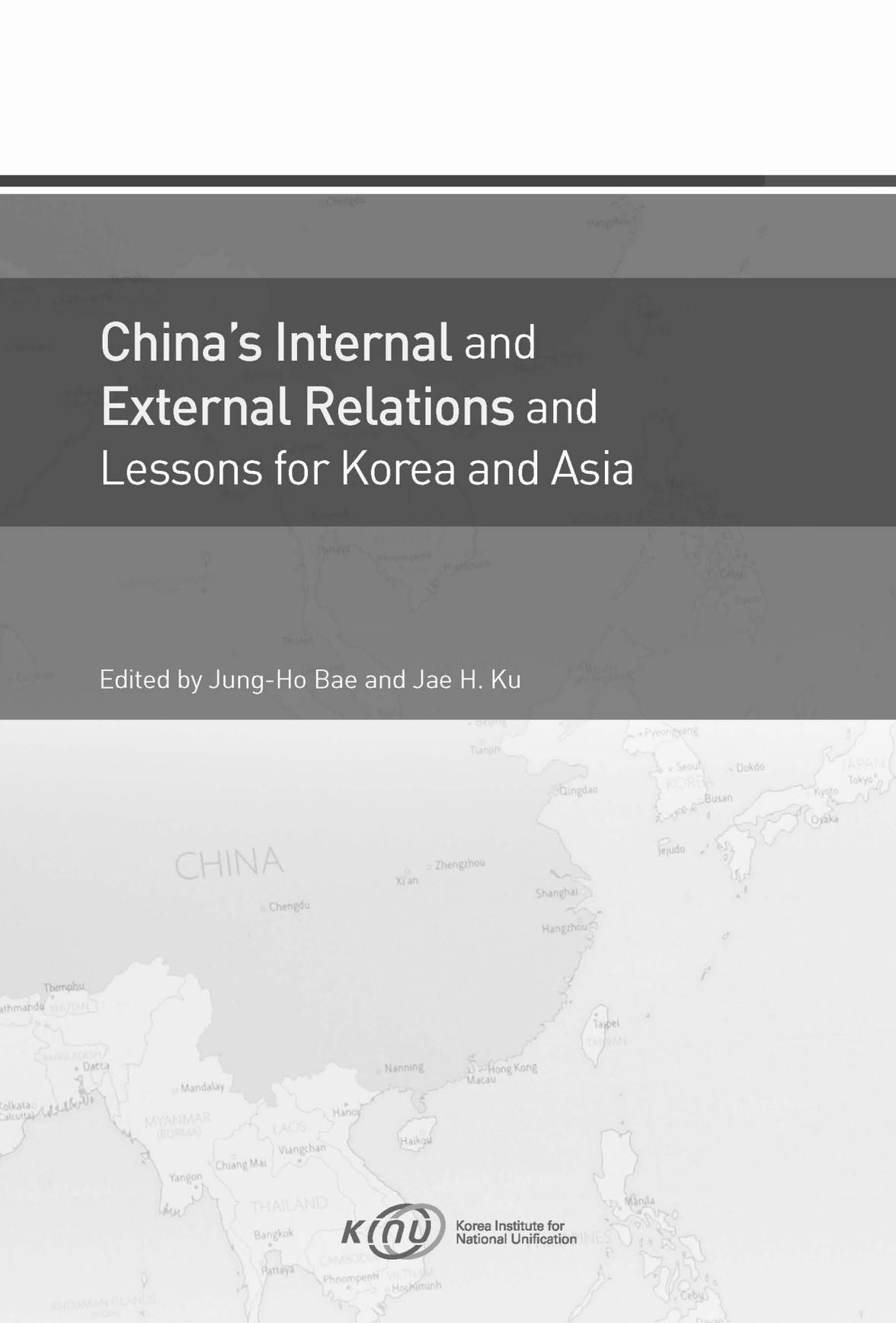
A background map of East Asia and Southeast Asia. The top half of the image is a dark red horizontal band. The map shows China, Korea, Japan, and various Southeast Asian countries like Thailand, Laos, Myanmar, Cambodia, Vietnam, Philippines, and Indonesia. Major cities like Beijing, Seoul, Tokyo, and Bangkok are labeled. The title is overlaid on the red band.

China's Internal and External Relations and Lessons for Korea and Asia

Edited by Jung-Ho Bae and Jae H. Ku



Korea Institute for
National Unification



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Preface

With the coming of so-called G2 era, guaranteeing cooperation with China is a rising strategic task when it comes to the North Korean problem and Korean reunification. There is a clear limit, however, in guaranteeing Chinese cooperation due to the Republic of Korea (ROK) and China's different perceptions on Korean reunification while economic interdependence between these two states is increasing.

In international society, cooperation could be achieved on the basis of shared interests, but issue by issue, shared interests in and of themselves may not be enough. "Strategic leverage," in other words, might be necessary in order to induce some kind of inter-state cooperation.

This research was undertaken in the context of the above-mentioned questions, with regard to building up diplomatic leverage that could lead to possible ways to induce Chinese cooperation.

This research was undertaken in the context of cooperation with Florence Lowe-Lee at the Global America Business Institute;

Dr. Jae H. Ku at the U.S.-Korea Institute at SAIS, Johns Hopkins University; and Professor David Hawk at the City University of New York. Researchers Kwon Hye-Jin, Moon Mi-Young, Ro Young-Ji, An Hyun-Jung (former member) at the Korea Institute for National Unification (KINU) and Wonhee Lee at the U.S.-Korea Institute at SAIS also devoted much effort in making it possible to publish this volume. as did coeditor Dr. Jae H. Ku.

As the chief editor of this volume, I sincerely appreciate all these efforts. It is my hope that this research helps academics and experts as well as general audiences better understand the dynamic relationship between core and periphery in China, the relationship between China and its weak neighboring countries, China and international human rights organizations, and North Korean human rights.

Jung-Ho Bae, senior research fellow, Korea Institute for
National Unification

Introduction

Jung-Ho Bae and Jae H. Ku



Korea Institute for
National Unification

The Impact of Rise of China on the Korean Peninsula

The People's Republic of China's (hereafter China) rapid economic development for the past thirty years has been impressive. In 2010, China's GDP surpassed that of Japan's, thereby making China the second largest economy in the world. With its newly accumulated economic power, China is pursuing a strategy of a global great power. Some analysts in Korea have even labeled the era as a G2 era, referring to the United States and China. The influence and responsibility of China as a G2 power are increasingly evident. For instance, China's cooperation is both critical and inevitable in facilitating the recovery of the world economy. In various global issues such as climate control, nuclear security, and international conflict resolution in the cases of Syria and Iran, cooperation with China is indispensable.

If the upcoming era is indeed a G2 era, the impact of China on issues involving the Korean Peninsula will certainly increase in various ways. Specifically regarding the problems of the Democratic People's Republic of Korea (hereafter DPRK) and the issue of Korean reunification, China's influence is likely to be larger and more intense. Inducing China to cooperate in minimizing DPRK problems and getting it to assist in the Korean reunification would be one of the most important strategic tasks for the Republic of Korea (hereafter ROK or South Korea).

There are different perceptions between South Korea and China regarding the DPRK problem and Korean unification. First, while the ROK has been pursuing policies that would lead to Korean reunification, thereby "destroying the status quo," China has been adopting a "status quo" strategy toward the Korean

Peninsula. In other words, China does not want to destroy the status quo by allowing unification of the two Koreas or allowing for North Korea's sudden collapse. China's primary objective is to maintain stability in its external security environment for the sake of maintaining its economic development. Even though China went along with UN sanctions imposed on North Korea after its third nuclear test, China's policy is not intended to punish North Korea so much as to tame the regime. China's basic policy stance, the pursuit of stability and the survivability of the North Korean regime, remains unchanged in the most fundamental way.

Second, China's pursuit of a "status quo" strategy will be more intensified. As a result, the Sino-US relationship will likely be more confrontational. For instance, China sees North Korea not only as a buffer state against the United States and its allies, South Korea and Japan, but also as leverage in dealing with the United States on the Taiwanese issue. Some Chinese experts have linked America's moderation on Taiwan to its desire to get Chinese support for the denuclearization of North Korea. Therefore, China will continually support North Korea as part of its constraining strategy that maintains an effective leverage over the United States.

Third, there is a delicate difference in the attitudes between the ROK and China regarding the solution of North Korea's nuclear problem. While the ROK strongly pursues the dismantlement of North Korean nuclear weapons program and denuclearization in order to improve and normalize inter-Korean relations, China's attitude towards the North's nuclear weapons program has been ambiguous, straddling between denuclearization and nonproliferation. Although China is trying to play a leading role in the process of the Six-Party Talks to resolve the North's nuclear weapons program, security experts in the ROK, the United States, Russia, and China

regard the dismantlement of the North's nuclear program as an incredibly difficult task. In other words, these experts cast doubt on the viability of the Six-Party Talks as an effective mechanism for "denuclearization."

As long as these differences in perception between the ROK and China exist, there will be severe limits to resolving the North Korean question and realizing Korean reunification. Therefore, the ROK and China should make some efforts to minimize the differences in these perceptions.

To narrow the differences between the two countries, China should pursue policies that promote peace and prosperity on the Korean Peninsula and Northeast Asia, rather than pursuing a narrow set of short-term interests. It would be a win-win situation for every player in the region if and when China, as a G2 power, approaches the Korean question from the perspective of building a peaceful economic and cultural community in the Asia-Pacific region in the twenty-first century. Therefore, ROK's policy should place emphasis in areas where it can induce China to pursue peace and prosperity in East Asia.

Implications of Research and Main Arguments

China's influence is increasingly global in nature. As such, cooperation with China is becoming more important in resolving various issue areas. Inducing China's cooperation is, however, not an easy task. The popular perception among policy experts on China's behavior over the years is that China, rather than helping to resolve problems, has become a part of the problem. In other

words, according to this view, China is often seen as an irresponsible stakeholder pursuing its own narrow national interests at the expense of international peace.

As mentioned above, there is a clear limitation in eliciting cooperation between the ROK and China on the problems of the DPRK and the Korean Peninsula due to their differences in perceptions and attitudes. There are also strategic limits to linking economic interdependence with inter-state cooperation for unification between these two Korean states. In the international system, cooperation can be achieved on the basis of shared interests, but shared interests in and of themselves may not be enough. In other words, “strategic leverage” that goes beyond shared interest or the mere thought of mutual gain might be necessary in order to induce some kind of inter-state cooperation. Specifically, South Korea as a middle power trying to persuade China, a great power, may require a new form of strategic leverage that incorporates not only a cooperative factor but also a cost factor in the inter-state relationship.

This book project was undertaken in the context of above-mentioned questions. The main purpose of research in this book is to search for ways to induce China’s cooperation in the process of a ROK-led Korean unification and to identify ways for the North to get involved in the various affairs of the international society. Therefore, the following collection of essays examines how smaller states surrounding China deal with China. In other words, what leverage do they have when dealing with China and what lessons can be learned for Korea?

The main topics of this book are:

- Internal dynamics between the Chinese center and its periphery such as Xinjiang and Tibet;
- Relationship between China and its smaller neighboring states,

- such as Mongolia, Cambodia, Laos, Vietnam, and Myanmar; and
- North Korean human rights, human rights in China, and international human rights mechanisms.

This book deals with these topics from cultural and normative levels: that is, soft power such as human rights, self-determination, and sovereignty, rather than hard power such as use of the military. At the same time, this research approaches these topics with a goal of coming up with a peaceful strategy that suggests that cooperation with China could lead to a peaceful Korean unification and peace-building in Northeast Asia based on self-determination and sovereignty.

The contents of each part of this book are as follows: the first part examines the incorporation of the Turkic Muslim communities in the northwestern region of China and the incorporation of Tibet. These two chapters provide an assessment of how the center absorbed the periphery. Haiyun Ma examines the relations between the Chinese state and the Xinjiang Autonomous Region as a case study on how the center has incorporated the periphery. Ma's richly descriptive analysis of the historic relationship between the various Chinese dynasties and the peoples of that region illustrates the fluidity of China's border. How that region came to be incorporated into a modern China as the Xinjiang Uyghur Autonomous Region (XUAR) is a fascinating interplay among the actors—warlords, local military and political party commanders, and national leaders in Beijing, Moscow, and elsewhere—whose political decisions were influenced by personality, chance, and circumstance. What is striking is that China's consolidation of its Western border and the incorporation of this region are really a twentieth century phenomenon.

Tenzin Dorjee's analysis of the present-day situation of Tibet

highlights how the Free Tibet movement has evolved. Dorjee examines the asymmetrical aspect of the relationship between the central government and the exiled government. In doing so, he illustrates how the movement for independence or autonomy has gained international acclaim but has been unable to transform this international awareness into political leverage. Dorjee concludes that the back-and-forth negotiation between Beijing and Dharamsala, the northern Indian city that headquarters the exiled Tibetan government, will not materialize into any substantive resolution until Tibet becomes “ungovernable.” Dorjee’s analysis hints at political chaos if and when the Dalai Lama dies and his successor is no longer able to call for moderation from the Tibetan young.

The second part of this book examines the center-periphery relations from a state-to-state perspective. Mark Fung examines the Sino-Mongolian relations from a business perspective. Using a major Mongolian railroad project as a case study, Fung shows how weakness in the political infrastructure in Mongolia, the ever-presence of Russia, and the fear of Chinese domination—even when the business proposal seems to favor the Mongolian side—prevent Sino-Mongolian relations from deepening.

While history is not destiny, Catharin Dalpino shows how important the historical relationship between China and Vietnam is in explaining the complexity of present-day Sino-Vietnamese relations. Dalpino embeds her analysis of the contemporary Vietnam-China rivalry within Southeast Asia in a rich discussion of twentieth century geopolitical history. Dalpino assesses the support Vietnam received from China during its wars of unification, and how this patron-client relation soured following the 1975 unification of Vietnam. Dalpino shows how Hanoi has diplomatically succeeded maintaining ties with China while opening up politi-

cally and economically to the West as a way to counterbalance Beijing.

Carlyle Thayer's chapter on Sino-Laos and Cambodia relations shows how deeply one-sided a bilateral relationship can be. Laos, a landlocked country surrounded by China, Vietnam, Thailand, and Myanmar has benefitted greatly from Chinese trade and aid. While the geopolitical position does not offer a useful context to play the United States off against China, Thayer argues that Laos has done a better job than Cambodia in maintaining relative balance. Cambodia, on the other hand, has actively chosen to ally itself with China both politically and economically in order to maintain its domestic authoritarian rule, a rule that Beijing happily supports, whereas the United States does not. Thayer argues that Laos and Cambodia are pursuing a policy of "bandwagoning" with China because the economic benefits are too great.

Yun Sun's chapter on Sino-Myanmar relations captures an interesting facet in China's relations with one of its neighbors. Beijing had once considered Sino-Myanmar relations to be very stable and airtight, dominated by Chinese interests. The six decades of Myanmar's political isolation, coupled with over two decades of imposed Western economic sanctions, forced Myanmar's military government to align closely with China. However, since launching the 2011-12 political and economic reforms, Myanmar's military government has transitioned itself to a semi-democracy and has opened up to the West. Sun writes that as Myanmar improves its relations with the West, its once seemingly stable bilateral relationship with China has suffered while raising some interesting geopolitical questions about the future orientation of Myanmar. The Sino-Myanmar relationship may be of most interest for the Korean Peninsula because many American officials have pointed out to

North Korea that its future should emulate that of Myanmar.

The third section of this book examines the role and impacts international institutions have on integrating China to the global community. The theme of center-periphery now transcends the region; the center is China and the periphery is the international community. Sophie Richardson examines China's interaction with international human rights institutions. Richardson writes that while China has acceded to many of the United Nations human rights conventions, China fails to "fill many of its most basic obligations under these conventions." Still, Richardson highlights areas of existing and future improvements and how regional and international bodies, including states, can effectively influence China to raise its human rights to international standards.

This collection of papers provides an insightful window into China's behavior dealing with its bordering neighbors. North Korea is omitted from this collection because many others have written or will write about that particular relationship. More importantly, this book seeks to draw out some lessons for the Korean Peninsula. Will China's territorial dispute eventually spillover to Korea? Are there lessons for the Korean Peninsula in the way China incorporated Tibet and its western region? If so, what are the lessons for some future crisis in North Korea or eventual reunification of the two Koreas?

Strategic Lessons

It is very important to analyze China's strategic motivations and determine factors in the formation of Chinese foreign policy

that could induce China's cooperation in resolving some of the most intractable problems on the Korean Peninsula. It is also helpful to analyze how China will behave in the international system that is increasingly being characterized as G2. Thus, it is necessary for the ROK to pose the following questions:

First, to keep the current international system, will China be a major stakeholder or a status quo power that will enjoy the fruits of the international system? Second, will China behave as a revisionist power which tries to change the order of the international system in accordance with its national interests? Third, will China be a responsible stakeholder, which could play a pivotal role in contributing to peace and prosperity in twenty-first century East Asia? Thoughts and answers to these questions may bear some strategic lessons for Asian states, including the ROK. In view of the strategic lessons, the research result of each part exhibits the following characteristics:

The first section of this book is revealing in the way China has dealt with its domestic minorities. Whether it is Xinjiang or Tibet, China has had a rocky, troublesome relationship, both historically and recently, in forcibly incorporating the areas into a modern Chinese nation-state. Moreover, the historical narrative or the legitimacy of Chinese incorporation is still being written and challenged. The second section of this book shows that Chinese bilateral relations with its neighboring countries are not static and that the smaller state sometimes can wield more leverage than one would normally expect in an asymmetrical relationship. The final part illustrates how and where international institutions can have meaningful impact in moderating China's actions through engagement.

What would then be the lessons for the Korean Peninsula?

What role would these lessons have in preparing for eventual Korean reunification? The implications from the first section of this book, how China incorporated the ethnic minorities and their territories at their periphery, have significant consequences for the Korean Peninsula. At present, China and the two Koreas are embroiled in a controversy as to who has a historic claim to the ancient Koguryo kingdom that existed in China's northeast and is now North Korea. Chinese scholars, whose research was initiated and supported by the government, claim that the kingdom of Koguryo in Korean or Gaogouli in Chinese emerged not as a distinct Korean kingdom but as a vestige of the Han Chinese military prefecture of Xuantu.

South Koreans feel strongly that these are Chinese conspiratorial attempts to lay down future historical claims to North Korea in the case of a North Korean collapse. Although the Chinese government has called for the separation of historical research from politics and to minimize any negative impact in bilateral relations, the two Koreas are skeptical of the Chinese entreaties. For Koreans, the chapters on Xinjiang and Tibet provide a sobering historical analysis of how China has used a combination of force and diplomacy to incorporate new territories.

Given China's economic supremacy over North Korea, the chapters dealing with China's relations with its neighbors provide some intriguing future trajectories for China-North Korea relations. Since political reforms began in Myanmar two years ago, US officials have called on North Korea to take the Myanmar approach: give up its nuclear ambition, reform politically and economically, and be rewarded with heightened economic and diplomatic engagement from the United States. While the differences between North Korea and Myanmar are acute and deep, as some

observers have noted, there are some potential similarities: anti-Chinese bias in both the government and population, and the desire to improve relations with the United States to balance China and to join the international financial and trading system. In perhaps the worst case scenario, China-North Korea relations may resemble the Sino-Vietnamese relationship where there is deep Vietnamese suspicion of Chinese motivations behind the seemingly cooperative diplomatic rhetoric. More realistically, North Korea's relationship with China may be more similar to China's relationship with Laos and Cambodia, or with Mongolia, where economic asymmetry has given China immense political influence. Even here, however, under the right circumstances, there is some potential for North Korea to open up to the United States.

Finally, South Korea could better use international institutions to gain more leverage vis-à-vis China. South Korea has shied away from raising controversial issues involving China out of fear that China will retaliate in the sphere of trade and or in political dealing with North Korea. Some analysts have argued that South Korea is sufficiently large enough to tackle some of these thorny issues related to China and that if South Korea takes a more active role in these international institutions, for example in human rights issues, South Korea will gain not only leadership role and status but also leverage in dealing with China.

South Korea's pursuit of policy options that can induce and enlarge China's cooperation with respect to issues pertaining to the Korean peninsula should examine how other countries neighboring China fare in their own pursuit to influence and constrain China. It is time for South Korea to examine the South Korea-China relationship beyond the narrow context of trade and how U.S.-China relations affect the Korean Peninsula.

Part 1

*China's Internal
Center-Periphery Relations*



Korea Institute for
National Unification

1

*Middle Kingdom's New Territory:
A History of Relations Between
Xinjiang and China*

Haiyun Ma

This chapter presents an overview of historical and contemporary relations between the Chinese state and its Turkic subject population in China's northwest borderland, the Xinjiang Autonomous Region since the Qing dynasty, after its inclusion into the Chinese state. This chapter briefly discusses the archeology, history, and peoples in the region and its relations with the Chinese state. Twentieth century nationalism (both Chinese and Turkic) complicates the political, cultural, ethnic, and cultural landscape of the region and affects the thinking of Xinjiang's past and future. The modern Xinjiang issue—either separatism as claimed by the Chinese state, or human rights movement ushered by Uyghur organizations—reflects the history and dynamics of the relations, presenting a new challenge to rising China.

Geography of Xinjiang

Today's Xinjiang Uyghur Autonomous Region (XUAR) covers an area of 1.6 million square kilometers, one-sixth of China's total territory and three times the size of France. Located in far northwest of the People's Republic of China, XUAR is bounded by Mongolia, Russia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan, and India. The region's geographic location has earned it the reputation of the "pivot of Asia," as Inner Asianist Owen Lattimore famously proposed.¹ The region consists of three basins (Tarim to the south, Turfan to the south-east, and Zungaria to the

¹ See Owen Lattimore, *Pivot of Asia: Sinkiang and the Inner Asian Frontiers of China and Russia* (Boston: Little, Brown and Company, 1950).

north); several mountains ranges (Kunlun in the east, Altai in the north, Tianshan range in the middle, and Altyn Tagh in the south); and deserts (the Taklamakan in the Tarim basin in the south and the Gurbantünggüt in the Zungarian basin in the north). The region has rich natural resources such as petroleum, gas, charcoal, gold, and others and is dotted with oasis agricultural towns and makes an “oasis chain” bridging the East and West through Eurasian communication routes along the ancient the Silk Road.

Cities and Peoples

With an area of 1,664,900 square kilometers, Xinjiang can be seen as a middle-sized country in terms of territory. However, agricultural and nomadic lands concentrate on the surroundings of the Tarim and Zungaria basins and grasslands on the Tianshan mountain range. It is no surprise, then, to observe that ancient cities in today’s Xinjiang were located near the sporadic oases. These oases formed a “city chain” that had linked various cities nearby and Chinese border cities afar. Most ancient oasis cities were concentrated in the periphery of the Tarim Basin in the north and south. From the Chinese border city of Jiuquan to the west, major cities include Hami (Kumul), Shanshan, and Turfan (Turpan). From Turfan, the communication route divides into two directions: northwest and southwest. The northwest route continues with major oasis centers, such as Karasahr (Yanqi), Miran (Loulan), Korla, Kuche, Aksu (Akesu), Liqian, and Kashgar (Kashi). The southwest route following Turfan goes through Miran (Loulan), Charklik (Ruoqiang), Niya, Khotan (Hetian), Guma (Pishan), and Kashgar.

These ancient cities and town linked major civilizations on the Eurasian continent, such as the Indic, Sinic, and Mediterranean civilizations between East and West.

Xinjiang's pivotal position on the Eurasian continent and the bridging role between East and West indicate the diversity of its inhabitants through history. Scholars have attempted to identify the early residents in this vast region through archeology including Hungarian-British archeologist Aurel Stein probably the most famous explorer of Central Asia in general and of Xinjiang in particular in the early twentieth century. Studies on various ancient texts in Buddhist caves, especially the Dunhuang Cave,² revealed the language and texts of ancient residents in the Tarim Basin. Through linguistic studies of unearthed texts, scholars identified a language that could date back to the the sixth to eighth century. The language, known as Tocharian, belongs to the Indo-European language family.

In addition to the Tocharian language, more local languages have been found, notably the Saka language discovered in today's Khotan/Hetian region. Documents on wood and paper dating back to the fourth to eleventh century in Khotan and nearby suggest that this Khotanese language is closely related to the Iranian language, also an Indo-European language. Borrowed words from Saka to Tocharian suggest close interactions among oasis populations before the coming of large Turkic populations in the ninth century. Indeed, some remaining geographic terms in today's Xinjiang and even Qinghai-Gansu provinces indicate the early Tocharian or Saka influences.

² For a study of Dunhuang documents unearthed by Aurel Stein and others, see The International Dunhuang Project at <<http://idp.bl.uk/>>.

The discovery of the Indo-European linguistic legacy in China's Xinjiang Autonomous Region inspires curiosity about the race of early residents in this region. In 1980, Chinese and Western archeologists in a small city of Loulan/Kroraina unearthed a mummy, which was identified as female and whose well-preserved remains brought her the popular name "Beauty of Loulan." This mummy dates back to 1800 BCE, with a history of about 4,000 years. The features of this female mummy have been described as Euronoid in appearance. Genetic studies of the mummy confirmed the theory that these mummies were of West Eurasian descent.³ Not far from Loulan, archeologists discovered another representative mummy with Indo-European features in Qiemo/Cherchen (so-named "Cherchen man"). This male mummy dates back three thousand years and possesses early European features with a tall figure, long nose, full lips, and a ginger beard.⁴ In addition to the representative "Beauty of Loulan" and "Cherchen man," other non-Chinese mummies have been found, especially along the southern Tarim Basin. The Chinese presence in the region largely starts from the Han dynasty, as will be discussed below.

Due to the location as a corridor between Central Asia and China, it is hard to identify the specific ethnicity or group of these Euronoid mummies. However, Chinese historical accounts document a group called Yuezhi/Rouzhi, which is believed to be closely related to Tocharian. From the first century BCE, this group inhabiting the Tarim Basin was documented to have engaged in

.....
³- For an analysis of this and other Tarim mummies, see J. P. Mallory and Victor H. Mair, *The Tarim Mummies: Ancient China and the Mystery of the Earliest Peoples from the West* (London: Thames & Hudson, 2000).

⁴- For a study of this mummy, see John Hare, "The Mysteries of the Gobi Desert," *Asian Affairs*, Vol. 40, No. 3 (2009), pp. 408-417.

trade, particularly the jade trade, with the Chinese. Chinese diplomat Zhang Qian actually visited this group in 126 BCE to seek an alliance relationship against their common enemy, the Xiongnu. Although Zhang Qian did not forge an alliance with the Yuezhi, he made a detailed account about the Yuezhi, included in Sima Qian's "History." Most scholars agree that the Yuezhi people may be equated to the speakers of Tokharian who much later left textual records in the Kucha, Karashahr, and Turpan regions. The linguistic connection between the nomadic Yuezhi and later agrarians of Tarim and Turpan Basins is another indication of the close relationship between nomadic and sedentary peoples in Xinjiang.⁵ Other Indo-European-speaking groups, or Euronoid people in the Tarim basin include Saka (or Sai in Chinese), Iranian-speaking nomads who extended across Siberia to Xinjiang and to the Black Sea. In Xinjiang, the Osaka sites have been identified to date from around 650 BCE through the latter half of the first millennium BCE in Tashkurgan (west of Kashgar, in the Pamirs).⁶

In addition to mummies, the archeological discovery in the Tarim Basin includes silk, noodles, bronze items, coins, and, later on, paper documents including religious scriptures, legal documents, and many others. The languages, mummies, tombs, and city ruins before the Han dynasty demonstrate a close relationship between local diverse groups and people of Central and South Asia. After formation of the Han dynasty in the third century BCE, however, the Tarim Basin began to experience Chinese influence.

⁵- A.K. Narain, "Indo-Europeans in Inner Asia," Dennis Sinor (ed.), *The Cambridge History of Early Inner Asia* (Cambridge: Cambridge University Press, 1990), pp. 151-176.

⁶- James A. Millward, *Eurasian Crossroads: A History of Xinjiang* (New York: Columbia University Press, 2009), p. 34.

China's March into the Tarim Basin

The establishment of the Han dynasty in China in the third century BCE is simultaneously paralleled by the formation of a powerful nomadic empire, the Xiongnu confederation in the Mongolia. Given the limited Chinese historical texts, the ethnic composition of the Xiongnu Empire is a subject for debate. The confederation probably included Mongolic, Turkic, Tocharian, and Uralic peoples. Since the Xiongnu conquered many surrounding groups, including those in the Tarim basin, and depended much on raiding agricultural Han, the Xiongnu and Han dynasties had engaged in several major wars after the failure of the Han appeasement policy through marriage, or *Heqin*. The Han of the northwest frontier, areas that included the Turan region and the Tarim Basin, strategically decided that the Xiongnu's forces and their influence had to be driven out from these regions.

By the first century BCE, the Han dynasty defeated and replaced the Xiongnu as masters of the region by appointing a protector-general (*duhu*) and establishing military garrisons in the Tarim region, or West Regions (*Xiyu*). In order to strengthen its military domination, the Han also introduced the *tuntian* system to resolve logistic problems. *Tuntian* colonies were basically state farms worked by garrison soldiers that provided food, shelter, and other supplies to the stationing troops, thus setting up a pattern for later Chinese dynasties to cultivate agricultural lands there. The Han military garrisons and *tuntian* were concentrated in the eastern part of the southern Tarim Basin.

The Han expansion into and management of the Western regions encouraged the exchange of indigenous products and luxury

goods from west to east along what later would be called the Silk Road. In other words, in addition to the military stations providing for security, the western regions provided the Han with a commercial and communication gateway to Central Asia, South Asia, and beyond. It is no surprise that during the Han dynasty, along with other commodities and ideas, Buddhism spread from northern India to China via the Tarim Basin in the first century CE.

The Han military dominance declined after the fall of the Han dynasty in the third century CE, leaving the larger principalities of the Tarim and the Shanshan area to be mostly governed by local rulers. The decline of the Chinese military rule in the region, however, did not diminish economic and cultural communications between China and the region. Chinese style agricultural settlements, Chinese outposts from courts, and other things from China have been found at Niya, the Lop Nor, and Shanshan. Local traders, Soghdian, and Chinese merchants had been active in silk and stone business in the southeastern Tarim and Lop Nor area.

Probably the most dynamic exchange after the fall of the Han dynasty was the proliferation of Buddhism in the Tarim Basin and northern China. In the fourth century CE, the Kingdom of Khotan in southern Tarim already embraced Mahayana Buddhism, acting as a transit center and attracting Chinese monks. Fa Xian, a Chinese monk, visited Khotan in the fourth century on his way to northern India and documented it in detail on Buddhist practice. Another Buddhist center at this time in the Tarim Basin, and even in Central Asia, was Kucha. Near Kucha there were many Buddhist monasteries including the rock-cut caves at Qizil (Kezi'er), an Indian tradition of excavating and painting caves as sanctuaries.⁷ Caves representing this style in northwest China include the Bezeklik (near Turfan) and the Dunhuang (Gansu).

The Tang Military's Dominance of West Regions

The unification of China in the seventh century as the Tang dynasty (618-907 CE) in many ways resembled that of the Han dynasty in terms of Chinese relations to the Tarim Basin. Like the Han dynasty facing the Xiongnu nomadic power, the Tang dynasty encountered its nomadic counterpart, the Turk Khanate, in Mongolia. The Tang endeavored to weaken the nomad empire and drive it to its north. Since the Tang imperial family and ruling class themselves were closely associated with the northern nomads, especially the Turks, the Tang successfully and skillfully controlled the eastern Turks in Mongolia.

In order to maintain control of the Silk Road trade route, the Tang launched attacks on the western Turks in the Tarim Basin. By the mid-seventh century, after it defeated the western Turks, the Tang conquered the oasis city-states in Turfan and the Tarim Basin. Key oasis principalities, including Khotan, Kashgar, Yarkand, and Kucha, accepted the suzerainty of the Tang. Following the Han model, the Tang established four major military garrisons in Kucha, Karashahr, Kashgar, and Kotan to “pacify the West” and to supervise native rulers in the Tarim Basin.

The Tang military dominance over the Tarim Basin was quickly challenged by the expanding Tibetan Empire in the late seventh century. After conquering and consolidating the Gilgit and Wakhan region south of the Tarim Basin, the Tibetans allied with the defeated Turks and captured Kashgar and Khotan, the two key economic and cultural centers in the southern Tarim Basin. The

7- *Ibid.*, p. 28.

continuing Tibetan push forced the Tang finally to give up four garrisons and withdrew the protectorate-general to the Turfan region, close to northwest China. However, in the eighth century, the Tang defeated the Tibetans due to their internal divisions and recovered the city-states in the Tarim Basin. During Tang-Tibetan conflicts, a Korean named Gao Xianzhi, or Ko Sonji, served in the Tang military as “Assistant Protector-General of the Pacified West and Four Garrisons Commissioner General in Charge of Troops and Horses” and drove the Tibetans out of the Pamir mountain and later on pacified Ferghana, Tashkent, and other Central Asian city states.⁸ As some scholars point out, calling Xinjiang a “Chinese territory” during the Tang period oversimplifies a politically complex and fluid situation involving the Turks, Tibetans, and Arabs, as well as the Tang.⁹

Uyghur Khanates

Later on during the Tang period, non-Chinese Central Asian powers began to merge in Mongolia, northwest China, and the Tarim Basin. The state that can be directly linked to the modern Uyghur people is the Uyghur Khanate (744-848 CE). Like many of the nomadic predecessors, the Uyghur Khanate originated in the Mongolian core lands of the Orkhon river valley. The Uyghur

⁸ *Ibid.*, p. 35.

⁹ For a study of the multilateral military competition in Central Asia in this period, see Christopher I. Beckwith, *The Tibetan Empire in Central Asia: A History of the Struggle for Great Power among Tibetans, Turks, Arabs, and Chinese during the Early Middle Ages* (Princeton, N.J.: Princeton University Press, 1987).

tribes, known as “Toqquz Oghuz” (‘the nine tribes’), were former components of the Turk Khanate. The Uyghurs established their own Khanate in 744 CE that extended from Mongolia to northwest China to Ferghana.

The newly rising Uyghur Khanate seemed to have maintained a friendly relationship with the Tang dynasty. During the internal rebellion headed by An Lushan in 755 CE, the Uyghur Khanate provided military aid to the Tang to suppress the rebellion. An eighteenth century Muslim text, *Huihui Yuanlai*, relates this event and non-Muslim Uyghurs to the origin of Islam and Muslims in China.¹⁰ The Uyghur Khanate was soon driven out of Mongolia by the Kyrgyz and settled in Gansu, Gaochang near Turfan, and the southern Tarim Basin. The Gansu Uyghurs since settled in this region and today there is an established a Yugu (Uyghur) Autonomous County, the separate ethnic community from the Uyghurs. In the eastern Turfan region during the Tang, as recent documents indicate, local people observed the provisions of the Tang Code to a surprising degree. Just as in the Tang capital Chang An, market officials drew up price lists every ten days and officials compiled household registers.¹¹

The Uyghurs who migrated to southern Tarim established the Karakhan dynasty, centered in Balasaghun, Samarkand, and Kashgar (840-1212 CE). The dynasty was famous for its conversion to Islam in the early tenth century, blessed by its proximity

10. For a discussion of this text and the mythology of the origin of Islam in China, see Haiyun Ma, “The Mythology of Prophet’s Ambassadors in China: Histories of Sa’d Waqqas and Gess in Chinese Sources,” *Journal of Muslim Minority Affairs*, Vol. 26, No. 3 (2006).

11. Valerie Hansen, *The Open Empire* (New York: W.W. Norton & Company, 2000), p. 216.

to southern neighbors, especially Iran. Satuq Bughra Khan was documented to have converted to Islam and promoted the new religion among his subjects. By the mid-tenth century, it is recorded that “200,000 tents of the Turks” embraced Islam. Today, Satuq Bughra Khan still remains a revered figure in the Artush and Kashgar among the Uyghur Muslims. During the Karakhanids rule, Kashgar became one of the Islamic centers in Central Asia and produced many Uyghur intellectuals including Mahmud Kashgari and Yusuf Khass Hajib. Karakhanids were the first Turk-Uyghurs who initiated the Islamicization of Turks in the Tarim Basin, later coming to serve as an example to nomadic powers.

The Karakhanids were conquered first by the Kara Khitay in the twelfth century after being driven out by the Mongols. The northeast region (Turfan) during the rise of the Mongols became an autonomous Uyghurstan because of their earlier submission to and close relationship with the Mongols. The formation of Uyghurstan in the Turfan region left a mark and memory for modern Uyghur ethnic-nationalist movements.¹² The Gaochang Uyghurs submitted to the Mongols quickly and provided the Mongols with a writing system that they used to invent their own script.

Chagatai Khanate

Other Uyghurs, including those in the Tarim Basin, welcomed the Mongol defeat of the Kara Khitay and became the

¹² For a study of modern Uyghur ethnic nationalism, see Justin Jon Rudelson, *Oasis Identities: Uyghur Nationalism along China's Silk Road* (New York: Columbia University Press, 1998).

Mongol subordinates. During the Mongol rule, the Tarim Basin was part of the Mongol Chaghatai *ulus* (state). During the Mongol rule[?] internal rivalry among the Chaghataids, Golden Horde, and Yuan dynasty for power and geostrategic interests meant that by the later thirteenth century, the Tarim Basin escaped the influence from the East (Yuan dynasty) or the West (Golden Horde), and thus gained independent status. The Chaghatai rule over the oasis cities was fragmented in the sixteenth century when its rule was split between Sa'id Khan (r. 1514-33 CE) and his brother, Mansur (r. 1503-43 CE). The two Chaghatai brothers divided the whole region and ruled separately: Sa'id Khan established his "Yarkand Khanate" in the southern Tarim Basin area including Kashgar, Yarkand, and Khotan; Mansur ruled the Zungaria, Aqsu, Kucha, Karashahr and Turfan in the north and east.

The Chaghatai rule of the Tarim Basin witnessed the second Mongol wave of Islamicization after the Turks' Islamicization in the Karakhan dynasty. A Chaghatai ruler, Muhammad Oghlan Khan, issued an edict in Kashgar in 1416 that any Mongol nomad who did not wear a turban would have a horseshoe nail driven into his head.¹³ This top-down approach of Islamicization of the Mongol was joined by bottom-up Sufi proselytization. Many Mongols and nomadic Turkic groups, including Kirgiz and Kazakhs, embraced Islam, especially Sufi Naqshbandiyya. By the seventeenth century, the whole Tarim region, including the Turfan, was Islamicized. This laid the foundation for today's Xinjiang religious landscape, in which Islam is the ethnic religion of all Turkic groups and Tajiks.

The Ming dynasty (1356-1644 CE) had frequent wars with

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¹³ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 80.

Mansure Khan for the control of the Turfan region. Mansure Khan, with his Turkic and Muslim support from the south and west, firmly controlled Turfan. The Ming established a military outpost in Hami to safeguard the northwest frontier. Hami also served as a gateway for tribute teams from the fragmented Chaghatai city states and even from Central Asia or Middle East to engage in trade with Ming China. The Qing dynasty that arose after the Ming in China well understood the Mongol origins of Chagataid Muslims in this region and granted much autonomous power to the chieftain or *jasak* system (or *Zhasake*) as the Qing did to other non-Muslim Mongol tribes in Mongolia.

Naqshbandi Sufism

The introduction of Naqshbandi Sufism into the Tarim Basin complicated already fragmented politics. Founded in a village northwest of Bukhara by Baba ad-Din (1318-89), the Naqshandi Sufi order gained strength rapidly in the Tarim Basin, as Naqshbandis married into the families of local rulers, thereby ultimately leading to power. One Naqshbandi master, Ahmad Kasani (1461-1542) or Makhdum-i A'zam (Super Teacher) spread Naqshandiyya in Central Asia and the Tarim Basin. His son, Ishaq, established Ishaqiyya (as their order came to be known) in the Kashgar region, and even converted the Chaghatai Khan, Muhammad Sultan (r. 1592-1609), as his disciple.

A short time later, Ishaqis encountered a powerful challenge from Muhammad Yusuf, descended from the same Makhdum-i A'zam. Muhammad Yusuf earned popularity in Kashgaria and even

northwest China. It is mentioned that Muhammad Yusuf visited Suzhou and the Salar region in Amdo. After Muhammad Yusuf was poisoned by Ishaqis in 1653, his son, Hidayet Allah (d.1694), also known as Khoja Afaq (Master of the Horizons), carried on his father's mission and expanded their Sufi order Afaqiyya in Kashgaria. By the late seventeenth century, Khoja Afaq even earned a governor position in Kashgar under the Khan 'Abdullah', whose capital was in Yarkand.

Khoja Afaq's involvement in Chaghatia politics and the challenge to Ishaqis who had already settled there worried Yarkand Khanate that 'Abudullah's son, Isma'il, drove Afaq out of Kashgar when his father (patron of Afaq) went to Hajj. According to Afaq's hagiography, Afaq went to Tibet to seek the Dalai Lama's assistance to recover his country from Isma'il.¹⁴ It was probably on his way to Tibet that Afaq visited Amdo region (today's Qinghai province) and married a woman and fathered several descendents who later on formed the Khafiyya in China proper.

In the late seventeenth century, Tibetan Buddhism, especially the Gelugpa (Yellow Hat) sect headed by the Dalai Lama system, forged master-patron relations with the Zungarian Mongols who already occupied Zungaria. As a result of this request, the Dalai Lama called on Zungarian Mongols to intervene militarily. In 1678, the Zungarian Mongols under the Galdan invaded Kashgaria from the north and placed Afaq and his sons in power, in return for annual tribute. Not only did the Zungarian Mongols seize the Tarim Basin, the Zungarians also occupied the Turfan with the Dalai

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¹⁴ Thierry Zarcone, "Sufism from Central Asia Among the Tibetans in the 16-17th Centuries," *The Tibet Journal*, Vol. 20, No. 3 (Dharamsala, India, 1995), pp. 96-114.

Lama's blessing by the end of seventeenth century. Thus, the Zungarian Mongols confronted with the rising Manchus who overthrew the Ming dynasty and established the Qing dynasty in the mid-seventeenth century.

Qing China's Muslim Region or *Huibu*

The Mongols in Zungaria and Manchus in China proper built their own powers almost simultaneously. In order to win over the hearts and minds of the eastern Mongol tribes under the Manchu rule and the Gelugpa Tibetan Buddhists headed by the Dailai Lama, the Qing emperor, Kangxi, personally led expeditions against the Zungarain Mongols in the 1690s. In 1713, the Zungarian Mongols invaded the southern Tarim Basin again to secure revenue streams from the oases. This time, the Zungarian Mongols took the leaders of both khajs factions as royal hostages back north to Ghulja; a few years later, they would restore the Ishaqiyya to power in Altishahr as Zungarian vassals.

During the Zungarian rule over Altishahr or southern Tarim Basin, the Zungarian Mongols had relocated some Uyghur agriculturalists to the Zungarian Basin to in their efforts to engage in agriculture. Captive Uyghurs, Kazakhs, Kirgiz and prisoners of China were ordered to construct irrigation systems and work in the land in Zungarian Basin and the Urumuqi proper. Most of the agricultural population was Uyghur Muslims, who were later called taranchis or farmers. The migration of Uyghur agriculturalists from southern Tarim to northern Zungaria spread the Uyghur population across the whole Xinjiang region, which partly explains

why in the 1950s the whole Xinjiang region were designated as the Xinjiang Uyghur Autonomous Region (XUAR).

The continued rivalry between the Zungarian Mongols and the Qing dynasty finally ended in the 1750s when the Qing completely defeated, and indeed eliminated, Zungarian Mongols. During Qing military actions against the Zungarian Mongols in Ghulja in 1755, they found two Afaqi khojas, Burhan ad-Din and Khoja Jahan, as hostages. Hoping to establish the Qing's own client in the Tarim Basin, the Qing forces supported Burhan to retake an Afaqi sphere of influence in Kashigaria while at the same time still keeping Khoja Jahan in the Zungaria as hostage. Burhan recovered southern Tarim oasis cities. His brother, Jahan, later on escaped from Zungaria and returned to Kashgaria. The brothers attempted to escape from the nomad yoke by rebelling against the Qing.

The total elimination of the Zungarians and the open rebellion of the Khoja brothers provided the Qing an excuse to invade Muslim domains and include them into the Qing dynasty. Qing administration in Xinjiang was multilayered and more sophisticated than any imperial government in the region that had preceded it. Relying on 40,000 banner military troops in the Ili region and southern oasis cities, the Qing appointed local Muslim elite as local leaders (or Beg, meaning noble) responsible for legal affairs and tax collection and ruled the southern Tarim indirectly. Local customs and Islamic laws were sustained and respected.

In northern Xinjiang, especially the colonies near Urumuqi proper, the Qing implemented Chinese-style administration by creating counties, prefectures, and circuits and appointing magistracies. The Qing's sinicization of administration laid the foundations for Chinese total domination of northern Xinjiang. In the Turfan-Hami region, the Qing introduced a hereditary *jasak*

system, as it applied to Mongols, probably due to the early Turfan/Hami-Qing intimacy and the Manchu conceptualization that the Turfan-Hami Uyghurs were descendents of the Mongols in the Yuan dynasty. Jasaks enjoyed high autonomy and were exempted from state taxes. Many of the begs (Turkic Muslim chieftains) in Qing Kashgaria came from Turfan-Hami nobilities.

Regarding relations with the Tarim Basin to China proper, the Qing implemented a divide-and-rule strategy to control the communication between Kashgaria and China proper. Politically, only approved or invited Uyghur jasaks and begs were allowed to move either to Beijing or Chengde, one of the Qing's most frequented cities, together with the Mongols and Tibetans, forging the Qing inner-Asian cycle. Migration between China proper and Kashgaria was strictly limited and only authorized people with proper documents could travel to the Tarim cities. Chinese subjects in the Tarim cities were banned from marrying local women and wearing local clothes. Chinese merchants were closely monitored and checked at garrison cities or checkpoints to make sure that no prohibited item was brought from the Tarim Basin to China proper. After the Chinese Muslim rebellion in Gansu at the end of the eighteenth century, individuals were prohibited from bringing Islamic texts from Kashgaria to China proper and Chinese Muslim clergies were banned from travelling to Kashgaria.

Qing-Muslim Relations

The divide-and-rule strategy maintained relative stability between China proper and the Tarim Basin for a century after the

Qing conquest. However, the Qing's elimination of the Khoja brothers resulted in a century-long borderland conflict between the Qing and the descendents of the Khoja brothers. When the two Khojas were chased, defeated, and executed in the 1750s, their descendents fled to neighboring Kokand (today's Uzbek) to continue the reinstatement of Afaqi rule in Kashgar and to avenge their ancestors' death. From the 1780s, Burhan ad-Din Khoja's son, Sarimsaq, began to contact his father's supporters in preparation for a revolt. Sarimsaq's son, Jahangir, invaded Kashgaria in the early nineteenth century and even temporarily occupied Kashgar's old towns, such as Yengisar, Yarkand, Khotan, and Aqsu. Jahangir was finally defeated, captured, and executed in Beijing. The Qing-Khoja rivalry in Kashgaria shifted to the conflict between the Qing and the Kokand Khanate (1709-1876) of Central Asia that protected the Khojas.

