THE TIBET QUESTION AND THE HONG KONG EXPERIENCE
Barry Sautman and Shiu-hing Lo
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PREFACE

The two parts of China’s periphery discussed in this monograph, Tibet and Hong Kong, have caused much ink to flow in the 1980s and 1990s. Hong Kong has been a center of attention because, with one two-hundredth the population of the mainland, it has an aggregate wealth about one-fourth that of the People’s Republic of China (PRC). The territory is also in a unique position: long a colony, it is nevertheless not about to become independent. Burdened by protracted and detailed negotiations, it is to revert to the mother country from whose control it was wrested, while retaining a “high degree of autonomy” in future governance.

The global fascination with Tibet and Tibetans, who are only as numerous as Hong Kong people, is not economic, nor strictly political. Instead, the interest is cultural in the broad sense of the word. That there is a “Tibet question” for China on the international plane derives in large measure from the appeal that Tibetan Buddhism, its personification in the Dalai Lama, and the isolation of the Tibetan plateau have had in North America, Japan, Europe and elsewhere. The allure of Tibetan culture and the seeming intractability of the question guarantee that wherever the Tibet issue is raised — including in China — minds are focused and a serious discussion ensues.

That there has been serious and often learned discussion of the Tibet question has not, however, ensured creative, non-polemical thinking about solutions. This essay looks anew at the question, based on the assumption that the Hong Kong experience, i.e. the way in which Britain and China reached an agreement in 1984 on the future of Hong Kong, can be applied creatively to solve the Tibet dispute. We are more concerned about solutions related to the future of Tibet than about the history of Sino-Tibetan relations. Although historical experience does influence the mutual perceptions of the Tibetan exiles and Chinese government, the issue of history is best put aside in order to achieve the kind of breakthrough on Tibet that eventually led to the success of the Sino-British negotiations over Hong Kong. Our essay thus specifically addresses some of the key issues dividing the PRC government from the Tibetan exile leaders.

The analysis that follows is geared to the dispute as it stands in the mid-1990s, but is not dependent on the politics and personalities
of the moment. Its approach should hold good, for example, irrespective of the regime type or political development in China. Moreover, if one or another of the top leaders of the two sides were to die, as they must eventually, the essential aspects of the Tibet question will remain.

At the same time, we are convinced that the Tibet question should be discussed with a sense of urgency and new solutions, based on compromises previously deemed inconceivable, should be given full consideration. The world has become an increasingly dangerous place for both multi-national states and nationalist movements. We therefore treat this essay as a contribution to a potential peace process, much like that made by scholars such as the University of Maryland's Jerome Segal, in his work *Creating the Palestinian State — A Strategy for Peace* (New York: Lawrence Hill, 1989).

It should be beyond cavil that the utility of a concept is not a function of the nationality of its proponents. We are aware, however, that we, like Dr. Segal and others who have adumbrated solutions to conflicts with ethnic overtones, are outsiders, albeit residents of a territory that will soon be part of the PRC. Neither side in the Tibet question is keen to hear from outsiders. They are either seen as officious intermeddlers in the internal affairs of a state or told that they cannot understand the putative ethnic essence of a people.

We also know that neither side much likes to hear ideas not perfectly congruent with its stand. Recent progress made in some longstanding, ethnically-related conflicts has shown, however, that outsiders can play a useful, even generative, role. That was the case, for example, with two Norwegians — the late Foreign Minister Johan Jorgen Holst and the academic Terje Roed Larsen — and the start-up of negotiations that lead to the Israeli-Palestinian accord of 1993. They was true also of United States Senator Edward Kennedy and the initiation of the peace process in Northern Ireland in 1994-1995. Parties in the end, moreover, do make compromises that they had not contemplated before the negotiations process began. The are strong reasons, discussed below, for concluding that the parties to the Tibet dispute will do so as well. The question then becomes how much blood and treasure will be lost and how much

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cultural erosion will take place before the leaders of the two sides are convinced of the necessity of making the significant concessions that can lead to an eventual settlement.
I. INTRODUCTION

For more than fifteen years, there have been inconclusive "negotiations about negotiations" between China and the Dalai Lama's Tibetan exile forces headquartered in Dharamsala, India.\(^1\) The same period has witnessed contentious, but fruitful talks between China and Britain over the future of Hong Kong.\(^2\) This disparity is partly the result of the unique characteristics of Tibet and Hong Kong: Tibet is relatively poor and has been under PRC control almost from the state's inception; Hong Kong is rich and has been a colony for more than 150 years. Although resolution of the Tibet question thus cannot be fitted into the Procrustean bed of a "Hong Kong model,"\(^3\) the Hong Kong experience does provide a useful starting point in thinking about the many prickly issues that make up the Tibet question.

There is abundant and more or less detached literature on all aspects of the Hong Kong transition.\(^4\) Tibet, however, has mostly generated polemics fixated on the history of Sino-Tibetan relations.\(^5\) Contemporary issues salient to resolving the dispute have largely been ignored. Even proposals addressed by one side to the other are long on analysis of the history of contacts and short on substance.\(^6\) Our discussion takes another tack. It begins with discussions of the obstacles to negotiations and factors likely to propitiate talks. With Hong Kong's experience in mind, we set out a bargaining approach that involves a phased exchange of conces-

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sions leading to an overall agreement. Finally, based on the minimal requirements and key concerns of the two sides, we discuss the main issues in dispute and propose compromises needed to establish a new structure of shared power.

II. THE OBSTACLES: FRAMEWORKS OF ASSUMED IRRECONCILABILITY

Shortly before the December 1978 3rd Plenum of the 11th Central Committee of the Chinese Communist Party (CCP) launched China’s post-Mao reform era, Deng Xiaoping mooted the concept of a reunified China in which alienated territories that “returned to the embrace of the motherland” would retain their present social systems. Britain, bolstered by polls that showed that most Hong Kong people wanted to continue the status quo, was initially reluctant to recognize PRC sovereignty over Hong Kong. While Britain did not seriously consider granting independence, it did seek the right to continue to administer the territory. This demand was rejected by China after Prime Minister Thatcher in 1982 mistakenly based it on a claim of legitimacy ab initio for the unequal treaties under which Hong Kong was ceded to Britain. Only when Thatcher, in a secret letter to Deng, acknowledged Chinese sovereignty, did earnest negotiations begin and the PRC state that most aspects of Hong Kong’s economic and social system would remain for 50 years after the expiration in 1997 of Britain’s lease on key parts of the territory.

The way thus was opened for the Joint Declaration (JD) of 1984, which set out rules for the Hong Kong transition, while leaving to history the question of Hong Kong’s legal status under British rule. Under the slogan “Hong Kong people rule Hong Kong,”

8. For the results of these polls, see Joseph Y. S. Cheng, Hong Kong in Search of a Future, Hong Kong: Oxford University Press, 1984, Chapter 3, pp. 75-109.
10. Compare the JD, points one and two. In point one, the PRC declares it will “resume the exercise of sovereignty over Hong Kong.” In point two, the UK declares it will “restore Hong Kong to the [PRC].” These two points preserve both positions on the history of the legal relationship of Hong Kong to China during the British colonial period. They reflect a “tacit recognition that the settlement of historic legal disputes had little relevance to developing a workable future for Hong Kong.” Hurst Hannum,
the JD proclaimed that after transfer Hong Kong would retain a “high degree of autonomy” (kao tu tzuchih) except as to foreign affairs and defense. With its adoption, Deng used the slogan “one country, two systems” (i kuo liang chih) to essentialize the idea that capitalism would be preserved in Hong Kong, Macau and Taiwan after reunification.

For China’s leaders this meant that “one country” (the PRC) would exercise sovereignty over Hong Kong in the international sphere. Domestically, sovereignty would be divided, with some provisions of the PRC constitution not applicable in Hong Kong. The “two systems” would draw on elements of the authoritarian political structures then extant in both jurisdictions, but continue the primacy of state ownership in the mainland and private property in Hong Kong. “One country, two systems” was the byword for negotiations that resulted in the 1990 Basic Law, a mini-constitution for the post-1997 Hong Kong Special Administrative Region. As the Basic Law was being framed, Deng insisted that only a system of public ownership could guarantee order in the PRC. Mainland stability was in turn required to preserve unchanged the capitalist system in Hong Kong.

While negotiations over Hong Kong went forward, the PRC and Tibetan exiles remained at a pre-negotiation stage. In February 1979, Deng stated that if the exiles accept that Tibet is part of China


13. Ruan Ping, "Hong Kong Basic Law Guarantees 'One Country, Two Systems,'" Beijing Review, vol. 33, no. 15 (April 9, 1990), pp. 4-5; Yashi Ghai, "A Comparative Perspective," Hong Kong’s Basic Law: Problems & Prospects, University of Hong Kong: Faculty of Law, 1990, pp. 1-22; Segal, supra note 9, p. 27.


there can be negotiations over all issues other than the independence of Tibet. There followed meetings of delegates of the two sides and several investigation tours of Tibet led by the Dalai Lama’s siblings. Then-head of the CCP, Hu Yaobang, also toured Tibet in 1980 and ordered extensive liberalization.16

In 1981, Hu issued a five-point proposal that offered to accept the return of the Dalai Lama and other exiles and restore their former privileges.17 The Dalai Lama rejected this proposal as unduly focused on his position. He spoke of the need for a “high degree of autonomy” for Tibet, the withdrawal of PRC troops and the declaration of Tibet as a demilitarized “zone of peace.” He also pressed for reunification of the Tibet Autonomous Region (TAR) with ethnic Tibetan autonomous prefectures and counties in four interior Chinese provinces. The last proposal, while not immediately dismissed by Hu, was ruled out soon thereafter. Averring that there could be no negotiations while the exiles insisted on a “Greater Autonomous Tibet,” the PRC argued that a greater Tibet would be too large and that the TAR and other ethnic Tibetan areas had been divided for so long that their economies and cultures had diverged. While this was the Chinese government’s attitude on the reunification issue until at least 1984, it is not clear that Beijing now holds to this stance.18 The Tibetan exiles, however, do insist that negotiations concern all ethnic Tibetan areas.19

19. Thus, the Dalai Lama has stated “I have always emphasized that any negotiation must comprise the whole of Tibet, not just the area which China calls the ‘Tibet Autonomous Region.’ “ K. Wilson, “Dalai Lama Calls ‘Moderate Approach’ on Tibet ‘Failure,’” Eastern Express, March 10, 1994, p. 10. See also “Dalai To Consult Tibetans Over Next Step,” Reuters, August 11, 1994 (‘China says it favours partial autonomy, but the Dalai Lama has so far rejected this idea, saying Beijing does not consider vast areas of his Himalayan homeland as part of Tibet’).
The exile leaders considered various terms to describe the relationship they sought for Tibet and China, initially rejecting "genuine autonomy" and briefly entertaining "federation" and "confederation." The Dalai Lama announced a "Five-Point Peace Plan" in 1987 that called for reunification, an end to an alleged PRC policy of settling Han Chinese in Tibet, respect for human rights and democratic freedoms, a halt to nuclear testing and waste disposal there, and the start of earnest negotiations. When this proposal failed to elicit a positive response, he modified it in a 1988 speech before the European Parliament at Strasbourg. While insisting on a reunified and demilitarized Tibet, the Dalai Lama abandoned his demand for explicit, immediate independence. Instead, a self-governing, liberal democratic Tibet, with control over "non-political" aspects of foreign affairs, would be created, founded on a basic law framed in agreement with the PRC. The proposal spoke of an "associate" status for Tibet and sought a Hong Kong-style arrangement.

The PRC, through its embassy in India, proposed talks with the Dalai Lama at a location of his choice, but when exile officials insisted that their proposals, including reunification, form the basis of talks, the Chinese government balked. The PRC viewed the Stras-

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bourg Statement as a disingenuous attempt to cling to independence and decried the Dalai Lama's claims that Tibet had always been independent, but was now reduced to vassalage. While reaffirming that any matter but independence could be discussed, the PRC stated "[o]f Tibet there could be no independence, nor semi-independence, nor independence in disguise."  

Apart from demanding that the exiles renounce the concept of "greater Tibet," Beijing, at various points in the 1980s, deemed historical correctness a prerequisite for negotiations. It viewed the exile refusal to affirm as just Tibet's reincorporation into China in 1950 as a form of "splittism" that barred negotiations. In 1990, Beijing even demanded that the exiles renounce any claim that Tibet was independent in the past, although it is not clear that China still clings to this precondition. PRC spokesmen also bristled at the proposal that Tibet become a "zone of peace," arguing that no sovereign country has ever set apart one portion of its region in order to separate itself from neighboring countries. Finally, Beijing saw the exile enlistment of international support as conclusive of national betrayal.

The suppression of anti-government demonstrations in Lhasa and Beijing in March and June 1989 made the exiles unenthusiastic about pursuing the Strasbourg proposal and it was formally withdrawn in 1991. Elements of the plan, including projects for liberal democracy and demilitarized neutrality, continue to be found in the

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March 31, 1989, in BBC/SWB, April 4, 1989, FE/0425/C17/1; Tsering Wangyal, supra note 20.


Dalai Lama’s guidelines for a future Tibetan polity.\(^{28}\) There were occasional post-1989 meetings between the Dalai Lama’s representatives and PRC diplomats, including an initially encouraging visit to Beijing in 1993 by the Dalai Lama’s brother Gyalopo Thondup (a “softliner”) and Sonam Tophyel (a “hardliner”).\(^ {29}\) The Dalai Lama stated in 1994, however, that there has been no progress toward negotiations and that the legitimacy of those who urge compromise has diminished.\(^ {30}\)

Negotiations remain blocked by the Tibetan exiles leaders’ refusal to renounce independence and Beijing’s insistence that he does. The latter’s position is that

[A]s long as the Dalai Lama admits Tibet as an inalienable part of China, entirely gives up his stand for the “independence of Tibet” and stops his activities aimed at splitting the motherland, the central government is ready to hold negotiations with him at any time, which will cover any subject except the “independence of Tibet.”\(^ {31}\)

Exile leaders have stated that they are willing to forgo placing the issue of independence on a negotiations agenda. The Dalai Lama has said that he will not, prior to the onset of talks, state that Tibet is an inseparable part of China.\(^ {32}\) Whether he may be willing


to do so at the conclusion of successful talks is not clear; at least such a move has not been entirely ruled out.33

In 1994, the PRC implied that talks may be possible even if the exiles do not renounce independence before negotiations begin. A private undertaking to make a public renunciation of independence — presumably when talks produce results — might be sufficient. Responding to the issue of the failure of the two sides to reach a consensus on whether Tibet is part of China, a spokesman for the CCP's United Front Work Department stated

This is not a precondition for talks. Nor an obstacle. This is a guarantee of the basis of negotiation and basis for a fruitful negotiation.34

A significant development in 1995 in the PRC approach to top-level negotiations about reunification with Taiwan also may indicate that Beijing would not insist that a required condition for a settlement, such as the renunciation of independence by the Tibetan exiles, be fulfilled as a precondition to commencing negotiations. The independence issue is not on the table between the PRC and the Guomindang authorities on Taiwan because both oppose the idea. There has, however, been an obstacle to top-level negotiations between the PRC and Taiwan that is somewhat equivalent to the renunciation-of-independence issue for the PRC and Tibetan exiles. The issue in the Taiwan case has been whether China has one government or two.

Before 1995, there were two major statements of the PRC's approach to reunification. In a 1981 statement (the Nine Points) by Marshall Yeh Jianying (then-head of the National People's Congress) and in a 1993 statement by Deng Xiaoping (the Six Points), the PRC conditioned an agreement with Taiwan on such topics as ending the state of hostilities and holding negotiations to work of a


33. The authors held extensive discussions from April 7-10, 1994 in Dharmsala, India with Tibetan exile officials, including the Dalai Lama, Tenzin Tethong, chair of the Kashag; Tashi Wangdi and Tempa Tsering of the Information and International Relations Department and Kelsang Gyaltse, special assistant to the Dalai Lama. There officials refused to comment on whether there could be an explicit renunciation of independence as part of an overall settlement, but also expressed a willingness to consider the idea. The discussions are hereinafter referred to as the April 1994 interviews.

34. C. Yeung, “Dalai Lama Freedom Bid Blamed for Failed Talks,” South China Morning Post, April 29, 1994, p. 9. Interestingly, this statement was not included in the report of the interview with the UFWD spokesman issued by Xinhua, April 28, 1994, in BBC/SWB, April 30, 1994, FE/1985/G.
future relationship, on Taiwan’s prior acknowledgement of the principle of “one country, one government,” i.e. that Taiwan should become a Special Administrative Region of the PRC. The position of Taiwan has, in effect, been that there should be “one country, two governments.”

In early 1995, PRC President Jiang Zemin announced a new proposal, known as the Eight Points. It has been reported by a “pro-China” Hong Kong business journal\(^{35}\) that, in connection with the Eight Points, Beijing now considers that the dispute over “one country, one government,” or “one country, two governments” does not have to be resolved at the outset of top-level negotiations, but could be decided at the second, or even third stages of negotiations. Meanwhile, all matters of concern to the Taiwan authorities would be open for discussion and the negotiations would be conducted between equals.

