefore, should China change its economic policies governing Hong Kong, the international community has few, if any, remedies at its disposal.<sup>3</sup> Given this conclusion, this paper must necessarily address a different issue. Part II of this article explores China's self-interests in

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1. On July 1, 1997, after 99 years of colonial rule, British control of Hong Kong ended. On this date, Hong Kong was officially returned to China.
2. Some of the examples of treaties to which Hong Kong is a signatory are: General Agreement on Tariffs and Trade, October 30, 1947, 55 U.N.T.S. 194; Articles of Agreement of the International Monetary Fund, December 27, 1945, 1 U.N.T.S. 123; Agreement Establishing the Asian Development Bank, December 4, 1965, 571 U.N.T.S. 123.
3. When international communities can agree to a particular standard for an issue (e.g. human rights), and if a particular region or nation is perceived to be violating those standards, economic sanctions can be used as an effective means of forcing the country to change its policies. But with the issue of economic policies, the problem is entirely different. First, using economic sanctions as a tool to implement economic policies is not effective, since sanctions tend to harm the economy which is being protected. Secondly, it would be nearly impossible for the international community to agree on what constitutes a correct standard of economic policy. Economics is one of the few areas where there exists a tremendous range of systems, from virtually free market economies to economies with substantial government regulation. No nation can make a valid claim that another should follow a particular set of economic policies.

preserving Hong Kong's economic system and how those balance against Hong Kong's own. To better understand how to preserve Hong Kong's economic prosperity, one must also examine how Hong Kong has achieved this prosperity. Part III of this article will extend this inquiry into Hong Kong's economic future by identifying key factors which contribute to Hong Kong's current economic prosperity. Additionally, Part III will discuss the sustain ability of Hong Kong's economy if these essential factors are removed or substantially altered by its new ruler. These factors will be examined using examples from China's past handling of its own economy. Lastly, Part IV will provide some conclusions and predictions on Hong Kong's economic future.

## II. HONG KONG'S ROLE IN CHINA'S ECONOMY

When examining Hong Kong's contribution to China's economy, the inevitable conclusion is that Hong Kong is a major contributor to China's booming economy. Hong Kong handles more than 50 percent of all of China's exports and imports.<sup>4</sup> Hong Kong is also the gateway for 55 percent of net foreign direct investment into China.<sup>5</sup> There is no question that well before the transfer of Hong Kong from British to Chinese rule, Hong Kong's economy was already intricately tied to China's.<sup>6</sup>

Hong Kong's influence on China is evident by looking across the border into China's various Special Economic Zones.<sup>7</sup> Hong Kong's prosperity and economic proficiency is increasingly the ideal for China to achieve. However, the two economic systems in place in these two regions are extremely different. While market mechanisms are slowly being introduced into China, overall, the government continues to exert a fair amount of control over the economy, both at the micro and macro level. Most large enterprises are still state owned.<sup>8</sup> In contrast, Britain took an extremely laissez-faire attitude towards Hong Kong's economy. The British

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4. See *Business as Usual After Hong Kong Takeover*, MONEY MARKETING, July 3, 1997, at 22.

5. See *id.*

6. See *View from Beijing*, S. CHINA MORNING POST, Sept. 9, 1995, at 12.

7. Such zones as Shenzhen are flourishing and surpassing the interior regions of China in terms of prosperity. Under Deng Xiao-Ping, China followed a policy which allowed China's coastal regions to become "rich first." This policy has allowed pockets of wealth to accrue in coastal regions. This has created a striking difference in economic conditions between China's coastal and inner regions. See *A Smooth Transition Successor Will Follow Deng's Blueprint*, THE HERALD (GLASGOW), Feb. 21, 1997, at 24.

