

China and the Principle of Self-Determination of Peoples

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ANONYMOUS

ABSTRACT

There are major differences between the Chinese Communists' pre-1944 and post-1944 policies with regard to the rights of non-ethnic Chinese. In recent years, the Chinese government has moved toward accepting the two International Covenants on human rights. Although these explicitly endorse the principle of peoples' right to self-determination (not to be confused with independence), the way that the Chinese government views its attendant obligations is inconsistent with the plain language of the operative legal instruments. The problem is complicated by the fact that the generally relied-upon Chinese versions of the relevant international instruments, which the Chinese government claims to accept in principle, are in certain crucial respects at variance from what the authentic versions actually say. There is also a disconnect between the way Chinese and Central Asians tend to view questions of territorial sovereignty. Some Central Asian peoples have gained their independence (from China and Russia), and some of China's subject peoples appear willing to accept present arrangements. For the others, the struggle continues. This article contextualizes the self-determination question in terms of Chinese territory and ideology. It also examines Chinese responses to modern international law and how China operates within the United Nations system and responds to UN values. It discusses China's perception of self-determination elsewhere, including the dissolution of federal and unitary states, and explores some of the implications of China's stand. The authors also suggest some possible alternative paths for effecting self-determination.

Introduction

The founding of the United Nations (UN) was, in part, to prevent or rectify victimization that comes about through aggression or threat of aggression.¹ The two international human rights covenants, the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic Social and Cultural Rights (ICESCR), explicitly endorse the principle that all peoples have the right of self-determination.² However, as we demonstrate below, China tries to rely on inauthentic versions of these treaties that deny the right of peoples

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to self-determination. Though it has not always been their position, the Chinese Communists now reject the idea that any portion of the territory they control is entitled to self-determination. They have grown accustomed to thinking of China, in its present delineation, as the product of historic necessity and geographic logic. The country is seen as comprising a multi-ethnic family inhabiting a self-defining geographic area. Many Central Asians, on the other hand, see current boundaries as arbitrarily attaching or dividing their nations, and view the present situation as one phase in their long struggle for nationhood and independence from China and/or Russia. Some of these peoples have been successful. For the others, including some now contained within the People's Republic of China (PRC), the struggle continues.

The existing situation lacks any semblance of self-determination, despite the fact that various ethnic minority areas in China have been designated "autonomous" province-level jurisdictions (or, within other provinces, sub-province-level jurisdictions). In Chinese, "autonomy" is 自治 (*zìzhì*), which literally means "self-rule." Although some cultural differences are accommodated in this system, China is still a unitary state. The so-called autonomous areas actually have even less political autonomy than the non-autonomous areas. For example, in normal provinces, the people's congresses are authorized to enact laws on their own authority; they need merely report them to Beijing after the fact. Autonomous regions, on the other hand, must receive *advance permission* to enact legislation, and such authorization is often withheld. Furthermore, the heavy hand of the Chinese military and national security apparatus is more in evidence in the "autonomous" areas than in non-autonomous areas.³ There is widespread dissatisfaction with this arrangement. Secession, however, is not the only alternative to the status quo; other options that we will discuss are worth considering.

Contextualizing Self-Determination in China

After the Chinese overthrew their Manchu rulers in 1911, the Chinese Republic claimed all the lands that had been part of the Manchu empire. Although at first this seemed like empty rhetoric, the Republic (1911-1949) was eventually to sustain its claim in many areas. This was in part a consequence of the country's association with the victorious powers in World War II. In the meantime, China's left took a different line. In 1920, just before he joined the Communist Party, Mao Zedong argued against national unification. Instead, he maintained that, not only ought the non-Han regions to be independent, but *all* of China's provinces should

become separate sovereign countries.⁴ In the 1930s, there was no more discussion of fragmenting the ethnic Chinese community, but when it came to other peoples, the Communists—eager to distance themselves from the ruling Guomindang (Nationalist) government—largely echoed Mao’s 1920 line.

Thus, Article 14 of the 1931 Communist state constitution recognized “the right of self-determination of the national minorities in China, their right to complete separation from China, and to the formulation of an independent state for each national minority.” Specifically, “all Mongolians, Tibetans, Miao, Yao, Koreans, and others living on the territory of China shall enjoy the full right to self-determination, i.e., they may either join the Union of Chinese Soviets or secede from it and form their own state as they may prefer.”⁵ By 1944, this policy had changed, with Mao now insisting that “all nationalities should have an equal and fraternal relationship under a united government of all.”⁶ Five years later, the Communists assumed power, and the 1931 pledge was completely abandoned.⁷ From then on it was insisted that the boundaries of the Chinese state would include all non-ethnic-Chinese peoples then under Chinese control as well as Tibet.

Today, with few if any exceptions, all countries accept China’s claims to territorial sovereignty over the territory it controls,⁸ including the larger part of the PRC where non-ethnic-Chinese predominate. Most countries also accept its claim to sovereignty over Taiwan. There are problem areas: China is not satisfied with having mere *de jure* sovereignty over Taiwan, and it insists that in due course this sovereignty be made manifest.⁹ Despite these issues, China’s sovereignty over the territories and peoples it controls goes unchallenged by foreign governments, if not always by international public opinion.

Chinese Responses to International Law

Overwhelming state recognition for a given territorial status is sometimes considered a powerful indicator of that status in international law. The question arises: should places like Tibet, Xinjiang, and Taiwan be treated differently? To answer this, it is necessary to consider the meaning of sovereignty and to examine the international legal principle of self-determination (a concept not to be confused with independence¹⁰), and the facts of China’s involvement with these outlying territories. In brief, our position is that although international recognition is indicative of the (political) opinions of the recognizing governments,¹¹ this has involved no judicial determination—for example, of the kind that has been made

82 in relation to some territories elsewhere by the International Court of Justice.¹² Therefore, international recognition cannot override the right to self-determination under international law if it can be shown that in a given case the relevant facts and the applicable law support the applicability of that right.

Under the traditional theory of state sovereignty, which has underpinned international law for more than three hundred years, the rulers of states determined among themselves which territories they would rule. This process, inaugurated by the Treaty of Westphalia in 1648, did not give any role to subjects. If sovereignty was not determined by conquest, it was decided by mutually agreed cession. More recently, the basic requirements of sovereign nationhood were spelled out in Article 1 of the 1933 Montevideo Convention on the Rights and Duties of States. According to this Convention, a sovereign state should have a permanent population, a defined territory, a government, and the capacity to enter into relations with other states.

However, all this must now be supplemented, and (in any case of conflict of principles) superseded, by the right of self-determination. This principle has received such widespread recognition in the years since the Second World War, notably through its inclusion in the two international human rights covenants, that it may be regarded as having the status of international customary law, even for countries which are not parties to the covenants.¹³ Furthermore, the Montevideo Principles are a normative statement of the expected attributes of a sovereign state, and thus appear to be minimum criteria. Therefore, they cannot be taken to mean that if the four Montevideo criteria are met (for example, by an imperial state in relation to a dependent territory), sovereignty over the subject peoples becomes unchallengeable and immutable, inasmuch as that would be inconsistent with the right to self-determination. In addition, the “defined territory” criterion is unsatisfactory since it begs the questions of who defines the territory and to what extent challenges to a government’s definition of its territory undermine the claim to territorial sovereignty.