The CCP may then accept a diachronic concession — a non-public undertaking now to renounce independence later. If that possibility has not been tested, it may be because Tibetan exile leaders are not convinced of the staying power of the CCP regime. The Dalai Lama predicted in 1992 that Tibet will be independent in 5-10 years. In 1994, he said that the self-confidence of China’s leaders is declining and “the Communist authoritarian regime in China is more or less collapsing.” In 1995, he is reported to have stated that “a settlement of Tibet’s independence struggle will be possible after Chinese leader Deng Xiaoping dies — but not immediately.”\(^ {36}\)

The Dalai Lama, however is not only prognosticative, but also prescriptive about independence. In May 1993, he spoke of “one country, two systems” and Hong Kong-style autonomy, but added “Our stand is still for independence” and “Tibet is independent in cultural, geographical, linguistic and racial terms.”\(^ {37}\) The next

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month, he said that he had not called for independence since 1979, but also stated that "experience shows that independence is the only real answer." In an August 1993 speech in India, he reiterated that "independence remains our goal." In May 1994, he put it that "Tibet is not part of China" and, even if it were, China's borders might change. In June, the Dalai Lama averred "I am not seeking Tibet's independence," but in July he stated "[T]he entire international community should speak out in support of Tibet's independence." In September, he noted "Of course we have the right to regain our independence." The Dalai Lama later stated "I am willing to enter into negotiations and work from an agenda that does not include independence." He also spoke, however, of what the exile forces would do after successful negotiations "On our return to a free Tibet following the withdrawal of the Chinese regime.

Internal political pressures have impelled the Dalai Lama to hold to the antinomies of independence and autonomy, appearing to give with one hand and take back with the other. This can only be seen as a response to exiles who want to make "complete independence" their direct and explicit goal. The Tibetan exile parliament (the Assembly of Tibetan People's Deputies) endorsed "complete independence" in February 1992. There have been clashes among recently-arrived Tibetans in Bir, India over the role of Gyalo Thondup, who opposes "complete independence" as an unrealistic goal and who left the exile cabinet (the Kashag) in 1994.

The Tibetan Youth Congress has long favored “complete independence” and, coincident with the founding of the likeminded National Democratic Party of Tibet (NDPT) in 1994, an NDPT leader was added to the Kashag. The “complete independence” tendency has a number of organs and controls the exiles’ main external voice, The Tibetan Review. It is sharply critical not only of advocates of compromise, but even of those who (as a foreign supporter has put it), “privately support independence but publicly maintain a covenant of silence or send out mixed messages.” There is also a faction among advocates of “complete independence” that favours renewed armed struggle against China, despite the Dalai Lama’s objections.

Some exile observers also have predicted that the exiles’ international support would decline were the Dalai Lama to explicitly renounce independence and others have noted that support for independence is especially strong among young members of the exile community. The exiles thus remain officially wedded to a post-Strasbourg conceptual framework in which a “high degree of autonomy” is seen as a waystation on the road to independence even


52. “Tibetans Would Accept Autonomy First: Dalai Lama,” Agence France Presse, August 12, 1993. Tenzin Chogyal, the Dalai Lama’s brother and a member of the exile parliament is quoted as stating “Let us first of all achieve autonomy. Then we can
though the phrase — in the Hong Kong context from which it derives — was not intended to be synonymous with "semi-independence" or to denote a transitional stage to independence. Exile leaders have compounded the problem of eliding autonomy and independence by allying with forces that seek to overthrow the CCP (exiled Chinese dissidents)\textsuperscript{53} or the dismemberment of China (Xinjiang, Mongol and Manchu separatist exiles and the Taiwan independence movement).\textsuperscript{54}

Beijing has constructed a conceptual framework that is the mirror image of the one used by the Tibetan exiles. It has held that "one country, two systems," and "a high degree of autonomy" for Tibet must amount to independence\textsuperscript{55} and proposals that seek to apply these concepts to Tibet have been rejected out of hand.\textsuperscript{56} The PRC recognizes, however, that the reference in Hong Kong's Basic Law to "a high degree of autonomy" does not refer to "semi-independence."\textsuperscript{57} Semi-independence involves "domestic indepen

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dence" (the freedom of a political unit to organize its government as it sees fit, adopt a constitution to suit its needs, set out rules for property rights, immigration policy, etc.) rather than "external independence," (the right of a political entity to conduct its foreign relations in the manner it desires, without supervisory control by external states).

The autonomy enjoyed by Hong Kong after 1997 will not amount to domestic independence, as Hong Kong will lack the power to assert itself as "absolute master" in its own house, subject only to such limitations as are imposed on it by the rules of general international law or by treaty arrangements made with other states. Despite the continuation of its existing powers to join world organizations and enter into international agreements after 1997, Hong Kong will not even enjoy "external sovereignty," since residual competence over key aspects of foreign affairs is reserved to China. A Tibet operating under a grant of a "high degree of autonomy" from the PRC would similarly lack the characteristics of a "semi-independent" state.

PRC leaders also argue that the Hong Kong experience is inapplicable to Tibet because Hong Kong has yet to be reunited with the mainland and unlike Tibet has not experienced socialist transformation. There cannot be a change to "one country, two systems," because for several decades there has been a "one country, one system" relationship between the PRC and Tibet. When this argument was first advanced in 1982, it was put that "Tibetans should not turn back the wheel of history."

The argument that "one country, one system" need not be offered to territories already within the PRC implicitly acknowledges that the concept was advanced as an inducement to settlements between the PRC and the Hong Kong, Macau and Taiwan authorities. The Tibet problem for the PRC also involves offering inducements to a settlement, one in which the exiles definitively abandon the quest for independence in exchange for participation in the exercise

58. Hannum, supra note 10, p. 149.
60. Basic Law, supra note 13, Chapter VII.
63. Norbu, supra note 18, p. 357.
of a greater autonomy for Tibet. Whatever the phrase used, a devolution of significant power like that encapsulated by the "one country, two systems" slogan would provide a likely basis for a settlement of the Tibet question.

The second part of Beijing's argument is that "one country, two systems" is inapplicable because Tibet has long been part of "one system" of socialism, while Hong Kong has a capitalist system. Most elements of socialism have been scrapped in China, however. Agriculture and petty commerce are now largely private. State-owned industry in 1994 accounted for less than 40% of industrial output and public offerings of equity in state enterprises diminish the significance of even that share. Socialism, even in the narrow sense of public ownership, is no longer what separates the PRC from Hong Kong or what unites Tibet and the rest of China.

With the boundary between the express capitalism of Hong Kong and crypto-capitalism of the PRC fading, there may be as great a difference in economic terms between relatively poor Tibet and Beijing as there is between Beijing and Hong Kong. Hong Kong/PRC differences in politics and law are greater, but the emergence of elements of liberal democracy in Hong Kong is a recent phenomenon, not envisioned by China when the "one country, two systems" principle was conceived and not fully accepted by China today.

In non-political areas, elements of the rule of law found in Hong Kong are gradually being realized in China.

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64. The exile leaders views on Tibetan autonomy are reflected in *The Myth of Tibetan Autonomy: A Legal Analysis of the Status of Tibet*, Washington: International Campaign for Tibet and International Human Rights Law Group, 1994. For another analysis which concludes that despite weaknesses, "the laws on regional autonomy do appear to have made a difference in the nationality areas" of the PRC, see Mackerras, supra note 23, p. 156.


67. The United Nations Development Program's Human Development Index has measured the gap between different regions in China in life expectancy, education and consumer buying power. On a one-thousand point scale, with Beijing at 861 (second only to Shanghai, at 865), Tibet stands at 404, with the next highest being (largely Tibetan) Qinghai, at 550. UNDP, *Human Development Report 1994*, Oxford: Oxford University Press, pp. 100-101.

68. Segal, supra note 9, p. 27.

Interestingly, Taiwan independence advocates make much the same argument as PRC analysts do about the inapplicability of the “one country, two systems” concept apart from Hong Kong. Using the same criterion of integration with China, they contend that with Taiwan, unlike Hong Kong, there is no close fit with the mainland in terms of ethnicity, geography and legal status. Taiwan independence forces argue that Hong Kong is part of China because of the ethnic identity of its mainland-rooted majority, while 85% percent of people on Taiwan are “native Taiwanese” who identify themselves as such and whose ancestors emigrated to Taiwan centuries ago. They also note that Hong Kong is contiguous with the mainland, while Taiwan is not. Finally, like PRC analysts on the Tibet question, Taiwan independence forces argue that the two entities have a different legal status. Hong Kong’s status has been settled by Britain and China, while Taiwan’s status has remained unsettled since the end of Japanese colonialism.70

Beijing’s argument against the reunification of the traditional Tibetan areas, based on the divergence of the economies of the TAR and non-TAR Tibetan localities, also has been eviscerated by changes in China. The non-TAR Tibetan autonomous areas have in the main been under Chinese administration for much of the last several centuries,71 but differences between living standards in the TAR and other Tibetan areas are not great,72 as one might expect, since these regions are mainly rural and remote. There are greater

70. Trong Chai, “Good for Hong Kong; Wrong for Taiwan,” Christian Science Monitor, October 22, 1984, p. 18.


differences between non-TAR Tibetan prefectures like Aba or Garze and Chengdu (the capital of Sichuan province, where those prefectures are located) than there are between the Tibetan prefectures and the TAR. The spread to the TAR in the 1990s of reforms developed elsewhere means that there are also no great differences in economic practice in the TAR and other Tibetan areas. Cultural differences arising from the greater proximity of non-TAR Tibetan areas to interior China also have narrowed because of rapid cultural diffusion into the TAR in the 1990s.

The distinctions between Hong Kong and Tibet that formed the PRC’s conceptual framework in the 1980s thus no longer have compelling rationales. If they subsist, it is likely because of fears that were the PRC to allow “a high degree of autonomy” or “one country, two systems” for Tibet, other regions would want the same, thus loosening Beijing’s ties with areas that make up almost 65% of the PRC. Central government control over regional affairs, however, already has eased due to economic reform. Moreover, a settlement predicated on greater TAR autonomy would reduce the tensions that have arisen from the spiritual leader of Tibetans being officially branded as an “enemy.”

It is not at all certain that, as one Australian scholar has argued, “if Tibet is allowed some degree of real autonomy, then Beijing cannot deny it to Xinjiang or Inner Mongolia.” The PRC has distinguished between the TAR and other minority areas by considering Tibet to have “special characteristics.” Although this view

77. See the report of a speech by Guo Jinlong, deputy secretary of the Tibet CCP in BBC/SWB, October 11, 1994 in which Guo states “Our struggle with the Dalai clique is over . . . contradictions between the enemy and all of us . . .
79. Hu Yaobang, “Speech on the Party’s Policy Towards Tibet,” (May 22, 1980); “Tibet: the Need to Reinstate the Idea that the Region Is a ‘Special Case’ ” Lhasa
has sometimes been disputed among PRC leaders. The "special character" of Tibet was cited in 1994 as the reason for allowing the TAR alone among the country's autonomous regions to be permitted to give preferential terms to investors beyond those offered by China's special economic zones.

The markedly different circumstances of Tibet make it unlikely that greater autonomy for Tibet would have a demonstration effect for other minority areas. Tibetans are a majority in the TAR and many of the non-TAR Tibetan jurisdictions. In other key minority areas, the proportion of non-ethnic peoples is much higher, e.g. 54% in Xinjiang and 81% in Inner Mongolia. Separatists elsewhere also lack the international connections of the Tibetan exiles, benefiting from neither the support of foreign parliaments nor committed grass-roots campaigners. Even neighboring states with kindred peoples value their ties with the PRC sufficiently to eschew contact with separatist co-ethnics across the borders.

The Tibetan exiles and PRC remain at odds because of parallel misconceptions. The exiles argue that they have exhausted all possibilities in seeking negotiations, but have failed because "The Chi-


83. Mackerras, supra note 23, pp. 252-254; Segal, supra note 9, p. 29. Tibetans made up over 95% of TAR permanent residents in 1990 and about 2.3 million of the 3.65 million permanent residents of the Tibetan areas outside the TAR. Mackerras, loc. cit.


inese are full of deceit,” as the Dalai Lama puts it. The root of their frustration, however, is not so much the PRC leaders’ honesty or purported inability to fathom the Tibetan mind as it is the exile leaders’ reluctance to abandon the goal of independence. In stating that they will lay independence aside for purposes of negotiations, while implying that greater autonomy for Tibet is but an antechamber to independence, the exiles fail to meet what may be the sole PRC precondition for negotiations — that they accept Tibet as an integral part of China.

Although the Dalai Lama has recognized that the PRC will never accept independence for Tibet, the exile government still hopes for independence based on the notion that, as one official put it, “miracles can happen,” i.e. the CCP regime may suddenly be replaced by one that will allow minority regions to secede. This attitude is ironic, given that during debates about whether the United States should cut off China’s MFN status, supporters of the exile government argued strenuously that “the model of the former Soviet Union’s disintegration is irrelevant to the Chinese empire” and “waiting passively for an enlightened regime only strengthens hardliners who are jockeying for power.” In fact, the disintegration of China repeatedly and mistakenly has been predicted not just in recent years, but for centuries. Many China watchers predict that a post-Communist China would be chaotic, military-led and more nationalistic than at present and that any Chinese regime that would

87. A point insisted upon by Tibetan exiles officials in the April 1994 interviews.
88. Thus, the statement of U.S. Assistant Secretary of State for East Asian Affairs Winston Lord that it is not clear why the Chinese could not meet the Dalai Lama, is somewhat mystifying. David Schlesinger, Reuters, May 5, 1994.
90. Interview with exile officials, April 10, 1994. Academic supporters of the Tibetan exiles are not so sanguine and believe that the PRC regime will remain in power while the economy thrives. See, e.g., Testimony of Jeffery Hopkins, Director of the Center for South Asian Studies, University of Virginia and President of the Institute for Asian Democracy, before the U.S. Congress, House Committee on Foreign Affairs, International Security, International Organizations and Human Rights Subcommittee, March 9, 1994, Federal Document Clearing House, March 9, 1994.
voluntarily relinquish sovereignty over the one-fourth of China’s territory that is traditional Tibet could not expect to remain in power.94

The PRC framework also reflects misconceptions. The exile leaders are said to be anti-democratic representatives of old Tibet’s “feudal serfdom”95 who seek independence “simply to reclaim the ruling position they have lost”96 and cannot be reconciled to PRC sovereignty in Tibet.97 PRC leaders thus remain unconvinced that exile leaders are open to accommodation and that if a meaningful share of power were offered, the exiles would acquiesce in China’s sovereignty. Given this conception, PRC leaders can only hope that when the Dalai Lama passes on, the “splittists” will lose influence and pro-independence sentiment will be marginalized.98 The exile leaders do continue to claim that “the simple people” of old Tibet were “very happy” and even fond of the landowners,99 but they have also been immersed in distinctly non-feudal cultures outside Tibet for decades. Moreover, the PRC has incorporated into provincial-level leadership and the CCP has recruited as members not only former “feudal” rulers, but even former slave owners who

94. Harris, supra note 85.


97. Laba Pingcuo, vice-chairman of TAR, has put it that “[Splittists] don’t wish to see the development of Tibet, or stability in Tibet and everything they do is damaging to the basic interests of the Tibetan people.” Agence France Presse, September 30, 1994.

98. A former high official of the UFWD remarked to one of the authors in July 1994 that this outlook was found among some Chinese leaders.

99. Statement of the Dalai Lama, quoted in Donnet, supra note 52, p. 49.
were judged to have changed their attitudes with the passage of time.\textsuperscript{100}

The two conceptual frameworks are thus based upon the idea that power sharing would lead inevitably to a new conflict over independence. One way out of this conundrum is to articulate a strategy based on a phased exchange of concessions on all key issues separating the two sides, beginning with several that could bolster mutual confidence and clear the ground for negotiations. Once granted, these concessions would amount to incentives for both sides to stay the course in negotiations.

III. FACTORS FAVORING NEGOTIATIONS

The obstacles to negotiations about Tibet remain formidable. Several factors have recently emerged, however, which favor a rethinking on both sides. On the PRC side, first, the Tibet issue has become internationalized, particularly with respect to US-China relations. In 1993, the need for China to protect “Tibet’s distinctive religious and cultural heritage” was raised as one of seven factors considered by the United States in deciding whether to extend China’s most-favoured nation status.\textsuperscript{101} After MFN was renewed despite a US assessment that there had been no progress on Tibet, the American administration promised to continue to raise Tibet-related matters with the PRC.\textsuperscript{102}

This pledge is likely to be fulfilled because pressure from the US Congress will continue.\textsuperscript{103} For example, in October 1994, top Congressional foreign affairs committee leaders introduced legislation to require the President to appoint a “Special Envoy for Tibet” to, \textit{inter alia}, “promote good relations between the Dalai Lama and his representatives and the United States Government” and coordi-

\textsuperscript{100} “Former Slave Owners, Now State Cadres and Professors,” \textit{Xinhua}, February 25, 1992, Item No. 0225107.


\textsuperscript{102} See “Press Briefing by National Security Advisor Tony Lake [et al.],” White House, Office of the Press Secretary, May 26, 1994.

nate US Tibet policy. The United States is only one of several dozen countries whose friendly ties with the Tibetan exiles create periodic tensions with the PRC.

Second, the South African and Israeli-Palestinian accords of the early 1990s and negotiations between Britain and the Irish Republican Army indicate that a compromise between longstanding, bitter enemies like the PRC and Tibetan exiles is not out of the question. Third, the ethnic-based civil wars in the ex-USSR and former Yugoslavia are viewed by Chinese leaders as an omen for inner Asia. Fourth, paramount leader Deng Xiaoping’s passing may fuel political instability that will compound the present social instability marked by many strikes and riots. It is in the regime’s interests to solve all problems that can be solved. Fifth, a settlement of the Tibet issue would install international confidence in the Hong Kong transition and place the PRC in a more favorable light in Taiwan.