8. Currently there are over 305,000 state owned enterprises in China. See Mark Clifford, *Can China Reform its Economy*, BUS. WK., Sept. 29, 1997, at 116.

government provided any support deemed necessary, but interfered minimally in the micro level of businesses.<sup>9</sup> In fact, under British rule, Hong Kong could be said to be a prime example of a free market economy.<sup>10</sup>

One might question whether these two dramatically different economic systems can co-exist. The reality is that these two systems have existed concurrently for many years. Whether under British or Chinese rule, Hong Kong is heavily dependent on China.<sup>11</sup> Now more than ever, the Chinese government continues to play a vital role in Hong Kong's economy through the slow, private acquisition of major Hong Kong businesses.<sup>12</sup> With the passing of July 1, 1997, the only obvious difference is that a single government entity will be in charge of the fate of both China and Hong Kong. In deciding the direction of Hong Kong's economy, China must account for the impact of any of Hong Kong's policies on the welfare of those on the mainland. While some scholars, including some on the panel, would argue there is a separate Hong Kong government looking out for the interest of the Hong Kong people, this author would suggest that in terms of major policy decisions, the current Hong Kong government, as constituted, is taking its marching orders from Beijing.<sup>13</sup> Until Hong Kong is ruled by a democratically elected government, the assumption must be that decisions made in Hong Kong have either the explicit consent or, at a minimum, the tacit acceptance of the Beijing government. As such, the question then becomes: how will the Chinese government decide the future of Hong Kong's economy?

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9. *Hearing of the East Asian and Pacific Affairs Subcommittee of the Senate Foreign Relations Committee*, FED. NEWS SERV., Mar. 18, 1997, available in LEXIS News Library, Curnws File.
  10. Rags to riches stories about Hong Kong residents who entered into successful careers or started successful businesses abound in Hong Kong. See Kevin Sinclair, *The Sky's the Limit in a Land of Choice*, S. CHINA MORNING POST, Apr. 14, 1997, at 19.
  11. Hong Kong relies on China to supply water and for produce, meat, and many other basic resources. See Dinah Lee, *A Colony Living on the Edge of Chaos*, BUS. WK., Aug. 4, 1997, at 23.
  12. Most of China's investments in Hong Kong are in vital industries. In 1996, CITIC and China National Aviation, two large Chinese state owned enterprises, became majority shareholders in Cathay Pacific's subsidiary, Dragon Air. China Telecom acquired a 5.5 percent interest of Hong Kong Telecom in June of 1997. See Yojana Sharma, *Hong Kong-Finance: China Inc. Marches Into New Territory*, INTER PRESS SERV., July 18, 1997, at 2, available in LEXIS News Library, Inpres File.
  13. The Chief Executive Officer and the Provisional Legislative Committee of the Hong Kong Special Administrative Region were appointed by Beijing and replaced the legislative council which was originally chosen by democratic elections. It unlikely this Chinese appointed government will allow the interest of the Hong Kong people to supersede orders from Beijing if the two should clash. While preparations for direct elections are underway, it is unlikely that groups supporting an independent Hong Kong government will gain a majority in the new legislative council because of the way in which the voting districts will be drawn up. See Carole J. Petersen, *Preserving Institutions of Autonomy in Hong Kong: The Impact of 1997 on Academia and the Legal Profession* (presented at the AALS Conference on January 18, 1998).

### A. The Basic Law-Expression of Good Intentions

China's intentions for Hong Kong, after 1997, can be found in the Basic Law.<sup>14</sup> The Basic Law is intended to be a quasi-constitution governing Hong Kong over the next fifty years.<sup>15</sup> In fact, the Basic Law specifically addresses Hong Kong's economic issues.<sup>16</sup>

Unfortunately, Basic Law provisions dealing with Hong Kong's economic system tend to be a statement of goals rather than a governing model.<sup>17</sup> These provisions state China's desire to maintain Hong Kong's ability to remain an international financial center. For example, the Basic Law states that it is the People's Republic of China's intent to "provide an appropriate economic and legal environment for the maintenance of the status of Hong Kong as an international finance centre."<sup>18</sup> The integrity of the legal system, as addressed by Professor Mushkat of the panel, will be much dependant on the court's ability to interpret and apply Hong Kong law to Hong Kong. The balance of power between the Hong Kong judiciary and China's National People's Congress in determining the Basic Law will determine if there will be an "appropriate" legal environment for the economy. Aspirational statements, by themselves, are meaningless unless the Hong Kong government is given the power to make those goals a reality.

