Legal Reform and Minority Rights in China

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Abstract

Western commentators on PRC ethnic minority policy often assume that minority rights laws must be a sham because China has an authoritarian state. In the reform era of the 1980s and 1990s, however, China has articulated a law of ethnic relations that does provide some substantial rights and preferences which minorities value. PRC ethnic relations law is hampered by notable weaknesses, including its failure to provide strong autonomy for minority areas, sufficient economic opportunities for minority people, and protection against anti-minority bias. In the late 1990s, however, pressure from minority people and leaders seem likely to lead to a strengthening of minority rights in China through further legal reform.
"Tibetans have never had as many rights as they do now and they will have more and more in the future" -- Gyaincain Norbu, Tibet Autonomous Region (TAR) head, speech to the fifth session of the Eighth National People's Congress (NPC), Beijing (Agence France Presse [AFP] March 5, 1997).

Introduction

The international debate about human rights in China 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, March 7, 1997). The debate, however, is more multi-sided than binary. For example, while no developing states backed the 1997 resolution in the United Nations Human Rights Commission to condemn China for human rights violations, the key European states also demurred (Danish Foreign Ministry, 1997; AFP, April 10, 1997). Some Western journalists and scholars, moreover, agree with the PRC government that legal reform in China has produced notable advances in human rights (cf. Wain, 1997; Saich, 1997).

One area of human rights in China is under-appraised in the West. It is common to read that, in China, "minority rights are suppressed" (Washington Post March 25, 1997) or that PRC authorities "seriously suppress and persecute the ethnic and democratic consciousness of minority nationalities" (Asian Political News, 1996). Minority rights in China are, however, a complex matter. Anthropologists argue that reform-era policies have led to a reflorescence of minority identities (Wu 1990; Gladney 1990; Bjorn 1994; Hansen 1995) and
scholars note that, although separatist sometimes taken advantage of its tolerance of ethnic diversity, the PRC has not retracted policies that encourage the maintenance of ethnic identity (Dreyer 1996:302).

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. These laws have not eliminated, but only altered, the nature of inter-ethnic and minority-state contradictions, as PRC commentators acknowledge (cf. Ma Weiliang 1990). The web of laws to promote minority rights in China are, however, more than mere window-dressing.

**Minority Rights in International and Domestic Law**

Both international and domestic legal systems seek to regulate ethnic relations. 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 many entitlements for disparate marginalized groups, ethnic and otherwise, which taken together are a numerical majority (Nesiah 1997). In most states, however, the law of ethnic relations vindicates the rights of the minority, which the UN Sub-Commission on the Prevention of Discrimination and Protection of Minorities Special Rapporteur defines as a group 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 (Capotori 1979).

"Minority rights" provide the same legal entitlements as are received by ethnic majorities and such additional rights as are necessary to preserve minority ethnic identity and compensate for discrimination. The degree to which "minority rights" have been implemented in China is contested, but most Chinese know that millions of citizens who were previously classified as members of the Han majority changed their status to minorities during the 1980s and 1990s in order to obtain the benefit of various "minority rights" (Reuters May 17, 1993; November 16, 1995).

In China, the only recognized minorities are ethnic (shaoshu minzu) and it is their rights that "ethnic law" (minzu fa) advances. Section Seven of the PRC's 1997 "White Paper" on human rights, for example, is entitled "Guarantee of the Rights of Ethnic Minorities" (Xinhua March 31, 1997). Arts. 8 (14), 9 (12-13) and 62 (5) of the "Organization Law for Local People's Congresses and Local Governments at all Levels" (Xinhua February 28, 1995a) command these organs to ensure the rights of minorities, take specific steps suited to their characteristics and respect their customs. Minority rights moreover are broadly construed in China. These rights are not only civil and political, e.g. minority proportionate political representation, but also (or even mainly) economic, social and cultural, the very class of rights that is the focus of the official PRC discourse of human rights (cf. Deutsche Presse-Agentur, April 7, 1997).
This essay will argue that the elaborate legal structure of minority rights in China is a mechanism to create a loyal minority middle class. In that regard, China's goal is identical to that of other states, such as Malaysia, where ethnic relations law has created well-off "ethnic" strata who substantially owe their prosperity to the state (Puthucheary 1993:32). This policy is not without its paradox in the Chinese context: minority elites are enjoined to be "politically loyal and professionally competent." (Xinhua June 30, 1995). They must do so, however, within a nationalist developmentalism that replicates and even exacerbates traditional hierarchies that valorize Han-ness and privilege it over minority ethnicity. The legal framework of ethnic relations remains embedded in a modernization strategy premised on uneven development between a spatial, political and cultural Han core and a minority periphery. It thus remains a problematic guarantor of minority rights.