In addition to a religious reason, the Kokand Khanate harbored the Khojas descendents to negotiate with the Qing for a more favorable trading status for Kokandi merchants in Kashgaria. Between 1832 and 1835, the Qing government granted Kokandi merchants the right to trade tax-free in the Tarim Basin. According to Joseph Fletcher, this "unequal" agreement between the Kokand and Qing was echoed in the Qing concessions made to Western traders following the 1839-41 Opium War in southern China.¹⁵ This trade-for-peace agreement maintained the stability in the Tarim Basin for the next two decades.

¹⁵ For a study of Qing-Kokand relations, see Joseph Fletcher, "Ch'ing Inner Asia c.1800," John King Fairbank (eds.), *The Cambridge History of China Volume 10: Late Ch'ing 1800-1911, Part 1* (Cambridge: Cambridge University Press, 1978), pp. 35-106.

Ya'cub Khanate

However, the breakout of open armed conflicts between Chinese-speaking Muslims (Hui or Tungan) and the Han in Shaanxi and Gansu in the 1860s ended political stability in the Tarim region. The Qing conquest of the Zungaria and Kashgaria brought an influx of a large number of Tungan soldiers, most of them from Shaanxi and Gansu. The Taiping Rebellion (1851-1864) in southern China forced the Qing to allow Han Chinese to form local militia to resist the rebellion. The rise of militarism in Han China and the desire to take over Hui lands and properties during this wartime period encouraged the Han to eliminate Hui enclaves in Shaanxi. The Hui responded by forming eighteen camps to fight back in Shaanxi, Gansu, Qinghai, and Xinjiang. This armed resistance lasted for about fifteen years (1862-1877).

According to Hodong Kim, there was a rumor in Kashgaria in 1860s that the local officials in various garrison cities had received an order to exterminate the Hui (or Mie Hui) in fear of their open rebellion, like their fellow Hui did in Shaanxi and Gansu. This rumor and official pre-emptive actions forced the Tungan soldiers to attack the Qing forces, first in Kucha and then in other Tarim cities in 1864.¹⁶ Having seen Tungan Muslims rebel in major Tarim cities, Uyghur Muslims actively participated in this “holy war” against the Qing and Uyghur. Local headmen in Yarkand, Kashgar, Khotan, and Kucha quickly took the leadership. This was the first, and most coordinated, anti-Qing uprising by Tungan and Turkic

¹⁶ Ho-dong Kim, *Holy War in China: The Muslim Rebellion and State in Chinese Central Asia, 1864-1877* (Redwood City, California: Stanford University Press, 2004).

Muslims after the Qing conquest of this Muslim territory in the mid-eighteenth century.

With weak military capability and lack of unified leadership among the rebellious Muslim forces decided to seek leadership and military aid from the Kokand. Kokand's ruler Alim Quli then sent a Khoja descendent, Buzurg, under the direction of a military general, Ya'cub Beg, to aid the Kashgarian Muslims in 1865. After arriving in Kashgar, Ya'cub Beg quickly displaced Buzurg and consolidated his position as the major Turkic leader during this campaign. By 1871, Ya'cub Beg conquered major cities of the Tarim basin including Kashgar, Yengishahr, Kuch, and Turfan by defeating Uyhur headmen and Tungan leaders.

The conquest of the Tarim Basin by Ya'cub Beg resulted in establishment of an Islamic Khanate. Under Ya'cub's rule, his officials enforced adherence to Islamic law, cracking down on male and female prostitution, consumption of alcohol, and sale of such *haram* (illegal) meats as cat, goat, rat, pig, and donkey. Religious police patrolled the street to maintain the Islamic law, Shar'iah, dealing out floggings to improperly veiled women or men without a turban.¹⁷ Ya'cub restored, endowed, and visited key shrines in the Kashgar area to honor early Islamic heroes and made himself *Ataliq ghazi* (fatherly holy warrior) in the Islamic world at the time.

Ya'cub Beg's coming to Kashgaria and his seizure of rebellious leadership finally led to creation of an independent regime. As a strongman of Central Asia and patron of Islam, Ya'cub successfully made himself the ruler of Kashgarian Muslims. At the same time, he was cognizant of the new "Great Game" between expanding

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 17. James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, pp. 120-121.

British and Russian interests. He signed a commercial treaty with Russia allowing Russian merchants to trade in the cities under his control. Ya'cub also actively sought out good relations with the British by hosting British envoys, signing a commercial treaty, and even posting an ambassador to London.¹⁸ As Millward concludes, under Ya'cub Beg, Xinjiang for the first time became visible to the whole world, merging with the larger drama of imperial expansion and globalization.

Ya'cub's rule over the Tarim directly challenged the dying Qing Empire on its northwest frontier, when the West began to encroach into China's southeast coastal areas. More seriously for the Qing, the Russians took advantage of this chaos during Ya'cub's invasion to occupy the Ili region in Zungaria. Thus, to reconquer the Tarim region was not only a matter of pacifying rebellion, but also an issue of imperial competition between the Qing and Russia. The Qing borrowed loans from Russia and other foreign countries, dissuaded high-ranking officials favoring maritime defense in the southeast, and deployed a famous Han military general, Zuo Zongtang, to suppress both the Tungan rebellion in Shaanxi and the Ya'cub regime in the Tarim. After dividing and then defeating the Tungan rebellion in Shaanxi, Gansu, Qinghai, and Urumuqi proper in the 1870s, the Qing forces finally returned to southern Tarim cities. Ya'cub died suddenly in 1877 in Korla, probably of a stroke, and his regime collapsed. Remaining Tungans in the face of the Qing forces had to retreat to Russian Central Asia and became Russian political subjects.

¹⁸ *Ibid.*, p. 123.

Provinciizing Qing's Muslim Region

The Qing forces under Zuo Zongtang not only reconquered southern Tarim but also recovered the Ili region seized by the Russian Empire a decade prior, after paying a large indemnity. After costly warfare and diplomatic negotiation, the Qing recovered Kashgaria and Zungaria and managed to reform the region. The most significant step in reforming this remote region was to make Xinjiang a province and introducing Chinese-style administration. In 1884 the Qing court agreed to make Kashgaria and Zungaria new province, called Xinjiang. The term “Xinjiang” literally means “new territory,” indicating a short history of Xinjiang as being Chinese territory. From the perspective of the Uyghur population and Uyghur movements in coming decades, Xinjiang is totally a colonial term and “East Turkistan” became a nationalistic expression for the region.

As James Millward and Nabijan Tursun have pointed out, the provincialization of Xinjiang subsequently resulted in intensified promotion of Chinese immigration to Xinjiang and reclamation of land there.¹⁹ Before the Zuo Zongtang's reconquest, Kashgaria and Zungaria had remained as Qing Inner Asian reservoir for the Manchus. Han immigration was strictly controlled; the deployment of a large Han military, merchants, and farmers in the reconquest of Xinjiang brought unprecedented Han population into this region. The standardization of Xinjiang as a Chinese province quickened this immigration process, especially in northern

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¹⁹ James A. Millward and Babijan Tursun, “Political History and Strategies of Control, 1884-1978,” Frederick Starr (eds.), *Xinjiang, China's Muslim Borderland* (Armonk, New York: M.E. Sharpe, 2004), p. 63.

Xinjiang centered on Urumuqi proper. Indeed, since the late nineteenth century, Xinjiang evolved from an Inner Asian territory of the Manchus to a Han Chinese colony. Chinese officials, Chinese administration, and even Chinese Confucian education began to dominate the region. Thus, for the first time in modern Xinjiang history, Han Chinese immigrants, supported by the state, began to move into this Turkic region in large numbers. By early 1800, the Han Chinese population reached 30 percent (about 155,000 individuals) of the total population in Xinjiang.²⁰

The defeat and massacre of the Tungan and Uyghur Muslims by the Qing forces led by Zuo Zongtang (who earned the nickname “Zuo Butcher”) pacified the region for the following two decades. The 1911 Chinese nationalist revolution in China proper that overthrew the Manchu dynasty in 1911 in Wuchang (武昌) and set up a weak Chinese nation, the Republic of China in 1912, unavoidably spread to Qing Xinjiang. After the suppression of the Muslim uprising in the late nineteenth century, Qing officials in Xinjiang also established a new-style army, the Xinjiang Army in 1909 and drilled in accordance with Western and Japanese models. Due to the strategic location of Yili between the Qing and Russia, the newly recruited army was stationed in this region to prepare for possible foreign invasions and to suppress possible domestic rebellions. Chinese nationalists, including secret societies, penetrated the Xinjiang Army and prepared for the anti-Qing revolution in this region.

Chinese nationalists penetrated not only the new Qing army in Yili but also mobilized Uyghur Muslims in the region through its

²⁰ James A. Millward, “Historical Perspectives on Contemporary Xinjiang,” *Inner Asia*, Vol. 2, No. 2 (2000), pp. 122-123.

media. The *Yili Vernacular Newspaper* (Yili baihua bao) associated the Qing's recent massacre of Uyghurs led by Zuo Zongtang to the Qing slaughter of Han Chinese during the early Qing conquest of southern China.²¹ The spread of anti-Qing ideology among the Xinjiang Army, especially in Yining, finally led to a coup in January 1912 that defeated the Manchu garrison soldiers. On January, 8, 1912, Chinese revolutionaries established a provisional government that embraced the republicanism of mainstream Chinese nationalists in China proper by announcing that "Han, Manchus, Mongols, Hui, turban-wearing Muslims (Uyghurs), Kazaks, and others" will be treated equally.²² This revolutionary ethnic policy laid the foundation for the governance of warlords in this multi-ethnic region.

Xinjiang under Chinese Warlords

During this chaotic transitional period, Yang Zengxin, an eminent Han Chinese, came to power. He had recently been appointed as Urumuqi Circuit Intendant and Commissioner for Judicial Affairs by Yuan Shikai, who replaced Sun Yat-sun as the president of the Republic of China founded in 1912. As a Yunnanese, Yang Zengxin had served in Muslim-populated Gansu and Ningxia before coming to Xinjiang and cultivated a good relationship with Chinese-speaking Muslims (or Tungans or Huizu).

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²¹ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 166.

²² Bai Zhensheng and Koibuchi Shinichi (eds.), *新疆现代政治社会史略* [A concise political and social history of modern Xinjiang] (Beijing: 中國社會科學出版社, 1992), p. 25.

After the occurrence of the Ili revolution and the establishment of the provisional provincial government, major Qing officials in Urumuqi including Yang Zengxin dispatched troops to fight against the Ili revolutionaries. Due to his personal relations with Tungan soldiers and officers, Yang Zengxin relied on Tungan troops to monopolize the Qing military forces in Urumuqi during the military actions. His appointment by Yuan Shikai and his personal military forces helped Yang Zengxing quickly negotiate with the Ili revolutionaries. The negotiation resulted in a unified provincial government in which Yang consolidated his position as the power holder of Xinjiang in 1912.

By 1913, Yang Zenxing purged all his potential challengers, including former revolutionaries in his new provincial government. During Yang Zengxing's rule of Xinjiang, from 1913 to 1928, there was no strong, unified central government in China proper. Xinjiang-China connections were basically managed through Yang's relations with warlords of China proper, such as Yuan Shikai. Like his warlord counterparts in China proper, Yang consciously governed Xinjiang as his own domain under isolationism. He was particularly keen to prevent outside economic and intellectual influences from penetrating Xinjiang. In Xinjiang, Yang promoted Confucian-style education in order to build an orderly and harmonious society. In order to increase tax revenues and consolidate his rule within Xinjiang, Yang encouraged the development of Xinjiang's infrastructure, construction of irrigation systems, and the improvement of roads and agricultural yields. In sum, Yang took advantage of the chaos in China and created policies in Xinjiang aimed at creating an economically self-sufficient and politically independent entity.

However, due to the geographic proximity, Xinjiang under

Yang Zengxing began to be influenced by Russia, later the Soviet Union. During the Russian civil war following the October Revolution of 1917, a total of thirty thousand to forty thousand Russian refugees and armed White Russian soldiers were driven into Northern Xinjiang by the Bolshevik Red Army. In order to eliminate the White Russian presence in Xinjiang, Yang Zengxing invited some of them to Urumuqi and detained and repatriated their leaders to the Soviet Union. Yang also invited the Soviet Red Army into Xinjiang to fight against White Russians in Ghulja (Yining) and Tarbaghatai region (Tacheng). Using Red Russians to defeat White Russians, Yang successfully wiped out White Russian threats in northern Xinjiang. Using the Soviet Union was useful to balance Xinjiang's political and military forces, thereby working as a tool for later Xinjiang warlords, starting from Yang Zengxing.

The establishment of the Bolshevik regime in Russia (later the Soviet Union) and Soviet aid to Yang Zengxin helped redefine Xinjiang-Russian relations. The relationship between Imperial China and Imperial Russia was regulated basically through a series of conflicts and wars from the 1680s to 1870s. After the Ya'cub rebellion, Imperial Russia quickly seized the Ili region on the pretext of protecting Russian interests there. Zuo Zongtang's recovery of Xinjiang forced Russia to sign the Treaty of Saint Petersburg in 1881 that required the Russians to withdraw from the occupied region. Since the signing of the treaty, the treaty between Xinjiang's raw materials for Russian industrial goods played an important role in boosting Xinjiang's economy.

The turmoil following the Russian revolution in 1917 greatly affected the bilateral trade; Xinjiang goods, such as cotton and pastoral products lost the market and Russian products, such as metals, sugar, and fuel were in short supply. Only after the Soviet con-

solidation of power in 1920 were Xinjiang-Russian relations, in particular commercial relations, resumed. The normalization of relations between the Republic of China and the Soviet Union subsequently led to the establishment of Soviet consulates in major cities in Xinjiang, such as Ghulja, Urumuqi, and Kashgar all in the same year. Reciprocally, the Republic of China also established consulates in Almaty staffed by Xinjiang officials. Thus, since 1920, the Soviet economic, political, and, later on, military influences began to play a critical role in Xinjiang's warlord politics, starting from Yang Zengxing.

While properly dealing with the Republic of China and Russia/the Soviet Union, Yang enjoyed favorable external conditions for his power consolidation in Xinjiang. Yang realized that in a multi-ethnic province like Xinjiang, maintaining autocracy and despotism required buying off and balancing various elites of different groups. Inheriting the institution of the Qing, he gave local Turkic Muslim headmen latitude to enrich themselves from their subjects and played groups off against each other to maintain his monopoly of power. A similar strategy was also applied to other groups when he supported Kazaks against Mongols and the conservative Muslim 'ulama against the rising *jadids* or reformers.²³ In order to lift the burden off the local population, Yang conducted a series of reforms to eliminate corrupt officials and eradicate several tax practices and official interventions in ethnic internal affairs, such as official sales of the Islamic religious leader position Ahong (Arkund or Imam).²⁴

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²³ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 183.

²⁴ Bai Zhensheng and Koibuchi Shinichi (eds.), *新疆现代政治社会史略* [A concise political and social history of modern Xinjiang], p. 108.

Turkic Jaddism Cultural Movement in Xinjiang

In the late nineteenth and early twentieth century, widespread nationalism in both the Islamic/Turkic and Chinese worlds encouraged the Uyghurs to embrace their own nationalism. However, Uyghur Muslims had not been able to engage in large-scale open rebellions, following the suppression by Zuo Zongtang in the 1870s and in the face of the Han strongman politics. Except for minor protests and conflicts with local Qing officials, Uyghur Muslims in the first two decades of the twentieth century had cultivated cultural nationalism, especially in the education arena, to awaken the Uyghur masses, strengthen Uyghur societies, and improve Uyghur well-being. This cultural nationalism was reflected most strongly in the creation of new-style Turkic schools by wealthy merchants in several cities across Xinjiang, similar to a popular movement among other Turkic peoples ruled by alien powers, such as the Tatar people under Russia.

The new-style education is known as *usul-i jadid*, or “new learning,” an attempt to modernize traditional Islamic education at the mosque. The initiator of the new-style schools was Husayin Musa Bay Hajji (Husan Musabayov), a wealthy merchant based in Artush. Musabayov travelled extensively in the Western and Muslim worlds including Paris, Berlin, Moscow, and Istanbul in the course of building up his trading company in Artush. He was aware of Kashgar’s backwardness and opened a primary school in Artush in 1885, which he organized differently from the traditional *maktap*.²⁵ The Artush school curriculum followed that of con-

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 25_ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, pp. 171-172.

temporary Kazan and Istanbul. Subjects included language and literature, arithmetic, history, geography, nature, art, physical education, Uyghur, Turkish, Russian, and Arabic.

The new-style education bore the marks of pan-Turkism and pan-Islam. In 1913, Musabayov sent a delegation to the Ottoman Empire to request a modernly educated teacher. Next year, Ottoman Minister Mehmed Talat Pas, who was in charge of an organization promoting pan-Turkism and pan-Islam outside Turkey, sent Ahmed Kemal to Xinjiang, and a normal school was built near Artush. The textbooks used in the school were produced in Istanbul and the school uniform was a version of the Ottoman court costume. This new-style school disturbed local Uyghur conservatives who petitioned governor Yang Zengxing to shut down these schools and expel Ahmed Kemal. Yang Zengxin did so in the summer of 1915. The school reopened after a Chinese Muslim official appealed to Yang Zengxing. However, Yang Zengxing ordered adding Chinese language and physical drills to the curriculum, making it more like a Chinese school curriculum. This new school and, by extension, new culture movement (*jaddism*), occurred simultaneously to when Han Chinese conducted their own new cultural movement at the turn of the twentieth century. Both new cultural movements produced many nationalist leaders and elites in the next decades to come.

Han Warlords, Hui Military, and the First ETR

Warlord politics in Xinjiang since Yang Zengxing was represented by frequent assassinations and leadership changes. Despite

Yang Zengxing's relentless rule, wide-ranging intelligence network, and political shrewdness, his rule with an iron fist was challenged by political factions within his provincial government. In 1928, the Chinese Nationalist Party (Kuomintang, or KMT) under the leadership of Chiang Kai-shek (Jiang Jieshi) defeated the warlords in Beijing and consolidated the power of the Republic of China headquartered in Nanjing. Yang Zengxing quickly proclaimed his allegiance to the new government and accepted the KMT as the ruling authority. Against the background of this power change in the China proper, Fan Yaonan, one of Yang Zengxing's top officials, decided to conduct a *coup d'état* to assassinate Yang and to bring Xinjiang closer to the KMT government. On July 7, 1928, Yang was assassinated by Fan's clique during a banquet. Fan himself was shortly executed by Yang's second military commander, Jin Shuren (1879-1941). Jin appointed himself as the Provincial Chairman and Commander in Chief and the KMT government officially recognized his seizure of power five months later.

Jin Shuren's short-lived rule of Xinjiang from 1928 to 1933 witnessed corruption and consequent rebellions from different social, ethnic, and political forces. Coming from a farmer-merchant family of Gansu, Jin seemed to be extremely interested in accumulating personal wealth in Xinjiang. He increased taxes and monopolized major industries including gold, jade, and others for his own benefit. Militarily, in fear of the Hui army that his predecessor Yang Zengxing relied on, Jin Shuren dismissed Hui soldiers and officers and formed his own trustworthy army staffed with his Gansu fellows. By 1932, Jin Shuren increased the military budget fivefold than in 1927.²⁶

Religiously and culturally, unlike his predecessor, Jin Shuren deeply intervened in Muslim internal affairs, such as prohibiting

foreigners from being imams in Xinjiang and banning of the Hajj to Mecca. This caused great grievances from Muslims in Xinjiang. Politically, Jin was eager to get rid of traditional non-Han local headmen such as Uyghur *wangs* in Hami and Turfan and replace them with Han officials to establish his despotism. These chauvinist policies and practices quickly drove the Muslims to rebel.

Jin's misrule of Xinjiang quickly led to open rebellions and conflicts across all of Xinjiang, first north and then south. The first rebellion occurred in Hami, when one of Jin's military officers stationing there forced a Uyghur family to marry their daughter to him in 1931. While local Uyghurs were already irritated by Han immigration to Hami, Jin's heavy taxation and anti-Muslim policies, his checkpoint officer's coerced marriage directly caused the conflicts between them and the Jin Shuren regime. On February 17, 1931, when a checkpoint officer, Zhang Guohu, was holding the wedding ceremony, local Uyghurs attacked and killed him. Jin Shuren's military stationed there quickly counterattacked Hami Uyghurs and drove them into the mountains. The breakout of armed conflicts between local Muslims and the provincial government quickly attracted other dissatisfied non-Han peoples including Hui, Kazak, Kirgiz, and others to join the rebellion. Two former Uyghur ministers of Hami Khanate, Khoja Niyaz (?-1937) and Yulbars Khan (1888-?), were installed as leaders of the fight.²⁷

The conflict brought not only the Uyghurs but also the Hui into the opposition to Jin Shuren's government. The Hami rebel leaders realized that they alone were unable to resist Jin's army.

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²⁶ Bai Zhensheng and Koibuchi Shinichi (eds.), *新疆现代政治社会史略* [A concise political and social history of modern Xinjiang], p. 156.

²⁷ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 192.

Yulbars went to Gansu to call upon fellow Muslim Hui to assist them. After the Qing suppression of the Hui rebellions in the 1870s, many Hui military generals surrendered to Zuo Zongtang and built up their own Hui military forces. By the 1930s, Hui forces dominated Gansu, Qinghai, and Ningxia provinces. One Hui militarist Yulbars found was Ma Zhongying (1911-?) who commanded a force only as a teenager and was dubbed “Baby General” or “Big Horse” by Western missionaries and archeologists. Ma Zhongying at the time was stationed in the borderland of northwestern Gansu, searching for new territories to establish his own stronghold, since his Ma family generals and officers had already made Gansu, Qinghai, and Ningxia their own domain.

In the summer of 1931, Ma Zhongying led a poorly armed force of about four hundred soldiers with ninety guns to march to Hami to “save Islamic brothers.”²⁸ By 1933, Hui and Uyghur forces defeated Jin Shuren’s various troops and approached the capital city Urumuqi. Jin Shuren’s frequent defeats finally led to a coup in 1933 where he was overthrown by one of his military generals, Sheng Shicai (1895-1970), who was leading the anti-Japanese armed forces consisting of Manchurian soldiers. During the battles between Hui forces and Sheng Shicai’s provincial military, the Uyghurs under Khoja Niyaz switched sides and supported Sheng to fight the Hui. For reasons that remain unclear but may have involved Soviet incentives,²⁹ the fall of the Uyghur independent regime was pre-determined when Khoja Niyaz was made the presi-

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²⁸ Bai Zhensheng and Koibuchi Shinichi (eds.), *新疆现代政治社会史略* [A concise political and social history of modern Xinjiang], p. 156.

²⁹ James A. Millward and Babijan Tursun, “Political History and Strategies of Control, 1884-1978,” p. 76.

dent of the incoming East Turkistan Republic. In order to prevent pro-Japanese Hui forces from approaching Xinjiang, and in fear of a possible Japanese buildup of military bases in Xinjiang to attack the Soviet Union, the Soviet Union thus directly assisted anti-Japanese Sheng Shicai by sending ground troops and airplanes. Ma Zhongying's forces were finally defeated in early 1934 and scattered to southern Xinjiang where they encountered a newly established Uyghur regime.

During the war between Jin Shuren and Ma Zhongying in northern Xinjiang, Uyghur Muslims in southern Tarim began to rebel. Initiated in Khotan by gold miners, the local Uyghurs quickly established an Islamic government under Muhammad Emin Bughra (1901-1965) and his brothers in 1933. The rebels quickly occupied neighboring Chira, Niya, Keriya, and Yarkand after defeating local Han and Hui forces and formed a Khotan regime. After contacting and cultivating friendly relations with other Uyghur representatives in Kashgar in the same year, the Khotan regime finally proclaimed the foundation of the East Turkestan Republic (ETR) on November 12, 1933. Strangely, the ETR elected Khoja Niyaz, who already surrendered to Sheng Shicai and his patron, the Soviet Union, as president in absentia. The ETR recruited about seven thousand troops to attend a rally in the Tumen River area in Kashgar. The streets around the area were festooned with blue banners reading "East Turkistan Islamic Republic."

The ETR constitution announced that the new state was founded as a republic and would govern in accordance with Islam's sha'ria law. During the rally on November 12, the Uyghur people in Kashgar waved ETR flags and shouted "Amen, amen!" The students of the Normal College sang a song with the lyrics, "Our flag is a blue flag, our horde [*orda*, e.g., our people, our khanate] is a gold-

en horde.”³⁰ The ETR constitution underlined the reformist goals of early Jaddists, emphasizing the importance of education and promising to improve infrastructure. The ETR was the first independent Uyghur state in the twentieth century and inspired Uyghur ethnic-nationalism in the 1940s and even into the twenty-first century.

The establishment of the ETR was significant to modern Uyghur nationalism. The nature of the government, as Shinmen Yasushi argued, was founded not only on Islam, but on the modernizing, nationalistic ideas of the jaddist movement of the 1910s and 1920s.³¹ The ETR attempted to seek British and Turkish support, but gained little financial or military aid because both governments did not want to harm relations with the Chinese government. The Soviet Union was actively opposing this new Islamic Turkic government because it feared not only the British expansion from India to Xinjiang, but also its own Turkic Muslim independent movements in Central Asia. The Chinese nationalist government in Nanjing at this time had no actual control over all these political and military forces in Xinjiang. The Nanjing government denied the legitimacy of the ETR and recognized Sheng Shicai and Ma Zhongying as its representatives in Xinjiang.

In January 1934, the East Turkestan Republic welcomed the arrival of Khoja Niyaz to Kashgar as the president. Simultaneously when Khoja Niyaz was appointed president of the ETR, Ma Zhongying's forces arrived in Kashgar and drove Khoja Niyaz to

³⁰ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 204.

³¹ Shinmen Yasushi, “東トルキスタン共和国(1933-34年)に関する一考察” [An Inquiry into the Eastern Turkestan Republic of 1933-34], *アジア・アフリカ言語文化研究*, No. 46-47 (30th anniversary commemorative No. 1, 1994).

Yengisar and then to Yarkand. In Yarkand, Khoja Niyaz arrested the ministers of the ETR and delivered them into the custody of Soviet forces in Aqsu. It is clear that Khoja Niyaz's surrender to Sheng Shicai was negotiated in consideration that he would gain politically from his betrayal of Ma Zhongying early on and his extermination of the ETR leadership now. As a reward, Sheng Shicai appointed Khoja Niyaz vice-chairman of the Xinjiang Provincial Government. Thus, the first Uyghur state in the twentieth century was defeated by Ma Zhongying's forces and Khoja Niyaz's elimination of the ETR leadership, with the support of the Xinjiang Provincial Government, Chinese nationalist government, and the Soviet Union.

The defeat of Ma Zhongying and the elimination of the ETR through the direct Soviet intervention consolidated Sheng's position and power and led Sheng to "go red" in Xinjiang. It is no surprise that Sheng underwent an ideological shift from Chinese Nationalist ideology to Soviet ideology. He adopted many Soviet policies including the introduction of a Stalinist approach to ethnic taxonomy, which differed from Han Chinese Nationalism aimed at assimilating all non-Han peoples. Imitating Soviet ethnic policy in Central Asia, the Sheng Shicai government recognized and identified fourteen ethnic groups in Xinjiang, including Uyghur, Taranchi, Kazak, Kirgiz, Uzbek, Tatar, Tajik, Manchu, Sibe (Xibo), Solon, Han, and Hui.³² This is the first time that Chinese officials and governments in Xinjiang officially apply the term "Uyghur" to the Turkic-speaking, non-nomad population of southern Tarim.³³

³² James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 208.

³³ James A. Millward and Babjan Tursun, "Political History and Strategies of Control, 1884-1978," p. 80.

The Chinese communist government since the 1950s inherited this policy and further divided non-nomad Turkic population into several *minzu* or ethnic groups. The Uyghur *minzu* or *weiwuer zu* in 1950s was recognized as one of 56 ethnic groups in China.

The Second ETR

The close relations between Sheng Shicai and the Soviet Union naturally led to his friendship with the Chinese Communist Party (CCP) in Yan'an. As a native of Manchuria, Sheng had been strongly anti-Japanese since the Japanese occupation of his hometown. During the Sino-Japanese war in the 1930s, Sheng approached Yan'an to form a "united front" against the Japanese in the context of Sheng-Soviet friendship. The Chinese Communist Party (CCP) for the first time sent dozens of its cadres to Xinjiang to assist Sheng Shicai. The CCP members worked mostly in administrative, financial, and educational sectors in major cities in Xinjiang to implement Sheng's pro-Soviet policies. One of the CCP members was Mao Zedong's young brother, Mao Zemin, who worked as deputy finance minister in Sheng's Xinjiang government. Some of these early Communists who survived from Sheng's purge later on became the CCP's Xinjiang experts when the CCP defeated the KMT and marched into Xinjiang in 1949.

However, in the early 1940s, the international situation provided Sheng with an opportunity to find new allies. The Nazi invasion of the Soviet Union in 1941 and the subsequent Pacific War reformed world power relations. It was timely that Sheng weakened his ties with the Soviet Union and strengthened the con-

nection with the Chinese Nationalist government, which, with U.S. aid, now had the resources and power to assert its hitherto theoretical sovereignty in Xinjiang. The warming of relations with Nanjing enabled Sheng to cut off trade with the Soviet Union in 1942, and forced the Soviet Union to withdraw its military from Xinjiang in 1943. At the same time, Sheng purged and executed the CCP members in Xinjing, including Mao Zemin. These anti-Soviet and anti-CCP policies and practices brought KMT troops and KMT party branch to Xinjiang by 1943. Even the United States, allied with the KMT, began to establish a consulate in Urumuqi in the same year. In following years, the Chinese KMT government dismissed Sheng Shicai, who firmly controlled Xinjiang. Thus, Xinjiang ended the history of warlords and was incorporated into the Republic of China under the leadership of the KMT.

The new KMT government in Xinjiang quickly announced a campaign to integrate Xinjiang into China proper by developing and populating the region, including northern Zungaria. The goal of the integration was to provide an economic base for Nationalist control of the vast northwest frontier during the war against Japan. It also hoped to build a solid base to undermine CCP penetration and cut off the CCP-Soviet connection through Xinjiang. In order to chip away at the Soviet influence, the Nationalist government cut off economic communication between Xinjiang and the Soviet Union, which created great economic disaster for the Xinjiang economy. Also, to implement many integrative programs and to support a large number of KMT troops resident in Xinjiang, the Nationalist government in Xinjiang increased taxes, which drove the local population into revolution in Ghulja region of northern Zungaria in 1944.

The direct cause of the 1944 rebellion in northern Xinjiang

was Sheng's demand for horses or money from the Kazaks in 1943-44 in the name of the Anti-Japanese War. The local Kazaks under the leadership of Osman Batur (1899-1951) rose up in rebellion in October 1944 and were joined by other Turkic and Muslim groups such as Uzbekk and Hui. They quickly occupied the local Chinese headquarter in Ghulja by the end of the year. On November 12, the rebel leaders, consisting of Uzbek, Uyghur, Hui and other ethnicities declared the establishment of the East Turkestan Republic (ETR). Major leaders were Ali Khan Tore, Osman Batur, and others. This was the second attempt for Turkic Muslims in Xinjiang to establish an independent state in northern Xinjiang, eleven years after the defeat of the first East Turkestan Republic founded in southern Xinjiang.

Unlike the first ETR opposed by the Soviet Union, the second ETR was aided by the Soviet Union. Osman Batur received Soviet military aid through Outer Mongolia. By September 1945, the ETR forces controlled northern Xinjiang and drove the KMT forces to Urumuqi proper. The successful establishment of the ETR caused great concern for the Chinese Nationalist government and Zhang Zhizhong, a high-ranking military commander, was dispatched to Urumuqi to deal with the situation. Zhang clearly understood the Soviet support of the ETR and immediately contacted the Soviet Consul-general in Urumuqi. During this time, the Soviet Union hoped to maintain good relations with major four allied countries including China. While the Soviet Union intervened in and mediate in the situation in Xinjiang, the ETR agreed to abandon its call for an independent Turkic state and to form a coalition government with the Xinjiang provincial government.

The negotiation between the KMT and ETR finally reached an agreement in 1946 on the formation of a coalition government

in which Zhang Zhizhong would be chairman and Ahmetjan Qasimi, one of the ETR leaders, vice-chairman of the new Xinjiang provincial government. According to the agreement, the former ETR could keep its own military and police forces in the Ili region and Zhang Zhizhong was nominal commander-in-chief of the entire Xinjiang military. Provincial officials were divided among major ethnic groups in Xinjiang. Uyghur and Kazak languages were declared official languages along with the Chinese language.

In sum, the coalition government of Xinjiang province successfully maintained Xinjiang as part of Chinese territory and sovereignty and, at the same time, granted equal rights to Uyghur and other Turkic groups. This peaceful formation of the coalition government in 1946 headed by Zhang is attributed to Zhang Zhizhong's open-mindedness, his Uyghur advisors (some of them were even members of the first ETR leadership such as Muhammad Emin Bughra), the critical timing of ending the anti-Japanese war, the coming KMT-CCP rivalry, and China-Soviet relations. The formation of the coalition provincial government in Urumuqi, however, did not dismember the ETR troops and their leadership based in the Ili region.

Xinjiang under Chinese Communists

The peace agreement between the KMT and the ETR came to an end, however, when the KMT itself was finally defeated by the CCP in 1949. In the summer of 1949, the CCP's armed forces, the People's Liberation Army (PLA), was prepared to "liberate" Xinjiang from Gansu. Former Xinjiang chairman, Zhang Zhizhong,

who was defeated by the CCP in the previous year, urged Xinjiang government officials, both Turkci and KMT members, to negotiate with the CCP for “peaceful liberation.” In September 1949, KMT commander Xinjiang Tao Shiyue (1892-1988), and then-chairman of the Xinjiang government Burhan Shahidi (1894-1989) cabled the CCP to announce their surrender.

In October, the PLA forces under Wang Zhen (1908-1993) marched into southern Xinjiang and gradually reached the Ili region under the control of the former ETR. During their military march to northwestern Xinjiang, the CCP simultaneously invited the ETR leadership, headed by Ahmetjan Qasim, and other key members to attend the National People’s Consultative Conference to discuss the future of Xinjiang. On August 27, Ahmetjan’s airplane had crashed mysteriously near Lake Baikal and the top leadership of the autonomous regime was eliminated. Recently, however, Uyghur exiles in Central Asia, Russian historians, and one former KGB agent have claimed that Stalin was behind the liquidation of the Ili regime he had done much to create.³⁴ The new representatives from the ETR, including Saypidin Azizi (1915-2003), flew to Beijing to attend the political meeting. Interestingly and understandably, unlike the previous delegation’s strong ethnic-nationalism in favor of autonomy or even independence, this group agreed to abandon the call for autonomy. The Xinjiang KMT’s surrender, the CCP’s entry, and the leadership change of the former ETR jointly brought Xinjiang under the CCP control, beginning in 1949.

The CCP rule of Xinjiang fundamentally changed political,

³⁴ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 234.

administrative, economic, demographic, and cultural landscapes of Xinjiang. Probably due to the unfamiliarity with the situation in Xinjiang, the PLA forces and the CCP tolerated the existing leaders in Xinjiang, allowing many to continue their positions when they entered Xinjiang in 1949. By the early 1950s, however, the CCP began to replace the old leadership with its own personnel and some of the former officials were purged. The First Field Army of the PLA held most of the top provincial posts and Burhan served as the chairman of Xinjiang.

When it came to the economy, the CCP in Xinjiang since 1950 carried out land reform in order to change the class structure and expand the ruling base in Xinjiang. The PLA work teams conducted a survey on land, population, and irrigation and began to redistribute land. The property that belonged to landlords and mosques in the form of land and livestock was confiscated and distributed to the peasants. The peasants who obtained lands began to be organized into work units for collectivization, resembling similar process of economic reform in interior regions. The poor class now became the support base of the CCP rule in Xinjiang.

The most significant change in Xinjiang administration after the “peaceful liberation” is the formation of the Xinjiang Uyghur Autonomous Region (XUAR) in the 1950s. The challenge for the previous KMT, and now the CCP, to inherit the multi-ethnic Qing Empire is the relationship between Han majority and non-Han minorities. Contrary to the KMT and Chiang Kai-shek’s perception and policy that stressed that all peoples within China belonged to a single group or nationality, the CCP deviated from the KMT’s repressive ethnic policy and adopted much of Soviet ethnic policy. Before 1938, the CCP tended to adopt the Soviet republic system to China’s non-Han ethnic groups and propagandized the idea of

ethnic self-determination that minority peoples, such as the Mongols and the Hui should establish their own regime and countries, with the assistance of the CCP. After 1938, however, the CCP changed its ethnic policy from self-determination to self-autonomy, taking a step back from the Soviet republic system. The 1949 Chinese People's Political Consultative Conference passed the Common Program that announced the establishment of the system of ethnic autonomy, which departed from the Soviet republic mode for non-Russian minorities.

In Xinjiang, this ethnic autonomy was implemented in the 1950s. The autonomous rule started in 1953-54 through an administrative hierarchy establishing various levels from sub-county (*xiang*) to prefecture (*zhou*). Gradually, in October 1955, the whole Xinjiang region was re-named Xinjiang Uyghur Autonomous Region (XUAR, *Xinjiang Weiwuer zizhiqu*). The chairman of the Uyghur Autonomous Region was ascribed to Uyghur and Sypidin was made the first chairman. However, the real power lay in the hands of the Xinjiang Military Region and the party secretary of the Xinjiang Branch of the CCP.

In sum, in the 1950s, the CCP rule created many autonomous regions at different levels in Xinjiang, including one Uyghur autonomous region, two Mongolian autonomous prefectures, one Kirgiz autonomous prefecture, one Hui autonomous prefecture, and many autonomous counties and sub-counties for other ethnic groups. This is the significant administrative reformation after the incorporation of Xinjiang as a province in 1884. On one hand, the autonomous form granted to the Uyghurs and other non-Han peoples in Xinjiang implemented self-rule in surface; on the other hand, the division of administrative units among different levels within the Xinjiang Uyghur Autonomous Region successfully dis-

membered Turkic populations and checked and balanced with each other. As Dru Gladney argues, the ongoing political uncertainties and social unrest led many of Xinjiang's Turkic peoples to conclude they had no future there.³⁵

Behind this divide-and-rule strategy was the military and party dominance of power in this region. After the CCP marched into Xinjiang, the eighty thousand previous KMT troops were deployed in farming, civil engineering, manufacturing and mining. During the formation of ethnic autonomous regions in Xinjiang, these troops were simultaneously organized into a special paramilitary: the Xinjiang Production Construction Military Corps (*Xinjiang Shengchan jianshe bingtuan*) or *Bingtuan*. In addition to demobilized soldiers, the *Bingtuan* later absorbed many Han Chinese immigrants from the interior regions from the 1950s to 1970s. The *Bingtuan* became independent from the XUAR and its government, but rather directly governed under the leadership of the CCP and the Xinjiang Military Region. In other words, the *Bingtuan*, like the *tuntian* system in the Han and the *fubing* system in the Tang, worked as a self-sufficient military unit by providing logistic support by itself through agriculture and other industries, while at the same time maintaining Xinjiang's security and stability. Today, the *Bingtuan* units take control of most of the resources in Xinjiang, such as water, land, and agricultural products.

It should be kept in mind that the *Bingtuan* is not a part of China's Liberation Army (PLA) and the PLA has its own arrangement in Xinjiang, as Yitzhak Shichor details in his study of China's

35. Dru Gladney, "Chinese Program of Development and Control," Frederick Starr (ed.), *Xinjiang, China's Muslim Borderland* (Armonk, New York: M.E. Sharpe, 2004), p. 108.

military.³⁶ For China's military force, Xinjiang plays a special role in developing and testing China's weapons. In the 1940s, the Soviet Union set out to mine Xinjiang's uranium in the Soviet-controlled northern region. China discovered many new rich uranium deposits in western Xinjiang to build up its nuclear capacity. Furthermore, assembled nuclear weapons have been tested in Lop Nor since the 1960s. According to Shichor, China had conducted fifty-five nuclear explosions in Xinjiang from 1964 to 1996.³⁷ Xinjiang thus provided an ideal place for China to test mass-destruction weapons including nuclear and even hydrogen weapons on the one hand; on the other hand, the testing caused thousands of nearby residents, especially the Uyghurs, to suffer from nuclear-related diseases.

The CCP's "liberation" of Xinjiang, especially the establishment of the *Bingtuan*, unprecedentedly changed demography. The majority of Han immigrants after the CCP takeover of China move into Xinjiang between the 1950s and 1970s. The *Bingtuan* alone recruited a population of more than half a million by 1966. The recruitment into the *Bingtuan* attracted more *Bingtuan* relatives to come to Xinjiang. During the Great Leap Forward from 1959 to 1961, the annual Han immigration reached 800,000.³⁸ The gradual immigration finally changed the demographic landscape to such an extent that, according to a recent census, the Han population in Xinjiang in 2000 was near eight million, making the Han the second largest population in Xinjiang. Today, although the Uyghurs

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³⁶ Yitzhak Shichor, "The Great Wall of Steel: Military and Strategy in Xinjiang," Frederick Starr (ed.), *Xinjiang, China's Muslim Borderland* (Armonk, New York: M.E. Sharpe, 2004), pp. 120-160.

³⁷ *Ibid.*, p. 146.

³⁸ James A. Millward, *Eurasian Crossroads: A History of Xinjiang*, p. 253.

are still theoretically the largest population, the Han population (including migrant workers) is probably the biggest population, given the number of unregistered Han immigrants in Xinjiang. As Stanley W. Toops' study indicates, Xinjiang's local Uyghurs view these people as illegal migrants who are filling jobs that legitimately belong to them. The presence of Han migrants definitely exacerbates ethnic tension in Xinjiang.³⁹

The Contemporary Xinjiang Issue

After 1978, when China began to shift its focus from revolution to economics, Xinjiang's communication with the Soviet Central Asian republics reopened, which significantly improved its private sector economy and produced a sizable group of ethnic minority entrepreneurs. As Calla Wiemer and Sean Roberts demonstrate, the resumption of normal Sino-Central Asian relations in 1991 unleashed a surge of Uyghur trade with China's newly independent neighbors to the west.⁴⁰ This communication expanded contacts with politicized Central Asian Uyghur diasporas, which are estimated to number between one half to one million.⁴¹ However, this economic momentum has been halted by the fall of

³⁹ Stanley W. Toops, "The Demography of Xinjiang," Frederick Starr (ed.), *Xinjiang, China's Muslim Borderland* (Armonk, New York: M.E. Sharpe, 2004), p. 259.

⁴⁰ For an economic communication between Xinjiang and Central Asian states, see Calla Wiemer, "The Economy of Xinjiang"; Sean Roberts, "A 'Land of Borderland': Implications of Xinjiang's Trans-border Interactions," Frederick Starr (ed.), *Xinjiang, China's Muslim Borderland* (Armonk, New York: M.E. Sharpe, 2004).

⁴¹ Dru Gladney, "Chinese Program of Development and Control," p. 114.

the Soviet Union and emergence of Central Asian republics.

The formation of independent Turkic states in Central Asia and the communication with their Turkic brothers produced unanticipated consequences: as Uyghurs venture outside Xinjiang, they developed a firmer sense of their own pan-Uyghur identity vis-à-vis the Han and other minorities they encountered in the course of their peregrinations throughout China.⁴² It is no surprise that some Uyghur organizations began to form in the 1990s. Today, Uyghur separatist organizations exist in at least seven cities abroad. Among them, the World Uyghur Congress (WUC) and its various branches, especially the Uyghur American Association (UAA) and its human rights project, the Uyghur Human Rights Project (UHRP), are most influential. Dru Gladney states that however much they may differ in their political goals and strategies for Xinjiang, they share a common vision of a continuous Uyghur claim on the region, disrupted only by Soviet and Chinese interventions.⁴³

The independence of Central Asian Turkic republics and the growing pan-Uyghur identity have China worried about possible creation of a “Uyghurstan” in Xinjiang. Since the 1990s, the Chinese government has taken a firm stance against the Uyghurs, as represented by the so-called anti-“three evil forces” (separatism, extremism, and terrorism) campaign it has conducted domestically, regionally, and even internationally. An unreleased study by the Rand Corporation listed three thousand instances of civil violence in the year 2000 alone.⁴⁴ The domestic violence and counter-vio-

.....
 42_ *Ibid.*, p. 114.

43_ *Ibid.*, p. 108.

44_ Frederick Starr, “Introduction,” Frederick Starr (ed.), *Xinjiang, China’s Muslim*

lence led overseas Uyghur human rights organizations to raise their voice for freedom and liberty and against human rights abuses in Xinjiang.

In the meantime, the 9/11 event has provided China with an opportunity to gain sympathy and support from the U.S. to openly attack Uyghur “terrorists” in Xinjiang and abroad: China claims to have suffered from increased Uyghur terrorist attacks and the U.S. has actually identified an Uyghur militant organization, the East Turkistan Islamic Movement (ETIM, which later changed its name to the Turkistan Islamic Party, TIP),⁴⁵ as a terrorist group. Interestingly enough, as James Millward argues in his article, “Violent Separatism in Xinjiang: A Critical Assessment,” violent outbreaks in Xinjiang have occurred in clusters. Even though the few large-scale incidents in the 1990s were better publicized than those of the 1980s, they were not necessarily bigger or more threatening to the state. There have been, moreover, fewer incidents of anti-state violence—none large-scale—since early 1998.⁴⁶ China’s anti-terror campaign against the Xinjiang and Uyghur overseas human rights movement has begun to redefine China-Uyghur relations at the global level. This may deeply affect the future situation in Xinjiang, China, and Central-South Asia.

Borderland (Armonk, New York: M.E. Sharpe, 2004), p. 15.

⁴⁵ For a study of the ETIM, see J. Todd Reed and Diana Raschke, *The ETIM: China’s Islamic Militants and the Global Terrorist Threat (PSI Guides to Terrorists, Insurgents, and Armed Groups)* (Santa Barbara, California: Praeger, 2010).

⁴⁶ James A. Millward, “Violent Separatism in Xinjiang: A Critical Assessment,” *Policy Studies*, Vol. 6 (Washington, DC: East-West Center, 2004), p. 10.

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*Diplomacy or Mobilization:
The Tibetan Dilemma in the Struggle
with China*

Tenzin Dorjee

The ongoing dispute between Tibet and China represents one of the most lopsided conflicts of our time. The relationship between the two nations in the last sixty years has been characterized by extreme imbalance, as China's political, military, and economic powers have dwarfed those of Tibet by almost every measure. Tibet's status as a nation without a state that neither commands an army nor rules a territory renders it ill-positioned for conducting any serious negotiation with its opponent. There is a paucity of literature that explores in-depth the various types of leverage that Tibetans have possessed or exercised vis-à-vis China. In the rare instances that mainstream geopolitical discourse addresses Tibet, it is almost always discussed as an object of leverage, a pawn to be used in the political chess game between major players such as the United States, China, and India. It is rarely discussed as an actor with any clout or an agent capable of exercising any influence of its own.

