

GOVERNANCE OF CHINA'S PERIPHERY: BALANCING LOCAL AUTONOMY AND NATIONAL UNITY

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I. INTRODUCTION

China's governance of its peripheral areas has historically been a matter of national identity and remains so today. In keeping with its Marxist-Leninist heritage, the People's Republic of China ("PRC") has viewed the periphery in policy terms—initially as a challenge for socialist transformation and more recently as a locus of economic development. China depicts itself as a unitary state. The continued influence of Confucian patrimonial sovereignty along with concerns over national unity, wealth, and power has supported ideas and practices of governance that remain hierarchical and authoritative.¹ As China's participation in the world political economy has exposed liberal governance regimes, the dynamics of selective adaptation continue to adjust these to China's official norms of centralized governance.² Yet Chinese and foreign observers frequently point to the extent of local resistance to central government rule.³ This is particularly true around the periphery, where tensions between central authority and local resistance are especially acute. While governance regimes for the periphery have generally been tailored to reflect the policy priorities of the Chinese Communist Party ("CCP"), the past ten years have seen increased public reliance on legal forms to formalize and lend legitimacy to policy preferences. In light of nearly thirty years' experience with other dimensions of China's legal system,⁴ it is appropriate and important for us to consider the extent to which rule of law ideals are realized in China's approach to governance in the sensitive peripheral regions. Accordingly, this paper will examine the legal regime for China's governance in the Inner Periphery areas of Inner Mongolia, Xinjiang, and Tibet in light of the dynamics of institutional capacity and the implications for China's relations with the Outer Periphery areas of Macao, Hong Kong, and Taiwan.

¹ Pitman B. Potter, *Legal Reform in China – Institutions, Culture, and Selective Adaptation*, 28 LAW & SOC. INQUIRY 465, 465-95 (2004).

² Pitman B. Potter, *Globalization and Economic Regulation in China: Selective Adaptation of Globalized Norms and Practices*, 2 WASH. U. GLOBAL STUD. L. REV. 119, 119-50 (2003).

³ See generally CHINESE SOCIETY: CHANGE, CONFLICT AND RESISTANCE (Elizabeth J. Perry & Mark Selden eds., 2d ed. 2003) [hereinafter CHINESE SOCIETY].

⁴ See generally STANLEY B. LUBMAN, *BIRD IN A CAGE: LEGAL REFORM IN CHINA AFTER MAO* (1999).

II. CONCEPTUAL APPROACHES TO GOVERNANCE IN CHINA'S PERIPHERY: INSTITUTIONAL CAPACITY AND THE RULE OF LAW

Analysis of China's political relations with the Inner Periphery has tended to focus on human rights dimensions of governance,⁵ while historical analyses have provided general context for understanding their relations with China.⁶ However, in light of governance practices elsewhere as well as changing conditions in China, discussion of governance in China's peripheral areas has gradually engaged with discourses on federalism, which offer potentially useful insights into the dilemmas of central-local relations that inform national integration programs.⁷ Despite official discourses asserting that China is a unitary rather than a federal state, the true interplay of power and politics between the central and sub-national governments echoes practices of federalism.⁸ Although specific proposals about federalist governance were initially associated with the allegedly counter-revolutionary Yan Jiaqi,⁹ broader scholarly discourses have increasingly accepted the application of federalist principles to China.¹⁰

Although it rejects federalism, the Chinese government, for its part, has attempted to justify its policies and practices of governance in the periphery by reference to formal law, with particular attention to the PRC Constitution, the Law on Autonomy in Minority Nationality Areas, and ancillary laws and regulations. While this suggests a degree of parallelism with the expanded application of law to China's economic

⁵ See Andrew Fischer, *Poverty by Design: The Economics of Discrimination in Tibet* (Canada Tibet Committee, 2002), available at <http://www.tibet.ca/en/publications/PovertybyDesign.pdf> (last visited February 13, 2006); AMNESTY INTERNATIONAL, *REPRESSION IN TIBET 1987-1992* (1992) [hereinafter *REPRESSION IN TIBET*]; AMNESTY INTERNATIONAL, *SECRET VIOLENCE: HUMAN RIGHTS VIOLATIONS IN XINJIANG* (1992) [hereinafter *SECRET VIOLENCE*]; HUMAN RIGHTS WATCH, *CUTTING OFF THE SERPENT'S HEAD: TIGHTENING CONTROL IN TIBET 1994-1995* (1996); Uradyn E. Bulag, *Inner Mongolia: The Dialectics of Colonization and Ethnicity Building*, in *GOVERNING CHINA'S MULTIETHNIC FRONTIERS* 84 (Morris Rossabi ed., 2004) [hereinafter *GOVERNING CHINA'S MULTIETHNIC FRONTIERS*].

⁶ See MELVIN GOLDSTEIN, *THE SNOW LION AND THE DRAGON: CHINA, TIBET AND THE DALAI LAMA* (1997); TSERING SHAKYA, *THE DRAGON IN THE LAND OF SNOWS: A HISTORY OF MODERN TIBET SINCE 1947* (1999).

⁷ Glenn Drover & K.K. Leung, *Nationalism and Trade Liberalization in Quebec and Taiwan*, 74 PAC. AFF. 205 (2001).

⁸ Michael C. Davis, *The Case for Chinese Federalism*, J. DEMOCRACY, April 1999, at 124.

⁹ Yan Jiaqi, *Federalism and the Future of Tibet*, in *TIBET THROUGH DISSIDENT CHINESE EYES* 107-20 (Cao Changching & James D. Seymour eds., 1998); see also Yan Jiaqi, *China's National Minorities and Federalism*, DISSENT, Summer 1996, at 139-44.

¹⁰ Huang Yasheng, *Political Institutions and Fiscal Reforms in China*, PROBLEMS OF POST-COMMUNISM, Vol. 48, January - February 2001, at 16, 16-26; Song X., *Thinking Federal: The Relevance of Federalism to China*, REGIONAL & FED. STUD., Autumn 2000, at 107-28.

reforms, the “legalization” of China’s relations with the periphery is aimed more at building the legitimacy for central government policies than at reforming existing state-centric systems and lending predictability to resulting behavior. The PRC’s legal regime for governance in the Inner Periphery continues to reflect central policy priorities conceived through organs of the Party and state leadership, which are then expressed and implemented through legal and political-legal institutions. This interplay between law and policy not only reveals long-standing features of China’s legal and political culture, like the dynamic of patrimonial sovereignty, but also raises important questions about institutional capacity.¹¹

Institutional capacity refers to the ability of institutions to perform their assigned tasks. Institutional capacity has been examined from relational perspectives that focus on issues of responsibility between organizations and their constituencies, efficiency in performance and the use of resources, and accountability to varying sources of authority.¹² Functional perspectives have also been applied to the question of institutional capacity in such areas as access to information, effectiveness and methods of communication, organizational symmetry, and ability to enforce rules and directives.¹³ However useful these approaches may be in the abstract, actual institutional performance remains contingent on domestic political and socio-economic conditions.¹⁴

In China, the policy consensus over the role of legal institutions remains weak. Hence, understanding institutional capacity depends on analysis of more fundamental conditions of identity and perspective.¹⁵ Accordingly, institutional capacity in China may usefully be examined by reference to issues of institutional purpose, location, orientation, and cohesion. “Institutional Purpose” concerns the goals of institutional behavior, and the way these reflect consensus and conflict among communities in which institutions operate. Thus, the capacity of China’s governance institutions to implement policies on national integration in relations with the Inner and Outer Peripheral areas depends

¹¹ Potter, *supra* note 1.

¹² H.V. Savitch, *Global Challenge and Institutional Capacity: Or How We Can Refit Local Administration for the Next Century*, 30 ADMIN. & SOC’Y 248, 248-73 (1998).

¹³ William Blomquist & Elinor Ostrom, *Institutional Capacity and the Resolution of the Commons Dilemma*, in POLYCENTRIC GOVERNANCE AND DEVELOPMENT: READINGS FROM THE WORKSHOP IN POLITICAL THEORY AND POLICY ANALYSIS, at 60-73 (Michael Dean McGinnis ed., 1999) [hereinafter POLYCENTRIC GOVERNANCE].

¹⁴ See Lisa L. Martin & Beth A. Simmons, *Theories and Empirical Studies of International Institutions*, 52 INT’L ORG. 729, 729-57 (1998); see also Patsy Healey, *Building Institutional Capacity Through Collaborative Approaches to Urban Planning*, 30 ENV’T & PLAN. 1531 (1998).

¹⁵ David Zweig, *The “Externalities of Development”: Can New Political Institutions Manage Rural Conflict?*, in CHINESE SOCIETY, *supra* note 3, at 113-36.

on the extent of clarity and consensus regarding policy objectives. Institutional capacity also depends on issues of "Institutional Location," particularly the question of balancing central authority with decentralization of social and economic development initiatives.¹⁶ Practical divisions of power and authority between local and central government departments in China permit a degree of policy interplay between the central and sub-national governments that reveals marked differences of perspective and practice.¹⁷ These are particularly pronounced in the sensitive minority areas of the Inner Periphery. Institutional capacity also depends on "Institutional Orientation"—namely, the priorities and habitual practices that inform institutional performance. This is particularly sensitive in the Inner Periphery, where local social norms and economic practices differ significantly from those of the dominant Han culture associated with the central government. Contested perspectives on development are particularly important examples of institutional orientation in China's governance of the Inner Periphery. Finally, institutional capacity depends on issues of "Institutional Cohesion," involving the willingness of individuals within institutions to comply with edicts from organizational and extra-organizational leaders and enforce institutional goals. In the context of governance in the periphery, institutional cohesion particularly involves the question of cadre recruitment to governance institutions.