The legal structure, with its provision for limited ethnic self-rule and proliferation of preferential policies (youhui zhengce), does benefit almost all minority people. At the same time, it has three major weaknesses. First, the law has yet to provide unquestionably "genuine" autonomy to minority areas. PRC minority autonomy involves fewer powers than are minimally needed to meet conceptions of autonomy held by scholars outside the PRC.

Second, the law is not strong enough to 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 March 8, 1997; Wu Jiamin 1996:5). The overall growth, however, masks a large and increasing income disparity between minorities and Han, a tendency worrisome to minority and national leaders alike (Hu Angang 1994; Xinhua October 2, 1996). A rising tide may be lifting the boats of all ethnic groups, but the Han boat is generally rising much faster than those of the minorities.

There are numerous ways in which this gap has been described. The 1981 rate of economic growth 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). There is now a 20:1 wealth gap between the coastal and heavily minority northwestern provinces (Moller 1995:13). The per capita GNPs of minority and non-minority areas in nine provinces in 1990 were in all cases significantly 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 April 25, 1993). Minority scholars argue that this gap creates an "ethnic psychological imbalance . . . which can emerge as an unfavorable factor for unity and stability" (minzu xinli de bu pingheng . . . hui chuxian yu anding tuanjie bu li de yansu) (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, including in the commercial sphere (Poston & Micklin 1993; Xinhua, December 4, 1996). This often leads to frictions because of historical animosities and cultural differences (Kostrzewa 1996:197). A former director of the United Front Work Department of the CCP acknowledged this phenomenon when he stated:

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, March 14, 1989).

Minority leaders, such as ex-Xinjiang governor and current NPC vice-chairman, Tomur Dawamat, recognize that minority people may feel overwhelmed by the encroachment of Han China. They thus oppose unlimited migration of Han to minority areas (cf. Xinjiang Ribao April 9, 1993). Wang Lequan, the Han party secretary for Xinjiang and the region's governor, Abdurahat Abdurixit, have both voiced opposition to a plan to move 100,000 people, almost all of them Han, from the Three Gorges Dam site to Xinjiang (Reuters March 19, 1997). Officials must know also that friction is caused in
part by Han condescension toward minorities and, on that account, minority people with greater contact with Han have higher ethnic consciousness than those with less contact (Ji Ping 1990:202-239). The central government, however, now promotes a Han-centered "racial" nationalism that further alienates the minority intelligentsia (Sautman 1997a).

The discourse and law of ethnic relations has important implications for China. Minorities are nine 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. They are only 45 percent of the 160 million plus people in the autonomous areas, (zizhi diqu), but the latter are two-thirds of PRC territory and contain most of its natural resources (Zhongguo minzu jingji 1994:222-224; Jiao Shuqian 1996; Xinhua, April 2, 1997; February 14, 1996; Hasi Bagen 1995). The popular aphorism of China as "di da wu bo" (a large territory and abundant resources) is due to the minority areas.

We are reminded daily of what the PRC describes as its "grim struggle" with separatist forces (Xizang Ribao February 14, 1997; Wang Lequan 1996). Whether China’s territorial integrity perdures will, in large measure, be a function of the skill with which the PRC government enhances the law of ethnic relations.

**Background to Minority Rights in China**

The 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 were a legitimate international concern and 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 development of the international law of minority rights blossomed in the 1980s and 1990s with the promulgation in 1992 of the UN 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

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 of states to strengthen domestic minority rights legislation (cf. Xinhua April 16, 1996).

In fact, China itself has long offered a modicum of customary protection of minority rights. Some specification of minority rights existed in the dynastic era (Phan 1996:85-86), over centuries of imperial expansion, genocidal campaigns against rebellious minorities, the extirpation of minority cultures and pervasive "racial" condescension (Chu Wen-Djang 1966:1-22; Wang Jianping 1996:Ch. 8.5; Ge Li 1992:Ch. 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, such as the Constitution of 1946. These sections, however, were mere 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 CCP’s early laws in the "liberated areas" promised full equality for minorities and, for a few years in the early 1930s the Jiangxi Soviet constitution even mooted the possibility of minority secession. The CCP-led Border Areas government changed this policy in 1938 to one of ethnic minority autonomy (Brandt 1952:219-224; 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" and announced a "Common Program of the Chinese People’s Political Consultative Conference [CPPCC] Concerning the Minority Nationalities" on the eve of the founding of the PRC in 1949 (Mao 1954:411-424; Common Program 1949).