Nonetheless, it is worth noting that the Montevideo principles could be applied to our areas of concern. If one leaves aside the “defined territory” problem, Tibet and Taiwan seem to have met the Montevideo criteria in 1949.¹⁴ Large parts of Xinjiang¹⁵ and all of the other territories populated by non-ethnic Chinese may not have done so in modern times. However, it is our argument that this is not determinative of whether these territories had or have a right to self-determination, as this depends not on whether they meet the Montevideo criteria, but

on whether they are capable of meeting the separate criteria for self-determination discussed below.

Modern international law was largely a Western invention. This applies particularly to the doctrine of state sovereignty. It is, therefore, not surprising that China's explanation of its claim to outlying territories tends to be based less on international law than on history—albeit history “with Chinese characteristics.” The histories of these areas are too complex to be handled adequately in a short article, but to begin with, any objective account would have to highlight the following two facts: (1) China's northern border is largely the product of agreements between the Manchus and Russians, and later between China and the Soviet Union. These agreements tended to be at the expense of the other nations sandwiched between the two. (2) Most of Tibet came under Chinese rule only in the 1950s, through a combination of actual and threatened military invasion; before then that country basically met the four requirements of the Montevideo Convention. We will return to Taiwan and Xinjiang later.

No Westphalia-type system existed in Asia until well into the nineteenth century, when the concept of state sovereignty began to find favour there. However, as elsewhere, the concept came into conflict with nationalist aspirations and with a new idealism that held that peoples should have the right to determine their national status. At the Paris Peace Conference after World War I, US President Woodrow Wilson pushed for a peace settlement based on the principle that “every territorial settlement in this war must be made in the interest and for the benefit of the populations concerned, and not as a part of any mere adjustment or compromise of claims amongst rival states.”¹⁶ In the end (contrary to Wilson's intent), this principle was applied selectively, usually where it coincided with the interests of major players. Often it was flagrantly ignored, for example in the transfer of the former German treaty port of Qingdao to Japan against the wishes of its Chinese inhabitants.¹⁷

By the end of World War II the overall situation had changed. When the United Nations was established it was accepted in principle that peoples had the right of self-determination. This was expressly stated in the UN Charter (Art. 2.1). All states that became members of the United Nations have, by virtue of their ratification of its Charter, accepted that there is a right of self-determination of peoples. As this right represented a potential challenge to the European colonial empires that still existed in the late 1940s, such countries were generally reluctant to reiterate it, and it was not mentioned in the 1948 Universal Declaration of Human Rights. In the years that followed, many new Asian and African states lost interest in self-determination, feeling either that the battle had been

won, or that their fragile countries' gains—in terms of freedom from foreign domination—might be at risk of being undone by disintegration brought about by separatist movements.

This latter consideration partially explains the Chinese Communists' aforementioned shift in policy and was one of the reasons why, in 1955, the Bandung (Indonesia) conference of Third World countries enshrined the principle of non-interference in other countries' internal affairs.¹⁸ An objective of many of the thirty countries that participated at Bandung was to ensure that their own ethnic minorities should not be able to call on external assistance in any effort to secure their perceived rights. To this end, governments were willing to agree that they would not interfere by assisting any separatist movements in other countries. Some calculation of this kind seems to have influenced India's change of position in the 1950s in relation to Tibet. Whereas in 1950 the Indian position had been that Tibetans had the right of self-determination,¹⁹ by the time of Bandung, India was prepared to acquiesce in China's occupation.

Despite these setbacks, the idea of self-determination of peoples did not die, not least because there were still active decolonization struggles in many parts of the world. In the early 1960s, the United Nations agreed that there was an international obligation to recognize the right of self-determination and, in 1966, wrote it into the very first articles in the two human rights covenants (hereafter "Joint Article 1"). Unfortunately there has been no consensus about what the right means. To its champions it means what it says. To Communists and Soviet-influenced countries, it generally means the right to have a form of government that is "socialist" in the political sense. The governments of the larger, newly established, multi-ethnic nations—including China—considered themselves exempt, viewing the right as being directed solely against European and Japanese colonialism. But many continue to reject this exemption as morally objectionable and legally untenable. Indeed, the 1975 Helsinki Declaration reaffirmed that the right of self-determination is not limited to peoples who were colonized in such a narrow sense of the word.²⁰

China in the United Nations: System and Values

For the first quarter century after its establishment in 1949, the Chinese government showed little concern for the finer points of international law. However, within five years of the PRC's 1971 admission to the United Nations, the two international human rights covenants were ratified by enough countries for them to enter into force. The Chinese

第一條

一、所有民族均享有自決權，根據此種權利，自由決定其政治地位及自由從事其經濟、社會與文化之發展。

二、所有民族得為本身之目的，自由處置其天然財富及資源，但不得妨害因基於互惠原則之國際經濟合作及因國際法而生之任何義務。無論在何種情形下，民族之生計，不容剝奪。

Reproduced above is the authentic text of the first two paragraphs of Article 1 of the International Covenant on Economic, Social and Cultural Rights. Note that *minzu* (ethnic groups) are given the right of self-determination, whereas later there would be an attempt to substitute the term *renmin* (citizenries).

found themselves confronted with the norm they thought they had successfully avoided by virtue of the 1955 Bandung agreement. Terms like “nationalities” and “peoples,” which in China had taken on “Chinese characteristics,” were cropping up in new contexts among peoples who did not accept Chinese definitions.

Although the term “peoples” is never altogether precise, it definitely has ethnic connotations.²¹ The Chinese-language versions of the authentic covenants acknowledge this fact, with the word “peoples” correctly rendered 民族 (*minzu*), literally meaning ethnic groups.²² Until recent times the term *minzu* was generally translated into English as “nationalities.”²³ However, by the 1970s, Beijing was becoming alarmed at the notion that its fifty-five²⁴ officially recognized nationalities (not to mention all the unrecognized ones) might be entitled to self-determine. Eventually, in a process that is still not fully understood, China managed to effect, or at any rate take advantage of, a change in UN and popular parlance stemming from a disparity between the covenants and widely available revisionist versions of those covenants. The covenants are actually long quintringual documents that were approved by the UN General Assembly in 1966.²⁵ Most of the discrepancies between the authentic and revisionist Chinese versions are not relevant to the subject of the present paper,²⁶ but one is crucial.