On the Tibetan side, first, the government-in-exile more than 35 years after its inception remains unrecognized by any state. Dharamsala made gains in support from European and North American governments in the early 1990s, but the mid-1990s have presented recognized obstacles that will be difficult for the exiles to

104. 103rd Congress, 2d Session, S. 2554.
surmount. These include an increased drive by states for trade with China and international revulsion at the attempts to create "ethnically pure" states in the ex-Soviet Union and Yugoslavia and religious-based states elsewhere.\textsuperscript{110}

Second, most top exile leaders are now middle-aged or older and have spent decades away from their homeland. While some leaders may prefer life outside Tibet, it can hardly be imagined that all do not want to visit, if not live in Tibet. The Dalai Lama has entered his 60s, while exile activists consider that "Tibetans as a national entity both inside and outside the country will virtually cease to exist if the present Dalai Lama is not there."\textsuperscript{111} Meanwhile many Tibetan youth have become materialistic and apolitical, with alcoholism and prostitution common. An influx of non-Tibetans\textsuperscript{112} has already altered the TAR’s ethnic balance. Commerce, a traditional Tibetan forte, has largely passed into non-Tibetan hands because of the latter's better sourcing connections in interior China.\textsuperscript{113}


\textsuperscript{112} While most non-Tibetan immigrants are Han, a significant proportion are Hui or Muslims, a scattered, but important "ethnic" minority found throughout China. The Hui are said to be particularly aggressive in commercial activities in Tibet. See Nicholas Ribush, "News from the Roof: a Recent View of Tibet," \textit{WTN}, December 21, 1994.

Third, the thesis upheld by exiles in the early 1990s that the CCP is fated to soon go the way of its Soviet counterpart, has been disputed. Many China specialists hold that in view of rapid economic growth in China and the state's ability to prevent the emergence of a significant anti-regime movement the Chinese party-state will subsist in one form or another for much more than the short-term after Deng Xiaoping's death. Finally, the pro-Tibetan exile campaign in the United States, which was responsible for the inclusion of Tibet as a putative MFN renewal item, may have reached an apogee with that pyrrhic victory. Indeed, the campaign's achievements in convincing Congress to adopt measures designed to facilitate the drive for Tibetan independence may have so outraged Chinese leaders that new initiatives by Congress will be opposed by an executive branch that seeks "comprehensive engagement" with the PRC. China's leaders are also more sophisticated now in suppressing dissent, which in any case has not taken the form of a mass movement since 1989. The pro-exile Tibetan campaign thus cannot count on repression in China to regenerate its influence in the United States, as happened after 1989 when trade and human rights became linked in the United States' China policy.


116. The top Tibetan exile leadership continues to argue, however, that Communist Party rule in China will crumble after the death of Deng Xiaoping. Interviews, April 8-10, 1994.


118. The 1992-93 Foreign Relations Authorization Act declared Tibet to be an occupied country whose true representatives are the Tibetan government-in-exile. The 1994-95 Act 1) requires the State Department to issue an annual report on US-Dharamsala relations; 2) expresses the sense of Congress that whenever the United States issues a report on a country-by-country basis, Tibet should be treated as a separate country; and 3) directs the US Information Agency to attempt to establish an office in Lhasa devoted to, inter alia, human rights and, in conjunction with Tibetan exile organizations to set up other programs in Tibet that are restricted "to persons of Tibetan heritage and not for Chinese immigrants or temporary Chinese workers in Tibet." The PRC strongly protested the Act as damaging to Sino-US relations. See Xinhua, May 5, 1994, BBC/SWB, May 7, 1994, FE/1 990 G/3 141.

IV. THE NEGOTIATIONS PROCESS

Negotiations are impossible as long as the two sides adhere to parallel conceptual frameworks of assumed irreconcilability. If, however, the two sides become willing to look beyond their long-standing pre-conceptions and make concessions on key issues, they may find much to be learned from the Hong Kong experience and other examples of successful resolutions of problems of autonomy.

The Sino-British negotiations over Hong Kong unfolded in phases marked by exchanges of concessions. The first phase, successful pre-negotiations, began two months after a September 1982 meeting at which Deng and Thatcher agreed to negotiate about negotiations. In November 1982, Liao Chengzhi, the PRC’s spokesman on Hong Kong, told local capitalists that there would be no change in the Hong Kong system and lifestyle after 1997. A new PRC Constitution was promulgated the following month. Section 31 extended to Hong Kong the inducement of the Special Administrative Region that had been created to attract Taiwan.

Several months later, in March 1983, Britain offered its first concession by ruling out a referendum on Hong Kong. At some point in the first half of 1983, Thatcher secretly made her key concession on China’s sovereignty. In her letter to the Chinese Premier Zhao Ziyang, Thatcher said that if Britain and China could reach an agreement on

administrative arrangements for Hong Kong, which would guarantee the future prosperity and stability of Hong Kong, [and which] would be acceptable to the British Parliament and to the people of Hong Kong as well as to the Chinese government, I would be prepared to recommend to Parliament that sovereignty over the whole of Hong Kong would revert to China.120

The British concession came only after they realized that Deng was determined to regain full Chinese sovereignty even at the risk of a collapse in Hong Kong.121 These moves were capped by a 1 July memorandum of understanding that negotiations would begin on 12 July. The period from the first necessary concession to the conces-

120. The letter was delivered by Sir Percy Craddock, head of the British negotiating team, to the Chinese Foreign Ministry. See Mark Roberti, *The Fall of Hong Kong: China’s Triumph and Britain’s Betrayal*, New York: John Wiley and Sons, 1994, p. 62.

sion sufficient to bring agreement to begin earnest negotiations was less than one year.

The second phase began as soon as negotiations commenced. Britain raised the idea of exchanging public recognition of China's sovereignty for an administrative presence after 1997. This idea was rejected and in October 1983 the British side told the Chinese government that Britain was prepared "to see whether Britain and China could together construct on the basis of proposals put forward by China, arrangements of lasting value for the people of Hong Kong."122 At this juncture, it was clear that Britain was willing to abandon the idea of administering Hong Kong after 1997. Two months later, the UK reduced its proposal of a post-1997 role to retention of the Attorney-General and Police Commissioner posts in British hands.

Soon thereafter, in January 1984, the PRC side responded with its own significant concession. Xu Jiaturen, head of the Xinhua press agency and PRC "ambassador" in Hong Kong, affirmed that its capitalist system will be undisturbed for 50 years after 1997. Finally, in April 1984, the UK stated that it did not envision any British administrative role in Hong Kong after 1997. These concessions of 50 years of autonomy and the surrender of all UK power after 1997 led to the drafting of the Joint Declaration (JD) in the summer of 1984.123 The period from the first necessary concession to the concession sufficient to result in the basic outline for a future Hong Kong political structure was again less than one year.

The third phase of Sino-British negotiations, which lead to the drafting of the Basic Law in 1988-89, dealt with a wide range of individual issues, mainly handled by representatives of the two sides through the Joint Liaison Group and the Land Commission. Concessions were made to keep public confidence at a level needed to continue Hong Kong's political stability and prosperity.124

For example, although the JD envisions PRC management of Hong Kong foreign affairs, China agreed that Hong Kong could participate in many international organizations. For their part, the

123. Segal, supra note 9, pp. 38-40; Ian Scott, Political Change and the Crisis of Legitimacy in Hong Kong, Hong Kong: Oxford University Press, 1989, pp. 337-342; David Bonavia, Hong Kong, 1997, Hong Kong: Columbus Books, 1985, p. 110.
124. For an assessment of the gains and losses of the two sides, see Lee Tung-ming, The Sino-British Joint Declaration on the Question of Hong Kong: Political and Legal Perspectives, Unpub'd diss., University of Oklahoma, 1985, pp. 154-164.
British agreed to include in the second (post-Tiananmen) Basic Law draft a provision outlawing "subversion" in the SAR. Negotiations were needed on a variety of questions even after the ratification of the Basic Law. Although talks on political matters broke down in 1994 in reaction to a British-proposed electoral scheme disapproved by the PRC, progress continues on other vital issues, such as treaties, the localization of laws, the sale of Crown land and the construction of a new airport.\footnote{125}

China and Britain have strong incentives to resolve remaining issues in the run-up to 1997. Each has vast investments in Hong Kong.\footnote{126} The UK wants to remain a credible player in East Asia and avoid an exodus of Hong Kong British passport holders, while the PRC hopes that success in Hong Kong will attract Taiwan.\footnote{127} The process of negotiations over Hong Kong cannot be readily duplicated in the Tibet case. Despite many unhappy episodes in Sino-British relations, the enmity shared by Tibetan exile and PRC leaders is greater than the animosity between PRC leaders and even such figures as Hong Kong Governor Chris Patten.\footnote{128} The Hong Kong case also involves a transfer of power at a fixed date, while a solution to the Tibet case requires power sharing for an indefinite period. These differences do not, however, mean that phases of negotiations in the Tibet case need be more prolonged than they have been over Hong Kong. If significant concessions are offered in prenegotiations, a memorandum of understanding on negotiations might follow within days or weeks of initial contact. A joint declaration setting out basic principles may follow in weeks or a few months and a new organic law for Tibet to operationalize those principles may be set in a few months or a few years. Several more years of discussions between the parties to the dispute likely would

\footnote{125} Yahuda, supra note 121, p. 249; Segal, supra note 9, p. 53; UK Secretary of State for Foreign & Commonwealth Affairs, White Paper on the Annual Report on Hong Kong 1993 to Parliament, London: Government Printer, 1994. Hong Kong is a member of the General Agreement on Tariffs and Trade, the Pacific Economic Cooperation Council, the Asia-Pacific Economic Cooperation Forum, the Economic and Social Commission for Asia and the Pacific, the International Atomic Energy Agency, the International Bank for Reconstruction & Development, the International Labour Organization, the International Monetary Fund, the Universal Postal Union and the World Health Organization.

\footnote{126} See Segal, supra note 9, pp. 83-86.


\footnote{128} For the recent Sino-British dispute over Patten’s political reform proposals, see Michael Yahuda, “Dilemmas and Problems in the Sino-British Negotiations over Hong Kong,” Pacific Review, vol. 6, no. 4 (1993), pp. 375-380.
be required to arrive at agreement on most of the outstanding issues, but the discussions could be held in Lhasa under the auspices of a new TAR goverment.

**Phase One: Concessions Leading to Negotiations**

In order to make a breakthrough to earnest negotiations, each side will need to offer low-cost concessions tailored to meet the most immediate needs of the other side.\(^{129}\) The essential exile concession is a private undertaking that, with the conclusion of a settlement, the Dalai Lama will publicly acknowledge that Tibet is an integral part of China. A credible demarche would require a letter from the Dalai Lama to the highest PRC authorities. The exiles may expect that their eventual *de jure* recognition of Tibet’s integration with China would be without prejudice to their view of pre-1950 Sino-Tibetan relations. On that score, the two sides would agree to disagree, refrain from raising historical matters in the negotiations and neither confirm nor deny rumors of undertakings made in the talks.\(^ {130}\)

Apart from meeting the PRC’s essential demand, perhaps the most effective confidence-building concession that the Tibetan exiles could offer is to step away from their campaign of urging foreign state to impose sanctions against China and recognize Tibet as independent. The delinking of trade and human rights in US-China relations means that sanctions are unlikely anyway and “recognition” of the government-in-exile by bodies such as the US Congress has yielded few tangible benefits to the exiles.

A third concession that might be offered by the exiles to induce negotiations is a public statement by the Dalai Lama that urges Tibetans to refrain from actions that undermine stability. The PRC leaders may suspect that pro-independence Tibetans will use negotiations as a springboard for instigating demonstrations. A statement by the Dalai Lama that such displays are not helpful would prevent negotiations from being derailed by the repression that would be used against pro-independence demonstrations. If the

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129. Lucien Pye, *Chinese Negotiating Style: Commercial Approaches and Cultural Principles*, New York: Quorum, 1992, pp. 86-87, argues that the Chinese negotiating style is often marked by “assymetrical empathy,” with the other side taking into account the Chinese side’s interests, but not the reverse. Political problems, however, can seldom be solved without a direct appeal to the other side’s interests.

130. On the mixture of secrecy and publicity favoured by Chinese negotiators, see Pye, *id.*, pp. 56-57.
Dalai Lama's statement were broadcast in Tibet, the population doubtless would take heed.

First among PRC concessions to meet the interests of the exiles would be a reversal of the shift in Tibet's ethnic balance.\textsuperscript{131} The exiles have long argued that the PRC practices "population transfer," i.e. a "policy through which the government seeks to transform the ethnic character of the region for purposes of political consolidation and/or the integration of lands and resources into the national economy."\textsuperscript{132} It is claimed that this policy was formerly intended to dilute densely-populated interior China, but is now aimed at thinning the ranks of Tibetans so as to weaken nationalist resistance.\textsuperscript{133} Exile publications cite an array of incentives, such as higher wages and long vacations given to government employees willing to go to Tibet to work.\textsuperscript{134}

The claim that demographic change in Tibet is the result of "population transfer" is rejected by the PRC and doubted by both scholars and the US government.\textsuperscript{135} The latter attributes migration

\textsuperscript{131} In the April 1994 interviews in Dharamsala, exile leaders indicated that this issue was of paramount concern. See also J. Dahlburg, "Los Angeles Times Interview; Dalai Lama," \textit{Los Angeles Times}, May 15, 1994, p. M3, in which the Dalai Lama speaks of the goal of halting "population transfer" as second only to achieving negotiations.


to relaxed travel controls and more open commercial opportunities. In fact, the Dalai Lama, in talks with British Foreign Secretary Hurd in 1993 stated that it was unclear whether population transfer was a deliberate policy or the result of people seeking to benefit from the commercial and economic incentives now available in Tibet.

Contrary to the purpose imputed by the exiles, changes in the ethnic balance have led — not unexpectedly — to more, not less, Tibetan nationalism. In any case, there remains a much lower limit to the absorptive and attractive characteristics of Tibet compared to other minority areas, such as Inner Mongolia or the former Manchu provinces of China’s northeast.

The two sides’ demographic claims have been sharply at odds. The exile leaders claim to represent “the six million Tibetans,” conflating TAR Tibetans (2.1 million in 1990), all other PRC Tibetans (2.5 million) and non-PRC Tibetans (1.1 million). The exiles assert that these “six million” are now outnumbered by seven million non-Tibetans in “Tibet,” i.e. in all territory ruled from Lhasa at some time in the past several centuries.

PRC spokespeople usually identify Tibet with only the TAR and, until recently, the non-Tibetan population in Tibet with only permanent residents. This approach has allowed Beijing to respond to criticism of Han migration to Tibet by denying its existence. The 1990 census lists TAR permanent residents as 95.5% Tibetan — with the Han a smaller percentage in 1990 than at the

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140. See, for example, the statement of Raidi, deputy head of the CCP in the TAR, that there are only 60,000 Han in Tibet, the number of Han is declining and the cold, thin air of Tibet militates against settlers moving there. “Group Alleges Chinese ‘Final Solution’ in Tibet,” Reuters, August 29, 1993.
1982 or 1964 censuses. In 1990, there were 4.5 million Tibetans and 1.34 million permanent resident Han in all Tibetan autonomous areas. The 1990 Han component of permanent residents in these areas (23%) was smaller than it was in 1982 (27%).

Such figures may be accurate, but they also are misleading. They refer only to permanent residents and also mask the ethnic balance in the non-TAR Tibetan areas by lumping numbers from those areas and the TAR. In any case, reports indicate that the aggregate Han population, i.e. the total of residents, permanent and “temporary,” has increased in the 1990s in all Tibetan areas.

Residence requirements were generally enforced in the TAR in the 1980s. By 1993-94, however, the demand for mobility that had come with marketization caused the permanent residence permit system (hukou) to break down throughout China. Barriers to immigration to Tibet have steadily fallen. Police checkpoints on highways from Sichuan and Qinghai to the TAR, in place since 1986, were ended in late 1992. By 1994, the US government was reporting that “[t]ens of thousands of non-Tibetan entrepreneurs without residence permits have come to Lhasa.” Permanent residence permits are available for purchase; the 1992 price was 5,000 yuan, but by 1994 the price had fallen to 2,000-3,000 yuan and many new migrants altogether ignore the need for residence permits.

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In any case, temporary residence permits (linshih hukou) can also be had from the public security bureau.\textsuperscript{148}

Until recent years, PRC officials who discussed the TAR ethnic balance distinguished between permanent residents on the one hand and a “floating population” (futung jenkou or mang liu) of lawful temporary residents and persons with no right of abode (hei hukou) on the other hand.\textsuperscript{149} They argued that there was no real shift in the ethnic balance because floaters are sojourners who want only to work as traders or service workers for a few years and return to interior provinces.\textsuperscript{150} The position that most non-Tibetans in Tibet are short-termers is now difficult to maintain. Thus, Xiang Yang, director of the TAR Planning and Economic Committee, estimated in 1993 that 50,000 of Lhasa’s 60,000 registered businessmen are from outside Tibet and, although required to have residence permits, “‘some do, some don’t.’”\textsuperscript{151}

In general, throughout the PRC so-called “temporary residents” are in fact persons who intend to remain indefinitely in the areas to which they have migrated. As one scholar has observed,

Most of the so-called temporary migrants are temporary only because they have not yet changed their official household registration. Many of them have actually stayed at the destination for quite a long period of time


\textsuperscript{149} See “Tibet Chairman Reports . . . .”; “Province Juncture Areas Become Trading Centers,” Xinhua, July 29, 1993, Item No. 0729018.


\textsuperscript{151} S. Lawrence, “Two People, One Land,” U.S. News & World Report, June 7, 1993, p. 47.
and with no intention to return . . . They are de facto long-term migrants.  

In Tibet, moreover, the ranks of true floaters — who stay for only a few months or years — are continuously replenished.