III. LEGAL PROVISIONS FOR GOVERNANCE IN THE PERIPHERY

The factors of institutional capacity come into sharp relief in the context of China's governance in the Inner Periphery, particularly with reference to law and policy issues of regional autonomy, minority affairs, and regulation of religion.¹⁸ The legal framework for governance on these issues derives primarily from the PRC Constitution, the Law on Autonomy in Minority Nationality Areas ("Minority Autonomy Law" or "MAL"), and the regulatory regime for control of religion (including recently enacted national regulations on religion). Besides China's

¹⁶ James S. Wunsch, *Institutional Analysis and Decentralization: Developing an Analytical Model for Effective Third World Administrative Reform*, in POLYCENTRIC GOVERNANCE, *supra* note 13, at 243-68.

¹⁷ See Sean M. Dougherty & Robert H. McGuckin, *Federalism and the Impetus for Reform in China*, CHINA LAW & PRAC., May 2002, at 30; Sean M. Dougherty et al., *How Federalism—Not Just Privatization—Is Driving China's Economy*, 美中经济评论 [U.S.-CHINA BUS. REV.], Vol. 2, No. 1, 2002, at 115.

¹⁸ THEODORE C. SORENSEN & DAVID L. PHILLIPS, LEGAL STANDARDS AND AUTONOMY OPTIONS FOR MINORITIES IN CHINA: THE TIBETAN CASE (2004).

formal Constitutional and legislative provisions for governance in the Inner Periphery, much attention has also been paid to problematic enforcement of international human rights standards espousing rule of law ideals,¹⁹ disparities of economic and social wellbeing²⁰ and troubling practices in the regulation of religion affairs.²¹

While such problems may be taken as evidence of the unwillingness of the PRC government to enforce its own laws, China's behavior can also be understood in light of institutional capacity. Institutional purposes centered on implementation of Party policy on autonomy, minority nationalities, and religion; institutional location questions involving disparities of viewpoint and language between Beijing and the periphery; issues of institutional orientation revealing tensions over approaches to local development; and factors of institutional cohesion affecting cadre selection and administration all have a significant impact on the performance of the legal and regulatory system for governing China's periphery. Institutional capacity analysis suggests an approach to understanding what sorts of governance behavior China's legal framework is likely to generate.

A. *Constitution of the PRC*

The Constitution of the PRC provides general legal principles from which all other legislation is to proceed. Thus, provisions on local autonomy and minority governance set forth in the Law on Autonomy of Minority Nationality Areas (the "MAL") are based on underlying constitutional provisions. Related to this are issues of regulation of religion, to which the MAL and related minority governance laws and policies frequently refer.

1. Regional Autonomy

The Constitution provides overall guidance on issues of local autonomy. The Constitution addresses governance autonomy in nationality areas separately from local people's congresses, which are augmented by a range of formal legislations.²² Governance in the Inner

¹⁹ REPRESSION IN TIBET, *supra* note 5; SECRET VIOLENCE, *supra* note 5; HUMAN RIGHTS WATCH, *supra* note 5.

²⁰ See generally COLIN MACKERRAS, CHINA'S ETHNIC MINORITIES AND GLOBALISATION 56-76 (2003).

²¹ Pitman B. Potter, *Belief in Control: Regulation of Religion in China*, 174 THE CHINA Q. 317 (2003).

²² 宪法 [CONST.], art. 5 (1982) (P.R.C.); KEVIN J. O'BRIEN, REFORM WITHOUT LIBERALIZATION: THE NATIONAL PEOPLE'S CONGRESS AND THE POLITICS OF INSTITUTIONAL CHANGE (1990);

Periphery areas of Inner Mongolia, Xinjiang, and Tibet is subject to Section 6 on governance in autonomous regions (as well as prefectures and counties). Viewed in light of CCP policy dictates and broader official discourses on governance autonomy in nationality areas, these provisions reveal particularly interesting features in the context of institutional capacity.

Article 113 provides for appropriate representation at the local people's congresses for nationalities inhabiting a minority autonomous area region, prefecture, or county other than the nationality in whose name the area is designated. While ostensibly meant to ensure that local minorities such as Kazaks in Xinjiang or Tibetans in Mongolia are represented in local people's congresses, this provision also ensures representation of Han Chinese residing in minority nationality areas. Such provisions support local perceptions that China aims to divide local non-Han minorities by promoting political competition that weakens factors of commonality in relation to the Han people.²³ These issues of institutional purpose and location affect the exercise of institutional capacity.

Articles 113 and 114 require that the Chair and at least one Vice-Chair of the autonomous area people's congress standing committee be a member of the local nationality, and that the administrative head of the area also be a local nationality. While these provisions allow local minorities to influence local governance, no parallel provisions govern Party organs. The pervasive influence of the CCP is well known, such that local minority administrative leaders are often perceived as impotent followers of the Han-dominated CCP.²⁴ Indeed, authoritative government directives confirm that the Party considers itself the final arbiter of minority nationality interests.²⁵ In minority nationality areas, this tends to weaken the legitimacy and influence of the local minority administrative heads. Nonetheless, interviews—including those conducted by the author—reveal that officials at operational levels in the bureaucracy are trying to ensure fairness and justice for local minorities.

MURRAY SCOT TANNER, *THE POLITICS OF LAW-MAKING IN POST-MAO CHINA: INSTITUTIONS, PROCESSES, AND DEMOCRATIC PROSPECTS* (1998); 卓越, 地方人大监督机制研究 [ZHUO YUE, *STUDY OF THE SUPERVISORY SYSTEM OF LOCAL PEOPLE'S CONGRESSES*] (2002).

²³ Dru C. Gladney, *The Chinese Program of Development and Control, 1978-2001*, in *XINJIANG: CHINA'S MUSLIM BORDERLAND* 101 (S. Frederick Starr ed., 2004) [hereinafter *CHINA'S MUSLIM BORDERLAND*].

²⁴ Justin Rudelson & William Jankowiak, *Acculturation and Resistance: Xinjiang Identities in Flux*, in *CHINA'S MUSLIM BORDERLAND*, *supra* note 23, at 299-319.

²⁵ 中国共产党关于民族问题的基本观点和政策 [BASIC APPROACHES AND POLICIES OF THE CHINESE COMMUNIST PARTY ON NATIONALITIES ISSUES] 155 (国家民族事务委员会编 [State Nationalities Affairs Commission ed.], 2002).

These questions of national identity in local people's congress representation reveal conflicts over institutional purpose, location, orientation, and coherence.

Article 115 affirms the functions and powers of local governance organs, but qualifies these by limiting their authority within the constraints of the Constitution, the MAL, and other laws. These limitations, particularly in light of the unitary state ideal, effectively prohibit local governments from directly opposing policy directives from higher levels, although local governance departments are permitted to adapt state laws and policies to local conditions. Proponents of greater democratic and legal development in China concede that these must extend beyond the limits of the national minority autonomy system.²⁶ The tension between a formal autonomy that is subject to higher-level direction and local adaptability in the course of enforcing state laws and policies means that the extent of local autonomy in practice is unclear. This, in turn, potentially means that local officials hoping to adapt state laws and policies to local conditions will continue to be restrained by the content of the very laws and policies they are attempting to interpret. Along with dimensions of purpose, location, and orientation, these uncertainties represent problems of institutional capacity.

Article 116 reveals similar tensions with respect to the authority of local people's congresses to enact regulations in light of local characteristics. Possessing such authority, people's congresses in autonomous regions must still submit any regulations to the NPC Standing Committee for approval. Yet autonomous region people's congresses may approve regulations enacted at lower autonomous prefecture and county levels. This creates incentives for autonomous region governments to avoid NPC approval by coordinating regulatory decisions at lower levels, which can also be attributed to building local political relationships.²⁷ This tends to undermine local initiative and flexibility at the sub-autonomous region level, as local governments are pressured to comply with autonomous region-level initiatives. Once again, issues of purpose and location affect institutional capacity.

Articles 117 through 119 extend significant authority to local autonomous area governments on subjects of financial management, local economic development, education, science, culture, public health and

²⁶ 曾宪义, 民族地区现代化进程中的民主法制建设 [ZENG XIANYI, ESTABLISHMENT OF DEMOCRACY AND LEGAL SYSTEMS IN THE COURSE OF MODERNIZATION OF MINORITY AREAS] 43-47 (2002).

²⁷ 刘建兰 & 王宗礼, 中国西北民族地区乡镇政权建设研究 [LIU JIANLAN & WANG ZONGLI, STUDY OF BUILDING POLITICAL POWER AT THE VILLAGE AND TOWNSHIP LEVEL IN MINORITY AREAS OF NORTHWEST CHINA] 299 (1998).

physical culture. Yet these remain subject to policy interpretation in light of central Party and government priorities. Financial autonomy is generally limited to autonomy in the management of local financial resources, but centrally directed policies and plans must still be followed.²⁸ Local development plans must also operate under the guidance of state plans. Thus, state initiatives like the Western Development Strategy (西部大开发, *xibu dakai fa*) remain outside the purview of local autonomy, while local development efforts must continually defer to priorities issued from the central government. Constitutional grants of local autonomy over the administration of education, science and culture are qualified by the requirement of protecting and putting in order (整理, *zhengli*) cultural heritage and promoting cultural development. These normative standards are then interpreted to mean conformity with the Han educational, scientific, and cultural criteria, even as these are portrayed in non-ethnic terms of socialism, modernization, development and "opening up."²⁹ These dimensions of orientation and purpose reveal potential problems for institutional capacity as well.