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14. BASIC LAW OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION OF THE PEOPLE'S REPUBLIC OF CHINA (1990), *reprinted in* 29 I.L.M. 1519 (1990) [hereinafter BASIC LAW]. A lengthy discussion of the Basic Law is not within the scope of this paper. However, much debate surrounds the status of the Basic Law. Most People's Republic of China ("PRC") legal scholars tend to view the Basic Law as on par with any other domestic Chinese legislation—it is amendable and can be interpreted by the National People's Congress. See XIANFA [Constitution], art. 67.
  15. The Joint Declaration between Britain and China agrees to preserve Hong Kong's "previous capitalist system and lifestyle." Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, Dec. 19, 1984, U.K.-P.R.C., 23 I.L.M. 1366, 1372 [hereinafter Joint Declaration].
  16. The Basic Law contains a number of provisions intended to ensure the continuation of a market system in Hong Kong. One example is Article 106, which specifies that revenues generated in Hong Kong will remain in Hong Kong and that the PRC government will not levy taxes in Hong Kong. See BASIC LAW, *supra* note 15, art. 106.
  17. The United States Constitution provides an excellent example of inspirational goals. The Constitution guarantees certain equalities to its citizens. However, after over 200 years, the United States is still trying to achieve some of these goals. For example, the civil rights debate still rages in the United States although the Equal Protection Clause of the Fourteenth Amendment provides in part, "nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws." U.S. CONST. amend. XIV.
  18. See BASIC LAW, *supra* note 15, art. 109.

Article 108 is another example of an ambitious but ambiguous policy of the Basic Law. Article 108 states that Hong Kong will have an independent tax system which will implement the "low tax policy previously pursued in Hong Kong."<sup>19</sup> In theory, this is good policy because low tax jurisdictions are attractive to businesses. However, the Basic Law offers no guidance on how Hong Kong is to go about maintaining this low tax policy. Given Hong Kong's current corporate tax rate of 16.5 percent,<sup>20</sup> a 10 percent increase may still be within the boundaries of the Basic Law's concept of "low." Even if 26.5 percent is considered low by international standards, an increase could signal a change in policy which could prove detrimental to Hong Kong's economy.

The last example of the importance of the international perception of Hong Kong as a favorable place to do business relates to the protection of intellectual property. Prior to 1997, Hong Kong had a complete set of intellectual property laws.<sup>21</sup> Hong Kong is also a signatory of many intellectual property conventions, including the Paris Convention on Protection of Industrial Property, the Berne Convention for the Protection of Literary and Artistic Works, and the Geneva and Paris Universal Copyright Conventions. Hong Kong is also a participating member of the World Intellectual Property Organization ("WIPO").<sup>22</sup>

However, membership to the various international intellectual property conventions and having intellectual property laws does not necessarily serve to impede the infringement of intellectual property rights. This paradox is readily apparent in China. While China possesses a body of intellectual property laws that are consistent with international standards, it is perceived as a major violator of intellectual property rights.<sup>23</sup> Enforcement of the laws is sporadic and China has continuously been criticized for its failure to systematically enforce its intellectual property laws. Consequently, this failure had led to the threat of unilateral sanctions on the part of the United States on numerous occasions.<sup>24</sup>

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19. See BASIC LAW, *supra* note 15, art. 108.

20. See Sarah Davison, *Hong Kong Hoping for Budget Boost With '97 Tax Cuts*, REUTERS WORLD SERV., Mar. 11, 1997, at 1, available in LEXIS News Library, Curmws File.

21. See David Shannon and Tan Loke-Khoon, *Intellectual Property Development and Enforcement Challenges in Hong Kong and the People's Republic of China*, CAL. INT'L PRAC., Spring-Summer 1997, at 15.

22. See Angela Young, *Hong Kong: CD Products Market (2)*, U.S. & FOREIGN COMMERCIAL SERV., Aug. 20, 1997, available in 1997 WL 9850761.

23. See Anna M. Han, *Technology Licensing to China: The Influence of Culture*, 19 HASTINGS INT'L & COMP. L. REV. 629 (1995-1996).