Estimates of the 2-2.5 million Han in the TAR given by exile sources are exaggerated, but the number is considerable, at least for urban areas. There is also now an inflow of non-Tibetans into rural areas that has elicited sometimes violent protest from Tibetans. A source in 1989 reported “unofficial estimates” of 300,000 Han and 1.5 million Tibetans in the TAR. The TAR chairman stated in 1989 that Lhasa had 30,000-40,000 “long term transients,” who made up about one third of its population, but did not specify their ethnic composition or define “long-term.” US scholars who visited the TAR in 1991 were given an official “guess” of 100,000 floaters there. Their own guess was 200,000 (with no ethnic breakdown). The scholars were also told that TAR authorities placed no limit on the number of floaters who could enter the TAR with the permission of their home work units. Since many Chinese now no longer have a home work unit, there are thus few effective checks on floaters.

In 1993, Tibetan officials put the floating population of Lhasa at 40,000-60,000. In 1994, however, mayor Losang Toinzhub stated that Lhasa had a population of 400,000. Among those with Lhasa hukou, some 87% were Tibetans and 12% were Han, but


153. As far back as 1987, John Avendon and Michael van Walt van Praag claimed that there were at least two million “Chinese” in the TAR, outnumbering the TAR Tibetan population. Although some exile supporters have recognized that “the total number of Chinese in the TAR is well below 2 million,” (see *Defying the Dragon*, supra note 132, pp. 80-81), figures as high as 2.5 million are still cited. See “Tibet Fights Quietly for Its Nirvana,” *Observer*, November 7, 1993.


among the 400,000 total, about 200,000 are floaters. Lhasa’s permanent population was reckoned to be about 180,000.159 Thus, most people living in Lhasa are now non-Tibetans.160 Tibetan exiles argue that this change damages Lhasa Tibetans, many of whom blame Han migrants for edging Tibetans out of commerce and causing inflation.161 The non-Tibetan influx has also made Tibetans a minority in six of the TAR’s seven prefectoral capitals.162

In international forums in 1994, PRC spokespeople still cited the 1990 census figures of permanent residents.163 In a more domestic context, however, the influx of non-Tibetans is widely recognized. Thus, the official PRC news agency has stated that “[o]pening up has brought a great number of businessmen into Tibet from the interior of the country.”164 TAR officials maintain that migrants “enliven the market and contribute to economic development.” Lhasa’s mayor argued in March 1994

The flow of people is not necessarily a bad thing and the most important thing is whether it is conducive to the de-


160. It is not certain that most of the floaters in Lhasa are in fact Han. In the late 1980s an uncontrolled influx into Lhasa of TAR peasants — who are overwhelmingly ethnic Tibetans — was reported. “Tibetan Leaders Address Press Conference,” Beijing TV, March 31, 1989, in BBC/SWB, April 4, 1989, FE 0425/C1/1.


162. International Campaign for Tibet, Tibet “Transformed”, supra note 113, p. 8. These are Lhasa, Shigatse, Tsetan, Bayi, Chamdo and Shiquanhe. Tibetans remain a majority in the capital of the most remote prefecture, Ngari.


velopment of Tibet. When Americans were opening up the West, weren't there many immigrants there?\textsuperscript{165}

In July 1994, the official TAR newspaper declared that "[w]e need to get large numbers of Han comrades into Tibet . . ." and declared it "reactionary" to question this view.\textsuperscript{166} In November, TAR CCP Secretary Chen Kuizuan stated that in Tibet all localities should have an open mind and welcome the opening of various restaurants and stores by people from the hinterland . . . They should not be afraid that people from the hinterland are taking their money or jobs away. Under a socialist market economy, Tibet develops its economy and the Tibetan people learn the skills to earn money when a hinterlander makes money in Tibet. While people from the hinterland are doing business in Tibet, they need places to eat and sleep, and this will enlarge Tibet's market.\textsuperscript{167}

PRC spokesmen seldom address the question of the dilution of Tibetan predominance outside the TAR. When it is addressed, only permanent residents are considered and TAR and non-TAR Tibetan population figures are aggregated.\textsuperscript{168} Counting only perma-

\textsuperscript{165} "China's Tibet Leaders' Press Conference . . .," \emph{Xinhua}, March 17, 1994, in \textit{FBIS-CHI-94-052} (March 17, 1994), pp. 31-32. See also "No 'Resettlement Plan' in Tibet," \emph{Beijing Review}, vol. 36, no. 26 (June 28, 1993), pp. 5-6, which states that non-Tibetans who have gone to Tibet "have played a positive role in boosting the local economy and spreading advanced techniques and management methods"; "Tibet Official Hits Dalai Lama 'Lies'," \emph{Reuters}, June 2, 1993, where Gyaincain Norbu, head of the TAR government, states that as to non-Tibetan traders in Tibet, "The two-way exchanges are quite normal and necessary for Tibet to embark on the road to prosperity" and "Introduction to Important Articles in the Selected Works of Deng Xiaoping," \emph{Xinhua}, November 4, 1993, in \textit{BBC/SWB}, November 6, 1993, FE/1839/G, which argues that the question is not the ethnic balance in Tibet, but whether Tibetans are benefited by the presence of non-Tibetans.

\textsuperscript{166} Ni Banggui, "Fostering Correct Views on Nationalities," \emph{Xizang Ribao}, July 4, 1993, p. 3, in \textit{BBC/SWB}, July 20, 1994, FE/2052/G.

\textsuperscript{167} Tibet People's Broadcasting Station, Lhasa, November 28, 1994 in \textit{BBC/SWB}, December 5, 1994, FE/2170/G.

\textsuperscript{168} See Ma Rong and Pan Naigu "Demographic Changes," \emph{Beijing Review}, vol. 31, no. 14 (April 4, 1988), pp. 21-24. These authors state that in 1982 there were 3.87 million Tibetans in the PRC. Some 1.54 million Hans lived in the whole of the "Tibetan-inhabited areas" (i.e. TAR + non-TAR Tibetan autonomous entities, where 99.8% of PRC Tibetans live). Some 67.1% of the population of "Tibetan-inhabited areas" were Tibetans, while 26.9% were Han and 6% were other ethnic groups. In the TAR, the Tibetan population was about 1.78 million, while the Han population there was reckoned to be only about 73,000.
TIBET QUESTION AND HONG KONG

nent residents in 1982, Tibetans amounted to 47% of the population in the six Tibetan autonomous prefectures in Qinghai; 56% in the two autonomous prefectures and one autonomous county in Sichuan; 39% in the one autonomous prefecture and one autonomous county in Gansu and 33% in the one autonomous prefecture in Yunnan.\textsuperscript{169} The 1990 census showed that about 68% of the population in Tibetan autonomous areas outside the TAR are Tibetans, but again this refers to permanent residents only and represents a rather incredible percentage growth in an eight year period.\textsuperscript{170}

The percentage of non-Tibetans in the non-TAR autonomous areas is increasing through the accretion of non-Tibetan "temporary" residents and other floaters. For example, in Langmusi township, Gannan Tibetan Autonomous Prefecture, Gansu province, 3,500 temporary residents outnumber the locals. Many new arrivals are not Han, but most are probably non-Tibetan.\textsuperscript{171} Newly-arrived temporary residents, most of them evidently non-Tibetans, make up one-third of the 28,000 people of Gyigu, capital of the Yushu Tibetan Autonomous Prefecture, Qinghai province. The influx is attributed to "the government policy of providing preferential treatment to business people from outside," i.e. the local government's lowering of rents and an exemption from managerial fees for some peddlers.\textsuperscript{172} In Markham, capital of the Aba Tibetan-Qiang Autonomous Prefecture in Sichuan, the population of some 40,000 now contains only "a few thousand Tibetans."\textsuperscript{173}

To meet the interest of the exile leaders in maintaining a Tibetan majority in areas that they deem to have been part of historic Tibet, the system of \textit{hukou} and road checks would have to be reinvigorated in these regions, whatever its fate elsewhere. Using Article 43 of the 1984 Regional Law on Autonomy ("In accordance


\textsuperscript{170} \textit{China Daily}, October 29, 1991, p. 3. Similarly, the significance of a report that the population of Golog Tibetan Autonomous Prefecture in Qinghai province is 88.7% Tibetan is open to question because the figure doubtless refers to permanent residents only. "How the 'Desert with Snow' Blossomed," \textit{Xinhua}, August 5, 1994, in \textit{BBC/SWB}, FE 2073/G, August 13, 1994.


with legal stipulations, the organs of self-government of national autonomous areas shall work out measures for control of the transient population”), checks could be placed on the number of temporary residence permits issued to non-Tibetans and undocumented persons could be expelled.

Sectors of Tibetan society (e.g. merchants) may benefit, but there can be little doubt that migration control will make more difficult the achievement of the 10% TAR growth rate projected by the July 1994 Third Work Forum on Tibet. There may also be political consequences, as many non-Tibetan “temporary” residents prefer to remain in Tibet. The benefits in enhanced political stability, however, can be very significant. Moreover, an embryonic cooperation between exile forces and TAR officials might be realized through joint policing of migration by an oversight committee of demographers, public security specialists and others nominated by the TAR authorities and the Dalai Lama.

The release of political prisoners would be a vital second concession by Beijing. The parole of persons convicted for non-violent political acts would likely result in the release of several hundred persons. The PRC would be disinclined to grant amnesty without assurances that those released abjure political activity during the negotiations period. The concession may also provide another opportunity for embryonic cooperation if, for example, the Dalai Lama sends a representative to Lhasa with a brief to persuade Tibetans to refrain from acts that jeopardize negotiations.

A statement by a high government official welcoming the Dalai Lama's conciliatory moves could serve as a third facilitating gesture from Beijing (see Table 1 for a summary of the proposed Tibetan and Chinese concessions). The statement could offer assurances that negotiations will lead to the devolution of greater autonomy for the TAR and, in time, other ethnic Tibetan regions, within the context of maintaining China's territorial integrity. In 1981, the PRC considered the possibility that the Dalai Lama could open an office in Beijing. This idea might be revived. Apart from the

176. Dalai Lama, Tibet, China and the World, supra note 89, p. 35.
role that it could play in facilitating negotiations, the move would be another low-cost confidence-building device.

**Table 1:** Concessions from the Tibetan and Chinese Sides During Phase One of the Negotiations Process (Initiating Negotiations)

<table>
<thead>
<tr>
<th>The First Concession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tibetan exile side: initially acknowledge non-publicly that Tibet is an integral part of China</td>
</tr>
<tr>
<td>PRC side: reinvigoration of the hukuo system and road checks to redress the ethnic balance in Tibet’s population</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The Second Concession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tibetan exile side: refrain from urging foreign states to impose sanctions against China and to recognize Tibet as independent</td>
</tr>
<tr>
<td>PRC side: release political prisoners in Tibet</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>The Third Concession</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tibetan exile side: urge Tibetans in Tibet not to undermine stability</td>
</tr>
<tr>
<td>PRC side: make a public statement welcoming the Dalai Lama’s conciliatory moves</td>
</tr>
</tbody>
</table>

**Phase Two: Negotiations Leading to a Coalition**

In the second phase of the negotiations process, the two sides would aim to reach an understanding, framed in a memorandum that would set out the contours of a coalition government and new organic statute, while allowing for the renegotiation of aspects of their relationship after some years. A coalition government is the essence of a compromise solution on the Tibet question. It represents an adaptation of the “one country, two systems” arrangement to the special character of Tibet. For Hong Kong and Taiwan, the slogan has referred to great differences with the mainland, including the maintenance of non-Communist local governments. The systematic distinction between the TAR and other parts of China under a compromise solution need not be so stark. The essential difference would be that the rest of China would continue to have a party-state, while the TAR would be governed by a coalition of the CCP, the Dalai Lama’s appointees and non-partisan forces.
While China is de facto a one-party state, there is a basis for coalition in PRC constitutional theory, under which China is ruled by a united front of the CCP and eight “democratic” parties, e.g., the China Democratic League and KMT Revolutionary Committee. These small parties are composed overwhelmingly of intellectuals. As the CCP is the “leading force,” the minor parties have influence only at the margins, although they and the organs in which members serve, e.g. the National People’s Congress (NPC) or Chinese People’s Political Consultative Conference (CPPCC), are not in every instance rubber-stamps.\footnote{See Kevin O’Brien and Lianjiang Li, “Chinese Political Reform and the Question of ‘Deputy Quality,’” \textit{China Information}, vol. 8, no. 3 (Winter 1993-1994); Kevin O’Brien, \textit{Reform without Liberalization: China’s National People’s Congress and the Politics of Institutional Change}, New York: Cambridge University Press, 1990; James Seymour, \textit{China’s Satellite Parties}, Armonk, NY: ME Sharpe, 1987; \textit{Dangdai Zhongguo Renmin Zhengxie} (The Contemporary Chinese People’s Political Consultative Conference); Beijing: Dangdai Zhongguo Chubanshe, 1993. The International Campaign for Tibet recently stated that “debate within the Consultative Conference is much more open, rancorous and divisive than previously believed.” ICT, “Hunger and Poverty Said to Be on the Rise: Tibetan Deputies Dispute Claims of Improved Conditions,” in \textit{W7N}, December 19, 1994.} In any case, the official position, reinforced by constitutional revisions made at the Eighth National People’s Congress and reiterated by Jiang Zemin in late 1994, is that China has a multi-party system.\footnote{Richard Baum, \textit{Burying Mao: Chinese Politics in the Age of Deng Xiaoping}, Princeton, NJ: 1994, pp. 373-374; “Plain Talk in China,” \textit{Toronto Star}, November 8, 1994, p. 1.} There have also been some hints that CCP leaders are not averse to creating some “special political zones” in unique parts of the PRC.\footnote{See Willy Wo-Lap Lam, \textit{China After Deng Xiaoping: The Power Struggle in Beijing Since Tiananmen}, Hong Kong: PA Professional Consultants, 1994.}

Apart from its de jure basis, a coalition would be legitimate under CCP political theory. In 1951-59, the system of governance in Tibet was a kind of coalition, with the Dalai Lama’s officials and CCP cadres dividing responsibility in some spheres and sharing it in others.\footnote{See A. Tom Grunfeld, \textit{The Making of Modern Tibet}, Armonk: ME Sharpe, 1987, Ch. 6.} Pre-1959 PRC policy toward Tibet has been likened by a former head of the CCP in the TAR to “the ‘one country, two systems’ practice.”\footnote{Wang Rong, “Experts Agree with Mao’s Tibet Policies,” \textit{China Daily}, November 11, 1993, p. 3.} In the 1980s, the CCP turned back to employing components of pre-late 1950s political theory. It first dropped the concept of the state as a “dictatorship of the proletariat” and pro-
claimed it a broader “people’s democratic dictatorship.” The CCP then declared that China was only at the “primary stage of socialism” (*shehuijui de chuchi jietuan*). In adopting the idea of coalition government in the TAR, the CCP would in effect be making a similar reversion, in this case, to an aspect of 1950s nationalities policy.

A coalition in Tibet implies some natural concomitants. The top official in religious affairs, civil affairs (which may handle population questions), education and culture would likely have to come from the Dalai Lama’s camp. Just as likely, top officials in most aspects of public security and foreign affairs would have to be CCP members. Who would run other “power ministries” (e.g. the courts and procuracy) or take charge of agriculture, commerce communications, labour and other vital areas, would be subject to negotiations. Various configurations, including service by non-party ministers and the intra-ministerial sharing of high offices can be used to ensure that neither the Dalai Lama’s camp nor the CCP are generally dominant.

Power-sharing among ex-enemies is rare internationally, but the recent examples of Japan and South Africa show the possibilities of an arrangement where one side agrees to divest itself of part of its previously-monopolized power (the LDP in Japan; the Nationalist Party in South Africa), while the other side abandons elements of its traditional ideology (the Socialist Party in Japan; the African Nationalist Congress in South Africa). This pattern is also likely to be followed in Northern Ireland.

Power-sharing arrangements, either involving coalitions or the devolution of increased autonomy to a region, take on increased salience where an issue of territorial integrity is the basis of a long-term dispute. It is now recognized that the globalization of economies deprives territorial rearrangements of much of their former significance. That the inhabitants of Northern Ireland are part of Britain, rather than the Republic of Ireland, has become less crucial with the two countries’ integration into the European Union. The fervor for independence among French Canadians has been tem-

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182. See the preamble to the 1982 PRC Constitution, in *Beijing Review*, vol. 25, no. 52 (December 27, 1982), pp. 10-11, and the speech to the 13th CCP Congress of then-Party head Zhao Ziyang, in *Beijing Review*, vol. 30, no. 16 (April 20, 1987), pp. 3-20.

pered by the realization that Quebec’s economic ties are now
global.184

Phase Three: Resolving Specific Issues

In the third and final phase of the negotiations process, the
parties could discuss in detail a long list of issues. The most impor-
tant issues contain many sub-issues and the latter can be subdivided
in turn, a geometric progression to keep negotiators busy for years
for — like painters of a long bridge — they may continuously have
to return to their starting point to redo parts of the structure. This
possibility has been recognized in the Hong Kong case in a Basic
Law provision that states that the method of electing a Chief Execu-
tive may be re-examined ten years after the turnover of
sovereignty.185

V. ISSUES AND SOLUTIONS

A few of the important issues likely to subsist after a coalition
is formed are briefly discussed below. Because their resolution will
be vital to the success of a new governing structure in Tibet, some
solutions are suggested. These do not pretend to be definitive an-
swers, but are offered as compromises that take into account the
minimal requirements of the parties.