The potential for state intrusion on security matters is underscored in Article 120, which allows local governments to organize local public security forces to respond to concrete local needs, in accordance with the state military system and subject to State Council approval. This allows for state direction of local security activities—particularly in peripheral areas where border security and perceived threats of separatism and terrorism have been used to justify expanded national security initiatives.³⁰ Once again, the tension between local initiatives and central priorities and approvals reveals institutional capacity issues of purpose and location.

Article 121 addresses the key governance issue of local language usage in governance activities. Rather than directing local government departments to use local languages, the formalistic approach on language usage is to state that local languages are already in use. Yet Chinese language usage continues to dominate social and political life in minority areas.³¹ While a 2000 law on simultaneous language usage was heralded as an example of the government's commitment to protecting local

²⁸ 民族区域自治法通论 [GENERAL SURVEY ON THE LAW ON AUTONOMY IN MINORITY AREAS] 213-16 (宋才发编 [Song Caifa ed.], 2003) [hereinafter GENERAL SURVEY ON THE MAL].

²⁹ 吴仕民等, 中国民族政策读本 [WU SHIMIN ET AL., READER ON CHINA'S NATIONALITIES POLICY] 65-167 (1998).

³⁰ 马大正, 国家利益高于一切 [MA DAZHENG, NATIONAL INTEREST IS PARAMOUNT] (2003).

³¹ Gardner Bovington, *Heteronomy and Its Discontents: "Minzu Regional Autonomy" in Xinjiang*, in GOVERNING CHINA'S MULTIETHNIC FRONTIERS, *supra* note 5, at 133-37.

minority languages, its very enactment and subsequent challenges to its full implementation suggest that minority language usage remains marginalized.³² Indeed, direct interaction between government and administrative officials and local residents often involves teams of Han and local minority officials, with the Han cadre making decisions and the minority cadre simply translating, insulating the Han official from direct contact with local people. Poor relations between minority and Han cadres are described as increasingly serious; worse, even, than during the 1950s and 1960s.³³ In light of the extent of Han domination during the first two decades of PRC rule,³⁴ this is a gloomy assessment indeed. Institutional orientation is particularly evident in language matters that tend to isolate and protect Han officials from local society. This, in turn, fosters resentment and a sense of colonization, revealing the ways that institutional location and orientation affect institutional capacity.

Article 122 depicts the central government as providing financial, material, and technical assistance to autonomous areas and assisting with training local minority cadres. However, this tends to undermine local autonomy, as the assistance and training are expressly intended to strengthen central control and ensure local compliance with central level policy priorities, many of which are not supported locally.³⁵ Institutional capacity problems arise once again around purpose, location, and orientation.

2. Minority Affairs

Article 4 of the PRC Constitution articulates norms of equality, unity, autonomy, and development in minority affairs. Existing work on China's minority policies raises important questions as to whether these empower or marginalize non-Han cultural groups.³⁶ Each of the

³² 学校是贯彻实施“国家通用语言文字法”的基本阵地 [Schools Are the Basic Front for Fully Implementing the Law on Simultaneous Language Usage by the State], in 中华人民共和国国家通用语言文字法学习读本 [STUDY READER ON THE SIMULTANEOUS LANGUAGE LAW OF THE PRC] 34-36 (全国人大教育科技文化委员会及教育部编 [National People's Congress Committee on Education, Science, Culture, and Health and Ministry of Education ed.], 2001).

³³ 孙毅等, 新疆培养少数民族干部及少数民族代表人士问题 [Sun Yi et al., *Issues in Training Minority Cadres and Minority Representatives in Xinjiang*], in 1 新疆研究文论选 [COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG] 309-10 (铁木尔 & 毛公宁编 [Tiemuer & Mao Gongning eds.], 2003) [hereinafter COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG].

³⁴ James A. Millward & Nabijan Tursun, *Political History and Strategies of Control, 1884-1978*, in CHINA'S MUSLIM BORDERLAND, *supra* note 23, at 63-98.

³⁵ WU, *supra* note 29, at 47-49, 181-82.

³⁶ Barry Sautman, *Preferential Policies for Ethnic Minorities in China: The Case of Xinjiang*, in NATIONALISM & ETHNIC POL., Spring/Summer 1998, at 88-118; MACKERRAS, *supra* note 20, at 26; David Wang, *Han Migration and Social Changes in Xinjiang*, ISSUES & STUD., Vol. 34, No. 7,

provisions in Article 4 is laden with meaning, based on China's policy record and current policy documents.

First, Article 4 states: "All nationalities of the People's Republic of China are equal."³⁷ This underscores the notion of equality between Han and non-Han minorities. The provision suggests a formalistic approach to equality, connoting equality of status rather than equality of actual conditions.³⁸ The formal legal equality that places minority nationalities in the same position as the Han majority can serve as grounds for challenging policy preferences accorded minority groups.³⁹ While this provision apparently stands as a prohibition against discrimination against minority groups and individuals, its reliance on formal equality norms also raises the possibility of entrenching substantive socio-economic inequalities through removal of regulatory accommodation for special needs of marginalized groups.⁴⁰

Further, according to Article 4, "[t]he state protects the lawful rights and interests of minority nationalities and upholds and develops the relationship of equality, unity and mutual assistance among all of China's nationalities."⁴¹ Rights and interests must be lawful in order to be protected, meaning that these may not contravene provisions for Party supremacy, the socialist system, state interests, and other privileged domains whose protection is the prerequisite to "lawfulness." As with other areas of constitutional rights, this imposes significant limits on rights enforcement. Moreover, the state is accorded the dominant if not the sole role in protecting lawful rights and interests. The state's monopoly on stewardship over matters of equality, unity, and mutual assistance has the potential to deprive minority groups of authority to determine the substantive or procedural dimensions of these ideals. Official statements on minority policy direct Party and state leadership over these issues to focus on national as opposed to local priorities.⁴²

Moreover, "[d]iscrimination against and oppression of any nationality are prohibited; any acts that undermine the unity of

1998, at 33-61; Solomon M. Karmel, *Ethnic Tension and the Struggle for Order: China's Policies in Tibet*, 68 PAC. AFF. 485 (1995/1996).

³⁷ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

³⁸ Barry Sautman, *Ethnic Law and Minority Rights in China: Progress and Constraints*, 21 LAW & POL'Y 283, 284-86, 290-95 (1999).

³⁹ 孙渝等, 中国西部地区法制环境研究 [SUN YU ET AL., STUDY OF THE LEGAL SYSTEM ENVIRONMENT IN CHINA'S WESTERN REGIONS] (2001).

⁴⁰ URADYN E. BULAG, *THE MONGOLS AT CHINA'S EDGE: HISTORY AND THE POLITICS OF NATIONAL UNITY* 123-24 (2002).

⁴¹ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

⁴² 国家民族事务委员会, 中国共产党关于民族问题的基本观点和政策 [STATE NATIONALITIES AFFAIRS COMMISSION, BASIC APPROACHES AND POLICIES OF THE CHINESE COMMUNIST PARTY ON NATIONALITIES ISSUES] (2002).

nationalities or instigate their secession are prohibited.”⁴³ The term “any nationality” (任何民族, *renhe minzu*) includes Han within the protected category, thus undermining provisions restricting Han Chinese activities.⁴⁴ This has resulted in increased Han dominance of economic and political life in minority areas.⁴⁵ The proscription against undermining the unity of nationalities works to prohibit expressions of anti-Han sentiment in minority areas—and has been applied against peaceful demonstrations, literary and media reporting, and policy debates that are seen to challenge Party policy.⁴⁶ The prohibition against secession is clear on its face, but it also clearly linked to the broader theme of unity of nationalities.

Fourth, “[t]he state helps the areas inhabited by minority nationalities speed up their economic and cultural development in accordance with the peculiarities and needs of the different minority nationalities.”⁴⁷ State aid in development invites imposition of particular models of development that tend to emphasize urbanization, capital-intensive infrastructure development, and socialist market forces.⁴⁸ While these approaches are understood by government policy specialists to contradict local practices and aspirations, the solution tends to lie in intensified education and cultural assistance that will make such approaches to development more palatable locally.⁴⁹

Fifth, “[r]egional autonomy is practiced in areas where people of minority nationalities live in compact communities (聚居, *juju*); in these areas organs of self-government are established for the exercise of the right of autonomy. All the national autonomous areas are inalienable parts of the People’s Republic of China.”⁵⁰ Autonomy in national minority areas is limited to administration over purely local issues, is subject to central state and Party leadership, and does not include autonomy to depart from legal and regulatory provisions of higher levels.⁵¹ Moreover, the phraseology defining minority areas, particularly

⁴³ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

⁴⁴ WU, *supra* note 29, at 6-8.

⁴⁵ CHRISTIAN TYLER, *WILD WEST CHINA: THE TAMING OF XINJIANG* 211-21 (2004).

⁴⁶ 新疆民族委员会, 新疆维吾尔自治区民族关系基本情况 2003 [XINJIANG MINORITIES COMMISSION, BASIC SITUATION OF RELATIONS AMONG NATIONALITIES IN XINJIANG UIGHUR AUTONOMOUS REGION 2003], in *COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG*, *supra* note 33, at 183-93; MA, *supra* note 30, at 103-05.