24. See *id.*

Prior to 1997, Hong Kong, on the other hand, was viewed as a relatively good enforcer of intellectual property rights.<sup>25</sup> In 1996, Hong Kong customs officials raided 1,282 shops and hawker stalls, arrested 1,268 people and seized 578,976 compact discs, video compact discs and CD-ROMs worth approximately 4 million dollars.<sup>26</sup> However, despite these enforcement efforts, Hong Kong is now appearing on the United States Trade Representative's Section 301 list for the first time for the volume of unchecked infringements.<sup>27</sup>

Theoretically, with China in control of Hong Kong, enforcement of intellectual property laws should significantly improve as coordinated efforts between China and Hong Kong develop, strengthening their mutual borders. Smuggling of pirated compact discs across the border should become more difficult. However, it is also equally possible that with these coordinated efforts, information leaks to the pirates will become more prevalent as well, making enforcement more difficult.<sup>28</sup>

If Hong Kong is to continue to attract high quality international investments, particularly technologically advanced investment, it must alter its image of being a safe haven for piracy and attempt to revive its reputation as an enforcer of intellectual property rights. Currently, the Hong Kong government is working on new trademark and patent laws.<sup>29</sup> Although new legislation will be beneficial, emphasis should be placed on enhancing enforcement.

Clearly, mere enumeration of goals within the Basic Law is insufficient to maintain Hong Kong's economic prosperity. Bolstering the international perception of Hong Kong as a favorable place to do business is crucial to its

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25. Hong Kong still has a reputation of being a relatively easy place to obtain Chinese made pirated software. See Andrew Chetham, *Giants of Software Name Hong Kong as Piracy Capital*, S. CHINA MORNING POST, Dec. 12, 1997, at 1.
  26. See Angela Young, *Hong Kong: CD Products Market (2)*, U.S. & FOREIGN COM. SERV., Aug. 20, 1997, available in 1997 WL 9850761.
  27. According to the U.S. Trade Representative's Office, this was due to increased copyright piracy in Hong Kong over the last year in spite of U.S. requests for action and greater effort on Hong Kong's part. See Andrew Cheatham, *Government Slams U.S. for Ignoring Anti-Piracy Action; Hong Kong Put on IPR Watch List*, BUS. POST, May 2, 1997, at 1.
  28. Two of the difficulties in enforcing intellectual property rights in China have been bribery and corruption of local police forces. When a raid is to occur, some police may be paid off and then notify the pirates to close shop. This has often resulted in the police finding nothing more than empty factory space. See Bruce Einhorn, *China's CD Pirates Find a New Hangout*, BUS. WK., Dec. 8, 1997, available in 1997 WL 14814661.
  29. See Thomas T. Moga, *Hong Kong 1997: A Change in Government, A Change in the Patent System*, INTELL. PROP. TODAY, Jan. 1997, at 18.

future prosperity. It remains to be seen, however, whether China will maintain policies that allow for Hong Kong's continuing economic success.

### B. Balancing Stability versus Economic Advantage

One key difference in distinguishing the way the Chinese will handle Hong Kong's political and economic environment as opposed to British rule, is what emphasis China will place on maintaining overall stability in its territories. In deciding its own economic policy, China has consistently stressed its desire to maintain social and political stability at the expense of economic objectives. This is obvious in the way China is approaching the privatization of its state owned enterprises.<sup>30</sup> While China understands that economic efficiency would best be served through quick privatization or shutdown of state owned enterprises, the Chinese government is weighing economic pragmatism against the fear of social unrest which would occur after the resulting massive unemployment as state owned enterprises are allowed to go bankrupt or join the private sector. To avoid this, China has opted to gradually phase in privatization in order to achieve social stability.

