

Ethnic Law and Minority Rights in China: Progress and Constraints*

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Western discourse on human rights in China typically assumes that China's minority rights law must be a sham because China is an authoritarian state. In the 1980s and 1990s, however, China has articulated an "ethnic law" that elaborates rights and preferences that minorities value. At the same time, People's Republic of China ethnic law is inadequate to grant the idealized range of minority rights claimed by the Chinese state, and some rights are being eroded by the marketization of China's political economy. The most notable weaknesses in the ethnic law system include the failure to enlarge the scope of ethnic regional autonomy, a lack of preferential policies sufficient to offset the growth of the economic gap between Han and minority areas, and an inadequate program for overcoming antimorality bias. While an emerging minority elite is a stabilizing factor in minority-state relations, additional measures to expand minority rights are required, some of which are suggested by the policies of other Asian states.

Tibetans have never had as many rights as they do now and they will have more and more in the future.

Gyaincain Norbu, chairman of China's Tibet Autonomous Regional government in a speech to the National People's Congress Beijing (Agence France Presse (AFP) 1997a).

I. INTRODUCTION

The debate about human rights in the People's Republic of China (PRC) appears as a contest between Chinese and Westerners, with critics often dubbed by PRC officials as "foreign hostile forces" or "enemy Western forces" (Jilin Ribao 1996; Reuters 7 March 1997). While some Westerners do note that legal reform in China has produced advances in human rights (Wain 1997; Saich 1997), one aspect of human rights in China remains very much underappraised in the West. It is common to read that in China "minority rights are suppressed" (*Washington Post* 25 March 1997) or that PRC authorities "persecute the ethnic and democratic consciousness of minority nationalities" (*APN* 1996).

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In fact, reform-era policies have led to a reflorescence of minority identities, whose existence the PRC encourages even in the face of separatist rumblings in some minority areas (Wu 1990; Gladney 1990; Bjorn 1994; Hansen 1995; Dreyer 1993: 302). China's ethnic policies include a growing network of laws to improve relations among Chinese of diverse ethnicity by advancing the interests of historically subaltern peoples. The PRC now officially speaks of "ethnic law" (*minzu fa*) as the "guarantee of the rights of ethnic minorities" (Xinhua 31 March 1997). As PRC commentators acknowledge (Ma Weiliang 1990), ethnic law has not eliminated interethnic and minority-state contradictions, but contrary to the assertions of some Western scholars (Thompson 1998: 796), it involves much more than "lip service" to minority group rights.

China's ethnic law reflects a tension found in many states between notions of redistributive justice that address a broad spectrum of minority concerns and a more narrow, instrumental outlook. Ethnic law has two main aims: (1) reversing the traditional Chinese pattern of marginalization and subordination of non-Han peoples (Eberhard 1982), and (2) constructing a minority elite whose loyalty is essential to political stability. The requirement that minority people demonstrate loyalty as the *sine qua non* for entry into the elite is exemplified by official press agency interviews with delegates to the Ninth National People's Congress (NPC) and Ninth Chinese People's Political Consultative Conference (Xinhua 25 February 1998, 29 February 1998, 1 March 1998). Minority delegates were uniformly queried about and affirmed Han-minority solidarity. Each report highlighted the interviewee's role in fostering interethnic unity. In contrast, the issue was never raised by or with Han delegates, whose loyalty goes without saying and for whom a personal contribution to interethnic unity is hardly seen as salient. This dichotomy is produced by the spectre of separatism and history of naturalized Han dominance that overshadows every aspect of ethnic relations in the PRC.

Although other states have enacted redistributive laws that also serve to create well-off "ethnic" strata who owe their prosperity to state action (Puthuchery 1993: 32), this approach is not without its paradox in China. Minority elites are enjoined to be "politically loyal and professionally competent" (Xinhua 30 June 1995), but must do so in the context of a developmentalism that valorizes "advanced" Han culture relative to the attributes of minorities (Harrell 1995; Brown 1996) and produces an ever-widening economic gap between the Han and minorities. Because ethnic law remains embedded in a modernization paradigm premised on uneven development between a spatial, political, and cultural Han core and a minority periphery, it cannot guarantee the full range of rights found in PRC discourse (Husmann 1993; Deutsche Presse-Agentur 7 April 1997).

PRC ethnic law, in allowing for limited ethnic self-rule and a raft of preferential policies (*youhui zhengce*), does benefit almost all minority people. At the same time, it has three major weaknesses. First, ethnic law

has yet to produce unquestionably “genuine” autonomy for minority areas. PRC minority autonomy involves fewer powers than are minimally needed to meet conceptions of autonomy held by many scholars outside the PRC (Hannum 1998).

Second, the law does not mandate the creation of minority economic opportunities sufficient to overcome the tendency of the “socialist market economy” to increase the gap between Han and minority living standards. Minority areas grew enough during the eighth Five-Year Plan (1990–1995) to maintain their portion of national economic output at 9.7 percent (Xinhua 8 March 1997; Wu Jiamin 1996:5). Overall growth, however, masks a large and increasing income disparity between minorities and the Han, a tendency worrisome to minority and national leaders alike (Hu 1994; Xinhua 2 October 1996). A rising tide may be lifting the boats of all ethnic groups, but, however one looks at it statistically, Han boats are rising much faster than minority boats. The 1981 growth rate of west China was 90 percent that of the east, and per capita production was 68 percent; in 1992, the figures were 50 percent for both (Becquelin 1997:22). The 1990 per capita gross domestic products of minority and nonminority areas in nine provinces were in all cases much lower in the former than the latter (Sugimoto 1993:10). The 1993 yearly per capita income of Xinjiang Uygur peasants was 732 yuan, but was 2,680 yuan for Xinjiang Han peasants (Reuters 25 April 1993). Minority scholars argue that the gap creates an “ethnic psychological imbalance (*minzu xinli de bu pingheng*) that can emerge as an unfavorable factor for unity and stability” (Zhang Huijun 1996:33).

Third, the law of ethnic relations does not provide for regularized state intervention to protect the dignity of minority peoples from affronts by “Great Han chauvinism” (*da hanzu zhuyi*). There is growing interaction between Han and minorities, especially in the economic sphere (Poston & Micklin 1993; Xinhua 4 December 1996). This often leads to friction because of historical animosities and cultural differences (Kostrzewa 1996: 197). A former director of the Chinese Communist Party (CCP) United Front Work Department acknowledged this phenomenon in stating:

The imbalance between the economic and cultural development of different areas and different races is widening. On the one hand, the Han and minority peoples are getting closer in terms of economic and cultural connections, and on the other the consciousness of minorities, their sense of pride, nationalism and self-respect is getting stronger and stronger. (Inter Press Service 14 March 1989)

Minority and a few Han leaders recognize that minority people may feel overwhelmed by the encroachment of Han Chinese, and, in some areas, such as Xinjiang, leaders have opposed unlimited Han migration (Xinjiang Ribao 9 April 1993; Reuters 19 March 1997). Many officials also know that Han condescension toward minorities causes friction and, on that account, minority people with greater contact with Han have higher ethnic

consciousness than those with less contact (Ji 1990:202-39). To fill an ideological vacuum, however, the state now promotes a Han-centered "racial" nationalism that alienates minority people (Chang 1998:84; Sautman 1997a).