These days the English word “peoples” is usually rendered by the Chinese as 人民 (*renmin*), having the same meaning as the plural word “people,” or perhaps “citizenry”; it is not the equivalent of “a people” or “peoples.” *Renmin* has no ethnic connotation. All citizens of China (including, in the PRC’s view, the Taiwanese) comprise a single, indivisible *renmin*. China has since “ratified” such an adulterated version of the ICESCR and signed (but not ratified) a similarly adulterated version of the other covenant—the ICCPR. For our purposes, the details of this little-studied and, in terms of Chinese domestic law, perhaps unnecessary²⁷ *léger de main* are not too important. What is important is the question of whether China has actually ratified (or signed) *the* covenants, or whether they merely ratified (or signed) a spurious set of instruments that *purport* to be the covenants. The latter appears to be the case.²⁸

Although the term *renmin* in this context is widely used,²⁹ to this day the authentic, if rarely referenced, versions of the covenants use the term *minzu*, not *renmin*.³⁰ Some may argue that the term *renmin* cannot be challenged because it has gained such currency in UN Chinese-language discourse. This notion, which we reject, would leave the Chinese and non-Chinese translations substantively different—in each case the Chinese and non-Chinese covenants simply would not comprise the same treaty. At any rate, no one seeking redress under a treaty has to rely on a version in any particular language; China’s peoples could select, for example, the official French version.³¹

The Charter of the United Nations presents special problems. The Chinese translation was carried out by Chinese Nationalist representatives at San Francisco in 1945. It is now accepted that it contains errors,³² but no changes have been made to the official document. On the self-determination question, it is stated in Article I, Section 2 that one of the purposes of the organization is “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples [*renmin*], and to take other appropriate measures to strengthen universal peace” (发展国际间以尊重人民平等权利及自决原则为根据之友好关系, 并采取其他适当办法, 以增强普遍和平). There are two possible ways of viewing this use of *renmin*. One is that it was simply a mistake in translation. An alternative, less-likely explanation is that in 1945 the use of the term *renmin* was deliberate,³³ and that the use of the term *minzu* in 1965 marks a legal shift. Neither explanation would detract from our argument that not only does international law give peoples (*minzu*) the right of self-determination, but that this principle is not compromised by the various Chinese versions of the international instruments. If there were any discrepancies, the covenants, being more recent, would supersede the Charter.

In 1960 (before the PRC held the China seat at the UN, and also before the covenants were finalized), the UN General Assembly took up the issue of self-determination in the context of colonial territories, resulting in the passage of the Declaration on the Granting of Independence to Colonial Countries and Peoples.³⁴ Article I of this declaration states: “The subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation.” It is important to note that the declaration insists not only on independence of colonial “countries,” but also of “peoples.” This is an important distinction. Contrary to the PRC position, it is not only countries but also *minzu* which have a right of self-determination. For their part, the covenants say nothing about the self-determination of *countries*. A 1970 resolution further stated that “alien subjugation, domination and exploitation are a violation of the principle of self-determination, as well as a denial of fundamental human rights, and is contrary to the Charter.”³⁵

These two General Assembly Resolutions have been applied extensively. The concept of alien domination has been treated at the UN as applicable to, *inter alia*, the occupation of Arab territories by Israel; Cambodia by Vietnam; Grenada by the United States; East Timor by Indonesia; Kuwait by Iraq; and Estonia, Latvia, Lithuania, and later Afghanistan by the Soviet Union.³⁶ Thus, even before the two human rights covenants came into force, the rule that alien subjugation, domination, and exploitation breach a people’s right to self-determination already formed part of international customary law. Today, when both covenants are in force and have been very widely ratified, it is established that where a people is subject to alien subjugation, domination, and exploitation, the situation is one where the principle of self-determination applies. Furthermore, although in this paper we do not make the case for the actual *secession* of China’s autonomous regions, those who do can cite the doctrine of “remedial secession” to advance their argument.³⁷

However, Beijing does not accept any international responsibility to honour peoples’ right of self-determination. Indeed, the dubious claim of the Chinese government is that former countries such as Tibet and Xinjiang are inalienable parts of China and have been so for hundreds (Tibet³⁸) or thousands (Xinjiang) of years.³⁹ PRC citizens who question the official stance are regularly attacked in the official Chinese media in vitriolic terms as “splittists” (分裂分子, *fenlie fenzi*) and anti-Chinese; foreigners who raise such issues are accused of improperly meddling in what is a purely domestic matter. Nonetheless, even in China there

is a small but growing number of people who question the official position.⁴⁰ Certainly many outside China consider these issues unresolved.

It is true that the application of the self-determination principle can present difficult problems. Since the covenants came into force in 1976, there has been widespread concern that, if Joint Article 1 were applied everywhere, it could lead to the break-up of many existing states. This applies particularly to Africa (where national boundaries are mostly colonial-era constructs) but also to numerous other states where ethnic minority populations form a majority in their regions. In order to avoid this consequence, there have been widely supported attempts to devise a definition of self-determination that is narrower than the bare words in the covenants. According to Antonio Cassese, the covenants' right to self-determination is applicable only where an entire population resides in a state that has achieved independence,⁴¹ or the entire population of a territory has yet to receive independence,⁴² or the territory is under foreign military occupation.⁴³ This is a restrictive definition, which excludes numerous groups who would ordinarily be regarded as "peoples."⁴⁴ However, the second and third of Cassese's categories could arguably be held as applying to some of China's ethnic minorities.

The Territorial Implications of China's Position

Having maintained that international law and human rights principles are essentially irrelevant to these issues, China bases its territorial claims largely on history. Although it is our view that the covenants are binding and supersede other considerations, we nevertheless now proceed to examine the merits of the historic claims, in view of China's emphasis on the East Asian international experience.

Taiwan: Unrecognized Republic

Historically, this island had been under the rule of Chinese mainland governments only for short periods. The first period of rule by a mainland-based government was the decade between 1885 (when it was declared a province and much of the island was effectively governed by a Chinese governor) and 1895 (when it was ceded to Japan). The second such period was from 1945 to 1949. According to the peace treaties that formally ended the War, Japan "renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores)."⁴⁵ Beyond that, there was no explicit transfer of sovereignty to either Chinese government. Over the next few decades, most of the international community came

to acknowledge Taiwan as belonging to the People's Republic. Still, even if *de jure* part of China, Taiwan remains *de facto* independent. It has even incorporated into domestic law the human rights covenants—the authentic ones passed by the UN General Assembly.⁴⁶

The Guomindang, which now governs Taiwan, has long considered the island part of China (see note 33), but Taiwan's opposition Democratic Progressive Party disputes this. Public opinion is strongly opposed to the island being governed by authorities in Beijing, but beyond that consensus, there is deep division. While a large minority are in favour of independence, most people are willing to settle for the status quo. Given China's intention to wage war to prevent outright independence, they prefer to leave the situation ambiguous and unresolved. Although Taiwan enjoys very little international space in which to operate diplomatically, it is a thriving economic entity.⁴⁷