Issue 1: The Status of the Tibet Autonomous Region

The PRC regards Tibet as an historically-linked region of
China whose people have benefited from a reconstructed social sys-
tem and economy.186 It holds that Tibetans enjoy significant auton-
omy, but has not ruled out the devolution of more power. Indeed, a
PRC theorist has put it that “the trend is toward the uninterrupted
enlargement of the right of self-government of the national autono-
mous regions (guxiang yu buduan kuoda minzu zizhi difangde
zizhichuan).”187 Because PRC spokesmen have stated that, pro-

184. See Laura Flanders, “Fruit of the Loom’s Seedy Deal,” Progressive, September
1994, pp. 27-29; J. Pare, “The Yen for an Entrepreneurial State is a Nostalgic Chimera,”
185. Basic Law, Annex 1, Section 7.
186. Wang Furen and Suo Wenqing, Highlights of Tibetan History, Beijing New
World Press, 1984; Qi Yan, Tibet: Four Decades of Tremendous Change, Beijing: New
Jin Yongchun, “Wo guo xianfa yu shaoshu minzu de teshu quanyi” (“Our Country’s
vided the exiles renounce independence, negotiations can "cover any subject except the 'independence of Tibet,'" the degree of autonomy should be negotiable.

The Tibetan exiles regard the TAR as central Tibet, part of an historically-independent Tibet subjugated by China in the 1950s. They view the autonomy granted to the TAR and ethnic Tibetan prefectures and counties as "extremely limited" and the lack of autonomy as the root cause of the destruction of Tibetan culture and identity. Dharamsala has at times stated that it might settle for Tibet attaining less than complete independence, i.e. continued PRC management of Tibet's foreign affairs and defense (with Tibet becoming a demilitarized zone). At the same time that China is called upon to grant Tibet "genuine autonomy," however, independence is held up as the long-term goal.

**Solution: Enlarged Autonomy.** On the exile side, the question of Tibet's status has often involved a "rectification of names," an attempt to attach the proper label to a proposed relationship with Beijing. Concepts that include association, confederation, federation and special administrative regions have been mooted. While distinctions among these concepts are meaningful, the discussion has been abstract and has failed to take into account Beijing's minimum requirements.

For example, the Dalai Lama has added his voice to those of Chinese exiles (e.g. Yan Jiaqi) who have called for a federal state in China. This structure, however, has long been rejected by Chinese leaders, for whom the warlord and other disintegrative experiences have great salience. The Strasbourg proposal fixed

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189. *The Myth of Tibetan Autonomy*, supra note 64, p. 48. Not all Western observers agree that the autonomy provided in ethnic Tibetan areas is frivolous. Fred Lane, a Tibetan-speaking American writer, long-time resident in the Himalayan region, has stated "Contrary to 'politically correct' Western notions it appears that the Khambas enjoy a great deal of autonomy." "The Warrior Tribes of Kham, *Asia Week*, March 2, 1993, pp. 30-38.


“association” with China as an acceptable status for Tibet, a term that calls to mind the “sovereignty-association” status for Quebec formerly proposed by what is now the official opposition party in Canada, the Bloc Quebecois.

The concept involved political autonomy (including a separate flag, passports, and foreign service), an economic union (a shared currency and central bank), and a common defense strategy. In fact, “sovereignty-association” amounted to independence. The proposed connections between Quebec and Canada would have been no closer overall than those among states of the European Union. The Bloc Quebecois did not renounce independence when it touted association and has now explicitly adopted that goal.\textsuperscript{193} The contradictory statements concerning autonomy and independence for Tibet detailed above indicate that “association” is also seen by the Tibetan exile leaders as a forerunner of independence and is understood as such by Beijing.

An innovative approach to achieving enlarged autonomy is more important than the search for a proper phrase to epitomize a new relationship between Beijing and Tibet. The first president of the American Federation of Labor, Samuel Gompers, when asked what labour wanted, replied “more.” Taken out of context, the quote implies a limited vision, but Gompers went on to add “more schoolhouses and less jails, more books and less arsenals, more learning and less vice, more constant work and less crime, more leisure and less greed, more justice and less revenge.”\textsuperscript{194} While even this vision was still far from sweeping, Gompers’ implication was that “more” can produce qualitative change.

A settlement would require that Beijing give “more,” that it significantly enlarge the scope of autonomy. At the 1995 session of the National People’s Congress, the leaders of Hainan province and three Special Economic Zones in Guangdong province pushed for enlarging the scope of their autonomy and received a sympathetic hearing from high central government officials.\textsuperscript{195} In the Tibet case,

\textsuperscript{193} A. Boadle, “Regional Protest Vote Puts Unity of Canada to Test,” \textit{Reuters}, October 26, 1993.


for example, the 1984 Law on Regional Autonomy could be amended to allow that, as to certain matters affecting local interests, Lhasa would be empowered to enact laws that diverge from national policy, without approval from Beijing. Enlarged autonomy, however, would not necessarily involve a full reversal of the present balance of central-local relations. The exiles have already accepted the common, moderate definition of autonomy set out by the leading legal scholar Hurst Hannum. This takes as the minimum for “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.196

By making a grand bargain in which greater autonomy along these lines is granted in exchange for the acknowledgment that Tibet is an inalienable part of China, the parties would recognize that sovereignty is not a monolith, but a bundle of sticks. Some sticks would remain in Beijing, while most of the bundle would be in the TAR. For example, Beijing might have the power, within bargained-for limits, to prescribe the TAR’s electoral system. It would, among other things, enforce national security laws,197 levy taxes for the support of the national government (when Tibet is sufficiently prosperous) and implement military conscription (if needed) in the TAR.

On the other hand, within the limits of a negotiated ethnic ratio for the TAR — the Dalai Lama has spoken of a ratio of one non-Tibetan to three Tibetans198 — the enforcement of residence laws would be within the purview of Lhasa. With the provision that a joint Beijing-Lhasa commission pass on sensitive issues, the design of school curricula might be an autonomous region function.

197. On intelligence gathering in the TAR by the Ministry of Public Security and other agencies, see Nicholas Eftimiades, Chinese Intelligence Operations, Annapolis, MD: Naval Institute Press, 1994, pp. 48-51.
Subject to negotiated limits, licenses to extract and export minerals — whose output value now accounts for more than one third of TAR industrial output — would be a matter for determination by Lhasa. Finally, some functions, such as those of the police and customs, might be held in condominium; that is, jointly exercised by the national and regional governments.

Issue 2: The Borders of Tibet

By some accounts, the lack of agreement on what constitutes Tibet is the issue that has most obstructed negotiations between the PRC and Tibetan exiles. The question, however, has been posed wrongly as a choice between absolutes. The PRC regards Tibet as the TAR alone and not to be confused with Tibetans, who live in the TAR and in autonomous areas in Qinghai, Gansu, Sichuan and Yunnan. The Tibetan exiles argue that Tibet must include the eastern regions known as Kham and Amdo that were, at times, under Lhasa’s sovereignty or suzerainty and contain many Tibetans.

Solution: While present administrative borders might be kept in place during a trial period of enlarged TAR autonomy, there could be negotiations over issues affecting Tibetans outside

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199. “‘Massive’ Geological Survey Reveals Rich Deposits Including Near Samye Temple,” Xinhua, March 19, 1994. The TAR holds China’s largest iron ore deposit, the second largest deposit of copper in Asia and large amounts of gold, borax, chromite, lead, silver, mercury, coal, corundum and mica. Defying the Dragon, supra note 132, p. 88. Supporters of the Tibetan exiles argue that “[i]t is clear that the natural resources of Tibet are being exploited by state enterprises for the benefit of the Chinese state.” Ibid, p. 89, but it has also been averred that poor transport and severe weather conditions make it impossible for China to “plunder” Tibet’s mineral resources. J. Wong, “Tibet: Life at the Top of the World,” Toronto Globe & Mail, December 10, 1994, p. 1.

200. Mineral rights in China are owned by either the central government or lower-level government entities, depending on the character of the minerals. Uranium and gold, two of Tibet’s most valuable minerals, are central government monopolies. Recently, however, some provinces have begun to tax the export of minerals from their territory, in order to thereby retain some of the profits that would otherwise accrue to the central government. L. O’Donnell, “China’s Central Control Losing Out to Regionalism,” Reuters, January 10, 1995.

201. The autonomous prefectures are Gannan in Gansu province; Guole, Haibei Hainan, Haixi, Huangnan, and Yushu in Qinghai province; Aba and Garze in Sichuan; and Deqen in Yunnan. The autonomous counties are Tianzhu in Gansu and Mili in Sichuan. For a population breakdown of rooted Tibetans in the TAR and four provinces in the 1980s, see Jing Wei, ed. One Hundred Questions About Tibet, Beijing: Beijing Review Press, 1989, p. 55.

the TAR, and rights provided within the TAR for all ethnic Tibetans, irrespective of their residency. Negotiations also could consider the adhesion to the TAR of other Tibetan autonomous areas after a certain period of stable coalition rule in the TAR.

Short of a campaign of "ethnic cleansing" against non-Tibetans, the political and demographic changes that have occurred in the eastern regions of historical Tibet are largely irreversible, as they have proven to be, for example, within the "green line" marking the pre-1967 boundaries of Israel. As the British historian Lord Acton put it, "The combination of different nations in one state is as necessary a condition of civilized life as the combination of men in society." Tibetans, no more than Serbians or Somalis, can escape being a minority in some areas where they have lived for centuries. As with Russians now living in the "near abroad" ex-Soviet republics, the main question for Tibetans outside the TAR should be whether they are treated equitably wherever they live.

This does not mean, however, that the trend of minoritization of the rooted Tibetan nationality should continue. In the Tibetan autonomous prefectures and counties it is feasible to not only halt, but to some extent reverse minoritization by granting to these areas the same power over migration that would be given the TAR in a negotiated settlement. Without such powers, the "needs of the market" for labor mobility, corrupt practices among officials and Han ethnic solidarity will take precedence and minoritization will accelerate.

There are ample precedents for the ethnic-based regulation of migration in China. The Qing [Ch’ing] rulers, for example, restricted Han immigration to the southern two-thirds of Xinjiang in order to prevent ethnic conflict with the Uyghurs and other Turkic-speaking Muslims there. Strict exclusion, based solely on ethnicity, is counterproductive, however, if for no other reason than a diverse population best ensures the presence of the skills needed for development. An agreement could provide that local authorities balance targeted ethnic ratios with the human resource needs of particular autonomous areas.

A significant portion of the exiles (including the Dalai Lama) are from Amdo and Kham and are concerned with the status of

203. Quoted in W. Pfaff, "In Canada, Breaking Up is Hard to Do," Chicago Tribune, June 12, 1994, p. 3.

Tibetans in those regions. A full settlement of the differences between the exiles and Beijing requires negotiations over a range of issues that affect non-TAR Tibetans. A failure to do so risks the kind of irredentism that caused Polish leaders in 1920 to launch a war against the Soviet Union to recover the eastern territories from which most of Poland’s leaders hailed.

An accord would be facilitated by giving Tibetans outside the TAR not only more substantial rights in their own autonomous areas, but all rights enjoyed by Tibetans in the TAR. For better or worse, similar practices abound internationally. Jews have a “right of return” to Israel. Ethnic Germans in Eastern Europe have this right in Germany. Many white South Africans, whose ancestors left Britain generations ago, nevertheless can “return” there as full citizens. “Hong Kong, Macau and Taiwan compatriots” (kangaotai tungpao) are treated differently from “foreigners” in China.205 Many ethnic Latvians and Estonians who are citizens of and reside in other countries are entitled to all the rights of a citizen in their ancestral homelands.206

All ethnic Tibetans could be given the right to reside in the TAR irrespective of restrictions placed on non-Tibetans. Because all Tibetans have a stake in the TAR as the center of Tibetan culture, non-TAR Tibetans might be given the right to vote in whatever elections are held in the TAR and be represented in some fashion in the TAR people’s congress. Tibetans outside the TAR could be guaranteed those preferences given TAR Tibetans, e.g. exemption from the one-child policy for urban dwellers and from all restrictions on family size for rural dwellers and exemption from most taxes207 and could be preferentially recruited by TAR univer-


sities, government units and cultural institutions. Non-Tibetans initially may resent this policy, but over time preferential policies will likely become more accepted, as the American example shows. It is unlikely that Han resentment would affect political stability, provided Tibetan elites eschew discriminatory policies like those implemented in Estonia and Latvia and respect the rights of other nationalities.

The question of the “reunification” of historic Tibetan areas need not be settled immediately. The parties could agree that after a decade they would negotiate about the possibility of uniting the TAR and other Tibetan autonomous areas. The success of such negotiations would depend upon the degree to which political stability had been maintained in the all Tibetan autonomous areas by dampening pro-independence activity.

**Issue 3: The Presence in the TAR of the PRC “Security Forces”**

The PRC views the stationing of the People's Liberation Army (PLA), People's Armed Police (PAP), Public Security Bureau (PSB), and other security forces in Tibet as an essential incident of sovereignty. Its spokesmen point to the role these organizations play in protecting borders, maintaining stability and fighting crime and emphasize that they are mainly led by Tibetans. For example, some two-thirds of the PLA officers of the Tibet Military Area Command are said to be Tibetans.

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Tibetan exile leaders regard the “security forces” as agents of occupation and oppression. They charge that the PLA has appropriated large parts of Tibet, stored nuclear weapons and waste there,211 ravaged the environment and acted in a brutal, corrupt and discriminatory manner. Improvements in the TAR infrastructure are portrayed as motivated mainly by Beijing’s desire to facilitate the mobility of the security forces. Dharamsala has demanded the withdrawal of these forces.

SOLUTION: The exile demand for withdrawal of Chinese troops contradicts Dharamasala’s position that China could continue to manage the foreign affairs of Tibet, military policy being an essential aspect of the conduct of external affairs. The “zone of peace” concept, while fitting the myth of Tibetan pacifism, is unacceptable to Beijing as an abrogation of sovereignty212 and impractical given tensions over the Sino-Indian border.

In 1992, PLA and armed police in Tibet were thought to number about 40,000, with most in support positions in the interior of the TAR (particularly around Lhasa) and much thinner contingents on the border.213 Since the cost of maintaining security forces in Tibet is high, it is in the mutual interest of the two sides to minimize their numbers. Not all troops can be stationed at the frontier, but the interior contingent can be reduced if PLA involvement in internal security is obviated because tensions are eased through coalition governance.

The 1982 PRC Constitution, Article 120, which allows organs of self-government to create their own regional security forces, also can be brought into play to create a contingent that could take over many PLA functions outside the border areas. The PLA recently


213. B. Austin, “China Flexes Military Muscle in Lhasa Suburbs,” Japan Economic Newswire, May 2, 1993; R. Barnett, “Army Headquarters to Be Shifted to Tibet,” South China Morning Post, December 5, 1992, p. 11. Some 30,000 additional troops reportedly moved into Tibet in April 1994, with most concentrating in border areas. The accuracy of the report is questionable, as there is no apparent reason for such a massive movement. “Troops Move into Tibet,” TIN, April 25, 1994, in WTN, April 25, 1994, pp. 1-2. The late Petra Kelly claimed that there are 500,000 PLA troops in Tibet. See Donnet, supra note 52, p. 151.
has sought to increase its share of national minorities.\textsuperscript{214} In the Tibetan case, the emphasis has been on the recruitment of officers; Tibetans in the enlisted ranks remain under-represented.\textsuperscript{215} Tibetan PLA officers could be seconded to a regional security force created through negotiations, thereby enhancing its effectiveness and preventing it from becoming an instrument of pro-independence elements.

A more indigenized police force, with the combined functions of the PAP and PSB and a staff acceptable to both sides, could be useful in reducing ethnic tensions. Persons with a history of unlawful acts of repression could be excluded. The same process might apply to other key organs, such as the procuracy and courts. A joint Beijing-Lhasa commission might oversee these institutions. A negotiated number of police under orders from Beijing could continue to remain in the TAR, just as some will be stationed in Hong Kong after 1997.\textsuperscript{216} Their mandate could be limited to national security crimes and offenses that affect the TAR and the rest of the PRC or the PRC and foreign countries.

**Issue 4: The Form of Governance of the TAR**

The PRC regards China as a unitary state governed by a united front led by the CCP. It asserts that the united front is applied in Tibet, particularly by including "leading religious personages" in legislative and consultative organs.\textsuperscript{217} The CCP is, however, opposed to the institution of liberal democracy in China and has stated that

\begin{itemize}
  \item In [sic] respect to democracy, freedom and human rights, it is necessary to observe established international principles and respect each country's specific political and economic system, ideology, concepts of morality and value, history and culture.\textsuperscript{218}
\end{itemize}

\begin{itemize}
  \item \textsuperscript{216} M. Chinoy, "Hong Kong's Police Marching into Uncertain Future," \textit{CNN}, May 13, 1994, Transcript No. 32-3.
  \item \textsuperscript{218} \textit{Tibet: from 1951 to 1991}, supra note 212, p. 110.
\end{itemize}
Exile leaders label China a "totalitarian" state, but accept that Tibetan CCP members should not generally be deemed ethnic traitors.\footnote{Interview with Tibetan exile officials, April 9, 1994; Dalai Lama, "Critical Reflections . . . .", supra note 44, p. 48.} Although the exiles charge that Buddhism is persecuted in the TAR and uphold the desirability of using its principles in governance,\footnote{Forbidden Freedoms: Beijing’s Control of Religion in Tibet, Washington: International Campaign for Tibet, 1991; “Dalai Lama: China Cracks Down on Religion,” WTN, October 22, 1994.} they disclaim an intention to restore the Lamaist theocracy and maintain that they have created a system in exile that is appropriate to Tibet. The Dalai Lama has stated that “Tibet should ultimately be governed by a multi-party parliamentary democracy.”\footnote{Dalai Lama, “Critical Reflections . . . .”, supra note 44, p. 45.} \footnote{Letter to Deng Xiaoping from His Holiness the Dalai Lama, Dharamsala, India: March 23, 1981," in Dharamsala and Beijing: Initiatives and Correspondence, 1981-1993, Dharamsala: DIRR Publications, 1994, pp. 8-9. In our April 9, 1994 interview, the Dalai Lama stated that he continued to admire socialism and attributed the fall of the Soviet regime to the distortions of authoritarianism, rather than to communism per se. He has also been reported as stating, however, that a settlement of the Tibet dispute becomes more likely as capitalism grows in China. T. Wagner, “Dalai Lama Predicts Tibet’s Independence Struggle Possible,” AP, January 31, 1995 in WTN, February 7, 1995.} \footnote{See, e.g., “Naming No Names in the Kitchen Cabinet,” Tibetan Review, vol. 36, no. 9 (September 1991), p. 2.} Solution: The choice in the TAR is not between socialism and capitalism. The Dalai Lama has approved of socialism\footnote{Interview with Tibetan exile officials, April 9, 1994; Dalai Lama, “Critical Reflections . . . .”, supra note 44, p. 48.} and likely would not object to retaining the fiction that it is in force in Tibet. Moreover, the choice is not necessarily between authoritarianism and liberal democracy. While an accord is very unlikely if Dharamsala insists on a Western-style parliamentary system, the two sides do not represent a binary opposition.