⁴⁷ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

⁴⁸ Calla Weimer, *The Economy of Xinjiang*, in *CHINA’S MUSLIM BORDERLAND*, *supra* note 23, at 163-89.

⁴⁹ 西部开发与多民族文化 [WESTERN CHINA DEVELOPMENT AND MULTI-ETHNIC CULTURES] 12-17 (马子富编 [Ma Zifu ed.], 2003) [hereinafter WESTERN CHINA DEVELOPMENT].

⁵⁰ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

⁵¹ GENERAL SURVEY ON THE MAL, *supra* note 28, at 51-57.

the use of the term “compact communities,” indicates areas occupied nearly exclusively by minorities. Migration programs increasing Han populations in areas of Inner Mongolia, Xinjiang, and Tibet present significant challenges to minority-oriented governance in these areas. The reference to minority areas being inalienable from China underscores the government’s continuing concern with separatism.⁵²

Finally, “[t]he people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and cultures.”⁵³ Particularly in light of the increasing size of the Han populations in minority areas, the reference to “all nationalities” in this provision works to impede use of local minority languages at government and educational institutions in minority areas by permitting use of Han Chinese.⁵⁴ Also, the suggestion that nationalities may choose to reform their own ways has been interpreted as justification for government-sponsored education and cultural “reform” programs aimed at improving the quality (素质, *suzhi*) of minority populations and the potential for their assimilation into the dominant Han culture.⁵⁵

Thus, the Constitutional provisions on nationality affairs provide significant justification for state-centric governance and for gradual diminution of local ethnic identity. When viewed in light of related discourses on the conditionality of constitutional rights and the national unity imperatives of minority policy, the provisions of the PRC Constitution serve to entrench policy ideals and approaches that have the potential to marginalize minority nationalities. These are further entrenched in the Minority Autonomy Law discussed below.

3. Religion

Constitutional provisions on religion distinguish between freedom of belief and controls on behavior.⁵⁶ Article 36 provides that citizens enjoy freedom of religious belief, and protects “normal religious activities.”⁵⁷ Yet this protection does not extend to behavior that disrupts public order, impairs the health of citizens, or interferes with the educational system of the state. In explaining the meaning of constitutional provisions on religious freedom, Peng Zhen noted that, from a political perspective, the common elements of patriotism and

⁵² MA, *supra* note 30, at 177-90.

⁵³ 宪法 [CONST.] art. 4 (1982) (P.R.C.).

⁵⁴ WU, *supra* note 29, at 263-66; STATE NATIONALITIES AFFAIRS COMMISSION, *supra* note 42.

⁵⁵ STATE NATIONALITIES AFFAIRS COMMISSION, *supra* note 42, at 196-98.

⁵⁶ Potter, *supra* note 21.

⁵⁷ 宪法 [CONST.] art. 36 (1982) (P.R.C.).

adherence to socialism bind those who believe in religion and those who do not.⁵⁸ This underscores the imperative of submission to Party/state control as a condition for enjoyment of religious freedom.

Protection of freedom of religious belief is qualified as well by Article 33 of the PRC Constitution, which conditions the exercise of citizens' rights on performance of their duties.⁵⁹ As Peng Zhen explained, these included upholding the Four Basic Principles,⁶⁰ which impose a duty to uphold the socialist road, the dictatorship of the proletariat, leadership of the Party, and Marxist/Leninist/Mao Zedong Thought. Thus, the freedom granted religious belief remains conditional not only on compliance with law and regulation, but more fundamentally on submission to the policies and edicts of the Party/state.

The State Council's 1997 White Paper on Freedom of Religious Belief in China reiterated the point that "religion should be adapted to the society where it is prevalent" and that religions must "conduct their activities within the sphere prescribed by law and adapt to social and cultural progress."⁶¹ Pursuant to these principles, the government remained committed to punishing those religions and religious believers who "are a serious danger to the normal life and productive activities of the people" or who "severely endanger the society and the public interest."⁶² The coercive themes associated with administration of religion were reiterated at the United Front Work Department's national work conference in late December 1999 by Director Wang Zhaoguo: "[W]e must comprehensively and correctly implement the Party's religious policy, strengthen administration of religious affairs according to law, and actively guide religions to adapt to socialist society."⁶³ These basic Constitutional provisions are echoed in a wide array of central and local regulations that control religious activities, practitioners,

⁵⁸ 彭真, 关于中华人民共和国宪法修改草案的说明 [Peng Zhen, *Explanation of the Draft Revisions to the Constitution of the PRC*], in 彭真, 论新时期的社会主义民主与法制建设 [PENG ZHEN, ON BUILDING SOCIALIST DEMOCRACY AND LEGAL SYSTEM DURING THE NEW PERIOD] 100-15 (1989).

⁵⁹ 宪法 [CONST.] art. 33 (1982) (P.R.C.).

⁶⁰ 彭真, 关于中华人民共和国宪法修改草案的说明 [Peng Zhen, *Explanation of the Draft Revisions to the Constitution of the PRC*], 人民日报 [PEOPLE'S DAILY], Dec. 6, 1982, at 1.

⁶¹ *Freedom of Religious Belief in China*, in WHITE PAPERS OF THE CHINESE GOVERNMENT, 1996-1999 246-47 (Information Office of the State Council of the P.R. China ed., 2000).

⁶² *Id.*

⁶³ Wang Zhaoguo on PRC United Front Work, BEIJING XINHUA DOMESTIC SERVICE, Jan. 8, 2000, in FBIS DAILY REPORT - CHINA (FBIS-CHI-2000-0110), Jan. 11, 2000.

and places of worship, and have recently been formalized in national regulations on religion administration.⁶⁴

B. *Minority Autonomy Law*

The MAL summarizes China's national policies and historical experience in managing relations with its indigenous minorities. Initially enacted in 1984, the law was amended in 2001 to include issues related to economic development. The 2001 amendments also reflected the content of the State Council's 1999 White Paper on national minority policies.⁶⁵ The autonomy of nationality areas (民族区域, *minzu quyu*) is presented as essential to the national development. The tasks associated with autonomy of national areas include: (a) implementation of national laws and regulations; (b) training of minority nationality cadres; (c) self reliance and contribution to national development; and (d) national assistance to the economic and cultural development of nationality areas.

The MAL is aimed expressly at resolving contradictions between central and local authority.⁶⁶ Much of this turns on the effort to entrench principles of unification and centralism by requiring minority nationality autonomy to be subject to state leadership and safeguard national unity.⁶⁷ Thus, the law expressly repudiates notions of "ethnic autonomy" (民族自治, *minzu zizhi*), "local autonomy" (地方自治, *difang zizhi*), and federalism (联邦主义, *lianbang zhuyi*), but instead confers limited administrative autonomy to areas defined in terms of nationality groups and subject to central leadership.⁶⁸ The underlying principles of the MAL underscore the dominance of central control. Thus, the requirements that minority policies be subordinate to four basic principles—to safeguard national unity, to preserve national interests, to ensure equality and unity of all national groups, and to condition central government assistance on policy compliance⁶⁹—diminish the capacity for the MAL to support local authority from to central control. These

⁶⁴ See 宗教事务条例 [Regulations on Religious Affairs] (promulgated by the State Council, Nov. 30, 2004, effective Mar. 1, 2005) (P.R.C.), available at http://www.gov.cn/zwgc/2005-05/23/content_260.htm (last visited Mar. 1, 2006).

⁶⁵ STATE COUNCIL OF THE PRC, WHITE PAPER ON NATIONAL MINORITIES POLICY AND ITS PRACTICE IN CHINA (1999).

⁶⁶ GENERAL SURVEY ON THE MAL, *supra* note 28, at 29.

⁶⁷ *Id.*; 中共新疆委员会宣传部, "四个认同"读本 [XINJIANG CPC PROPAGANDA DEPARTMENT, READINGS ON "FOUR IDENTITIES"] (2004).

⁶⁸ GENERAL SURVEY ON THE MAL, *supra* note 28, at 37.

⁶⁹ *Id.* at 51-57; XINJIANG CPC PROPAGANDA DEPARTMENT, *supra* note 67.

principles are further subject to the state secrets regime,⁷⁰ adding yet another layer of protection for central state interests. In many ways, the very objectives of the MAL conflict with the reasons for its enactment; namely, in defining what nationality autonomy means and its limitations, the law works to diminish the very ideal it is intended to celebrate.

The MAL was revised, in part, to conform to the expanded role accorded socialist legality (社会主义依法治国, *shehui zhuyi yifa zhiguo*), to support increased investment and development in minority areas and to ensure coordination with other regulatory regimes in China.⁷¹ While the effort to formalize central policies on governance in the periphery is part of a broader program of legalization,⁷² it has particular significance in light of the strong cultural and social resistance to expressions of Han domination in minority areas such as Xinjiang and Tibet.⁷³

1. Institutional Purpose: Government Policies on Minorities and Religion

The MAL reveals issues of institutional purpose, around broader policy themes of accommodation and control of local minority nationalities and religion. Factors of institutional capacity suggest likely outcomes from interpretation and implementation of the statute.

a. Minority Policy

The Minority Autonomy Law affirms the importance of the CCP's basic policies on ethnic issues. The MAL affirms its grounding in the PRC Constitution,⁷⁴ and affirms the importance of ensuring

⁷⁰ 新时期城市民族工作政策法规选编 [COLLECTION OF POLICIES AND LAWS ON URBAN MINORITIES WORK IN THE NEW ERA] 96-97 (天津市少数民族委员会编 [Tianjin Municipal Minorities Affairs Commission ed.], 2004) [hereinafter COLLECTION OF POLICIES AND LAWS].