This article examines the ways in which ethnic law vindicates the group rights of PRC minorities. It discusses the historical development of ethnic law and analyzes problems that derive from its current structure. These include a too narrow conception of ethnic autonomy, preferential policies that are no longer adequate to overcome the ethnically stratifying effects of marketization, and the absence of measures to check "Han chauvinism." It also further delineates the relationship between the provision of collective rights for minorities in China and the construction of a loyal minority elite and sets out a scenario for the further advancement of minority rights.

II. BACKGROUND TO MINORITY RIGHTS IN CHINA

The discourse and law of ethnic relations have important implications for China. Minorities are only 9 percent of China's population, but that is 110 million people, 20 million more than in 1990 and 40 million less than there will be in 2010. Minorities make up only 45 percent of the 160 million people in China's autonomous areas (*zizhi diqu*), but they populate two-thirds of PRC territory containing most of China's natural resources (PRC 1994b: 222-24; Jiao Shuqian 1996; Xinhua 2 April 1997, 14 February 1996; Hasi Bagen 1995). The popular aphorism of China as "*di da wu bo*" ("a large territory and abundant resources") is inspired by these areas.

China's ethnic law focuses on rights for this huge and strategically important minority population. A few countries, such as Malaysia, Sri Lanka, and South Africa, provide compensatory special rights to *majority* "racial" groups (Ng 1991; Adams 1993). India reserves entitlements for disparate groups, ethnic and otherwise, which taken together are a numerical majority (Nesiah 1997). In most states, however, ethnic law protects minority rights.¹ Minority rights schemes generally provide the same legal entitlements to minority persons as are received by majority persons and such additional group rights as are necessary to preserve minority ethnic identity and compensate for discrimination. While the degree to which minority rights are implemented in China is contested, it is notable that millions of citizens who were previously classified as Han changed their status to minority in the 1980s and 1990s to benefit from minority rights (Reuters 17 May 1993; 16 November 1995).

Legal protection of minority rights was rare until after World War II. The League of Nations' International Protection of Minorities System aided select minorities in Europe and the Middle East through League-supervised "minority treaties" that created the precedent that minority rights are a legitimate international concern, and the System resolved some prickly

conflicts (Dinstein 1985; Hannum 1993:683). The treaties did not, however, reflect a movement among League states to provide guarantees to ethnic minorities in their own domestic law or in their colonies.

The genocides of World War II and postwar anticolonial and civil rights struggles made minority rights a constitutional commonplace (Thornberry 1991: chaps. 10–12). This trend was also reflected in international law (Alfredsson & de Zayas 1993). The UN Commission on Human Rights formed its Sub-Commission on Minorities (Netherlands Advies Commissie 1996). Article 27 of the International Covenant on Civil and Political Rights (1966) now protects minority cultural, religious, and language rights (Thornberry 1991: Part IV). The Committee on the Elimination of Racial Discrimination (CERD) monitors the implementation of the International Convention for the Elimination of All Forms of Racial Discrimination (1966) (Banton 1996). In 1992, the UN promulgated a Declaration on the Rights of Persons Belonging to National or Ethnic, Religious, or Linguistic Minorities (Hannum 1993:79–83; Thornberry 1993) and discussion is underway about a treaty to elaborate minority rights (Roth 1992). The Working Group on Indigenous Populations of the UN Sub-Commission has presented a Draft Declaration on the Rights of Indigenous Peoples (Hannum 1993:103–12; Stamatopoulou 1994), while International Labor Organisation Convention No. 169 on indigenous peoples entered into force in 1991 (Hannum 1993:46–59; Tomei 1996).

The global trend of attention to minority rights is reflected in China. Indeed, China has been active in developing this trend in international law. Its representatives regularly speak out in international fora about the need for states to strengthen domestic minority rights legislation (Xinhua 16 April 1996). In fact, China itself has long offered a modicum of customary protection of minority rights. Some specification of minority rights even existed in the dynastic era (Phan 1996:85–86), during centuries of imperial expansion, genocidal campaigns against rebellious minorities, the extirpation of minority cultures, and pervasive “racial” condescension (Chu 1966:1–22; Wang 1996: chap. 8.5; Li 1992: chap. 3; Kostrzewa 1996: 120). After the overthrow of the monarchy in 1911, some minority rights were included in fundamental laws of the Republic of China, including the Constitution of 1946, although these sections were mainly rhetorical borrowings by the anti-Communist Guomindang rulers from the pro-minority policies employed in CCP-controlled areas (Deal 1984:28; Schwarz 1973:197).

The early laws in the CCP “liberated areas” promised full equality for minorities and, for a few years in the early 1930s, the Jiangxi Soviet constitution even included a right of minority secession. The CCP-led Border Areas government changed this policy in 1938 to one of ethnic minority autonomy (Brandt 1952: 219–24; Hsieh 1986:7). CCP head Mao Zedong told minorities at that time that they were to have equal rights with the Han and that Han chauvinism was to be forbidden (Mao 1938). These

remained Mao's policies when he spoke "On the People's Democratic Dictatorship" (1954:411–24) and announced a "Common Program of the Chinese People's Political Consultative Conference Concerning the Minority Nationalities" on the eve of the founding of the PRC in 1949 (see *Chinese Law and Government* 1981a).

The CCP did combat Han chauvinism in minority areas during most of the 1950s and early 1960s and many laws governing minority areas contained preferential policies (Chao 1994:110; McMillen 1979:114). This was also a time of the "ethnic identification" (*minzu shibie*) of China's minorities, an effort based on Joseph Stalin's definition of a "nationality" as a group sharing a common territory, economy, language, and culture. The overall effect of identification was to reduce the number of candidate groups for official designation as ethnic minorities from about four hundred at the outset to fifty-five when the process was brought to a close (Heberer 1989: chap. 3; Fei 1981; Dreyer 1993:297). For groups who claimed a separate ethnicity based on self-identity, but failed to receive official recognition, the process of identification itself was often seen as a denial of a minority right (Siu-Woo Cheung 1996; Harrell 1996; Gladney 1996:296).