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 400 at the outset to 55 when the process was brought to a close (cf. Heberer 1989:Ch.3; Fei 1981; Dreyer 1996:297). 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 (cf. Cheung 1996; Harrell 1996; Gladney 1996:296).

At the same time that identification was advancing, the first national constitution (Excerpts . . . 1954), the "General Program of the PRC for the Implementation of Regional Autonomy" (1952) 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 highly circumscribed due to a lack of enabling legislation and central authorities also dissolved autonomous areas at will (Moseley, 1973:78; Goodman, 1986; Heberer, 1989:41-42).

A subsequent Cultural Revolution-era constitution (Excerpts . . . 1975) reduced even the formal autonomy provided earlier. The first post-Cultural Revolution constitution (Excerpts . . . 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 Constitution of 1982 (Phan 1996:93; Constitution of the PRC, 1994:Art. 119). Minority rights, as something more than moral entitlements revokable with changes in the political winds, were only seriously considered from the 1980s, not coincidentally at the same time that such rights gained a place on the international agenda.
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, June 24, 1993; PRC Foreign Ministry 1996:8). Of some 200 NPC laws and State Council (SC) regulations created in 1979-1995, at least 40 contain provisions that deal with "ethnic issues" (Xinhua March 3, 1996).

Statistics of this kind are deceptive, however. Some provisions do no more than reiterate that autonomous areas have the power to adapt, modify or supplement national laws according to local conditions, a power already given these areas under the 1984 Law on Regional Autonomy (LRA) (minzu quyu zizhi fa) (Laws of the PRC 1987:87-101). Mere reiteration is made in the Law on the Protection of Women’s Rights and Interests Art. 53 (1992)(Xinhua April 7, 1992), the Adoption Law Art. 20 (1991)(Xinhua December 29, 1991), the Civil Procedure Law Art. 17(1991)(Xinhua April 13 1991), the State Budget Administrative Regulations Art. 23 (1991)(Xinhua November 2 1991) and the Law on Protecting Rights and Interests of the Elderly Art. 49 (Xinhua August 29, 1996).

Other provisions are little more than exhortations to take minority interests into account. Art. 52 of the Prison Law (1994) (Xinhua December 29, 1994) calls
for considerations to be given to minority prisoner customs. The Physical Education Law (Xinhua August 29, 1995) Art. 6 tells the state to cultivate physical education personnel in minority areas. Art. 10 of the Education Law (Xinhua March 20, 1995) calls upon the state to help minority areas with educational undertakings.

There are laws in which rights are more concrete. The Tobacco Monopoly Law Art. 6 (1991)(Xinhua June 29, 1991) holds that the state's monopoly in the autonomous areas must "give preferential treatment to their tobacco growers and manufacturers." A Delegate Law of the NPC and of Local People's Congresses ... Art. 38 (1992) (Xinhua April 6, 1992) stipulates that minority delegates receive special assistance in terms of language and customs. The Education Law Art. 12 declares that minority area schools may use local languages for instruction -- although in practice, schools at all levels are now bi-lingual (Xinhua April 17, 1997) -- and Art. 56 orders the SC and local governments to set up special education funds for minority areas. Mineral Resouces Law Art. 10, a provision added at the instance of NPC Standing Committee (NPCSC) members Wu Jinhua (an Yi), Li Xuezhi (a Han) and Tao Aiying (a Zhuang), (Xinhua, August 30, 1996; June 2, 1996), orders the state to take minority interests into account in exploiting mineral resources. The Township Enterprises Law commands the state to support township enterprises in minority areas through tax and credit mechanisms, another provision inserted at the request of
NPCSC minority members (Xinhua October 29 1996; Zhongguo xinwen she, October 29, 1996).

Even highly specialized legislation may contain provisions granting special rights to minorities. NPCSC 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 December 21, 1995). A provision in the "Regulations on Hiring People's Police for Public Security Organs" (1996) raises the maximum age for police job applicants in minority areas five years beyond the limit set for the rest of the country (Renmin Gongan Bao September 28, 1996:2).

Provincial and local governments have also enacted minority rights laws. For example, Jiangsu province adopted a 1997 "Law to Protect Minority Rights." It requires officials to publicize national laws on minorities, mandates that localities respect their customs and work out detailed plans to appoint minority officials, and bans discrimination against or the humiliation of ethnic minority groups by the media (Xinhua January 10, 1997). 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 April 16, 1997). Earlier laws need revisions to account for socio-economic changes and there have been calls by minority officials to revise them with an eye to strengthening minority rights (Xinhua, August 6, 1995a).