⁷¹ 戴小明, 民族法制问题探索 [DAI XIAOMING, INQUIRY ON NATIONALITIES ISSUES] (2002).

⁷² 布赫, 加强民族法制建设促进各民族共同繁荣 [Bu He, *Strengthen Establishment of Minority Legal System, Promote the Wellbeing of All Nationalities*], in 民族工作文献选编 [SELECTED ARTICLES IN NATIONALITY WORK] 98-111 (国家民族事务委员会 & 中共中央文献研究室编 [State Nationalities Affairs Commission & CPC Central Archives ed.], 2003) [hereinafter SELECTED ARTICLES IN NATIONALITY WORK]; 刘军等, 新疆贯彻落实党的民族政策的情况及对策建议 [Liu Jun et al., *Situation and Countermeasure Proposals Concerning Full Implementation of Party Nationalities Policies in Xinjiang*], in COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG, *supra* note 33, at 275-78.

⁷³ SUN, *supra* note 39, at 56 -121.

⁷⁴ 中华人民共和国民族区域自治法 [Law on the Autonomy of Minority Regions] art. 1 (promulgated by the Standing Comm. of the Nat'l People's Cong., May 31, 1984, effective October 1, 1984, revised on Feb. 8, 2001) 05/20/2001 中华人民共和国国务院公报 [STATE COUNCIL OF THE P.R.C. GAZ.] 10 (P.R.C.), available at <http://law.chinalawinfo.com/newlaw2002/SLC/SLC.asp?Db=chl&Gid=34941> (last visited February 25, 2006) [hereinafter MAL].

compliance with the PRC Constitution.⁷⁵ This necessarily involves obedience to the Four Basic Principles—which are listed specifically along with other *tifa* (提法) including socialist democracy and legal system as bases for managing local autonomy in nationality areas.⁷⁶ This in turn involves Party policy as the basis for legal norms and behavior.

Party policy on minority affairs has evolved considerably over the history of the PRC.⁷⁷ Today's Party leadership avows an increased sensitivity to the issues of minority nationalities.⁷⁸ However, the specifics of Party policy suggest an approach that remains heavily weighted in favor of state-centric governance. National unity remains the fundamental priority of the Party and government to which minority nationalities owe fealty.⁷⁹ Minority Autonomy Law provisions subjecting local autonomy to the leadership of the state are supplemented by requirements of central Party leadership.⁸⁰ At the local levels, state unity is seen as an overriding priority. For Xinjiang, state interests are presented as paramount, subordinating local social and economic relations to national unity goals.⁸¹ For Tibet, China's unity is presented as the primary policy goal, to which issues of development are subordinated.⁸² Thus, the centrality of the unified state is therefore entrenched in the Minority Autonomy Law.⁸³

Party policy on minority affairs emphasizes concepts of unity and equality.⁸⁴ Unity among China's nationalities is presented as a historical task for the Party in the 21st century and one that is now a major emphasis of the "third generation leadership."⁸⁵ While some attention is paid to relations among nationality groups, opposing separatism, particularly in

⁷⁵ *Id.* at art. 5.

⁷⁶ *Id.* at pmbl.

⁷⁷ MACKERRAS, *supra* note 20; Sautman, *supra* note 36.

⁷⁸ Hu Jintao Addresses CPC Politburo Study Session, *Calls for Common Prosperity*, XINHUA DOMESTIC SERVICE, Oct. 22, 2004; *New Historic Chapter of China National Solidarity*, PEOPLE'S DAILY ONLINE, Oct. 18, 2004, available at http://english.people.com.cn/200410/18/eng20041018_160550.html (last visited February 13, 2006).

⁷⁹ 国家民族事务委员会, 中国共产党关于民族问题的基本观点和政策 [STATE NATIONALITIES AFFAIRS COMMISSION, BASIC APPROACHES AND POLICIES OF THE CHINESE COMMUNIST PARTY ON NATIONALITIES ISSUES] 46 (2002).

⁸⁰ WU, *supra* note 29, at 43.

⁸¹ 苗普生, 新疆中国的多民族国家形成发展和巩固过程中的历史地位 [Miao Pusheng, *Xinjiang's Historic Role in the Process of the Formation, Development, and Consolidation of Unified China as a Multi-ethnic State*], in *COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG*, *supra* note 33, at 52-64.

⁸² STATE NATIONALITIES COMMISSION, *supra* note 79, at 53.

⁸³ See MAL, *supra* note 74, at art. 5.

⁸⁴ *Id.* at pmbl.

⁸⁵ STATE NATIONALITIES COMMISSION, *supra* note 79, at 64.

Xinjiang and Tibet, is particularly emphasized.⁸⁶ In internal Party documents on Xinjiang, unity among nationalities is presented nearly exclusively in terms of opposition to separatism.⁸⁷ Thus, unity has less to do with relations between nationality groups and, instead, focuses on relations between nationalities and the state.

Relations between nationality groups are governed by principles of equality. Equality is interpreted mainly in terms of increasing material conditions for minority ethnic groups, so that they become more equal to the dominant Han. Thus, Party and government measures to achieve equality among national ethnic groups are pursued through improving material conditions through education and culture.⁸⁸ Implicit in this is the imperative to “modernize” minority nationalities so as to raise the “quality” (素质, *suzhi*) of non-Han groups and improve their economic and cultural lives.⁸⁹ While equality does mean equalizing material economic and cultural conditions of minorities with those of the Han, it also implies removing special status for minorities. Echoing provisions in the Nationalities White Paper, the Minority Autonomy Law provides that China is a unified multi-ethnic state (统一的多民族国家, *tongyi de duominzu guojia*), composed of Han as well as minority nationalities, and links local autonomy with principles of equality among all nationalities.⁹⁰ The linkage between minority autonomy and legal equality also informs broader efforts to build legal institutions that will interpret nationalities policies by reference to norms of formal equality.⁹¹ This may work to diminish measures to accommodate particular social conditions of minority nationalities.

b. Religion policy: Unity and Division

Questions of institutional purpose are also evident in the ways that the MAL addresses religion. Government policies on religion are inextricably intertwined with policies on nationality.⁹² Yet differences

⁸⁶ Contrast WU, *supra* note 29, at 8-9, with STATE NATIONALITIES COMMISSION, *supra* note 79, at 65.

⁸⁷ MA, *supra* note 30; 热扎克铁木尔, 高举您族大团结和祖国统一的旗帜 [Rezhake Tiemu'er, *Raise the Banner of Unity Among Nationalities and Unity of the Motherland, Deepen and Prolong the Development of the Struggle against Separatism*], in COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG, *supra* note 33, at 10-28.

⁸⁸ STATE NATIONALITIES COMMISSION, *supra* note 42, at 71-73.

⁸⁹ WU, *supra* note 29, at 162.

⁹⁰ See MAL, *supra* note 74, at pmbl.

⁹¹ DAI, *supra* note 71, at 13-25.

⁹² 李瑞环, 新形势下的民族宗教问题 [Li Ruihuan, *Nationalities and Religion Issues Under New Conditions*], in 新时期民族宗教工作宣传手册 [PROPAGANDA HANDBOOK ON NATIONALITIES AND RELIGION WORK IN THE NEW ERA] 300-06 (中央党校民族与宗教理论办公室编 [Central

arise over the extent to which religious belief constitutes an integral part of ethnic identity. Where religious identity is separated from ethnic identity, this leaves open the potential for Party policies challenging religious activities to be insulated from criticism that they are inconsistent with preservation of minority identity.⁹³ On the other hand, where religious belief is treated as an inseparable part of minority identity,⁹⁴ coordinated approaches are possible that incorporate religious policy with minority nationality policy. Differences between these approaches have an impact on the state's regulation of religion. Particularly in the context of perceived threats to national security, separatism, and terrorism,⁹⁵ contradictions over relations between minority and religious identity have a direct impact on state policy.

One major difference in view concerns the very nature of religion itself: is it an artifact of cultural customs or a central element of local identity? Some participants in the policy discourse in China treat religion as a particular reflection of minority nationality culture, suggesting that it remains a legacy of pre-modern, backward minority nationality culture and thus subject to efforts at modernization and reform.⁹⁶ On the other hand, where it is considered a contemporary social phenomenon grounded in current social conditions,⁹⁷ long-term approaches focused on mutual accommodation (相适应, *xiangshiyi*) of religion and society are possible.⁹⁸ Even policy analysts' inclusion of religion as a component of cultural customs or as an independent category suggests an approach to religion as an artifact of tradition or of contemporary life.⁹⁹

As well, issues over institutional purpose arise in addressing the relationship between religion and national interests. Religion is often treated as an alternative focus of loyalty that competes with the state for popular support.¹⁰⁰ Thus, issues of separatism and social unrest in

Party School Nationalities and Religious Theory Office ed.], 1998) [hereinafter PROPAGANDA HANDBOOK]; 江泽民, 高度重视民族工作和宗教工作 [Jiang Zemin, *Emphasize to a High Degree Nationalities Work and Religion Work*], in PROPAGANDA HANDBOOK, at 278-83; STATE NATIONALITIES COMMISSION, *supra* note 79, at 206-07.