China's predilection for stability is further illustrated by the way it indirectly handled the recent Asian currency crisis as it impacted Hong Kong. As economy after economy in Southeast Asia collapsed,<sup>31</sup> China was spared this particular fate, ironically, because of the inconvertibility of its currency.<sup>32</sup> Hong Kong was spared the brunt of the regional economic downturn since its currency is tied to the U.S. dollar.<sup>33</sup>

In dealing with the economic crisis plaguing the region, Hong Kong's government had several options to choose from. First, the government could have floated Hong Kong's currency against other international currencies. Alternatively, it could have devalued the Hong Kong dollar while keeping it tied to the U.S. dollar. Finally, Hong Kong could have kept its policy of

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30. In his speech to the 15th Party Congress in Beijing's Great Hall of the People, Jiang Ze Min stressed the need for policy changes that would downsize China's debt ridden state owned enterprises. See Mark Clifford, *Can China Reform its Economy*, BUS. WK., Sept. 29, 1997, at 116.

31. In Indonesia, the rupiah plunged to a record low of 11,800 to the dollar on January 21, 1998, a quarter of its value a year earlier. Likewise, Thailand is under similar economic distress and some predict further economic contraction in the coming year. See John McBeth, *Indonesia: Ground Zero*, FAR E. ECON. REV., Jan. 22, 1998, at 14-16.

32. See *World Bank Praises China's Financial Stabilizing Effect*, XINHUA NEWS AGENCY, Jan. 15, 1998, at 1, available in LEXIS News Library, Curnws file.

33. The Hong Kong dollar is currently tied to the U.S. dollar at a rate of 7.8 to 1. See Eugene Saver, *Hong Kong's Steady Dollar*, WORLD TRADE, June 1996, at 84.

tying its currency to the U.S. dollar at the current rate.<sup>34</sup> These choices presented distinct economic and political consequences. By devaluing the Hong Kong dollar or allowing it to float against other currencies, Hong Kong exports and Hong Kong as an investment center would have remained competitive with its Asian neighbors. The last alternative would have presented economic disadvantages for Hong Kong, but would have offered general stability at both the economic and political level. Given the uncertainties expressed by the international community about post-1997 prosperity, the Hong Kong government opted for political stability over economic advantage.<sup>35</sup> This recent decision, as reflected in the handling of Hong Kong's currency, indicates that the Hong Kong government, with the approval of Beijing, will opt for political stability over economic advantage. This is consistent with past Chinese policies.

Given China's expression of its aspirations for Hong Kong in the Basic Law as well as its own economic interests, there is little doubt that China has the best of intentions towards Hong Kong. However, it is necessary to consider factors which would lead China to reverse its current economic policies toward Hong Kong. If Hong Kong's practice of capitalism begins to interfere with China's economy, it is likely that China will take a more active stance in controlling Hong Kong's economic policies. So long as Hong Kong's system is perceived to be a positive contributor to the Chinese economy, Hong Kong will remain "autonomous." However, if Hong Kong's economy takes a significant downturn that impacts China by way of unemployment or other such negative consequences, this may cause China to become as active in the management of Hong Kong enterprises as it is with those on the mainland.

Similarly, on the political and social front, while the Chinese government has been remarkably restrained in its handling of democracy movement protesters, should these protests begin to spill over into the mainland and cause political and social unrest, familiar control measures may well be implemented.

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34. *Id.*

35. Most recently, just based on a rumor of possible currency devaluation, there were a number of runs on Hong Kong banks. Rumors of the possible closure of a popular Hong Kong bakery chain caused Hong Kong residents to line up for blocks to redeem pastry coupons. Of course, the rumors were unfounded. See Catherine Shepherd & Law Siu-Lan, *Consumers on the Run*, ASIAWEEK, Dec. 12, 1997, at 31.

### III. FACTORS WHICH INFLUENCE HONG KONG'S ECONOMY

Enumerating the various factors which contribute to Hong Kong's economic success, the following lead the list: an efficient civil service, minimal government regulation, an independent judiciary, neutral enforcement of laws and regulations, and the entrepreneurial spirit of the Hong Kong populace.

Of the above enumerated factors, the judicial structure and its continuing independence is being addressed separately by another panelist. Therefore, this article will not seek to explore this issue in depth. Suffice it to say, it is extremely important that Hong Kong laws should remain transparent and their enforcement should be free from political influence. Government interference in business, as discussed above, will be dependent upon Hong Kong's level of contribution to China's overall economic development. Chinese interference in the governing of Hong Kong will also depend upon whether or not Hong Kong's activities will negatively affect the mainland. The entrepreneurial spirit of Hong Kong's people will be dependent largely on the continuing prosperity of its economic system. Therefore, this section will be devoted to the discussion of the continuing efficiency of Hong Kong's civil service and what might disrupt its function.