The Tibetan Plateau

China claims that it has exercised sovereignty over Tibet for the seven centuries. In reality, during those years, at the times when China was ruled by ethnic Chinese (Ming [1368–1644] and Republic), it did not control Tibet; often it showed little interest in the country. Otherwise, China was itself ruled by foreigners—the Mongols in the thirteenth century, and the Manchus from 1644 to 1911. These “dynasties,” in reality great international empires, were rightly seen by the Chinese as alien regimes. Ultimately they broke up into their constituent parts. During the Qing dynasty the relationship between a Manchu emperor and his contemporary Dalai Lama was generally that of a patron and a religious leader; it would be an anachronism to think of the relationship as having been between sovereign and subject. True, the Qing invaded Tibet several times, but military occupation is not a basis for sovereignty claims and, at any rate, these occupations were generally short-lived.⁴⁸

Notwithstanding occasional Qing interference, Tibet was generally politically independent. Thus all China's claims to sovereignty based on the relationship between the Dalai Lama and the Manchu emperors, and similar claims based on the earlier relationship between the Mongol emperors and Tibet, are spurious, since they involve so much historical distortion. Neither the Mongols nor the Manchus ever maintained that their relationship with Tibet made the country an integral part of China. Even current Chinese explanations describe the relationship as one of dependency, which, in modern language, denotes a colonial relationship. From

this, one might conclude that on some level China understands that Tibet was a colony and thus is entitled to self-determination.

During the Republic era there was little in the way of a relationship—either similar to that between Tibet and the Qing dynasty or congruent with the modern concept of international relations based upon sovereignty of states. In 1913 the thirteenth Dalai Lama formally stated that the relationship between the Chinese emperor and Tibet had been that of patron and priest and not based on the political subordination of one to the other. Although the Chinese Republic responded to this statement by laying claim to Tibet, it never exercised any control over much of it. Certainly the area of the present truncated Tibet Autonomous Region was entirely independent of the Chinese Republic.

Thus, China's actual control over Tibet dates from the 1950s. After the Chinese army attacked and surrounded the Tibetan army, the Tibetan government was told that to avoid a forcible takeover it must acknowledge Chinese sovereignty. Accordingly, the fourteenth Dalai Lama, then a teenager, did so in 1951 by agreeing to the so-called "Seventeen Points."⁴⁹ Today, Tibetans challenge the legality of this agreement. For disinterested observers, common sense would place the Seventeen Points in the same category as the many "unequal" agreements China considers illegitimate. Furthermore, although the Seventeen Points contained many guarantees of Tibetan autonomy, over time the Chinese paid them less and less regard. The Chinese steadily tightened their grip until, at the end of the decade, there was a revolt, which was crushed by the People's Liberation Army. The UN General Assembly thereupon adopted a resolution condemning the Chinese occupation of Tibet as an abuse of human rights.⁵⁰ In 1961, a General Assembly further stated that "these events [the Chinese occupation] violate the fundamental human rights and freedoms set out in the Charter of the UN and the Universal Declaration of Human Rights, including the principle of the self-determination of peoples and nations."⁵¹ However, Tibet has since been effectively under the rule of the Communist Party, backed by the military. The Dalai Lama has presided over an India-based government in exile.⁵²

Aside from the historical argument, China has also attempted to justify its takeover of Tibet and other "minority areas" on the grounds that these societies were "backward"⁵³ and that the peasants and "serfs" needed to be liberated from feudal domination—an argument similar to that once invoked by Europeans and Japanese in defence of colonialism. Scholars agree that most of these areas were backward, as was almost all of China.⁵⁴ One aspect of Tibet's backwardness was its failure to appoint ambassadors to other countries or to make timely application to join the United Nations. To put the issue in the terms of the Montevideo Conven-

tion, the country failed to exercise its capacity to enter into relations with other states. (However, the Convention only requires that a state *have* the capacity, not that it exercise it. See note 14.)

These mistakes were due to tradition-bound governance and a lack of any clear sense that in these modern times a state needed to maintain formal diplomatic relations with other states. However, the fact that a country is backward cannot justify invading it or denying it sovereignty.

Xinjiang: Ethnic Dilution

The histories of the northern and southern regions of the Xinjiang Uyghur Autonomous Region (XUAR) are quite different. In the north, Zungaria came under Sino-Manchu rule by virtue of one of the world's most effective genocides; in 1756 the Zungars were simply wiped out.⁵⁵ The depopulated area thus became ripe for settlers from outside. Most early settlers were Turkic Turanchis from the south, whom Communists would later label "Uyghurs."⁵⁶ The Republic was not able to control the area. In the Ili region a Moslem state was established in 1944 that lasted until the Communist takeover in 1949.⁵⁷ In the south, the scattered oases known collectively as Eastern Turkestan came under Manchu rule by military means, with the defeat of local efforts to establish a nation-state. Again, the Republic was never able to control the area.

For their part, the Communists have had an explicit policy of promoting immigration from east China to Xinjiang, a migration greatly facilitated by the Xinjiang Production and Construction Corps.⁵⁸ Thus, in contrast with Tibet, where ethnic Chinese immigration is viewed as a sensitive issue and is shrouded in secrecy, the Chinese have been quite open about promoting immigration into Xinjiang, fully aware of how provocative this would be. ("There will be some conflicts and clashes."⁵⁹) As a result, Uyghurs, who once comprised the overwhelming majority in the region, are now an underprivileged minority. They are deeply frustrated, and there is a small underground movement to establish an independent East Turkestan. On occasion there have been violent eruptions. The Chinese deal with perceived troublemakers in a heavy-handed way, often claiming that they are terrorists; executions are not infrequent.⁶⁰

Inner Mongolia: The Lost Cause

The Mongols of the Inner Mongolian Autonomous Region are a clearly defined ethnic group, of the same general ethnicity as the inhabitants of independent ("Outer") Mongolia and—in terms of culture, economics,

and lifestyle—are very distinct from the Han (ethnic Chinese). Inner Mongolia and Mongolia used to be one country. The difficulty facing any Mongol inhabitant of Inner Mongolia seeking self-determination is that today almost ninety per cent of the territory's inhabitants are Han. By any realistic standard, the demographic change has gone too far for Mongol self-determination to be realizable.

Alternative Paths to Self-Determination

It is important to bear in mind that there are viable options between the extremes of unitary state and outright secession. Self-determination need not mean independence. Autonomy within a larger nation-state often offers the best of both worlds, combining the benefits of being part of a large state in terms of defence, foreign relations, and economic opportunity, while fostering the preservation of local laws, customs, and culture, free from outside interference. Although they were denied the right of self-determination, Hong Kong and Macao are areas where China has allowed a measure of autonomy. Elsewhere in the world, examples of self-determination without independence abound.⁶¹ Some Chinese dissidents advocate remaking the country into a federation or confederation, although the expression of such views is an imprisonable offence.⁶²

The Dalai Lama has repeatedly announced that he favours autonomy for Tibet within the PRC—provided that the autonomy is genuine and that “Tibet” includes almost all of the plateau.⁶³ Such is the Dalai Lama's authority among the Tibetan people that they would probably embrace any autonomy agreement if he expressed support for it. However, the Chinese claim that this would be independence in disguise, and they fear that genuine autonomy would lead inexorably to secession. It appears that meaningful autonomy is not going to be available to Tibetans (or any other ethnic group) in the near future. This is unfortunate. It is difficult to imagine the Chinese ever being given a better offer from a legitimate leader of the Tibetan people than that available now from the moderate Fourteenth Dalai Lama, who is in his mid-seventies.