⁹³ 王宗礼等, 中国西北农畜民政治行为研究 [WANG ZONGLI ET AL., *STUDY OF POLITICAL BEHAVIOR AMONG PEASANTS AND HERDSMEN IN CHINA'S NORTHWEST*] 136-46 (1995).

⁹⁴ STATE NATIONALITIES COMMISSION, *supra* note 42, at 211-15.

⁹⁵ MA, *supra* note 30, at 13-15.

⁹⁶ WU, *supra* note 29, at 313-19; *see also* 王作安, 中国的宗教问题和宗教政策 [WANG ZUOAN, *CHINA'S RELIGIOUS ISSUES AND POLICIES ON RELIGION*] (2002).

⁹⁷ GENERAL SURVEY ON THE MAL, *supra* note 28, at 327-33.

⁹⁸ Jiang, *supra* note 92, at 278-83. Compare WANG, *supra* note 96, at 139-61 with PROPAGANDA HANDBOOK, *supra* note 92, at 399.

⁹⁹ Contrast GENERAL SURVEY ON THE MAL, *supra* note 28, with COLLECTION OF POLICIES AND LAWS, *supra* note 70; and WU, *supra* note 29.

¹⁰⁰ WANG, *supra* note 96, at 8-10.

peripheral areas are attributed to activities by religious groups.¹⁰¹ This construction of religion as a competitor with the state for popular affiliation works to support uni-dimensional approaches that interpret religious identity as either patriotic or not. Alternate approaches acknowledging separation of religion and politics appear to allow for policy responses that are more accommodating, although expansive interpretations of the scope of political activity may in the end constrain the permissible range of religious activities yet further.¹⁰²

2. Institutional Location: Tensions Between Beijing and the Periphery

China's regulation of the periphery reflects important tensions between local perspectives and views from the center. Institutional capacity issues concerning the MAL also emerge in the context of institutional location. Aside from the obvious elements of location present in the interpretation of a national statute concerned with local governance, particular institutional location questions arise over issues about local knowledge. China's governance of the Inner Periphery has traditionally exhibited features of colonialism, with significant Han-dominated oppression of local culture.¹⁰³ Calls for more research on local conditions in the periphery suggest continual concerns over central government ignorance and inattention to local conditions.¹⁰⁴ In Xinjiang, for example, case studies on underground religious, economic, and political relationships reveal the extent of central government influence over minority affairs, economic development, and national security. However, such central government initiatives are often based on inadequate or incorrect information about local conditions.¹⁰⁵ The violent outbreak in February 1997 at Yining and the bus explosions the same month in Urumqi revealed the extent of local dissatisfaction with central government policies and practices in Xinjiang, and revealed serious shortcomings in the government's level of knowledge about local conditions.¹⁰⁶ Reports on perceived social stability problems in the periphery also suggest significant differences of perspective between

¹⁰¹ MA, *supra* note 30, at 146-51.

¹⁰² Liu et al., *supra* note 72, at 265-67.

¹⁰³ Susan K. McCarthy, *The State, Minorities, and Dilemmas of Development in Contemporary China*, FLETCHER F. OF WORLD AFF., Summer/Fall 2002, at 107; see also Bulag, *supra* note 5; JUNE TEUFEL DREYER, CHINA'S FORTY MILLIONS: MINORITY NATIONALITIES AND NATIONAL INTEGRATION IN THE PEOPLE'S REPUBLIC OF CHINA (1977).

¹⁰⁴ MA, *supra* note 30, at 28-29.

¹⁰⁵ COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG, *supra* note 33; MA, *supra* note 30, at 92-100.

¹⁰⁶ MA, *supra* note 30, at 92-100.

Beijing and local units. From Beijing's perspective, building stronger local knowledge is linked specifically to more effective propaganda efforts aimed at protecting social stability.¹⁰⁷ The MAL's provisions on local public security also reflect the central government's preoccupation with issues of ethnic separatism and anti-terrorism, even as local governments are focused on local issues of standard policing.¹⁰⁸

Factors of institutional location are also evident in comparisons between central and local views on development. Thus, central government reporting on Tibet emphasizes quantitative factors such as economic accumulation and output, numbers of graduates from educational institutions, and population and land use statistics.¹⁰⁹ Local perspectives, however, tend to focus instead on qualitative questions about cultural and religious identity and social wellbeing.¹¹⁰ Similarly, in Xinjiang, central reporting tends to emphasize quantitative measurements of development,¹¹¹ in contrast to the perspectives of local people who tend to focus on qualitative indicators of wellbeing.¹¹²

Institutional location issues also arise in the context of internationalization and globalization. In both minority policy and religion policy, official interpretations focus on the extent to which international human rights movements have challenged central policies.¹¹³ Economic development is also subject to the influences of globalization, which affect both development goals and approaches to achieving them. Thus, the central government occupies a location between international observers, critics,¹¹⁴ and sub-national locales where minority and religion policies are carried out. International religious movements such as Islamic fundamentalism and Christian evangelism are seen to exert influence on religious activities in China. They are also seen as challenging the authority of the central government to implement policy, and this affects the government's approach toward conferring autonomy through the MAL. Qualifying as it does local government authority to limit application of central priorities and policies, the MAL works to

¹⁰⁷ 凌军, 系统研究和正确宣传新疆的历史, 为新疆的稳定和发展服务[Ling Jun, *Systematically Research and Correctly Propagandize Xinjiang's History, Serve Stability and Development in Xinjiang*], in *COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG*, *supra* note 33, at 43-51.

¹⁰⁸ GENERAL SURVEY ON THE MAL, *supra* note 28, at 291-95.

¹⁰⁹ 西藏的现代化发展 [*Development of Modernization in Tibet*], in *SELECTED ARTICLES IN NATIONALITY WORK*, *supra* note 72, at 447-74.

¹¹⁰ WANG LIXIONG, SKY BURIAL: THE FATE OF TIBET 372-74 (1998).

¹¹¹ 王洛林等, 中国西部大开发政策 [WANG LUOLIN ET AL., *CHINA'S WESTERN DEVELOPMENT POLICY*] 7-18 (2003).

¹¹² TYLER, *supra* note 45, at 214-21.

¹¹³ WANG, *supra* note 96, at 336-43; MACKERRAS, *supra* note 20, at 152.

¹¹⁴ See XINJIANG MINORITIES COMMISSION, *supra* note 46, at 191-93. Internal sources go so far as to identify these as "Western hostile forces" (西方敌对势力, *xifang dui di shili*).

diminish local autonomy to the extent that central government agencies conclude this will weaken their authority. The respective locations of international, state, and local institutional perspectives exert influence over this process, thus affecting institutional capacity.

A useful example of the effect of location on institutional capacity questions surrounding the MAL lies in the question of language policy. Drawing on the Constitution, the MAL provides that government activity be conducted in the local minority language. Yet case studies from the periphery suggest that local language usage remains a difficult problem.¹¹⁵ On one hand, urban elites in peripheral areas of Mongolia, Xinjiang, and Tibet see mastery of Chinese as a prerequisite for career success, and so arrange training for themselves and education for their children accordingly. Use of Chinese in government departments remains fairly standard, as local minority cadres use their own language as a means of protecting their cultural identity from Chinese overseers. Chinese cadres assigned to the periphery have shown little interest in learning local languages, while the masses of migrant Chinese entering these areas are even less interested.¹¹⁶ The result is a significant gap in local knowledge for Han officials. Since Han generally remain in privileged positions of power within local government units, their continued isolation from local social discourse has a direct impact on government administration. Once again, issues of institutional location contribute importantly to institutional capacity in the process of balancing local autonomy with central oversight under the MAL.

3. Institutional Orientation: Approaches to Local Development

The Minority Autonomy Law reveals dynamics of institutional orientation by the way it addresses purposes and indicators of local development in minority areas. The MAL confers on local governments authority to administer economic development programs, subject to national planning.¹¹⁷ Yet “higher level organs” are accorded considerable authority and responsibility to assist and direct local development.¹¹⁸ The Western Development Strategy (西部大开发, *xibu dakaifa*) exemplifies the tensions between local autonomy and state oversight on issues of development. On one hand, the program has seen

¹¹⁵ Sun, *supra* note 33.

¹¹⁶ Bovington, *supra* note 31.

¹¹⁷ See MAL, *supra* note 74, at arts. 15, 16.

¹¹⁸ See *id.*, Chapter 6.

significant state investment in local infrastructure in the periphery.¹¹⁹ Yet basic decisions on resource allocations, project approvals, and regulatory arrangements are made by a small central leading group and its subordinate local committees. Autonomous area governments have representation, but little control, over the resulting economic activity. The Western Development Strategy reveals the continued dominance of state-directed economic development models.¹²⁰ The dominant role of central Party and state supervision remains a central feature of State Council decisions on Western Development.¹²¹ In peripheral areas such as Xinjiang, local economic development organs such as the *bingtuan* (兵团, *corps*) are themselves still beholden to centralized development models.¹²² Privileging of central perspectives on development is evident in policy papers that present modernization of the periphery as essential to China's future.¹²³ Local cultures are considered as relevant to performance arts, social customs, and literature, but not to methods of economic change.¹²⁴

Economic development in the periphery is seen as a possible solution to ethnic unrest.¹²⁵ Thus, restive minorities in the Inner Periphery are construed as driven by a yearning for materialist comforts that will gradually displace their ambivalence about Chinese rule. This materialist approach ignores the very cultural dimensions that are at the core of minority nationality identities. Since it is largely these identities rather than material conditions that are the source of hostility to Han rule, it seems unlikely that material wellbeing alone will suffice to resolve problems of Han-minority relations. There seems to be an element of desperation to the economic growth strategy for resolving ethnic conflict. Having seen military occupation, cultural repression, and attempted co-optation of local elites fail to bring minority nationalities into the fold of the greater multi-ethnic China, economic development seems like the last

¹¹⁹ Barry Sautman, *Is Xinjiang an Internal Colony?* 2 INNER ASIA 239, 239-71 (2000).