One embodiment of this conflict's asymmetric nature is the unprecedented wave of self-immolations that has swept Tibet in recent years. Between 2009 and 2013, more than 121 Tibetans have set their bodies on fire as an act of political defiance, demanding freedom, independence, and the return of the Dalai Lama to Tibet.⁴⁷ The Chinese government has responded to this phenomenon by drastically increasing troop deployment in the areas where these protests have occurred, intensifying restrictions on Tibetans' move-

⁴⁷ The International Campaign for Tibet's *Fact Sheet on Tibetan self-immolations* provides the latest figures and statistics on this phenomenon that began in 2009. For in-depth coverage of the self-immolations, see Carole McGranahan and Ralph Litzinger, "Self-Immolation as Protest in Tibet," *Cultural Anthropology*, April 9, 2012, <<http://culanth.org/fieldsights/93-self-immolation-as-protest-in-tibet>>.

ment, blocking Internet access and phone networks, and arresting friends and family members of the self-immolators and “would-be self-immolators.”⁴⁸ These self-immolation protests, though deeply disturbing to witness, were nonviolent in that out of the 121 Tibetan self-immolators to date, not one has harmed any person or taken a life other than his or her own. The contrast between the nature of the Tibetan self-immolation and the intensity of China’s crackdown can be seen as a metaphor for the asymmetric struggle between Tibet and China.

However, the Tibetan leadership has been remarkably successful at keeping the Tibet issue alive in the global consciousness. Tibetans have been far more successful than other exiles or minorities in denying legitimacy to China’s rule over their homeland, and placing themselves on the world stage as a political conflict that demands an urgent solution. What strategies did Dharamsala pursue to influence or thwart China’s actions and policies? In what ways has Dharamsala seized or missed opportunities to multiply its influence and apply its pressure on China to shape the course of events? Is it possible for the Tibetan leadership to strengthen its leverage and political capital to the point where it is in a position to alter Beijing’s cost-benefit analysis of its occupation of Tibet?

In the following pages, I will examine two main factors that have helped to build Tibetan leverage vis-à-vis China. The first factor is Dharamsala’s strategic decision in the 1980s to internationalize the Tibet issue by aligning with the United States and other liberal democracies in the West. The logic behind this strategy was

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48. Olga Khazan, “China: Self-Immolators and Their Abettors Will Be Charged with Murder,” *Washington Post*, December 6, 2012, <<http://www.washingtonpost.com/blogs/worldviews/wp/2012/12/06/china-self-immolators-and-their-abettors-will-be-charged-with-murder/>>.

that powerful democracies in the West would pressure the Chinese government to end its repression in Tibet and accept a negotiated solution to the Tibet issue. Scholars like Tsering Shakya, Robert Barnett, and Melvyn Goldstein have written about Dharamsala's 1986-87 shift of strategy, discussing its decision to use the West, particularly the United States, as a lever to move Beijing into negotiations.

The second factor that I will examine is the nonviolent mobilization of the Tibetan people and their contribution to Dharamsala's leverage over China. I will analyze how nonviolent mobilization in Tibet has served to strengthen Dharamsala's bargaining power in dealing with Beijing, while also examining why the Tibetan leadership has so far shied away from using this method of pressuring China. Additionally, I will explore new opportunities through which the current Tibetan leadership might yet multiply its political capital and strengthen its influence over China's actions, policies and decisions.

Early History of Sino-Tibetan Relations

When Tibet⁴⁹ emerged on the regional scene in the early seventh century, it was a powerful kingdom expanding into an empire.

49. In this paper, the term "Tibet" refers to the entity that includes the three historical provinces—U-Tsang (Central Tibet), Kham (Northeastern Tibet), and Amdo (Southeastern Tibet). After invasion, the Chinese government divided Tibet into several administrative regions, incorporating most of Kham and Amdo into Chinese provinces of Qinghai, Sichuan, Gansu and Yunnan. The Chinese government uses the term 'Tibet' to refer only to Tibet Autonomous Region (Central Tibet), but this paper will use this term to refer to historical Tibet with all three provinces included.

Having consolidated his rule over central Tibet, the thirty-second king of the Yarlung dynasty, Namri Songtsen, sent two missions to China in 608 and 609 CE, marking the first official contact between the two nations.⁵⁰ His son, Songtsen Gampo, became the first Tibetan emperor, conquering new territories including Zhangzhung, Tuyuhun, and Tangut.⁵¹ Credited with overseeing the introduction of Buddhism to Tibet, invention of the Tibetan script, and the establishment of a moral code of law during his reign (618-650), he is remembered by Tibetans as their greatest king.

The Tibetan empire reached its height during the reign of emperor Trisong Detsan (756-797), the thirty-seventh king of the Yarlung dynasty. He collected tributes from a number of weaker states, including Tang dynasty China. Trisong Detsan's control extended well beyond Tibet, to territories in modern day Sikkim, Bhutan, north Afghanistan, north India, and north Nepal. In 763, when the Tang emperors of China stopped paying tribute to Tibet, the Tibetan army invaded the Chinese capital Chang'an and occupied it for fifteen days. Hostilities between the two nations did not subside until the Sino-Tibetan treaty of 821 was signed.⁵²

The first outside influence in Tibet began with the rise of Genghis Khan in the thirteenth century. By the time Genghis Khan became the sovereign of all Mongols, the Tibetan empire had splintered into multiple feuding kingdoms and chiefdoms.⁵³ According

50. Christopher I. Beckwith, "The Tibetans in the Ordos and North China: Considerations on the Role of the Tibetan Empire in World History," Christopher I. Beckwith (ed.), *Silver on Lapis* (Bloomington: Tibet Society, 1987), p. 5.

51. Samten G. Karmay, "A General Introduction to the History and Doctrines of Bon," *Memoirs of the Research Department of the Toyo Bunko*, Vol. 33 (1975), p. 180.

52. Christopher I. Beckwith, "The Tibetans in the Ordos and North China: Considerations on the Role of the Tibetan Empire in World History," p. 5.

to some accounts, the Tibetans voluntarily submitted to Genghis Khan by offering tribute, thus saving itself from outright invasion. In 1244, the Mongol emperor Godan Khan, the grandson of Genghis Khan, issued an invitation to Sakya Pandita, the head of the dominant Buddhist sect at the time, to become his personal chaplain. The invitation was in fact an ultimatum, coming with a thinly veiled threat of invasion. Sakya Pandita arrived in Mongolia in 1247. Impressed by Sakya Pandita's spiritual powers, Godan Khan converted to Buddhism and appointed him the viceroy of central Tibet.⁵⁴

Then in 1253, Kublai Khan, the founder of the Yuan dynasty, invited Drogon Choegyal Phagpa, the chief disciple of Sakya Pandita, to his imperial court. Their relationship continued to deepen, and in 1254, Kubilai Khan gave Phagpa supreme authority over Tibet.⁵⁵ This launched the priest-patron relationship that defined Tibet's connection with the Mongols. Under this relationship, Tibetan lamas provided spiritual guidance to the Mongol khans and the Mongol khans gave military protection to the Tibetans. Though at first this relationship seemed like a blessing—it saved Tibet from the brutality of direct Mongol rule—its high political cost would be felt centuries later.

According to the dominant Chinese narrative, China's claim over Tibet derives from the Yuan dynasty. The Chinese government argues that Tibet became a part of China when Kublai Khan an-

53. The fragmentation of the Tibetan empire began after the assassination of Tibet's 42nd king Lhasay Dharma, whose two sons battled for power and split the royal court into factions.

54. Tsepan W. D. Shakabpa, *Tibet: A Political History* (New York: Potala, 1988), pp. 61- 62.

55. *Ibid.*, p. 70.

nexed it. The Ming emperors tried to inherit Mongol influence over Tibet. They invited high-ranking Tibetan lamas to their imperial court, although no ranking lama, with the exception of the Karmapa, accepted the invitations.⁵⁶ The Ming emperor Yung-lo invited Tsongkhapa, founder of the Geluk sect, to China twice but Tsongkhapa declined, sending one of his disciples instead. According to Shakabpa, the relationship between Ming dynasty China and Tibet were characterized by the exchange of “elegant titles bestowed on minor lamas and refusal of invitations by ruling lamas.”

The Chinese view that the Ming emperors inherited their claim to Tibet from their Mongol predecessors is untenable. First, even at the height of Mongol power, Tibet was administered by Tibetan rulers, unlike China which was incorporated into the Mongol empire. It must be noted, however, that the Mongols appointed the Tibetan rulers and divided Tibet into the Mongol-style administrative zones known as myriarchies. Second, as the Yuan dynasty declined, Tibet regained its independence under a new reign established by Phagmo Drupa Changchub Gyaltzen of the Kagyu sect.⁵⁷ In 1358 all of central Tibet came under his rule as

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⁵⁶ *Ibid.*, p. 83.

⁵⁷ After consolidating his rule over Tibet, Changchub Gyaltzen reorganized the administrative divisions of the state, eliminating the Mongol-style myriarchies in favor of numerous districts known as dzongs. Shakabpa writes: “He posted officials and guards at various places along the border with China and concentrated troops at the important centers in Tibet. The land was divided equally among the agriculturalists, and it was fixed that one-sixth of the crops were to be taken as tax by the administration... During the reign of the Sakya lamas, suspected criminals had been executed summarily without a hearing, according to the custom of the Mongols. Changchub adopted the practice of the early religious kings of Tibet and devised thirteen kinds of punishment, varying in severity according to the seriousness of the crime.” The fact that Changchub Gyaltzen was able to administer Tibet as its unquestioned sovereign further

an independent state, ten years before China regained its independence in 1368.⁵⁸

Although Tibet was free of Mongol political influence during this period, the spiritual relationship between Tibetan lamas and Mongol khans was to reappear in subsequent centuries. In the fifteenth and sixteenth centuries, a new school of Buddhism known as Geluk was on the ascendant. Founded by the renowned scholar Tsongkhapa, the sect's emphasis on scholastic training and monastic discipline attracted scores of disciples, including many wealthy patrons.⁵⁹ The Third Dalai Lama, Sonam Gyatso, a leading Geluk scholar of the time, became the spiritual teacher of Mongol ruler Altan Khan. Although the various Mongol tribes were no longer the juggernaut they used to be in the time of Genghis Khan, they still commanded armies that were strong and mobile.

Threatened by the rise of Geluk popularity, the pro-Kagyü Tibetan kings began persecuting Geluk monks. In response, the Geluks asked the Qoshot Mongol ruler Gushri Khan, a disciple of the Fifth Dalai Lama, to intervene. For the first time in history, Tibetans invited foreign intervention to settle a domestic dispute. Gushri Khan's troops killed the pro-Kagyü king and enthroned the Dalai Lama as the political head of Tibet.⁶⁰ In 1642, the Dalai Lama

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 proves that Yuan control over Tibet had vanished with the fall of the Sakyas.

58. Morris Rossabi, *China Among Equals: The Middle Kingdom and Its Neighbors, 10th-14th Centuries* (Berkeley: University of California Press, 1983), p. 194.

59. Rachel M. McCleary and Leonard W.J. van der Kuijp, "The Formation of the Tibetan State Religion: The Geluk School 1419-1642," *CID Working Paper*, No. 154 (Harvard University, December 2007), <http://www.hks.harvard.edu/var/ezp_site/storage/fckeditor/file/pdfs/centersprograms/centers/cid/publications/faculty/wp/154.pdf>.

60. Following the Geluk sect's ascension to power, the Kagyü monasteries, no longer enjoying the support of a pro-Kagyü king, suffered years of religious persecution at the hands of the Geluk.

gained supreme authority over all of Tibet, while Gushri Khan “retained the role of the new government’s defender.”⁶¹

As the Fifth Dalai Lama was consolidating his rule over a reunified Tibet, the Manchu dynasty was consolidating its rule over China. When the Manchu emperor invited the Dalai Lama to Beijing, he accepted, arriving in Beijing in 1653. The Manchu emperor, Melvyn Goldstein writes, extended great respect to the Dalai Lama, and their meeting had no indication of subordination or superiority of either party in the relationship.⁶² “Though modern Chinese nationalist historians have taken this visit as marking the submission of the Dalai Lama’s government to China,” historian Sam van Schaik writes, “such an interpretation is hardly borne out by either the Tibetan or the Chinese records of the time.” For the Dalai Lama, the visit, besides confirming his status as “the sole king of Tibet,” was an opportunity to expand Geluk influence in China.⁶³

After the death of the Fifth Dalai Lama, Tibet’s relationship with the Mongol khans quickly changed. After Gushri’s grandson Lhazang Khan deposed the Sixth Dalai Lama, whom he saw as a rival, the disgruntled Tibetans sought the help of another Mongol tribe, the Dzungars. The Dzungar Mongols killed Lhazang Khan and drove out the Qoshots, but they turned out to be even worse than their predecessors, abusing their power and persecuting the Tibetans.

When word of the chaos in Lhasa reached the Manchu court,

⁶¹ Samten Karmay, “The Great Fifth,” *IIAS Newsletter*, No. 39 (Leiden: International Institute for Asian Studies, December 2005), <http://www.iias.nl/nl/39/IIAS_NL_39_1213.pdf>.

⁶² Melvyn C. Goldstein, *The Snow Lion and the Dragon: China, Tibet, and the Dalai Lama* (Berkeley: University of California Press, 1999), p. 10.

⁶³ Schaik S. Van, *Tibet: A History* (New Haven: Yale University Press, 2011), p. 126.

the emperor launched an invasion of Tibet in 1720, driving out the Dzungar Mongols and placing the Seventh Dalai Lama on the throne in Lhasa.⁶⁴ Following the humiliation and persecution suffered at the hands of the Mongol khans, the Tibetans welcomed the arrival of the Manchus, who garrisoned troops in Lhasa. In 1728, the Manchu emperor appointed two officials known as *ambans*, who were to serve as his political proxies in Tibet. This marked the beginning of Manchu influence in Tibet and the rise of a new kind of priest-patron relationship in which the balance of power was not in favor of the Tibetans.

In mid nineteenth century, as the Manchus faced internal challenges to their rule, their influence in Tibet started to wane. This was followed by the emergence of a strong and charismatic Dalai Lama in Lhasa. In 1897, the Thirteenth Dalai Lama Thubten Gyatso, fiercely independent and assertive, appointed his own top officials without consulting the *ambans*; there was nothing the Manchus could do. At the dawn of the twentieth century, little was left of Manchu influence in Tibet, and the Thirteenth Dalai Lama was ruling Tibet as a *de facto* sovereign.

The nineteenth century political dynamics between Tibet and China changed dramatically when Britain entered the equation. In 1904, with a view to opening Tibet to British interests, a military expedition led by Colonel Younghusband invaded Tibet. The Thirteenth Dalai Lama fled to Mongolia.⁶⁵ The invasion of Tibet, carried out without London's approval, caused an uproar in the British Home Government.⁶⁶ The British forces quickly withdrew

⁶⁴ *Ibid.*, p. 140.

⁶⁵ Jamyang Norbu, *Shadow Tibet: Selected Writings 1989 to 2004* (New Dheli: Srishti Publishers & Distributors, 2007).

from Tibet, but not before signing a treaty with Tibet known as the Lhasa Convention of 1904. The convention treated Tibet as an independent state and made no mention of Chinese authority in Tibet.⁶⁷

Barely a few years after the British invasion, the Dalai Lama was once again forced into exile when Manchu troops invaded Tibet in 1910. While in exile, he dispatched the military commander Tsarong Dasang Damdul back into Tibet to organize a revolt against the Manchus. Luckily for the Tibetans, the Manchu dynasty collapsed in 1912.⁶⁸ The Tibetans expelled the Manchu troops, first from central Tibet, and later from certain parts of eastern Tibet. On February 13, 1913, the Thirteenth Dalai Lama, having returned home in triumph, declared Tibet's independence by issuing a five-point public statement reasserting Tibetan sovereignty and ending the priest-patron relationship with the Manchus. In the same year, Tibet and Mongolia also signed a treaty recognizing each other's sovereignty.⁶⁹

The Thirteenth Dalai Lama's historic Proclamation of Independence marked the beginning of the modern Tibetan state. Determined to terminate Tibet's isolationist policy, the Dalai Lama proceeded to reform the country's social and administrative structures, building a modern army and emphasizing secular education. He instituted these reforms in the face of strong opposition from

66. Tsepan W. D. Shakabpa, *Tibet: A Political History*, p. 219.

67. *Ibid.*, p. 217.

68. Melvyn C. Goldstein, *The Snow Lion and the Dragon: China, Tibet, and the Dalai Lama*, p. 30.

69. Tashi Tsering, "The Centennial of the Tibeto-Mongol Treaty: 1913-2013," *Lungta Journal*, Issue 17: The Tibeto-Mongol Treaty of January 1913 (Spring 2013).

anti-reform monastic authorities.⁷⁰ From this time onward Tibet remained a de facto independent state, with no influence from Mongol or Chinese forces up until 1949.

Invasion and Exile

When the Chinese Communist Party came to power in 1949, China launched a full-scale invasion of Tibet, handily defeating the weak Tibetan army. In an attempt to legitimize the annexation, China made Tibetan representatives sign the Seventeen Point Agreement in 1951, which stated that the Tibetan people “shall unite and drive out imperialist aggressive forces from Tibet” and that the Tibetan people “shall return to the big family of the Motherland the People’s Republic of China.” It also stipulated that the Dalai Lama’s powers and the traditional political and economic system of Tibet would not be altered.⁷¹ In the following years, however, the Chinese government proceeded to violate many of the key points in the treaty. Chinese troops’ worsening persecution of Tibetans prompted the formation of a volunteer resistance force known as Chushi Gangdrug, in which tens of thousands of lay and monastic Tibetans enlisted.⁷² By 1959, the tensions between the Tibetans and Chinese had reached a head. There were fears that the Chinese might abduct the Dalai Lama. In March, he fled Lhasa,

⁷⁰ Schaik S. Van, *Tibet: A History*, p. 196.

⁷¹ Melvyn C. Goldstein, *The Snow Lion and the Dragon: China, Tibet, and the Dalai Lama*, p. 47.

⁷² Carole McGranahan, *Arrested Histories: Tibet, the CIA, and Memories of a Forgotten War* (Durham, North Carolina: Duke University Press, 2010), p. 155.

amid Chinese troops' shelling of the Norbulingka palace, prompting the Tibetans in Lhasa to revolt against Chinese rule. This event came to be known as the Tibetan uprising of 1959.

In an ironic twist of fate, the conservative monastic authorities who had blocked the Thirteenth Dalai Lama's efforts to develop the Tibetan army now watched thousands of monks give up their vows and take up arms against the Chinese. The Cold War was raging at the time, and the United States agreed to provide covert assistance to the Tibetan armed resistance. Between 1959 and 1964, the CIA trained 259 Tibetans in guerilla warfare at Camp Hale in Colorado. However, this program was peripheral to US foreign policy goals, and Washington's half-hearted support was far from enough to give the Tibetans a fighting chance against China.⁷³ Eventually, the CIA would close the book on this program in 1969, in the lead up to the US-China rapprochement.⁷⁴

Attempts to raise the Tibet situation in the United Nations yielded meager results. Britain, beating its colonial retreat from Asia, was not interested in further political entanglements on the continent. The United States, because the nature of its support to Tibet was covert, could not raise Tibet in the United Nations, as it would have exposed its contact with the Dalai Lama. Jawaharlal Nehru, the socialist-leaning prime minister of the newly independent India, did not want to get India involved in the Cold War.⁷⁵ Though generous with humanitarian assistance to the Tibetan refugees, he rejected the Dalai Lama's request for political

⁷³ *Ibid.*, p. 155.

⁷⁴ John Kenneth Knaus, *Orphans of the Cold War: America and the Tibetan Struggle for Survival* (New York: Public Affairs, 1999), p. 298.

⁷⁵ Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet Since 1947* (New York: Penguin Compass, 2000), p. 214.

support. In April 1959, a delegation of Tibetans led by the former Tibetan Prime Minister Lukhangwa presented a memorandum to Nehru requesting that India should sponsor the Tibetan case at the United Nations.⁷⁶ Nehru replied that India was “not in a position to intervene and in fact would not like to take any steps which might aggravate the situation.” He saw India’s relationship with China as of paramount importance, and he was bent on suppressing any international discussion of Tibet at the United Nations.⁷⁷ Though Nehru was almost alone among his colleagues in advocating India’s silence and inaction amid China’s invasion of Tibet, his view prevailed.

Sequestered in the remote hill station of Dharamsala, the twenty-four-year-old Dalai Lama found himself in charge of an impoverished exile government, with nearly eighty thousand Tibetan refugees in his care. Taking stock of his limited options, the Dalai Lama reevaluated his priorities once he realized that his exile might be longer than that of his predecessor. The leadership concentrated its efforts on the establishment of Tibetan cultural, religious and political institutions in India, where Tibet’s unique language and traditions could be preserved indefinitely. For the next two decades, the Tibetan government went into nesting mode, reconstituting itself and working to fulfill the immediate needs of the refugees while laying the foundations for the long-term preservation of Tibetan culture. Under the Dalai Lama’s supervision, the Tibetan government invested in its human capital by opening scores of schools, monasteries, and other institutions for the preservation of

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⁷⁶ *Ibid.*, p. 214.

⁷⁷ Graham Hutchings, *Modern China: A Guide to a Century of Change* (Cambridge, Massachusetts: Harvard University Press, 2003), p. 221.

traditional arts and sciences.

During this period, Dharamsala's main engagement with the world was religious. In the 1960s and 1970s, Tibetan lamas started traveling to the West, many of them under the Dalai Lama's instruction. Leading lamas from the Kagyu and Geluk sects—like Choegyam Trungpa, Lama Yeshe, Geshe Wangyal—founded Buddhist centers in the United States, while their teachings and books attracted a growing Western audience.⁷⁸ Whether the decision to bring Tibetan Buddhism to the West was politically motivated or purely religious, it would come to have far-reaching consequences on the trajectory of the Tibetan freedom struggle and its influence in the West.

By the late 1970s and early 1980s, China had solidified its rapprochement with the United States and secured its re-admittance into the United Nations. On the international stage, there was no serious challenge to China's rule in Tibet.⁷⁹ Deng Xiaoping's policy of liberalization allowed the Tibetans a semblance of religious freedom, and the Tibetans seemed not only grateful but also protective of this new breathing space. The Tibet issue had all but disappeared, not only from the political arena but also from global consciousness. As far as Beijing was concerned, Tibetans in Tibet were an acquiescent mass, and the Dalai Lama and the Tibetan government in exile were distant elements who were more of an irritant than a threat.

⁷⁸ Jeffrey Paine, *Re-Enchantment: Tibetan Buddhism Comes to the West* (New York: W.W. Norton & Company, 2004), p. 54.

⁷⁹ Robert Barnett, "Violated Specialness," Thierry Dodin and Heinz Rather (eds.), *Imagining Tibet* (Somerville, Massachusetts: Wisdom Publications, 2001), p. 272.

A New Strategy: Targeting Parliaments and the Public in the West

In 1986-87, Dharamsala recalibrated its strategy and launched a new campaign aimed at internationalizing the Tibet issue.⁸⁰ After two decades of political seclusion in Dharamsala, during which the Tibetan leadership had focused on institution building, cultural preservation and self-strengthening initiatives, it felt ready to reenter the global political arena. The Tibetan government and other institutions had become well established by now, and the refugee settlements had become self-sufficient. Dharamsala was finally able to turn its gaze outward. This coincided with a period of deterioration in Sino-Indian relations, notes the historian Tsering Shakya, with both India and China competing for friendship with the Americans. Shakya speculates that there was “a merging of interests of the Dalai Lama and the Indians,” because the Dalai Lama saw American involvement as an opportunity to pressure China regarding Tibet, and the Indians saw any discord between Washington and Beijing as a positive.

The centerpiece of the new strategy was to use Western democracies as a lever to pressure China into negotiations. Instead of targeting the United Nations, Tibetan leaders decided to target the public and the parliaments of democratic Western countries, particularly the United States Congress.⁸¹ These leaders, writes Robert

⁸⁰ Melvyn C. Goldstein, *The Snow Lion and the Dragon: China, Tibet, and the Dalai Lama*, p. 75. Goldstein mentions that the new strategy was finalized after a series of high-level meetings between key Tibetan and Western supporters in New York, Washington, and London in 1986-87.

⁸¹ Robert Barnett, “Violated Specialness,” p. 273.

Barnett, “having realized in the mid-1980s that foreign governments had no strategic or political interest in raising the Tibet issue, decided instead to pressurize them by mobilizing popular support among their constituents.” Emphasizing the protection of human rights and freedom, Dharamsala changed its discourse on the Tibet issue from one that was rooted in its history of independence to one that invoked the protection of human rights.

The shift of strategy was reflected in the sharp rise in the frequency of the Dalai Lama’s international trips. The Dalai Lama, whose trips outside of India in the previous two decades had been extremely rare and spiritual in nature, embarked on a series of international trips aimed at building political support for the Tibetan cause and elevating Dharamsala’s standing as the legitimate representative of the Tibetan people. Figures A and B show that between 1959 and 1985, the Dalai Lama made a total of 15 international trips, averaging 0.55 trips a year.⁸² In contrast, he made a total of 63 international trips between 1986 and 1999, averaging 4.5 trips a year. While he only visited an average of 1.26 countries per year from 1959 to 1985, he visited an average of ten countries a year between 1986 and 1999. In 1991, for instance, he visited as many as 18 countries over the course of four international trips.⁸³

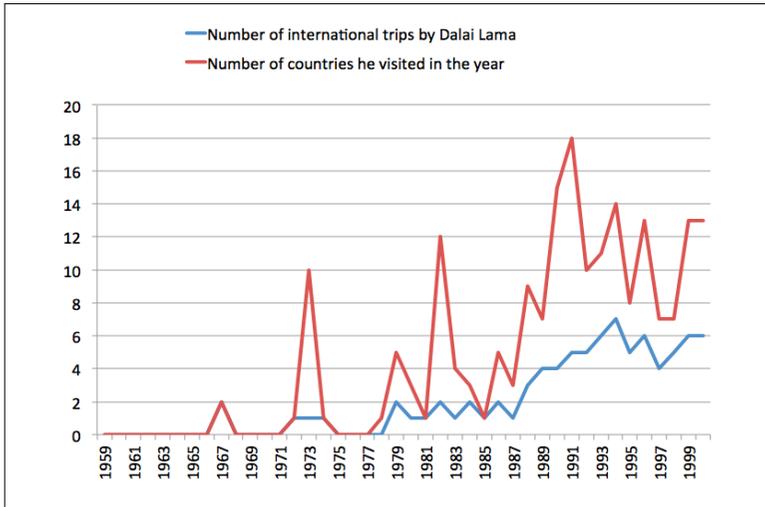
There was also a spike in the number of meetings the Dalai Lama held with international dignitaries including presidents, prime ministers, foreign ministers, and speakers of parliaments. Figure C shows the rise in the frequency of these meetings starting

82. The source of these figures can be found on the Dalai Lama’s official website at <www.dalailama.com>.

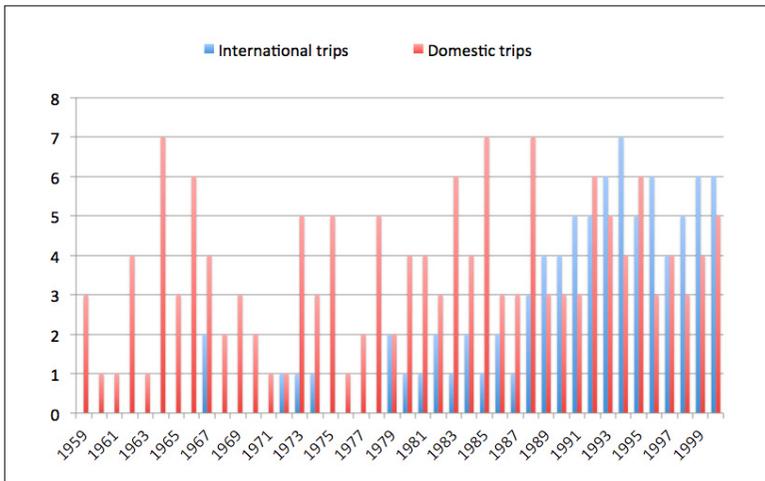
83. His Holiness the 14th Dalai Lama of Tibet, “Travels by His Holiness the Dalai Lama,” <<http://www.dalailama.com/biography/travels>>.

in 1986. From 1959 to 1985, the Dalai Lama met with an average of 2.94 international dignitaries per year, whereas from 1986 to 1999, he met with an average of 10.35 dignitaries per year.

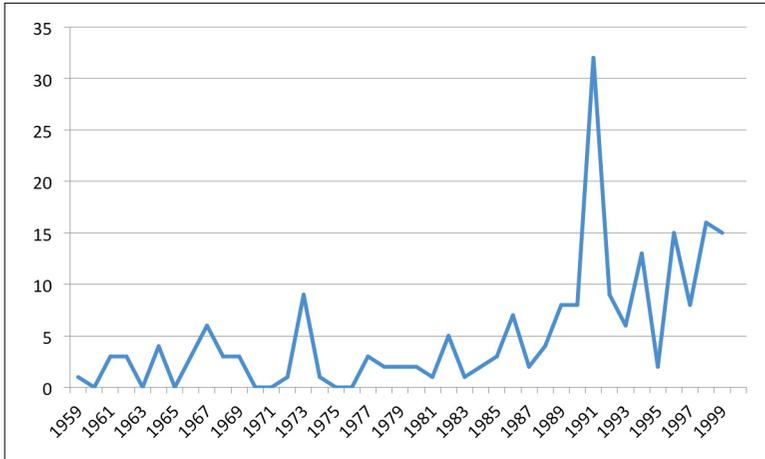
〈Figure A〉 International travel by the Dalai Lama



〈Figure B〉 Number of international and domestic trips by the Dalai Lama



(Figure C) Number of international dignitaries met by the Dalai Lama



One of the most significant of these political trips took place in September 1987, when the Dalai Lama delivered a speech before the US Congressional Human Rights Caucus, and announced a proposal that came to be known as the Five-Point Peace Plan.⁸⁴ In this proposal, the Dalai Lama promulgated his vision of Tibet as a demilitarized “Zone of Peace.” The Chinese lost no time in rejecting the Dalai Lama’s proposal.⁸⁵

News of the Dalai Lama speaking to American Congressmen inspired unprecedented hope in Tibetans inside Tibet. Chinese state television condemned the Dalai Lama’s efforts to ‘split the motherland,’ but this only provoked the Tibetans whose reverence for the Dalai Lama was undiminished after three decades of separation.⁸⁶ Within days, Tibetans in Lhasa staged the first street

⁸⁴ Melvyn C. Goldstein, *China, Tibet, and the Dalai Lama: China, Tibet, and the Dalai Lama*, p. 76.

⁸⁵ Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet Since 1947*, p. 414.

protests since 1959 to show their support for Tibetan independence and the Dalai Lama.⁸⁷ The protests and the riots were brutally suppressed by the Chinese police, but not before news of China's crackdown was broadcast to the world. These incidents bolstered the Dalai Lama's standing as Tibet's true leader and spokesperson, while leaving Beijing's image in tatters.

When the Nobel Peace Prize was awarded to the Dalai Lama in 1989, it crystallized in Western public consciousness the moral rightness of the Tibetan cause. While also giving a critical boost to Tibetan morale, predictably, the award deeply upset the Chinese government. The Chinese embassy spokesperson in Oslo said to reporters, "To give the peace prize to the Dalai Lama is a clear interference in the internal affairs of China. The decision has deeply hurt the Chinese people's feelings."⁸⁸ For the Chinese government, the late 1980s went from bad to worse, as the Tibetan unrest in Lhasa was followed by the mass student demonstrations in Beijing.⁸⁹

The Western recognition for the Tibetan struggle, however, did not come without a price tag. In the Strasbourg Proposal of 1988, the Dalai Lama made what must have been an excruciating bargain with China: he formally conceded Tibet's independence in favor of "genuine autonomy," a term that he has used since to refer to a high degree of autonomy where Tibet would control all of its

⁸⁶ *Ibid.*, p. 417.

⁸⁷ Marvine Howe, "2 American Mountaineers Tell of Witnessing Tibet Protests," *New York Times*, November 13, 1987, <<http://www.nytimes.com/1987/11/13/world/2-american-mountaineers-tell-of-witnessing-tibet-protests.html>>.

⁸⁸ Lynn Smith and Mark Fineman, "Nobel Peace Prize Goes to Tibet's Dalai Lama," *Los Angeles Times*, October 6, 1989, <http://articles.latimes.com/1989-10-06/news/mn-644_1_dalai-lama>.

⁸⁹ Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet Since 1947*, p. 431.

own affairs except foreign relations and defense, which would remain in China's hands. While the world hailed this as a courageous compromise and a historic breakthrough, it sent many Tibetans into a state of shock and dismay. The repercussions of the Strasbourg Proposal would haunt Tibetan politics and society for years to come.

In the eyes of the activists demanding Tibet's full independence, Dharamsala had squandered one of the most valuable bargaining chips—the historical claim to sovereignty—by preemptively surrendering independence. This unilateral concession did not draw any reciprocal gesture from China, but it fractured the unity of purpose that had helped to sustain Tibetan public morale till then. Both camps—advocates of independence as well as autonomy—were largely in agreement that Dharamsala could not have internationalized the Tibet issue without framing it in the context of safeguarding human rights rather than restoring sovereignty. But independence advocates maintain that Dharamsala went above and beyond what was necessary at the time by institutionalizing the Middle Way Approach and enshrining autonomy as the goal of the Tibetan government before securing a single comparable concession from China.

In a 2012 *Wall Street Journal* article, Ellen Bork of Foreign Policy Initiative wrote, “What if Tibet’s claim to independence had been preserved rather than conceded? The US and other countries would be in a much better position today to resist China’s increasingly assertive claims of Tibet as a ‘core interest’ and rebut Beijing’s insistence on sovereignty as a complete bar to pressure on human rights. This claim has an impact on international affairs well beyond Tibet, permeating diplomacy and gutting the effectiveness of the United Nations on other crises like Syria.”⁹⁰

Dharamsala's new strategy of internationalizing the Tibet issue nevertheless produced two distinct results that reshaped the Sino-Tibetan conflict: Western parliamentary support and the rise in international grassroots activism for Tibet.

Western Parliamentary Support

Western Parliamentary support enabled the Tibetan leadership to make inroads into parliaments around the world, most prominently in the US Congress. Powerful senators and congressmen such as Daniel Patrick Moynihan, Tom Lantos, Frank Wolf, Nancy Pelosi, and Jim Sensenbrenner became enduring champions of Tibet, making it one of the few bipartisan causes in both the Senate and the House of Representatives. Resolutions were passed in the US Congress as well as other parliaments recognizing the Dalai Lama as the legitimate leader of the Tibetan people and condemning China's forcible occupation of Tibet.⁹¹

A European Parliament resolution was passed on October 14, 1987, "recalling that both during the early days of the Chinese occupation in the 1950s and during the Cultural Revolution, the Tibetan religion and culture were brutally repressed." The US Congress passed a stronger resolution on December 22, 1987, stating that the "Chinese Communist army invaded and occupied

⁹⁰ Ellen Bork, "Rethink the Status of Tibet," *Wall Street Journal*, December 18, 2012, <<http://online.wsj.com/news/articles/SB10001424127887324407504578183011709769382>>.

⁹¹ A. Tom Grunfeld, *The Making of Modern Tibet* (Armonk, New York: M.E. Sharpe, 1996), p. 232.

Tibet.” It went further: “Over 1,000,000 Tibetans perished from 1959 to 1979 as a direct result of the political instability, executions, imprisonment, and wide-scale famine engendered by the policies of the People’s Republic of China in Tibet.”⁹² From 1987 to 1997, the United States Congress passed twenty resolutions on Tibet, and the European Parliament passed twelve resolutions on Tibet.⁹³

These resolutions, symbolic in nature, did not have the coercive power to bring China to the negotiating table. But they nevertheless inflicted a significant political and moral cost on the Chinese government. For one, these resolutions represented some kind of a verdict in the court of global public opinion regarding China’s rule in Tibet. Each resolution chipped away at China’s reputation in the eyes of the world. As a result, even as China consolidated its bureaucratic and military control of Tibet, it was losing its moral and political legitimacy to rule.

Equally important, some of these resolutions helped facilitate Dharamsala’s communication with Tibetans in Tibet. In 1991, the US radio station Voice of America’s Tibetan Service was created by an act of Congress signed into law the previous year, launching a program that broadcast daily to listeners inside Tibet. This gave Tibetans an alternative source of news other than China’s state media.⁹⁴ The Chinese government expended ever-more human and financial resources to counter what it called Western attacks on its rule over Tibet, but it failed to halt the steady erosion of its

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⁹² Tibet Justice Center, “Legal Materials on Tibet,” <<http://www.tibetjustice.org/materials/>>.

⁹³ *Ibid.*

⁹⁴ Tsering Shakya, *The Dragon in the Land of Snows: A History of Modern Tibet Since 1947*, p. 434.

legitimacy.

However, as China's value as a trading partner rose in the early 1990s, economics began to trump politics. In many Western capitals, the containment politics of the Cold War era were being replaced by policies of engagement with China. Even as congresses and parliaments produced strongly worded resolutions condemning China's treatment of Tibetans, the governments of these countries were rushing to sign trade deals with China. As the gap between legislative and executive branches of governments grew more pronounced, Dharamsala began to feel the strategic inadequacy of using Western parliaments as a lever to pressure China.

In fact, the schism that divided the US Congress from the White House was illustrated as early as 1987, when President Reagan expressed support of Beijing's crackdown in Tibet even as the Senate unanimously condemned it.⁹⁵ Then in 1994, amid China's celebrated growth as an economic powerhouse, the Clinton administration went further than Reagan. It delinked Sino-American trade relations from China's human rights record, introducing the bilateral framework for discussing human rights issues, a setting that was far less embarrassing and threatening to Chinese leaders than multilateral forums. Many European governments followed suit. This new framework allowed the Western governments to fulfill their public obligation to discuss human rights with Beijing without sacrificing the benefits of trade with China. There is a growing consensus among human rights groups and China watchers that the bilateral talks have been an absolute

⁹⁵ Elaine Sciolino, "Beijing Is Backed by Administration on Unrest in Tibet," *New York Times*, October 7, 1987, <<http://www.nytimes.com/1987/10/07/world/beijing-is-backed-by-administration-on-unrest-in-tibet.html>>.

failure.⁹⁶ In the final analysis, Dharamsala's strategy of using Western parliaments as a fulcrum to move China fell short of achieving its objective.

The Rise of Grassroots Activism for Tibet

The second result of Dharamsala's new strategy to internationalize the Tibet issue was the rise in international grassroots activism for Tibet. The Dalai Lama's global speaking tours and the Nobel spotlight had triggered an explosion of public awareness about the Tibetan plight, instilling a sense of urgency in a range of people, especially among college students and Western Buddhists. Grassroots organizations such as the International Campaign for Tibet, Students for a Free Tibet, and the Free Tibet Campaign came into existence. By this time the Buddhist lamas who had been teaching in the West since the 1960s had built a steady following of students, some of whom saw participation in social justice activism as an important part of their spiritual practice. Encouraged by the Dalai Lama's seamless straddling of his political and spiritual responsibilities, many Western Buddhists—most famously the scholar Robert Thurman, the actor Richard Gere and the musician Adam Yauch—began to take a more active role in the Tibetan struggle.

One of the pivotal factors behind this staggering rise in Tibet activism was a series of Tibetan Freedom Concerts in New York City, San Francisco, and Washington, D.C. organized by Adam

⁹⁶ Warren W. Smith, *China's Tibet?: Autonomy or Assimilation* (Lanham, Maryland: Rowman & Littlefield Publishers, 2009), p. 257.

Yauch of the Hip Hop band Beastie Boys.⁹⁷ At each of these shows, thousands of concertgoers joined the activist group Students for a Free Tibet. These grassroots supporters—whose profile ran the gamut from students to professionals to artists—saw themselves as a nonviolent army of activists taking to the streets to fight China’s oppression in Tibet. Hundreds of Tibet groups emerged in dozens of countries, mobilizing tens of thousands of volunteers in activities ranging from rallies to petition drives to direct actions. By the mid 1990s, the international Tibet movement was in full swing.

The explosion in public awareness on Tibet led to the institutionalization of activism through the formation of various advocacy groups, accumulating a new kind of political capital for Dharamsala. This global grassroots constituency—a more flexible kind of muscle—was somehow less susceptible to the political parameters of congressional support. In fact, its fulcrum was not the Congress or the White House, but the business sector.

Beginning in the late 1990s, the Tibet movement launched a series of strategic campaigns targeting multinational institutions seeking to invest in China. The most high profile of these campaigns occurred in 1999, when China was about to be approved for a World Bank loan of \$160 million to resettle 58,000 Chinese farmers to eastern Tibet. As the bank’s largest borrower, it was virtually a forgone conclusion that China would receive the loan. But vocal opposition from Tibet activists prompted the bank to commission an independent review of the project, which found that the bank’s staff had violated seven out of ten operational directives

⁹⁷ “Tibet Activist Erin Potts’ Pays Tribute to Adam Yauch,” *The Los Angeles Times Blog*, May 8, 2012, <http://latimesblogs.latimes.com/music_blog/2012/05/adam-yauch-tibet-activist-erin-potts-statement.html>; See also “A History of the Milarepa Fund,” <<http://www.beastiemania.com/qa/milarepa.php>>.

in order to get the loan approved.⁹⁸ Following several months of continuous protest rallies outside the bank by Tibet activists, and a string of media stories that slammed the bank for facilitating China's colonial policies in Tibet, the contentious loan was finally canceled, causing China a modest loss of financial resources and a devastating loss of face.⁹⁹

The Tibet movement was galvanized by this unprecedented victory. For the first time in decades, the movement was able to deal a concrete, measurable blow to China's interest. Journalist Sebastian Mallaby, who wrote an article in *Foreign Policy* scorning the Tibet movement and defending the World Bank, remarked with disbelief: "The Lilliputian activists had taken on the bank, and they had won the first round."¹⁰⁰

In the years that followed, this powerful coalition of Tibet support groups, working in tandem with the Tibetan government, battled various corporations contemplating investment in Chinese development projects in Tibet. In 2003, for instance, the Australia Tibet Council stopped the Sydney-based Sino Gold from mining in Tibet, much to China's dismay.¹⁰¹ Some say the mining giant Rio Tinto's decision not to dig in Tibet a few years later was motivated by a fear of the political minefield that Tibet had become. The Tibet

98_ "World Bank Cancels China Tibet Resettlement Scheme," *Probe International Journal*, September 2000, <<http://probeinternational.org/library/wp-content/uploads/2011/04/September-2000-Probe-Alert.pdf>>.

99_ "World Bank Rejects Controversial Loan to China," *Pittsburgh Post-Gazette*, July 8, 2000.

100_ Sebastian Mallaby, "NGOs: Fighting Poverty, Hurting the Poor," *Foreign Policy*, September 1, 2004, <http://www.foreignpolicy.com/articles/2004/09/01/ngos_fighting_poverty_hurting_the_poor>.

101_ In 2003, a campaign by Australia Tibet Council stopped the Sydney-based Sino Gold from mining in Tibet.

movement's grassroots muscle and its ability to generate negative publicity, posed a real threat to these companies' brand and image, and affected their decision-making.¹⁰² Thus the influence of the Tibet movement often reached the boardrooms of these financial institutions. Though the financial costs these campaigns inflicted on China were often small, the political costs were higher.

The reach of this grassroots movement multiplied when thousands of Tibetans immigrated to North America and Europe in the 1990s. The new Tibetan communities in the West, with help from the advocacy groups, saw it as one of their key responsibilities to organize streets protests against Chinese leaders visiting Western capitals. It became impossible for any high profile Chinese leader to visit Washington or European capitals without being hounded by hundreds of Free Tibet protesters.

The agony that the pro-Tibet protesters caused the Chinese leaders was evinced in the leaked transcript of a speech delivered by Zhao Qizheng, Minister of the Information Office of the State Council, at a conference in 2000: "During every foreign visit of our leaders, last year, the Dalai clique, with covert incitement and help from Western countries as well as Tibet support groups, interfered and created disruption through protest rallies. In this way, they gained the highest-level international platform and intervention."¹⁰³

¹⁰² See Ralph Jennings, "Foreign Business in Tibet? Investors Beware," *Street* (New York City, New York), July 12, 2013, <<http://www.thestreet.com/story/11973815/1/foreign-business-in-tibet-investor-beware.html>>. In this article, Ralph Jennings writes, "Whether or not Tibet has gained from China's investment since the railway opened in 2006, activist groups have come down hard on participating international companies, usually those in mining or tourism. Their well-practiced global publicity campaigns have dented the reputations of firms in Tibet and discouraged other companies from making the long railway journey at all."

¹⁰³ See the leaked transcript of a speech delivered in 2000 by Zhao Qizheng, Minister of Information Office of China's State Council at <<https://studentsforafreetibet>>.

It is clear that the ubiquitous nature of these protests was an enduring source of anxiety and embarrassment to Chinese leaders.

From the late 1990s to the early 2000s, the international Tibetan grassroots movement had a great run punishing multinational corporations collaborating with China and hounding Chinese leaders visiting Western capitals. These campaigns, though not directly organized by Dharamsala, helped the Tibetan government project its influence into the highest levels of decision-making in the corporate boardrooms. But this period came to an abrupt end in 2002, when Dharamsala received an unexpected invitation from Beijing.

Appeasement or Escalation?

In late 2002, the mood in Dharamsala was buoyant. Beijing had reached out to the Dalai Lama and invited his envoys for talks. But outside Dharamsala, many Tibetans suspected that Beijing's invitation was motivated less by a political will to resolve the conflict than by a Machiavellian design aimed at muting international criticism of its Tibet policy in the lead-up to the 2008 Olympic Games. Their suspicions would later be reinforced by the revelations of a high-level Chinese diplomat, Chen Yonglin, who defected from the Chinese embassy in Australia in 2005. Responding to a question from a Tibetan journalist, he answered that the Sino-Tibetan dialogue was merely a tactic, that there was "no sincerity from the

[org/get-involved/action-toolbox/tibet-related-external-propaganda-and-tibetology-work-in-the-new-era](http://www.dharamsala.org/get-involved/action-toolbox/tibet-related-external-propaganda-and-tibetology-work-in-the-new-era)>.

Chinese side.”¹⁰⁴

However, due to a perceived lack of alternatives, Dharamsala agreed to go ahead with the dialogue without setting any precondition. For China, merely holding the dialogue constituted victory: whether it made progress or not was irrelevant. Simply by publishing a photograph of Chinese and Tibetan delegates sitting across from each other, China was able to muzzle international criticism of its record on Tibet. Beijing’s message to the West was: since the Chinese and the Tibetans were talking directly with each other, third parties should no longer interfere in the issue.

It is clear that one of Beijing’s demands during the initial rounds of dialogue was that Dharamsala tone down the international protests against China.¹⁰⁵ Anxious not to derail the dialogue, Dharamsala decided to invest in it even at the risk of alienating some of its own constituencies. It was during this period that Dharamsala became preoccupied with a policy of “creating a conducive environment” for the talks to succeed.