**Protections Against Ethnic Disparagement**

PRC Constitution Art. 1 states that "it is necessary to combat big-nation chauvinism, mainly Han chauvinism." Art. 4 proclaims the equality of nationalities and prohibits acts based on "great nation chauvinism" (da minzu zhuyi) and "local-nationality chauvinism" (diqu minzu zhuyi). In its initial decades in power, the CCP acknowledged the role of "Han chauvinism" in ethnic tensions (cf. Kostrzewa 1996:95 fn. 123). At the time the Constitution emerged, the CCP position 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 December 4, 1995). Since the promulgation of the 1982 Constitution, however, measures against acts committed by Han people who denigrate minorities have only rarely been announced.

The state acted in 1989 against authors of a widely-protested book entitled Sexual Customs (Xing Fengsu) that compared Islamic religious edifices to sexual
organs. The editors of the text were "held in custody" under Shanxi provincial regulations and re-arrested after Muslims offered a reward for their deaths (Gladney 1996:4-7; Zhongguo Tongxun She May 17, 1989). In response to protests by Muslims, punishments were levelled in 1993 against 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, October 12, 1993; Ma Ling, 1993).

"Han chauvinism," however, is mainly treated today as if it were basically a pre-1949 phenomenon (cf. Xinhua, August 18, 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 (cf. Sautman in progress; Fang & 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 1985:85).

There are many reports of Han deprecating the intelligence of Tibetans (Grinspoon 1994; Donnet 1994; Sun 1994; Bass 1992). A survey of Xinjiang
Han indicates that many regard Uygurs as "dirty," "uncivilized" and "not very smart" (Ji Ping 1990:209, 240-241). These same stereotypes, which were historically used by Han to defame frontier peoples (cf. Rossabi 1975:18-22), are also commonly applied today to Tibetans, Mongols and other minorities (Khan 1996:129, 147).

In contrast, "local nationalism" is forcefully repressed in China. According to the UN High Commissioner for Refugees, thousands of participants in "splittist" activities in Tibet, Xinjiang and Inner Mongolia are in prison (IAC Newsletter Database, 1997; Agence France Presse March 24, 1997). While the punishment of separatism is lawful under international norms, restrictions on voicing ethnic-based grievances are another matter. Non-separatist minority officials and intellectuals remain circumspect about voicing criticisms of minority policy, out of fear that they may be deemed sympathetic to "local nationalism" and lose their positions or be denied promotion.

In short, the right of Chinese minorities to be free of "Han chauvinism" has in the reform era, been 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, June 29, 1987). The following year, the then-CCP chief, Zhao Ziyang, stated that racial discrimination is common "everywhere in the world except China" (Roche, 1988).

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In a few instances ethnic conflict has been acknowledged. An SC document has spoken of "incidents detrimental to inter-ethnic unity" (Xinhua January 12, 1992). Jiang Jiafu, vice-minister of the SEAC, has stated that "disregard of ethnic conventions and harming ethnic people’s interests take place" (Xinhua December 4, 1995). In a report to the CERD, the PRC Foreign Ministry (1996:10) claimed that "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 SC’s Bureau of Foreign Intellectual Transfer and Foreign Experts, was closed for reporting "'riotings by minorities, thus, bringing unhealthy social influences" (AFP, March 22, 1997).

The official PRC ideology also plays a role in promoting Han chauvinism. The 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" (bijiao luohou) (cf. 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 sytems developed by Han (Chinese Academy of Social Sciences 1988:1255-1258; 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, August 6, 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" (Cheng Xinzhe 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, December 6, 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 (cf. Harrell 1994; Beijing Review July 25, 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). Minority people are aware, however, that assertions of minority "backwardness" represent a disdain that reinforces Han identity and "others" minorities (cf. Hewitt 1994; Southerland 1987; Gladney 1992:18). The Criminal Law of 1979, Art. 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 6:7). LRA Art. 9 prohibits "Discrimination against and oppression of any nationality" and acts

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which undermine inter-ethnic unity. This precatory provision was not implemented until 1997. At the suggestion of a minority NPC member from Yunnan, Ma Kaixian, three provisions on minority rights were added to the Criminal Law of 1997 (cf. Su Ning 1997):

Art. 249. 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. 250. 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. 251. 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 (Xinhua March 17, 1997).