#### A. Civil Service

A key factor in the continued economic prosperity of Hong Kong is the continuance of Hong Kong's civil service. Hong Kong's civil service has been a significant factor in its success and a decline in the high standards of the civil service would be detrimental to Hong Kong's competitiveness in the region.<sup>36</sup> One of the main factors in Hong Kong's success as an international trading center has been minimal bureaucratic interference in conducting business and the perception that civil servants facilitate rather than impede business.

Currently, the people of Hong Kong and the international community view the Hong Kong civil service, under the leadership of Anson Chan, as

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36. See Ron Corben, *Hong Kong Official Fears Decline in Civil Service Rules*, J. COM., Mar. 27, 1997, at 4A.

a positive factor in keeping Hong Kong an attractive business location.<sup>37</sup> During the period of the handover, there was much discussion over the importance of the continuity of Hong Kong's government services. Agreement by Anson Chan to continue as Hong Kong's Chief Civil Servant boosted the confidence of many in Hong Kong's business circles.<sup>38</sup>

## B. Corruption

During the handover, one of the greatest fears expressed by the Hong Kong populace during the handover was not, as some media reports indicated, the loss of political freedom, but rather concern over Hong Kong's economic freedom.<sup>39</sup> Stronger than the fear of importation of the People's Liberation Army, was the fear of the infiltration of corrupt practices currently prevalent in mainland China. There is little doubt China is plagued with the problems of corruption.<sup>40</sup> Hong Kong's fear is quite justified considering that even as the transition took place, increased favor seeking and claims of good "guanxi"<sup>41</sup> with officials who were coming into power after July 1, 1997 began to take place in Hong Kong.<sup>42</sup>

In the past, Hong Kong, like many other developing regions, had its problems with corruption. As such, Hong Kong struggled with the resulting economic byproducts, such as waste and the loss of consumer confidence. In response to these problems, the British government created the Independent Commission Against Corruption ("ICAC") in 1974.<sup>43</sup> This commission was given vast supervisory and enforcement powers.<sup>44</sup> With the lead of the ICAC, Hong Kong made tremendous strides in eliminating

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37. See Steve Higgins, *Hong Kong Leader Anson Chan*, INVESTOR'S BUS. DAILY, Apr. 30, 1996, at A1, available in LEXIS News Library, Curwms File.

38. Many believe that Anson Chan's decision to stay on after the handover will serve to boost civil service morale. See John Ridding, *Hong Kong Deputy Chief to Stay After Chinese Takeover*, FIN. TIMES (LONDON), Dec. 30, 1996, at 14.

39. Under British rule, the Chinese residents of Hong Kong did not enjoy much political freedom and it can be said that they were extremely apolitical until recent years. See John Ridding, *Hong Kong's Anti-Graft Chief Stakes Out Territory: Lily Yam is Determined to Keep the Word 'Independent' in the Title of the Commission She Heads*, FIN. TIMES (LONDON), June 6, 1997, at 4.

40. See JULIA KWONG, THE POLITICAL ECONOMY OF CORRUPTION IN CHINA (1997).

41. "Guanxi" or "connection" has several meanings in the context of doing business in China. It can mean having a legitimate existing relationship which would facilitate business or it can mean an illicit contact which would allow the parties to circumvent the rules.

42. Post-Handover corruption has continued to be a major threat to Hong Kong's way of life. See Sarah Davidson, *Hong Kong Haunted by Post-97 Corruption Fears*, REUTERS WORLD SERV., May 8, 1997.