The exiles do not practice a pure democracy: although he has none of the trappings of a “strongman,” the Dalai Lama does have the last word on key exile policies.\footnote{Interview with Tibetan exile officials, April 9, 1994; Dalai Lama, “Critical Reflections . . . .”, supra note 44, p. 48.} The PRC may not insist on pure authoritarianism. China has not threatened to eliminate liberal democracy in Hong Kong, but only to reorder it, even though Hong Kong’s history of liberal democracy is paper thin. In any case, liberal democracy and authoritarianism are not all or nothing propositions. Regime types that incorporate elements of liberal democracy, but are grounded in the “authority” needed for stable rule do exist. These regime types have unenticing names, e.g. “soft authoritarianism,” “weak democracy” and “constitutional depot-
ism,” but have become popular alternatives to hard-core dictatorship and full liberal democracy among elites in Asia, Latin America and Eastern Europe.

If a coalition were created in Tibet, the CCP likely would insist that direct elections be limited to the basic level, as is the practice throughout China, and would oppose a proliferation of political parties. To avoid untoward results, i.e. a sweep by candidates backed by the Dalai Lama, the CCP might demand that a number of seats be reserved for it. Even in these constricted circumstances, there should be some room for independent-minded candidates and voters. Restrictions would perpetuate the governing coalition, but that result is not incompatible with a broad range of civil liberties, including free speech on all topics other than Tibetan independence.

In any agreement between the two sides, the PRC would insist on a provision similar to Article 23 of the Hong Kong Basic Law. That provision requires the SAR to outlaw sedition, subversion, treason, the operation of foreign political organizations within the region and ties between SAR and foreign political groups. Such laws are not uncommon. Indeed, Hong Kong under British rule has an anti-sedition law that, on paper, is more onerous than Article 23, banning as it does acts designed to bring into contempt the administration of justice or raise discontent, disaffection or class enmity among Hong Kong’s inhabitants. Members of the Preliminary Working Committee of PRC and Hong Kong citizens appointed by the PRC National People’s Congress have endorsed the retention of the present anti-sedition laws.

The PRC will be concerned about agitation in the TAR by advocates of independence and a future coalition government would


225. In the case of Hong Kong, however, PRC officials have changed their attitude from saying that political parties are “useless” in the colony to publicly supporting the participation of some “pro-Beijing” parties in local elections. See Lo Shiu-hing, *The Politics of Democratization in Hong Kong*, Toronto: University of Toronto, Unpub’d. Ph.D. dissertation, 1993, pp. 216-218.


be expected to enforce proscriptive laws, requiring some present exile leaders in the future to imprison Tibetans for taking actions which those same leaders secretly approve of today. The leaders of Ireland, India and other countries faced similar situations and did not shrink from applying the law. 228 A coalition government would probably need specific laws to deal with secessionism and irredentism, e.g. a "neutrality act" that forbids the use of TAR territory as a base for irredentist activity and laws that ban the instigation of ethnic hatred and secession. Laws forbidding the advocacy of secession are common and can be flexibly applied. 229

Both the Hong Kong and Macau basic laws forbid ties by groups in those SARs to "foreign political organizations." In practice, such laws likely will have a worse bark than bite. What constitutes a "foreign political organization" remains unclear. Those who seek foreign ties presumably will avoid direct and explicit links. 230 Moreover, laws of this kind present a conundrum for the CCP, which has long maintained an International Liaison Department. 231 The CCP nevertheless will insist on such a law in a more autonomous TAR. Again, it can be managed best through flexible application.

Overall, civil liberties doubtless would be enlarged under a coalition government. Despite the prosecution of hundreds of policemen and jailers every year for engaging in torture, that crime is still common in prisons throughout China. 232 Under a coalition, the chances may improve for the enforcement of laws that criminalize and provide for civil recoveries for such crimes as torture and false imprisonment. Even some symbols of the Tibetan exile movement that now expose their bearers to arrest might be allowed, if they were blended with symbols of the PRC or in some other way detached from the notion of independence.

Any discussion of governance in Tibet must eventually turn to the role of the clergy. Although the Dalai Lama has stated repeatedly that he is “a humble monk” who does not wish to rule Tibet, the Tibetan Buddhist tradition encourages monks to exercise political power. Monks and nuns have played a prominent role in pro-independence protests and the exiles and their supporters have argued repeatedly that religion is persecuted in Tibet. Islamic fundamentalism, however, has given the identity of church and state a bad name. Beijing’s concern about the confluence of politics and religion, in Tibet, mainly Muslim Xinjiang and elsewhere, is so acute that the exiles might consider the Catholic practice of prohibiting members of the clergy from holding office. At the same time, state support for the monastic infrastructure could continue, within an agreed-upon framework that emphasizes quality over quantity and more operational freedom for monasteries.

While there is no question of restoring a theocracy, a suitable compromise might be found in the establishment of Buddhism as the official religion in Tibet — as it is, for example, in Kalmykia, in Russia. A state religion can be anodine, as in Britain, where it merely involves subsidies to the Church of England and Church of

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238. An important abbot in Dharamsala told the authors that the problem with the clergy in Tibet was not insufficient quantity, but relatively low quality. High lamas in Tibet share this view. See “Tibet to Restrict Number of Buddhist Monks, Nuns,” AFP, December 2, 1993 in FBIS-CHI-93-230, December 2, 1993, p. 53.


Scotland and prescribes whom royal family members may marry and where they must worship. Laws that guarantee the rights of religious minorities and non-believers also could provide a counterbalance to an established "church."

Issue 5: The Economic Relationship between the PRC and the TAR

The PRC argues that the Tibetan economy has grown rapidly in recent years, in part because of heavy subsidies provided the TAR by the central government and sister provinces. Beijing asserts that it seeks to reduce the TAR's dependence on outside sources for some 90% of its government revenue and, to that end, is constructing 62 basic industrial and infrastructural projects ordered by the Third Work Forum on Tibet in July 1994. It also recognizes that state support will still be needed "for quite some time."

The Tibetan exiles argue that the TAR is exploited by Beijing and damaged by the China-orientation of its trade, that growth mainly benefits the Han in the TAR and that infrastructure subsidies provide the means for military suppression. They seek an economically independent Tibet, with trade significantly less oriented toward China.

Solution: The sharp decline in the economies of the ex-Soviet republics provides a lesson about the consequences of rending an integrated economy. The TAR economy is growing rapidly, with 1993 and 1994 GDP up 8% and 10%, respectively, and 10%...
per annum growth projected for 1995-2000.\textsuperscript{247} Opportunities for cross-border trade are more plentiful now than ever before,\textsuperscript{248} but given geographic and demographic realities, hinterland China can be expected to remain Tibet’s main trading partner. Subsidies for administrative functions, infrastructural projects (such as a proposed railway) and education (e.g., the boarding of 11,000 Tibetan students in interior China)\textsuperscript{249} doubtless will be needed for many years to come.

Recent economic development in Tibet has, however, produced significant inequitable results. Rapid growth has widened the income gap between the Han and minorities throughout China. A 1994 study, allegedly provided by the State Ethnic Affairs Commission to the CCP Central Committee, is said to state

[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.\textsuperscript{250}

All reports indicate that the income gap between the Han and Tibetans has increased and fueled discontent across a wide spectrum of Tibetan society.\textsuperscript{251} It was precisely the sense that Han and other non-Tibetan traders were growing rich off Tibet’s development, while “an impoverished class of Tibetan peasants, laborers and unemployed suffer from steep price increases and food


\textsuperscript{250} “Party Plenum to Focus on Party Building as Serious Problems Revealed,” \textit{Hsin Pao} (Hong Kong), August 26, 1994; \textit{BBC/SWB}, September 1, 1994, FE/2089/G.

shortages . . . “that fueled protests in Tibet in 1993. In a sense, the key issue of economic relations for Tibet then is relations within Tibet. A negotiated settlement would have to face this problem and devise ways in which central government support, for as long as needed, largely would be directed at improving economic opportunities for ethnic Tibetans.

The preferential economic policies now aimed at the TAR as a geographic entity might instead flow to ethnic Tibetans per se. For example, a negotiated settlement could stipulate that Tibetan labor was to be preferred on all government-supported projects. It might specify that ethnic Tibetan small business people were to have pride of place for grants, loans and training programs and the right of first refusal as to such things as government-owned housing and business leases. However problematic, ethnically-based preferential policies in some countries have narrowed markedly the gap between the indigenous population and “settlers” and might be looked to for a partial model. The point is not to create an ethnicized state, but to provide some balances against the advantages that will continue to inhere to whatever portion of the non-Tibetan population continues to live in Tibet.

An enlarged autonomy also means that the TAR would make more of its own economic decisions, even where these contradict the policy or trend elsewhere. One device of economic autonomy that might be considered is a Special Customs Zone, as was proposed for Hainan island when it was about to become a province in 1987-1988. The SCZ was to insulate Hainan from the mainland economy, while maintaining relations with it for some transactions. Hainan was to become fully-integrated with the international economy and carry out systemic reforms such as currency convertibility, price and wage deregulation, privatization and the removal of monopolies and fiscal and social-security reform.


254. Feng Chongyi and David Goodman, “China’s Hainan Province: Economic Development and Investment Environment,” (unpub’d. paper, 1994). We would like to thank Dr. Goodman for kindly providing this paper.
The goals of economic autonomy for Tibet might differ from those intended for Hainan. For example, PRC local governments are privatizing state enterprises (including profit-makers) by selling majority shares to managers, “collectives” and foreign investors, to name a few. If the TAR government believes this policy is not appropriate to the circumstances of Tibet — the new owners likely would be neither Tibetans nor employers of Tibetans — it would be free as a SCZ to adopt a contrary policy. If the TAR wants builders to take into account local climatic conditions and conform to local aesthetics (which it does not now),\(^{255}\) then it would be fully empowered to do so, without consulting Beijing. Tibet is rich in mineral resources and, under an agreement, the TAR government might win a guarantee of royalties on all minerals extracted from Tibet. It might even own and market all non-strategic minerals or be empowered to sell these rights to others. The customs service might pass into the hands of the TAR administration, under some measure of guidance from Beijing, with regard for example to the kind of items barred from entry and the enforcement of anti-corruption procedures.

While greater latitude in economic matters thus could be achieved by negotiations, an agreement still could allow for limitations. For example, the reappropriation by former owners of property that had been nationalized, a continuing problem in Central and Eastern Europe, might be precluded. Apart from equitable concerns, any move in that direction would confirm the argument that the Tibetan exile leaders represent retrograde social forces. To the extent that they are not now localized, commercial, industrial, labour, family, tax, criminal and other codes might be changed in accordance with a TAR basic law that embodies a joint declaration of the PRC and Tibetan exiles. Where national law offers more protection to persons in the TAR, it could trump local law. This is unlikely to happen in some areas (e.g., freedom of speech), but is possible in other areas, e.g., labour protection.

Symbolic changes within the economic system also would not be out of the question. For example, a special Chinese currency containing more Tibetan script than the present *renminbi* notes might be printed. It would be more useful still if Tibetans were to have a separate, convertible currency, as was proposed for Hainan.

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in the early 1990s.\textsuperscript{256} There also might be special PRC/TAR stamps to be used at least within the country.

**Issue 6: The Citizenship and Nationality of TAR Residents**

The PRC position is that residents of the TAR are PRC citizens of diverse nationalities and TAR Tibetans are at once Chinese and Tibetan. Tibetan exiles consider TAR Tibetans not at all as Chinese, but persons of Tibetan ethnicity who are citizens of a still subsisting, occupied Tibetan state.

**Solution:** As the TAR would continue to be part of the PRC, its residents would be PRC citizens, but for some symbolic purposes, they also could be seen as TAR "citizens" and identify themselves as Tibetans internationally.

The relationship between national and local citizenship is complex. For example, in the United States, state citizenship virtually has been displaced by resident status. With few exceptions, e.g. the right to vote, residents have all the rights and duties of citizens. Vestiges of state citizenship include oaths of allegiance to state constitutions sworn by state employees. Similarly, if a coalition in Tibet were to equally provide all permanent residents with the rights incidental to citizenship (except for benign preferences accorded ethnic Tibetans), there would be no need to be concerned about any substantive TAR citizenship. Tibetan "citizenship" would be largely symbolic, as is provincial citizenship in most countries. Negotiations could decide which badges of autonomy (e.g., flag, anthem) are to be adopted. An argument can be made that these are anachronistic on the verge of the 21st century, but there is often a demand for them at the outset of a new political relationship and it would be understood that residence status substantively determines rights.

If no special Tibetan citizenship is needed, then problems of choice of nationality, which presently complicate the HK transition,\textsuperscript{257} are avoided. TAR autonomy nevertheless could be recognized internationally. Passports bearing inclusive inscriptions, i.e. the TAR of the PRC, PRC/TAR or PRC/Tibet, could be extended to all persons lawfully resident in the TAR on a fixed date or who attain lawful residence thereafter. TAR officials could even present

\textsuperscript{256} Feng and Goodman, \textit{supra} note 254, p. 41.

themselves as representing "Tibet" internationally, just as post-1997 Hong Kong officials will represent Hong Kong, with the implicit understanding that "Hong Kong" is the abbreviation for the Hong Kong SAR of the PRC.

**Issue 7: The Management of the Foreign Relations of the TAR**

The PRC considers that the central government conducts foreign relations of the Chinese state, which includes the TAR. The Tibetan exiles deem PRC control over Tibet illegitimate, but indicate a willingness to have the foreign relations of Tibet managed by the PRC after an overall settlement.

**Solution:** Although not agreeing on what constitutes Tibet, the two sides are in accord that its foreign relations could be managed by the PRC. The concept of "foreign relations" has to be "deconstructed", however, because the power to conduct foreign relations, just like the larger concept of sovereignty, is divisible. For example, all provinces of China conduct economic and cultural "foreign relations." Hong Kong, although still a dependent territory, is party to 220 multilateral treaties, including those covering human rights, merchant shipping, civil aviation, trade and customs. As of 1994, Britain and China had agreed to localize about half these agreements. Hong Kong also participates in 29 international organizations, including the new World Trade Organization.\(^{258}\) If the PRC label is affixed, Beijing presumably would be amenable to the TAR, like Hong Kong, directly participating in the less sensitive aspects of world affairs by holding membership in many world bodies (e.g. the World Health Organization, and the Food and Agriculture Organization) and establishing its own commercial and tourism offices abroad.

A settlement agreement could specify that any aspect of foreign relations that implicates political or military affairs is within the ambit of the PRC foreign ministry. For example, whether to allow Taiwan to set up a trade liaison office in Lhasa would be a political, not a commercial, question that can only be decided in Beijing. In some other states, an impartial court system resolves disputes between the central government and sub-units over whether the latter are empowered to enter into agreements with

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\(^{258}\) “British Foreign Secretary in Hong Kong for Update on Development,” *Deutsche Presse-Agentur*, September 15, 1994; C. Patten, “Looking Far Beyond the Final Thousand Days of British Rule,” *South China Morning Post*, October 6, 1994, p. 6
foreign states. In the case of Tibet, a mixed commission might be used for this purpose.

Issue 8: The Role of the Dalai Lama

The PRC holds that the Dalai Lama is welcome to return provided he first gives up the idea of independence. Upon his return, the Dalai Lama can, if he chooses, be appointed a vice-chairman of the National People’s Congress. The Dalai Lama has stated that his goal is negotiations without preconditions and the issue of his return is tangential. He has emphasized that he will not hold office in a “democratic” Tibet.259

SOLUTION: The Chinese government has stressed that there can be no agreement in which the permanent renunciation of full sovereignty or independence of Tibet is not a part.260 To be meaningful, this step would have to taken by the Dalai Lama personally, just as Yasir Arafat personally recognized the right of Israel to exist prior to the Israel-Palestinian accord. Because of his unique status, the Dalai Lama could play a key role in compliance by both sides with a negotiated settlement.

As the spiritual guide of most Tibetans, however, the Dalai Lama surely would need to reside among them. In 1988, the Chinese government stated that the Dalai Lama could live in Lhasa and, in terms of the internal politics of the exiles, it would be counterproductive for the PRC to insist he live elsewhere.261 In an age of instant communications and international celebrity political figures, the Dalai Lama could not in any case be kept out of politics, regardless of where he lives. The invitation to serve in the NPC can be expected to be politely refused and both sides would be better served by the Dalai Lama’s participation in political affairs in Tibet, where he can serve as a guarantor of stability, while seeing to changes in those spheres in which he has the greatest interest. For symbolic purposes, the two sides might, however, agree that the Dalai Lama should also maintain a residence in Beijing.

259. Dalai Lama, Tibet, China and the World, supra note 89, p. 3.
Issue 9: The Preservation of Tibetan Culture

The PRC admits that Tibetan culture, particularly its religious essence, was harmed by the Cultural Revolution, as was culture elsewhere in China. It notes, however, that the central and TAR governments have fostered Tibetan culture in the 1980s and 1990s. The PRC points to the revival of, for example, monasteries and cultural troupes as showing that it seeks to preserve Tibetan culture, expansion of health care and exemption of Tibetans from family planning structures as evidence that it seeks a flourishing Tibetan people.