Whether the criminalization of Han chauvinism will be enforced remains to be seen. Sections 250-251 presumably cover group slander against minorities. Section 249, however, may end up mainly serving as another weapon against "local nationalists."

Education is a key element in combatting prejudice (cf. NGO Subcommittee 1996) and the Regulations on Work with Urban Ethnic Minorities, Art. 17 (Xinhua October 22 1993) does 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.

There has been no sustained effort, however, to inculcate Han with respect for minority contributions to Chinese and world development. An SC document states that "Various kinds of schools at all levels should offer courses on ethnic minorities and on policies related to ethnic minorities" (Xinhua January 12, 1992), but these are offered only at minority schools. Ethnic unity meetings and unity months exist and prizes are given individuals who contribute to inter-ethnic harmony (Minzu Tuanjie 1994; Zhang Lifang 1994). These efforts are largely horatory, rather than educative. However. Only rarely do news reports emerge that have some potential for altering stereotyped images of minorities among the larger population; for example, a feature about contributions of minority scientists to the economy of Inner Mongolia (Xinhua April 9, 1997) or a television program on the advances of minorities generally (Xinhua, December 27, 1996). The view of Chinese minorities as exotic and inferior thus largely remains unchallenged in the PRC (Gladney 1994).

Ethnic Minority Autonomy

The Law on Regional Autonomy

The official discourse of minority rights in China gives pride of place to the system of regional autonomy (cf. 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" (education, culture, the environment, sports, health care and science & technology) and some sensitive policies, such as power over the transient population and family planning (Phan 1996:99). For example, not only are an array of special benefits promised to minority areas under the Program for the Reform and Development of Education in China (1992), but under the Guidelines on the Implementation of the Compulsory Education Law Art. 25 (1992), "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.

Art. 4 of the PRC Constitution states that "regional autonomy" is practiced by minorities living in compact communities and that these groups 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 these areas to organize local public security forces (Art. 122-123).

The LRA 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 Art. 118 of the Constitution and Art. 19 of the LRA, autonomous area laws, including statutes and regulations that govern the exercise of autonomy (zizhi fa; zizhi tiaoli), must be approved by higher bodies; those of the five autonomous regions (Inner Mongolia, Guangxi, Ningxia, Xinjiang and Tibet) must be approved by the NPCSC; those of the 30 autonomous prefectures and 124 autonomous counties must be sanctioned at the provincial level.

These limitations on freedom of action are formidable obstacles to the expanded autonomy for minority areas sought by some Chinese scholars (cf. Jin Yongchun 1993:18). The genuineness of autonomy cannot be assessed, however, solely by reference to its apparent limitations, but must also be evaluated in relation to international standards and to the rights and privileges actually provided to minorities. Hannum (1990:468) has set out a list of powers that characterize a "truly autonomous region":

* 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;
* joint authority over matters of common concern, such as ports, police and exploitation of natural resources.
PRC autonomous areas have locally-elected legislatures with some independent authority and most local deputies are minority people. Mongolians account for three or more times the number of local deputies in Inner Mongolia than their numbers would warrant, while in other autonomous areas (except Tibet) minorities in local congresses equal or exceed their proportions in the local population (Chao 1994:105-106). Tibet's population is officially 94 percent minority and in the 1980s, the 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 are 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).

Organs of autonomy do "have the power to adopt special policies and flexible measures in light of local conditions" (LRA Art. 6). They may modify or reject any "resolution, decision order or instruction" of a higher level organ of power, but only with the approval of that organ (Art. 20). In contrast, under the Local Organic Law and Local Government Organization Law, most non-autonomous areas have not been permitted to pass laws in conflict with the Constitution, laws, policies, decrees or administrative orders of the state (Chao 1994:111; Xinhua February 28, 1995a).

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 the 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 Hannum's criteria.

The enactment of regulations by provinces to implement the LRA began in 1992. In 1992-1996, 12 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).

The LRA calls for preferred hiring and promotion of minorities in enterprises, institutions and public security forces (Art. 22-24, 62) and gives a greater say in economic affairs to autonomous areas than was the case for other PRC sub-national jurisdictions in the 1980s (cf. Art. 25-35). Many economic rights that these provisions specify, however, have by now been generalized to the PRC as a whole. The same is true with some LRA provisions on education, health care and culture (Art. 36-45).
There remain several LRA provisions which do allow for valuable rights of variation from national norms. Art. 44 states that "In accordance with legal stipulations" autonomous areas can work out their own measures of family planning." 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 (cf. Sautman, 1996). LRA Arts. 37 and 47 allow for use of local languages in schools and courts, while Art. 49 provides for incentives for bi-lingualism among officials. Art. 56 mandates that the state set aside special funds to develop minority areas, over and above "normal budgetary revenues." Art. 65 requires the establishment of minority research institutes and universities and that 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 real boon in light of the high percentage of minority people who remain on the land.