China's Perception of Self-Determination Elsewhere

Decolonization

The Chinese have always insisted that Japan and European colonial powers should be shorn of their colonies. However, China rejects the application of the principle of self-determination to minorities within es-

tablished states. "About 3,000 ethnic groups live in over 200 countries and regions in today's world. The overwhelming majority of countries are inhabited by multi-ethnic groups."⁶⁴ The Chinese government views their country in this context, and not as a case of colonialism. Tibetans would doubtless argue that their statehood was as well established as East Timor's was when the former Portuguese enclave was invaded by Indonesia in 1975. Unlike East Timor, Tibet issued passports and had its own currency in addition to other trappings of statehood. East Timor's initial independence in 1975 was ephemeral, lasting only nine days. In the Chinese view, East Timor's background had been tainted by European and Japanese colonialism, and apparently that made all the difference. Thus, China roundly condemned the Indonesian takeover as "a naked act of aggression."⁶⁵

From the perspective of the Chinese government, legitimate acts of self-determination are limited to such narrowly-defined colonial situations. China appears unimpressed by the fact that self-determination is a common phenomenon and that peoples occasionally gain independence from well-established states.⁶⁶ It recently explained to the International Court of Justice: "Although the principle of self-determination has become a basic principle of international law, it applies within specific limits, primarily restricted to situations of colonial rule or foreign occupation. The right to self-determination is different in nature from the so-called right of secession. The exercise of the right of self-determination shall not undermine the sovereignty and territorial integrity of the State concerned."⁶⁷

The Dissolution of Federal and Unitary States

Provided that there is no foreign interference, China has on occasion grudgingly acquiesced in the dissolution of what are regarded as federal states—for example, the USSR and Yugoslavia. The demise of the latter was difficult to accept because the previous Yugoslav government had opposed the breakup. The dissolution of the USSR, which was accepted by the Soviet government, was even more threatening to China because of its proximity and the kinship of many of the new states to China's minority populations. In general, China has opposed secession even in the context of federal dissolution, flatly stating (in the context of Kosovo's secession from the Federal Republic of Yugoslavia⁶⁸) that "secession is not recognized by international law and has always been opposed by the international community of states."⁶⁹ It seems to be even more opposed to the dissolution of what it regards as unitary states—of which

China is an example.⁷⁰ Thus when South Ossetia and Abkhazia declared their independence from Georgia in 2008, China refused to recognize them—as indeed did most countries of the world.⁷¹

Conclusion

The Chinese are accustomed to thinking of their country in its present delineation as the product of historic necessity and geographic logic. In the words of ethnologist Ma Rong, the country is seen as comprised of an “ethnic family” living in a relatively closed geographic area. “This area has deserts and snow forests to the north (Mongolia Steppe and Siberia), seas and ocean to the east, jungles in its south (Burma and Indo-China), [and] the highest mountains and plateau in its west and southwest (Himalayas and Pamirs).”⁷²

Central Asians are more apt to see current boundaries as arbitrarily dividing their nations. Some of these peoples have been successful in their quests for independence from China (Mongolia) and now even from Russia (Central Asian states). For the others, the struggle to recapture their nationhood continues. They deem their causes worthy of support from the United Nations, which was expressly intended to prevent the kind of victimization that has taken place through aggression or the threat of aggression. After all, the inclusion in Joint Article 1 of the right of *all* peoples to self-determination was intended to prevent whole ethnic communities from being ruled indefinitely against their will by alien powers.

The claim that the People’s Republic of China is entitled to all the territory that was ever controlled by the Manchus comes into question because of the substantial portions of that empire whose separation from China has been accepted. Although Chinese logic would lead to the conclusion that eastern Kazakhstan, Mongolia, Tanutuva, the Russian Maritime provinces, and possibly even Uzbekistan⁷³ all belong to the PRC, China in fact makes no such claims. Even the independence of Mongolia, whose statehood the Republic of China only briefly acknowledged in 1945, has been accepted. Accordingly, there is no logical reason to deny Tibet and Xinjiang the right of self-determination—especially in view of international obligations and the Communists’ pre-1944 promises.

Granted, there are differences between situations in Tibet and Xinjiang. In Tibet, the great majority of inhabitants have always been Tibetan. The country was relatively homogenous ethnically, and the Tibetans fit the description of a people occupying a defined territory. Xinjiang, on the other hand, was home to a variety of ethnic groups—albeit with

the Uyghurs, until recently, in the majority. It is far from clear that the aggregated non-Han peoples of Xinjiang can be described as “a people” for the purposes of Joint Article 1. The Kazakhs, for example, live mainly in northern Xinjiang while the Turanchis/Uyghurs traditionally lived in the south. To be sure, these divisions are not clear-cut, nor are the boundaries between southern and northern Xinjiang. Nevertheless, the scale of the alien domination, subjugation, and exploitation of the Uyghurs by China, combined with the vast difference between Uyghur and Han culture, is such that the Uyghurs could probably make a legal case for self-determination as a people, at least in the areas in which they were the overwhelming majority before the Chinese takeover in 1949.

But the Chinese authorities have rejected the covenants’ principle that “all peoples have the right to self-determination.” The first article of the bogus “International Covenant on Economic, Cultural and Social Rights” that China “ratified” essentially reverses the meaning of the actual covenant. After all, to say that only the entire citizenry of a state (the *renmin*) has the right of self-determination is to effectively deny the right of self-determination to the state’s ethnic components—its peoples. For some of these peoples time may be running out. Often their areas have either been inundated with ethnic Chinese (Inner Mongolia), or are in the process of being inundated (Xinjiang). Taiwan appears to have some chance of converting its *de facto* independence into *de jure* statehood, but lately the political will of the Taiwanese appears to be flagging. The great unknowable is the future of Tibet, which is still predominately inhabited by Tibetans and maintains a strong sense of national identity. At least in the short term, Tibet appears to have little prospect of meaningful self-determination. Unless China succeeds in gaining official acceptance for its revisionist versions of the covenants, however, all peoples will remain entitled to this right by international law. ■

Notes

Editorial Note: This article was submitted by two authors who wish to remain anonymous. They are grateful to the various people who provided suggestions for this paper.

¹ According to the Preamble of the United Nations Charter, the organization was “to reaffirm faith in fundamental human rights ... in the dignity and worth ... of nations large and small, and to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained”: UN Charter (June 26, 1945) 3 Bevans 1153, 59 Stat 1031, TS 993 (entered into force October 24, 1945).