The first national constitution (PRC Constitution 1954), the 1952 General Program of the PRC for the Implementation of Regional Autonomy (*Chinese Law and Government* 1981b), and the Electoral Law of 1953 (Blaustein 1962:182), repeated the pledges made by Mao and provided for proportionate minority membership in the (nominal) legislatures (Eberhard 1982:157; Kotov 1959; Phan 1996:90–92). Autonomy, however, was circumscribed by a lack of enabling legislation and the power of central authorities to dissolve autonomous areas at will (Moseley 1973:78; Goodman 1986; Heberer 1989:41–42). A subsequent Cultural Revolution-era constitution (1975) reduced even the formal autonomy provided earlier. The first post-Cultural Revolution constitution (1978) only very partially restored what had been withdrawn; it failed, for example, to allow financial autonomy for minority areas, a power contained in the subsequent and still current Constitution of 1982 (art. 119) (Phan 1996:93). Minority rights, as something more than moral entitlements revocable with changes in the political winds, were first seriously considered in the 1980s, not coincidentally at the same time that such rights gained a place on the international agenda.

III. THE ARTICULATION OF MINORITY RIGHTS IN PRC LAW

The 1982 Constitution elaborates a wide range of minority rights to be realized through national and local laws. As of 1993, there were 280 national and local laws and regulations that "concern minority protection" in marriage, elections, culture, inheritance, education, language, family planning, and other areas (Xinhua 24 June 1993; PRC Foreign Ministry 1996:8). Of some two hundred NPC laws and State Council regulations

created from 1979 to 1995, at least forty contain “ethnic issues” provisions (Xinhua 3 March 1996). Statistics of this kind are deceptive, however. Some provisions do no more than reiterate the power already given under the 1984 Law on Regional Autonomy (LRA) (*minzu quyu zizhi fa*): autonomous areas are empowered to adapt, modify, or supplement national laws according to local conditions (China 1987:87–101).² Other provisions are mere exhortations to take minority interests into account.³

There are laws, however, in which rights are more concrete. In the Tobacco Monopoly Law (1991: art. 6) states that the state’s monopoly in the autonomous areas must “give preferential treatment to their tobacco growers and manufacturers.” A Law Governing Deputies to the NPC and Local People’s Congresses of 1992 (art. 38), stipulates that minority delegates shall receive special assistance in terms of language and customs. The Education Law (1997: art. 12) declares that minority area schools may use local languages for instruction – although in practice, schools at all levels are now bilingual (Xinhua 18 January 1998; Lin 1997) – and orders the State Council and local governments to set up special education funds for minority areas (*ibid.*: art. 56). Mineral Resources Law article 10 (1996), a provision added at the insistence of NPC Standing Committee members Wu Jinghua (a Yi), Li Xuezhi (a Han), and Tao Aiyong (a Zhuang) (Xinhua 2 June 1996), orders the state to take minority interests into account in exploiting mineral resources. Again as a result of work by NPCSC minority members, a provision of the Township Enterprises Law (1996) commands the state to support township enterprises in minority areas through tax and credit mechanisms (Xinhua 29 October 1996; *Zhongguo xinwen she* 1996).

Even highly specialized legislation may contain provisions granting special rights to minorities. NPC Standing Committee members Wu Jinghua and Wu Changshu (a Korean) suggested that the Law on Electric Power (1996) include a provision requiring preferential bank loans and tax breaks to the power industry in minority and poor areas (Xinhua 21 December 1995). A provision in the 1996 Regulations on Hiring People’s Police for Public Security Organs raises the maximum age for police-work applicants in minority areas five years beyond the limit set for the rest of the country. Provincial and local governments have also enacted minority rights laws. For example, in 1997 Jiangsu province adopted the Law to Protect Minority Rights. It requires officials to publicize national laws on minorities, mandates that localities respect minority customs and work out detailed plans to appoint minority officials, and bans discrimination against or the humiliation of minority groups by the media (Xinhua 10 January 1997).

In summary, although the corpus of law that provides for minority rights has grown in the 1990s, the degree to which these rights are guaranteed by specific, mandatory provisions varies from measure to measure. Much legislation of the 1980s and early 1990s is “vague and abstract” in the words

of a report on the call to revise the 1980 Marriage Law (AFP 16 April 1997). Earlier laws need revisions to account for subsequent socioeconomic changes and minority officials have called for revising the laws with an eye to strengthening minority rights (Xinhua 6 August 1995a).

IV. PROTECTIONS AGAINST ETHNIC DISPARAGEMENT

Article 1 of the PRC Constitution states that "it is necessary to combat big-nation chauvinism, mainly Han chauvinism." Article 4 proclaims the equality of nationalities and prohibits acts based on "great nation chauvinism" (*da minzu zhuyi*) and "local nationalism." In its initial decades in power, the CCP acknowledged the role of Han chauvinism in ethnic tensions (Kostrzewa 1996:95 n. 123). At the time the 1982 Constitution emerged, the CCP view was that:

The most important thing is to make a point of overcoming and guarding against Han chauvinism. Only by doing so can a contribution be made to the effort to overcome and guard against regional [local] nationalism. (Jiang & Huang 1982)

The present official stance is not as focused. PRC officials claim that violators of laws protecting the interests, social customs, or religious sensibilities of minorities are punished (Xinhua 4 December 1995). Since the promulgation of the 1982 Constitution, however, enforcement measures against acts committed by Han people who denigrate minorities have rarely been announced. The state acted in 1989 against authors of a widely protested book entitled *Sexual Customs (Xing Fengsu)*, which compared Islamic religious edifices to sexual organs. The editors of the text were "held in custody" under Shanxi provincial regulations and rearrested after Muslims offered a reward for their deaths (Gladney 1996:4-7; *Zhongguo Tongxun She* 17 May 1989). In response to protests by Muslims, authorities punished the Sichuan distributors of a children's book that insulted Muslims by depicting them praying near a pig. The publishers were dismissed from their posts, and the editors faced criminal charges (AFP 12 October 1993; Ma Ling 1993).

Han chauvinism, however, is mainly treated today as if it were basically a pre-1949 phenomenon (Xinhua 18 August 1994), and it is not certain that anyone in recent years has been punished for displaying it. Anecdotal and survey evidence suggests, however, that disparaging attitudes toward minorities are common among Han Chinese, especially in minority areas (Sautman & Bilik forthcoming; Fong & Spickard 1994). A study devoted to approaches to overcoming the "backwardness in culture and education" of minority residents of Beijing observed:

Even today, some people in society often, either consciously or subconsciously, express a discriminatory and scornful attitude toward minorities, thinking

perhaps that their intelligence is not as high as that of the Han, or perhaps they are genetically inferior, or even making some unscientific speculations and deductions about the “causes.” (Wu & Long 1989:89)

There are many reports of Han deprecating the intelligence of Tibetans (Grinspoon 1994; Donnet 1994; Sun 1994; Bass 1990). Additionally, a survey of Xinjiang Han indicates that many regard Uygurs as “dirty,” “uncivilized,” and “not very smart” (Ji Ping 1990:209, 240–41).