In September 2002, Prime Minister Samdhong Rinpoche released an appeal in which he urged Tibet groups to suspend protests during the visit of President Jiang Zemin to the United States and Mexico. He explained the logic behind this policy of appeasement:

In the past Tibetans and Tibet supporters throughout the world had used the opportunity of Chinese leaders’ visits to convey their feelings through peaceful rallies and demonstrations. One of the objectives of such actions was to encourage the Chinese leaders to respond to His Holiness the Dalai Lama’s initiatives for a negotiated

¹⁰⁴ Warren W. Smith, *China’s Tibet?: Autonomy or Assimilation*, p. 257.

¹⁰⁵ *Ibid.*, p. 228.

settlement of the Tibetan problem. Now that there is an indication that the Chinese leadership may be willing to start discussing with us, we could use the opportunity of President Jiang's visit to test China's response. I want to urge all Tibetans and friends of Tibet to refrain from public actions like rallies and demonstrations during President Jiang's visit to the United States and Mexico.¹⁰⁶

As evident in his statement, the prime minister seemed to entertain a notion that dialogue and protest were mutually exclusive. Now that dialogue had been started, he reasoned, protest would be unnecessary. In reality, his appeal represented a premature forfeiture of the one tactic that was doubtlessly effective in making China see the value of dialogue in the first place.

This was the first in a series of controversial appeals from Dharamsala to the Tibetan advocacy groups and communities between 2002 and 2006 urging them not to protest visiting Chinese leaders.¹⁰⁷ Many grassroots groups heeded the appeals while some ignored them. Using Dharamsala as a proxy, Beijing managed to substantially, though not completely, turn down the volume and frequency of the pro-Tibet protests during these five years.

This period saw a growing disconnect between Dharamsala and the Tibetan grassroots movement, the seed for which had been sowed in 1988 when the Dalai Lama conceded Tibetan independence. While the Dalai Lama and, by extension, Dharamsala fully embraced the policy of seeking autonomy for Tibet, many disgruntled Tibetans and advocacy groups continued to advocate independence.

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 106_ Central Tibetan Administration, "Message From the Kalon Tripa's Desk," October 1, 2002, <<http://tibet.net/2002/10/01/message-from-the-kalon-tripas-desk/>>.

107_ Prime Minister Samdhong Rinpoche issued subsequent appeals to Tibet Support Groups in October 2002, September 2005, and April 2006 urging them to refrain from protests during Chinese leaders' trips to the West.

They saw Dharamsala's appeals to suspend protests as an appeasement of China, which further exacerbated their disenchantment with Dharamsala's suppliant policies. On the other hand, Dharamsala came to view the independence movement as a liability, and, even worse, an obstruction to the progress of its dialogue with Beijing.¹⁰⁸

In hindsight, there is reason to believe that Dharamsala's bargaining power in the years leading up to the Beijing Olympics was the highest it had been in recent memory. China's desire to host a protest-free Olympics was so great that it might have been more willing than usual to make certain concessions—such as, say, mass amnesty to political prisoners—simply to bring the Tibetans into the dialogue process. The Tibetan side, not recognizing Beijing's vulnerability at the time, did not set any such preconditions for entering the dialogue process. From the moment the Tibetans sat down for the first round of talks, Beijing had already procured what it wanted. China's tactics in the dialogue, writes Warren Smith, "seemed to be to appear conciliatory while making no actual concessions."¹⁰⁹ By the time the dialogue between the two

¹⁰⁸ Samdhong Rinpoche said in an appeal to the Tibet groups in April 2006: "President Hu Jintao will soon pay an official visit to America this month and the Kashag would like to once again strongly appeal with utmost importance and emphasis to all the Tibetans and Tibet Support Groups to refrain from any activities, including staging of protest demonstrations causing embarrassment to him. This appeal is not only to create a conducive atmosphere for negotiations but also not to cause embarrassment and difficulty to His Holiness the Dalai Lama whose visit coincides with President Hu Jintao's visit to America. If protests are held, this will give the impression that no Tibetan or Tibet Support Group is taking notice of and carrying out His Holiness the Dalai Lama's instructions issued in the recent 10th March statement. Therefore, to avoid such things from happening, the Kashag hopes and believes that, unlike last year, all Tibetans and Tibet support groups will respond positively to this appeal at least for this one time, and make a wise choice from a wider perspective."

¹⁰⁹ Warren W. Smith, *China's Tibet?: Autonomy or Assimilation*, p. 232.

sides stalled in 2008, and eventually collapsed in 2010 after nine rounds of talks, Dharamsala had nothing to show for it. On the contrary, it was left with a diminished international grassroots movement, having lost the mission-oriented clarity of earlier years.

The Olympics as a Lever

In March 2008, five months before the Beijing Olympics, Tibet erupted in the largest uprising since 1959. There is no doubt that the Tibetans in Tibet had recognized the Olympic year as a window of opportunity. On March 10, the anniversary of the original Tibetan uprising in 1959, protests broke out in all three provinces of historical Tibet.¹¹⁰ Monks from Drepung and Sera monasteries in Lhasa took part in separate protest marches, shouting political slogans—“Freedom for Tibet,” “Allow the return of the Dalai Lama,” “Independence for Tibet,”—and raising the Tibetan national flag. Chinese authorities arrested the monks and shut down the monasteries. In the three days that followed, more protests occurred that were met with beatings, tear-gas and arrests.¹¹¹

On March 14, riots broke out in Lhasa. Outraged by the sight of Chinese police beating the monks, lay Tibetans attacked the security forces with rocks. When security forces retreated, the emboldened crowd of protesters directed their wrath toward other

¹¹⁰ Central Tibetan Administration, *2008 Uprising in Tibet: Chronology and Analysis*, (Dharamsala: Department of Information and International Relations, Central Tibetan Administration, 2010), p. 166.

¹¹¹ Tsering Topgyal, “Insecurity Dilemma and the Tibetan Uprising in 2008,” *Journal of Contemporary China*, Vol. 20, No. 69 (2011), pp. 183-203.

symbols of Chinese rule such as government buildings, banks, police vehicles, and Chinese shops.¹¹² According to the Chinese government, eighteen civilians and one policeman died and 382 civilians were injured on March 14. According to the Tibetan government in exile and human rights groups, 220 Tibetans were killed, 5,600 arrested or detained, 1,294 injured, 290 sentenced and over one thousand disappeared in the ensuing crackdown. From the start of the uprising in March until the start of the Olympics in August, 130 instances of protests had taken place in Tibet.¹¹³

Beijing accused Dharamsala of having instigated the uprising. In a series of *China Daily* articles and Xinhua commentaries, Beijing claimed it had “plenty of evidence” that the uprising was “organized, premeditated, masterminded, and incited by the Dalai Lama clique.”¹¹⁴ Dharamsala lost no time in declaring its innocence. In a March 31 statement, the Tibetan government said, “The Central Tibetan Administration strongly refutes the charges... China has since the beginning of the incident in Lhasa on March 10 started to blame it on His Holiness the Dalai Lama and the CTA, without any conclusive proof ... Central Tibetan Administration repeats its request for an independent inquiry to ascertain the truth.”¹¹⁵

¹¹² *Ibid.*, p. 188.

¹¹³ International Campaign for Tibet, “Tibet at a Turning Point: The Spring Uprising and China’s New Crackdown,” August 2008, 5, <https://www.savetibet.org/wpcontent/uploads/2013/03/Tibet_at_a_Turning_Point.pdf>.

¹¹⁴ “Dalai-Backed Violence Scars Lhasa,” *China Daily*, March 15, 2008; “Riots Aimed at Derailing Games: Wen,” *China Daily*, March 19, 2008; “Wen: “Cultural Genocide” in Tibet Bothing but Lie,” *Xinhua News Agency*, March 18, 2008.

¹¹⁵ Central Tibetan Administration Department of Information and International Relations, “Dharamsala Refutes Charges of Being Involved in Lhasa Protests Calls for Investigation,” March 31, 2008, <<http://tibet.net/2008/03/31/dharamsala-refutes-charges-of-being-involved-in-lhasa-protests/>>.

aspirations and criticizing Chinese policies.¹¹⁶ The European countries went further this time: on March 18, Foreign Minister Bernard Kouchner of France said that the European Union should consider punishing China for its crackdown in Tibet by boycotting the opening ceremony of the Beijing Olympics.¹¹⁷ By the end of the month, a number of leaders including German Chancellor Angela Merkel, Polish Prime Minister Donald Tusk, Czech President Vaclav Klaus, and European Parliament Speaker Hans-Gert Pottering had decided not to participate in the opening ceremony of the Beijing Olympics.¹¹⁸ The *New York Times* wrote, “Senior European officials, including Kouchner, have ruled out an outright boycott of the Olympics, arguing that not even the Dalai Lama had demanded one. But in the latest sign that the Games remain the most powerful lever Western powers have, the foreign minister called the idea of a more symbolic partial boycott ‘interesting.’”

It is interesting to note that the idea of the opening ceremony boycott emerged independently in the European Parliament, without any lobbying from Dharamsala. The fact that even heads of state such as Angela Merkel and Vaclav Klaus decided not to attend the opening ceremony shows Western political sympathies for

116_ International Campaign for Tibet, “US Congress passes new Tibet legislation, condemns China’s crackdown in Tibet,” April 9, 2008, <<http://www.savetibet.org/us-congress-passes-new-tibet-legislation-condemns-chinas-crackdown-in-tibet/>>.

117_ Katrin Bennhold, “France Raises Idea of Boycotting Olympics Ceremony over Tibet,” *New York Times*, March 18, 2008, <http://www.nytimes.com/2008/03/18/world/asia/18iht-react.4.11230805.html?_r=0>.

118_ “Avoiding the Olympics: Who’s Going to the Games?,” *Spiegel Online*, March 28, 2008, <<http://www.spiegel.de/international/world/avoiding-the-olympics-who-s-going-to-the-games-a-544067.html>>; “EP President Hans-Gert Pöttering Will Not Attend Olympic Games Opening Ceremony,” *Phayul News Online*, July 9, 2008, <<http://www.phayul.com/news/tools/print.aspx?id=21908&rt=0>>.

Tibet in the aftermath of the uprising were matched by a rare willingness to take bolder action. Western governments not only recognized the Beijing Olympics as a powerful lever to move China, as the *New York Times* article states, but some were actually willing to do so. With a little encouragement from the Dalai Lama they would likely have gone a lot further.

However, even at the height of China's clampdown on Tibetans, the Dalai Lama did not call for a boycott of the opening ceremony or any kind of sanctions against China. On the contrary, he expressed support for the Beijing Olympics.¹¹⁹ Speaking to reporters in New Delhi on March 23, he said, "I have always supported that the Olympic Games should take place in China." He added, "They are the hosts. The Olympics should take place in Beijing."¹²⁰ We cannot tell the degree to which a Tibetan call for a boycott would have been heeded by the world, but such a strategic offensive would have caused enormous fear and confusion in Beijing. Imagine the dilemma that would have descended on Beijing if the Dalai Lama had threatened to call for a boycott unless China met his demands—possible demands could have been made for a mass release of Tibetan political prisoners or the withdrawal of a certain number of troops from Tibet. But instead of going on the offensive at a moment when China was vulnerable, Dharamsala was preoccupied with playing defense, trying to convince the

119_ "I Support Beijing Olympics: Dalai Lama," *Times of India*, March 23, 2008, <http://articles.timesofindia.indiatimes.com/2008-03-23/china/27744124_1_dalai-lama-buddhist-leader-olympics-hostage>; "Dalai Lama Arrives in Seattle, Supports Beijing Olympics," *Seattle Times*, April 10, 2008, <http://seattletimes.com/html/localnews/2004339856_webdalaiarrives10m.html>.

120_ "Beijing Olympics Should Go on, Dalai Lama," *Hindustan Times*, March 23, 2008, <<http://www.hindustantimes.com/india-news/newdelhi/beijing-olympics-should-go-on-dalai-lama/article1-283979.aspx>>.

Chinese leaders that it had not incited the uprising in Tibet.

Over the years, Dharamsala has not simply passed up numerous opportunities to undermine China's interests but in fact gone out of its way to make conciliatory gestures toward Beijing. Tragically, none of these conciliatory actions—from the concession of independence to the support of the Olympics—have been made contingent upon China fulfilling a measurable Tibetan demand. This leads us to analyze Dharamsala's long-standing reluctance to tap into one of its greatest reserves of political influence: grassroots mobilization inside Tibet.

Nonviolent Mobilization Inside Tibet

The arc of Tibetan nationalist mobilization is inextricably intertwined with the story of the Dalai Lama. This link is strikingly evident in the two phases of highest mobilization in contemporary Tibetan history up until 2008. In 1959, it was the Tibetans' concern for the Dalai Lama's safety that triggered the revolt. In 1987-89, it was news of the Dalai Lama's diplomatic successes abroad that brought the Tibetan people together in pro-independence protests against the Chinese government.

It is therefore not surprising that China's Tibet Forum in 1994 set the goal of eradicating the Dalai Lama's influence in Tibet. Since then, Beijing has labeled it a crime in Tibet to possess pictures of the Dalai Lama, to listen to tapes of his teachings, and to watch films containing his images. In July 1998, a man named Ngawang Tsultrim was arrested and sentenced to three years of imprisonment for screening a Dalai Lama video.¹²¹ In January 2001, a

Sera monk named Jampel Gyatso was arrested for listening to a tape containing teachings of the Dalai Lama.¹²²

However, this ban on images of the Dalai Lama barely made a dent in Tibetan devotion to him. In the 2008 uprising, the one slogan that was raised universally in every single protest incident was the call for the “return of the Dalai Lama.” The Tibetan people’s collective loyalty to their leader can be seen as a vast reserve of moral capital that is sitting in the Dalai Lama’s account, waiting to be converted into political value. But he has rarely drawn on this account. The only time that the Dalai Lama proactively mobilized the Tibetan grassroots was to advance a nonpolitical cause in 2006.

In January 2006, during the Kalachakra religious teachings in Amravati, India, the Dalai Lama made a speech targeting Tibetans in Tibet.¹²³ Issuing a public call for the protection of wildlife, he exhorted Tibetans to stop the practice of wearing fur-trimmed clothing, which had become fashionable in eastern Tibet. On the final day of the teachings, he gave this message to pilgrims from Tibet who were in the gathering: “When you go back to your respective places, remember what I had said earlier and never use, sell, or buy wild animals, their products or derivatives.”¹²⁴

121_ The Tibetan Centre for Human Rights and Democracy, “List of Known Arrests in Previous Years,” *Annual Report 2001: Human Rights Situation in Tibet*, (Dharamshala: The Tibetan Centre for Human Rights and Democracy, December 2001).

122_ The Tibetan Centre for Human Rights and Democracy, “List of Known Arrests in 2001,” *Annual Report 2001: Human Rights Situation in Tibet*, (Dharamshala: The Tibetan Centre for Human Rights and Democracy, December 2001).

123_ Kalachakra is an esoteric tantric teaching that the Dalai Lama has been giving every few years. It draws the largest gathering of Buddhists from all over the world including thousands of pilgrims from Tibet.

124_ Kate Saunders, “Tibetans Burn Wild Animal Skins in Tibet to Encourage Wildlife Preservation,” *Phayul News Online*, February 10, 2006, <<http://www.phayul.com/>

Within days, Tibetans in Tibet started boycotting animal pelts. Hundreds of Tibetans participated in public bonfires where they took off their fur-lined chubas and threw them into the fire. These bonfires were held in Ngaba, Rebkong, Labrang, Golok, Karze and Lhasa. A Khampa trader torched his own pelt store in front of a large crowd.¹²⁵ According to the Wildlife Trust of India, over 10,000 people burned three truckloads of endangered animal skins in Ngaba Prefecture alone. On February 17, a smuggled video of a fur-burning event in Ngaba was screened for the public and press in Dharamsala. Lobsang Choephel, the monk who smuggled the video out of Tibet, reported upon arriving in Dharamsala that an estimated \$75 million worth of animal pelts had already been burned in eastern Tibet alone.¹²⁶

The speed and spread with which the Tibetans rallied behind the call for wildlife protection speaks volumes about the Dalai Lama's unparalleled ability to mobilize Tibetans. If he wanted to, the Dalai Lama could easily escalate the political situation in Tibet and make the defiant plateau immensely harder for Beijing to govern. Such an escalation of the conflict would go a long way toward making China see that a negotiated settlement might be in its own best interest. However, the Dalai Lama has never directly called on Tibetans inside Tibet to mobilize against Chinese rule, nor has he promoted any kind of nationwide noncooperation or civil disobedience campaigns aimed at raising China's cost of occu-

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 news/article.aspx?id=11801>.

¹²⁵ "Tibetans Set Endangered Animal Pelts Ablaze, Rousing Chinese Ire," *Environment News Service*, February 24, 2006, <<http://www.ens-newswire.com/ens/feb2006/2006-02-24-01.asp>>.

¹²⁶ Kate Saunders, "Tibetans Burn Wild Animal Skins in Tibet to Encourage Wildlife Preservation."

pying Tibet. He has chosen the path of diplomatic persuasion with the Chinese leadership rather than mobilizing the common masses against the Chinese state.

Why is it that one of the most famous intellectual heirs of Gandhi has not attempted to harness the power of Gandhian non-violent tactics and grassroots mobilization?

The Dalai Lama is first and foremost a man of religion, whose monastic education began at the age of six. As evidenced in his autobiographies, his worldview is essentially that of a progressive Buddhist monk rather than a Machiavellian political strategist.¹²⁷ Naturally, he holds deep moral reservations about the human cost that goes with mobilizing people against an authoritarian state. In his spiritual equation, minimizing suffering always trumps maximizing freedom. Moreover, his stature as an icon of world peace makes it hard for him to get down and dirty in the trenches of political organizing and resistance. If his religious training has enabled him to transcend nationalism, his global obligations as a Nobel laureate have forced him to transcend his nationality.

This was not helped by the fact that the long-serving prime minister of the Tibetan government in exile, Samdhong Rinpoche, was also a monk. Known for his puritanical emphasis on discipline and control—for instance, he prohibited meat in the government staff mess—he did not disguise his aversion to the chaotic energy and unpredictable change produced by agitative actions such as street protests, hunger strikes, and boycott campaigns.¹²⁸ Much

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 127_ See two autobiographies by the Dalai Lama, *My Land and My People* and *Freedom in Exile*.

128_ Jamyang Norbu, "Waiting for Mangtso," *Phayul News Online*, September 9, 2009, <<http://www.phayul.com/news/article.aspx?id=25483>>.

like the Dalai Lama, he also preferred tactics of persuasion to those of coercion; he wanted to bring China to the negotiating table through diplomatic appeals and demonstrations of sincerity rather than through the force of social mobilization and political pressure.

More than anyone, perhaps, the Dalai Lama himself was aware of these constraints. On March 14, 2011, the Dalai Lama announced his full retirement from politics and proceeded to devolve his political authority to elected leaders. A few days later, on March 20, the Tibetan diaspora went to the polls and elected the first non-monastic prime minister of the Tibetan government in exile. Lobsang Sangay, a Harvard-educated legal scholar, won 55 percent of the ballots, succeeding the religious scholar Samdhong Rinpoche as prime minister.¹²⁹ With this highly publicized election, the Dalai Lama oversaw the culmination of a long process of democratization of the Tibetan government and the withdrawal of his role as the political leader.

Dalai Lama: A Prisoner of His Own Success?

In the aftermath of the 2008 uprising, and amid the wave of Tibetan self-immolations, Dharamsala has been under growing pressure to devise a new strategy for dealing with China. Between 2008 and 2012, the Tibetan government convened what it called “Special Meetings” with a view to drafting a new strategy for the movement. These gatherings attracted major players in the move-

¹²⁹ Fiona McConnell, “Tibet’s New Prime Minister Faces Challenges Ahead,” *East Asia Forum*, June 10, 2011, <<http://www.eastasiaforum.org/2011/06/10/exile-tibet-s-new-prime-minister-faces-challenges-ahead/>>.

ment including key government officials, ministers, Tibetan parliamentarians, NGO leaders, and community representatives.

In November 2008, 581 Tibetan delegates from nineteen countries arrived in Dharamsala for the first Special Meeting. The world media had converged on the small hill station, heightening the anticipation in the air. Days before the meeting started, no less a person than the Dalai Lama himself declared that the Middle Way Approach had failed, adding that it was now up to the Tibetan people to decide the next steps.¹³⁰ In his own words, the Dalai Lama had “given up” on the Middle Way policy because “there hasn’t been any positive response from the Chinese side.” Hannah Gardner of *The National* wrote, “Now, the Dalai Lama has opened up every aspect of struggle for debate.”¹³¹ The Dalai Lama also said he would remain “completely neutral” in the upcoming discussions.

Once the meeting began on November 17, it was far from neutral. Speaker of the Parliament Karma Choephel and Prime Minister Samdhong Rinpoche stated that the goal of the meeting was not to imagine a new strategic direction for the Tibetan struggle but to simply discuss new tactics within the same framework of the Middle Way Approach.¹³² In sharp contradiction to what the Dalai Lama had said a few days earlier, their opening statements narrowed the scope of the discussions. The meeting sessions were

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¹³⁰_ Peter Alford, “Dalai Lama’s ‘Middle Way’ Leading Nowhere,” *Australian*, November 3, 2008, <<http://www.theaustralian.com.au/archive/news/dalai-lamas-middle-way-leading-nowhere/story-e6frg6t6-1111117935559>>; Hannah Gardner, “Dalai Lama’s ‘Middle Way’ at Stake,” *National*, November 16, 2008, <<http://www.thenational.ae/news/world/south-asia/dalai-lamas-middle-way-at-stake>>.

¹³¹_ Hannah Gardner, *Ibid.*

¹³²_ Jamyang Norbu, “A Not So Special Meeting,” *Phayul News Online*, February 6, 2009, <<http://www.phayul.com/news/article.aspx?id=23752>>.

filled by lengthy monologues befitting a town hall function rather than the thoughtful exchange of radical ideas one might expect to see in a strategy room.¹³³ Any suggestion of reviewing the Middle Way Approach was interpreted by the majority as criticism of the Dalai Lama's wisdom, and driven straight into the ground. It was clear that no new strategic direction would emerge from this meeting.

On November 22, the Special Meeting concluded with a unanimous reaffirmation of the Middle Way Approach. To the majority of the delegates, the meeting was all along an opportunity to endorse the status quo and Dalai Lama's lifelong work in the service of his nation, not a strategy session to chart new plans. The day after, speaking to the gathering of delegates, the Dalai Lama seemed crestfallen and defeated. Could it be that after two decades of promoting the Middle Way Approach to the Tibetan people, they had finally embraced it to the point where they held him hostage to it even when the Dalai Lama himself, the architect of the policy, had lost faith in it? Had he become a prisoner of his own success?¹³⁴

Conclusion

The strategy developed by Dharamsala in 1986-87, for all its

¹³³ These observations are based on my own experience and firsthand observations, as I was a participant at the 1st Special Meeting held in Dharamsala on November 17-22, 2008.

¹³⁴ It must be mentioned that in the subsequent months, the Dalai Lama went back to being a vocal proponent of the Middle Way Approach. He adapted his message by saying that he had lost faith in the Chinese government but not the Chinese people. With this, the Middle Way Approach was given its second wind.

shortcomings, must be credited for retrieving the Tibet issue from the dungeons of obscurity and propelling it into star status on the world stage. Unfortunately, it emphasized diplomacy to the exclusion of mobilization, failing to assign a role to the Tibetan public inside Tibet. In addition, with the end of the Cold War and the emergence of China as an economic powerhouse, the geopolitical conditions within which the strategy was devised quickly and drastically changed once its execution began. Now Dharamsala needs to go back to the drawing board and draft a new long-term strategic plan that plays to Tibetan strengths and Chinese weaknesses.

The Tibetan government in exile, now in the hands of a lay prime minister, stands at a crossroads. The new administration has the unenviable challenge of replacing Dharamsala's appeasement politics with a more aggressive approach. While the Dalai Lama's political authority and legitimacy have been successfully transferred to the new administration since 2011, his moral standing and global stature will be, conceivably, even harder for anyone to inherit. Without the Dalai Lama's charisma, the new administration will find its mobilizing ability and sphere of influence diminished not only in foreign capitals but also inside Tibet. Still, what Dharamsala has lost in charisma, it can restore by investing in strategic planning, alliance building, the logistics of organizing, and most importantly, revitalizing the global grassroots movement for Tibet. The digital revolution of recent years has been a game-changer in facilitating communication among Tibetans. What was once impossible has now become commonplace: Tibetans in Tibet routinely communicate with exile Tibetans, breaking through the Great Firewall with circumvention technologies. The geographical divide between Dharamsala and its constituency in Tibet has been rendered irrelevant, and the scope of trans-

Himalayan mobilization has never been greater.

More importantly, the new administration in Dharamsala has an opportunity to liberate itself from the religious worldview that had shaped the vision and constrained the action of the previous administration and chart a new path firmly rooted in realpolitik. It must also replace its religious conceptualization of nonviolence with a more secular one, so that the emphasis is not on avoiding violence but on exploring the full spectrum of strategic nonviolent weapons. In order to bring Beijing into real negotiations, it will have to escalate the conflict through nonviolent mobilization, and show Beijing that the costs of delaying a resolution can be prohibitively high for China.

A centrally planned grassroots movement could reduce the human cost of activism in Tibet, encouraging low-risk actions over high-risk ones and emphasizing the strategic over the spontaneous.¹³⁵ By promoting tactics of dispersion (such as strikes, boycotts, and economic and social noncooperation) over those of concentration (protest marches, public gatherings), Dharamsala can not only reduce the cost but also increase the sustainability of the movement.¹³⁶ There are hundreds of low-risk yet high-impact nonviolent tactics that Dharamsala could deploy in waging a campaign aimed at making Tibet ungovernable. Ultimately, a grassroots-oriented blueprint for escalation that assigns an important role to the Tibetan public inside Tibet may be the only way to nudge Tibetans away from acts of desperation and engage them in more intentional, coordinated,

¹³⁵ Tenzin Dorjee, "Why Lhakar Matters: The Elements of Tibetan Freedom," *Tibetan Political Review*, January 10, 2013.

¹³⁶ Gene Sharp and Joshua Paulson, *Waging Nonviolent Struggle: 20th Century Practice and 21st Century Potential* (Boston: Extending Horizons Books, 2005).

and life-affirming ways of challenging Chinese rule. It is usually in the absence of a strategic plan, when the movement is left to the mercy of its own spontaneous outbursts that people resort to harrowing tactics like self-immolation.

Only when Tibet becomes ungovernable will Beijing come to the negotiating table. Dialogue and escalation are not mutually exclusive; in fact, the only way to bring Beijing into substantive dialogue is through escalation. The central reason behind the current deadlock, after all, is not a lack of trust from Beijing's side, but a lack of heat under its feet.

Part 2

*China's Relations
with Neighboring Countries*



Korea Institute for
National Unification

3

China's Relations with Mongolia: An Uneasy Road

Mark T. Fung



The lens through which China views its relationship with Mongolia spans the arc of history beginning with the end of the Song dynasty in 1271—the year that Khubilai Khan, the grandson of Genghis (Chinggis) Khan, invaded China to establish the Yuan dynasty—to the present. The Yuan dynasty survived until 1368, but this dynastic rule was plagued with natural disasters, as geologists stated, or lacked the Mandate of Heaven, as astrologers believed. The challenges of empire building by the Mongols were difficult, especially in a foreign land, made exponentially more so as a result of continuous drought, floods, earthquakes, locusts and epidemics. Most disconcerting was the outbreak of what forensic scientists and epidemiologists believe was bubonic plague: “It was the Mongols, after all, who infected the first Europeans—the Italians against whom they were laying siege on the north coast of the Black Sea—who transferred the disease back to Constantinople and Italy in 1347.”¹³⁷

The Mongol invasion was cataclysmic for China, not because it was the first time China was under foreign occupation by “barbaric” nomads, but because the Mongol invasion fundamentally changed how China administered itself. Remnants of Mongol rule remain to this day in China. Emphasis on the arts and civility gave way to brutishness and incivility. What was once the capital of the Southern Song dynasty, Hangzhou, located in southern China, and the most populous, wealthy, and cosmopolitan city in the world at the time, according to historian Jacques Gernet, was no longer the heart of Imperial China. “Thirteenth century China is

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* I would like to thank Wonhee Lee at the U.S.-Korea Institute at SAIS for his research assistance.

¹³⁷ Timothy Brook, *The Troubled Empire: China in the Yuan and Ming Dynasties* (Cambridge, Massachusetts: Harvard University Press, 2010), p. 65.

striking for its modernism: for its exclusively monetary economy, its paper money, its negotiable instruments, its highly developed enterprises in tea and in salt, for the importance of its foreign trade (in silks and porcelains) and the specialization of its regional products.”¹³⁸ It was an era that situated China as the most modern, advanced economy, where the wealth effects of trading were transformed into appreciation of the arts and the amenities of life. However, in the end, the Mongol invasion altered the DNA of China forever.

The Mongols first abolished the time-honored Chinese tradition of impartial national exams as a recruitment tool for bureaucratic posts. Instead, the Mongols opted in favor of recommendations to Khubilai Khan by friends of the court. This, as Frederick Mote characterized, meant the establishment of nepotism on a wide scale in Chinese officialdom. The governance of empire by nepotism created a class of uneducated and unqualified officials who generated inconsistent or sporadic rulings.

These factors then spawned further degradation to the system of governance in China. Even when national exams were reinstated in China under the Ming dynasty, officials, who were, of course, coming of age during the Yuan dynasty, were inexorably affected by the detrimental changes under Mongol rule. In the end, Khubilai Khan’s conquest was forged through brute force and his kin ruled as such. In fact, these empires are never exceptional nor last very long. In contrast, Peggy Noonan said it best when she described how America was created: “It is a nation formed not by brute, grunting tribes come together over the fire to consolidate

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¹³⁸ Jacques Gernet, *Daily Life in China: On the Eve of the Mongol Invasion 1250-1276* (Redwood City, California: Stanford University Press, 1962), p. 17.

their power and expand their land base, but by people who came from many places.”¹³⁹

China and Mongolia Today

What are we to make of China’s relations with the Mongolia today? In over seven centuries since the creation of the Yuan dynasty edifice, the fundamental character of the experience between China and the Mongols has remained relatively unchanged. It is still a relationship that is punctuated with and oscillates between distrust, cooperation, commerce, and insecurity.

Mongolia’s own insecurities and fear of Sinicization have led to its own self-manufactured mini-financial crisis in 2013. After the passage of a foreign investment law intended to prevent Chinese and Russian state-owned companies from owning majority shares in any natural resource companies, Mongolia’s regulations were still not clear, so they were interpreted by investors to mean all foreign investors were not welcome in the natural resource space. This caused a precipitous drop in the value of Mongolia’s sole asset: natural resources. This, in turn, led to a drastic depreciation of the Mongolian currency. The Tugrik dropped by as much as 60 percent against the US dollar settled back to only 20 percent depreciation on the black market, and officially depreciated by 3.7 percent in 2013.¹⁴⁰

¹³⁹ Peggy Noonan, “Putin Takes Exception,” *The Wall Street Journal*, September 13, 2013, <<http://online.wsj.com/news/articles/SB10001424127887323392204579071590253066918>>.

¹⁴⁰ “RPT-Fitch: Mongolia Election Makes Space for Greater Policy Clarity,” *Reuters*,

Investors were rightly frightened, and the delay of Rio Tinto's Oyu Tolgoi development plan¹⁴¹ was an indication that Mongolia's political leaders were not reliable and, more importantly, not amenable to economic growth. As Julian Dirkes argued in a compelling op-ed in the *Wall Street Journal*, "A sudden sense of economic crisis is spoiling the mood over Mongolia's three years of world-beating economic growth."¹⁴² He succinctly stated the malaise in Mongolia's leadership and its policies, "Putting aside Rio Tinto's ongoing construction in Oyu Tolgoi, foreign investment has fallen precipitously following the passage of a foreign investment law in May 2012. That law may have been designed to keep out state-owned Chinese companies, but other investors saw it as so vague and comprehensive that they left in droves."¹⁴³ Dirkes' argument strongly suggests that the hasty decision made by Mongolian officials would have detrimental financial and political effects on this small country with a population of approximately two million people.

China, on the other hand, perceives Mongolia to be a commercial partner and a geostrategic foothold. More specifically, Mongolia is a fount of natural resources at its doorstep to support

July 2, 2013, <<http://www.reuters.com/article/2013/07/02/fitch-mongolia-election-makes-space-for-idUSFit66239720130702>>.

¹⁴¹ Oyu Tolgoi is a copper and gold mining complex, situated in the southern Gobi desert of Mongolia, approximately 80 kilometers north of the Mongolia-China border and 550 kilometers south of the capital, Ulaanbaatar. The Government of Mongolia owns a 34 percent stake in the mine while Turquoise Hill Resources the remaining 66 percent, of which Rio Tinto owns 51 percent. Rio Tinto, since 2010, has been the manager of the project. For more details about the Oyu Tolgoi development project, refer to the website of Rio Tinto at <<http://www.riotinto.com/ourbusiness/oyu-tolgoi-4025.aspx>>.

¹⁴² Julian Dirkes, "Mongolia's Choice on Investment," *The Wall Street Journal*, September 12, 2013, <<http://online.wsj.com/article/SB10001424127887323595004579070600648039692.html>>.

¹⁴³ *Ibid.*

China's economic growth as well as becoming a potential junior partner in counterbalancing the influence of Russia, its imposing neighbor to the North. In the past, China discouraged Mongolia from selling its coking coal to any third country. One method to discourage this trade was to limit the railcars to certain destinations within China.

The primary person responsible for this policy was the Minister of Railway of China, Liu Zhijun, who has since been convicted of corruption and sentenced to death in 2013 with a two-year reprieve. To be sure Liu was never particularly accommodating to the entreaties of the Mongolians and was the source of tension in China-Mongolia relations. He made his views known privately and sometimes publicly. In one meeting held in Beijing, observers who were present said, Liu came out to greet his Mongolian counterparts, in a white t-shirt, which can be construed to mean his disrespect towards the Mongolians.

Since Liu's suspended death sentence, China's railway ministry has gradually been dissolved. As a result, its administrative functions were moved to the Ministry of Transport and its commercial role to the China Railway Corporation in March 2013.¹⁴⁴ Liu, the son of peasants from Hubei province, rose to his rank slowly and gradually, beginning in the 1970s as a low-level office worker. Liu took advantage of the political system at a time when corruption was relatively unchecked in China. Analysts believed that the railway ministry in China was particularly susceptible to corrup-

¹⁴⁴ Clifford Coonan, "China's former Railways Minister Liu Zhijun receives suspended death sentence for bribery and corruption," *The Independent*, July 08, 2013, <<http://www.independent.co.uk/news/world/asia/chinas-former-railways-minister-liu-zhijun-receives-suspended-death-sentence-for-bribery-and-corruption-8694906.html>>.

tion due to the amount of government funding it enjoyed. Things have changed under President Xi Jinping and the new tone of this leadership has been to purge the political system of corrupt impurities. Eliminating the railway ministry in China could serve as a new opportunity for China and Mongolia to link together both politically and physically by railway.

Understanding Mongolia

Mongolia was fundamentally affected by Soviet domination of Mongolia just as China was tainted by the rule of the Mongols. The Cyrillic alphabet that was superimposed by the Soviet Union on the beautiful cursive of traditional Mongolian language in the 1940s exists to this day. The adoption of the Cyrillic alphabet was decreed in March 1941, justified on political grounds, following its general application to minority languages in the Soviet Union.¹⁴⁵ Russian political motives to keep it as a buffer state to China remain operative.

Mongolia is a predominantly nomadic and agrarian society that is attempting to undergo the metamorphosis of modernity. However, without physical links to the outside world, and critically landlocked between China and Russia, Mongolia's growth will continue to be stunted as will its relations to the outside world. The past inclination and popular belief of the Mongolian people is that Russia is not an existential threat and is an ally.

¹⁴⁵ Alan J. K. Sanders, *Historical Dictionary of Mongolia* (Lanham, Maryland: Scarecrow Press, 2010), p. 638.

Yet, there is a growing sentiment in Mongolia, particularly among the elite educated abroad but not in Russia, that perhaps Russia is not acting in the best interests of Mongolia. One prime example is Russia's long-standing refusal to renegotiate its fifty-fifty equity partnership in the existing joint Mongolia-Russian railway.¹⁴⁶ Russia has failed to invest or upgrade the railway network for nearly half a century and holds effective veto over any infrastructure improvements that Mongolians want to perform on the current Mongolian-Russian railway system.

Three Key Events

Three specific and recent events are emblematic of China's relations towards Mongolia: (1) passage of Mongolia's National Railway Policy in 2010 and its case study; (2) Aluminum Corporation of China's (Chalco) \$250 million coking coal supply agreement with Mongolia's Prime Minister Batbold in July 2011 which Mongolia sought to renegotiate six months later in January 2013; and (3) the foreign investment law passed by Mongolia's parliament in May 2012 that effectively targeted Chinese state-owned enterprises from holding a majority equity ownership in natural resource companies of Mongolia. The language of the law

¹⁴⁶ As a result of the agreement signed by Joseph Stalin and Khorloogiin Choibalsan in 1949, the Ulaanbaatar Railway Company (UBTZ) is 50 percent owned by Russian Railways (RZD) and 50 percent by the Mongolian government. While the two governments recently trying to renegotiate the terms of this agreement, they have failed to make a rapid progress. See "Transport and Logistics Analysis," *The Report: Mongolia 2012* (London: Oxford Business Group, 2012), p. 135.

was so vague and imprecise, however, that it could apply to any foreign investor.

Ultimately, these cases are intertwined and depict the challenge in decision-making processes among Mongolian officials, often vacillating between two antipodal decision points. The failure is not their fault entirely. Rather, it is the lack of established institutions for governance. Ironically, this can be traced back to the very institutions that the Mongols obliterated under the Southern Song dynasty to make way for the Yuan dynasty. In short, it is a custom and practice, honed over time in the nomadic life on the steppes of Mongolia that perpetuates the falsehood that commitments and decisions, like the wind, can blow in any direction without consequences.

The shortfalls of institution-building and good governance in Mongolia are also perhaps a reflection of the intellectual starvation that Mongolia suffered during the years of Soviet, and now Russian, influence. All institutions of higher learning in Mongolia are sub-standard by objective global metrics for academic quality. This was probably deliberate, as Stalin and his successors chose the path that would lead to the least resistance by Mongolia's elite.¹⁴⁷ Today, fortunately, some Mongolians have ventured far and wide to study overseas, including South Korea, the United States, the United Kingdom, Europe, China, and Australia, among other locations.¹⁴⁸ They are gradually becoming cosmopolitan and, most

¹⁴⁷ Mongolia had a Soviet-style educational system with "highly specialized curricular a designed to prepare students for jobs in a command economy." See John C. Weidman and Brian Yoder, "Policy and Practice in Education Reform in Mongolia and Uzbekistan during the First Two Decades of the Post-Soviet Era," *Excellence in Higher Education* (2010), p. 57, <<http://d-scholarship.pitt.edu/17627/1/16-14-2-PB.pdf>>.

importantly, have access to ideas.

Act One: Case Study of Mongolia's National Railway Policy

This case study examines the attempt to physically link Mongolia to the outside world via China by rail, increasing Mongolia's supply of "black gold"—coking coal—to markets in China, South Korea, and Japan.

On June 28, 2010, the Mongolian government promulgated its National Railway Policy, which set forth both a southern and eastern railway to be constructed simultaneously and named the Mongolia State Railway Company (MTZ) as the legally authorized representative for Mongolia.¹⁴⁹ The national policy also called for the railway to be linked directly to a port and permit port access. In order for Mongolia to emerge from its isolation, deep-water port access is critical.

The primary reason for this new policy was that many companies desired to build only the southern line connected to China as it was clearly the most profitable and shortest route. This southern railway line also required the least capital investment and was

¹⁴⁸ According to the figures released by University Fair in 2010, approximately 9,167 Mongolian students are studying abroad. South Korea accounts for 600, the U.S. 820, the U.K. 98, Germany 1,200, People's Republic of China 230, and Australia 38. For more details, refer to the University Fair website at <<http://universityfairs.com/fairs/international-education-exhibition-mongolia-44>>.

¹⁴⁹ "Mongolian Railway" State Owned Shareholding Company (MTZ) was established on March 20, 2008, based on the 82nd resolution of the Mongolian Government and 189th decree of the State Property Committee. For more information about the company, refer to the website of Mongolian Railway at <<http://www.mtz.mn/index.php?sel=about&more=6>>.

the easiest to implement. Hence, it was attractive to many Mongolian political and business leaders. This was a parochial, but practical means of exporting Mongolia's natural resources. However, doing this had one consequence: there would only be one buyer and the price advantage disappears when there is only one buyer.

The 2010 National Railway Policy of Mongolia sought to correct this geopolitical trajectory gone astray. Passing the parliamentary resolution, Mongolia designated its new national railway company, MTZ, as the lead agency to implement this new national railway policy. It mandated that two railway lines, instead of one, be built.

The first railway line called "Phase One" would lead from the Tavan Tolgoi (TT) coking coal reserves in south central Mongolia, which is one of the largest in the world, with an estimated 6.4 billion metric tons of reserves to Zamin Uud, a southern Mongolia frontier town. The reserves at TT are large enough to meet coal needs of Japan for the next forty years. At the same time, the policy called for a "phase two" to be built concurrently, also originating from TT but with a railway that headed eastbound to China through a port located in the uppermost reaches of Bohai Bay in Liaoning, China, herein named X. This is the largest private port in China with an annual throughput of 100 million tons.¹⁵⁰ This port was more than sufficient to accommodate the expected annual shipments of sixty to eight million metric tons of coking coal from

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¹⁵⁰ For detailed information about Phase One and Phase Two, see Ministry of Road, Transportation, Construction and Urban Development of Mongolia, "New Infrastructure Development Projects Snapshot," <<http://www.coneq.org.uk/Mongolia/New%20Infrastructure%20Development%20Projects%20in%20Mongolia.pdf>>.

Mongolia once the TT mines were operational.

In fact, this eastbound railway route has a particularly beneficial feature: a five-square kilometer special zone designated for the Mongolian use, expected to benefit Mongolia's coking coal producers and sellers. They could defer sales when prices were low and store coking coal and other commodities at this facility. This would enable the mines to operate continuously and not be idle, thus guaranteeing that Mongolian mining jobs would be uninterrupted during price fluctuations. The normal practice in mine operations is to shut down operations once the market price reaches below a certain pre-determined level. Finally, the total distance for the two combined railway lines totaled 1,800 kilometers; the railways would serve as Mongolia's main arteries, both commercial and geostrategic. It was a grand vision, if it could be properly implemented.

On July 11, 2010, a former senior White House official, also known as one of the world's greatest grand strategists for Asia and Central Asia, traveled to Mongolia at the invitation of Prime Minister Batbold to celebrate Mongolia's annual Naadam festival. During the visit, a discussion of this railway was raised and explored. At the time, Prime Minister Batbold, along with his deputy transportation minister, Gansukh, was present at the discussion to determine whether this railway would even be feasible.

By October 2010, a former senior State Department official met with the Mongolian prime minister's top infrastructure advisor, Enkhbayar, at the Grand Hyatt Hotel in Beijing to gauge the seriousness of the Mongolians in this endeavor and to gain support from the former high-ranking State Department official for the eastbound railway linking Mongolia to X port. In both the meetings the Mongolian government had with two former high-ranking

U.S. officials, respectively, it was abundantly clear that the geo-strategic benefits of weaning the Mongolians away from the Russian sphere of influence within Mongolia would be advantageous not only to Mongolia itself, but also to the United States as well as China.

This, in turn, would benefit South Korea, since it is fully cognizant of the importance of a strong relationship between the United States and China. South Korea, being connected to the U.S. for security reasons and to China for economic reasons, would gain from a strong U.S.-China relationship. This Mongolia railway project would seem to serve that goal. Indeed, it was a zero-sum game: any reduction in Russian influence over Mongolia would create positive externalities for Mongolia, China, South Korea, and the United States.

The following month, November 2010, a senior executive from X along with its chief representative in Mongolia met with Vice Minister of Transportation Gansukh, in 2013 the minister of transportation, to present X's proposal of building the railway and its positive linkage to a port city, which includes a five-square-kilometer zone for the exclusive use of Mongolia. In this way, Mongolia's exporters could sell natural resources when the prices are attractive and warehouse coal, for example, when prices are depressed. Vice Minister Gansukh suggested that the proposal be submitted directly to the Minister of Transportation, Battulga.

Battulga was an important political power player in the Mongolian Democratic Party (DP) but was viewed as a political loner. He possessed a sense of confidence, having helped oversee Mongolia's five-medal win in the 2012 Olympics in Beijing.¹⁵¹ He was a popular figure who focused on the activities to appeal to his constituents such as building a supermarket in an otherwise un-

forgiving, desolate area of Mongolia's southwest, a cold, barren wasteland. This enabled Battulga to rise to political fame with very little capital. He would be continuously re-elected as long as the supermarket was open and goods could be purchased in an otherwise nondescript city that was his hometown. In Mongolian politics, to serve in the cabinet, the only requirement was that one must already be an existing parliament member.

Battulga is a politician whose career is highlighted by street savvy and business acumen rather than public speaking skills and educational experience. In the 1990s, when Mongolia earned its independence along with the other Soviet satellites, he saw an opportunity to import basic electronics from Singapore to Mongolia. As he accumulated some wealth from the Singapore electronics trade, he expanded to other business ventures in Mongolia, such as tourism, hotel, bread manufacturing, and beef processing, to name a few, all generating the requisite cash in a cash-based society to fulfill his growing political ambitions.

The income generated from these businesses would help launch his political career and those of his allies such as President Elbegdorj during his first run for the presidency. This ministerial post was Battulga's first one as a cabinet official after being elected to the Parliament.

Battulga preferred to work from his business office, which was located in the local hotel that he owned, rather than the office of his ministry. He found it was safer both physically and psychologically, as his CCTV monitors would record the movement of

151. Mongolia won two silver and three bronze medals and was the most successful Mongolian participation in Olympics history. One bronze and one silver went to Mongolia for judo, a sport very close to the heart of Battulga, a judo champion himself.

people entering and leaving his building. He was physically fit and if a guest came unannounced he could catch him practicing judo in his office. Battulga would greet visitors to his office with a customary show of camaraderie by extending an offer for vodka shot before anything was discussed. It was his way of breaking the ice with Mongolians and foreigners alike.

Along the wall of his office, there was a dry-erase whiteboard with many hand-drawn lines extending over the basic contours of a map of Mongolia and its railway network. Battulga also had a vision of creating an industrial park in Sainshand, a city in the middle of Mongolia and just north of the coking coal mines of Tavan Tolgoi. Sainshand, it was envisioned, would serve as the virtual command center for industry and meet the power needs for the mining operations nearby. Its designs also included a coal gasification plant to generate electricity as well as an oil refinery and coking coal washing facility to increase the value-added of Mongolia's exports. It was thoughtful, but required capital and more importantly, the management and international experience that Mongolia simply lacked. It would have to rely on outside expertise. In June 2013, Bechtel, the large U.S. engineering firm was found to manage the development of this industrial complex.

