

# Who knows what happens in the shadows?

Such is China's opacity that we will never really know what went on concerning Stern Hu, says **Eric Ellis**

One hopes Stern Hu will keep a diary, a little red book if you will, of the dark years he'll endure in his Chinese gulag, ruminating on the less-than-edifying events that put him there.

Of the forests felled publishing myriad clueless 'expert' commentary and management-speak twaddle about doing business in China and how to actualise the promised infinite riches having arrived at inscrutable/enigmatic/impenetrable (insert tired Sinoclichés ad nauseum) China's intersection of Mammon and Mao, Hu's contribution will surely be the most valuable.

It will essentially be the rulebook that reveals how China's brutal brand of statist capitalism operates, and how to — and more to the point how *not* to — safely negotiate it. Usefully, it should have a chapter penned by Tom Albanese, Hu's former boss at Rio Tinto. As China Inc looms ever more ominously in our collective future, such a tome will surely make Hu more money than the modest million or so Beijing's carefully-briefed Deep Throats insists he trousered during the whole sordid affair. China will soon run the world, probably in our lifetimes, so we'd better get used to this, and be prepared to pragmatically shelve any high-minded notions when we engage there, like transparency and a level playing field.

For Western multinationals like, well, Rio Tinto, Hu's plight is a fairly easy call to make. Far better, they gamble, to chance the devil they know — their own largely transparent home jurisdictions, however darkly these legal regimes, and the free media they leak to, regard 'foreign corrupt practices' — than China's capricious judgments, predetermined in the shadows by communist party hacks, pliant judges and a propaganda machine serving the same master.

In a Western court, errant corporations stand a chance, comforted that Beijing will never permit Chinese officials to submit to a foreign subpoena. Their absence will allow lawyers to convincingly argue, in courtrooms where innocence is presumed, that such cases have no merit, correctly laughed out for lack of evidence. Yes, Britain's Serious Fraud Office, Australia's ASIC and even Washington's Securities Exchange Commission are poking around the rancid Hu-Rio carcass to determine what, if any, laws Rio may have breached while plying iron ore to China. But such concerns won't cost Albanese and his board too much sleep. They'll doubtless have been briefed of cases

such as the massive Al-Yamamah scandal that has now dragged for nearly 25 years, which must reassure dodgy suits everywhere that palm-greasing will never be punished, indeed, that it is in the national interest.

Al-Yamamah is Saudi Arabia's \$150 billion arms-for-oil deal with BAE Systems (formerly British Aerospace) where it is claimed, with much compelling proof and admission, that kickbacks of as much as \$2 billion were paid to Saudi royals and their sleazy fixers to get the deal done. As investigations from notionally independent Western legal agencies, which had begun during Thatcher's reign and dragged on post-9/11, began pointing fingers at remote and errant Gulf potentates, Riyadh baldly told Blair and Bush such impertinences must cease, and if they don't they'll stop co-operating in the War on Terror, inasmuch as they ever were, mindful that 19 of the 9/11 bombers were Saudi. Citing British jobs and prosperity, Blair advised the Serious Fraud Office to pull the case, citing Britain's national interest. The SFO's head was replaced, the investigation wound down and a pathetic deal reached earlier this year where BAE admitted a wrong of sorts. A modest settlement was negotiated, and no one will face justice. The palm-greasers raised an ill-gotten glass to a job well done.

For Saudi Arabia, read China and then some, with bigger numbers and higher stakes. And it's not just a 9/11 investigation and a production line in Coventry that's at issue, but no less than global economic security, at least Australia's, negotiated on China's terms. China Inc doesn't do business requiring its prospective partner to first measure up politically, morally and transparently or, say, with binding environmental guarantees built into contracts. It is raw commerce without the annoying legal fiddly bits. China's state-run capitalism is a sexy model for all manner of autocrats worldwide, more so after the recent exposure of how rotten the Western model was. Already, in resource-rich places like south-east Asia — Australia's backyard — and Africa, where corruption is more the rule of doing business than the exception, Western business worries it won't be able to compete with cashed-up Chinese competitors unburdened by such legal niceties as conflicts of interest, or a 'Foreign Corrupt Practices Act' and a government that enforces it. Beijing is free to assemble its so-called string of pearls, a series of strategic diplo-corporate relationships designed by Beijing to guarantee China's economic security, which in turn secures political and social stability

in the world's most populous country, and further entrenches the Chinese Communist Party's absolute grip on power.

China Inc's terms are pretty simple: it is always right. Accept that as a starting point, and negotiations proceed from there. Its boardroom language — 'these are indisputable facts,' 'this brooks no discussion' and so on — is near-identical to that of the state, unsurprising because they are indivisible. They — and China's legal system, for that matter — serve the same beast, the Communist Party, much less a political party or ideology these days than the world's biggest chamber of commerce. Rio challenged that orthodoxy and it got toasted. After initially backing Hu, Rio — quite likely with the Rudd government's appeasement — then burned Stern. Once China's all-important face had been regained, Rio got redemption in ongoing supply contracts, new deals and permission to continue to sit at China's negotiating table, albeit one that now convened in a very different atmosphere than before Beijing had dropped its guard and the party wrested back control of the economy. The denouement to all this was Rio's condemnation of its one-time star executive as 'deplorable,' and it all neatly squared off with his 10-year sentence.

The telling weak link here is that China's leaders have, since the 1989 Tiananmen protests that near toppled them from power, made very public examples of its corrupt, exposing and prosecuting them in relative transparency *pour encourager les autres*. Hu's case would seem little different, if anything a potentially juicier example because he was a turncoat, a Chinese who'd become a foreigner, which makes him immediately suspicious to the communist party.

Except Hu was transacted in China's murky shadows. Then again, just as likely is that Hu, Rio, Beijing and Canberra have done a deal. The whole matter could well be contrived. After plundering China's pot of gold for years, Rio now knows that phase of the party is over. But it also knows it needs China, albeit on different terms. So Hu agrees to go down, or be seen to go down, so long as he and his family are looked after, the bogus narrative buttressed by leaked tidbits like his wife's 'evidence' that she noticed large wedges of cash lying around the house. Then, quietly, after a decent interval in comfortable incarceration, Hu walks free, maybe even with a different identity, perhaps to an Australia finally able to deliver on that solemn pact when he changed nationality to one that protected him from one that doesn't. Hu and family then live out their days in lives of wealthy obscurity.

The thing is, we don't know and we don't believe much of what has purportedly happened so far. And that's the problem; now with Hu but more compellingly as China takes even more control of our future. Let's hope Hu is keeping that diary.

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