**The State Council’s Minority Regulations**

The SC promulgated three sets of regulations on minorities in the early 1990s. The "Circular on Some Questions about Further Implementation of the LRA" (Xinhua January 12, 1991) commands that state investment in minority areas
during the Eighth FYP 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 areas within their jurisdiction (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 proportion of taxes and profits retained in autonomous areas are to be higher than in non-autonomous areas (Point 3). Banks are encouraged to extend credit to minority areas and a disproportionate share of relief funds are to be sent there. Various plans for scientific and technological development in minority areas are to be implemented (Points 5-7). Colleges are to give minorities "priority over others with equal qualifications" and set up preparatory courses for them (Point 8). The mass media in minority languages is to be expanded, as are health care and sports systems (Point 9). Art. 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 September 29, 1994; Hua Juxian 1994:20). 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, October 3, 1991). About six million minority people lived in minzu xiang alone in the early 1990s (Xinhua, January 4, 1992). The "Regulations on the Administration of Ethnic Townships" (Xinhua,
October 22, 1993), the second major set of minority rights regulations, provide that a province may create a minzu xiang where a township’s population exceeds 30 percent minority (Art. 2). Ethnic township governments are to be staffed "as fully as possible" by minorities and use minority languages (Arts. 4-5). Their "excess revenues and expenditure surpluses" are to be retained by the townships. Easy credit, tax exemptions and reductions and special funds and materials are to be provided to economically underdeveloped townships (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 with students supported 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 (Arts. 11-14). Superordinate governments are supposed to send down teachers, doctors and scientific and technical personnel to minzu xiang and encourage volunteers through preferential treatment (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 government subsidies that now total 30 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; Zhongguo renkou tongji nianjian

Within these constraints, rural minorities do generally govern their townships and have, in places, made educational, health care and economic advances due in part to the preferences set out in the Regulations (cf. Sautman & Bilik, in progress).

At the same time that the township regulations were promulgated in 1993, the SC issued "Regulations on Urban Nationality Work." These also include preferences: for minorities to be hired to do political work among minorities (Art. 7), for funds and teachers to be allocated to minzu ban and ethnic schools, and for minority applicants in admission to high schools and colleges (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 (Arts. 10-14, 18). Urban minorities are to enjoy the use of their own languages and ethnic health care where needed (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 (Art. 22-26).

**Discontent with the Present Scope of Autonomy**

Many minority rights laws and regulations are too general to be useful or are outmoded, reflecting the mid-1980s PRC political economy. Some provisions do, however, provide a measure of autonomy, useful preferences or
representation at levels of administration that most affect the interests of minorities. Their leaders view autonomy as valuable enough to push for more autonomous areas. Forty-seven were created in 1984-1994 alone, so that the system of autonomous areas covers 45 of the 55 ethnies, who in turn encompass 90 percent of the minority population (Renmin Ribao September 20, 1994; Xinhua August 25, 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 problematic scenario (there is already a TAR), Qinghai’s leaders want it to have the same preferential treatment given the TAR, including increased state investment and exemption from tariffs for certain imported goods. Autonomy is also said to be 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 March 6, 1995). Minority people also perceive that benefits accrue from broader autonomy. In riots in Kashgar, Xinjiang in 1980, Uygurs demanded that Xinjiang be given the broader autonomy enjoyed by Tibet (Kostrzewa 1996:182).

In the late 1990s, however, dissatisfaction with the degree of autonomy allowed minority areas has surfaced among local leaders. One reason is that the LRA still "does not command sufficient respect among central government
departments" (Chao 1994:116). More importantly, the developmental advantages provided by the autonomy scheme have diminished as economic reform has accelerated in the 1990s. Minority leaders grumble about the "half-legislative power" accorded autonomous areas. Some venture that minority areas now have less autonomy than coastal Special Economic Zones (Shenzhen, Zhuhai and Shantou in Guangdong, Hainan province, Xiamen in Fujian, and Shanghai’s Pudong area), 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 March 5, 1997; United Press International March 17, 1996).

In 1996, party secretaries of seven provinces petitioned the CCP Politburo for a "radical devolution of authority." The 1997 Fifth Session of the NPC provided a venue, in meetings between minority area delegates and top central officials, for voicing demands for greater autonomy. Reportedly, "leaders from several western and northwestern provinces pressed Beijing for 'Hong Kong style autonomy.'" A number of scholars in Beijing thinktanks also advocate a legal institutionalization of greater power-sharing between the center and minority areas (Lam 1997).