These same stereotypes, which historically were used by the Han to defame frontier peoples (Rossabi 1975:18–22), are also commonly applied today to Tibetans, Mongols, and other minorities (Khan 1996:129, 147). An official social evolutionism is a factor in also inducing “relatively advanced” (*bijiao fada*) minorities to disparage “relatively backward” (*bijiao luohou*) minorities (Hsieh Shih-Chung 1994).

The right of Chinese minorities to be free of “Han chauvinism” is weakened by the regime’s reluctance to acknowledge the prevalence of ethnic prejudice. In 1987, Deng Xiaoping stated that “since New China was founded in 1949, there had never been any ethnic discrimination in the country” (Xinhua 29 June 1987). The following year, the then CCP chief Zhao Ziyang stated that racial discrimination is common “everywhere in the world except China” (Roche 1988). In a few instances ethnic conflict has been acknowledged. A State Council document has spoken of “incidents detrimental to inter-ethnic unity” (Xinhua 12 January 1992). Jiang Jiafu, vice-minister of the State Ethnic Affairs Commission (SEAC), has stated that “disregard of ethnic conventions and harming ethnic people’s interests take place” (Xinhua 4 December 1995). In a report to the Committee on the Elimination of Racial Discrimination, the PRC Foreign Ministry (1996:10) claimed, “Whenever ethnic discrimination appears, it is severely dealt with in a timely fashion by the Government.” The prevalent official attitude, however, is to limit knowledge of and concern about ethnic conflict. For example, in 1997, *Zhongguo Yinjin*, a Beijing newspaper run by the State Council’s Bureau of Foreign Intellectual Transfer and Foreign Experts, was closed for reporting “rioting by minorities, thus, bringing unhealthy social influences” (AFP 22 March 1997).

Official PRC ideology also plays a role in promoting Han chauvinism. PRC’s vestigial Marxism includes the concept of a unilinear, but uneven, progression of humanity from barbarism to civilization, a built-in disparagement of minority cultures as “relatively backward” (Chen Kuiyuan 1996). Some minorities are said to have only recently emerged from “primitive communist” or slave-holding societies deemed long anterior on the scale of progress to the social systems developed by Han (Chinese Academy of Social Sciences 1988:1255–58; Chao 1986). The “specific characteristic” of minorities and minority areas in China, according to a vice-chairman of the NPCSC, is that of “backward and uneven development” (Xinhua 6 August 1995b). A scholar writing in an official journal has put it that, “Minority areas are backward places where economic poverty and intellectual poverty

exist side by side" (Zheng 1995). Referring to Tibetans, the CCP head in Tibet has stated that, "certain habits in the way they dress, eat, live, travel, as well as in their production methods, culture, and marriage system, are quite outmoded and unhealthy" (Chen Kuiyuan 1996). Much has been made in official organs of the supposed "filth, disorder, and uncivilized behavior" in Tibet (Xizang Ribao 6 December 1991).

The regime's position that minorities need the Han for their cultural advancement, while the Han need the minority areas for raw materials and as buffers against the external world (Harrell 1995; *Beijing Review* 25 July 1995), is epitomized in a slogan: "The Han are inseparable from the minorities and the minorities are inseparable from the Han" (*Hanzu fen bu kai shaoshu minzu; shaoshu minzu fen bu kai Hanzu*). Minorities are aware, however, that assertions of minority "backwardness" represent a disdain that reinforces Han identity and "others" the minorities (Hewitt 1994; Southerland 1987; Gladney 1992:18).

The Criminal Law of 1979, article 147, imposed a penalty of up to two years on any state functionary who "infringes upon the customs and habits of minority nationalities" (Palmer, Dicks & Cheng 1992:6-7) and the Law on Regional Autonomy prohibits both "[d]iscrimination against and oppression of any nationality" and acts that undermine interethnic unity (1984: art. 9). This precatory provision was not implemented until 1997, however. Then, at the suggestion of a Muslim (Hui) NPC member from Yunnan, Ma Kaixian, three minority rights provisions were added to the Criminal Law of 1997 (Su Ning 1997).⁴ Whether the criminalization of Han chauvinism will be enforced remains to be seen.

Education is another key tool in combating prejudice (Nekuee & Hagendoorn) and the Regulations on Urban Nationality Work state that:

City people's governments should teach cadres and people of all nationalities to respect each other's customs and habits. Minority nationalities' customs and habits, religious beliefs and national sentiments should be respected in propaganda work, news media, literary and artistic creations, and film and television production. (1993: art. 17)

There has been no sustained effort, however, to inculcate the Han with respect for minority contributions to Chinese and world development. A State Council document urges that "[v]arious kinds of schools at all levels should offer courses on ethnic minorities and on policies related to ethnic minorities" (Xinhua 12 January 1992), but these courses are offered only at minority schools. Ethnic unity meetings and unity months exist, and prizes are given to individuals who contribute to interethnic harmony (*Minzu Tuanjie* 1994; Zhang 1994). These efforts are, however, symbolic rather than educative. Only rarely do news reports emerge that have some potential for altering stereotyped images of minorities: for example, a feature about the contributions of minority scientists to the economy of Inner Mongolia (Xinhua 9 April 1997) or a television program on the advances of minorities

generally (Xinhua 27 December 1996). The popular Han view of Chinese minorities as exotic and inferior thus largely remains unchallenged by the state in the PRC (Gladney 1994).

V. ETHNIC MINORITY AUTONOMY

A. THE LAW ON REGIONAL AUTONOMY

The official discourse of minority rights in China gives pride of place to the system of regional autonomy (PRC Foreign Ministry 1996:3), while many outside observers routinely dismiss the system as “fake” or “paper autonomy” (Seymour 1993; Phan 1996:84–85; Becquelin 1997:19). At the same time, Phan (1996:99) concedes that minority areas are accorded “‘true’ autonomy” as to “soft issues” (for example, education, culture, the environment, sports, health care, and science and technology) and some sensitive policies (for example, power over the transient population and family planning) (*ibid.*). For example, an array of special benefits are promised to minority areas under the Program for the Reform and Development of Education in China (1992), and the Guidelines on the Implementation of the Compulsory Education Law (1992: art. 25) states that “the facilities, structure, pedagogy, curricula and language of instruction to be applied . . . shall be determined by the local autonomy itself” (PRC Foreign Ministry 1996:15). Becquelin (1997:26–27) also recognizes that the policy of reinforcing ethnic identity, which is mediated by the autonomy system, undergirds valued preferential policies.