Battulga was aligned with the Russian camp of supporters in Mongolia. Having a Russian girlfriend and being fluent in Russian himself, he was comfortable with the Byzantine demands of Russian politics and its sway over Mongolian politics and seemed to navigate it well. When it was expedient, he would conjure up the Russian political connection and demonstrate that he was one of the "privileged" few whom the Russians sought to exert influence over. Battulga's inclination towards the Russian camp meant that his ability to navigate Chinese politics would be compromised.

Chinese officials would be less likely to trust Battulga, given that the two main outside stakeholders for Mongolia are Russia and China. A proximity to the Russian sphere naturally meant a distance from the Chinese sphere in Mongolia.

At other times, Battulga realized that being under the Russian sphere of influence did not serve his country's long-term goals of becoming self-sufficient and truly independent. In a May 2013 article in the *Asia Times*, Mongolians claimed that the oil supply from Russia had been interrupted on political grounds and that these products failed to meet consumer and industrial demand due to their increasingly high prices.¹⁵² The figures commonly being touted are that about 90 percent of Mongolia's petroleum products are imported from Russia¹⁵³ while some 70 percent of all food requirements of Mongolia were supplied by China.¹⁵⁴ Because existing infrastructure was required to transport all the fuel and energy, Mongolia is currently dependent on Russia for its energy needs. The industrial park in Sainshand, the construction of the railway leading to China with port access, and increased shipments of coking coal would hopefully wean Mongolia off its energy dependence upon Russia.¹⁵⁵

¹⁵² Alicia J Campi, "Sino-Mongolian oil deal undercuts Russian role," *Asia Times*, May 15, 2013, <http://www.atimes.com/atimes/China_Business/CBIZ-01-150513.html>.

¹⁵³ See, for example, "Mongolian Dependence a Threat," *The Moscow Times*, June 24, 2011, <<http://www.themoscowtimes.com/business/article/mongolian-dependence-a-threat/439408.html>>.

¹⁵⁴ With regard to how much food Mongolia imports from China, World Vision, a Christian relief, development and advocacy organization, reveals, "Some 70 percent of Mongolia's food is imported from China." To access to the full document on Mongolia's food security, refer to World Vision, "Mongolia Facing Food Challenges," <http://www.worldvision-institut.de/_downloads/allgemein/Food%20security%20in%20Mongolia.pdf>. However, some experts estimate that China accounts for about 90 percent of Mongolia's food imports.

At any point in time, if there was any perceived political offense towards Russia by Mongolia, Russia would cause a temporary shutdown of energy supplies resulting in a spike in gasoline costs and long lines at the gasoline station. It is widely known that Russia has used its energy supply to Mongolia as political and economic leverage.¹⁵⁶ Yet strangely, the Mongolian people would direct their anger not at the Russians, but at the mining or energy minister or even the prime minister. Any official with a hand in relations with Russia would be blamed for not maintaining good relations with Russia. It was a counterintuitive way to assess the situation. In the end, this was a game of political survival, or perhaps self-preservation, for Battulga.

Power and electricity were in great demand and often power outages even in the capital of Ulan Baator seemed to be a constant reminder that Mongolia was not ready for prime time.¹⁵⁷ These were not just growing pains of a developing country. Mongolia was

155_ Having an interview with *China Daily* in September 2010, Minister Battulga revealed his hope that Mongolia's industrial sector would reach China's markets more easily, saying, "We are planning to have as much value-added processing done inside of Mongolia, at a new industrial park based in Sainshand, a town that already has urban infrastructure and is close to China." See "Railway plan will transport Mongolia into a 21st C economy," *China Daily*, September 13, 2010, <http://www.chinadaily.com.cn/cndy/2010-09/13/content_11291572.htm>.

156_ According to *Reuters*, Russia has been known to shut down gas supply taps amid a price dispute with Ukraine. Moreover, after Russia cut oil and diesel exports to Mongolia in April 2011, Mongolia's mining activity was severely hampered due to sharply increased pump prices and bus fares. To access the full article, refer to "RPT-Mongolia's energy reliance on Russia, China a key risk," *Reuters*, June 21, 2011, <<http://www.reuters.com/article/2011/06/22/mongolia-fuel-idUKL3E7HM03J20110622>>.

157_ In October 2012, the Ministry of Energy of Mongolia warned citizens of Ulan Baator an impending electricity shortage, which may require suspension of power supply in December. See, for example, M. Zoljargal, "Ulaanbaatar in Danger of Energy Shortage," *The UB Post*, October 19, 2012, <<http://ubpost.mongolnews.mn/?p=1567>>.

a “frontier” country that was far riskier to invest in than the already financially risky emerging markets.

There are no five-star hotels in Ulan Baator in 2013. Executives from state-owned firms in China as well as from South Korea and Japan frequently fill the hotels in Ulan Baator. The roads are completely dilapidated and congested. Two lanes each way serve as the main thoroughfare from the city center to the airport. Along the way, large bumps, potholes, and uneven surfaces on recently paved roads seem to serve as a parable of what it would be like for investors doing business in Mongolia. Officials are allowed to engage in outside business activities in addition to being salaried officials within government. Accordingly, it can be assumed that at times the lines between these two spheres may become blurred.

Vice Minister Gansukh was an eloquent man in his late forties with large swaths of white hair. A lawyer by training, he spoke English fluently, but did not project confidence as an official. Like Battulga, he was affiliated with the DP in Mongolia, but maintained close ties to the Mongolian People’s Party (MPP), the legacy of the Soviet Union and the Communist era. However, unlike Battulga, Gansukh did not possess any political base of his own. He was dependent upon the good graces of his political patrons, such as Battulga and others in the DP. Among the close ties he maintained, Gansukh had familial ties to the prime minister of the MPP, Batbold. Therein explains the reason Gansukh was the only member of the DP that was invited to festivities organized by Prime Minister Batbold during Naadam.¹⁵⁸

Batbold’s anointment as the prime minister would be an il-

¹⁵⁸ For more information about the Naadam festival, refer to the BBC website at http://www.bbc.co.uk/nature/humanplanetexplorer/events_and_festivals/naadam.

lustrative example of accidental leadership. He was not a confident speaker, but, like Gansukh, he was fluent in English. He was the compromise candidate for the prime minister position in 2009, when the previous prime minister Bayar sought “medical leave” right after signing the agreement involving Oyu Tolgoi, the largest copper and gold mine in Mongolia and probably the world.¹⁵⁹ Batbold was seen as the least common denominator. His official residence was strewn with photos with heads of state of many nations such as South Korea, Japan, Russia, and U.N. Secretary-General Ban Ki-moon. He did not have a picture with the president of the United States, only with Vice President Joe Biden.

Some Mongolian observers described Batbold’s tenure in office as prime minister as mediocre. Based upon his background, those who considered his administrative experience insufficient questioned whether he could serve as a successful leader even though he had served as foreign minister. He seemed to be biding his time in the office of prime minister hoping that history would be kind to him in the annals of Mongolian politics. These realities would not serve him well in his relations with Beijing despite his career as the chairman of the MPP, the legacy of the Communist Party. Batbold’s final official trip to Beijing occurred on June 15, 2011 and lasted three days according to Xinhua, the official news agency of China. During this time, he was unable to secure any deliverables except the hope of stronger China-Mongolia relations.¹⁶⁰

Having narrowly escaped no-confidence votes in the Parlia-

159_ “Mongolia PM resigns due to health,” *The China Post*, October 27, 2009. <<http://www.chinapost.com.tw/asia/other/2009/10/27/230268/Mongolia-PM.htm>>.

160_ “China, Mongolia pledge closer relations as Mongolian PM visits,” *Xinhua*, June 15, 2011, <http://news.xinhuanet.com/english2010/china/2011-06/15/c_13931822.htm>.

ment, or Great Hural, Batbold soon realized his political days were numbered and the prospect of winning in 2013 and retaining his prime minister post would be untenable. As a result, he began to accelerate his plans, some say, of rent-seeking. In exchange for approving government projects or obtaining valuable land, Batbold would award government-related projects to the highest bidder, adding to his personal coffers. People who knew Batbold well would describe him as a man who would turn his back on his own friends and colleagues. Batbold was also a loner, far less competent and perpetually unskilled in the halls of power than any of his predecessors.

Simply put, Batbold had no base of support. He relied upon the good graces of former Prime Minister Bayar, who stepped down after signing the Oyu Tolgoi agreement, left for South Korea for a medical treatment, and finally settled in an American middle-class suburb of Chicago, biding his time as questions arose about his alleged corruption. In a peculiar way, and one demonstrative of Mongolian politics, despite the corruption allegations against him, Bayar was still a popular figure in Mongolia, and this enabled Batbold to remain in power at least temporarily.

By December 2010, the seriousness of X's proposal to construct a railway leading to its port was gaining significant traction within the Mongolian government. So much so that a representative of X was invited to Mongolia for the first time, and executed a memorandum of understanding (MOU) with Minister Battulga on the railway and port. Subsequently, X's senior executives began meeting with Minister Battulga's chief representative on railway, Ganbat. The team for both sides met for virtually the entire month of December in the frigid temperatures of winter in Ulan Baator to negotiate the terms that were memorialized and committed to later

in a joint development agreement (JDA).

This agreement was drafted by a law firm retained by MTZ and was viewed in the light most favorable to the Mongolians. MTZ's lawyer was a Pakistani-American, who did not subscribe to general ethical principles. He felt most comfortable in the grayest of gray areas of ethics. As a lawyer, his reputation was not generally viewed upon favorably by any of the large law firms either in Washington, D.C., where he was a partner in a smaller firm, or in Ulan Baator. However, he was willing to travel to Mongolia, unlike other U.S. law partners, and spend time on the railway endeavor. He was a close personal friend of Ganbat and out of loyalty to this lawyer, Ganbat would make sure that any law firm retainers granted by MTZ would be directed towards the lawyer. It was admirable, but ultimately flawed, because both of them were too entrenched in the enterprise of self-enrichment, rather than the greater good of the project and country.

Mongolia by birth, Ganbat grew up in Moscow, the son of an academic living in Russia at the time. This made him unaccommodating to China and he failed to appreciate how Chinese politics would or could function. Fluent in Russian and English, his Mongolian was difficult to understand, we are told, but he managed to align himself with Battulga, who desperately needed advice from someone with international experience who also spoke Mongolian. Ganbat had virtually no ties in Mongolia since his roots were in Russia. Ganbat studied at a university in Delaware and graduate school in New York. He worked at a second-tier bank and realized that perhaps his prospects would be better in the growing economy of Mongolia.

The JDA, as ultimately agreed upon by all parties, called for a 67 percent equity share for X and its affiliates while MTZ held 33

percent. It also called for X to deposit \$1 million dollars in a Mongolian bank for initial development fees as the joint shareholder agreement would require further legal and accounting expenses.

By January 2011, the JDA was signed by all legal stakeholders: Batzaya, the MTZ (state railway) chairman, X's chairman, as well as by the Minister of Transportation Battulga, who witnessed the signing, and whose ministry has regulatory oversight over MTZ. In the end, the mutually agreed terms were that X would hold 67 percent and MTZ would hold 33 percent equity of the project company and hence the railway project.

Additionally, since there was a high degree of risk, both legal and political, in dealing with Mongolia, it was a standard practice to use and agree to an arbitration clause that utilized an international venue. New York was designated as the venue for dispute resolution. In the end, X satisfied each and every obligation that the Mongolian MTZ requested. As the agreement was signed and the next step was the shareholder's agreement, X assumed that Mongolia was a country that would respect laws of its own making and international norms. This, unfortunately, is not the case in Mongolia. The implementation phase of the contract was one that required the assistance of a meteorologist who could discern the direction of the winds. This was the fundamental business environment in Mongolia.

By June 2011, a former senior US State Department official visited Mongolia at the invitation of Prime Minister Batbold and reinforced X's position and stated in no uncertain terms that the rule of law and honoring contracts were an important component of international credibility, especially for this railway project, where a binding agreement was signed by the Government of Mongolia.

After this conversation was over, unfortunately, it turned out that Prime Minister Batbold took the passive-aggressive approach toward politics, which aroused criticism from his political opponents. He reassured the former American official that the process was moving forward, but behind the scenes, as we ultimately learned, he was in all likelihood practicing rent-seeking and bidding out the railway project to the highest bidder for his personal bank account. The United States, China, and South Korea, to varying degrees, all supported this railway project and X's participation in the project as a majority investor and main operator. Instead, rather than taking advantage of a unique opportunity to benefit Mongolia and serve its future, Batbold chose to use this project for his own personal and political gain.

One of the reasons often mentioned by Mongolians for the delay in the implementation of the agreement with X was that the Russians often would interrupt any progress with a demand that Russia, by its proxy, have a stake, often without paying for its stake. In other words, the Russians wanted a gratis share of the equity of this railway project. Of course, this was unacceptable for any business venture.

The Mongolian officials face a critical moment when their deliberate decision-making determines whether the current effort to develop the country socially, economically, and politically will end up with continued dependence upon Russia or bring it a new era of prosperity that port access and trading with third countries would offer. However, Mongolia's practices reveal that it has consistently tilted towards Russia after vacillating between Russia and China. This became the main obstacle to stronger China-Mongolia relations. Hence, Mongolia needs to situate itself in the overall geo-strategic landscape of the world. Does it want to serve as a critical

linchpin in Central Asia or merely continue its legacy of being tied to an oil-revenue dependent Russia?

Another reason that was cited by Mongolians for the delay was the need to obtain stronger Chinese political support for this project. The parties to the agreement had to reach the implementation stage for there to be an action item on the agenda for China's political leaders. Chinese officials at all levels would not commit themselves to any project, whether undertaken in China or outside its borders, unless government funds were used. Here, this was a private company that negotiated an arm's-length contract with the Government of Mongolia.

However, what this project demonstrated was that the Mongolians, even though they conquered and occupied China nearly seven centuries ago and have had continued interactions as a neighbor, in general, fail to grasp Chinese political culture. The Mongolians would request X to arrange meetings with senior Chinese officials on short notice even though the Mongolians themselves sent mixed signals on how they intended to implement the signed agreement. X was not prepared to expend further political capital on an uncertain and capricious partner.

Honoring commitments and agreements is as old as time itself. Regardless of where one sat on the political spectrum in China, one truism remains: the Chinese government will honor agreements that its officials make with foreigners. The episode of Beijing mayor Chen Xitong is a perfect example. In the 1990s, Chen approved a large real estate development in Wangfujing, the heart of Beijing, which was proposed by a renowned Hong Kong developer.¹⁶¹ Later, it was discovered that Chen was not authorized to approve such a large swath of land so close to the corridors of power in Beijing. Chen was later imprisoned for alleged corruption

and recently passed away penniless. However, Beijing honored the land development project that Chen agreed to.

By September 2011, Minister Battulga and Mongolia's Ambassador to China visited X. They were impressed with the breadth and scope of the port operations, which spanned 60 square kilometers. X arranged for a police escort to accompany Minister Battulga throughout his trip as he met with local Chinese officials who reiterated the financial and operational capabilities of X. Minister Battulga stated that this trip was the "best reception he has ever had in China," according to Ganbat, his top aide.

At the same time, also in September 2011, executives from X and the former senior American official met with Mongolia's President Elbegdorj during the United Nations General Assembly annual meeting in New York. The message of implementing the duly signed JDA between X and Mongolia was further reinforced. The president also stated his support for X's participation in the railway project and counseled "patience" due to the nature of Mongolian politics.

It was, indeed, the president's way of saying that Mongolia had not reached the political maturity to effectuate and implement international agreements. Rio Tinto's experience in Mongolia exemplifies the difficulties the country faces while it attempts to tackle the challenges to its economic and political development. Its leaders have traditionally found it easier to maintain the status quo

¹⁶¹ In November 1994, the State Council ordered the suspension of this \$2 billion Hong Kong-financed project after it was revealed that the Beijing city government had proceeded with the project without getting proper permission from the central government. See, for example, "RPT-Mongolia's energy reliance on Russia, China a key risk," *Reuters*, June 21, 2011, <<http://www.reuters.com/article/2011/06/22/mongolia-fuel-idUKL3E7HM03J20110622>>.

in its relations with Russia than extending their reach and expanding cooperation with China. Thus, to some extent, their tilted attitude towards Russia suggests that its leaders preferred the era of the gers,¹⁶² or tents, to modern housing for its people. This political and economic climate would increasingly become untenable for China's state-owned firms.

The Mongolian practice of not honoring international commitments would bode ill for future investments in Mongolia.¹⁶³ For example, as Rio Tinto's Oyu Tolgoi operations were about to commence in 2012, the Government of Mongolia and especially President Elbegdorj requested a re-negotiation of the agreement.¹⁶⁴ Rather than submitting to this type of coercion by the Mongolian government, Rio Tinto simply closed its mining operations until a final settlement could be reached. Rio Tinto, the largest mining company in the world, stared down the Government of Mongolia and called its bluff.

In February 2012, the Mongolian ambassador to China paid a second visit to X. It was a sign that the Mongolians wanted to resume the implementation of the JDA. Sure enough, in April 2012, Mongolia requested that X's executives to travel to Ulan Baator on

¹⁶² A yurt (Mongolian: ger) refers to a portable, bent dwelling structure traditionally used by Mongolian nomads.

¹⁶³ According to Coface, a French company specializing in export credit insurance, Mongolia's rating both in Country Risk Assessment and Business Climate is C. Its analyses use a seven-level ranking. In ascending order of risk, these are: A1, A2, A3, A4, B, C and D. For detailed information about its risk assessment on Mongolia, refer to the website of Coface at <<http://www.coface.com/Economic-Studies-and-Country-Risks/Mongolia>>.

¹⁶⁴ Jesse Riseborough and Elisabeth Behrmann, "Rio Rejects Mongolia Request to Renegotiate Copper Mine Deal," *Bloomberg News*, October 15, 2012, <<http://www.businessweek.com/news/2012-10-15/rio-rejects-mongolia-request-to-renegotiate-copper-mine-deal>>.

short notice to attend a series of meetings in order to establish a method to cooperate with MCS, the large mining corporation that is listed on the Hong Kong stock exchange with a market capitalization at the time of approximately \$3 billion. It was MCS that had the largest vested interest in a southern railway line. MCS owned 3 percent of the TT coking coal reserves.

Prime Minister Batbold had financial interests with MCS, we are told, because it was he, as a private businessman, who orchestrated the accumulation and control of TT mines. It is staggering to think that \$100 billion of national assets could potentially be diverted to one individual. When the Mongolian public heard that Batbold had accumulated so much potential wealth at the expense of the Mongolian people, the public was outraged and politicians were incensed—perhaps not because of the alleged self-enrichment, but because they were not included.

Batbold quietly returned the TT mines back to the government while retaining up to 3 percent which would become the basis for holdings of MCS. X's executives and the chairman of MCS, Jambaljamts Odjargal, signed an MOU for joint cooperation on the construction of the southern railway line. This was supposed to remove any final obstacles from the Mongolian business community, as MCS was interested in building its own railway line to the Chinese market to the south, initially without any partners.

The political winds began to shift in Mongolia as the public became increasingly frustrated with the old system under the MPP, the legacy party from the days of the USSR. The MPP was rife with corruption, ineptness, and cronyism. Its inability to effectively deal with China and Russia was a clarion call for a new breed of politicians from the Democratic Party of Mongolia (DP).

In August 2012, Altankhuyag of the DP was elected prime

minister, ousting MPP's Batbold.¹⁶⁵ At the request of the Ministry of Transportation, X met with Minister of Transportation Gansukh who wanted assurances that X remained committed to the project despite the change in political leadership and to lay a framework for moving forward. These Mongolian officials, like the wind, would blow in one direction and then another.

Senior Chinese government officials are reluctant to face instability and unpredictability. In particular, China's political system and its society are not fully prepared to deal with instability and unpredictability. Moreover, throughout the centuries, the belief that instability caused weaknesses in China and thus encouraged foreign intervention was widely subscribed to in China. China's worry over *neiluanwaihuan* (内乱外患), which refers to the two-fold calamity of internal disturbance and foreign invasion, features prominently in China's strategic thinking.

Beijing has generally not directly dispatched senior government officials to Mongolia, with one exception.¹⁶⁶ On January 12, 2012, the Chinese government sent its head of public security, Politburo standing committee member Zhou Yongkang, to Ulan Baator for a groundbreaking ceremony for a housing complex that would serve thousands of Mongolians, financed courtesy of China's Export-Import Bank. Zhou would travel exclusively to Mongolia on this trip and then return to Beijing.

¹⁶⁵ The DP won the parliamentary election in June 2012; however, the appointment of Norovyn Altankhuyag came weeks after coalition talks following the election. For more information, see E. Dari, "N.Altankhuyag Becomes 27th Prime Minister of Mongolia," *The UB Post*, August 10, 2012, <<http://ubpost.mongolnews.mn/?p=345>>.

¹⁶⁶ Indeed, Prime Minister Wen Jiabao visited Mongolia as a side trip in June 2010 en route to another country. Mongolia was not the focal point of Wen's trip in Asia.

The trip was heralded as the strengthening of China-Mongolia relations. However, to astute watchers of the Chinese political system, it was a telling sign of Beijing's perspective on the Mongolian relationship: send the lowest ranking standing committee member, one that has no influence on foreign affairs or finance, only public security and the justice ministry.¹⁶⁷ To put matters into perspective, Zhou Yongkang is the official that the Chinese government dispatches mainly to Pyongyang for ceremonial matters. When Beijing truly wants to send a message to Pyongyang, Zhou Yongkang is not the envoy who they send to communicate matters of substance. Rather, it is usually the state councilor who manages the political portfolio for China. It was a clear message from Beijing that probably went unnoticed in Mongolia; until Mongolia decides where it will orient its politics and economics, China will not invest a lot of time nor government resources there.

The underlying message for Mongolia was to either continue to adhere to the old ways of Russian control of the Mongolian body politic or venture into the clearer choice, according to Beijing, of orientation towards China and the attendant economic and political benefits associated with closer ties. Since then, the standing committee position within the Politburo once held by Zhou Yongkang has been eliminated.

Mongolia has thus far been unable to develop a strategy to best serve its national interests. Its leaders continue to vacillate, Even worse, they behave in a manner that is not acceptable by any

¹⁶⁷ Zhou Yongkang served as State Councillor (one of nine in the Standing Committee of the State Council) and was the Central Political-Legal Committee chair, which is a Politburo Standing Committee position. However at the 18th Party Congress, this position was abolished and the Standing Committee's membership was reduced from nine to seven members. Zhou retired at the 18th Party Congress.

international norms for business, to wit, fail to renegotiate agreements or once finalized implement them. Recently, it has attempted to draw in Japanese, South Korean, and some U.S. support to build on its “Third Country strategy” in its foreign policy.¹⁶⁸ However, in the final analysis, Mongolia is wedged between Russia and China and clinging to the one country that no longer serves its long-term national interests, Russia.

In November 2012, the standing committee of the Chinese Politburo was reduced in membership from nine to seven seats.¹⁶⁹ Misreading the tea leaves, the Mongolians seem to have not deciphered the delicacy of the message Beijing was sending to Ulan Baator. Perhaps the Mongolians viewed the elimination of the seat once held by the standing committee member and senior official who directly visited Ulan Baator as a mere coincidence. Moreover, strengthening of China-Russia ties only diminishes the value of Mongolia from a geostrategic perspective of China. Only time will tell.

In September 2012, the new political leadership invited X to visit Ulan Baator once again. The working group on the railway and entire cabinet were seated as X answered questions on how to implement the railway project. A private meeting with the prime minister, Altankhuyag, further reinforced the impression to X that

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¹⁶⁸ The term “third neighbor” was coined by then-Secretary of State James A. Baker in 1990 when he referred to the United States as Mongolia’s third neighbor in addition to geographical neighbors China and the Soviet Union. See, for example, Munkh-Ochir Dorjjugder, “Mongolia’s ‘Third Neighbor’ Doctrine and North Korea,” (The Brookings Institute, 2011), <<http://www.brookings.edu/research/papers/2011/01/28-mongolia-dorjjugder>>.

¹⁶⁹ The seven members of the 18th Central Politburo Standing Committee of the Communist Party of China (PSC) were elected in November 2012. For more information about these seven members, refer to “China’s New Leadership: Unveiled,” *The Diplomat*, November 16, 2012, <<http://thediplomat.com/2012/11/16/chinas-new-leadership-unveiled>>.

the Mongolians were truly serious this time about the implementation of the railway project under the signed JDA. Altankhuyag expressed his “support” for X’s continued participation in the railway project. In fact, the new minister of industry and agriculture, Battulga, would be the key decision-maker for the railway project.

To further reinforce the Mongolian message that this railway project leading from the TT mines to Liaoning Province, China, was moving ahead as planned and agreed upon, the speaker of parliament, Z. Enkhbold, hosted representative of X to a private dinner at the official government building. The speaker pledged his support to X’s participation and stated that the railway had to be operational by 2015 because Mongolia relies on tax revenue and royalties from the sale of natural resources to finance government operations.

The railway project also called for the use of wide gauge, or Russian gauge rail, rather than narrow or international gauge rails.¹⁷⁰ While not a point of contention between China and Mongolia for this railway project, it is a not-so-subtle reminder that Mongolia has chosen to be tethered to Russia.

The use of Russian gauge will only hamper Mongolia’s economic growth because it drastically diminishes the amount of throughput of commodities that can be transported on an annual basis from Mongolia to China and then to third countries. This is

¹⁷⁰ As a military tactic to hinder a possible invasion by railway, Russia developed broad gauge rail in the 19th century and this legacy of the former Soviet empire still remains in Mongolia. Russia’s wider gauge is 85 millimeters wider than the standard gauge used in China. See, for example, Michael Kohn, “Mongolia Rail Gauge Plan to Limit Cost Savings, Group Says (1),” *Bloomberg News*, May 10, 2013, <<http://www.businessweek.com/news/2013-05-10/mongolia-rail-gauge-plan-to-limit-cost-savings-group-says-1>>.

because the railcars have to stop at the border, be lifted by hydraulic cranes and then affixed again to railway cars that are on international gauge rails, which China and most of the world, including South Korea, North Korea, and the United States use for the railway networks. An uninterrupted shipment of commodities from Mongolia to its final destination in X would accelerate Mongolia's growth and also increase revenues and royalties for Mongolia's treasury.

The speaker of Mongolia's parliament supports the eastern railway. Minister Gansukh was present at all the meetings and suggested that the next step forward was a review of the railway licenses that were granted to MCS by the previous prime minister, some alleged illegally since it was granted on the eve of the end of Prime Minister Batbold's term without the proper review process. In reality, the undertone of this message was that Batbold was corrupt and sold the licenses to the highest bidder. It was not uncommon for him to do a "fire sale" at the expense of the country. It is widely known that Batbold benefitted from government "fire sales" since he purchased the landmark Chinggis Hotel located in the heart of downtown Ulan Baator from the government at a deep discount.

By November 2012, in one quick stroke of the pen, Mongolia's cabinet revoked the railway license of MCS to build a southern railway because it violated the railway policy as well as national security review. The Mongolia National Security Council is composed of three members: president, prime minister, and speaker of parliament. MCS was granted a license to build a railway on the eve of Batbold's departure from office in May 2012. The Ministry of Transportation informed X that Mongolia was ready to implement the project with X once the Transportation Ministry cal-

culated the compensation to be paid to MCS for the revocation of the license and reimburse MCS for funds that they had already spent building the railway.

By February 2013, in yet another complete surprise to X, the Mongolian government performed another reversal and announced a new tender for the building of the railway project. An observer would be incredulous at this point if not for the fact that for the past three years, the Mongolians have essentially drifted in opposing directions of the wind despite a binding agreement. It is as if an agreement executed by the government is merely a suggestion and not a commitment. It is no surprise that Chinese officials who work on Mongolia matters are resigned to this reality.

These actions demonstrate that such vacillation is a common theme running throughout Mongolia. From Rio Tinto's Oyu Tolgoi mine to the \$250 million agreement that was pre-paid by China Aluminum Corporation (Chalco) for the off-taking of coking coal to the foreign investment law that targeted Chinese and Russian state-owned firms—all speak to a wider credibility gap that exists within Mongolia.

X was caught blindsided, never consulted with, and indicated it would not send a proposal for consideration by the Mongolian government. Ganbat made the case that this tender was merely procedural and that X's original agreement remained in effect. He added, "Nothing has changed."

The Mongolian government is superb at weaving surprises into commercial activities. For example, in March 2013, the "finalists" to the railway tender were announced and included a new and unknown company by the name of "Ashmore Eurasia," which is apparently a shell company with alleged Russian support. How this company ever came to being and involved in the railway

project was a complete surprise to all stakeholders that have been involved since the conception of this project in 2010, including X.

These mixed and often uncertain signals are a signature trait of the Mongolian body politic. It is difficult to navigate business or political relations in Mongolia since it is a country that is not easily embarrassed in doing acts that should be considered contrary to social, economic, or political norms. In the end, perhaps Mongolia is uncertain about its place in the world and this insecurity has manifested itself in its policies.

Act Two: Mongolia's Cancellation of Its Coal Off-take Agreement with State-Owned Aluminum Corporation of China(CHALCO)

The act described above breeds further mistrust and deepens the anxieties that China has with its relations with Mongolia. Perhaps the only contiguous country that creates greater anxiety for China than Mongolia is North Korea.¹⁷¹

On Friday, July 29, 2011, under the direction of Prime Minister Batbold, Mongolia signed an off-take agreement with state-owned China Aluminum Corporation (Chalco). Under the terms of the agreement, Chalco would pay in advance \$250 million to Mongolian state-owned Erdenes Talvan Tolgoi at a pre-set price indexed to adjust for the quality of coking coal that is delivered.

¹⁷¹ It should be noted that Mongolia and North Korea enjoy extremely close ties. In fact, children of North Korean elite go to Mongolia for "summer camp" and Mongolian officials regularly travel to North Korea.

Ancillary to this agreement, South Korea's Korea Resources Corporation (KORES) and Japanese firms Itochu and Mitsui then purchased 30 percent of the allocation granted to Chalco.¹⁷²

With global coal prices starting to rise on signs of an economic recovery, by January 24, 2013, the newly elected government under the DP and headed by its new prime minister, Altankhuyag, attempted to renegotiate Mongolia's agreement with Chalco.¹⁷³ Mongolia argued that the pre-negotiated price was now too low in present market conditions.

However, in so arguing, Mongolia was certain to further deepen the mistrust by China towards it particularly when a May 2012 foreign investment law targeted China with discriminatory intent, as was widely acknowledged in Mongolia. According to Bloomberg, China imported 20.9 million metric tons of coal from Mongolia at a value of \$1.9 billion in 2012.¹⁷⁴

Not unlike the Rio Tinto Oyu Tolgoi copper and gold mine agreement, the Mongolian government sought to renegotiate the terms of an agreement that both parties signed. It was typical of the Mongolians to proceed in this manner, but nevertheless surprised even astute observers, since Chalco was a large state-owned Chinese company and, more importantly, Chalco was Erdenes TT's largest customer.

172_ "Chinese, Mongolian companies sign \$250m coal deal," *China Daily*, July 29, 2011, <http://www.chinadaily.com.cn/bizchina/2011-07/29/content_13012041.htm>.

173_ Chuin-Wei Yap and Joanne Chiu, "Mongolia Coal Spat Heats Up," *The Wall Street Journal*, January 29, 2013, <<http://online.wsj.com/news/articles/SB30001424127887323644904578269511946929242>>.

174_ Michael Kohn, "Mongolia Loan May Help Tavan Tolgoi Exit Chalco Deal, CEO Says," *Bloomberg News*, January 24, 2013, <<http://www.bloomberg.com/news/2013-01-24/mongolia-loan-may-help-tavan-tolgoi-exit-chalco-deal-ceo-says.html>>.

With prices for the coking coal based upon an index, meaning that lower quality coal would be priced lower and higher quality coal would be higher, essentially Chalco bought a pre-paid \$250 million coking coal card that was no longer accepted in Mongolia. At prices above \$100 per metric ton, it was considered the market price. However, the Mongolian government now argued that these prices were below the cost of production. While Mongolia offered to refund Chalco its money, Chalco took an international stance on these matters and threatened to pursue legal action to enforce the contract.¹⁷⁵

The credibility gap of the Mongolia government has not deterred it from continuing its repeated behavior of renegotiating terms of an international agreement. Mongolia is in many ways behaving like North Korea. However, at some time in the future, China may make a determination that Mongolia is simply incorrigible. This would have the unfortunate effect of permanently leaving Mongolia a landlocked state with no access to the sea. Mongolia's unpredictability and proximity to Russia does not lend itself to an environment where it can transform itself into a financial hub that serves as the "Switzerland" of Central Asia. Instead, Mongolia, for the short and medium term must rely on selling its natural resources without any value added.

Act Three: Mongolia's 2012 Foreign Investment Law and China

¹⁷⁵ Wán Xu and David Stanway, "Chalco threatens legal action in Mongolia coal dispute," *Reuters*, January 29, 2013, <<http://www.reuters.com/article/2013/01/28/china-mongolia-chalco-idUSL4N0AX2AM20130128>>.

An attempt to ban China's state-owned companies from investment in Mongolia backfired and caused many foreign investors to exit Mongolia. Its currency, the Tugrik, depreciated between 20-60 percent unofficially and a mini-financial crisis occurred.

On Thursday, May 17, 2012, Mongolia's parliament passed an unfortunate law designed to ban Chinese state-owned companies from controlling a majority interest in its natural resource companies. Entitled the "Law of Mongolia on the Regulation of Foreign Investment in Business Entities Operating in Sectors of Strategic Importance," it was a misguided attempt by Mongolia's leaders to block investments in its country's natural resource sector by China's state-owned companies.

The catalyst for this law was a response to an attempt by SouthGobi Resources, a Mongolian mining company based in Canada, to sell a 58 percent stake to Chalco.¹⁷⁶ The law specifically stated that in the "strategic" sectors of mining, telecommunications, finance, and media, foreigners could not own more than 49 percent equity. In reality, this law was specifically designed for the mining sector, the only sector of interest for foreign investors in Mongolia. As a way to intimidate SouthGobi's move to sell its stake, local Mongolian authorities sealed the offices of SouthGobi Sands in a probe over corruption.¹⁷⁷

The language of the law was drafted vaguely, with the enabling regulations never promulgated; the law had the unintended

¹⁷⁶ Michelle Yun, "Chalco Agrees to Buy SouthGobi Stake to Gain Coal Mines," *Bloomberg News*, April 2, 2012, <<http://www.bloomberg.com/news/2012-04-02/chalco-agrees-to-buy-ivanhoe-southgobi-stake-for-c-889-million.html>>.

¹⁷⁷ "Mongolia Passes Watered Down Investment Law," *Reuters*, May 18, 2012, <<http://uk.reuters.com/article/2012/05/18/mongolia-mining-idUKL4E8G13HV20120518>>.

consequence of frightening all foreign investors. It was a law that was passed in the parliament overwhelmingly by the newly elected members of the DP, now the ruling party in Mongolia. The law lingered and despite strong protests from foreign investors, Mongolia stood its ground, unwilling or unable to clarify its investment-defeating law. As a result, the Mongolian Tugrik depreciated unofficially by 20 to 60 percent during this period and about 3.7 percent officially against the U.S. dollar. To this day, the Mongolian currency has not fully recovered since this law was passed.¹⁷⁸

Conclusion

China's perspective of its relations with Mongolia is one of distrust, resignation, and consternation. Three recent events helped to further inform the Chinese body politic: Mongolia's evanescent national railway policy in 2010, Chalco's \$250 million off-take agreement for coal in 2011, and Mongolia's Foreign Investment Law of 2012 that sought to ban Chinese state-owned enterprises from owning majority shares of natural resource companies in Mongolia.

In all three cases, the Mongolian political leadership in both the Mongolia People's Party (MPP) followed by the latest ruling party, the Democratic Party (DP), has demonstrated its inability to honor its commitments and abide by the rule of international law. This is not to say that commercial agreements can never be

¹⁷⁸ At the time of this writing, the Mongolian parliament is considering a review of the foreign investment law and a repeal.

renegotiated. Occasionally, renegotiations are imperative. However, what China's experience in Mongolia (and even British experiences such as Rio Tinto) has highlighted in recent years is that renegotiations and the unraveling of commitments by the Mongolian government are more a deliberate pattern of incompetency, selfishness, and parochialism rather than being outlier events. The China experience in Mongolia is a cautionary tale about doing business in Mongolia, not just for Chinese state-owned companies. Instead, it is clarion call to all foreign investors in general: *caveat emptor*.

Mongolia is at a tipping point in its relations to the world. As the railway project demonstrated, does it wish to situate itself alongside Russia or orient itself towards China, the United States, and South Korea? It is a difficult decision for Mongolia because it is completely dependent upon Russia for its energy needs. Additionally, Mongolia's fear of sinicization is so deeply ingrained that it has become a psychological barrier affecting its financial policies and economic development.¹⁷⁹

By perpetuating the status quo and not making difficult decisions, Mongolia will, sadly, continue to idle in its current quagmire. China's approach in its relations to Mongolia may be less accommodating in the future as a result of the events that it considers specifically targeted towards itself. In truth, Mongolia had no qualms about denying the intent of these laws or renegotiating its agree-

¹⁷⁹ Justin Li at the Institute of Chinese Economics (ICE) mentions, "The imperial legacy of China still lingers in the minds of some Mongolians and this landlocked country only gained independence from China as late as 1921," Justin Li, "Chinese investment in Mongolia: An uneasy courtship between Goliath and David," (East Asia Forum, February 2, 2011), <<http://www.eastasiaforum.org/2011/02/02/chinese-investment-in-mongolia-an-uneasy-courtship-between-goliath-and-david/>>.

ments—Mongolia simply felt it could get away with it without any major consequence. These events, from Beijing's perspective, had the unfortunate effect of highlighting the risks in strengthening relations with Mongolia. In the meantime, Mongolia's window to the world may be closing.

4

*China's Relations with Vietnam:
Permanently Caught Between Friend and Foe?*

Catharin E. Dalpino

Historically and currently, Vietnam's relationship with China is by far the most complicated—and contradictory—of any Southeast Asian state. The relationship regularly expands and contracts, following positive upswings or negative downturns, often in response to changes in regional and global geostrategic dynamics. Historic foes, Vietnam and China have also been close allies, particularly during Vietnam's wars with France and the United States. With the largest population on mainland Southeast Asia and one of the region's most dynamic economies, Vietnam's rise as a middle power has implications for dynamics within Southeast Asia, and for Southeast Asia's relations with China. Moreover, Vietnam is one of three Southeast Asian peripheral states, those that share a border with China and so have an extra dimension to relations, including migration, border control, and related issues. This chapter examines Vietnamese views of their larger neighbor to the north and the present state of Vietnam-China relations. It also considers how this bilateral relationship affects China's role in Southeast Asia. Lastly, the chapter explores current trends in Vietnam-US relations with an eye to their impact on Vietnam-China ties.

The Impact of History

Dominated by the Middle Kingdom for a thousand years, from the seventh to the seventeenth centuries, Vietnam nevertheless was able to hold onto a sense of its own cultural identity and a considerable degree of local autonomy. The ancient Vietnamese adage, "The mandate of the Emperor stops at the village gate," is believed by some scholars to have originated as an an-

ti-Chinese slogan, although it would later be applied to Vietnam's own ruling dynasties as well. From the beginning of their rule, however, the Chinese made no distinction between Viet peoples and those of Canton and Yunnan;¹⁸⁰ in Chinese history, Vietnam is cast as a southern province of China, albeit a rebellious one.

Vietnamese history emphasizes the end of Chinese rule in the seventeenth century but tends to deemphasize more than two centuries of tributary relations with Beijing before France consolidated its hold on Vietnam in the late nineteenth century. During this period, northern Vietnamese rulers expanded southward rapidly and the country fell into internal strife. Early rulers of the Nguyen dynasty formed alliances with China's Qing dynasty, dispatching tributary delegations and making regular payments to Beijing.¹⁸¹ This tributary relationship did not prevent China from making occasional military attacks on Vietnam, but Beijing was never able to establish the same level of control it had exerted prior to the seventeenth century. Not surprisingly, Vietnam and China had opposite interpretations of the relationship: to Beijing, Vietnam was another satellite in the pre-colonial Chinese world order, but the Vietnamese rulers saw themselves as equal to the Chinese.

National identity notwithstanding, China left a strong social and administrative imprint upon Vietnam. Confucianism—with its family order, emphasis on education, and highly defined bureauc-

¹⁸⁰ Frances Fitzgerald, *Fire in the Lake: The Vietnamese and the Americans in Vietnam* (Boston: Little, Brown & Company, 1972), p. 36.

¹⁸¹ For a discussion of this period, see Yu Insun, "Vietnam-China Relations in the 19th Century: Myth and Reality of the Tributary System," *Journal of Northeast Asian History*, Vol. 6, No. 1 (June 2009), p. 81-117. Yu believes that Vietnam's pre-colonial 19th century dynamics with China bear similarity to Korea-China political relations during the same period.

racy—is still evident in Vietnam today. Ironically, nineteenth century French colonizers were able to use the mandarin administrative system for their own control of Vietnamese provinces. Socially, the Vietnamese mandarin class endured well into the twentieth century. At the same time, lingering Chinese influence also helped position Vietnam to become the first Southeast Asian state to develop a communist movement, in 1925, just as the Vietnamese Nationalist Party was modeled after the Kuomintang Party in 1927.¹⁸²

Officially, formal French colonization of Vietnam was a function of French-Chinese relations. Although French soldiers, commercial agents, and missionaries had been moving steadily into Vietnam during the second half of the nineteenth century, it was the Treaty of Tientsin in 1884, between France and China, that recognized French dominance over Vietnam and marked the end of formal Chinese influence. However, the French recognized the importance of Chinese commerce in Vietnam. Chinese businessmen were granted special visa status in French Vietnam, and the ethnic Chinese community enjoyed some protections during the colonial period.¹⁸³

¹⁸² However, the Communist Party of China was not the only influence on the development of Vietnamese communism. Although early forms of the Vietnamese Communist Party were modeled in part on the CPP, they were overseen by the Communist International (Comintern), with Ho Chi Minh making trips to Moscow for consultations. Moreover, Ho was a founding member of the French Communist Party in 1924, and took early political inspiration from his exposure to Marxism during his residence in Paris in the 1920s.

¹⁸³ The prominent role of ethnic Chinese in the Vietnamese commercial sector continued into the independence era and only abated after North Vietnam achieved a military victory over the South in 1975. Hanoi feared that it could not establish a command economy in the South if ethnic Chinese commercial structures were allowed to remain. In addition to systemic change, ethnic

Vietnam and China in the Cold War

Prior to the escalation of the US war in Vietnam in the mid-1960s, the Democratic Republic of Vietnam (North Vietnam) received support from both Moscow and Beijing, two major communist powers that were increasingly at political odds. Both countries had been a major source of support for the Viet Minh in its war against the French in the early 1950s, although proximity gave China an obvious edge. (The People's Republic of China was the first government to recognize the DRV, in 1950.) However, the 1964 Gulf of Tonkin resolution in the US Congress, orchestrated by the administration of President Lyndon Johnson to authorize US intervention in Vietnam, was a turning point in cooperation between Hanoi and Beijing. The resolution—and Johnson's introduction of US combat troops into Vietnam in 1965—was more directly threatening to China and North Vietnam than to the Soviet Union. Moscow and Beijing also held differing views of the prospects for winning the war against the United States, with Beijing more optimistic. In any case, by the mid-1960s US-Soviet relations had stabilized and Moscow saw no apparent need to antagonize Washington with high-profile support to Hanoi.

Despite the lesser impact of American escalation of the war on Moscow, Soviet leaders by that time were competing openly with Beijing for influence over the DRV, as well as other countries in the Third World. However, the shock of the Gulf of Tonkin resolution was sufficient for Beijing to offer a sharp increase in military assistance to Hanoi, in return for a more exclusive role as North

Chinese were also targeted for discrimination, many of them joining the population of "boat people" who left Vietnam in the second half of the 1970s.

Vietnam's primary external patron.

China's assistance in the war was primarily in the form of equipment—especially anti-aircraft artillery—and technical support, particularly important to repair North Vietnamese infrastructure damaged by American bombing campaigns. Although American policymakers believed that China would introduce its own forces into the war, as it did in the Korean War,¹⁸⁴ this was not Beijing's intention in the Vietnam War: by the mid-1960s, Chinese policymakers had apparently realized the benefit of proxy war, in contrast to direct intervention. However, this is a matter of some hair-splitting: although Chinese forces were not engaged in battle with US or South Vietnamese forces, as many as 100,000 were in North Vietnam to provide logistical and engineering support. To be sure, Mao Tse-tung dangled the possibility of Chinese troops before Hanoi on occasion, primarily as a means of urging North Vietnam to expand the war and to confront American troops directly in the South.¹⁸⁵ In any case, this period was a time of heightened tensions between the United States and the PRC. Beijing's new position as Hanoi's closest partner was fodder for Chinese propaganda and US-China rhetorical clashes.¹⁸⁶ Beijing also com-

¹⁸⁴ See, for example, John K. Allen, "Central Intelligence SNIE 1366 Current Chinese Communist Intentions in the Vietnam Situation, August 4, 1966," Jhon K. Allen, *Estimative Products on Vietnam, 1948-1975* (Washington, D.C.: Government Printing Office, 2005).

¹⁸⁵ Bob Seals, "China's Support for North Vietnam During the Vietnam War: The Decisive Edge," *Military History Online*, September 23, 2008, <<http://www.militaryhistoryonline.com/20thcentury/articles/chinesesupport.aspx>> (accessed September 1, 2013).

¹⁸⁶ Seals quotes Chou En-Lai in a 1965 meeting with Egyptian leader Abdul Nasser: "...the more troops they [the United States] send to Vietnam, the happier we will be, for we feel that we will have them in our power, we can have their blood..."

municated to Washington its desire to support Hanoi in the war through diplomatic channels at regular intervals.

The Post-War Deterioration in Vietnam-China Relations

Although many military historians believe that Hanoi could not have successfully prosecuted its wars against France and the United States without Chinese assistance, by the end of the “American War” in 1975 there were no Vietnamese-Chinese celebration ceremonies. On the contrary, Vietnam-China relations worsened steadily throughout the 1970s and reached a crisis point with a border clash in 1979. During this time, China’s relations with the United States improved dramatically, beginning with President Richard Nixon’s groundbreaking visit to China in 1972 and culminating in the normalization of relations in 1979, during the administration of President Jimmy Carter. Warming relations with China underscored the US rationale for retreat from Vietnam and, by many accounts, blocked US normalization with Hanoi in the late 1970s.¹⁸⁷ During this period the Soviet Union inserted itself into the China-Vietnam dynamic again, eventually replacing Beijing as Hanoi’s strongest external partnership. Apart from checking a resurgent China, Moscow’s renewed friendship with Hanoi would provide the Soviet navy with a warm water port on the Pacific, Vietnam’s Cam Ranh Bay, which had been developed by the United States during the war.