The Tibetan exile leaders charge that the PRC carries out a planned deculturalization and even deracination of Tibetans, especially among educated elites. This is sometimes phrased as "cultural genocide" and at other times as genocide per se, carried out through forced abortions and other means. The support given to Tibetan culture by government authorities is viewed as inadequate to revive the monastic system and, in any case, part of a scheme to control and coopt Tibetans.

SOLUTION: Tibetan culture in the TAR is being transformed, but if this transformation is an erosion, the source is not only Sinicization, but Westernization, particularly among the youth. Rather than continue the acrimonious exchange of charges, a settlement in the cultural sphere could set out a strategy to preserve the best aspects of Tibetan culture.

Language is essential to Tibetan identity. There has been a struggle within Tibet since the late 1980s to promote Tibetan as an official language, at least on a par with Chinese. Dual official lan-


guages, as are prescribed by Article 9 of the Basic Law for Hong Kong, are an obvious solution that already has been endorsed by the TAR government. Implementation, however, must be guaranteed. A mixed commission might again serve this purpose. It might be agreed, for example, that there should be no language test for TAR residence, that because the TAR economy is becoming more internationalized, Chinese and English should both be promoted as second languages among ethnic Tibetans.

Much of Tibetan culture also reposes in the religious tradition. A secularizing trend can be expected to continue regardless of who is in power. A negotiated settlement based on the renunciation of independence and the formation of a coalition can be expected to provide, however, for loser controls over monastic life and even a relaxation of proscriptions against religious practice by Communist Party members and officials.267

VI. LINKING THE ISSUES WITH THE NEGOTIATION PROCESS

It is crucial to skillfully link the aforesaid issues with the process of negotiations. During the Sino-British negotiations on Hong Kong’s future, the Joint Declaration (JD) was first reached and then the Sino-British Joint Liaison Group (JLG) was set up to handle all transitional issues.268 In the case of Tibet, the same procedure can be followed; a PRC-Tibetan exile JLG might be established to hammer out detailed solutions to various issues in the wake of an agreement.

Given the deep mutual distrust between the Tibetan exiles and PRC government, however, a three-step approach also could be considered and adopted. First, a PRC-Tibetan exile Memorandum of Understanding (MOU) could be reached prior to detailed negotiations. Second, negotiations over the nine issues discussed above could lead to the draft agreement, i.e. a JD. Third, the JD could be

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268. The functions of the JLG are “to conduct consultations on the implementation of the Joint Declaration; to discuss matters relating to the smooth transfer of government in 1997; to exchange information and conduct consultations on such subjects as may be agreed by the two sides.” See A Draft Agreement between the Government of the United Kingdom of Great Britain and North Ireland and the Government of the People’s Republic of China on the Future of Hong Kong (hereafter Draft Agreement), Hong Kong: Government Printer, 1984, Annex II, p. 26.
followed by the joint drafting of a new TAR Basic Law, or organic statute, similar to the example of Hong Kong.

In September 1991, the MOU was a useful short-term agreement between Britain and China to reach a broad consensus on the desirability of building a new Hong Kong airport at Chek Lap Kok. The MOU was later followed by an agreement reached in 1994 when the Sino-British JLG achieved a breakthrough in the dispute over the airport’s financial arrangement. In the case of negotiations over Tibet, the MOU could be brief and state the most important concessions made by the two sides. On the one hand, the Tibetan exiles would state that Tibet is a part of China and that this Tibetan acknowledgement is made on the condition of achieving enlarged autonomy for the future TAR. On the other hand, the PRC can reassert that Tibet is a part of China and that it is willing to negotiate with the Tibetan exiles for the sake of achieving stability in the TAR. It is crucial that the MOU should be brief, emphasizing the common objective of “achieving stability in the TAR,” a key phrase parallel to that of “achieving prosperity and stability” in the case of Sino-British negotiations over Hong Kong.

In order to create an MOU, both sides must agree to disagree. In particular, the issue of Tibet history is best put aside. Even if the two sides insist that the history of Tibet cannot be swept under the carpet, the MOU can contain two concise versions of historical interpretation (the more detailed versions can be included in the ensuing JD). But the principle of the MOU is to ensure that both sides will continue to negotiate a satisfactory agreement in the long run.

In other words, both sides can link issue one, i.e. the status of Tibet, to the MOU, while leaving the other eight issues to a future JD. However, any detailed discussion on all these issues, ranging from the borders of the TAR to the role of the Dalai Lama, at the early stage of negotiations can result in a deadlock and, possibly, immediate breakdown. Therefore, a brief MOU aimed at achieving stability in the TAR and continuing further negotiations is in the best interests of both sides.

269. The “Memorandum of Understanding Concerning the Construction of the New Airport in Hong Kong and Related Questions” stated that an “Airport Authority” should be set up to “be modelled as far as possible on the Mass Transist Railway Corporation (MTRC) Ordinance.” This meant that the management of the new airport would be similar to the MTRC, a public corporation that manages the underground railway in Hong Kong. See Consultation Paper on the Airport Corporation Bill, Hong Kong: Government Printer, January 1994, p. 1.
It is also important to note that the MOU can be written in Chinese and Tibetan, with "both texts being equally authentic," to borrow a phrase from the Sino-British JD. Although the Sino-British JD is in Chinese and English, an English version of a PRC-Tibetan exile MOU can be prepared to publicize it internationally. But this English version of the Sino-Tibetan MOU needs to be handled with diplomatic finesse. For the PRC side, any English version may be for reference only and is not legally binding. What is more, the PRC may perceive an English version as an attempt to internationalize the issue of Tibet. To allay that fear, the Tibetan side can admit the fact that the purpose of the English version is only for reference, and that the legally binding versions are in the Chinese and Tibetan languages. This approach also can be adopted in the ensuing JD and TAR Basic Law.

In the wake of the MOU, the negotiating teams of both sides can discuss remaining issues, i.e. (1) the borders, (2) the presence of Chinese security forces, (3) the form of governance, (4) economic relationship, (5) citizenship and nationality of TAR residents, (6) foreign relations, (7) the role of the Dalai Lama, and (8) Tibet's culture.

Whether the PRC-Tibetan exile JD should be as detailed as the Sino-British agreement on Hong Kong's future is perhaps a debatable issue. During the Sino-British negotiations, the British side insisted on a detailed agreement in order to calm the fears and boost the confidence of Hong Kong people. China tended to accept this British view and eventually negotiated a very detailed JD, which includes social, economic and political issues.

In the case of PRC-Tibetan exile negotiations, the Tibetan side may want to have a detailed agreement to safeguard the TAR's future. It is unclear, however, whether the PRC will accept this possible Tibetan stance. The Chinese side may believe that the circumstances of Tibet are unlike those of Hong Kong, which has been governed by a foreign power for over 140 years.

271. This is the case of the Sino-Portuguese agreement on Macau's future, although English is the "second most useful language in Macau in addition to Cantonese which is certainly most useful." See G. J. Harrison, "English in Macau," in Rolf D. Cremer, Macau: City of Commerce and Culture, Hong Kong: API Press, 1991, p. 150.
272. For a balanced assessment of the Sino-British agreement, see Peter Harris, Hong Kong: A Study in Bureaucracy and Politics, Hong Kong: Macmillan, 1988, Chapter 7, pp. 208-239.
In the event that either the PRC or Tibetan exile negotiators are unwilling to go into details on the eight issues discussed above, they must remain flexible. For those issues on which both sides can reach satisfactory interim solutions, they should have the political will and perseverance to do so. Those issues that are politically hyper-sensitive, e.g. the borders of Tibet and the form of governance, may need to be postponed to a later stage of the negotiations.

Hence, there should be a priority of issues that will be discussed by the negotiating teams. For example, it has been proposed in the last section that negotiators could consider the integration of other Tibetan autonomous areas into the TAR after a certain period of stable rule in the TAR. The proposal may be a sensitive one to PRC negotiators, who are no doubt concerned about China's national security and territorial integrity. Even in the case of Hong Kong, the British negotiators evaded the issue of Hong Kong's future border, which in the minds of some Hong Kong people can be integrated with Shenzhen in the long run. Therefore, any negotiation on the border of Tibet needs to be flexible because it can become a national security issue from the PRC perspective. While the Tibetan exile negotiators may make demands in such a way as to maximize their position in the first place, the TAR will, no doubt, be the main focus of negotiations.

Another issue is the stationing of the PLA in the TAR. The experiences of Hong Kong and Macau show that the stationing of the PLA in these two SARs after 1997 and 1999, respectively, is a Chinese attempt to realize its sovereignty. Given the Tibetan exile concession that Tibet is a part of China, the PLA’s presence in the TAR is inevitable. Nevertheless, the Tibetan negotiators can demand that the PLA in the TAR should be localized, or that such localization of the security forces should be speeded up by utilizing a time-table agreed by both sides. Localization of the police force is also possible. This process is evident in transitional Hong Kong, where more local Chinese have been promoted to the upper levels of the police force. The question of the indigenized police force in the TAR should not be a stumbling block for negotiators, for this

273. For the Chinese argument against the view that it would be “inappropriate” for the PLA to be stationed in Hong Kong after 1997, see Luo Suo, Jiefangjun Jinzhu Xi'anggang (Stationing the People's Liberation Army in Hong Kong), Hong Kong: Song Chuan, 1993, pp. 1-4.

274. For the roles of the police force in Hong Kong during the current transition period, see Michael Ng-Quinn, "Bureaucratic Response to Political Change: Theoretical Use of the Atypical Case of the Hong Kong Police," occasional paper no. 2 (January
issue can be only briefly mentioned in the JD. In the case of the Sino-British JD, the issue of the police force is discussed within the ambit of civil servants. As the agreement says,

After the establishment of the Hong Kong Special Administrative Region, public servants previously serving in Hong Kong in all government departments, including the police department, and members of the judiciary may all remain in employment and continue their service with pay, allowances, benefits and conditions of service no less favorable than before.²⁷⁵

If, therefore, the Tibetan exiles adopt the position that the PLA can be stationed in the TAR on the condition that it becomes localized, the issue of PRC security forces can be resolved relatively easily.

The issue of the form of governance of the TAR is also a politically sensitive problem that, if not handled skillfully, could make the negotiations take a turn for the worse. In the case of Hong Kong, the British negotiators wisely avoided a detailed discussion of the form of the post-1997 Hong Kong government and suggested the insertion of a statement into the final version of the JD which avers that “the legislature of the Hong Kong Special Administrative Region shall be constituted by elections,”²⁷⁶ thus providing a legal basis for the British to alter some of Hong Kong’s political institutions during the current transition period. The meaning of “elections” is vague in the JD, which the British wanted it in order to leave room for gradual democratization in Hong Kong. In addition, the Sino-British Joint Declaration states that

the Chief Executive of the Hong Kong Special Administrative Region shall be selected by election or through consultations held locally and be appointed by the Central People’s Government. Principal officials (equivalent to Secretaries) shall be nominated by the chief executive of the Hong Kong Special Administrative Region and be appointed by the Central People’s Government.²⁷⁷

The British exchanged an important concession, that of providing Beijing with the authority to appoint Hong Kong’s chief officials, for the election of the Chief Executive in post-1997 Hong Kong.

¹⁹⁹¹), Hong Kong: Hong Kong Institute of Asia-Pacific Studies, the Chinese University of Hong Kong.
²⁷⁵. Draft Agreement, supra note 268, pp. 16-17.
²⁷⁶. Id., p. 15.
In the case of PRC-Tibetan exile negotiations, the JD can stipulate, as did the Sino-British agreement on Hong Kong, that the government and legislature of the TAR "shall be composed of local inhabitants" and that the TAR chief executive will be selected by some form of election held locally and then appointed by the central government. This arrangement should calm any fears on the part of Beijing about the election of a chief executive whose views might be thought "radical." As with the Sino-British JD, the PRC-Tibetan exile JD can state merely that the TAR legislature will be constituted by elections. A more detailed blueprint of the form of governance can be included in the TAR Basic Law, drafted later by Tibetan exile representatives and PRC officials. The drafting process of the Hong Kong Basic Law actually represented a "governing coalition" between the CCP and the Hong Kong elites. While the word "coalition" may not be included in a PRC-Tibetan exile JD, its spirit can be actualized in the way in which the TAR Basic Law is drafted.

The Tibetan exile side's present political blueprint, the "Guidelines for Future Tibet's Polity and the Basic Features of its Constitution," envisions a multi-party, presidential system with the chief executive retaining "all the political powers and responsibilities hitherto incumbent to [the Dalai Lama]." Since this approach likely would be unacceptable to the Chinese side, a more realistic proposal might be to form a Preliminary Working Committee (PWC), as the committee formed by China in 1993 to counter Patten's political reform package in Hong Kong is called. This PWC would be composed jointly of Tibetan exiles and PRC officials and would discuss in detail the form of government and the question of how to select the first chief executive and legislature of the TAR.

279. This was the case of the process of drafting the Hong Kong Basic Law. See Reference Papers For the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (Draft), Hong Kong: Secretariat of the Consultative Committee for the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, February 1989, pp. 89-101.
280. The term "governing coalition" is also used by a scholar who argues that such coalition will stabilize and "legitimize" Hong Kong's political system. See Lau Siu-kai, "Basic Law and the New Political Order of Hong Kong," Occasional Paper no. 26 (June 1988), Hong Kong: Institute of Social Studies: The Chinese University of Hong Kong, pp. 33-38.
281. See Tibet Press Watch, supra note 28, at pp. 18-20.
282. Id., p. 19.
In designing the form of government for the TAR, the linkage between the TAR institutions and the hinterland Chinese political bodies needs to be considered carefully. In the case of Hong Kong, the Chinese National People’s Congress (NPC) plays a number of roles. First, in 1990 it “enacted and promulgated” the Hong Kong Basic Law, as stipulated in the Sino-British JD. Second, it will become a watchdog overseeing the laws enacted by the post-1997 Hong Kong legislature. Article 17 states that if the NPC Standing Committee regards any laws enacted by Hong Kong’s Legislative Council as “not in conformity with” the provisions of the Basic Law, it can return the law in question to Hong Kong’s legislature and the law will then be “invalidated.” Apparently, the NPC will have the veto power over Hong Kong laws, but one cannot exclude the likelihood that it may refrain from the exercise of such power, which no doubt would arouse resistance and criticism from some Hong Kong people.

Third, the power of interpreting the Hong Kong Basic Law will be vested in the NPC Standing Committee, which still can authorize the Hong Kong courts to interpret some provisions of the Basic Law. As Article 158 says,

The courts of the Hong Kong Special Administrative Region also may interpret other provisions of this Law in adjudicating cases. However, if the courts of the Region, in adjudicating cases, need to interpret the provisions of this Law concerning affairs which are the responsibility of the Central People’s Government, or concerning the relationship between the Central Authorities and the Region, and if such interpretation will affect the judgments on the cases, the courts of the Region shall, before making their final judgments which are not appealable, seek an interpretation of the relevant provisions from the Standing Committee of the National People’s Congress through the Court of Final Appeal of the Region.

284. The Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China (hereafter The Basic Law), Hong Kong: The Consultative Committee for the Basic Law of the Hong Kong Special Administrative Region of the People’s Republic of China, April 1990, p. 17.
285. Id., p. 54.
Critics of the Hong Kong Basic Law argue that this provision gives the NPC too much power to interpret the Basic Law. Article 158 nevertheless may be applied to the case of Hong Kong in a flexible manner, depending on Beijing-Hong Kong relations. In the event that Beijing’s relations with Hong Kong are tense and acrimonious, Article 158 may be applied strictly, but if those relations are harmonious and free of conflict, Hong Kong courts will be empowered to interpret provisions of the Basic Law.

Given the fact that Hong Kong under British rule has a constitutional convention that Britain “does not exercise its right to dictate how Hong Kong should be run,” it takes time for a similar convention to be developed in post-colonial Hong Kong. Therefore, although the Hong Kong Basic Law on paper looks rigid in some provisions, such as Article 23 (prohibiting any act of sedition) and Article 158, the practice may be more flexible than what conventional wisdom assumes, particularly if Beijing-Hong Kong relations are harmonious and if China’s political system is liberalized or democratized slowly.

In the case of Tibet, the relationship between the NPC and the TAR institutions will have to be spelled out clearly in a Basic Law. While the PRC-Tibetan exile JD can be very brief on this issue, which may take time for the Tibetan exile side to ponder and accept, the Basic Law likely will have to incorporate the NPC into the polity of the TAR in some way. In practice, the role of the NPC in the TAR polity is related to the role of the Dalai Lama. The Dalai Lama, if he chooses, can be appointed a vice-chairman of the NPC or, more likely, can serve on a Committee for the TAR Basic Law, a body that could arbitrate all disputes between the TAR and Beijing over the TAR constitution. This option would strengthen the legitimacy and acceptability of any decision reached by the Committee for the Basic Law.

Regardless of the form of governance decided by the two sides, the protection of civil liberties in the TAR must be stated clearly in


288. In the case of the Committee for the Hong Kong Basic Law, see The Basic Law, supra note 284, p. 69. Its function is “to study questions arising from the implementation of Articles 17, 18, 158 and 159” of the Basic Law.
the PRC-Tibetan exile JD. In the case of Hong Kong, the Sino-British JD says,

    Rights and freedoms, including those of the person, of speech, of the press, of assembly, of association, of travel, of movement, of correspondence, of strike, of choice of occupation, of academic research and of religious belief will be ensured by law in the Hong Kong Special Administrative Region.²⁸⁹

The protection of religious freedom is the most important provision in the PRC-Tibetan JD that can boost the confidence of Tibetans toward their TAR, since protecting religious freedom in the TAR safeguards Tibetan culture, which is arguably more unique than Hong Kong’s culture. The PRC-Tibetan exile JD does not need to touch upon any issue that opens up old historical wounds. It would suffice to state therein that both sides realize the necessity of the preserving Tibet’s culture. This brief statement can later be followed by detailed cultural policies to be enshrined in the TAR Basic Law.