² Both these covenants were adopted by the United Nations General Assembly in 1966 and came into force in 1976 on receiving the required number of ratifications by governments. Both have now been ratified by 160 or more countries.

³ For more discussion of this, see Human Rights in China, “China: Minority Exclusion, Marginalization and Rising Tensions,” Report commissioned by Minority Rights Group International, <http://www.hrichina.org/public/PDFs/MRG-HRIC.China.Report.pdf> (accessed March 14, 2010), 13.

⁴ Mao said: “既然全国的总建设在一个时期内完全无望，那么最好的办法，是索性不谋总建设，索性分裂去谋各省的分建设，22个行省3特区两落地合共27个地方，最好分为27个国家。” “湖南建设问题的根本问题——湖南共和国”。*Hunan Da Gong Bao*大公报, September 3, 1920. We are grateful to Maochun Yu for calling our attention to this material.

⁵ Constitution of the Chinese Soviet Republic (art. 14), adopted in Ruijin, Jiangxi, 1931, translation adapted from Conrad Brandt, Benjamin Schwartz, and John K. Fairbank, *A Documentary History of Chinese Communism* (New York: Atheneum, 1966), 223.

⁶ Translation adapted from Guenther Stein, *The Challenge of Red China* (New York: McGraw-Hill, 1945), 243–5.

⁷ According to the 1949 Common Programme of the Chinese People’s Political Consultative Conference: “each national autonomous area is an inseparable part of the People’s Republic of China The People’s Republic of China will become a big fraternal and cooperative family composed of all its nationalities (*minzu*).” Article 18 of the 1949 Organic Law of the Central People’s Government of the People’s Republic of China assigned responsibility for ethnic matters to a new Commission on the Affairs of Nationalities, which was apparently reportable to the State Administrative Council.

⁸ In addition to Taiwan, China also has claims to territories that it does not physically control, notably parts of India’s Arunachal Pradesh Province, the South China Seas islets, and the latter’s surrounding waters.

⁹ The United States was among the last to officially recognize China’s sovereignty over Tibet; it did so in 1966: “Relations of the United States with Tibet,” *Report mandated by US Public Law 103-236 s 536(a)(2), Foreign Relations Authorization Act (Fiscal Years 1994-5)*. At least until recently, the United Kingdom recognized only China’s “suzerainty” over Tibet, a subtle evasion that happens to have been fairly close to the actual situation of Tibet in relation to China during the late nineteenth century. But recently the United Kingdom seems to have fallen into line on this issue. See Robert Barnett, “Did Britain Just Sell Tibet?” *New York Times*, November 24, 2008.

¹⁰ “Independence” means secession from the previously controlling state; “self-determination” carries no presumption as to what outcome the people would choose. Most of China’s ethnic minorities would probably opt to continue as part of China, albeit with some meaningful autonomy.

¹¹ To put it in international-law terms, such statehood is “constitutive,” rather than “declarative” (based on objective criteria). James R. Crawford, *The Creation of States in International Law*, 2nd ed. (Oxford: Clarendon Press, 2006), esp. 15–24. Craw-

ford argues that, in terms of establishing statehood, recognition by governments is not significant.

¹² See, e.g., *The Legal Consequences for States of the Continued Presence of South Africa in Namibia (South-West Africa) notwithstanding Security Council Resolution 276 (1970)* (Advisory Opinion) (1971) ICJ Rep 16 (International Court of Justice); *Western Sahara* (Advisory Opinion) [1975] ICJ Rep 12.

¹³ China is not a party to the International Covenant on Civil and Political Rights because it has only signed, not ratified, it. We explain below that China's ratification of the International Covenant on Economic, Social and Cultural Rights may be defective because the ratified version is inauthentic.

¹⁴ The remaining question regarding Tibet involves the requirement of "capacity to enter into relations with other states." It should be noted, however, that there is no requirement that such relations actually exist, only that there be "capacity." Tibet's pre-1950 governmental structure would appear to have met this requirement. Indeed, Tibet often did enter into agreements with other countries, such as the treaties with Nepal in 1856 and Mongolia in 1913.

¹⁵ Any historic claim on the part of southern Xinjiang would cite the state of Kashgaria (established by its amir Yaq'ub Beg between 1865 and 1870 and reconquered by the Qing after Yaq'ub's death in 1877) and the East Turkestan Republic, which lasted only from 1933 to 1934. The northwest could point to another East Turkestan Republic (1944-1949).

¹⁶ See Woodrow Wilson's "Four Principles" speech to Joint Session of Congress, February 11, 1918. The quotation is widely available on the Internet, and in Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal* (Cambridge: Cambridge University Press, 1995), 20.

¹⁷ See Margaret MacMillan, *Paris 1919: Six Months that Changed the World* (New York: Random House, 2001), 233-346.

¹⁸ On the Asian-African or Afro-Asian Conference of April 18-24, 1955, see Encyclopædia Britannica, "Bandung Conference," <http://www.britannica.com/EB-checked/topic/51624/Bandung-Conference> (accessed March 14, 2010).

¹⁹ "The last voice in regard to Tibet should be the voice of the people of Tibet and nobody else." Prime Minister Jawaharal Nehru to Parliament, 1950, quoted in Byron N. Tzou, *China and International Law: The Boundary Disputes* (New York: Praeger, 1990), 25.

²⁰ Final Act, Conference on Security and Cooperation in Europe (August 1, 1975) art VIII: "The participating States will respect the equal rights of peoples and their right to self-determination ... All peoples always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development. The participating States reaffirm the universal significance of respect for and effective exercise of equal rights and self-determination of peoples for the development of friendly relations among themselves as among all States; they also recall the importance of the elimination of any form of violation of this principle."

²¹ The *Oxford English Dictionary* gives this meaning and explanation for “peoples” (as a plural countable noun): “Nations, races. [Examples:] a1382 Bible (Wycliffite, E.V.) (Bodl. 959) 1 Paralip. xvi. 24 Tellefithfl in gentiles his glorie, in alle pupilis his merueiles [marvels]. ?c1425 (c1380) Isaiah xxxiv. 1 Draw near, O ye nations, and hearken; And attend to me, O ye peoples! 1877 J. Morley Crit. Misc. 2nd Ser. 345 All our English-speaking peoples. 1910 Encycl. Brit. I. 326/2 The desert regions yield support only to nomadic peoples, such as the Tuareg. 1999 N.Y. Rev. Bks. 22 Apr. 54/3 The Ruthenians are a part of the family of east Slavic peoples.”

²² UN General Assembly (UNGA) Document *Lianheguo Dahui* (January 12, 1967) UN Doc A/RES/2200(XXI) (in Chinese). In one respect, the term *minzu* is not precise because it includes one religious subgroup, the widely scattered Islamic Hui. They do not comprise an ethnic group in any other sense. Most Hui speak Chinese, though some speak Tibetan, Uyghur, Kazakh, Kyrgyz, Uzbek, or Tartar. Other religious groups are not considered *minzu*. The Hui are not a “people” within the meaning of Joint Article 1.