Hanoi faced extraordinary challenges in the immediate aftermath of the fall of Saigon. Apart from reunification, repairing infra-

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¹⁸⁷ For an account of this period, of Vietnam-China tensions and of Washington’s choice of normalization with Beijing over Hanoi, see Nayan Chanda, *Brother Enemy: The War After the War* (San Diego: Harcourt, 1986).

structure, and introducing collective agriculture in the South (which would be recognized as a misguided policy a decade later), the Vietnamese government had to adapt to changing superpower and great-power relations. China was emerging from the Cultural Revolution and had little left in its coffers to offer Vietnam as assistance. Deng Xiaoping's economic reforms, promulgated in the late 1970s, did not correspond to Vietnam's more doctrinaire Marxist approach at the time. In any case, Hanoi expected to normalize relations with Washington soon after reunification or, at the least, to receive up to \$2 billion in US funds for post-war reconstruction, which President Nixon had pledged to provide in a secret side letter to the 1973 Paris Peace Accords.¹⁸⁸ Expecting early normalization, Vietnam even declined an invitation to join the Association of Southeast Asian Nations (ASEAN), wanting to work first on new relations with larger powers. By the end of the decade, however, it was clear that neither normalization with Washington nor a large reconstruction package would materialize. The US position against Vietnam hardened further in the 1980s for several reasons, but Hanoi's relationship with Moscow was clearly one of them, particularly after the Soviet invasion of Afghanistan in December 1979. The United States maintained an economic embargo on Vietnam from 1975 to 1994; although there were multiple reasons for this, one was an attempt to detach the Vietnamese from their Soviet patrons.

¹⁸⁸ Nixon also sent a secret letter to South Vietnamese President Nguyen Van Thieu, in which he promised to re-introduce US troops into Vietnam if Hanoi violated the terms of the peace agreement. In all likelihood, Nixon knew at the time that the US Congress would not support the terms of either letter, to Hanoi or Saigon. In any case, post-1975 the United States considered that Hanoi's military conquest of the South violated the terms of the peace agreement and invalidated Nixon's promises to Hanoi.

Beijing's brief against Hanoi in the late 1970s only seemed to grow. Wariness over Vietnam's new closeness with Moscow and resentment over the treatment of ethnic Chinese in Vietnam after 1975 were enough to create some political estrangement. Less tangible, but still important, was the Chinese interpretation of Vietnam's post-war attitude. Apart from the apparent lack of gratitude for Chinese support during the two wars,¹⁸⁹ Vietnam's perception of the bilateral relationship appeared to have altered. In Beijing's view, Hanoi had abandoned even the symbolic trappings of a tributary relationship and saw itself on equal footing with its larger neighbor to the north. However, history suggests that this was consistent with Vietnam's longstanding self-image.

Lastly, China was alarmed by Vietnam's growing role in mainland Southeast Asia in the late 1970s, which also strengthened the Soviet Union's presence in the region. Vietnam's invasion of Cambodia in December 1978 deposed Beijing's Cambodian client, the Khmer Rouge, and sent Chinese advisers fleeing to the Thai-Cambodian border along with KR leaders. To Vietnam, the invasion was a defensive move, to prevent a badly fracturing Khmer Rouge regime from starting a new Cambodian civil war with one side taking sanctuary in Vietnam. However, to China, the non-communist states of Southeast Asia, and the United States, the Vietnamese were exercising expansionist ambitions.

China supported the remnants of the Khmer Rouge on the border for a decade, strengthening its relationship with Thailand in

¹⁸⁹ This view appears to persist to the present day. In December 2010, the author interviewed four Chinese academics at Fudan University in Shanghai, on Chinese-Vietnam relations. When asked, "What do you teach your students about Vietnam?" all four mentioned lack of gratitude for Chinese wartime aid to Vietnam.

the process. In exchange for Bangkok's permission to let Chinese arms be transported over Thai territory to the Khmer Rouge, Beijing agreed to drop its support of the Thai communist party. Vietnam also maintained a considerable presence in Laos immediately after 1975, both in troops and in bureaucratic officials placed in Lao ministries.

These various factors had an accumulated effect on Chinese policymakers, who considered the prospect of an "Indochina Federation" led by Vietnam on its southern border to be a security threat even without the Soviet factor. In February 1979 the People's Liberation Army launched an attack across the Chinese-Vietnamese border, withdrawing two weeks later. Although both sides incurred heavy casualties (China reportedly lost twenty thousand troops while Vietnam lost thirty thousand), Vietnam was the perceived winner for forcing a Chinese retreat. Attempting to cast a more positive light on the Chinese retreat, Deng Xiaoping maintained that the invasion had been intended as a temporary measure, "to teach Hanoi a lesson." By the end of 1979, all attempts at peace talks between Vietnam and China were abandoned and both sides increased their troop positions on the border. Throughout the 1980s China and Vietnam had occasional skirmishes across the border, with Beijing intermittently threatening to invade Vietnam again.

Normalization and a New Regional Order

Vietnam's withdrawal from Cambodia in 1989 and its participation in the Cambodian peace process in the early 1990s signaled

a new phase in Hanoi's foreign policy, and supported the emergence of a new regional order based on the integration of all Southeast Asian countries into ASEAN. There were several reasons for the withdrawal beyond international political pressure and the US embargo. The Vietnamese occupation of Cambodia was ultimately incomplete, since ASEAN, the West, and the United Nations supported the Cambodian resistance coalition on the Thai-Cambodian border. Although a decade of fighting had been low-level and seasonal (with surges in the dry season and slack periods during the monsoon), it denied Hanoi total control of Cambodian territory.

By the late 1980s, however, Hanoi had two more compelling reasons to withdraw. First, since the adoption of the *doi moi* policy in 1986, Vietnam, like China, was transitioning to a market economy while trying to maintain a one-party state. This reordered Vietnam's external trade relations and required diplomatic normalization with the major market economies, particularly the United States. Second, Vietnam's external patron was itself changing, first through Gorbachev's policies of *glasnost* and *perestroika*, then with the liberation of Eastern Europe from Soviet political control and, eventually, the break-up of the Soviet Union itself. Like Cuba, Vietnam could no longer depend upon the Soviet Union for protection and assistance, but Hanoi had far better prospects for integrating into the international community than Havana.

In 1995 Vietnam became a full member of ASEAN. Although Laos, Cambodia, and Myanmar also entered ASEAN in the second half of the 1990s, Vietnam was clearly the prized new member. Although integration of the four new members realized a long-standing ASEAN dream to bind Southeast Asia together for the first time since pre-colonial days, the timing in terms of China's emer-

gence as a rising power was also fortuitous from ASEAN's point of view. Although Beijing was gearing up for a "charm offensive" toward Southeast Asia, the ASEAN states worried about rising tensions in Northeast Asia, particularly between the PRC mainland and Taiwan and, by extension, between China and the United States. Vietnam was viewed as a potential military counter-balance to China in the eyes of the original six ASEAN members.¹⁹⁰ (In 1995 Hanoi also normalized relations with the United States, a year after the administration of President Bill Clinton lifted the embargo against Vietnam.) The completion of ASEAN represented the integration of Southeast Asia's communist and non-communist states and changed the character of the association as a result. Once viewed as a lackey of the United States by the communist countries, ASEAN was now tamping down ideological differences, heralding a new age of political pragmatism.

ASEAN provided some counter-balance to China for Vietnam as well. To be sure, bilateral relations had begun to improve following the signing of the Cambodian peace agreement. The two countries normalized relations in November 1991, ending what CCP Secretary-General Jiang Zemin termed a "tortuous period" in Vietnam-China relations. Strictly speaking, the two countries had not severed formal diplomatic ties, but ordinary ties and communication had broken down, and leaders believed that a normalization ceremony would help to mark the end of two decades of conflict. If Vietnamese officials bristled that the ceremony was held in Beijing,

¹⁹⁰ Stephen Vines, "Vietnam Joins ASEAN Grouping," *Independent*, July 29, 1995, <<http://www.independent.co.uk/news/world/vietnam-joins-asean-grouping-1593712.html>> (accessed August 15, 2013). In the article, Vines likens relations between Vietnam and China as "similar to that of the French and the British."

hinting at the ancient tributary relationship, they downplayed their reservations. Jiang placed this revival of relations in context when he said it was “abnormal for China and Vietnam to be in a state of confrontation, but also unrealistic for their relations to return to the status of the 1950s and 1960s.” In the aftermath of the ceremony, border trade, direct rail links, and telephone communication between the two countries were resumed.¹⁹¹

In 1992 Vietnam and China opened discussions on land and maritime boundaries, and signed a land treaty in 1999. Maritime boundaries have proven to be considerably more difficult to resolve.

But Vietnam has also realized benefits in its relations with China through its ASEAN membership. In this regard, the two most important ASEAN-China vehicles to date are the 2002 ASEAN-China Declaration on the Conduct of Parties in the South China Sea and the 2003 China-ASEAN Free Trade Agreement. Although the declaration has as yet failed to produce concrete mechanisms to ameliorate tensions between China and the Southeast Asian claimants, ASEAN considers it to be important for two reasons. First, it emphasizes a multilateral approach to South China Sea conflicts, in contrast to China’s preference to approaching these issues bilaterally. Second, by working toward an eventual code of conduct on the South China Sea, the declaration embodies ASEAN’s preference for international norms over China’s assertion of “historic” claims in the SCS.¹⁹² As discussed below, for the past

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¹⁹¹ David Holley, “China and Vietnam Normalize Relations,” *Los Angeles Times*, November 6, 1991, <http://articles.latimes.com/1991-11-06/news/mn-954_1_bilateral-relations> (accessed August 12, 2013).

¹⁹² Jing-dong Yuan, *China-ASEAN Relations: Perspectives, Prospects and Implications for U.S. Interests*, (Strategic Studies Institute, US Army War College, October

several years Vietnam's greatest security concerns with China have centered on the South China Sea.

A second ASEAN mechanism of particular importance to Vietnam-China relations is the 2003 China-ASEAN Free Trade Agreement (CAFTA). The largest free trade area by population (and the third largest in economic value, after the European Union and the North American Free Trade Agreement), CAFTA made China ASEAN's fastest-growing trade partner, with growth averaging 20 percent per annum since 2003. This has not necessarily made China ASEAN's largest trading partner, a distinction that belongs to the European Union. Nor are ASEAN members entirely happy to hitch their economic wagon solely to China; the more developed economies are concerned that doing so will confine them to a mid-point on the supply chain. Accordingly, ASEAN seeks to diversify its trade relations through episodic negotiations with the European Union on a free trade agreement and by pressing the United States to consider an ASEAN-US free trade agreement.

Without doubt, Vietnam-China trade has grown exponentially since the advent of CAFTA. In 2001, bilateral trade amounted to \$3 billion, but had expanded to \$40 billion by 2012. Like other ASEAN economies, however, Vietnam is increasingly concerned with its trade deficit with China, which exceeded \$11 billion for the first half of 2013.¹⁹³

If the Declaration on Conduct of Parties in the South China Sea was ASEAN's attempt to impose order upon maritime disputes,

2006), pp. 19-21, <<http://www.strategicstudiesinstitute.army.mil/pdf/files/pub735.pdf>> (accessed August 12, 2013).

¹⁹³ Dezan Shira, "Vietnam Addresses Trade Deficit with China," *Asia Briefing*, August 12, 2013, <<http://english.caijing.com.cn/2013-08-12/113158672.html>> (accessed August 13, 2013).

CAFTA was one attempt by China attempt to position itself at the center of the emerging Asian economic order. Since the 1997 Asian economic crisis, when Beijing emerged as a new player in regional economic affairs, China has bifurcated regional economic and trade mechanisms into China-centered or Western (i.e., US)-centered. CAFTA places China and Vietnam on the same side but, as discussed below, Vietnam's membership in the Trans-Pacific Trade Partnership raises hackles in Beijing over Hanoi's "defection" to a US-led trade regime.

New Security Dynamics: The New "No"s

Over the past two decades, Vietnam has strived to re-configure its foreign policy away from dependence on a single ally toward a more balanced approach in its bilateral relations and stronger Vietnamese presence and participation in multilateral institutions and processes. Above all, Hanoi aims to stay out of conflict between larger powers; rather, it seeks to be viewed as a reliable but independent partner. In particular, Vietnam aspires to reap the benefits of closer relations with both China and the United States, but to stay clear of US-China conflict. However, Hanoi also fears a US-China relationship that is too close, one in which Washington might cede ground to Beijing, strengthening China's hand in the South China Sea and other territorial disputes.¹⁹⁴

To carve out a post-Cold War position, current Vietnamese

¹⁹⁴ Author's interview with officials of the Vietnamese Ministry of Foreign Affairs, in Washington, DC, August 15, 2013.

foreign policy is based on three nos: (1) no foreign bases on Vietnamese territory; (2) no military alliances; and (3) no use of a third country to oppose another country. The first two nos are relatively straightforward and consonant with the foreign policies of most ASEAN states, save Thailand and the Philippines, both of which maintain their treaty alliances with the United States. The third “no” might be viewed as aspirational but more difficult to follow; while Hanoi might resist being used as a pawn in great power competition, it may naturally find it more difficult to resist pitting one power against another in the cause of Vietnamese security. For example, Hanoi’s steady pressure on Washington to increase its rhetorical pressure on China over the South China Sea at the 2010 ASEAN Regional Forum meeting might fall into that category.

Although not a military alliance, Vietnam has entered into a comprehensive strategic partnership with China. Hanoi has also contracted strategic partnerships with Russia and the United Kingdom, but not as yet with the United States. The Vietnam-China partnership calls for regular meetings between high-level leaders, party-to-party exchanges, links between localities in each country, strengthening trade and economic links, and “resolving marine issues satisfactorily.”¹⁹⁵ In the last category, during an August 2013 visit to China by Vietnamese President Truong Tan Sang the two countries established a hotline between the heads of state, to avert potential maritime crises.

Forging bilateral security cooperation between Vietnam and China is a delicate task, but only slightly more difficult than

¹⁹⁵ “Enhancing the Vietnam-China Comprehensive Partnership,” *Nhan Dan Online*, June 18, 2013, <<http://en.nhandan.org.vn/en/politics/external-relations/item/1804002-enhancing-the-vietnam---china-comprehensive-strategic-partnership.html>> (accessed June 30, 2013).

Vietnam's new security relations with other powers. In these relations, Vietnam has focused cooperation on new or non-traditional areas of security, such as transnational crime and human and narcotics trafficking. As close neighbors, Vietnam and China also share environmental problems and the risk of natural disasters. Hanoi and Beijing co-chair the ASEAN Defense Ministers Meeting Working Group on Disaster Relief and Humanitarian Response.

Hanoi's current embrace of multilateral institutions is both broad and specific. Vietnam served its first term as a nontenured member of the United Nations Security Council in 2007-09, and is on track to join the United Nations peacekeeping force in early 2014. Vietnam has also had increasing influence on Asian regional architecture; during its chairmanship of ASEAN in 2010, Hanoi brokered the entry of the United States and Russia into the East Asia summit. The 2010 ASEAN chairmanship, Vietnam's second time as chair, marked a turning point in Hanoi's role in ASEAN. Prior to 2010, Vietnam was viewed primarily as the leader of the new ASEAN members, all of whom had authoritarian systems of government at the time. During this time, Hanoi's approach to ASEAN was viewed as more conservative, particularly in upholding the ASEAN principle of non-interference, particularly in contrast to Indonesia, Thailand, and the Philippines. However, the 2010 chairmanship established Vietnam as a more substantial player in ASEAN affairs. Beyond expanding the EAS, Hanoi also ushered in the ASEAN Defense Ministers Meeting Plus Eight, which incorporated the defense establishments of ASEAN's primary external partners and brokered relations between Myanmar and the West during a critical election year for Naypyidaw.

Tensions in the South China Sea and the Mekong River

Despite these broad changes in Vietnamese foreign policy and a general, if cautious, warming in relations with China, Vietnam-China relations are increasingly defined by tensions in the South China Sea. The Philippines, Malaysia, and Brunei claim some of the Spratly Islands, but Vietnam is the only Southeast Asian country that claims all of them, as well as the more northern Paracel Islands. Vietnam incorporates the Spratlys archipelago into its provincial administrative system. Hanoi bases its claims on historic title, some of which it inherited from France, as well as effective occupation and control.

China and Taiwan also claim all of the Spratlys, and China continues to occupy the Paracels since seizing them from South Vietnam in 1974. Accordingly, Vietnam takes a two-pronged approach to resolving territorial issues and related tensions in the South China Sea: it seeks to resolve issues with China on the Paracels on a bilateral basis, and to deal with the Spratlys through multilateral means.¹⁹⁶

Like much of its approach to the South China Sea, including the famous “nine-dash line” that envisions China’s sovereignty over the entire sea, China asserts historic claims over the Paracels and Spratlys, namely that both groups of islands were discovered, named, and managed by China since the East Han Dynasty (25-220 CE). However, no historical sources other than those from China make reference to Chinese sovereignty over these islands.¹⁹⁷

¹⁹⁶ This is not completely a matter of choice. Hanoi has periodically attempted to inject the Paracels into ASEAN negotiations with China over the South China Sea, such as the Declaration on Conduct of the Parties in the South China Sea, and has been unsuccessful in doing so.

Although skirmishes between China and Vietnam over the Paracels predate the current situation in the South China Sea, tensions between China and Southeast Asia over the Spratlys were largely dormant until the 1970s. Two major developments of the decade awakened new concerns over the South China Sea. One was the 1973 OPEC oil embargo and the need to identify new sources of petroleum energy. Initial explorations suggested that the Spratlys were potentially rich in oil and gas reserves. Second was the promulgation of the United Nations Convention on the Law of the Sea (UNCLOS), which sought to move maritime issues to a more rules-based approach by defining the rights and responsibilities of nations, with guidelines for business, environmental protection, and the management of maritime natural resources. Although Vietnam had also occasionally asserted historic claims in the South China Sea, in the face of Chinese assertiveness it has moved toward a more rules-based approach.

Conflict between China and Vietnam in the South China Sea is not confined to competing claims to islands in the sea basin, primarily the Paracels and the Spratlys. It also touches upon fishing rights, maritime boundaries, and control of shipping lanes. As a result, incidents of differing kinds can flare in numerous points in the South China Sea at any given time. In recent years, Vietnam has accused China of interfering with activities in Vietnam's territorial waters, such as cutting cables of petroleum drilling operations and launching attacks upon Vietnamese fishermen. Hanoi also charged

¹⁹⁷ Hong Thao Nguyen, "Vietnam's Position on the Sovereignty Over the Paracels and the Spratlys: Its Maritime Claims," *Journal of East Asia International Law* Vol. 5, No. 1 (May 2012), p. 169, <<http://southeastasiansea.files.wordpress.com/2013/08/vietnams-position-on-the-sovereignty-over-the-paracels-the-spratlys-its-maritime-claim.pdf>>.

that Beijing has attempted to intimidate Western oil companies, threatening to pull contracts with Chinese oil conglomerates if they also work with Vietnam.¹⁹⁸

Vietnam has employed various strategies to attempt to counter Chinese assertiveness in maritime issues:

Pulling in Larger Powers. Hanoi's successful lobbying of the Obama administration in 2010 persuaded Washington to increase the profile of the South China Sea on the agendas of regional and international meetings. Vietnam's point was that, if unchecked, Chinese assertiveness in the South China Sea would eventually threaten US freedom of navigation.

Legal Remedies. As noted above, Vietnam increasingly advocates the use of international law to settle competing claims or at least to provide guidelines for the peaceful resolution of disputes. For example, in May 2009 Vietnam and Malaysia made a joint submission to the UNCLOS Committee on the Limits of the Continental Shelf (CLSC), in effect arguing that sovereign rights to resources in the South China Sea should be determined by measuring the continental shelf from the mainland coast.¹⁹⁹ China protested the filing. Although Hanoi has not as taken on Beijing directly in international tribunals, it supports the Philippines' peti-

¹⁹⁸ Although this is difficult to document, the author's interviews with two US oil companies in 2012 confirms that Beijing has made such attempts in recent years. However, both companies maintained that they did not cave in to Chinese pressure.

¹⁹⁹ Robert Beckman, "South China Sea: Worsening Disputes or Growing Clarity on Claims?," *RSIS Commentaries* (Rajaratnam School of International Studies, Nanyang Technological University, August 16, 2010), <<http://www.rsis.edu.sg/publications/Perspective/RSIS0902010.pdf>>.

tion to UNCLOS in January, 2013, which seeks to invalidate China's nine-dash-line claim to sovereignty in the South China Sea, among other issues.²⁰⁰

Strengthening Maritime Surveillance and Defense. In recent years Vietnam has made concerted efforts to expand its coast guard capabilities, allocating a larger share of the defense budget to this purpose and increasing training. In August 2013 Hanoi announced that it was adding three patrol vessels to the coast guard.²⁰¹

Regional Approaches. Since its 2010 ASEAN chairmanship and the historic ARF meeting, Hanoi has been vigilant within ASEAN to keep South China Sea issues on the group agenda. This was a particular problem in 2012, when Cambodia served as ASEAN chair and acceded to Beijing's requests to avoid discussion of the South China Sea, both in ASEAN-only meetings and in ASEAN forums with its external partners. As the 2013 chair, Brunei has worked to restore ASEAN unity on the South China Sea and, working with Thailand in its capacity as the current ASEAN coordinator with China, has reinvigorated discussion between ASEAN and China on a possible code of conduct. The Southeast Asian claimant countries are wary that Myanmar, as 2014 chair, will bend to Chinese pressure and drop the South China Sea from the ASEAN agenda for

200. Parameswaran Ponnudurai, "Vietnam's Leader Rubbishes Beijing's South China Sea Claims," *Radio Free Asia*, July 25, 2013, <<http://www.rfa.org/english/news/vietnam/sea-07252013220917.html>>.

201. Nguyen Pham Muoi, "Vietnam Strengthens Coast Guard Amid South China Sea Tensions," *Wall Street Journal*, September 1, 2013, <<http://blogs.wsj.com/searealtime/2013/09/01/vietnam-strengthens-coast-guard-amid-south-china-sea-tensions/>>.

that year.

Although tensions in the South China Sea take up the lion's share of attention in Vietnam-China security relations, Vietnam is also affected by China's dam-building and other activities on the Mekong River. The most downriver of the six Mekong countries (which also include Laos, Thailand, Myanmar and Cambodia), Vietnam's Mekong River Delta is in line to experience major ecological disruption if upriver countries continue to build on the Mekong. (Projects in Laos, primarily designed to sell hydroelectric power to Thailand, also exert an effect on Vietnam as would dams currently being considered by Cambodia.) Of China's plans for twelve dam projects on the Mekong, four have been completed and, according to estimates by the Stimson Center, a Washington think tank, "pose a direct and significant threat to the future of the river and tens of millions of people who depend upon it for their food and livelihoods."²⁰²

Attempts by the Mekong River Commission (MRC) to regulate projects on the Mekong are hampered by the fact that China is not an MRC member. China in other ways resists the principle of external regulation of its internal infrastructure, although in recent months Beijing has said that it would consider the environmental impact of its dam projects. Nor are international development banks able to exert as much influence over infrastructure development in Southeast Asia as they once could, since most of the Mekong projects are now privately funded. Given the multilateral

²⁰² Richard Cronin and Timothy Hamlin, "Mekong Turning Point: Shared River for a Shared Future," (Washington, D.C.: Stimson Center, 2012), <http://www.stimson.org/images/uploads/research-pdfs/SRSF_Web_2.pdf>.

nature of Mekong development, Vietnam has little option but to work through regional organizations to constrain the upriver countries.

Vietnam-China Rivalry within Southeast Asia

If China is worried about stability on its own periphery with smaller states, Vietnam is as well. Expanding Chinese relations with both Laos and Cambodia threatens Vietnamese influence in those countries and has the potential to give Beijing more leverage in mainland Southeast Asia. Vietnam-Cambodia relations are complicated by Vietnam's occupation of Cambodia in the late 1970s and 1980s; on the one hand, it provides access to the ruling party, the Cambodia People's Party, which is a descendent of the party installed by Hanoi after the 1978 invasion. On the other hand, anti-Vietnamese sentiment in Cambodia is strong, in addition to a long history of Cambodian prejudice against ethnic Vietnamese.

China's expanding relations with Laos are of greater concern to Vietnam. During the Cold War, the Vietnamese Communist Party was the political mentor of the Pathet Lao, and the People's Army of Vietnam (PAVN) fought with (and often led) Pathet Lao insurgencies against the royalist government in Vientiane before 1975. When Laos became communist in 1975, Vietnam oversaw its political and military transition. For a decade after the war, Hanoi was Vientiane's sole external partner. This monopoly was broken in the late 1980s, when Thailand normalized relations with Laos and Thai commercial enterprises rapidly established Thailand as Laos's largest trading partner, which remains true today. Although Hanoi was hardly pleased with the "Finlandization" of Laos in this manner, it was not overly alarming to Vietnamese

strategists. Thailand and Laos have stronger cultural, religious, and linguistic ties than do Vietnam and Laos, and as long as Hanoi could maintain its position as Vientiane's political mentor it could tolerate Thailand's growing presence.

China's charm offensive in Laos in the 1990s presented greater worries for Hanoi. Historically, Laos's mountainous terrain had largely deterred Chinese migration, so Laos had a smaller community of ethnic Chinese than other Southeast Asian nations. China did provide some funding to the Pathet Lao during the war, but had less direct involvement than Vietnam, not least because Beijing was devoting large sums to support Hanoi at that time. After the post-1975 estrangement between Vietnam and China, Beijing had few entry points into Laos.

But China has more than made up for lost time in its present relations with Laos. The landlocked and extremely poor country had two attractions for China: its natural resources and its potential as a land corridor for road and rail systems that would enable China to transport goods through Laos to Thailand, Malaysia, and Singapore. Given its relative poverty and sparse population, Laos was also a better candidate than Vietnam for large Chinese plantations that would come with sizeable contingents of Chinese workers, sometimes as many as thirty thousand for a single project. As China's footprint in Laos was becoming more evident, Vietnam's political hold on the regime in Vientiane was beginning to slip, a consequence of the passing of the revolutionary generation in both Vietnam and Laos. China's new relationship with Laos has motivated Vietnam to strengthen its ties with Laos, but it will be an uphill battle. Although Thailand has been able to hold onto its position as Laos's largest trading partner, Vietnam has slipped to third place behind China.

The Economic Arena

Vietnamese sensitivities to asymmetry in Vietnam-China relations are increasingly felt in the economic sector. The dramatic rise in trade volume between the two countries does not mask Vietnamese discontent with the quality of trade. Specifically, Vietnam exports natural resources to China and imports technology it regards as belonging to the twentieth rather than the twenty-first century.²⁰³ The size discrepancy between the two economies guarantees asymmetry, but Vietnamese discontent goes beyond this obvious fact. A popular perception in Vietnam of its trade with China is that China takes unfair advantage of the smaller partner, and that Vietnamese businessmen do not know how to “play” with China. Vietnamese trade analysts allow that Vietnam has little in the way of an export strategy for China. For example, in contrast to Thailand, Vietnam seldom sends trade delegations to China or conducts trade fairs. Also, lax border control, for which both sides are responsible, is felt to disadvantage Vietnam.²⁰⁴ These complaints in Vietnam are a variation of those heard throughout ASEAN a decade after the China-ASEAN Free Trade Agreement went into force. And like Laos and Myanmar, Vietnam faces special challenges because it shares a border with China. On the one hand, trade is greatly facilitated by geography; on the other, easy access through a common border promotes more informal trade and, ac-

203_ See, for example, “Identifying China as a Trade Partner,” *Vietnam Net Special Reports*, April 24, 2013, <<http://english.vietnamnet.vn/fms/special-reports/74423/identifying-china-as-trade-partner.html>>.

204_ “Vietnam Business Must Know How to ‘Play’ with China,” *Vietnam Net Special Reports*, April 26, 2013, <<http://english.vietnamnet.vn/fms/special-reports/74718/vietnamese-businesses-must-know-how-to--play--with-china.html>>.

ording to some Vietnamese economists, encourages corruption.

Although China is Vietnam's largest trading partner, it does not hold the largest foreign investment; China is eclipsed on that score by Japan, South Korea, Taiwan, Russia, Singapore, and the United States. Moreover, Vietnam is in the midst of an FDI surge: as labor costs rise in China, Vietnam has become an attractive target for foreign investment, despite some reservations about the country's considerable levels of corruption, bureaucratic red tape, and high inflation. Among other things, China is hampered by its approach to investment in Southeast Asia, which tends to utilize Chinese rather than local labor, reducing the added value of training the indigenous workforce. On the contrary, Vietnamese government plans to allow a Chinese bauxite mining project, connected to a government-run aluminum factory, encountered sharp and protracted opposition from Vietnamese opposition figures and environmentalists, beginning in 2008 and persisting for several years. Although the primary reason for resistance was the risk of harm to the environment, the mining project clearly hit an anti-Chinese nerve in the Vietnamese public.²⁰⁵

The Impact of the Trans-Pacific Trade Partnership

With the aim of moving up the international economic supply chain through trade with more developed economies, Vietnam entered negotiations to join the Trans-Pacific Trade Partnership (TPP) in 2009. Then and now, the TPP represented Vietnam's only option for entering into a free trade agreement with the United

²⁰⁵ "Opposition Still Strong to Government Plans to Develop Bauxite Mines," *Asia News Service*, November 4, 2010, <<http://www.asianews.it/news-en/Opposition-still-strong-to-government-plans-to-develop-bauxite-mines-19904.html>>.

States. By 2009, Washington had tacitly abandoned the prospect of developing bilateral free trade agreements with Southeast Asian nations, and both the administrations of presidents George W. Bush and Barack Obama had made clear that a US-ASEAN FTA was not a tangible prospect for the near term. Vietnam faces daunting challenges in reforming its system to meet TPP requirements, in particular providing a level playing field for foreign investors, which would require jettisoning such preferences for state-owned enterprises as financing below market rates and procurement preferences.²⁰⁶ With Japan's decision to enter into TPP negotiations in July 2013, Vietnam's economic stake in the agreement has only increased.

China's initial reaction to the Trans-Pacific Trade Partnership was sharply negative. Beijing saw the TPP as an attempt to establish an economic order in Asia that would explicitly exclude China and seek to undermine China's growing role in the region's economic architecture. Chinese officials were inclined to attribute this attempt to the United States, although the TPP has been in existence for several years without US participation. The officials singled out Vietnam for particular ire; in their view, Vietnam was not only undermining China but also attempting to split ASEAN. It was seldom mentioned that Singapore and Brunei were founding members of the TPP, and that Malaysia was negotiating for entry in the same rounds with Vietnam.²⁰⁷ Japan's entry into the TPP acted as a cold water shock to Beijing, and Chinese rhetoric on the trade agreement appears to have softened somewhat. Although China

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²⁰⁶ David Brown, "Vietnam's Need for the TPP," *Asia Sentinel*, September 2, 2013, <http://www.asiasentinel.com/index.php?option=com_content&task=view&id=5680&Itemid=238>.

²⁰⁷ Author's interview with officials of the PRC Ministry of Foreign Affairs on the topic of the TPP in April 2011, in Annapolis, Maryland.

has expressed no concrete intention to enter into TPP negotiations, in recent months analysts close to the government have mused publicly about the possibility at some future point.

Political Development in Vietnam and China: Is a Common Path Diverging?

Perhaps the closest aspect of Vietnam-China relations is party-to-party relations. In its seventy-year history, the Vietnamese Communist Party's development has not paralleled that of the Chinese Communist Party in every sense; for example, Vietnam did not undergo a cultural revolution phase and eschewed other forms of Maoism as well. However, their status as two of the remaining Leninist parties in Asia in the post-Cold War order gives a new rationale to the relationship. Party officials in both countries report that party-to-party relations have grown closer in the wake of the "Arab spring" of 2010-2011 as leaders seek to avert similar uprisings in their countries. Both parties have pursued similar strategies of bringing younger members into the leadership structure, many of them from the commercial sector, in an attempt to re-invent the party as an instrument of economic development.²⁰⁸ Although this strategy helps to modernize the party, it also exacerbates tensions between the older, revolutionary generation and younger party members born into more prosperous times. Both parties also face mounting criticism on grounds of corruption and

²⁰⁸ Author's interview with officials from the Vietnamese Communist Party External Relations Department, December 2012, in Washington, D.C.

nepotism.

Political transitions in both countries are based in the party congress process, and in link between the party and other organs of state, most obviously the executive branch and the national assembly. But subtle differences are emerging in the two parties as they seek to maintain party control while they continue to develop market economies. Officials from both countries characterize the Vietnamese political system as more liberal: in their estimation, the VCP is more decentralized and the National Assembly is more assertive against both the party and the executive branch.

However, others—primarily Western analysts—note that China is better able to tolerate discussion of a future in which the communist party is not the sole source of political power.²⁰⁹ To be sure, that discussion is tightly controlled by the party, and usually confined to scholars of the Central Party Academy. By contrast, Vietnam party officials resist such speculation and are particularly wary of the concept of “peaceful evolution,” a phrase often favored by Western analysts that Vietnamese officials often interpret as “regime change.”²¹⁰ At present, party relations are a cohesive element in Vietnam-China relations; however, if either party or political system were to experience sudden or dramatic change it could become a new source of bilateral conflict. Given the demonstration effect, a sudden move away from one-party rule in one country would present a challenge to party control in the other. Beyond that, China views its party convergence with Vietnam as an asset in

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²⁰⁹ See, for example, Jamil Anderlini, “Is the Party Over?,” *Financial Times*, September 21-22, 2013, p. 1.

²¹⁰ Roger Cohen, “Peaceful Evolution Angst,” *New York Times*, May 4, 2009, <http://www.nytimes.com/2009/05/25/opinion/25iht-edcohen.html?_r=0>.

keeping Hanoi within its “sphere of influence.” In this sense, the value of the party-to-party relationship is more geopolitical than ideological.

Another political similarity, though it frequently creates tension in Vietnam-China relations, is the growing importance of public opinion in domestic politics. Both governments are under greater pressure to achieve foreign policy success and to manage rising nationalism. Here again asymmetry is at play: more anti-Chinese sentiment is evident in Vietnam than anti-Vietnamese feelings in China. Instead, Vietnam’s occasional flashes of anti-Chinese nationalism might be likened to views of Japan in some quarters of the Chinese public. Without doubt, anti-Chinese feeling can be useful to Vietnamese policymakers, particularly over South China Sea issues, but it can also be counter-productive. In August 2011 the Vietnamese government arrested protestors who had rallied against Chinese actions in the South China Sea for two months, under pressure from other ASEAN nations that believed the protests were harming diplomatic efforts with China on a Code of Conduct.²¹¹

The Vietnam-China-US Triangle

Normalization of Vietnam-US relations in 1995 added an extra dimension to Vietnam’s relations with China. For Vietnam to integrate into the global market, it was essential that the United

²¹¹ John Ciorciari, “Vietnam Tries to Put the Anti-China Genie Back in the Bottle,” *Asia Society Online Briefs*, August 24, 2011, <<http://asiasociety.org/blog/asia/vietnam-tries-put-anti-china-genie-back-bottle>>.

States lift its embargo on trade with Vietnam. However, 1995 was also the year that China and the Philippines clashed over Mischief Reef in the South China Sea, to the Philippines' disadvantage, as well as the year that China lobbed missiles into the Taiwan Straits, evoking a "gunboat diplomacy" response from the United States. Normalization between Vietnam and the United States had been in progress for some years before 1995, but the juxtaposition of events in 1995 underscored a second major benefit for Vietnam: the potential for protection under the US security umbrella in the Asia-Pacific region.

That said, security did not play a large role in Vietnam-US relations in the early post-normalization period; instead, trade and investment were the engine of the relationship. After completion of the 2002 US-Vietnam Bilateral Trade Agreement, bilateral trade increased four-fold in a decade. If and when the Trans-Pacific Trade Partnership is completed, the momentum in US-Vietnam trade will increase exponentially.

Although economic ties will continue to lead the relationship for the immediate future, the growth area in Vietnam-US relations is in security. In the late 2000s, US-Vietnam military ties were expanded, spurred on by Vietnamese concerns about Chinese assertiveness in the South China Sea and a growing convergence of interest between Vietnam and the United States in maritime security. At the same time, Vietnam revived its relationship with Russia and also expanded ties with the Japanese navy. All of these moves by Hanoi were approached carefully, to avoid alarming Beijing, but the upswing in US-Vietnam security cooperation was arguably the boldest of these moves. The attraction for Hanoi was not only the US Seventh Fleet but also the US position as a more distant power. As a Pacific, but not Asian nation, Washington was less constrained

by dynamics with neighbors in its Asia security policy.

At this juncture, the Vietnam-US security relationship can be best be described by its constraints as much as its features. The two countries have established a high-level defense dialogue and Vietnam is included in US International Military Education and Training (IMET) programs. The United States currently provides training to the Vietnamese military in peacekeeping operations to support Vietnam's entry into the UN peacekeeping force in 2014. Vietnam grants access to Cam Rahn Bay for US ships for refueling and repair under a general policy toward foreign ships rather than a specific preference. However, Vietnam has continually pressed the United States for the sale of lethal weapons, which Washington declines because of concerns about the Vietnamese human rights situation.²¹²

However, Vietnamese officials have privately expressed some disappointment that relations are not smoother at the highest level. When Vietnamese President Truoung Tan Sang visited Washington in July 2013, he and President Obama signed a US-Vietnam Comprehensive Partnership. While a bilateral partnership of any kind is an achievement in itself, and although more conservative and pro-Chinese elements of the Vietnamese Politburo were reluctant to accept it, some Vietnamese officials were disappointed that the two countries did not forge a strategic partnership like that of Hanoi with Beijing. Moreover, Vietnamese are increasingly frustrated that President Obama has yet to visit Vietnam. Thus far, he has visited Indonesia, Singapore, Thailand, Cambodia, and Myanmar

²¹² Mark Manyin, "US-Vietnam Relations in 2013: Current Issues and Implications for U.S. Policy" (Washington, D.C.: Library of Congress Washington DC Congressional Research Service, 2013), <<http://www.fas.org/sgp/crs/row/R40208.pdf>>.

and visited Malaysia, Brunei and the Philippines in late 2013.

The relationship also has outstanding war legacy issues, most prominently the continuing impact of Agent Orange in Vietnam. The United States now provides assistance to help clean up former US bases where the herbicide was stored and spilled, and where dioxin levels are higher in the soil and water than in other areas of Vietnam. Much more is needed, however, not only for base clean-up but also to ameliorate the problems of Vietnamese who suffer from direct exposure or the genetic effects of Agent Orange.

Beneath these issues are deeper questions about the trajectory of Vietnam-US relations in the current Asian strategic environment. In this regard, longtime Vietnam watcher and security analyst Carlyle Thayer argues that US-Vietnam strategic convergence is not strategic congruence.²¹³ The United States and Vietnam may have common security concerns, particularly in the South China Sea, but neither side appears to be ready to make adjustments in the relationship that would strengthen cooperation in key areas. For the time being, security cooperation is focused on non-traditional security threats, such as disaster relief and counter-terrorism.

More pointed cooperation, such as joint maritime patrols, is beyond the scope of the relationship at the present time. Vietnam is not willing to consider scenarios for “flexible basing” with the United States, similar to arrangements under discussion with the Philippines, Thailand, and Singapore. Nor is it willing to officially join such exercises as Cobra Gold, the largest multilateral exercises

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 213_ Carlyle Thayer, “Vietnam and the US: Convergence But Not Congruence in the South China Sea,” *International Relations and Security Network*, February 13, 2013, <<http://www.isn.ch/Digital-Library/Articles/Special-Feature/Detail/?lng=en&id=159647&contextid774=159647&contextid775=159646&tabid=1453526659>>.

in the world, although it has participated on occasion as an observer. On the US side, neither the White House nor the Pentagon appears willing to make a case before Congress to sell arms to Vietnam on the grounds of national interest.

It would be unrealistic to expect otherwise at this juncture: both countries are constrained by their mutual history, which fosters suspicion of the United States in some corners of the Vietnamese policy community and ideological fervor against Vietnam in some quarters of official Washington. And although fear of offending or riling China is stronger in Vietnam than in the United States, it does factor into each side's strategic calculus.

However, the state of Vietnam's relations with both China and the United States, as well as its more prominent role in ASEAN affairs, are testament to Hanoi's diplomatic skill and its pursuit of a new, more omni-directional foreign policy. Versions of this post-Cold War flexibility in foreign policy are seen all over Southeast Asia—with Myanmar the latest practitioner—but arguably no ASEAN government has as much experience or as much reason to pursue such a policy as does Vietnam.

Conclusion

To some extent, Vietnam has demonstrated that it is possible to constrain China to a limited extent through regional organizations and a foreign policy that seeks to form reliable partnerships, with as many external relations as possible. To some Southeast Asian governments (such as Singapore), Vietnam's persuasion of the United States to criticize Chinese assertiveness in the

South China Sea at the 2010 ARF meeting was tantamount to crying fire in a crowded theater. The net result of Hanoi's action was to assure a place on the agendas of regional forums for South China Sea issues, Cambodia's wobbliness in 2012 notwithstanding. It did not deter China from its claims of sovereignty over the South China Sea or occasional assertive acts, but it most likely contributed to the current dialogue process between China and ASEAN over a code of conduct.

Given its history and its geostrategic position as China's southern neighbor, Vietnam may never find permanent peace with China. However, its multipronged policy of cultivating relations with Beijing and a number of other rising and established powers may help to stabilize the balancing act. Like other Southeast Asian nations, Hanoi views investments in relations with both Washington and Beijing as an insurance policy. The United States may be able to offer protection against the rough edges of a rising China, but Washington has proven to be a distracted partner at times, and it is advisable to maintain good relations with Beijing when possible. And while economic relations with China may stunt more developed Southeast Asian nations that are ready to move up the economic ladder, they offer an alternative to economic downturns in the West, seen in the 2008 US recession.

The challenge for both the United States and China in relations with Vietnam and other Southeast Asian nations is to accept and support this broader version of foreign policy. Indeed, the utility of ASEAN and its various exercises with its external partners depends upon the ability of Southeast Asian states to juggle regional powers in an adroit and constructive manner. For Vietnam in particular, being forced to choose between China and the United States is not only impossible, but it is not in the interests of either

Washington or Beijing. Whether China in particular can come to terms with Hanoi's permanent balancing act is a question that will affect not only Vietnam-China relations but, more broadly, the stability of Southeast Asia.

5

*China's Relations with Laos and
Cambodia*

Carlyle A. Thayer

Laos and Cambodia are among Southeast Asia's least developed states. Their economies are miniscule when compared to Indonesia, Malaysia, Thailand, and Vietnam. Yet China has invested considerable political and economic capital in both states. This chapter focuses on why China has done so. It reviews how Laos and Cambodia interact with China bilaterally and multilaterally. Given the asymmetric nature of the relationship, this chapter explores how Laos and Cambodia attempt to constrain China's influence in order to maintain their own autonomy, while at the same time leveraging their bilateral relations with China for their own benefit. This chapter also considers whether Laos and Cambodia pursue a policy of bandwagoning with China and, if so, what are the future implications.

China's relations with Laos and Cambodia must be placed in their broader geostrategic geopolitical settings. Laos and Cambodia, as mainland Southeast Asian states, lie within China's immediate proximity. They therefore are important geostrategically as friendly buffer states. Laos borders China and both states share convergent interests in dealing with transnational security challenges. Further, Laos provides a crucial link in the North-South Corridor linking landlocked Yunnan province to the Mekong River and Thailand and states further to the south. Both Laos and Cambodia offer economic opportunities to China both as providers of natural resources and as markets for Chinese goods.

Laos and Cambodia are also important geopolitically. During the precolonial era both the Khmer Empire at Angkor and the Lao Kingdom of Lan Xang maintained tributary relations with the Middle Kingdom.²¹⁴ After the founding of the People's Republic of China (PRC), both Cambodia and Laos extended diplomatic relations, respectively, on July 19, 1958, and April 25, 1961. Laos and

Cambodia are important geopolitically because both are members of the Association of Southeast Asian Nations (ASEAN). Laos joined in 1997 and Cambodia followed suit two years later.

China, therefore, has to structure its relations with Laos and Cambodia both bilaterally as well as multilaterally. For example, between 1999 and 2000, China signed long-term cooperative framework agreements with all ten ASEAN members, including Laos and Cambodia.²¹⁵ China also forged a strategic partnership with ASEAN and in 2010 negotiated a China-ASEAN free trade agreement.

This chapter is divided into four parts. Part one provides an overview of China's relations with ASEAN. Parts two and three provide an analysis of China's bilateral relations with Laos and Cambodia, respectively. Part four offers conclusions.

ASEAN-China Relations: An Overview

Dialogue Partner

When Laos and Cambodia joined ASEAN in the late 1990s they had to subscribe to all existing arrangements, including those negotiated between ASEAN and China. As ASEAN members, Laos and Cambodia assumed the duty of ASEAN chair in 2004 and

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²¹⁴ Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," Elleman, Bruce A., Stephen Kotkin and Clive Schofield (eds.), *Beijing's Power and China's Borders: Twenty Neighbors in Asia* (Armonk: M.E. Sharpe, 2013), p. 145.

²¹⁵ Carlyle A. Thayer, "China's 'New Security Concept' and Southeast Asia," David W. Lovell (ed.), *Asia-Pacific Security: Policy Challenges* (Singapore: Institute of Southeast Asian Studies, 2003).

2010, respectively. This entailed hosting the annual meeting of ASEAN foreign ministers, ASEAN leaders' summit, and other ASEAN-related meetings such as ASEAN Plus One, ASEAN Plus Three (China, Japan and South Korea), and the East Asian Summit (EAS). Each of these meetings provided the ASEAN chair with an opportunity to host separate official visits by visiting leaders, including China.

During the first half of the 1990s, China's economic rise was viewed by Southeast Asian states as both a challenge and opportunity. Southeast Asian states initially feared that China's economic rise would be at their expense because it would result in the diversion of trade and investment. ASEAN states also feared being pulled into China's orbit in a dependent relationship as supplier of raw materials. These fears intensified as China began negotiations for entry into the World Trade Organization. Gradually, ASEAN states began to appreciate that China's economic rise was the main engine of regional growth and therefore an opportunity. ASEAN took steps to enhance its unity and cohesion by forming a viable ASEAN free trade area as a prelude to collectively bargaining with China.²¹⁶

In 1996, ASEAN upgraded China's status to official dialogue partner. In February the following year, ASEAN and China formalized their cooperation by establishing the ASEAN-China Joint Cooperation Committee "to act as the coordinator for all the ASEAN-China mechanisms at the working level."²¹⁷ As an ASEAN

²¹⁶ *Ibid.*, pp. 5-6.

²¹⁷ Association of Southeast Asian Nations, "The First ASEAN-China Joint Cooperation Committee Meeting," Joint Press Release, Beijing, February 26-28, 1997, <<http://www.aseansec.org/5880.htm>>.

dialogue partner, China regularly participates in the annual ASEAN Post-Ministerial Conference consultation process. This takes the form of a meeting between ASEAN and its ten dialogue partners (ASEAN Ten Plus Ten), and a separate meeting between ASEAN members and selected dialogue partners (ASEAN Ten Plus One). Since 1997 ASEAN and China have held annual summit meetings, the most recent, the sixteenth ASEAN-China Summit was held in October 2013.