43. See *Hong Kong Graft Buster Vows No Letup After Handover*, REUTERS WORLD SERV., June 3, 1997.

44. See *id.*

corruption and instilling confidence in the fairness of Hong Kong's economic system in both the people of Hong Kong and the international community.<sup>45</sup>

The existence of the ICAC allowed Hong Kong to employ a meritocracy.<sup>46</sup>

The introduction of mainland China's corrupt practices would have a disastrous social and economic effect on Hong Kong. If the method for success changes from merit to corruption, then economic rewards will not come from engaging in hard work, but from pursuing influence and offering bribes. On the business front, once foreign business sees that business is done on the basis of "*guanxi*," then, in all likelihood, industries will begin to pull away from this particular system. While there will be those who continue doing business in Hong Kong based on good connections, these transactions will usually not be as efficient or beneficial for the economy as a whole.

One method China can use to reduce the influx of corruption into Hong Kong would be to allow the ICAC to continue doing the work which it has successfully been doing since 1974. The ICAC should continue to vigorously investigate and prosecute corruption and graft at all levels of government.<sup>47</sup> By working to eliminate corruption, Hong Kong will demonstrate to the international community its seriousness about remaining an international finance and trade center.

Controversy was raised recently over the ICAC's future role in Hong Kong when the Hong Kong Special Administrative Region ("HKSAR") removed the word "Independent" from the Commission's title.<sup>48</sup> Lily Yam, the ICAC chief, has stated that even though there has been a name change, this will not hinder its efforts to eliminate corruption.<sup>49</sup> The reason for eliminating the word "Independent" was that the Basic Law provides only for a "Commission Against Corruption" and, as such, Tung Chee-hwa, Chief Executive of the HKSAR, explained it was his intention "to stick to the letter of the Basic Law."<sup>50</sup> If the international community continues to view the ICAC as independent, this will lead to continued confidence in Hong Kong's ability to provide the world with an efficient venue for business.

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45. *See id.*

46. *See Tung Urges Hong Kong People to be Confident About Future*, XINHUA NEWS AGENCY, Dec. 17, 1996, at 1, available in LEXIS News Library, Xinhua File.

47. In order to combat corruption in Hong Kong, the British set up the Independent Commission Against Corruption ("ICAC") in 1974. This commission was fairly successful in establishing a climate of "fair dealing." *See Combating Corruption*, S. CHINA MORNING POST, Nov. 13, 1997, at 20.

48. *See Niall Fraser, Handover ICAC Title Sparks Clash*, S. CHINA MORNING POST, June 5, 1997, at 1.

49. *See Hong Kong Graft Buster Vows No Letup After Handover*, REUTERS WORLD SERV., June 3, 1997 available in LEXIS, News Library, Cumwv File.

50. *See Fraser, supra* note 48, at 14.

### III. CONCLUSION

As days pass from July 1, 1997, the world is gaining insight into the way China will manage Hong Kong. On the economic front, the Chinese have done a remarkable job in maintaining a "hands off" policy. However, this presupposes that Hong Kong will continue to contribute to China, and that Hong Kong's political activities will remain at a level where direct interference is unnecessary. If either of these factors should change, in all likelihood, China will take away some of the autonomy Hong Kong was promised in the Joint Declaration.<sup>51</sup>

Even if China does keep its promise (as enumerated in the Basic Law) to preserve Hong Kong's economic system, the international perception of Hong Kong as a place to do business will remain of the utmost importance. Perception of impartial enforcement of contracts, an equitable legal system, a level playing field, and ease of conducting business in terms of minimal bureaucratic interference will all be determinative of whether or not Hong Kong remains a financial center in Asia. If these perceptions should change due to excessive Chinese bureaucratic influence, perceived bias on the part of the judiciary in its decisions, or corruption among the civil service, then it is likely that no matter how much or how many times the Basic Law assures Hong Kong of its economic independence, the international community will shun Hong Kong. Therefore, it is the hope of Hong Kong's businesses that China will let its self-interest in preserving Hong Kong's booming economy override any other considerations. As it has been previously warned, Hong Kong is the "goose that lays the golden egg." Without careful nurturing, this "goose" may well die.<sup>52</sup>

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51. Joint Declaration, *supra* note 15.

52. This would be particularly unfortunate since the Hong Kong government has recently killed Hong Kong's 1.2 million chickens in an attempt to rid the SAR of the deadly bird flu virus. See *1.2M Birds To Be Slaughtered*, S. CHINA MORNING POST, Dec. 29, 1997, at 1.