Article 4 of the PRC Constitution states that “regional autonomy” is practiced by minorities living in compact communities, who are free to “preserve or reform their own ways and customs.” Other constitutional provisions make indigenous tongues the official languages of minority areas and allow for local public security forces (1982: arts. 122–123). The LRA (1984) both sets out and restricts the autonomy structure. Its preface states that autonomy shall be “under unified state leadership” and specifies that autonomous areas “shall apply the principle of democratic centralism,” the Communist disciplinary structure (art. 3). Self-governing organs must “implement the laws and policies of the state” (art. 4) and “place the interests of the state as a whole above anything else” (art. 7). Under article 118 of the Constitution and article 19 of the LRA, autonomous area laws must be approved by higher bodies; those of the five autonomous regions (Inner Mongolia, Guangxi, Ningxia, Xinjiang, and Tibet) must be approved by the NPC Standing Committee; those of the thirty autonomous prefectures and 124 autonomous counties must be sanctioned at the provincial level.⁵

These limitations on freedom of action are formidable obstacles to the expanded autonomy for minority areas sought by some Chinese scholars (Jin 1993:18). The genuineness of autonomy should also be assessed in

relation to international standards. In this regard, PRC ethnic autonomy meets the standards of some, but probably not most, scholars.⁶ Autonomous areas have local legislatures with some independent authority and most local deputies are minority people. For example, Mongolians account for three or more times the number of local deputies in Inner Mongolia than their numbers warrant. In all other autonomous areas (except Tibet) minorities in local congresses also exceed their proportions in the local population (Chao 1994:105-6).⁷

Autonomous areas' legislatures do "have the power to adopt special policies and flexible measures in light of local conditions" (LRA 1984: art. 6). They may modify or reject any "resolution, decision order or instruction" of a higher level legislative body, but only with the approval of that body (*ibid.*: art. 20). In contrast, under the Local Organic Law and Local Government Organization Law, most nonautonomous areas have not been permitted to pass laws in conflict with the higher laws, policies, and decrees (Chao 1994:111; Xinhua 28 February 1995). Autonomous area leaders are locally, but not directly, elected and, in most cases, CCP nominees are chosen. There is no judicial autonomy anywhere in China (Chao 1994:104; Dowdle 1996:34). There is some joint central/autonomous area authority over matters of common concern, such as policing and mineral extraction. For example, 30 percent of tax income from oil extracted in Xinjiang goes to local government (Xinjiang Ethnic Affairs Commission 1995; Turpan Cadre 1995). The powers of the minority areas thus go some way toward meeting international criteria.⁸

The LRA calls for preferred hiring and promotion of minorities in enterprises, institutions, and public security forces (arts. 22–24, 62), and it gives a greater say in economic affairs to autonomous areas than other PRC subnational jurisdictions had in 1984 (arts. 25–35). Many economic rights specified by these provisions, however, have by now been generalized to the whole PRC. The same is true with some LRA provisions on education, health care, and culture (arts. 36–45). Parts of the LRA do however allow for valuable rights of variation from national norms. Article 44 states that, "in accordance with legal stipulations," autonomous areas can work out their own family planning measures. As a result, urban minority couples generally may have two children, while urban Han are restricted to one. Rural minorities may have two, three, four, or even more children, depending on their ethnicity and location (Sautman 1998a). LRA articles 37 and 47 allow for use of local languages in schools and courts, while article 49 provides for incentives for bilingualism among officials. Article 56 mandates that the state set aside special funds to develop minority areas, over and above "normal budgetary revenues." Article 65 requires that minority research institutes and universities, ethnic cohorts (*minzu ban*), and preparatory classes be set up to enroll only minority students. Secondary and tertiary schools must preferentially admit minority students. Finally, a very practical benefit for minorities derives from autonomy laws: they pay

few, if any, agricultural and livestock taxes (Kostrzewa 1996:163), a boon in light of the high percentage of rural minority people.

VI. THE STATE COUNCIL'S MINORITY REGULATIONS

The State Council promulgated three sets of regulations on minorities in the early 1990s. The first set, the Circular on Some Questions about Further Implementation of the LRA (1992), commands that state investment in minority areas during the Eighth Five-Year Plan exceed that of previous plans. Where conditions are comparable, minority areas are to be preferred to Han areas in allocating construction projects and provinces should increase investments in lower-level autonomous regions (*ibid.*: point 1). Minority areas can offer investment incentives to enterprises from more developed areas, and those that do “should employ as many ethnic personnel as possible.” The proportions of taxes and profits retained in autonomous areas are to be higher than elsewhere (*ibid.*: point 3). Banks are encouraged to extend credit to minority areas and a disproportionate share of relief funds are to be sent there (*ibid.*: points 5–6). Colleges are to give minorities “priority over others with equal qualifications” and to set up preparatory courses for them (*ibid.*: point 8). The minority-language mass media is to be expanded, as are health care and sports systems (*ibid.*: point 9).

The Regulations on the Administration of Ethnic Townships (*minzu xiang*) (1993), the second set of minority rights regulations, provide that *minzu xiang* governments are both to be staffed “as fully as possible” by minorities and to use minority languages (arts. 4, 5), and that the governments may retain their “excess revenues and expenditure surpluses.” Easy credit, tax exemptions and reductions, and special funds and materials are to be provided to economically underdeveloped townships (*ibid.*: arts. 8–10). *Minzu xiang* are to have “priority” in natural resource and infrastructure development, enterprise management, and education. They may set up boarding schools and support students by stipend, use local languages in instruction, lower student-teacher ratios, employ more staff than in schools elsewhere, and arrange for secondary and tertiary level *minzu ban* (*ibid.*: arts. 11–14). Superordinate governments are supposed to send down teachers, doctors, and scientific and technical personnel to *minzu xiang* and to encourage volunteers through preferential treatment (*ibid.*: art. 20). Many preferences set out in the regulations have been realized in the ethnic townships, but often in a perfunctory manner. Local administrations are often impoverished. The heavily minority provinces are financially strapped, despite central subsidies that now total thirty billion yuan per annum, a figure equal to annual central government revenues from all endeavors in the minority areas (Wu Jiamin 1996:4; Sugimoto 1993:16; PRC State Ethnic Affairs Comm'n and State Statistical Bureau 1994:119–20). Within these

constraints, rural minorities generally do govern their townships and, in places, have made educational, health, and economic advances due in part to the preferences set out in the regulations (Sautman & Bilik forthcoming).

Along with the township regulations promulgated in 1993, the State Council issued Regulations on Urban Nationality Work (1993). These require that funds and teachers be allocated to *minzu ban* and ethnic schools, as well as for high schools and college admission (*ibid.*: art. 9). Easy credit, subsidized loans, and tax breaks are to be given enterprises that provide food services and other “ethnic trade enterprises” to minorities (*ibid.*: arts. 10–14, 18). Urban minorities are to enjoy the use of their own languages and ethnic health care where needed (*ibid.*: arts. 20–21). Cities are to protect and build “ethnic structures” where minorities live compactly. They are also to help preserve minority customs, provide for funeral services for minorities, and allow minority workers to participate in their major festivities (*ibid.*: arts. 22–26).