With regard to the issue of economic relationship between the TAR and Beijing, the Hong Kong experience cannot be applied directly because the economy of Hong Kong is more prosperous and robust than the fragile Tibetan economy, which relies on the subsidies of the central government. Additionally, legal protections for private property take pride of place in capitalist Hong Kong,²⁹⁰ whereas in the context of the “socialist” economy of Tibet the rights of private property are not so absolute.

The PRC-Tibetan exile JD can, however, state briefly that while the central government will continue to provide assistance to expand economic opportunities for Tibetans, the TAR will carry out systemic reforms to strengthen its economy with the goal of raising the level of self-sufficiency in the provision of administrative and social services. Detailed policies, such as the possibility of setting up an SCZ or a special currency for the TAR, can be discussed further in the TAR Basic Law.

A related economic issue is taxation. While the Sino-British JD avoids this complicated issue, Article 106 of the Hong Kong Basic Law states:

²⁹⁰. See Article 6 of *The Basic Law*, supra note 284, p. 6.
The Hong Kong Special Administrative Region shall use its financial revenues exclusively for its own purposes, and they shall not be handed over to the Central People's Government. The Central People's Government shall not levy taxes in the Hong Kong Special Administrative Region.²⁹¹

While it is likely that the TAR will be financially dependent on the central government for some time, the Centre may want to levy taxes there when the TAR becomes more prosperous. An Article 106-like stipulation in a TAR Basic Law, limited to a term of years, may be suitable.

Article 107 of the Hong Kong Basic Law stipulates that post-1997 Hong Kong shall maintain the principle of achieving a fiscal balance and avoiding deficits. An intervention by Beijing into Hong Kong's economy is possible if the post-1997 government inherits a deficit budget.²⁹² Moreover, during the worldwide stock market crash in October 1987, the Hong Kong government formally requested financial support from the Bank of China.²⁹³ Hence, the economic relationship between post-1997 Hong Kong and Beijing will definitely be more dynamic than the static situation stipulated by Article 107.

The principle in this Article can be applied creatively to the TAR to calm the fears of Beijing about a possible financial crisis in the autonomous region, thus leading to more subsidies injected by the central government. From the perspective of Beijing, maintaining fiscal balance is a responsibility of the locality. This principle is applied not only to other provinces and post-1997 Hong Kong, but to the TAR as well.

The citizenship and nationality of TAR residents is a problem as serious and complicated as that for Hong Kong permanent residents after 1997. As Hong Kong is an international city where many Chinese obtain foreign citizenship, the right of abode in post-1997 Hong Kong has become a controversial issue. In 1994, some PWC members suggested that those people who wanted to possess the right of abode in post-1997 Hong Kong would have to prove to the authorities that they had jobs, properties and paid taxes in the

²⁹¹. Id., p. 38.
capitalist enclave. Critics of this proposal argued that these requirements were unnecessary and would frighten many Hong Kong people who have foreign citizenship and who wish to work in the SAR. The qualifications for the right of abode after 1997 have not yet been resolved by China and Britain, despite the fact that the Sino-British JD attempts to specify those who have the right of abode in post-1997 Hong Kong and the Basic Law attempts to define “permanent resident.”

In the future TAR, resident status and nationality are important issues that must be discussed in detail by the negotiating teams. Many Tibetan exiles have obtained foreign citizenship. Under what circumstances might they be regarded as TAR’s permanent residents? Whether or not viewed as permanent residents, will they be allowed to be elected to the TAR legislature? In the case of post-1997 Hong Kong, there will be a 20 percent limit on Legislative Council members who are “not of Chinese nationality or who have the right of abode in foreign countries.” The PRC and Tibetan exile negotiators will sooner or later have to discuss these issues because they are directly connected with the composition of the TAR political bodies. A special committee might be formed to study the issues and exchange views informally prior to formal discussions. In any case, because of the complexity of these questions, the two sides will have to prepare innovative proposals to be advanced in negotiations immediately after the signing of the MOU.

Unlike Hong Kong where residents are issued updated identity cards so that the post-1997 government will be able to identify their status and nationality, Tibet does not have a similar well-established identity system. In order to facilitate future Sino-Tibetan exile discussions on the resident status and nationality of Tibetans, both sides may need to consider the possibility of issuing new identity cards to all the residents in Tibet.

VII. RECOMMENDATIONS TO THE TIBETAN AND CHINESE NEGOTIATORS: LESSONS FROM THE CASE OF HONG KONG

There are a number of lessons that can be drawn from the Hong Kong experience. First, the relatively long period of time (two years) that Sino-British negotiators required to reach an

294. See Joint Declaration, supra note 11, pp. 23-14.
agreement suggests that any PRC-Tibetan exile negotiations also may be prolonged. Although a quick agreement could be reached more quickly than it was for Hong Kong, the PRC and Tibetan exile diplomats should be psychologically prepared in the event that some issues take much longer to resolve. Patience on both sides of the negotiating table is a must.

Second, any PRC-Tibetan exile negotiations should be kept confidential, although some international assistance handled with political and diplomatic finesse and provided at the appropriate time and place, may be needed at the outset. In the Hong Kong case, the negotiations were so secret that some Hong Kong people complained about the lack of consultation with the populace.297 This secrecy was, however, a boon to the negotiators, who could discuss the issues in depth without the fear that a third party would publicize and politicize them. Given the concern about Tibet’s future, there is a particular danger of politicizing the negotiations within the Tibetan exile community and PRC leadership and thereby creating the misperception that the negotiators do not enjoy a plenary mandate to reach a settlement.

Minimizing such misperceptions, and thereby avoiding the abrupt deadlock that would ensue, is a difficult task.298 For example, the internationalization of the Tibet issue has been unacceptable to the PRC side, but China’s diplomats should recognize that the Tibetan exiles do not, among themselves, have nearly the same access to resources as the PRC and may require some international help during the negotiation process. On the other hand, while international concern about Tibet is even greater than that about Hong Kong prior to the Sino-British negotiations of 1982-84, PRC-Tibetan exile negotiations can be “de-internationalized” in order to ensure eventual success. “De-internationalizing” the negotiations will call for restraint on the part of not only the Tibetan exiles, but also of third parties like the United States.

Third, the two sides must each reach an internal consensus. The PRC leaders will have to agree to empower their negotiators to

297. For critical works on the ways in which Britain handles the future of Hong Kong, see George L. Hicks, Hong Kong Countdown, Hong Kong: Writers’ and Publishers’ Cooperative, 1989; John Walden, Excellency, Your Gap Is Growing, Hong Kong: All Noble Company, 1987; and William Shawcross, Kowtow!, London: Chatto and Windus, 1989.

298. For the ways in which decision-makers can minimize misperception, see Robert Jervis, Perception and Misperception in International Politics, New Jersey: Princeton University Press, 1976, Chapter 12, pp. 409-424.
reach an agreement that significantly enlarges autonomy for the TAR. Reaching a consensus among the Tibetan exiles is a bit more complex, but attainable. The British negotiators needed to sell the Sino-British JD to the House of Commons, but this was easily done because members of the Conservative Party occupied most of the seats in the lower house in 1984. What the British could not do, however, was to really represent the wishes of the Hong Kong people. The Tibetan exile negotiators are in a much more advantageous position. Unlike the British, they will not appear as foreign rulers imposing a solution on the people for whom they negotiate. They may therefore be able to carry out confidential consultations with a small group of senior members of the exile community during the negotiations. The Dalai Lama’s support also should carry such weight that a final agreement will be acceptable to the vast majority of Tibetans.

Fourth, the brief discussion about the form of governance in the Sino-British JD was a wise British move that avoided further deadlock in the negotiations. The recent Sino-British dispute over Patten’s reform package served to confirm the success of the earlier British negotiating tactic. It can be anticipated that PRC-Tibetan exile negotiations on the political structure for the TAR will not be easy. Hence, both sides may have to follow the Hong Kong precedent, keeping that section very brief in the JD and leaving detailed arrangements to the TAR Basic Law.

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299. Except for a critical speech made by Liberal MP Paddy Ashdown, the debate over the Sino-British agreement in the British House of Commons was “a tame, non-partisan affair.” Felix Patrikeeff, Mouldering Pearl: Hong Kong at the Crossroads, London: George Philips, 1989, p. 156.

300. Scott argues that Britain and China dictated the future of Hong Kong and that the result was to create “a legitimacy crisis” for the Hong Kong government. See Political Change and the Crisis of Legitimacy in Hong Kong, supra note 123, Chapter 8. Also see Ian Scott, “Legitimacy and Its Discontents: Hong Kong and the Reversion to Chinese Sovereignty,” Asian Journal of Political Science, vol. 1, no. 1 (June 1993), pp. 55-75.

301. During the April 1994 interviews with exile officials, they emphasized that any future agreement with the PRC would have to be accepted by the exile parliament.

302. The fact that in 1995 PRC officials openly encourage the “pro-Beijing” political parties to participate in Hong Kong elections shows that once the lid of democratization had been lifted by the British, it could not be closed by the Chinese. One scholar even goes so far as to argue that democratic elections in Hong Kong in 1994 and 1995 may be “the first tocsin of deep systemic change in China, a return to the modernizing, democratizing goals of the 1991 revolution which also began in Hong Kong.” Michael E. DeGolyer, “Politics, Politicians, and Political Parties,” in Donald H. McMillen and Man Si-wai, The Other Hong Kong Report 1994, Hong Kong: The Chinese University Press, 1994, p. 101.
Fifth, both sides need to acknowledge that making concessions does not amount to a zero-sum game. The Tibetan exiles must appreciate that the placement of some restrictions in a TAR Basic Law, e.g. an equivalent to the anti-sedition Article 23 of the Hong Kong Basic Law, would not mean the loss of fundamental Tibetan interests. Such concessions are necessary to pacify PRC fears and develop more important constitutional conventions.

Similarly, the PRC needs to appreciate that a Tibetan concession on the issue of independence is the same as the British abandonment of sovereignty over Hong Kong and would represent a maximum concession that calls for genuine efforts by China to grant significantly enlarged autonomy to the TAR. If both sides eschew a zero-sum view, they will, like the diplomats in the Hong Kong case, definitely be able to steadily produce agreements over time.

Sixth, the Hong Kong experience shows that once a JD is set out, seemingly endless new issues remain to be resolved. Both sides will have to psychologically prepare for this and, to compensate for a lack of expertise on many issues, set up special committees that recruit younger officials to study them in detail. Both sides may need to be even more far-sighted in their negotiations than the Sino-British diplomats, who first tended to adopt an incremental approach to solve the question of Hong Kong’s future.

Seventh, both sides need to be flexible about the composition of negotiating teams. When the Sino-British negotiations deadlocked, both sides changed their team leaders, thereby smoothing the way for new discussions. In the case of PRC-Tibetan exile negotiations, both sides need to inject new blood. Negotiators are needed who are expressly receptive to new ideas, whatever their source and however they might depart from past canon. The two sides are burdened heavily by the history of their encounter and tend to adopt the view that changes in the leadership of the other side will change everything. Instead of formulating a long-term

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303. On the British side, after Cradock reached the age of sixty, the normal retirement age, he was eventually replaced by Richard Evans. The Chinese side replaced Yao Guang, who was cool to the press, with Zhou Nan, who liked to use Chinese poems to describe the Sino-British talks. Although one could argue that the British and Chinese personnel change had no significant impact on the talks, Zhou Nan’s new position apparently could allay the fears of some Hong Kong people who were eager to hear the remarks of Chinese diplomats at the end of every round of Sino-British negotiations. For the personnel changes, see Roberti, The Fall of Hong Kong, supra note 120, pp. 79-80.

304. Interviews with the Tibetan exile officials in April 1994.
blueprint, they have instead adopted a relatively passive stance, taking a wait-and-see attitude about events which are, in their nature, unpredictable. This limited perspective, regardless of its accuracy, is by no means conducive to negotiations.

Eighth, both sides must contemplate using words and terms that are politically acceptable to the other side. For example, terms such as "zone of peace," "federation" and "free Tibet," used by the Tibetan exiles, are politically unacceptable to the PRC. Describing Tibetan leaders as "feudalists" and Tibet as "backward" is clearly unacceptable to the Tibetan exiles. In contrast, the British diplomats in talks with China on Hong Kong's future, succeeded in learning to use words that could postpone any unnecessary dispute and minimize Chinese sensitivity. The typical example of this deliberate British strategy was the provision in the JD which stipulated that Hong Kong's legislature after 1997 will be constituted by "elections." While the PRC may interpret "elections" as consultations, the British now regard them as "open and fair elections."

The Hong Kong experience demonstrates that future PRC-Tibetan exile negotiators must learn the skills of using names, words and phrases with neutral tones, thus avoiding the problem of incurring suspicion from the other side. To do so will require diplomats with some familiarity with not just the politics, but also the culture of the other side. Many British diplomats dealing with China during the Hong Kong talks have been Sinologists who studied Chinese literature, history and politics. Both sides have to appreciate the importance of utilizing the knowledge of experts whose understanding of culture may provide a surprising resource that can break the current impasse in the PRC-Tibetan exile dispute over Tibet's future.

VIII. CONCLUSION

From all appearances, the mid-1990s should provide a better opportunity for a solution to the Tibet question than previous periods in Beijing-Dharamsala relations. This is because two plateaus have been reached. On the exile side, the plateau is mobilizational. Dharamsala has probably (to use Chinese parlance) united all those who can be united, at least at the elite level. It made steady progress from 1987 to 1994 in internationalizing the Tibet issue, gaining the support of grass roots activists and celebrities in the West and spurring initiatives by members of parliament in a variety of states.

Dharamsala has failed, however, to achieve recognition by any country and is unlikely to do so as long as other states value the
Chinese connection. The longer that this state of affairs persists — and especially if it persists beyond the political life of the current Dalai Lama — the more likely it is that debilitating infighting will escalate among Tibetans in exile. Beijing, too, has reached a mobilizational plateau in dealing with the Tibet question. The central government must contend with a more loosely-bound China than at any time since 1949. China is likely to become looser still in a post-Deng era of accelerated economic reform. The Party and state now lack the capacity to mobilize resources in the way that formerly amazed the world. Dharamsala’s failure to secure diplomatic recognition thus must be cold comfort to Beijing. As it stands, the PRC bears the burdens of stationing a large number of troops in Tibet for internal security purposes and pumping in monies that would likely not be spent were it not thought that improved living standards will secure the loyalty of Tibetans. Despite progress in economic and social indicators, Tibet is a continuing embarrassment for Beijing because, by all accounts, most Tibetans remain, to a greater or lesser degree, pro-Dalai Lama.

The top Chinese leadership cannot feel secure in its ability to perpetually call up the resources needed to meet the challenge of governing Tibet and cannot expect that costs will fall. In the intermediate term, the passing of the present Dalai Lama from the scene some decades hence and the continued influx of non-Tibetans into Tibet will likely boost the cost of governance, as Tibetans become increasingly disturbed about the erosion of their ethnic identity and the Dalai Lama’s restraining presence no longer checks the tendency toward violent upheaval.

Both sides need a settlement and it is likely that the cooler heads among them recognize this necessity. The question is whether they will break free from the notion that victory over their opponents in the contest over Tibet can be had by waiting.

In Dharamsala, this notion is put in terms of the eventual fall of the CCP or disintegration of China, events held “inevitable” because of putative world-wide trends toward liberal democracy and the collapse of states formed by imperial expansion. “Democratization” in Eastern Europe, the former Soviet Union and Latin

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305. Even as to matters where the central government still operates in a campaign mode, e.g. family planning, its effectiveness is contingent on negotiating an outcome with ostensibly subordinate political entities and the populace. See, e.g., Susan Greenhalgh, “Controlling Births and Bodies in Village China,” American Ethnologist, vol. 21, no. 1 (1994), pp. 1-30.
America, however, has neither been deep nor sturdy and has had little resonance outside one or two smaller states in Asia. The collapse of the Soviet Union hardly portends a trend for imperially-constructed states (which include not just China, but India, France, the United States and other countries) to disintegrate. In fact, the implosion of the USSR stands as a warning to other states not to open the door to disintegrative influences.

In Beijing, the main illusions seem to be that there will be stability in Tibet after the Dalai Lama and that as the wealth of Tibetans increases, they will renounce separatism. The Dalai Lama is the central figure in “splittist” activities, but when he passes on, his reincarnation will quickly be found among the exiles and a regent will speak in his name for the 10-15 years needed for a new Dalai Lama to come of age. The regent also may be charismatic, but even if he is not, he likely will be both politically experienced and less amenable to compromise than the present Dalai Lama.

As for a relationship between growing wealth and political quiescence, none has been found by political science. Rather, a growing middle class has been associated with activism. Even if a relationship existed in a general sense, the rising tide of reform and investment that is supposed to lift all boats in Tibet has created a specific context of grievance about the growth of the socio-economic gap between non-Tibetans and Tibetans.

The Tibet question will remain to be solved no matter what lies around the corner for China. For other states that have been drawn in through well-placed pressure by Buddhists and human rights activists, the issue will not go away, but likely will intensify as these activists move into senior positions in the state and society. It may be, however, that third parties, more free of internal pressures than either the Tibetan exile or PRC leaders, will lead the disputants to the conviction that they must make concessions in order to reach the agreements needed to lay to rest the Tibet question.
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