Economic Relations

A major turning point in ASEAN-China economic relations was reached during the Asian financial crisis of 1997-98 when China not only refrained from devaluing its currency but also contributed to regional bailout packages. As will be discussed in part two, Laos was a major beneficiary of China's policy. China's policies were in contrast to those of the International Monetary Fund (supported by the United States) that imposed conditionality on its loans. As a result ASEAN members perceived China as Southeast Asia's indispensable—but not only—economic partner.²¹⁸

The process of enmeshing China advanced in late 2002 with the adoption of the Framework Agreement on Comprehensive Economic Cooperation. This agreement laid the foundations for what became the ASEAN-China Free Trade Area or ACFTA²¹⁹ (Also

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²¹⁸ Carlyle A. Thayer, "Deference/Defiance: Southeast Asia, China and the South China Sea," *Difference/Diffusion, Deference/Defiance: Unpacking China-Southeast Asia relations* (International Studies Association Annual Convention, April 5, 2013), pp. 4-5.

²¹⁹ Robert Sutter and Chin-Hao Huang, "Trade Agreement Registers China's Prominence," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 12, No. 1 (April 2010).

known as the China-ASEAN Free Trade Area or CAFTA). In 2003 and 2006, ASEAN and China further institutionalized their relationship by raising their relations to a strategic partnership and enhanced strategic partnership, respectively.²²⁰ ACFTA came into force in January 2010 for ASEAN's six developed economies and will come into effect for ASEAN's four least developed members in 2015, including Laos and Cambodia.

China's economic rise altered the region's political economy and absorbed regional states in a production network feeding into China's export-orientated manufacturing industries. China not only buys primary commodities and natural resources, particularly oil and gas, but electronic parts and components from Southeast Asia. China's economic rise also has resulted in the displacement of the United States as the major trading partner for most Southeast Asian states.

Security Relations

During the three decades following the formation of ASEAN most of its members viewed China as a threat to regional security because of its support for communist insurgencies. ASEAN members also became concerned about rising Sino-Vietnamese tensions in the South China Sea. In 1992, ASEAN issued its first statement on the South China Sea urging the parties concerned to exercise restraint. By the second half of the 1990s, however, Southeast Asian preoccupations with the "China threat" receded as China's

²²⁰ Carlyle A. Thayer, "Deference/Defiance: Southeast Asia, China and the South China Sea," *Difference/Diffusion, Deference/Defiance: Unpacking China-Southeast Asia relations* (International Studies Association Annual Convention, April 5, 2013), p. 4.

economic growth was viewed as an opportunity.

Cooperation between ASEAN and China on security issues takes place in a variety of forums. First, ASEAN and China hold an annual defense and security dialogue. Second, ASEAN and China conduct security cooperation under the auspices of the ASEAN Regional Forum (ARF) that was founded in 1994.²²¹ Third, ASEAN and Chinese ministers in charge of public security meet annually to discuss nontraditional security issues. Fourth, defense ministers from ASEAN and China meet under the umbrella of the ASEAN Defense Ministers' Meeting Plus (ADMM Plus). Two meetings have been held, in 2010 and 2013.

In 1997, in an effort to assuage Southeast Asian concerns over “the China threat,” Chinese strategists and policy makers propounded a “new security concept” that was first presented to a meeting of the ARF.²²² China’s new security concept signaled Beijing’s intention to pursue a policy of cooperative multilateralism with ASEAN and the ARF. Concerns about Chinese assertiveness in the South China Sea largely dissipated after the signing of the Declaration on Conduct of Parties in the South China Sea in November 2002. In 2003, China was the first external power to accede to the protocol endorsing ASEAN’s Treaty of Amity and Cooperation (TAC) and undertook in writing “faithfully to perform and carry out all the stipulations therein contained.”²²³

221_ Carlyle A. Thayer, “China and Southeast Asia: A Shifting Zone of Interaction,” James Clad, Sean M. McDonald and Bruce Vaughn (eds.), *The Borderlands of Southeast Asia: Geopolitics, Terrorism, and Globalization* (Washington, D.C.: National Defense University Press, 2011), pp. 244-247.

222_ Carlyle A. Thayer, “China’s ‘New Security Concept’ and Southeast Asia”; Carlyle A. Thayer, “China and Southeast Asia: A Shifting Zone of Interaction.”

223_ Association of Southeast Asian Nations, “Instrument of Accession to the Treaty of Amity and Cooperation in Southeast Asia,” October 8, 2003, <<http://www.asean.org>>

China, arguably has been socialized into ASEAN norms as a result of this experience. China, which was initially dismissive of multilateral arrangements, soon came to appreciate that it could benefit from engagement with ASEAN. China then assumed a proactive role in the ARF's intercessional work program related to confidence building measures. In 2003, China launched a major initiative to further its new concept of security by successfully proposing the creation of a security policy conference composed of senior military and civilian officials drawn from all ARF members. Finally, China has been a strong proponent of cooperative measures to address nontraditional security challenges.

In November 2002, ASEAN and China adopted a Joint Declaration on Cooperation in the Field of Non-Traditional Security Issues. Two successive memoranda of understandings (MOU) were signed in 2004 and 2009 outlining agreed areas of cooperation in nontraditional security issues over successive five-year periods. In October 2011, China and ASEAN agreed to a plan of action to implement the MOU at the second ASEAN-China Ministerial Meeting on Combating Transnational Crime held in Bali. In 2011-12, China hosted a training workshop for ASEAN officials with a focus on combating trafficking in illegal drug and narcotics.

In October 2013, the sixteenth ASEAN-China Summit held in Brunei, commemorated the tenth anniversary of their strategic partnership. The joint statement issued after this meeting committed both parties to upgrade the ASEAN-China Free Trade Agreement to advance economic integration and noted China's support

asean.org/news/item/instrument-of-accession-to-the-treaty-of-amity-and-cooperation-in-southeast-asia-2>.

for ASEAN's initiative to promote regional connectivity. Also, the joint statement noted China's offer to host an informal meeting with ASEAN defense ministers.²²⁴

Strategic Partnership

In October 2003, ASEAN and China adopted the Joint Declaration of the Heads of State/Government on Strategic Partnership for Peace and Prosperity at the seventh ASEAN-China summit, in Bali. This was the first formal agreement of this type for both ASEAN and China.²²⁵ The joint declaration was wide-ranging and included eleven priority areas of cooperation: agriculture, information and communication technology, human resource development, Mekong Basin development, investment, energy, transport, culture, public health, tourism, and environment. Both parties also agreed to enhance general political cooperation and to inaugurate a new security dialogue. In 2004, ASEAN and China adopted a five-year plan of action (2005-10) to implement the strategic partnership. In October 2010, a new plan of action was adopted for 2011-15 at the thirteenth ASEAN-China summit in Hanoi.²²⁶ That same year China became a founding member of the ASEAN defense ministers' meeting with its eight dialogue partners

²²⁴ Association of Southeast Asian Nations, "Joint Statement of the 16th ASEAN-China Summit on Commemoration of the 10th Anniversary of the ASEAN-China Strategic Partnership," October 9, 2013, <<http://www.asean.org/images/archive/23rdASEANSummit/7.%20joint%20statement%20of%20the%2016th%20asean-china%20summit%20final.pdf>>.

²²⁵ Carlyle A. Thayer, "China and Southeast Asia: A Shifting Zone of Interaction," pp. 242-244.

²²⁶ Association of Southeast Asian Nations, "ASEAN-China Dialogue Relations," <<http://www.asean.org/asean/external-relations/china/item/asean-china-dialogue-relations>> (accessed October 24, 2013).

known as ADMM Plus.²²⁷

Greater Mekong Sub-region

The Mekong River links China with the downstream states Laos, Thailand, Cambodia, and Vietnam. The four ASEAN states comprise the Mekong River Commission (MRC), an inter-governmental organization set up to promote sustainable management and development of water and related resources. China and Myanmar are MRC dialogue partners but not formal members.

The Asian Development Bank funds a development project known as the Greater Mekong Subregion (GMS), which includes the entire Mekong River basin. Members of the GMS include five downstream states (Cambodia, Laos, Myanmar, Thailand, and Vietnam) and China's Yunnan Province and Guangxi Zhuang Autonomous Region.

Both the MRC and GMS provide a multilateral venue for Laos and Cambodia to interact with Chinese officials. For example, Premier Wen Jiabao attended the Greater Mekong Subregion summit in 2008. He signed seven agreements on aid, trade, investment, infrastructure, communications, and power generation and offered an export credit facility of \$100 million.²²⁸ In December 2011, State Councilor Dai Bingguo attended the fourth GMS Economic Cooperation Summit. He called for closer transportation and infrastructure cooperation to promote business, trade, agricultural and

²²⁷ Canada and the European Union were not included as they had not acceded to the TAC at this time.

²²⁸ Martin Stuart-Fox, "Laos: The Chinese Connection," Daljit Singh (ed.), *Southeast Asian Affairs 2009* (Singapore: Institute of Southeast Asian Studies, 2009), p. 147.

economic relations.

China currently operates three dams along the Upper Mekong and has plans to construct five more.²²⁹ Laos and other mainland states are able to raise concerns about the downstream environmental impact of Chinese dam construction on the Upper Mekong. China's ministry of water resources provides the MRC secretariat with hydrological data from Yunnan province to facilitate drought relief in the Lower Mekong.

In March 2010, serious drought affected the watershed in the Upper Mekong and reduced the flow of water downstream. Downstream states harbored suspicions that the Chinese dams were responsible for the drop in water volume. In response to these concerns, China's Vice Minister Song Tao attended a meeting of the MRC in Hua Hin, Thailand, in April. The vice minister offered to increase cooperation with downstream states to mitigate the ongoing drought crisis.²³⁰

On October 5, 2011, the salience of transboundary security issues was raised when an armed criminal gang murdered thirteen Chinese crewmen on two cargo boats plying the Mekong River in the tri-border area when Thailand, Laos, and Myanmar meet. China responded by first suspending downstream traffic and then sent police vessels to escort cargo boats and their crew who were left stranded.²³¹

²²⁹ Robert Sutter and Chin-Hao Huang, "Senior Officials Visits; South China Sea Tensions," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 12, No. 2 (July 2010).

²³⁰ *Ibid.*

²³¹ Robert Sutter and Chin-Hao Huang, "Set Back in Bali, Challenges All Around," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 13, No. 3 (January 2011).

China's press blamed the murders on "chaotic border mismanagement." On October 13, China's foreign ministry pressed the governments of Laos, Myanmar, and Thailand to step up their investigations and to provide security for Chinese cargo ships.²³² At the end of the month, China's ministry of public security hosted a two-day conference in Beijing attended by high-ranking security officials from Thailand, Myanmar, and Laos. This meeting reached agreement to formally establish law enforcement cooperation along the Mekong River Mechanism to jointly address cross-border crime, share intelligence, and to ensure the safety of passengers and cargo vessels on the Mekong.²³³

On December 10, Chinese armed police joined with their counterparts from Laos, Myanmar, and Thailand to conduct the first security joint patrol along the Mekong River.²³⁴ Six joint patrols were carried out by September 2012.

China and Laos

This section reviews relations between China and Laos under five subheadings: background, political relations, economic relations, defense and security relations and issues in the bilateral relationship.

²³² Robert Sutter and Chin-Hao Huang, "Set Back in Bali, Challenges All Around"; Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 151.

²³³ Robert Sutter and Chin-Hao Huang, "Set Back in Bali, Challenges All Around." *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 13, No. 3 (January 2011).

²³⁴ *Ibid.*

Background

The Kingdom of Laos extended diplomatic recognition to the PRC in 1961 during the Cold War. An international settlement was reached in Geneva the following year, making Laos a neutral country. The Lao government reached agreement with China for a number of road building projects to link Yunnan province with the Mekong River ports of Muang Sing, Nam Tha, and Ban Houay. Another road was constructed to Phong Saly a province bordering southern China.²³⁵

An estimated fifteen thousand Chinese workers took part in the road construction. Many remained in Laos after their projects were completed. In 1979 Laos sided with Vietnam in the aftermath of Vietnam's invasion of Cambodia. Consequently, Lao-China relations deteriorated. Many of the road construction workers resided in Laos returned to China at this time. According to one specialist, China's involvement in road construction left an important legacy—China's appreciation of the geostrategic importance of Laos as a land bridge to mainland Southeast Asia.²³⁶

As the war in Cambodia drew down, Laos and China normalized their relations in 1989 following the October visit to China by President Kaysone Phomvihane, the first foreign head of state to visit Beijing since the Tienanmen incident.²³⁷ Since then, bilateral relations have been marked by three important milestones: China's assistance during the Asian financial crisis of 1997-98 (discussed

²³⁵ Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 150.

²³⁶ *Ibid.*, p. 150.

²³⁷ Ian Storey, *Southeast Asia and the Rise of China: The Search for Security* (London: Routledge, 2010), p. 168.

below), the signing of a long-term bilateral cooperation agreement in 2000, and the establishment of a comprehensive strategic partnership in 2009.

The gradual improvement in bilateral relations after 1989 facilitated the management of the Sino-Laos border established under the Sino-French Border Agreement of 1895. In 1991, the two sides signed a treaty and supplementary protocol that set up a joint border commission. A formal border treaty was adopted the following year, and the two sides proceeded successfully to place marker posts to demarcate the 425-km-long border. The tri-border junction between China, Laos, and Vietnam was established by an agreement reached in 2006.²³⁸

In 2000, Laos and China exchanged visits by their state presidents. Khamtay Siphandone journeyed to Beijing in July and Jiang Zemin came to Vientiane in November, the first visit by a Chinese head of state.²³⁹ Jiang Zemin's visit resulted in the adoption of a joint statement on bilateral cooperation between the People's Republic of China and the Lao People's Democratic Republic.

The long-term cooperation agreement included provisions for exchanges between high-level leaders as well as exchanges between party, government, military, and parliamentary officials. For example, President Khamtay Siphandone made an official visit to China in 2003. In 2006, after a leadership transition, Lao President Choummaly Sayasone and Prime Minister Bouasone Bouphavanh paid two visits to Beijing.²⁴⁰ President Hu Jintao visited Laos in

²³⁸_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 147; Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 149.

²³⁹_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 146.

November 2006, while Premier Wen Jiabao visited Laos three times in 2003 to attend the ASEAN Plus Three summit (2003), the ASEAN summit and related meetings (2006), and the GMS summit (2008).

The joint statement also included an obligatory One China policy clause. At that time Laos was one of three Southeast Asian countries that did not maintain informal links with Taiwan via a Taiwan economic and cultural office. In 2005 Laos supported the passage of China's Anti-Succession Law.

The following subsections review political, economic, security and defense, and foreign relations in the period after 2009.

Political Relations

In 2009 Laos and China raised their bilateral relations to a comprehensive strategic partnership. This agreement strengthened and raised existing bilateral cooperative arrangements such as the exchange of high-level party and state visits and exchange programs for lower-level party, government, and military officials as well as students. China also enhanced its economic footprint through loans, grants, foreign investment, increased trade, and high-profile infrastructure projects.²⁴¹

In June 2010, Vice President Xi Jinping visited Laos and met with President Choummaly Saygnasone. Xi pledged that China would maintain close contact, strengthen mutual trust, and expand

240_ *Ibid.*, pp. 148-149.

241_ Kristina Jönsson, "Laos in 2009: Recession and Southeast Asian Games," *Asian Survey*, Vol. 50, No. 1 (2010), p. 245; William Case, "Laos in 2010: Political Stasis, Rabid Development, and Regional Counter-weighting," *Asian Survey*, Vol. 5, No. 1 (2011), pp. 205-206.

economics relations, including trade and business. On April 25, 2011, China and Laos celebrated fifty years of diplomatic relations. In June that same year, China's ambassador to Laos, Bu Jianguo, announced the continuation of high-level exchange visits, further training for party cadres, and increased coordination on regional and international issues of importance. President Choummaly Saynasone visited Beijing in September 2011. In November 2012, Premier Wen Jiabao met with President Choummaly Sayasone on the sidelines of ninth Asia-Europe meeting held in Vientiane.

Exchange visits between officials of the Chinese Communist Party (CCP) and the Lao People's Revolutionary Party (LPRP) serve as another conduit for their bilateral relations. Between 2011 and 2013, for example, party-to-party exchanges included: a visit to China by a delegation from the LPRP Central Control Committee to discuss anti-corruption cooperation (September 2011), a visit by party officials from Shanxi Province (February 2012), a visit to Beijing by LPRP Politburo member Khamphieu Panemalaythong (March 2012), and a visit to Vientiane by He Guoqiang, member of the standing committee of the CCP Politburo (June 2012). In addition to these exchanges, China also offered ideological, educational, and vocational training courses for young Lao party cadres.

China and Laos also exchange visits by representative of their respective legislatures. For example, the heads of China's National People's Congress (NPC) standing committee and the Lao National Assembly met in Shanghai in October 2010 to discuss future exchanges.²⁴² In December 2012, Li Jianguo, vice chairman of the

²⁴² Robert Sutter and Chin-Hao Huang, "China Reassures Neighbors, Wary of US Intentions," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 12, No. 4 (January 2010).

NPC standing committee met with his counterpart in Laos; they agreed on a four-point proposal on increased cooperation in agriculture, trade, infrastructure, and high-level party-to-party exchanges. In June 2013, the president of the Lao National Assembly visited Beijing to discuss further cooperation under the comprehensive strategic partnership.²⁴³ In addition to these exchanges, China also sponsored exchange programs and tours for Lao government officials.

According to a leading Lao specialist, China's political influence in Laos is aimed primarily at obtaining economic opportunities because a strong Chinese presence in Laos also offers strategic benefits to China. China thus offers political support to Laos and expects Laos to reciprocate on matters of importance to China.²⁴⁴ For example, Bu Jianguo, China's ambassador to Laos, stated in a public lecture to the Lao National Institute for Politics and Administration in June 2011 that the two sides would increase coordination on regional and international issues of importance.²⁴⁵ For example, China's new foreign minister, Wang Yi, included Laos on his itinerary during an August 2013 trip to Malaysia and Vietnam.

Laos, however, is adept at balancing China, Vietnam, and Thailand, the three states with the most political and economic influence. Lao policy is to be as even-handed as possible among

²⁴³ Robert Sutter and Chin-Hao Huang, "China's Toughness on the South China Sea – Year II," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 15, No. 2 (September 2013).

²⁴⁴ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 151.

²⁴⁵ Robert Sutter and Chin-Hao Huang, "Managing Rising Tensions in the South China Sea," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 13, No. 2 (September 2011).

these three states. According to Martin Stuart-Fox, Vietnam has a greater interest in maintaining the cohesion and effectiveness of the LPRP as the ruling power in Laos than China. China does not have to compete for influence with Vietnam because Vietnam's role in supporting the LPRP serves China's long-term interests of a stable Lao state.²⁴⁶ In recent years Laos has become more receptive to the United States as counterweight to China.²⁴⁷

Economic Relations

Laos is one of Southeast Asia's least-developed countries. It has a gross domestic product (GDP) of US \$19.5 billion measured in purchasing power parity. With a population of 6.7 million this equates to an annual per capita income of US \$3,100.²⁴⁸ Laos possess considerable natural resources such as timber, gemstones, hydropower, and minerals (gold, copper, iron ore, potassium, and aluminum oxide). Laos seeks to promote economic development through both multilateral and bilateral relations. Laos is a member of the ASEAN free trade area; Cambodia, Laos, Vietnam Development Triangle; Cambodia-Lao-Myanmar-Vietnam [Mekong Subregion]; and the Greater Mekong Subregion.

Laos seeks to promote its development by turning its landlocked geographic position into an opportunity by serving as a communications and transport crossroads between mainland

²⁴⁶ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 151.

²⁴⁷ William Case, "Laos in 2010: Political Stasis, Rabid Development, and Regional Counter-weighting," pp. 205-206; Brendan M. Howe, "Laos in 2012: Growth, Challenges, and Human Insecurity," *Asian Survey*, Vol. 53, No. 1 (2013), p. 152.

²⁴⁸ U.S. Central Intelligence Agency, *The World Factbook* (2013), <<https://www.cia.gov/library/publications/the-world-factbook/geos/la.html>>.

Southeast Asia and southern China. In other words, Laos stresses that it is landlinked but not landlocked by a network of roads including the North-South and East-West corridors.

The following sub-sections review China-Laos economic relations under eight sub-headings: development assistance, showcase projects, communications infrastructure, investment, hydro-power, mining, plantation agriculture, and trade.

Development assistance. China played a major role in propping up the Lao economy during and after the Asian financial crisis. In 1997, for example, China provided Laos with a bailout package, export subsidies and preferential loans that stabilized the kip. China began to provide Laos with substantial economic assistance to weather the aftermath of the Asian financial crisis in 1999.²⁴⁹

Most specialists on the Lao economy agree that it is very difficult to determine accurately the extent of Chinese commercial and financial commitments to Laos. China provides financial assistance to support economic development in the form of cash grants, interest-free loans for projects that have the approval of the Lao government, other concessional loans, and credits for commercial ventures by Chinese companies.²⁵⁰ Chinese construction companies are also involved in Asian Development Bank-funded road construction that can be considered a form of aid. China reportedly cancelled repayment on its loans as another form of foreign aid. Precise figures remain elusive but one estimate places the total

²⁴⁹ Martin Stuart-Fox, "Laos: The Chinese Connection," Daljit Singh (ed.), *Southeast Asian Affairs 2009* (Singapore: Institute of Southeast Asian Studies, 2009), p. 146.

²⁵⁰ *Ibid.*, p. 146.

amount of loans forgiven by China at US \$1.7 billion up to 2008.²⁵¹

Since 1991 China has provided annual scholarships for Lao students to study in China. In 2008, China awarded a total of fifty-five scholarships. China also funds management and training courses for Lao government, party and military officials.²⁵² Chinese advisors are assigned to work with the Lao on specific aid programs. In addition, young Chinese volunteers spend six months in Laos teaching information technology and languages, coaching in sport, or performing medical service.²⁵³ In 2011, Soochow University opened the first foreign campus in Vientiane.²⁵⁴

Total Chinese development aid granted to Laos to over the decade 1997 to 2007 is estimated at US \$280 million.²⁵⁵ China provided another US \$330 million over the next three years, 1998-2001. In November 2011, Chinese and Lao officials agreed to cooperate more closely on poverty alleviation, economic development, increased trade, and agricultural training.

China expects three things in return for its development assistance: (1) Lao support for Chinese policy on a range of issues from Taiwan to Tibet; (2) access for Chinese companies to exploit Lao resources; and (3) transportation routes through Laos to Thailand. In return, the Lao government seeks aid and investment from China to support economic development in addition to political support to buffer Laos from Western pressures for political and economic reform. China provides development assistance under

251_ *Ibid.*, p. 146.

252_ *Ibid.*, p. 146.

253_ *Ibid.*, p. 146.

254_ Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 150.

255_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 146.

the rubric of non-interference in Laotian internal affairs.²⁵⁶

Showcase projects. One hallmark of China's development assistance program is its funding for large showcase projects such as the Lao National Cultural Hall in Vientiane (completed in 2000), construction of the twenty-thousand-seat main stadium for the 2009 Southeast Asia Games, and reconstruction of Avenue Lan Xang and the gardens around the Patouxia monument in the capital.²⁵⁷

Communications infrastructure. Chinese assistance to Laos places major emphasis on developing its communications infrastructure to link Yunnan province to Laos, upgrading Laos's internal transportation system by road and river, and later extending the road network to the Mekong in order to link up with Thailand.

China's first communications project involved building a ground satellite reception center in 1990-91. China also financed the dredging of the Mekong River to link Luang Prabang with Yunnan province. In 2001, China joined Thailand and the Asian Development Bank to upgrade a 360-km stretch of National Route 3 from the China-Lao border at Boten to the Mekong River port of Huayxia opposite Thailand. This was completed in 2008. China has also undertaken major road projects in Udomxai province and contributed to building the Greater Mekong Information Superhighway that began service in late March 2008.²⁵⁸

In 2010, following the visit by then-Vice President Xi

²⁵⁶ *Ibid.*, p. 147.

²⁵⁷ *Ibid.*, p. 146.

²⁵⁸ *Ibid.*, p. 146.

Jinping, China agreed to finance the construction of two bridges across the Mekong and provided Laos with a loan of US \$50 million to finance one of the bridges. When the bridges are constructed this will complete the North-South Corridor Project linking Yunnan province with Thailand, thus making it possible to drive from Beijing to Singapore.²⁵⁹ Finally, China will finance a high-speed rail system.

Investment. Precise figures of Chinese foreign direct investment (FDI) in Laos are difficult to obtain due to the lack of accurate reports from commercial banks and information on projects that have been suspended. Between 2001 and August 2007, Laos approved a total of US \$1.2 billion in Chinese direct investment. In fiscal year 2006-07, Laos approved a total of 117 projects valued at US \$1.1 billion. China overtook Thailand as Laos' major source of foreign investment by committing US \$462 million to 45 projects or forty-two percent of the total.²⁶⁰ In 2009, the three largest providers of FDI in Laos were Vietnam, US \$1.4 billion; China, US \$932 million; and Thailand, US \$908 million.²⁶¹

Foreign direct investment is mainly concentrated in hydro-power and mining but also in rubber, the garment industry, and electrical equipment assembly.²⁶² Chinese FDI goes to projects that produce goods for export to China such as food and minerals. There has been a rapid increase in large-scale Chinese FDI partic-

²⁵⁹ *Ibid.*, p. 146; William Case, "Laos in 2010: Political Stasis, Rabid Development, and Regional Counter-weighting," pp. 205-206.

²⁶⁰ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 145.

²⁶¹ Kristina Jönsson, "Laos in 2009: Recession and Southeast Asian Games," p. 245.

²⁶² *Ibid.*, p. 245.

ularly in the mining and agriculture sectors after China and Laos raised their bilateral relations to a comprehensive strategic partnership. Chinese FDI has also flowed into the energy, telecommunications, and construction materials sectors.²⁶³ Chinese investment is mainly concentrated in the north of Laos along China border.²⁶⁴

Hydropower. Laos has ambitious plans to develop its hydro-power resources with the aim of becoming the battery of mainland Southeast Asia. Laos presently operates fourteen dams producing hydroelectricity and has plans to construct a further thirty more by 2020 with the ultimate aim of operating fifty-five hydropower stations.²⁶⁵

China plays a major role in developing Laos's hydropower potential by providing preferential loans to Laos with the expectation that Chinese companies are awarded construction contracts.²⁶⁶ Commercial credits provided by China have been used to construct three hydropower stations on rivers in northern Laos.²⁶⁷ During the 2000s approximately one-third of Chinese FDI was in Laos' hydropower sector. In 2011 it was reported that China was considering investing US \$6 billion in a 3.8 gigawatt hydropower

²⁶³ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 145.

²⁶⁴ Magnus Andersson, Anders Engvall and Ari Koko, "In the Shadow of China: Trade and Growth In Lao Pdr," *Stockholm School of Economics Working Paper Series*, No. 2009-4 (Stockholm: Stockholm School of Economics, 2009).

²⁶⁵ William Case, "Laos in 2010: Political Stasis, Rabid Development, and Regional Counter-weighting," pp. 205-206.

²⁶⁶ Kazuhiro Fujimura, "The Increasing Presence of China in Laos Today: A Report on Fixed Point Observation of Local Newspapers from March 2007 to February 2010," *Ritsumeikan Journal of Asia Pacific Studies*, Vol. 27 (2009), p. 71.

²⁶⁷ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 146.

plant.²⁶⁸

In addition to hydropower, China has also invested in building power transmission lines and a lignite-fired power station in Xainyaburi province.²⁶⁹

Mining. As noted above, Laos possess considerable mineral resources. Chinese investors have given priority to mineral exploration and related extractive industries. Chinese companies are involved in producing cement, limestone, potash, and alumina.²⁷⁰ Chinese companies also have been awarded concessions in aluminum oxide, copper, iron ore, and zinc. During 2011, the China-ASEAN Fund on Investment Cooperation invested US \$50 million in a potash salt ore mine. China not only invests in the mineral sector but is also a major consumer of minerals produced in foreign-owned mines in Laos.

Plantation agriculture. China's rapid economic growth has led to a strong demand for agricultural and forestry products grown in Laos. This has led to Chinese investment in agricultural plantations on land leased to Chinese companies in northern Laos. These plantations produce rubber, corn, cassava, sugar, bananas, sesame, soy beans, agarwood, and teak. In addition, Chinese buyers contract Lao small holders to sell their produce. According to Stuart-Fox,

²⁶⁸ Christopher B. Roberts, "Laos: A More Mature and Robust State?," Daljit Singh and Pushpa Thambipillai (eds.), *Southeast Asian Affairs 2012* (Singapore: Institute of Southeast Asian Studies, 2012), pp. 155-156.

²⁶⁹ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 146.

²⁷⁰ *Ibid.*, p. 144; Kazuhiro Fujimura, "The Increasing Presence of China in Laos Today: A Report on Fixed Point Observation of Local Newspapers from March 2007 to February 2010," p. 72.

substantial plantation land is involved. For example, between 1996 and 2006 the area used to grow corn increased from three thousand ha to thirteen thousand ha. By 2006, 7,341 hectares were devoted to rubber cultivation.²⁷¹ The Yunnan National Rubber Industrial Company hopes to develop 325,000 ha for rubber production by 2015.

China's demand for commodity goods from Laos has led to the rise of prices for agricultural goods and timber. And Chinese investment has resulted in the influx of large numbers of Chinese workers.²⁷²

Trade. Of Laos' three major trading partners, Thailand is more important to the Lao economy than China and Vietnam combined. Over half of Lao exports are shipped to Thailand and nearly seventy percent of goods imported into Laos originate in Thailand.²⁷³

In the 1990s Laos's bilateral trade volume was modest. Up until the Asian financial crisis of 1997, Thailand was the dominant economic actor in Laos. After 1997 both the Lao economy and economic relations with Thailand declined. China's intervention to prop up the Lao economy took the form of increased investment and lower tariffs and led to the revival of Lao trade.

Laos's trade has been heavily weighted in China's favor since the early 1990s. For example, in 2006 China exported US \$185.6 million to Laos while importing only US \$45.1 million, leaving

²⁷¹_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 145.

²⁷²_ William Case, "Laos in 2010: Political Stasis, Rabid Development, and Regional Counter-weighting," pp. 205-206.

²⁷³_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 153.

Laos with a trade deficit of US \$140.5 million.²⁷⁴ In 2007 the International Monetary Fund estimated that two-way trade between China and Laos totaled US \$262 million. This figure was dwarfed by US \$1.5 billion two-way trade between Thailand and Laos.

Defense and Security Relations

Defense relations. According to a recent survey Laos has one of the lowest levels of threat perception and distrust among the states of Southeast Asia. It also has the smallest defense budget among ASEAN members.²⁷⁵ After Laos and China normalized their relations in the early 1990s, China donated modest amounts of military supplies to Laos including small arms, ammunition, and spare parts.

Lao-China defense relations were codified in 2000 with the adoption of the Joint Statement on Bilateral Cooperation. This agreement included a defense clause that stated both sides would “further strengthen the friendly exchange and cooperation between the defense institutions and armed forces of the two countries through maintaining high-level exchange of visits and expanding exchanges of experts.”²⁷⁶ Between 2002 and 2008 China and Laos exchanged ten high-level defense delegations. In 2003 China provided US \$1.3 million of military equipment to the Lao People’s Army. And in 2008, Premier Wen Jiabao’s offer of an export credit facility included funding for the purchase of Z9 military helicopters.²⁷⁷

²⁷⁴ *Ibid.*, p.145.

²⁷⁵ Christopher B. Roberts, “Laos: A More Mature and Robust State?,” p. 160.

²⁷⁶ Carlyle A. Thayer, “China’s ‘New Security Concept’ and Southeast Asia,” pp. 92-95.

In 2009, after bilateral relations were raised to a comprehensive strategic partnership, Laos and China continued to exchange high-level defense delegations.²⁷⁸ For example, in July 2010 Deputy Prime Minister and Minister of Defense Douangchay Pichit travelled to Beijing to meet his counterpart Defense Minister Liang Guanglie. They reviewed recent defense cooperation and agreed to expand cooperation in the future.²⁷⁹ In December 2011, Cai Yingting, deputy chief of the People's Liberation Army (PLA) general staff, visited Laos to discuss expanding bilateral military exchanges.²⁸⁰ In September 2012, Defense Minister Liang Guanglie visited Vientiane where he and his counterpart agreed to continue bilateral exchange visits, personnel training and border patrols.²⁸¹

In May 2013, the ASEAN-China Consultative Meeting was held on the sidelines of the seventh ASEAN defense ministers meeting. China's Defense Minister Chang Wanquan discussed expanding military exchanges, personnel training, and joint exercises. This is an example of Laos' membership in ASEAN providing a multilateral structure for its relations with China.

277_ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 147; Kazuhiro Fujimura, "The Increasing Presence of China in Laos Today: A Report on Fixed Point Observation of Local Newspapers from March 2007 to February 2010," p. 68.

278_ Kazuhiro Fujimura, "The Increasing Presence of China in Laos Today: A Report on Fixed Point Observation of Local Newspapers from March 2007 to February 2010," p. 70.

279_ Robert Sutter and Chin-Hao Huang, "US Interventions Complicate China's Advances," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 12, No. 3 (October 2010).

280_ Robert Sutter and Chin-Hao Huang, "Set Back in Bali, Challenges All Around."

281_ Robert Sutter and Chin-Hao Huang, "China Gains and Advances in South China Sea," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 14, No. 3 (January 2012).

Security relations. Both Laos and China share concerns over transnational issues affecting their common border including drug smuggling, trafficking in people, and the spread of infectious disease such as HIV/AIDS and avian flu.²⁸² China and Laos manage border security on both a bilateral and multilateral basis.

The China-Laos Joint Border Commission (discussed above) meets annually to discuss border security, trade facilitation, and control of illegal activities such as the smuggling of people, drugs, and goods. In addition, Laos and China exchange regular visits by the ministers responsible for security. For example, in November 2010, China's minister of public security met with his Lao counterpart in Beijing and signed an agreement on security cooperation covering cross-border crimes and increased border patrols.²⁸³ China's minister of public security visited Vientiane in February 2011 for discussions on cross-border security, drug and human trafficking, and other transnational crime.²⁸⁴ And in July 2013 Lao Minister for Public Security Thongbanh Sengaphone met with his counterpart, China's new Minister of Public Security Guo Shengkun, in Beijing.

China and Laos both belong to the Coordinated Mekong Ministerial Initiative Against Trafficking that also includes Cambodia, Myanmar, Thailand, and Vietnam among its members. In January 2010, the seventh senior officials meeting met in Myanmar to dis-

²⁸² Martin Stuart-Fox, "Laos: The Chinese Connection," p. 147; Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 152.

²⁸³ Robert Sutter and Chin-Hao Huang, "US Interventions Complicate China's Advances."

²⁸⁴ Robert Sutter and Chin-Hao Huang, "China Reassures Neighbors, Deepens Engagement," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 13, No. 1 (May 2011).

cuss ways to strengthen law enforcement and counter human trafficking.²⁸⁵ In May 2013, China, Laos, along with Cambodia, Myanmar, Thailand, Vietnam, and United Nations Office on Drugs and Crime signed a memorandum to deepen regional and international cooperation on illicit drug trafficking in the greater Mekong Region and Golden Triangle.

Bilateral Issues

Stuart-Fox, writing about China-Lao relations in 2008, offered the assessment that there were no outstanding problems to resolve in their bilateral relationship.²⁸⁶ Nonetheless, China's rapid economic penetration of Laos in subsequent years has produced a number of concerns. China's aid program and the operation of Chinese companies have raised questions about the transparency of commercial decisions, bribery and corruption, environmental impact (deforestation, land degradation, and dam construction along Mekong), and fears of economic domination as Chinese goods flood local markets and push out locally produced goods. In addition there is growing Lao resentment at the forcible requisition of land for Chinese projects and the lack of suitable compensation. There is concern also that Chinese infrastructure projects are overpriced and that new transportation networks will facilitate the illegal trade in drugs, prostitution, and sexually transmitted diseases.

The subsections below will review three case studies to illustrate these concerns.

²⁸⁵ Robert Sutter and Chin-Hao Huang, "Trade Agreement Registers China's Prominence."

²⁸⁶ Martin Stuart-Fox, "Laos: The Chinese Connection," p. 147.

Ethnic Chinese community. Laos was home to a Sino-Lao community during the colonial and post-independence eras. Most of this ethnic community fled Laos after the LPRP took power in December 1975. As noted above, state-to-state relations deteriorated in 1979 and during the 1980s when Laos supported Vietnam's intervention in Cambodia.

The normalization of relations between China and Laos in the late 1980s and early 1990s led to the influx of a new generation of Chinese with little in common with the earlier Sino-Lao community. The number of ethnic Chinese residents in Laos was estimated at ten thousand in 1997 and thirty thousand in 2009. Outside observers believe that the real figure for ethnic Chinese could be as much as ten times higher.²⁸⁷

The majority of Chinese migrant workers have settled in northern Laos where most of the commerce in small towns is in Chinese hands. In Vientiane there is a shopping area known as the Chinese market where most of the shopkeepers are ethnic Chinese who sell consumer goods imported from China, employ exclusively Chinese labor, and form networks that exclude Lao counterparts.²⁸⁸ Elsewhere in Laos only ethnic Chinese security guards are hired to protect Chinese manufacturing factories.²⁸⁹ These developments have led to concern at the elite and popular levels that Chinese influence over Laos will become too strong.²⁹⁰

²⁸⁷ *Ibid.*, p. 143.

²⁸⁸ *Ibid.*, p. 143.

²⁸⁹ Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 150.

²⁹⁰ Kristina Jönsson, "Laos in 2009: Recession and Southeast Asian Games," p. 245.

Boten casino. Private Chinese business interests financed the development of Golden Boten City just south of the China border. While Boten City was touted as a tourist destination, its main attraction was a gambling casino that catered exclusively for a Chinese clientele. Chinese visitors could visit Boten without formally entering Laos because Boten was located north of the nearest Lao immigration and customs check point.

Boten quickly became a Chinese enclave with a high crime rate, unregulated casinos, and brothels.²⁹¹ All street signs were changed into Chinese characters. The Boten casino quickly acquired a reputation for prostitution, drug smuggling, and money laundering.²⁹² To all intents and purposes Laos appeared to have lost control over Boten and its surroundings. It was Chinese authorities, however, who closed down Boten City and its casino out of concerns over money laundering and narcotics smuggling. Chinese border guards even prevented Chinese nationals from crossing into Laos.²⁹³

New City Development Project. No Chinese project caused greater concern among the Lao than the proposed development of New City Development Project on a site on the outskirts of Vientiane. This project was to include upmarket housing, shops, hotels, and an industrial zone.

In September 2007 the Lao government announced that a consortium of Chinese companies led by the Suzhou Industrial

²⁹¹ Christopher B. Roberts, "Laos: A More Mature and Robust State?," p. 157.

²⁹² Martin Stuart-Fox, "Laos: The Chinese Connection," p. 147.

²⁹³ Ian Townsend-Gault, "The China-Laos Boundary: Lan Xang Meets the Middle Kingdom," p. 151.

Park Overseas Investment Company had been contracted to construct the main stadium to host the 2009 Southeast Asian Games. A Lao company was given a nominal five percent share in the project. This agreement was negotiated in secret through the China Development Bank which agreed to provide a concessional loan of US \$100 million to build the sports stadium on the surety of a land concession.

The Lao government gave the Chinese consortium a fifty-year concession to develop a 1,640 hectares marshland site near the That Luang Buddhist monument. The agreement included a provision to extend the concession for another twenty-five years. During the period of the concession the Chinese consortium could either sell or lease the buildings or shops. At the end of the concession ownership of the New City Development Project would revert to the Lao government.

About three thousand Chinese workers were brought to Vientiane to build the sports stadium. Rumors then flew that the New City Development Project was being built exclusively to house fifty thousand Chinese residents. Local Lao residents became anxious about the forced resumption of their land. There were reports that local landowners resisted relocation due to inadequate compensation.

In sum, the development of the That Luang development project brought to the surface simmering concerns by ordinary and elite Lao over Chinese domination of the Lao economy. This was the first occasion that China's presence in Laos had become a matter of popular concern and debate. The Lao government cancelled the agreement.²⁹⁴

China and Cambodia

This section reviews relations between China and Cambodia under five subheadings: background, political relations, economic relations, defense and security relations and bilateral relations.

Background

The Kingdom of Cambodia gained independence from France in 1953 and pursued a policy of neutrality and nonalignment during the Cold War. Cambodia recognized the PRC in 1958. Cambodia was gradually if not inevitably drawn into the Vietnam War. In 1970, Prince (later King) Norodom Sihanouk was overthrown in a coup and went into exile in China and North Korea. Under Chinese tutelage he joined a united front with the Khmer Rouge who seized power in April 1975. China was the first country to open a fully functioning embassy in Phnom Penh at this time.²⁹⁵

Prince Sihanouk returned to Cambodia. Chinese tutelage ensured his survival. Sihanouk fled Phnom Penh once again when Vietnam invaded and occupied Cambodia in late 1978-early 1979. For the next decade Sihanouk led an anti-Vietnamese coalition with Chinese backing. In 1989, Vietnam withdrew from Cambodia and internal conflict in Cambodia was largely brought to an end under the terms of an international settlement reached in Paris in October 1991.

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²⁹⁴ Martin Stuart-Fox, "Laos: The Chinese Connection," pp. 142-143.

²⁹⁵ Julio A. Jeldres, "Cambodia's Relations with China: A Steadfast Friendship," Sothirak, Pou, Geoffrey Wade and Mark Hong (eds.), *Cambodia: Progress and Challenges Since 1991* (Singapore: Institute of Southeast Asian Studies, 2012), p. 82.

Sihanouk returned to Cambodia in November 1991 to head the Supreme National Council (SNC) set up under the Paris peace accords. The SNC comprised all the warring factions including Cambodian royalists, republicans, the Khmer Rouge and the pro-Vietnamese Cambodian People's Party (CPP). Sihanouk was accompanied on his return journey by China's newly-appointed permanent representative to the SNC, Ambassador Fu Xuezhong.²⁹⁶

Almost immediately Cambodia confronted a crisis in relations with China. In late November 1991 Khmer Rouge leaders Khieu Samphan and Son Sen were attacked by a mob of Cambodians as they made their way to a meeting of the SNC. China's ambassador in Phnom Penh fled to the safety of Bangkok. This incident became the first major issue as China-Cambodia relations were being restored because China supported the Khmer Rouge and their inclusion in the SNC. The attack on the Khmer Rouge leaders led to the cancellation of a scheduled visit by China's Foreign Minister Qian Qichen. Sihanouk intervened and informed China that the invitation to its foreign minister was an open one and he could return at any time.²⁹⁷

From 1991 to 1993 Cambodia came under the transitional authority of the United Nations. It was left to the SNC to draw up a new constitution to restore full sovereignty and independence to Cambodia. During this period Chinese diplomats regularly attended all meetings of the SNC.²⁹⁸ Foreign Minister Qian Qichen's visit was rescheduled to February 1992. On arrival in Phnom Penh he urged the Cambodian members of the SNC to uphold national

²⁹⁶ *Ibid.*, p. 81.

²⁹⁷ *Ibid.*, p. 83.

²⁹⁸ *Ibid.*, p. 82.

reconciliation and he warned that China would not support any faction that resumed civil war.²⁹⁹

In July 1991, during the transition period, CPP leader Hun Sen made his first visit to Beijing to attend a meeting of the SNC. The following year China received the first visit of a CPP delegation led by its chairman Chea Sim. The CCP and CPP established party-to-party relations. At this time, as part of its policy of national reconciliation, China supported both the Khmer Rouge and Sihanouk.

This fifty-five year legacy of Sino-Cambodian relations led Sihanouk and many other Cambodian leaders to view China as a protector and friend of Cambodia in its relations with Thailand and Vietnam.³⁰⁰ In 1993, for example, Sihanouk stated that China is “the cause of our survival because of a balance of menaces between China and hostile Vietnam and Thai troops who wanted to kill Cambodia ... the influence of France and the United States may come and go, but China was a constant factor.”³⁰¹

Political Relations

This subsection reviews Cambodia’s relations with China during five separate periods during which China first abandoned the Khmer Rouge and then switched support from the royalist supporters of Norodom Sihanouk to the CPP led by Hun Sen. China-Cambodia relations were progressively strengthened through

299_ *Ibid.*, p. 84.

300_ Long Kosal, “Sino-Cambodian Relations,” *CICP Working Paper*, No. 28 (Phnom Penh: Cambodian Institute for Cooperation and Peace, 2009), p. 13.

301_ Julio A. Jeldres, “Cambodia’s Relations with China: A Steadfast Friendship,” p. 82.

agreements on bilateral cooperation (2000), comprehensive partnership for cooperation (2006), and comprehensive strategic partnership.

Support for Sihanouk and the Royalists, 1993-97. In May 1993 the United Nations conducted elections in Cambodia that resulted in the adoption of a constitution, a coalition government, and the restoration of the monarchy. At this time China severed links with the Khmer Rouge and gave it to support to Norodom Sihanouk as king and head of state. China, still suspicious of Hun Sen and his links to Vietnam, found little difficulty in supporting the royalist Front Uni National pour un Cambodge Indépendant, Neutre, Pacifique, et Coopératif (FUNCINPEC) party headed by Sihanouk's son Norodom Ranaridh.³⁰² In September 1993, China formalized its diplomatic relations with the Kingdom of Cambodia by appointing Ambassador Fu as its Ambassador Extraordinary and Plenipotentiary.³⁰³

The elevation of Sihanouk to king brought about a subtle change in China's relations towards Cambodia. In the past these relations had been based on special rapport between political leaders; increasingly China's relations with Cambodia became based on national interests. In other words, China no longer relied on Sihanouk and the royal family as its interlocutor with the Cambodian government.³⁰⁴

Three issues emerged that led to strains in China's relations

³⁰² Heng Pheakdey, "Cambodia-China Relations: A Positive-Sum Game?," *Journal of Current Southeast Asian Studies*, Vol. 2 (2012), p. 58.

³⁰³ Julio A. Jeldres, "Cambodia's Relations with China: A Steadfast Friendship," p. 84.

³⁰⁴ *Ibid.*, p. 85.

with FUNCINPEC. First, in July 1994 the Cambodian government banned the Khmer Rouge. China protested because it still supported their inclusion under the policy of national reconciliation set out in the Paris peace accord. China feared that outlawing the Khmer Rouge would lead to renewed armed conflict.³⁰⁵

No issue was more charged, however, than FUNCINPEC'S budding economic ties with Taiwan. In September 1994, Cambodia and Taiwan signed a MOU that led to establishment of a Taipei Economic and Cultural Representative Office (TECO) in Phnom Penh the following year. In March 1995, the deputy mayor of Phnom Penh, who was close to FUNCINPEC leader Prince Ranaridh, became the first Cambodian government official to visit Taipei since 1975.³⁰⁶ Finally, China was moved to lodge an official protest when Cambodian government officials attended a TECO reception to celebrate Taiwan's national day.

The third issue concerned a decision by Cambodia's Ministry of Industry to suddenly cancel a contract between Guangdong Engineering Industries Company and the Cambodian Cement Company to develop a state cement factory in Kampot province. The State Cement Factory was originally given as a gift to Cambodia and fell into disrepair during the Khmer Rouge period. In 1992 a contract was awarded to the Guangdong Engineering Industries Company and the Cambodian Cement Company to repair and upgrade the factory. The Cambodian Cement Company was owned by Sino-Khmer businessmen who had strong links to FUNCINPEC and the royal palace.