VII. DISCONTENT WITH THE PRESENT SCOPE OF AUTONOMY

Many minority rights laws and regulations are too general or are outmoded, reflecting the mid-1980s PRC political economy. Some provisions do, however, provide a measure of autonomy, useful preferences, or representation. Minority leaders view autonomy as valuable enough to push for more autonomous areas. Forty-seven areas were created in the period 1984–1994, so that the system of autonomies covers forty-five of the fifty-five ethnicities, who in turn encompass 90 percent of the minority population (*Renmin Ribao* 1994; Xinhua 25 August 1994). Minority leaders also seek higher-level autonomy. Leaders in Qinghai, a province where 97 percent of the territory is composed of Tibetan autonomous prefectures, would like the whole province to be one autonomous region. Failing that utopian scenario (there is already a Tibet Autonomous Region), Qinghai’s leaders want it to have the same preferential treatment given to Tibet, including increased state investment and exemption from tariffs for certain imported goods. Autonomy is also one reason why Xinjiang enjoys better economic prospects than other northwestern, but mainly Han, provinces such as Gansu and Shaanxi (Cheung Lai-kuen 1996; Xinhua 6 March 1995). In the 1990s, however, dissatisfaction with the degree of autonomy has surfaced among minority leaders. One reason is that the LRA still “does not command sufficient respect among central government departments” (Chao 1994:116). Developmental advantages provided by the autonomy scheme have also diminished as reform accelerates. Minority leaders grumble about the “half-legislative power” accorded autonomous areas. Some venture that minority areas now have less autonomy than the coastal Special Economic Zones,⁹ which were given law-making powers in 1996, over the objections of NPC delegates who want to shift the development focus to China’s interior where

most minorities live (*South China Morning Post* 1997; UPI 1996). In 1996, seven provincial party secretaries of seven provinces petitioned the Politburo for a “radical devolution of authority” (Lam 1997: 17). In 1997 meetings of minority-area NPC delegates demanded from central officials greater autonomy. Reportedly “leaders from several western and northwestern provinces pressed Beijing for Hong Kong style autonomy” (*ibid.*). A number of scholars in Beijing think-tanks also advocate a legal institutionalization of greater power sharing between the center and minority areas (*ibid.*).

Key NPC minority leaders have demanded revision of the LRA. Standing Committee Vice-Chairman Bu He, a Chinese Mongol and former governor of Inner Mongolia, stated in 1997, “The 1984 Law on Regional Autonomy should be revised under the new situation of building China’s socialist market economy.” Bu He urged the drafting of supplementary legislation and indicated that new laws and regulations to supervise the implementation of ethnic policies will soon emerge (*Xinhua* 2 April 1997, 30 April 1997). His comments responded to dissatisfaction among minority leaders with the growing economic gap between minorities and the Han (Tang 1997).

VIII. POLITICAL REPRESENTATION FOR ETHNIC MINORITIES

Minorities are underrepresented in the CCP and overrepresented in other national political elites. Although proportionately represented at CCP congresses and overrepresented on the Central Committee (Zang Xiaowei 1993; Sugimoto 1993:26; PRC 1994c:417; *Xinhua* 3 March 1996), there are no minorities in the Politburo and in many autonomous areas most party leaders are Han (Kostrzewa 1996:240; Bo 1993). Minorities were only 5.7 percent of the CCP membership in 1990, a figure just 0.2 percent higher than in 1957 (Mackerras 1994:157). CCP leaders are aware of this deficiency and 7.3 percent of new recruits in 1995 were minorities (Reuters 1996). By 1999, 6.1 percent of CCP members were minorities (*Xinhua* 28 June 1999). No law or internal rule requires the CCP to adopt quotas for minority participation, however.

It is otherwise with the state: thirty-nine laws, regulations, and customs require adherence to minority quotas. Four of the State Council ministers are minorities (*Xinhua* 18 March 1998).¹⁰ The Electoral Law of 1982 stipulated that minority delegates should account for some 12 percent of the NPC (Dreyer 1993:296). In fact, 14.4 percent of the 2,979 NPC members are minorities, as are eighteen of its 177-person Presidium and four of the twenty-one leaders of its Standing Committee (*Xinhua* 3 March 1998, 4 March 1998, 16 March 1998). Some 11.5 percent of the 2,093 members of the eighth Chinese People’s Political Consultative Congress were minorities, as are three of the thirty-two leaders of the ninth Consultative Congress’s National Committee and forty-five of its 323-member Presidium (PRC 1994c: 417; *Xinhua* 2 March 1998, 13 March 1998).

The NPC, it should be noted, is no longer a rubber stamp. Strong votes are now amassed against some CCP-backed measures, although an oppositional majority has yet to emerge against any measure (Reuters 14 March 1997). NPC delegates actively propose and modify legislation (O'Brien 1994). Many minority rights provisions of the 1990s have emanated from the NPC's Nationalities Committee, headed by Wang Chaowen (a Miao). During the Eighth NPC (1992–1997), four of its five vice-chairs and seventeen of nineteen ordinary members were minorities (Xinhua 29 March 1993). Even the Consultative Congress, composed of members of eight satellite “democratic” parties, capitalists, entertainers, and a few model workers, has become significant as an instrument for providing feedback to the CCP (Tan 1995; Chai 1997; Chan 1996:174). Its Subcommittee of Nationalities and Religions, with some 150 members (Xinhua 5 March 1997), mainly carries out investigations, but its work sometimes leads to NPC or State Council initiatives.

The PRC Constitution (1982: arts. 114–16) and LRA (1984: arts. 12–18) allows minority area bodies to reserve a proportion of seats for the titular group and other minorities. These provisions also mandate that the top government post in an autonomous area and either the chair or one vice-chair of all local people's congresses be held by a titular group member, as may be other locally determined positions. Mechanisms to guarantee minorities proportional representation and, in some cases, super-proportional representation, are set out in chapter IV of the Electoral Law of 1995 and in local autonomous laws (see Chao 1994:105, 108).

IX. MINORITY RIGHTS AND THE MINORITY ELITE

For many minority people, their key “representatives” are not elected delegates but state and party decision makers, administrators, and professionals of the same ethnicity at all levels who are part of China's governing cadres. These minority cadres constitute one part of a new minority elite in a variety of high prestige occupations. The first-level minority cadres are in turn “represented” by higher-level minority cadres. The grass-roots cadres are in turn “represented” by higher-level minority cadres. The number of minority cadres expanded rapidly in the 1980s. In 1982 they were 4.8 percent of the total (Tam & Wu 1988:86). In 1992, 2.3 million minority cadres accounted for 7.1 percent of the thirty-two million cadres in China (Pan 1992), and by 1997, the number rose to 2.5 million (Xinhua 25 April 1997). Minority underrepresentation among cadres occurs mainly in Han areas; there is overrepresentation in some minority areas (Becquelin 1997:20). In Inner Mongolia in 1997, for example, minorities were 23.4 percent of all cadres, higher than their 20 percent representation in the population (Xinhua 24 April 1997).