Important minority leaders in the NPC have demanded revision of the LRA. Standing Committee Vice-Chairman Bu He, a Chinese Mongolian and former governor of Inner Mongolia, stated in 1997 that "The 1984 law on regional
autonomy should be revised under the new situation of building China’s socialist market economy." Bu He urged an acceleration of the drafting of supplementary legislation and indicated that new laws and regulations to supervise the implementation of ethnic policies will soon emerge (Xinhua April 2, 1997; April 30, 1997). His comments are a response to a dissatisfaction among minority leaders with the growth of the gap between minorities and Han (cf. Tang 1997) that contrasts with the paens to the LRA published on the tenth anniversary celebrations of the law in 1994 (cf. Renqing Bazhu & Anwang Luozhu 1994).

**Political Representation for Ethnic Minorities**

Art. 63 of the Constitution provides for "appropriate representation" for minorities on the NPCSC. Minorities in fact are overrepresented in the NPC and CPPCC leaderships (cf. Xinhua February 20, 1993; March 27, 1993), but somewhat underrepresented among Ministers of the SC. Two of 46 SC ministers elected by the Eighth NPC are minorities, the head of the State Ethnic Affairs Commission (a Uygur) and the Minister of Water Resources (a Manchu) (*China’s New Leaders* 1993). A third minority soon joined the SC, a Tibetan who heads the Ministry of Civil Affairs. Minorities were quite underrepresented at the sub-ministerial level in SC organs and among high PLA officers in the 1980s (Sugimoto 1993:27-30; Cabestan 1988:76) and it is unclear whether there has been substantial improvement in that regard.

Minorities have been proportionately represented at national CCP congresses
and overrepresented on the CCPCC (Sugimoto 1993:26; Zhongguo minzu tongji nianjian 1994:417; Xinhua, March 3, 1996; Zang Xiaowei 1993). They are underrepresented in the CCP as a whole, however. Minorities were about 5.7 percent of the CCP’s membership in 1990, a figure only 0.2 percent higher than in 1957 (Mackerras 1994:157). CCP leaders are aware of this problem and 7.3 percent of new recruits in 1995 were minorities (Reuters June 13, 1996). Still, there are no minorities at all in the Politburo and in many autonomous areas most party leaders are Han (cf. Kostrzewa 1996:240; China’s New Leaders 1993).

The Electoral Law of 1982 stipulated that minority delegates should account for around 12 percent of the NPC, at a time when minorities were 6.7 percent of the population (Dreyer 1996:296). Some 14.7 percent of the 2,980 members of the Eighth NPC (1992-1997) are minorities, as are 11.5 percent of the 2,093 members of the Eighth CPPCC (Zhongguo minzu tongji nianjian, 1994:417). The NPC, it should be noted, is no longer a rubber stamp. Strong votes are now amassed against some CCP-backed measures in recent legislative sessions, although an oppositional majority has yet to emerge against any measure (Reuters, March 14, 1997). NPC delegates actively propose and modify legislation (O’Brien & Li 1994; Dowdle 1996). Many minority rights provisions of the 1990s have emanated from the NPC’s Nationalities Committee, headed by Wang Chaowen (a Miao). Four of its five vice-chairs and 17 of 19 ordinary
members are minorities (Xinhua March 29, 1993). Even the CPPCC, 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 Tarn How March 4, 1995; Chai 1997; Chan 1996:174). The CPPCC Subcommittee of Nationalities and Religions, with some 150 members (Xinhua March 5, 1997) mainly carries out investigations, but its work sometimes leads to NPC or SC initiatives.

LRA Art. 12-18, replicating Art. 114-116 of the Constitution, allow minority area bodies to reserve a proportion of seats for the titular group and other minorities and mandates that the top autonomous area government post and either the chair or a vice-chair of local people's congresses be held by a titular group member, as may be other locally-determined positions. A mechanism to guarantee minorities proportional representation and, in some cases, super-proportional representation, is set out in Chapter IV of the Electoral Law of 1995 and local autonomous laws (Xinhua, February 28, 1995b; Chao 1994:105, 108).