²³ Today the Chinese authorities frown on the use of this English word, and *minzu* is either translated as “ethnic groups” or transliterated instead of being translated. One Chinese ethnologist argues that it is another term, 族群 *zuqun*, that should be rendered as “ethnic groups” since the term *minzu* is hopelessly confusing. See Ma Rong, *Ethnic Relations in China* (Beijing: China Tibetology Publishing House, 2008), 68.

²⁴ Altogether, the government recognizes fifty-six ethnic groups, one of which is the majority Han. Another is the various aboriginal peoples of Taiwan (counted as a single ethnic group), only a tiny number of whom are found on the Mainland.

²⁵ There is a procedure for correcting translation errors. It has been used only once with respect to the Chinese language portion of the documents, namely the changes made and accepted in 2001 and 2002 pertaining to the Chinese term for “covenant” (appropriately changed from 盟約 to 公約). See depositary notification C.N.782.2001.TREATIES-6 (October 5, 2001) (Proposal of correction to the original of the Covenant—Chinese authentic text); depositary notification C.N.8.2002.TREATIES-1 (January 3, 2002) (Rectification of the original of the Covenant—Chinese authentic text); see also note 28.

²⁶ They are discussed in Sun Shiyan, “The International Covenant on Civil and Political Rights: One Covenant, Two Chinese Texts?” *Nordic Journal of International Law* 75, no. 2 (2006), 187–209. Unaccountably, Sun does not discuss the issue at hand, the *renmin* / *minzu* problem. Perhaps he overlooked it or did not attach special significance to it. If he omitted discussion because of the sensitivity of the issue, one wonders what other subjects may have been avoided.

²⁷ Joseph Wang informs us that, under PRC domestic law, the constitution and laws passed by the PRC are superior to treaties, and that the ban on secession would overrule rights that anyone would purport to assert under the ICESCR.

²⁸ According to the UN’s procedure for correcting translation errors, if a country wishes to correct such a mistake, it submits the revised version and gives public notice; if there is no objection, the revision stands. However, a major substantive change cannot be effected by this means. See n. 25.

²⁹ The main exception is Taiwan. Otherwise, even the versions available from the highly respected and widely used University of Minnesota Human Rights Library uses the term *renmin*. See *id.*, “Human Rights Documents and Materials,” <http://www1.umn.edu/humanrts> (accessed March 14, 2010).

³⁰ For the full text in all languages, see United Nations, “International Covenant on Economic, Social and Cultural Rights,” New York, December 16, 1966, http://treaties.un.org/doc/Treaties/1976/01/19760103%2009-57%20PM/Ch_IV_3p.pdf (accessed March 14, 2010).

³¹ “Article premier; I. Tous les peuples ont le droit de disposer d’eux-mêmes”—meaning the same as other originals (but see n. 39).

³² On this, see Sun Biqi, 孫碧奇·滄海浮生記 (Memoirs of Being Afloat in the Blue Sea) (Taipei·傳記文學出版社·1973). Sun participated in the translation process. An internal UN document also discusses these issues: Ye Shen, 憲章中文本球此 (Looking for Flaws in the Chinese Texts of the Charter), 1979.

³³ Territories claimed by the Communists today have always been claimed by the Nationalists, who also claim Mongolia and Tanu Tuva.

³⁴ This declaration was inspired in large measure by the independence struggle of the Algerians. It will be recalled that in the mid-1950s, the French position was that Algeria was not a colony but an integral part of metropolitan France. This line was similar to China’s position regarding the “autonomous regions”; for the English text (we are not aware of any Chinese text), see UNGA Resolution 1514, Declaration on the Granting of Independence to Colonial Countries and Peoples (December 14, 1960), <http://www2.ohchr.org/english/law/independence.htm> (accessed March 21, 2010).

³⁵ UNGA Res 2625, Declaration on Principles of International Law Concerning Friendly Relations and Co-operation Among States in Accordance with the Charter of the United Nations (October 24, 1970) <http://www.unhcr.org/refworld/docid/3ddarf104.html> (accessed March 21, 2010).

³⁶ For a full list, see Cassese, *Self-Determination*, 94.

³⁷ On remedial secession, see Michael P. Scharf, “Earned Sovereignty: Judicial Underpinnings,” *Denver Journal of International Law and Policy* 31, no. 3 (2003): 373–87, especially 373, 379–81.

³⁸ For a more detailed account of the historical relationship between China and Tibet, see Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet since 1947* (New York: Columbia University Press, 1999).

³⁹ This stand is similar to the French position in the mid-1950s regarding Algeria, but different from the position of the Soviet Union, which acknowledged the various republics’ right to secede (USSR constitutions of 1924, 1936, and 1977). It is therefore ironic that the Article 1 of the Russian portion of the ICESCR does not use either of the Russian terms for peoples (*natsionalnosti, narodnosti*), but rather *narody*, which usually means “people” and is the equivalent of the Chinese *renmin*. Thus the Russian portion is inconsistent with all the other languages, but is consistent with the revisionist Chinese version. Because it was out of step with the official Soviet

line, the use of *narodny* may very well have been a mistake. Certainly, in the end, the right of self-determination of the non-Russian republics was honored.

⁴⁰ See Cao Changqing and James D. Seymour, eds., *Tibet through Dissident Chinese Eyes: Essays on Self-Determination* (White Plains, NY: M. E. Sharpe, 1997); and Wang Lixiong and Tsering Shakya, eds., *Struggle for Tibet* (London: Verso, 2009).

⁴¹ This point is developed in Cassese, *Self-Determination*, 59–62.

⁴² This point is developed in Cassese, *Self-Determination*, 146–7.

⁴³ See, e.g., Cassese, *Self-Determination*, 59.

⁴⁴ This construction excludes African tribes whose populations may be concentrated in one part of a state or parts of more than one state. This is to avoid encouraging the occasional tendency of African states to fragment. More problematically, it excludes some peoples with a long history of struggle for independence, such as the Kurds, who are spread across parts of Turkey, Iran, Iraq, Azerbaijan, Armenia, and Syria.

⁴⁵ Sino-Japanese Peace Treaty (Japan–Republic of China) (signed April 28, 1952, entered into force August 5, 1952), <http://www.taiwandocuments.org/taipei01.htm> (accessed March 21, 2010).

⁴⁶ Taiwan (i.e., the Republic of China) held the China seat when the covenants were drawn up and still relies on the authentic Chinese version. No longer being a member of the UN, Taiwan cannot be a formal party to the covenants. For this reason, in December 2009, special “implementing rules” were instituted to make the covenants the law of the land notwithstanding the absence of any recognized treaty affiliation.