In 1995, minorities were about 10.5 percent of all cadres at the ministry/province level, 7.9 percent of cadres at the bureau/prefecture level, and

7.9 percent at the office/county level. A disproportionately high percentage of minority cadres work at the regional level in autonomous areas (PRC Foreign Ministry 1996:12). Minorities are still underrepresented among technical and professional personnel (*zhuan ye jishi ren yuan*), however. For example, in 1995 about 47 percent of such cadres in Xinjiang and 72 percent in Tibet were minorities, in contrast to their 62 and 95 percent minority shares of the populations.

These cadres are nevertheless an important element in a new minority elite. They are 180,000 of the ten million Xinjiang minority people and over 20,000 of the 2.5 million Tibetans in the Tibetan Autonomous Region (*ibid.*:13).

The growth in the minority elite is the result of educational gains and preferential policies. Minorities in higher education peaked at 7 percent in 1991 to 1992 (Postiglione 1992; Sautman 1998b). In autonomous areas, higher education has expanded faster among minorities than among the Han, but, from the early 1990s, the increase in minority enrollment has not kept pace with the explosion of college enrollments in China as a whole (PRC Foreign Ministry 1996:17; Sautman 1998b). Hannum and Yu (1995) have found that, in Xinjiang in the 1980s, ethnic inequality widened for the transitions to primary and lower middle school, but declined for the transitions to upper middle school and college. Occupational inequality by ethnicity declined somewhat: in 1990, minorities constituted 55 percent of the labor force, but only 36.3 percent of those working in elite occupations.

There was actually a decline in minority participation in cadre positions (which now often require a higher educational attainment than many minorities have), but an increase in minorities in other elite positions. Some of these other positions are in business, although minority business people are still in a relatively weak position, even in minority areas (Grinspoon 1994; Dempsey 1996). Hannum and Yu have shown that minorities with a high school education or better have greater odds of securing elite jobs than similarly educated Han. This indicates that, for minorities who manage to complete secondary or tertiary education, preferential policies play their intended role in enlarging and diversifying the minority elite.

X. AVENUES FOR FURTHER REFORM

PRC ethnic law has reached an important juncture after a decade and a half of development. In China generally, economic and social change has overtaken the first wave of "legalization" that broke in the 1980s and early 1990s and led to "rule by laws." A second wave is swelling and could carry with it expanded autonomy and the possibility for China's minorities to emerge from their historically subordinate position. This will come to pass, however, only if the PRC leadership directly and expeditiously addresses the multiplicity of minority needs for expanded rights.

The assertion that minority rights are systematically denied in the PRC is too facile. The Chinese government's charge that such claims flow from ulterior political motives (Xinhua 26 March 1997) related to other issues that Western states have with China could well be right. Reform-era legal structures do "genuinely" provide some important minority rights – including entitlements not available to Han people and areas – that make a difference in minority lives. The existence of these rights reflects internal and external factors. Strong internal influences include the general process of legal reform in China (Brown 1997) and the desire for political stability. The main external factor is the greater attention paid to questions of minority rights internationally, both as a set of ideals and as a political instrument wielded by some states against other states. These factors will continue to be present. Whether a further expansion of minority rights occurs depends, however, on whether PRC leaders grasp the concerns of minorities and consider it "safe" to expand their rights in light of external pressures on the country's political system and territorial integrity.

The long-standing oscillation in Chinese ethnic policies between assimilation and integration stands as the main obstacle to leaders grasping the concerns of minorities. In the Chinese context, assimilation (*tonghua*) is a process by which minorities lose their own characteristics and become a component part of the majority through "Hanification" (*hanhua*). Integration, in the Chinese case, involves not only the incorporation of minorities into the economy and society on a common and equal basis with the Han, but also a shifting of the political identification by both minorities and majority, the former to China as a whole, and the latter to a China in which minority contributions are fully recognized. Assimilation and integration have each been hegemonic at times during the PRC and antecedent regimes and both concepts continue to contend (Mackerras 1994:7–10). Assimilationist currents tend to be based on social evolutionary notions and reached their apogee during the failed attempt to rapidly attain the "most advanced" social stage in the course of the Cultural Revolution. Integrationist currents have been ascendant in the 1980s and 1990s, but are now under considerable strain because of the recrudescence of a Han-centered nationalism.

The other principal obstacle to expanded minority autonomy and other rights is the lack of confidence in the political stability of minority areas that results from the threat of ethnic separatism, support for which varies significantly from region to region. Assimilationism and the uncertainty of national leaders about the loyalties of minorities (including minority elites) are thoroughly imbricated and mutually reinforcing. Further breakthroughs in reforming ethnic law will require the gradual diminution of separatist sentiment through overcoming the ethnic division of labor, political suasion, mutual acculturation, and other changes within the minority areas. Concrete measures displaying trust in minority peoples, for example, by appointing many more minority party secretaries and by expanding the scope of ethnic autonomy can best reduce the sentiment.

Minority leaders, at least, know that ethnic law, as it now stands, cannot solve the most pressing problems of their “constituents.” The defamation of minorities cannot be abated mainly by criminalization, because the imposition of penalties will be a function of the politics of the moment. Systematic popular education about minority contributions to science, technology, social development, and politics, as well as about minority cultures and experiences (including encounters with discrimination) are needed and should be mandatory for Han who migrate to minority areas.¹¹ The prerequisite to such an educational effort is an official recognition of the prevalence of Han chauvinism and abandonment of the hierarchization and stigmatization of cultures. Apart from education, measures to enhance interethnic propinquity should be considered. The PRC should adopt the Singapore government’s “racial quota” model of publicly owned housing, where 86 percent of Singaporeans live. It ensures that most Singaporeans have ethnically diverse neighbors (Hong Kong 1997). In contrast, Chinese cities like Lhasa and Urumuqi are highly segregated residentially (Ma Rong 1991; Rudelson 1997).

The government should expand ethnic autonomy to meet the very different circumstances that Chinese minorities find themselves in today as compared with the 1980s. In 1980, 94 percent of employment was “public”; in 1995, only 18 percent of the PRC labor force worked for the state. In 1980, 80 percent of industrial output emanated from state-owned enterprises; in 1996, less than 40 percent was, and the proportion in 2000 is expected to be less than one-third (Chen 1997). Ethnic autonomy as elaborated in the early to mid-1980s was premised on a still largely planned economy in which subnational jurisdictions were just beginning to gain some freedom of action, and the state was seen as the sole provider of preferential policies to minorities.