**Minority Rights and the Growth of a Minority Middle-Class**

For many minority people, the key minority "representatives" are not be elected delegates, but co-ethnic cadres. These officials are the backbone of the new minority middle class. Minorities frequently interact with grass roots cadres, who in turn are "represented" by higher-level minority cadres.
The number of minority cadres expanded rapidly in the 1980s. In 1982 they were 4.8 percent of total (Tam & Wu 1988:86). In 1992, 2.3 million minority cadres accounted for 7.1 percent of the 32 million cadres in China (Pan Qi 1992) and by 1997 the number rose to 2.5 million (Xinhua April 25, 1997). Minority underrepresentation among cadres is mainly in Han areas; in some minority areas, there is overrepresentation (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 April 24, 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. There is a disproportionately high percentage of minority cadres at the regional level in autonomous areas (PRC Foreign Ministry 1996:12). Minorities are still underrepresented among technical and professional personnel (zhuanye jishu renyuan), however. For example, in 1995 about 47 percent of such cadres in Xinjiang and 72 percent in Tibet were minorities, in contrast to the 62 and 95 percent shares of minorities in the two regional populations. These cadres are nevertheless an important element in the new minority middle class: they are 180,000 of the 10 million Xinjiang minority people and over 20,000 of the two and one-half million TAR Tibetans (PRC Foreign Ministry 1996:13).
The increase in the minority middle class is the result of both educational gains and preferential policies. Increases in the educational attainments of minorities have been most marked in higher education, where they have approached their proportion in the population, reaching seven percent in 1991-1992 (Postiglione 1992; Sautman 1997b). In autonomous areas, higher education has expanded faster among minorities than among 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 1997b).

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, although in 1990 minorities were 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 positions are in business, although minority business people are still in a relatively weak position, even in minority areas (cf. 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 middle class.

**Conclusion**

The assertion that minority rights are systematically denied in the PRC is too facile and the Chinese government's charge that such claims may flow from ulterior political motives could well be right (cf. Xinhua March 26, 1997). Reform-era legal structures "genuinely" provide some important minority rights, including an array of entitlements not available to Han that minorities regard as making a difference in their lives. Minority leaders know the weaknesses in the law of ethnic relations and seem to be making an effort to meet some of the concerns of their "constituents."

None of this is to argue that the law of ethnic relations as it stands is adequate to "solve" the most pressing problems of China's minorities. The defamation of minorities cannot be abated mainly by criminalization, because whether penalties are imposed will be a function of the politics of the moment. China has noted that several states, such as Greece and Spain, have anti-racist education programs (Xinhua, March 14, 1994; March 26, 1994). Courses on minority contributions to science, technology, social development and politics and on minority cultures and experiences (including encounters with discrimination) are needed and should be mandatory for Han who migrate to
minority areas. 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. The PRC might also consider adopting the Singapore government's policy of a "racial quota" in publicly-owned housing (where 86 percent of Singaporans live). Most Singaporans have neighbors of varied ethnicities, while cities like Lhasa are residentially segregated (Home Affairs Branch 1997; Ma Rong 1991).

Ethnic autonomy should be expanded 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 (SOEs); in 1996, less than 40 percent was from SOEs and the proportion in 2000 is expected to be less than one-third (K. Chen 1997). Ethnic autonomy as elaborated in the early to mid-1980s was premised on a still largely planned economy in which sub-national 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 which have been given the greatest quantum of decentralized power -- the SEZs -- have also received a huge developmental advantage (Hu Angang 1995). The Chinese government needs to consider whether minority areas should have a "most favored area"
status entitling them to automatically 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 1995:428-429). This might take the form of genuine coalition governments in some minority areas (cf. Sautman & Lo 1995) and 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. The Chinese authorities should study the ways in which autonomy has been implemented in other countries (cf. Lapidoth 1997) and adapt useful 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 non-state 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 that ethnic nepotism 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 now not only in terms of income, but also as wealth. A 1994 State Ethnic Affairs Commission SEAC) report to the CCP Central Committee (CCPCC) 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: by mandating that Malays own a minimum percentage of the assets of all medium and large businesses and occupy a minimum number of managerial posts, it has created a well-off and empowered Malay middle class with a stake in cooperation with the better-off ethnic Chinese minority. Meanwhile, the latter continue to prosper in the fast-growing economy (Nesiah 1997; Puthucheary 1993). 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 among the poor in the PRC's minority areas. A necessary step to ensure that increased opportunities and benefits flow to minorities in China is to include minorities with strong grass-roots ties in the top CCP leadership and not only in the autonomous areas, but also at the national level.

The PRC law of ethnic relations 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. 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 only come to pass, however, if the PRC leadership directly and expeditiously addresses the multiplicity of minority needs for expanded human rights.
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