¹²⁰ 全国民委“十五”期间经济工作规划 [*Economic Work Plan for Nationalities Commissions Across the Country During the Tenth Five Year Plan*], in COLLECTION OF POLICIES AND LAWS, *supra* note 70, at 163-70; DEVELOPING CHINA'S WEST: A CRITICAL PATH TO BALANCED NATIONAL DEVELOPMENT 1-25 (Y.M. Yeung & Shen Jianfa eds., 2004).

¹²¹ 石生泰, 西部开发政策 [SHI SHENGTAI, POLICIES ON CHINA'S WESTERN DEVELOPMENT] 36-67 (2001).

¹²² MA, *supra* note 30, at 212-40; James D. Seymour, *Xinjiang's Production and Construction Corps and the Sinification of East Turkestan*, 2 INNER ASIA 171, 171-93 (2000).

¹²³ 倪国良, 中国西北地区现代化中的经济与文化关系 [NI GUOLIANG, RELATIONS BETWEEN ECONOMY AND CULTURE IN THE COURSE OF MODERNIZATION IN CHINA'S NORTHWEST] (1998).

¹²⁴ WESTERN CHINA DEVELOPMENT, *supra* note 49.

¹²⁵ 青觉等, 新疆经济社会发展对民族关系的影响 [Qing Jue et al., *Effects of Economic and Social Development on Nationalities Relations in Xinjiang*], in COLLECTION OF ESSAYS ON THE STUDY OF XINJIANG, *supra* note 33, at 196-224; see also MA, *supra* note 30, at 138-42.

best effort. Yet the very approach to economic development threatens to alienate further those minority nationalities that Beijing needs most to accommodate.

Programs associated with the Western Development Strategy construct notions of development around priorities of capital-intensive investment, infrastructure, and urbanization.¹²⁶ Priorities of Western Development include attracting foreign investment, financial reforms, tax incentives, market-based bank lending, policy lending to support capital projects, securities investment, expanded insurance provisions, and development of natural resources.¹²⁷ Each of these priorities relies on formal institutions and a concentration of decision-making among urban educated elites. While these may ultimately be necessary and desirable, the priorities of Western Development suggest a rather authoritarian approach to directing economic behavior by local people. The role of local culture and tradition in economic decision-making is marginalized, as development priorities increasingly reflect the centralized approaches to development that characterize Han China. Even when coordination with local conditions is acknowledged, basic policy goals still privilege formalization of economic organizations and regulatory institutions. Thus, policy goals for Western development focus on enterprise-based growth, market-centered economic performance, foreign investment, government oversight of competition and trade, and market stabilization programs.¹²⁸

While some attention is paid to the need to facilitate economic growth for the decentralized communities of farmers and herders that characterize much of the China's Inner Periphery, development is constructed primarily in terms that conflict with traditional social arrangements.¹²⁹ Explicitly rejecting "post-modern" viewpoints that extol the virtues of local identity and tradition, authoritative treatments of the Western Development program call for development to be achieved by reforming local practices.¹³⁰ While poverty alleviation remains an important component of Western Development, solutions are seen to lie primarily in neo-liberal economic approaches centered on accumulation, institutionalization, and urbanization, with little attention to preserving

¹²⁶ Yeung & Shen, *supra* note 120; June Teufel Dreyer, *Ethnicity and Economic Development in Xinjiang*, 2 INNER ASIA 137, 137-54 (2000); 高昭平等, 西部大开发战略研究 [GAO ZHAOPING ET AL., STUDY OF CHINA'S WESTERN DEVELOPMENT STRATEGY] (2000).

¹²⁷ 国家西部开发报告 [REPORT ON NATIONAL WESTERN DEVELOPMENT] (曾培炎编 [Zeng Peiyan ed.], 2003).

¹²⁸ 西部大开发与地区协调发展 [WESTERN DEVELOPMENT AND REGIONAL COORDINATED DEVELOPMENT] (李善同编 [Li Shantong ed.], 2003)

¹²⁹ WANG, *supra* note 111, at 374-400

¹³⁰ NI, *supra* note 123, at 1-9.

local cultures and traditions.¹³¹ While local studies have highlighted concerns over the need for sustainability, balanced development, fairness, and effectiveness in distribution of benefits,¹³² official reporting tends to emphasize traditional economic indicators of enterprise reform, market expansion, foreign investment, and unified government regulation.¹³³ Where official reporting on Western Development does acknowledge the importance of local social support for the program, the failure to appreciate linkages between economic and social development results in development programs that have little relevance or support in local non-Han communities.¹³⁴ Even in environmental policy areas, the focus on using technology and engineering to build (建设, *jianshe*) the natural environment¹³⁵ seems quite distanced from the experience and expectations of local people.

Thus, questions about local development reflect the influence of institutional orientation. The autonomy of local governance is challenged by state-centered development policies that subordinate the authority, status, and ultimately the legitimacy of local officials. Even as the central government has adopted economic development as a strategy for resolving inter-ethnic conflict, capital-intensive approaches to economic development threaten to further alienate local minority communities.

4. Institutional Cohesion: Minority Cadre Policy

The capacity for implementation of local autonomy under the MAL will significantly depend on factors of institutional cohesion. A key element involves recruitment and training of officials drawn from local nationalities. The MAL requires that local governments achieve an appropriate balance in their operational units between local minority cadres and cadres of other nationalities.¹³⁶ Yet Chinese analysts claim that local governments in Western China are characterized by the "low

¹³¹ REPORT ON NATIONAL WESTERN DEVELOPMENT, *supra* note 127, at 158; *see also* 关于深入贯彻落实中央的扶贫开发工作会议精神的的通知 [Circular on Thoroughly Implementing the Spirit of the Central Work Conference on Poverty], in COLLECTION OF POLICIES AND LAWS, *supra* note 70, at 158; 邹蓝, 中国西部孤旅 [ZOU LAN, ALONE IN CHINA'S WEST] 284-89, 299-302 (2000).

¹³² 王丁宏, 西部大开发与河西走廊及其发展研究 [WANG DINGHONG, STUDY OF WESTERN DEVELOPMENT AND THE GANSU CORRIDOR AND ITS DEVELOPMENT] (2002).

¹³³ WESTERN DEVELOPMENT AND REGIONAL COORDINATED DEVELOPMENT, *supra* note 128.

¹³⁴ REPORT ON NATIONAL WESTERN DEVELOPMENT, *supra* note 127.

¹³⁵ 石生泰, 西部生态环境 [SHI SHENGTAI, THE ECOLOGY AND ENVIRONMENT OF THE WEST] (2001).

¹³⁶ *See* MAL, *supra* note 74, at art. 18.

quality” of their personnel.¹³⁷ Minority cadre recruitment and training is a key element in China’s minority nationalities policy,¹³⁸ which tends to focus on improving the “quality” of minorities generally and minority cadres in particular.¹³⁹ While local governments are responsible for education, the MAL charges “higher level organs” with responsibility for assisting with cadre recruitment and training.¹⁴⁰ This allows the Party to retain control over the content and process for minority cadre training.¹⁴¹

However, the content and purpose of such training is focused largely on displacing traditional cultural norms with norms of socialism and cultural civilization associated with Han China.¹⁴² Improving scientific and cultural “quality” of minority cadres involves basic education but, more importantly, focuses on instilling loyalty to notions of national unity and Party supremacy.¹⁴³ China has used minority cadre recruitment specifically as a mechanism to “educate” selected representatives of local society on the virtues of China’s policies and practices. Minority cadre training is a key component in the efforts to build social stability and counter perceived threats of minority separatism.¹⁴⁴ Yet despite evidence of benign intentions in theory, the practice of minority cadre recruitment, training, and work assignment has served to further alienate local minority peoples and even the cadres themselves. In many instances, immediately upon retirement, minority cadres often permanently discard the clothes, language, and customs of Chinese bureaucratic life in favor of their own national forms. To the extent that minority cadre training is linked to economic development programs of the Western Development Strategy, this, too, works to entrench state-centric governance norms that tend to marginalize local cultural perspectives.¹⁴⁵

Institutional cohesion is potentially undermined by minority cadre training approaches focused on establishing a basic-level cadre corps (基

¹³⁷ 西部开发与政府管理研究 [STUDY OF GOVERNMENT ADMINISTRATION IN CHINA’S WESTERN DEVELOPMENT] 30 et seq. (赖邦凡编 [Lai Bangfan ed.], 2002).

¹³⁸ XINJIANG CPC PROPAGANDA DEPARTMENT, *supra* note 67, at 4-5.

¹³⁹ Sun, *supra* note 33; *see also* WU, *supra* note 29, at 162, 252-53.

¹⁴⁰ *See* MAL, *supra* note 74, at arts. 71, 72.

¹⁴¹ 胡锦涛, 高度重视, 切实做好少数民族干部的培养选拔工作 [Hu Jintao, *Strongly Emphasize and Genuinely Do Well in Minority Cadre Training and Selection Work*], in *SELECTED ARTICLES IN NATIONALITY WORK*, *supra* note 72, at 66-81.