By the late 1990s, it is clear that those jurisdictions that have been given the greatest quantum of decentralized power – the Special Economic Zones – have also received a huge developmental advantage (Hu 1995). The Chinese government needs to consider whether minority areas should have a “most favored area” status entitling them automatically to receive any right or power accorded any other part of mainland China. This should be taken a step further in the realm of politics.

There have been hints that PRC leaders have discussed the creation of “special political zones” in which there can be some divergence from rule by the “unified leadership of the Party” (Lam 1995:428–29). This experiment might take the forms of coalition governments in some minority areas (Sautman & Lo 1995; Sautman 1997b) and of a system in which all minority areas may enact any local law that does conflict with national law, without first having to secure approval from higher authorities. Chinese leaders should study the ways in which other countries have implemented autonomy (Lapidoth 1997) and should adapt successful practices to Chinese conditions.

Some preferential policies crafted in the 1980s, especially those connected with employment for ordinary minority workers, have been eviscerated by the turn to nonstate employment. For example, interviews with minority officials in Inner Mongolia, Xinjiang, Hainan, and elsewhere indicate that not only have minimum hiring quotas for minorities faded into oblivion, but ethnic discrimination in hiring by Han entrepreneurs is rampant in minority areas. This is not even to speak of the question of the growing correlation between class and ethnicity in these areas, which is reflected in both income and wealth. A 1994 State Ethnic Affairs Commission report to the CCP Central Committee states:

[M]inority nationalities are complaining that all the rich are Han people and that the Communist Party could not care less about the minorities. This problem, if ignored, surely will deepen nationality contradictions. (Hsin Pao 1994; see also Becquelin 1997:22)

China would do well to examine the experiences of other states with preferential policies. The Malaysian system is especially worth studying in this regard. It mandates that Malays own a minimum percentage of the assets of all medium and large businesses and occupy a minimum number of managerial posts. The result has been the creation of a well-off and empowered Malay middle class with a stake in cooperation with the better-off ethnic Chinese minority (Gomez 1996). The Malay working class and peasantry have yet to receive many benefits, but there is an incentive for China to improve on the scheme, given the potential for unrest in the PRC's minority areas.

The continued advance of law and policymaking designed to overcome interethnic contradictions presupposes some power. In China, as in several other major states, there is still a complete absence of minority leaders in the principal political decision-making body (the Politburo). In China, as in many other multiethnic states, the impetus for laws and policies that address minority concerns has often come from minority people themselves. Increased opportunities and benefits for minorities can best be ensured by including minority officials with strong grassroots ties in the top CCP leadership, not only in the autonomous areas, but also at the national level. If these and other steps produce the expected advances in minority rights, China's system of ethnic law and policy will cease to be a club that external forces use to beat China and will become a model for international study and emulation.

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NOTES

1. Capotorti (1991) defines minorities as “numerically inferior to the rest of the population of a State, in a non-dominant position, whose members being nationals of the State, possess ethnic, religious, or linguistic characteristics differing from those of the rest of the population and show, if only implicitly, a sense of solidarity, directed toward preserving their culture, traditions, religion, or language.”
2. Mere reiteration of the LRA is made in the Law on the Protection of Women’s Rights and Interests (1992:art. 53), the Adoption Law (1991:art. 20), the Civil Procedure Law (1991: art. 17), the State Budget Management Regulations (1991: art. 23), and the Law on Protecting Rights and Interests of the Elderly (1996: art. 49).
3. The Prison Law (1994: art. 52) calls for considerations for minority prisoner customs. The Physical Education Law (1995: art. 6) tells the state to cultivate physical education personnel in minority areas. Article 10 of the Education Law (1995) calls upon the state to help minority areas with educational undertakings.
4. These minority rights provisions are in three articles of the Criminal Law of 1997:

Those provoking ethnic hatred or discrimination, if the case is serious, are to be sentenced to three years or fewer in prison, put under criminal detention or surveillance, or deprived of their political rights. If the case is especially serious, they are to be sentenced to three to 10 years in prison. (Art. 249)

Persons directly responsible for publishing materials that discriminate or insult minority nationalities, if the case is serious and results in grave consequences, are to be sentenced to three years or fewer in prison, or put under criminal detention or surveillance. (Art. 250)

Workers of state organs who illegally deprive citizens’ [of their] right to religious beliefs or who encroach on minority nationalities’ customs or habits, if the case is serious, are to be sentenced to two years or fewer in prison or put under criminal detention. (Art. 251)

5. Article 102 of the Constitution allows for ethnic townships (*minzu xiang*) and villages (*minzu cun*). While estimates vary, there are at least 1,500 *minzu xiang* and an equal number of *minzu cun* (Xinhua 29 September 1994; Hua 1991:20). These serve the quarter of all minorities who live in compact communities in the Han areas (Tam & Wu 1988:89–90, fn. 1-2; Xinhua 3 October 3 1991). About six million minority people lived in *minzu xiang* alone in the early 1990s (Xinhua 4 January 1992).
6. Hannum (1990:468), for example, deems that a “truly autonomous region” has a locally elected legislative body with some independent authority over local concerns, whose exercise of power is generally not subject to veto by the central government; a locally elected chief executive; an independent local judiciary with full responsibility for interpreting local laws; and joint authority over matters of common concern, such as ports, police, and exploitation of natural resources.
7. Tibet’s population is officially 94 percent minority, and, in the 1980s, the Tibet Autonomous Region (TAR) adopted a law specifying that no less than 80 percent of local deputies be minorities. In the TAR Sixth People’s Congress, elected in 1993, 82 percent of the 450 regional deputies were minorities. At the county level, 93 percent of 6,411 deputies are minorities and in the townships, 99.9 percent of the 31,650 deputies are minorities (Chao 1994: 105; Wang & Huang 1995).

8. The enactment of regulations by provinces to implement the LRA began in 1992. In 1992-1996, twelve regions and provinces set out implementing regulations. Eight provinces adopted regulations on work among scattered ethnic groups, and 119 autonomous areas drafted autonomous rules. This web of regulations has been termed by the Ministry of Foreign Affairs "a minority-oriented legal framework [that has] offered a legal guarantee for the interest of the minorities" (Wu Jianmin 1996).
9. The Zones are Shenzhen, Zhuhai, and Shantou in Guangdong, Hainan province, Xiamen in Fujian, and Shanghai's Pudong area.
10. These are Ismail Amat (State Councillor); Li Dezhu (Korean), minister in charge of the State Ethnic Affairs Commission; Doje Cering (Tibetan), Minister of Civil Affairs; and Niu Maosheng (Manchu), Minister of Water Resources. Minorities were quite underrepresented at the sub-ministerial level in State Council organs and among high PLA officers in the 1980s (Sugimoto 1993:27-30; Cabestan 1988:76), and it is unclear whether there has been improvement in that regard.
11. China has noted that several states, such as Greece and Spain, have antiracist education programs (Xinhua 14 March 1994, 26 March 1994).

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