⁴⁷ According to UN figures (based, in Mainland China’s case, on PRC-supplied data), Taiwan’s “human development index” stands at 0.91, higher than any province-level jurisdiction on the mainland. Hong Kong is 0.92; China as a whole is 0.76 (2003 figures). See United Nations Development Programme (UNDP), “Human Development Report 2003,” <http://hdr.undp.org/en/reports/global/hdr2003> (accessed March 14, 2010).

⁴⁸ Forces of the Kangxi Emperor occupied Tibet in 1720. After his death in 1722, this occupation continued under his successor, the Yongzheng emperor, until 1728. There were further Chinese invasions in 1750 and 1792. However, after each of the later invasions, the Chinese armies withdrew and Tibet was essentially independent.

⁴⁹ Annotated text of the “Seventeen Point Agreement for the Peaceful Liberation of Tibet” appears in Melvyn C. Goldstein, *A History of Modern Tibet, 1913–1951: The Demise of the Lamaist State* (Berkeley, CA: University of California Press, 1989), 763–9.

⁵⁰ See UNGA Res 1353 (XIV) (October 21, 1959).

⁵¹ UNGA Res 1723 (XVI) (December 20, 1961).

⁵² See Ann Frechette, “Democracy and Democratization among Tibetans in Exile,” *Journal of Asian Studies* 66, no. 1 (2007): 97–127.

⁵³ On Tibet's previous backwardness, see Information Office of the State Council, "Fifty Years of Democratic Reform in Tibet," *Beijing Review*, March 19, 2009, http://www.bjreview.com/special/Human_Rights_Action_Plan_2009-2010/2009-03/04/content_232384_3.htm (accessed March 14, 2010).

⁵⁴ But even some Chinese scholars question the government line that Tibet's rural population are appropriately deemed to have been "serfs." See Open Constitution Initiative 公盟法律研究中心, 藏区3.14事件社会、经济成因调查报告 "An Investigative Report Into the Social and Economic Causes of the 3.14 Incident in Tibetan Areas" (2009), available in English and Chinese at <http://www.savetibet.org>. For their part, the Communists do not argue that the "serfs" were inherently unequal, only that they were at an earlier stage of development and thus in need of being "liberated" by outsiders.

⁵⁵ See Peter C. Perdue, *China Marches West: The Qing Conquest of Central Eurasia* (Cambridge, MA: Harvard University Press, 2005), ch. 7.

⁵⁶ It was actually the Soviets who came up with the term, derived from a large and powerful khanate that, from the mid-eighth to the mid-ninth centuries, had dominated what later became greater Mongolia (and areas to the west).

⁵⁷ See Linda Benson, *The Ili Rebellion: The Moslem Challenge to Chinese Authority in Xinjiang, 1944-1949* (London: M. E. Sharpe, 1990).

⁵⁸ See James D. Seymour, "Making China's Northwest Safe for the Han: The Role of the Xinjiang Production and Construction Corps" (forthcoming, in a book edited by Simon Shen).

⁵⁹ Li Dezhu in *Qiushi*, June 2, 2000, quoted in Nicolas Becquelin, "Staged Development in Xinjiang," *China Quarterly* 178 (2004): 358-78, 360. Li was head of the State Ethnic Affairs Commission.

⁶⁰ In a 1996 article, Dru Gladney cites estimates of 1.8 executions per week, mostly of Uyghurs. He does not indicate the source. See id., "Ethnic Conflict Prevention in the Xinjiang Uyghur Autonomous Region: New Models for China's New Region," <http://www.incore.ulst.ac.uk/publications/pdf/xuar.pdf>. See also Amnesty International, "Hasty Executions in China Highlight Unfair Xinjiang Trials," November 10, 2009, <http://www.amnesty.org/en/news-and-updates/news/hasty-executions-china-highlight-unfair-xinjiang-trials-20091110> (both accessed March 14, 2010).

⁶¹ E.g., Scotland, Greenland, Puerto Rico, American Samoa, American Indian reservations, Aaland Islands, Catalonia, and Anguilla.

⁶² Most recently, the now-imprisoned Liu Xiaobo advocated that China be transformed into a Federal Republic of China. Even some senior members of the Party have argued that it was not legitimate to prosecute Liu on grounds of subversion over this issue, given that it was similar to an earlier Communist policy. 老干部质疑定罪刘晓波依据合法性, http://www.boxun.com/hero/201001/xianzhang/139_1.shtml. Their letter can be found at http://chinesepen.org/Article/sxsy/201001/Article_20100117004353.shtml (both accessed March 14, 2010). See also an earlier work, Yan Jiaqi 嚴家其, 連邦中國構想 *The Structure of a Federal China* (Hong Kong: Mingbao chuban she, 1992).

⁶³ The basic statement is "Strasbourg Proposal: The Dalai Lama's Address to the Members of the European Parliament," June 15, 1988, http://www.claudearpi.net/maintenance/uploaded_pics/1988StrasbourgProposal.pdf (accessed March 14, 2010).

⁶⁴ Preface to 2009 White Paper on Ethnic Policy, available at http://www.chinadaily.com.cn/china/2009-09/27/content_8743072_2.htm (accessed March 14, 2010).

⁶⁵ Wayne Bert, "Chinese Policy Toward Burma and Indonesia: A Post-Mao Perspective," *Asian Survey* 25, no. 9 (1985): 963–80, 976.

⁶⁶ Note the emergence of such countries as Bangladesh, Slovakia, and Singapore.

⁶⁷ People's Republic of China, ICJ Written Statement, *Accordance with International Law of the Unilateral Declaration of Independence by Provisional Institutions of Self-Government of Kosovo* (Request for Advisory Opinion) (April 16, 2009) <http://www.icj-cij.org/docket/files/141/15611.pdf> (accessed March 21, 2010) ("Request for Advisory Opinion") [III].

⁶⁸ This is the name the country usually used since 1992; beginning in 2006, it officially styled itself the State Union of Montenegro and Serbia. In 2006 Montenegro seceded, followed by Kosovo in 2008, leaving only Serbia. Kosovo is recognized by sixty-four UN members and by the Republic of China (Taiwan).

⁶⁹ People's Republic of China, ICJ Written Statement, Request for Advisory Opinion (n 67) [III(d)].

⁷⁰ Any distinction between "federal" and "unitary" is technical and theoretical. The reality was that the USSR and Yugoslavia were unitary states, ruled by Leninist parties (as is China). On paper they were deemed federations, but constitutionally China also appears to be federation-like, with the so-called autonomous regions granted "self-government" 自治.

⁷¹ David Gosset, "An Unnecessary Quarrel," *Beijing Review*, http://www.bjreview.com/quotes/txt/2008-12/16/content_170115.htm (accessed March 14, 2010).

⁷² Rong, *Ethnic Relations*, 14.

⁷³ Samarkand marked the west end of the Silk Road, which linked it with China. However, Chinese influence in the region was weak. The lingua franca of the central Asian Silk Road was a version of Persian, not Chinese.