¹⁴² STATE NATIONALITIES COMMISSION, *supra* note 42, at 169-71.

¹⁴³ *Id.* at 191-92.

¹⁴⁴ Sun, *supra* note 33.

¹⁴⁵ 国务院关于实施西部大开发若干政策措施的通知 [Circular on Various Policy Measures Concerning the Western Development], in *SELECTED ARTICLES IN NATIONALITY WORK*, *supra* note 72, at 281-90.

层干部队伍, *jiceng ganbu duiwu*).¹⁴⁶ While these allow local minority cadres to work at local levels and possibly to be effective agents of governance in the decentralized context of the Inner Periphery, they may also work to insulate minority cadres from participation in government administration at higher levels. This tends to underscore a perception of the role of local minority cadres as essentially translators and implementers of governance programs rather than interpreters and designers of policy. Reports on minority nationality training and recruitment in peripheral areas of Xinjiang¹⁴⁷ and Tibet¹⁴⁸ suggest that these cadre corps are focused on the local level. Despite its utility in terms of program implementation, this has the potential to undermine institutional cohesion more broadly.

Attitudes of Han cadres toward minority counterparts remain divisive. Hu Jintao's address to a Politburo Study Session underscored that training in minority policy, particularly its socialist theoretical justifications, must focus not only on minority cadres but also on Han cadres: "We should educate not only the masses, but also cadres; educate not only cadres of minority nationalities, but also cadres of the Han nationality; and educate not only ordinary cadres, but also leading cadres."¹⁴⁹ Hu's focus on leading cadres suggests problems with ensuring consistent attention by local Chinese officials to minority policies—a key dimension of which is minority cadre recruitment and training.

The extent to which minority cadre recruitment and training policies undermine institutional cohesion is evident in the extent to which local cadres have been identified as participants in local dissident activities. In Xinjiang, for example, local cadres were alleged to have lent support to separatist and illegal religious activities.¹⁵⁰ In Tibet and Mongolia, minority cadre recruitment and training has not resulted in their rejection of local loyalties, but has instead created intense conflict between central government policy goals, which are associated with Han China, and the perspectives and values of local society. Thus, while the MAL provides for expanded recruitment and training of minority

¹⁴⁶ 中共中央组织部, 中共中央统战部, 国家民委关于进一步做好培养选拔少数民族干部工作的意见 [Chinese Communist Party Central Organization Department and Chinese Communist Party Central United Front Department, *The Opinion of the CPC Organization Dept., CPC United Front Work Dept., and State Nationalities Ministry on Continuing to Do Well the Work of Training and Selecting Minority Cadres*], in PROPOGANDA HANDBOOK, *supra* note 92, at 138-39.

¹⁴⁷ Sun, *supra* note 33.

¹⁴⁸ ZENG, *supra* note 26, at 415.

¹⁴⁹ Hu Jintao Addresses CPC Politburo Study Session, *Calls for Common Prosperity*, XINHUA DOMESTIC SERVICE, in FBIS DAILY REPORT – China (FBIS-CHI 2004-1022), Oct. 22, 2004.

¹⁵⁰ MA, *supra* note 30, at 80.

nationality cadres, the ways in which these goals are conceived and implemented pose problems for institutional cohesion that may undermine the capacity of the MAL to achieve its desired balance between central control and local autonomy.

Thus, China's governance in the Inner Periphery through the legal system depends in part on factors of institutional capacity. The institutional purposes of legalization, primarily to implement Party policies on regional autonomy generally and minority relations and religion specifically, reflect that central priorities are often at variance with the perspectives and interests of local people. Institutional location questions are omnipresent, but come into stark relief around questions of language, revealing priorities and practices of assimilation rather than accommodation in Han-minority relations. Institutional orientation issues arise in the context of development programs that emphasize central rather than local priorities and approaches. Institutional cohesion problems are evident in the conflicted approach to minority cadre training and uncertainties about its effectiveness in co-opting local elites. Each of these elements of institutional capacity raises questions about the effective implementation of China's legal regime for governance in the Inner Periphery. Taken together, they present a sobering picture of the challenges that the PRC government faces in building national unity around existing Party policies of local autonomy.

IV. IMPLICATIONS FOR CHINA'S OUTER PERIPHERY: HONG KONG AND TAIWAN

China's approach to laws and policies of governance in the Inner Periphery has implications for the Outer Periphery of Macao, Hong Kong, and Taiwan. In each of these areas, the Chinese government has enacted legislation aimed at formalizing policy goals. The "One Country, Two Systems" approach currently applied in Macao and Hong Kong and proposed for Taiwan includes many of the tensions of institutional capacity evident in constitutional and MAL provisions on local autonomy. While the MAL affords considerably less autonomy than that afforded under the Hong Kong Special Administrative Region, Chinese analysts depict Hong Kong's legal status as equivalent to that of provinces, autonomous regions, and centrally administered cities of China, particularly in the sense that all local governance authority results from a delegation by the central government.¹⁵¹ While Hong Kong enjoys broad authority under the Hong Kong Basic Law to enact laws,

¹⁵¹ DAI, *supra* note 71, at 44-46.

this power is not unlimited, but is confined to a category of PRC administration of "special administrative region." This designation at once undermines any claim to special status for Hong Kong, but rather includes Hong Kong with Macao in a singular administrative classification. Thus, the relationship between central and local authority, as set forth in the Basic Law, remains a creature of Chinese law,¹⁵² and is therefore subject to whatever opportunities and restrictions for future change that this may entail.

The implications for Taiwan are clear, as Chinese government proposals concerning a Taiwan Special Administrative Region aim to add Taiwan to the special administrative category. While local administrative and legislative authority may be significant and, for the moment, far outreaching that of the Minority Autonomous Areas, that authority still proceeds from a grant of the central government. The recently-enacted Anti-Secession Law ("ASL") underscores this point: "After the country is reunited peacefully, Taiwan may (可以, *keyi*) practice systems different from those on the mainland and enjoy a high degree of autonomy."¹⁵³ While the Anti-Secession Law purportedly is unrelated to the abortive "Wuhan draft,"¹⁵⁴ the language on Taiwan's future relationship with China echoes the "One Country, Two Systems" model used in that draft. As Taiwan's "autonomy," as envisioned by the ASL, will be conferred through dispensation of the PRC government, it will remain contingent in ways similar to central grants of autonomy to the Inner Periphery under the Minority Autonomy Law.

Whether through the Hong Kong Basic Law or through the ASL, China's approaches to governance in the Outer Periphery reveal significant similarities with the law and policy on governance in the Inner Periphery. The grant of local governance authority under the ASL and the Hong Kong Basic Law parallels provisions in the MAL and underscores the similarity of administrative status conferred on Special Administrative Regions and Minority Autonomous Areas. The formal division of responsibilities of central and local government in the Hong Kong Basic Law echoes provisions in the MAL, and implies that future amendments to suit the needs of the central government are equally

¹⁵² 王振民, 中央与特别行政区关系 [WANG ZHENMIN, RELATIONS BETWEEN THE CENTRAL GOVERNMENT AND THE SPECIAL ADMINISTRATIVE REGION] (2002).

¹⁵³ 反分裂国家法 [Anti-Secession Law] art. 5 (promulgated by the Nat'l People's Cong., Mar. 14, 2005, effective Mar. 14, 2005) (P.R.C.), available at <http://english.hanban.edu.cn/chinese/PI-c/810355.htm> (last visited Mar. 1, 2006).

¹⁵⁴ 余元洲, 中华人民共和国国家统一促进法 [YU YUANZHOU, SCHOLAR'S PROPOSAL: NATIONAL UNIFICATION PROMOTION LAW OF THE PEOPLE'S REPUBLIC OF CHINA], Nov. 1, 2002, available at <http://home.donews.com/donews/forum/2/2004-05/18/470138.html> (last visited March 10, 2006).

possible. This tends to undermine confidence in the permanence of arrangements for areas of the Outer Periphery. To the extent that rule of law provisions in Macao and Hong Kong remain subject to amendment directed or encouraged by Beijing, these may be affected by amendments and interpretations by Chinese institutions. The inclusion of Taiwan within the category of "Special Administrative Region" raises the prospect of similar arrangements emerging.

Thus, China's approach to governance in the Inner Periphery has significant relevance for relations with the Outer Periphery. As existing SARs, Macao and Hong Kong find themselves already confined to a category of PRC administration. As the object of political, military, and now legal pressure to be included in this classification, Taiwan faces similar prospects. China's interpretation and implementation of its MAL offers useful opportunities to identify likely futures not only for minority nationalities of the Inner Periphery, and not only for the majority Chinese people of Macao and Hong Kong, but also for the people of Taiwan.

V. CONCLUSION

China's laws on governance in areas of the Inner Periphery reveal basic policy priorities on issues of local autonomy, minority policy, and regulation of religion. As applied to the framework of law and policy on governance autonomy in the Inner Periphery, institutional capacity analysis reveals the extent that factors of purpose, location, orientation, and cohesion affect the interpretation and application of legal regimes. This allows for a clearer understanding of the likely future for China's governance in the Inner Periphery. Moreover, this analysis has potential relevance for China's approach to governance in the Outer Periphery, and also for new legislation aimed at securing unification with Taiwan. Further studies will be useful to establish how the dynamics of institutional capacity affect the ways that China draws upon international standards in the process of constructing regimes for governance of its peripheral areas.