The Cambodian government cancelled the contract due to a

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 305_ *Ibid.*, p. 84.

306_ *Ibid.*, p. 86.

dispute between the contracted parties over finances. The Chinese Foreign Ministry responded by summoning the Cambodian ambassador in Beijing to convey China's displeasure over the termination of the contract. The Foreign Ministry warned that if Cambodia did not reverse its decision it would have "negative consequences on the relationship between the two countries." Cambodia ignored Chinese advice and proceeded to award a new contract to a Swiss firm. The Guangdong Engineering Industries Company suffered a loss of US \$10 million in capital that it had invested in the repair of the State Cement Factory.³⁰⁷

The State Cement Factory affair, and the other incidents described above, precipitated a review of China's political strategy towards Cambodia. Beijing decided to shift its support to Hun Sen and the CPP. By 1996 as China's relations with FUNCINPEC began to deteriorate, so too did FUNCINPEC's relations with the CCP.

Supporting the CPP, 1997-99. In July 1997 a clash between armed groups affiliated with FUNCINPEC and the CPP led to a violent upheaval that has been characterized somewhat misleadingly as a coup. The CPP seized power and its leader, Prime Minister Hun Sen, accused TECO of assisting FUNCINPEC to acquire arms. He ordered the closure of TECO and the expulsion of all Taiwanese diplomats.³⁰⁸

China was the first country to recognize the change of regime in Cambodia. China also opposed the imposition of international sanctions against Cambodia and criticized outside interference in Cambodia's internal affairs. China's diplomatic, financial, and mili-

³⁰⁷ *Ibid.*, p. 87.

³⁰⁸ Long Kosal, "Sino-Cambodian Relations," p. 8.

tary support assisted Hun Sen in consolidating power and resulted in considerable gain in Chinese political and economic influence.³⁰⁹ Over the next several years, China emerged as Cambodia's primary external benefactor.

After taking power Hun Sen and his CPP government became one of the strictest enforcers of the One China policy. Cambodian government officials were banned from visiting Taiwan, attending Taiwan sponsored events, and meeting their Taiwanese counterparts. In 2006, the Cambodian Ministry of Interior issued a regulation requiring all Taiwanese citizens wishing to marry a Cambodian citizen to receive a certificate of identity from the Chinese Embassy.³¹⁰

Hun Sen's CPP government quickly adopted a number of pro-China policies. Hun Sen granted approval to China to provide assistance to Chinese language schools in Cambodia. The Chinese Embassy then began to provide grants, assistance in teacher training, and sponsored educational visits to and from China. The Chinese government was permitted to repurchase Chinese schools that had been confiscated by previous regimes. As a result, the number of Chinese language schools increased from thirteen in 1995 to over sixty by 1999.³¹¹ Hun Sen's actions garnered Chinese approval and support.

As China's influence increased it began to make greater demands on the CPP government to restrict the operations of Taiwanese businesses operating in Cambodia and to support a vari-

309_ Julio A. Jeldres, "Cambodia's Relations with China: A Steadfast Friendship," p. 89; Zsuzsanna Biedermann, "Cambodia today or is China eating America's lunch in Southeast Asia?," *AARMS*, Vol. 9, No. 1, (June 2010), p. 144.

310_ Julio A. Jeldres, *Ibid.*, p. 89.

311_ *Ibid.*, p. 89.

ety of pro-China policies. For example, in 1999 Cambodia condemned NATO's accidental bombing of the Chinese Embassy in Belgrade. China handsomely rewarded Cambodia for its actions. At the same time, Chinese diplomats also complained to Cambodia's Ministry of Information when unfavorable reports were published in the local Chinese-language press.³¹²

Bilateral Cooperation Formalized, 2000-06. In 2000 Cambodia reached the first of three important milestones in its relations with China. In November, President Jiang Zemin became the first Chinese head state to visit Cambodia. At the conclusion of his trip the two sides adopted the Joint Statement on the Framework of Bilateral Cooperation between the People's Republic of China and the Kingdom of Cambodia. This agreement set out greater bilateral cooperation between the governments, parliaments, political parties, and armed forces of the two countries. The joint statement also made provision for diplomatic consultations and expanded trade and investment ties.

As noted above, China began to apply political pressure on Cambodia to support a number of policies. In 2001 Chinese diplomats unsuccessfully lobbied to prevent passage of legislation by the National Assembly setting up a tribunal to try Khmer Rouge leaders. Under pressure from the donor community Cambodia eventually approved the setting up of the Khmer Rouge Tribunal but then engaged in delaying tactics.³¹³

China was more successful on other policy matters. In 2001 Cambodia sided with China over the E-P3 incident off Hainan

³¹² *Ibid.*, p. 89.

³¹³ *Ibid.*, p. 90.

island. In 2002 Cambodia refused a visa for the Dalai Lama to attend the Third World Buddhist Summit in Phnom Penh. In 2005, Cambodia offered its support for China's anti-secession law and withdrew its support for Japan's bid for membership on the UN Security Council.³¹⁴

During this period there was a marked imbalance in high-level exchanges between Cambodia and China. Cambodia sent three times as many delegations as it received. Major high-level visits included Premier Zhu Rongji's visit to Phnom Penh, where he announced cancellation of all Cambodian debts; Prime Minister Hun Sen's visit to Beijing in April 2004 accompanied by a delegation of fifty government officials; and Hun Sen's return visit to China in 2005 during which China announced a US \$400 million package of grants, loans, and investments. In 2004, when Norodom Sihanouk abdicated, his successor and son Norodom Sihamoni visited China prior to his formal installation as king.

Comprehensive Partnership for Cooperation, 2006-2010. Cambodia's relations with China passed their second milestone in April 2006 during visit of Premier Wen Jiabao. At the end of Premier Wen's trip the two sides adopted an agreement on a comprehensive partnership for cooperation. This document contained provisions for stepped up party-to-party ties, legislative exchanges, and consultations on international and regional issues. Premier Wen pledged US \$600 million in financial support over the next four years. Cambodia and China also agreed to speed up China-ASEAN negotiations on a free trade agreement and to promote an ASEAN-China strategic dialogue.

³¹⁴ *Ibid.*, p. 89.

In December 2008, in a further development in bilateral relations, China launched China-Cambodia Friendship Radio and opened its first Confucius Institute in Phnom Penh. These developments were part of a concerted push to promote Chinese studies, language, and cultural programs among Cambodians and were approved by the Cambodian government.³¹⁵

Cambodia continued to encourage Chinese businessmen to invest in Cambodia and supported policies favored by China. For example, in 2007 Cambodia opposed Taiwan's bid for membership in the United Nations. In 2008, Cambodia condemned rioting in Lhasa, clamped down on Falun Gong activities in Cambodia and continued to drag its feet over the setting up of the Khmer Rouge tribunal.³¹⁶ No act was more calculated to show deference to China than Cambodia's repatriation of twenty Uighur asylum seekers in December 2009 despite considerable pressure from the international community. Immediately after this decision Vice President Xi Jinping arrived in Phnom Penh and announced a US \$1.2 billion aid package.

Comprehensive Strategic Partnership of Cooperation 2010-13. In December 2010 Cambodia and China reached the third milestone in their bilateral relations when Prime Minister Hun Sen and President Hu Jintao met in Beijing and agreed to raise bilateral relations to a comprehensive strategic partnership. At the end of his visit Hun Sen witnessed the signing of agreements on strengthening cooperation in energy security, infrastructure development, finance, and consular affairs.³¹⁷

³¹⁵ *Ibid.*, p. 91.

³¹⁶ *Ibid.*, p. 89.

The year 2012 marks an important turning point in Cambodia-China relations under the comprehensive strategic partnership. In 2012 Cambodia assumed the role of ASEAN chair and hosted a number of ASEAN ministerial meetings, ASEAN summits and other ASEAN-related meetings such as the ASEAN Plus Three Summit and the East Asia Summit. During the year Cambodia hosted visits by President Hu Jintao and Premier Wen Jiabao. New agreements on aid and trade were made after each visit.³¹⁸ China used its special position of influence in Cambodia in an attempt to shape ASEAN policy on the South China Sea, and Cambodia was suitably rewarded for assisting this effort.

President Hu Jintao visited Cambodia in late March-early April on the eve of the twentieth ASEAN summit. This marked the first time in twelve years since a Chinese head of state visited Cambodia. The media reported that Hu asked Hun Sen as ASEAN chair not to “push” the South China Sea issue and received the pledge that Cambodia shared China’s view that the South China Sea should not be internationalized.³¹⁹ *China Daily* (March 31, 2012) quoted the Chinese ambassador to Cambodia as stating, “Cambodia, as chair country for the ASEAN meetings, will help coordinate ties between China and other ASEAN countries,” and further stated it would urge other involved ASEAN countries not to let South China Sea issues affect bilateral ties.

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³¹⁷_ Robert Sutter and Chin-Hao Huang, “China Reassures Neighbors, Wary of US Intentions.”

³¹⁸_ Kheang Un, “Cambodia in 2012: Beyond the Crossroads?,” *Asian Survey*, Vol. 53, No. 1 (2013), p. 148.

³¹⁹_ Robert Sutter and Chin-Hao Huang, “Hu Visits Cambodia as South China Sea Simmers,” *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 14, No. 1 (May 2012).

Hun Sen complied with China's wishes and Cambodia deleted references to the South China Sea from the formal ASEAN summit agenda. This did not stop other ASEAN members, such as the Philippines and Vietnam from raising South China Sea issues. Cambodia, as ASEAN chair, intervened twice to support China's position. First, Cambodia supported a Chinese proposal for an Expert Persons Group to be set up consisting of twenty members, ten each from ASEAN and ten from China. Cambodia also supported China's early inclusion in ASEAN discussions on a code of conduct for the South China Sea. Cambodia was rebuffed on both proposals due to a lack of consensus.³²⁰

Cambodia played the role of spoiler at the forty-fifth ASEAN Ministerial Meeting (AMM) held in Phnom Penh in July. Cambodia's Foreign Minister Hor Namhong, acting as chair, unilaterally prevented any mention of the South China Sea in the customary joint statement. For the first time in its forty-five year history ASEAN was unable to issue a joint statement.³²¹

In September, Prime Minister Hun Sen visited Beijing for discussions with Premier Wen Jiabao (see Economic Relations, below). He was rewarded by a large loan for helping China maintain "friendly relations with ASEAN."³²² In November, Cambodia hosted three high-level meetings: the China-ASEAN Summit, ASEAN Plus 3 Summit, and the East Asian Summit. China's Premier Wen Jiabao attended all three. Following the twenty-first ASEAN Summit, Hun Sen publicly announced that ASEAN

³²⁰ Carlyle A. Thayer, "ASEAN'S Code of Conduct in the South China Sea: A Litmus Test for Community-Building?," *The Asia-Pacific Journal*, Vol. 10, Issue 34, No. 4 (August 2012).

³²¹ *Ibid.*

³²² Kheang Un, "Cambodia in 2012: Beyond the Crossroads?," p. 148.

leaders had agreed not to internationalize the South China Sea issue. The Philippines and Vietnam immediately took exception and this reference was dropped from the chairman's statement.

Finally, in April 2013, Prime Minister Hun Sen made another of his regular visits to Beijing. He met with President Xi Jinping who pledged that China would strengthen bilateral relations with Cambodia by increasing support for infrastructure and economic development.³²³

Economic Relations

Cambodia has a GDP (ppp) of US \$37.3 billion. With a population of 15.2 million, its annual per capita income equates to US \$2,400.³²⁴ By the late 1990s China had emerged as Cambodia's most important partner. Chinese investors were attracted by low labor costs and Cambodia's natural resources. The subsections below consider China's development assistance, investment, and trade with Cambodia.

Development assistance. China's first foray into providing large-scale-development assistance was opportunistic. In the aftermath of the 1997 "coup" China extended a US \$10 million loan to Cambodia to replace aid suspended by traditional donors. Two years after China and Cambodia adopted an agreement on bilateral cooperation, Premier Zhu Rongji visited Phnom Penh and announced the cancellation of all Cambodian debts. Under the bi-

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³²³ Robert Sutter and Chin-Hao Huang, "China's Growing Resolve in the South China Sea," *Comparative Connections: A Quarterly E-Journal on East Asian Bilateral Relations*, Vol. 15, No. 1 (May 2013).

³²⁴ U.S. Central Intelligence Agency, *The World Factbook* (2013).

lateral cooperation agreement China provided Cambodia with US \$39 million in grant aid and US \$95 million in soft loans during the period 2000-06.

A major turning point in China's provision of development assistance occurred in April 2006 when China and Cambodia reached agreement on the Comprehensive Partnership for Cooperation during the visit of Premier Wen Jiabao. Premier Wen pledged US \$600 million in financial support over four years. From 2006 to early 2010, China provided at least US \$2 billion in grant aid and loans.

In December the following year, in an important change of policy, China joined the Cambodian Development Cooperation Forum. The forum included all countries and international agencies providing aid to Cambodia. In 2007 international donors pledged a total of US \$689 million in development assistance. Of this amount China contributed US \$91 million or 13 percent of the total. Chinese development assistance was targeted at infrastructure, including roads, bridges, and government buildings. For example, China financed the upgrade of National Road 7 from Stung Treng/Kratie to Laos at a cost of US \$65 million. China quickly became Cambodia's largest donor.

In February 2008, China's foreign minister visited Cambodia and donated an additional US \$55 million in development assistance.³²⁵ At the December 2008 pledging session, China provided a package of US \$257 million out of a total pledged amount of US \$951.5 million or 27 per cent of the total.³²⁶

³²⁵ Carlyle A. Thayer, "Cambodia: The Cambodian People's Party Consolidates Power," Daljit Singh (ed.), *Southeast Asian Affairs 2009* (Singapore: Institute of Southeast Asian Studies, 2009), pp. 95-96.

In December 2009, immediately after Cambodia repatriated Uighur asylum seekers, Vice President Xi Jinping arrived in Phnom Penh and announced a US \$1.2 billion package of aid and grants. This included construction of government and legislative office buildings and the upgrade of Mao Zedong Boulevard in Phnom Penh. According to one political observer, this was a landmark in China's relations with Cambodia.³²⁷

In June 2010, Vice Minister of Transport Gao Hongfeng visited Phnom Penh, where he signed a MOU with his counterpart to deepen cooperation on infrastructure development. By 2011 China had contributed to the construction of up to 1,500 km of roads and bridges at a cost of US \$1 billion.³²⁸ In January 2012, China's ambassador to Cambodia, Pan Guangxue, joined Prime Minister Hun Sen to open a 127km road funded by China that connected existing highways to Cambodia's northeastern provinces to spur economic development and tourism.

Investment. Another major turning point with respect to Chinese foreign direct investment occurred in November 2000 when China and Cambodia adopted an agreement on bilateral cooperation. This agreement led to an expansion of Chinese investment in Cambodia. In 2005, for example, Hun Sen visited Beijing and secured a Chinese pledge of US \$400 million in investments, grants, and loans. By the end of 2007, it was estimated that Chinese investments in 3,016 business enterprises totaled US

³²⁶ Julio A. Jeldres, "Cambodia's Relations with China: A Steadfast Friendship," p. 90.

³²⁷ *Ibid.*, p. 90.

³²⁸ *Ibid.*, p. 91.

\$1.58 billion.

Chinese investment in Cambodia intensified after April 2006 with the adoption of the Comprehensive Partnership for Cooperation. In February 2008, for example, China's foreign minister visited Cambodia and announced a US \$1 billion investment package in the energy sector. These funds were to be used to construct several dams to generate electricity. In October, Prime Minister Hun Sen met Premier Wen Jiabao on sidelines of the seventh Asia Europe Meeting in Beijing. Premier Wen pledged an additional \$280 million in loans for infrastructure development including irrigation systems, power transmission lines, and road building.³²⁹

By the end of 2008 the Cambodian government had approved US \$4.3 billion in China-funded projects or 40 per cent of all approved foreign investment projects. China became Cambodia's largest investor with US \$892.9 million of approved projects. These projects were concentrated in the textile, mining, hydro-power, agribusiness, and retail sectors. The following year Chinese investment accounted for more than 15 per cent of all approved projects.³³⁰ Between 1997 and 2010, China offered over US \$10 billion in loans and grants to Cambodia while other donors provided US \$12 billion. Of this amount, US \$6 billion in Chinese investment was approved under the agreement on Comprehensive Partnership for Cooperation.³³¹

³²⁹ Carlyle A. Thayer, "Cambodia: The Cambodian People's Party Consolidates Power," p. 96.

³³⁰ Julio A. Jeldres, "Cambodia's Relations with China: A Steadfast Friendship," p. 90.

³³¹ Steve Heder, "Cambodia in 2010: Hun Sen's Further Consolidation," *Asian Survey*, Vol. 51, No. 1 (2011), p. 214; Kheang Un, "Cambodia in 2012: Beyond the Crossroads?," pp. 147-148.

Chinese investment continued to rise after December 2010 when bilateral relations were raised to a comprehensive strategic partnership. In February 2011, for example, China's Vice Fu Ziying attended the second China-Cambodia Strategic Economic Dialogue in Phnom Penh. During a meeting with Hun Sen, Vice Minister Fu announced that his government would encourage more Chinese entrepreneurs to invest in Cambodia's agricultural, mining, and manufacturing sectors.³³² At that time, previous Chinese investments in garments, land, oil, hydroelectric dams, and infrastructure were nearing completion.

In 2011, according to one Cambodian specialist, economic cooperation between China and Cambodia was "qualitatively heightened."³³³ Chinese entrepreneurs made new investments in electricity generation and transmission, port construction, machine manufacturing, aluminum mining, bridge and road building, banking, and agricultural plantations. Chinese and Cambodian companies signed contracts to export rice, rubber, and palm oil to China. By mid-2011, China's cumulative direct investment in Cambodia stood at US \$1.181 billion while the accumulative contract value of projects amounted to US \$4.949 billion. In sum, Cambodia became one of China's favorite places to invest.³³⁴

In 2012, the visit by President Hu Jintao to Cambodia in late March-early April served to highlight China's leading role in Cambodia's economy. Cambodian data suggested that China was

³³² Robert Sutter and Chin-Hao Huang, "China Reassures Neighbors, Deepens Engagement."

³³³ Steve Heder, "Cambodia: Capitalist Transformation by Neither Liberal Democracy Nor Dictatorship," Daljit Singh (ed.), *Southeast Asian Affairs 2012* (Singapore: Institute of Southeast Asian Studies, 2012), p. 105.

³³⁴ *Ibid.*, p. 106.

the largest foreign investor in Cambodia. Cambodian officials reported that Chinese investment was nearly US \$2 billion in 2011, more than double the combined investment by ASEAN and ten times more than the United States.³³⁵ At the end of 2011, total accumulated Chinese investment was placed at US \$8.9 billion in 317 projects, including hydroelectric dams and coal-fired power plants.

Trade. China's intervention in Cambodia following the 2007 "coup" witnessed a marked rise in bilateral trade from US \$102 million in 1997 to over a \$1 billion by 2007. China became Cambodia's second largest trading partner after the United States, whose two-way trade with Cambodia was US \$2.5 billion.

In February 2008 Cambodia established a special economic zone in Sihanoukville to produce goods for duty-free export to China. That same month China's foreign minister visited Cambodia and waived import duties on four hundred Cambodian goods.³³⁶

The global financial crisis greatly affected Cambodia's economy in 2009 and 2010.³³⁷ China stepped up to assist Cambodia. In March 2010, for example, Vice Premier Hui Liangyu visited Phnom Penh for discussions with his counterpart. They agreed to deepen economic, trade, and business cooperation. At the end of 2010, Cambodian exports to China were valued at US \$56.68 million,

³³⁵ Robert Sutter and Chin-Hao Huang, "China Gains and Advances in South China Sea."

³³⁶ Carlyle A. Thayer, "Cambodia: The Cambodian People's Party Consolidates Power," pp. 95-96.

³³⁷ Kheang Un, "Cambodia in 2011: A Thin Veneer of Change," *Asian Survey*, Vol. 52, No. 1 (2012), p. 208.

while imports from China totaled US \$1.07 billion, leaving Cambodia with a massive trade deficit.

In May 2011, China and Cambodia set the goal of expanding two-way trade to US \$2.5 billion by 2012.³³⁸ Official figures on annual trade between China and Cambodia in the first half of 2011 showed that bilateral trade had reached US \$1.58 billion. This was a 68.7 percent increase over the previous year but trade was still heavily weighted toward China.³³⁹ By the end of 2011, bilateral trade was reported to have reached US \$2.49 billion. In April 2012, during the course of President Hu Jintao's visit to Cambodia, the two sides agreed to double current trade to US \$5 billion in five years.

Defense and Security Relations

Defense Cooperation. China began providing military assistance to Cambodia prior to the signing of the April 2006 Comprehensive Partnership for Cooperation agreement. The earlier agreement on bilateral cooperation (November 2000) did not include a clause on defense and security cooperation.³⁴⁰ In April 1996, for example, General Zhang Wan-Nian, PLA chief of the general staff, led a delegation to Phnom Penh. There he signed an a military assistance package valued at US \$1 million, under which China offered to provide training and equipment to the Royal

338_ Robert Sutter and Chin-Hao Huang, "Managing Rising Tensions in the South China Sea."

339_ Steve Heder, Cambodia: Capitalist Transformation by Neither Liberal Democracy Nor Dictatorship," pp. 195-196.

340_ Ministry of Foreign Affairs of the People's Republic of China, "Joint Statement by the People's Republic of China and the Kingdom of Cambodia on the Framework of Their Bilateral Cooperation," November 17, 2000, <<http://www.fmprc.gov.cn/eng/wjdt/2649/t15776.htm>>.

Cambodian Armed Forces (RCAF). As a result, the size of the defense attache's office in the Chinese Embassy increased to more than thirty.

As noted above, the July 1997 "coup" marked a turning point in China's relations with the Hun Sen government. In response to the "coup" the United States and other Western countries cut their military aid programs. In December that year China opportunistically stepped into the breach and offered Cambodia a loan of US \$10 million for the purchase of 116 military trucks and 70 jeeps valued at US \$2.8 million.

In 2003 China and Cambodia signed a MOU under which China agreed to provide financial aid for demobilization; construction materials for barracks, officers' quarters, and military schools and hospitals; upgrading of Chhnang air field; and professional military education and training courses in China for RCAF personnel.³⁴¹

The 2006 China and Cambodia Comprehensive Partnership for Cooperation agreement led to a marked increase in bilateral defense cooperation. The agreement made provision for increased military exchanges and stepping up of cooperation in combating nontraditional security threats. In October 2006, China agreed to provide Cambodia with assistance for military training and equipment repair.³⁴² In 2007, China donated nine patrol boats valued at US \$60 million to the Cambodian navy. China also financed the upgrading of the port at Ream. In November 2008, Cambodia

³⁴¹ Carlyle A. Thayer, "China and Southeast Asia: A Shifting Zone of Interaction," p. 252.

³⁴² Zsuzsanna Biedermann, "Cambodia today or is China eating America's lunch in Southeast Asia?" p. 145.

hosted a goodwill visits by a PLA Navy ship at the port of Sihanoukville.

In April 2010, in response to Cambodia's repatriation of Uighur asylum seekers back to China, the United States suspended its offer to provide Cambodia with two hundred military vehicles. The following month Prime Minister Hun Sen held discussions with President Hu Jintao on the sidelines of the Shanghai World Expo. President Hu pledged to provide 255 military trucks and fifty thousand military uniforms in a package valued at US \$14 million.³⁴³

China capitalized on the downturn in Cambodia-US defense relations by stepping up high-level engagement with Cambodia. In May 2010, for example, General Pol Saroeun, RCAF commander-in-chief met with General Chen Bingde, PLA chief of the general staff. General Chen promised that China would continue to provide personnel training and financial assistance for the construction of military schools, training centers, and medical facilities. In September 2010, Defense Minister Liang Guanglie hosted Deputy Prime Minister and Defense Minister Tea Banh in Beijing. They agreed to increase high-level contacts and the scope of security cooperation.³⁴⁴

In December 2010, China and Cambodia raised their bilateral relations to a cooperative strategic partnership. The previous pattern of high-level exchanges continued under this agreement. For example, in June 2011 Deputy Prime Minister and Minister of

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³⁴³ "China pledges military aid to Cambodia," *Press Trust of India*, May 3, 2010, <http://zeenews.india.com/news/world/china-pledges-military-aid-to-cambodia_623825.html>.

³⁴⁴ Robert Sutter and Chin-Hao Huang, "US Interventions Complicate China's Advances."

National Defense Tea Banh visited Beijing and met with Vice President Xi Jinping. They agreed to expand security cooperation.³⁴⁵ In May 2012, Defense Minister Liang Guanglie visited Phnom Penh where he signed an agreement on military cooperation with his counterpart Defense Minister Tea Banh.³⁴⁶ This agreement called for the continuation of joint training of military personnel and for China to continue to finance the construction of military training schools and medical facilities. In 2011, China provided uniforms and utility helicopters to Cambodia.³⁴⁷ And in January 2013, China and Cambodia signed a MOU to coordinate military human resources development.³⁴⁸

Security cooperation. China and Cambodia also cooperated to address non-traditional security issues on both a bilateral basis and under the auspices of ASEAN (discussed above). For example, China provided soft loans to Cambodia to enable it to purchase patrol boats for use by the Ministry of Interior. Between 2005 and 2007, Cambodia took delivery of nine patrol boats for use in maritime security.³⁴⁹

In February 2010, China and Cambodia signed a treaty on legal cooperation to address illegal immigration and transnational

345_ Robert Sutter and Chin-Hao Huang, "Managing Rising Tensions in the South China Sea."

346_ Robert Sutter and Chin-Hao Huang, "China Muscles Opponents on South China Sea."

347_ Steve Heder, *Cambodia: Capitalist Transformation by Neither Liberal Democracy Nor Dictatorship*, p. 106.

348_ Robert Sutter and Chin-Hao Huang, "China's Growing Resolve in the South China Sea."

349_ Sigfrido Burgos and Sophal Ear, "China's Strategic Interests in Cambodia: Influences and Resources," *Asian Survey*, Vol. 50, No. 3, (2010), p. 620.

crime.³⁵⁰ In November the same year, China's Minister of Public Security Meng Jianzhu and his Cambodian counterpart, Minister of the Interior Sar Kheng, meet and agreed to expand bilateral cooperation in law enforcement, counter-terrorism, drug control, and other transnational crimes.³⁵¹

In May 2010, Cambodia hosted the thirtieth ASEANPOL (ASEAN Police) Conference in Phnom Penh. China's vice minister for public security, Zhang Xinfeng, attended. Zhang pressed the participants to increase dialogue and information exchanges to address terrorism, illicit arms smuggling, human and drug trafficking, white-collar financial crime, and cyber crime.

Bilateral Relations

Cambodia's relations with China may be characterized as a patron-client relationship.³⁵² This relationship is highly asymmetrical due to China's size and economic power. But as one specialist argues, "Cambodia is far from powerless in this dyad. Cambodia's natural resources, its roles in multilateral forums, and its geographic position in the heart of Southeast Asia all give it the potential to help advance China's pursuit of economic development and a larger diplomatic and strategic footprint."³⁵³ In sum, Cambodia accrues considerable political, economic and commercial benefits as China's client. As noted by one Cambodia specialist,

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³⁵⁰_ Robert Sutter and Chin-Hao Huang, "Trade Agreement Registers China's Prominence."

³⁵¹_ Robert Sutter and Chin-Hao Huang, "China Reassures Neighbors, Wary of US Intentions."

³⁵²_ John D. Ciorciari, "China and Cambodia: Patron and Client?," *IPC Working Papers Series*, No. 121 (International Policy Center, University of Michigan, 2013).

³⁵³_ *Ibid.*, p. 6.

“Chinese financial assistance is critical not only for Cambodian economic development but also for the CPP’s legitimacy. Infrastructural projects, made possible largely by Chinese loans and grants, have earned the CPP credibility.”³⁵⁴

In return for the benefits received, Cambodia provides Chinese commercial interests with preferential access to its economy, land, and natural resources and also offers China political support on a number of regional and international issues, including the South China Sea dispute. One Cambodian specialist summed up relations this way, “In short, Cambodia depends on China economically, while China needs Cambodia politically and strategically.”³⁵⁵

China’s massive economic presence has its downside. Both the Cambodian elite and ordinary citizens have expressed concern over backroom deals and the lack of transparency in the award of contacts, corruption, illegal logging, unregulated mining, and forcible eviction from land turned over for Chinese concessions. More significantly, over time the patron-client relationship “has taken on an increasingly clientelistic character” as Cambodia’s elite have become ever-more dependent on Chinese aid and the Cambodian government ever-more “beholden to the PRC’s policy concerns.”³⁵⁶

Conclusion

China has invested much political and economic capital in

³⁵⁴– Un Kheang, “Cambodia in 2012: Beyond the Crossroads?,” p. 148.

³⁵⁵– Heng Pheakdey, “Cambodia-China Relations: A Positive-Sum Game?,” p. 79.

³⁵⁶– John D. Ciorciari, “China and Cambodia: Patron and Client?,” pp. 5-6.

Laos and Cambodia. China has done so primarily for economic reasons: it seeks access to agricultural produce and natural resources needed by its fast growing economy, and it seeks to develop a market for Chinese goods and services. Much of China's development assistance and investment is directed at building up the transportation and energy infrastructure and extractive industries in both states. China also promotes the integration of its southern provinces, Yunnan in particular, with mainland Southeast Asia. Chinese development assistance and investment is also aimed at creating a transportation network from southern China to mainland Southeast Asia. Thus, Laos's geo-strategic location as a transportation hub is of crucial importance. China has a special interest in cooperating with Laos to maintain border security.

China is also motivated by political interests. China seeks to develop friendly relations with Laos and Cambodia in order to solicit support for a range of policy issues of importance of Beijing. For example, all of the long-term bilateral cooperation agreements that China signed with ASEAN members in 1999-2000 contain a clause supporting the One China policy. This was particularly important in the case of Cambodia under the FUNCINPEC-led government that developed commercial ties with Taiwan.

ASEAN plays a critical role in China's foreign policy. This factor elevates the importance of Laos and Cambodia in a multilateral setting. It is in China's interests to have good relations with these states (and other ASEAN members as well) as a conduit for Chinese political and economic influence. In 2012, for example, when Cambodia was ASEAN chair, China used its influence in Phnom Penh to shape ASEAN discussions on the South China Sea. Cambodia was rewarded for its cooperative behavior. Laos assumes the ASEAN Chair in 2015.

Both Laos and Cambodia pursue a policy of bandwagoning with China primarily in order to accrue economic benefits.³⁵⁷ Both states maintain good political relations with China in the expectation of favorable political treatment. Policy makers in Vientiane and Phnom Penh pursue policies that minimize points of possible friction. Laos appears to have been more successful in maintaining its autonomy than Cambodia because of the strong economic role of Thailand and Vietnam. Laos pursues an evenhanded policy in its external relations by carefully balancing its external relations. Cambodia has been less successful because its relations with Thailand are troubled by a border dispute and because its relations with Vietnam are a contentious domestic political issue. The Hun Sen-led CPP regime has not pursued a balancing policy but has become dependent on China.

Nevertheless China's bilateral relations with Laos and Cambodia are not trouble-free. There are similar concerns in both countries about the domestic impact of China. As noted in the discussion above, both countries share concerns about the transparency of commercial contracts, bribery and corruption, environmental degradation (illegal logging, land grabbing, dam construction), Chinese domination of the market place, and illegal settlement of ethnic Chinese.

There are two major forces at work that will shape China's relations with Laos and Cambodia. First, Laos and Cambodia will be able to shore up their autonomy through the process of ASEAN community-building now underway. Second, China's massive in-

³⁵⁷ for a discussion on bandwagoning see Denny Roy, "Southeast Asia and China: Balancing or Bandwagoning?," *Contemporary Southeast Asia*, Vol. 27, No. 2 (2005).

vestment of economic and political capital in Laos and Cambodia will create a self-sustaining momentum in their bilateral relations. This momentum will be reinforced by closer economic integration between China and ASEAN as they work to enhance the ASEAN-China Free Trade Agreement.

6

*China's Relations with Myanmar:
National Interests and Uncertainties*

Yun Sun

In the past few years, China's relationship with Myanmar is one of the few cases where China encountered major problems and setbacks, despite its support and cultivation of Myanmar's military regime in the previous decades. The fluctuations and future of this complex bilateral relationship, therefore, have solicited major interest and curiosity of international observers and analysts. In China's foreign policy community, Myanmar used to be perceived as one of China's three loyal allies, along with North Korea and Pakistan. However, the changing domestic politics and foreign policy of the southwestern neighbor since 2011 eroded the foundation of China's previous Myanmar policy, introducing new challenges and uncertainties to its national interests.

The six decades of the Sino-Myanmar relationship are underlined by Myanmar's anxiety about the intentions of its giant neighbor in the north and a conscious effort to pursue a neutralist, non-alignment foreign policy to balance the influence of the big powers. Such an attempt was interrupted between 1988 and 2011 due to Western economic sanctions and political isolation of Myanmar's military regime, forcing it to rely instead on China for political and economic support. During this period, China expanded the realm of its national interests inside Myanmar, including but not limited to, border security, economic interests, energy supplies, and transportation routes, as well as strategic potentials in South Asia, Southeast Asia, and the Indian Ocean. The relationship was unbalanced, since Myanmar needed China for more critical support and resources. However, a mutual dependence was formed between the two neighbors. It lasted until political reform allowed Myanmar to improve the country's international environment and diversify its external relations.

This paper seeks to analyze China's relationship with Myanmar

and the future of the bilateral ties in the new era of Myanmar's political reform. The first section offers a historical overview of the Sino-Myanmar relations since 1949, fluctuations during the Cultural Revolution, and Myanmar's growing dependence on China after 1990. The second section reviews the different aspects of China's national interests in Myanmar, including the security and stability of the border, Myanmar's natural resources and energy supplies, as well as the potential for a strategic corridor that would expand China's regional influence. The third section examines changing dynamics of the bilateral ties as a result of political reform adopted by the Thein Sein government in 2011 and China's strategic misjudgment about the country. Finally, the paper discusses the impact of the shifting balance between China and Myanmar and how it might influence the future of the newly reformed democratic country.

The Historical Context of the Current Sino-Myanmar Relations

The history of bilateral relations between China and Burma/Myanmar could be roughly divided into three periods. During the Cold War (from 1949 to 1990), the two countries had a relatively balanced relationship characterized by Burma's neutralist, non-alignment foreign policy and China's desire to secure Burma's respect and support. After the Burmese military regime rejected results of the 1990 elections and the international sanctions and isolation that followed, China's influence in Burma grew rapidly. China's dominance there reached its peak around the year 2010,

anchored by vast Chinese investments in Myanmar and the establishment of a “comprehensive, strategic cooperative partnership” in early 2011. The rapidly expanding Sino-Myanmar ties took an unexpected turn in 2011. The political reform helped the new government consolidate its legitimacy at home and abroad, thereby removing the fundamental premise of Myanmar’s previous dependence on China for political and economic support. The Sino-Myanmar bilateral relations since then have embarked on a new stage of recalibration.

Normalization of Bilateral Relations and Myanmar’s Neutralist, Nonalignment Policy

For the majority of the Cold War period, China’s relationship with Burma was determined by Beijing’s political needs and strategic goals. After the founding of the People’s Republic of China in 1949, Beijing was in desperate need for international recognition and diplomatic normalization with countries beyond the socialist block. As a newly independent Southeast Asian nation and China’s neighbor, Burma was sought after as a potential third world partner that could boost China’s political legitimacy and international status. In 1950, Burma was among the first non-socialist countries to establish diplomatic ties with Beijing, a perceived diplomatic achievement still frequently mentioned by Chinese diplomats.³⁵⁸ In 1954, Burma and China (together with India) jointly raised and advocated for the “Five Principles of Peaceful Coexistence,” which

358_ “Prime Minister Soe Win of the Union of Myanmar: Pawkpaw Should Join Hands and Work Together” [缅甸联邦总理梭温：“胞波”携手共努力], *Xinhua News Agency*, July 5, 2005, <http://www.yn.xinhuanet.com/topic/2005-07/05/content_4574240.htm>.

according to Beijing, forms the foundation and the central theme of China's overall foreign policy philosophy.³⁵⁹ Burma's endorsement of the five principles is regarded by China as a third world country's full recognition of China's approach toward the world, especially toward countries of different political systems. Therefore, it's believed to have boosted China's international legitimacy and political status.

From 1956 to 1960, China and Burma successfully settled the demarcation of their border, perhaps the largest obstacle for the bilateral relations since the diplomatic normalization. Despite complaints from some local groups and analysts in China about the sacrifice China made in the settlement to curry favors from Burma on other broader issues, Beijing has regarded the case as a brilliant tactic for boundary settlement.³⁶⁰ The settlement was seen as setting an exemplary precedent for resolving border disputes peacefully, through dialogue and compromise, thus easing neighboring countries' concern about China's territorial ambitions. As a reciprocal gesture, Burma allowed Chinese military to cross the border into Burmese territory to eradicate the remaining KMT (Kuomintang) troops there, a legacy of the Chinese civil war between the Communists and the Nationalists. In the early stage of the bilateral relations, therefore, Burma affirmed Beijing's political legitimacy and validated its foreign policy approach in multiple ways.

China's relations with the two super powers (United States and the Soviet Union) played an important role in shaping its ap-

359_ "Five Principles of Peaceful Coexistence" [和平共处五项原则], *Xinhua Background Material*, <http://news.xinhuanet.com/ziliao/2004-06/09/content_1515866.htm>.

360_ Zhu Zhaohua, "An Example in New China's Settling Border Disputes- Delimitation of Sino-Burmese Boundary Line" [新中国处理边界领土争端的典范——基于中缅边界问题的划定], *Exploration and Free Views* [探索与争鸣], Vol. 4 (2009).

proach toward Burma during the Cold War. Generally speaking, when China's relationship with the super powers was smooth and positive, the importance of Burma for China diminished. But when China faced difficulties with them, Burma became more important for Beijing, which needed support and validation from the third-world neighbor. Such a pattern was conspicuous in China's attitude toward Burma since the early days: after the founding of the new China in 1949, faced with isolation by the "American imperialist" camp, Beijing was keen on developing and consolidating ties with Burma through compromises on border settlement and frequent senior-level visits. Then, in mid-to-late 1960's, shaped by its desire to mitigate international isolation from fighting against both the "imperialist" U.S. and the "revisionist" Soviet Union, China downplayed the impact of the anti-China riots in Burma and its ideological, revolutionary foreign policy toward the country. China's rapprochement with the United States in the late 1970s and through the 1980s reduced Beijing's interest in courting Burma.

On the other hand, Burma historically pursued a neutralist, nonalignment foreign strategy and a balancing diplomacy toward China, among other powers. The doctrine was articulated by Burma's Prime Minister U Nu in the early days: "Burma shall not ally herself with any bloc of countries, shall develop friendly relations with all countries and eliminate estrangement between the two blocks in order to promote world peace."³⁶¹ The philosophy was determined by Burma's assessment of its own geopolitical reality. Sandwiched between two big neighbors, China and India, it

³⁶¹ Fan Hongwei, "China-Burma Geopolitical Relations in the Cold War," *Journal of Current Southeast Asian Affairs*, Vol. 31, No. 1 (2012), p. 9.

would be dangerous for Burma to seek a one-sided alignment with either power. This would inevitably antagonize the other, solicit potential coercion, and damage Burma's national security. Instead, the neutralist and nonalignment foreign policy would give Burma maximum maneuverability not only between its immediate neighbors, but also between the two superpowers during the Cold War.³⁶² Under this overall theme, Burma pursued diversified relations with all countries in the world.

The anxiety about China's intention and policy was an underlying theme of Burma's relations with Beijing. Besides the vast difference of their sizes and national power, historical memories of invasions from the north during the Yuan and Qing dynasties anchored the fear and the sense of uncertainty of Burma. As put by the Burma's Vice Prime Minister U Ba Swe in 1957, "Our fear is very natural because in history big countries always were buckoes. Burma lies between big powers."³⁶³ Prime Minister U Nu further elaborated Burma's lack of bargaining power in front of giant China: "Our tiny nation cannot have the effrontery to quarrel with any power, and least among these, could Burma afford to quarrel with the new China?"³⁶⁴

The events during China's Cultural Revolution reinforced the suspicion and fear of Burma about China's strategic intention. In the mid 1960s, China established a radical revolutionary foreign policy to counter imperialism, revisionism, and all reactionaries of various countries and to support revolutionary movements in Asia,

³⁶² Interview with a Chinese Myanmar expert, Kunming, December 2012.

³⁶³ Fan Hongwei, "China-Burma Geopolitical Relations in the Cold War," p. 10.

³⁶⁴ Aung Zaw, "The Great Game over Burma," *The Irrawaddy*, April 11, 2013, <<http://www.irrawaddy.org/archives/31998>>.

Africa, and Latin American.³⁶⁵ In the case of Burma, China's ideology-driven foreign policy transpired as an "export of revolution" both through enhanced material support of the Burmese Communist Party (BCP) against the central government, and the distribution of revolutionaries materials, such as leaflets and Mao Zedong badges to local Burmese people. Although the efforts faded soon after the anti-China riots in June 1967, China's support to the BCP continued well into the 1980s, contributing to the lingering ethnic group issues that hinder Myanmar's national reconciliation even today. In the view of some Burmese observers, these cases demonstrated China's intention to maintain leverage against the Burmese government and, at minimum, interfere with Burma's internal affairs, and even reclaim some of the territory China gave up in the 1960 demarcation.³⁶⁶ Although since the 1970s China gradually toned down and eventually abandoned the revolutionary foreign policy, it nevertheless cast a shadow over the bilateral ties in the following decades.

Myanmar's Growing Dependence on China from 1990 to 2011

The Burmese government's suppression of the pro-democracy movement in 1988 and the military's rejection of the results of the 1990 elections were a turning point in the country's relations with the outside world, including China. The West imposed harsh economic and political sanctions as a response to events in Burma's domestic politics, effectively isolating Burma from the international

³⁶⁵ David Steinberg and Fan Hongwei, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian Perspectives* (London: Routledge, 2011), p. 91.

³⁶⁶ Interviews with Burmese analysts, Yangon, July 2012.

community and the world economic system. Countries such as the United States suspended their foreign assistance (except humanitarian aid), imposed arms embargos, and prohibited foreign trade with and financial investment in Myanmar in the following years. Subject to and limited by the sanctions, most Western companies withdrew from Burma. Burma's external political and economic environment deteriorated to its lowest point since the founding of the nation. Regionally, although Myanmar joined the ASEAN in the 1990s and remained as a member state, its poor human rights record and domestic politics hindered its role, status, and influence. In 2006, Myanmar relinquished its turn to hold the rotating ASEAN presidency due to other members' concern. Strangled by international isolation and challenged by the democratic oppositions, the military government of Myanmar had to resort to what was available externally to boost its legitimacy at home. Most Western countries and Asian players such as Japan and India were out of reach due to their repulsion of the military government's actions.

Incidentally, during the same period, China was facing a similar hostile international environment due to the crackdown of the pro-democracy movement in June 1989. Almost identical to the case of Burma, China's relationship with the West deteriorated to its nadir, leading to diplomatic isolation, suspension of senior level visits, trade sanctions, and arms embargo. With the hostility from the West, and Russia struggling with perestroika and glasnost, China returned to its third world developing country root to seek support. Burma, similarly isolated, and China's traditional "pawkpaw" (fraternity) and coadvocate of the "Five Principle of Peaceful Co-existence," naturally became a key country to consolidate ties with. The shared international quagmire and limited

alignment options of China and Burma during this period promoted the warming of bilateral ties. Especially after China gradually restored normal economic and political ties with the West in the 1990s and 2000s, the importance of China's political and economic strength became increasingly important for the isolated and investment-starved Myanmar.

The power imbalance between the lagging Myanmar and a booming China grew exponentially between 1990 and 2011. Most importantly, Burma relied on China for political support to defuse international pressures and reinforce its legitimacy. In 2007, when the US led other Western countries to push for a UN resolution to condemn Burma's human rights record and spotlight the repressive rule of the junta, China, along with Russia, defended the junta's cause and cast a veto at the UN Security Council.³⁶⁷ This was the only the fifth veto China exercised at the UN Security Council since its resumption of the seat at the multilateral organization and was seen as a major international victory by the military regime. Rangoon expressed appreciation to Beijing repeatedly and profusely. In addition, on the bilateral level, Beijing endorsed the military government by launching various cooperation projects and hosting its senior leaders.

Economically, China was a key source of trade and financial capital to the Burmese government subject to the Western sanctions. Since 1988, the volume and value of Sino-Burma bilateral trade increased greatly from US \$255 million to US \$2,907 million in 2009.³⁶⁸ Chinese products occupied a dominant posi-

³⁶⁷ "Security Council Fails to Adopt Draft Resolution on Myanmar Owing to Negative Votes by China, Russian Federation," *UN Security Council*, January 12, 2007, <<http://www.un.org/News/Press/docs/2007/sc8939.doc.htm>>.

tion in the Myanmar market given the rapid expansion of China's manufacturing sectors and their weak Burmese counterparts. After 2000, Chinese contracts poured into Myanmar as a result of Beijing's "Going Out" strategy, which utilizes government financing to fund infrastructure projects in less-developed countries in exchange for their natural resources and construction contracts. This also fostered the export of Chinese equipment, machinery, and electronic products to Myanmar.

Although detailed statistics are unknown to outsiders, it is commonly believed in and outside China that Beijing has provided large amounts of foreign aid to Burma.³⁶⁹ Other than military aid such as training and equipment, Chinese aid has focused on infrastructure projects. According to the Chinese government's statistics, up until the beginning of 2013, Beijing has provided more than thirty package projects, nine technological cooperation projects and twenty-seven batches of material support to Myanmar.³⁷⁰ Besides material support, China also preached to the military government about the benefit of adopting Chinese style economic reforms—namely, that an authoritarian government does not necessarily have to democratize to be legitimate and as long as it can create economic growth and improve people's lives, it could claim to be legitimate. The purpose of this strategy was to convince the Burmese government to learn from the China model. This would

368_ David Steinberg and Fan Hongwei, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian Perspectives*, p. 145.

369_ Tao Yu, "Chinese Foreign Aid Clashes with International Norms" [中国对外援助碰撞国际规范], *QingNianCanKao*, March 7, 2012, <http://www.21ccom.net/articles/qqsw/zwj/article_2012030955181.html>.

370_ "Chinese Economic Aid to Myanmar" [中国对缅经济援助情况], *Gold Phoenix*, January 4, 2013, <<http://www.mmmpmedia.com/local-news/3042-2013-01-04-15-41-18>>.

be in China's interests by creating internal stability and mitigating the international pressure China had to carry for the political and economic failures of the Burmese government. To this end, in the 2000s, China particularly emphasized training Myanmar officials on economic reform and related policies, including arranging tours for senior Myanmar leaders to visit China's special economic zones.

Recently, foreign direct investment has become another pillar of China's economic influence inside Myanmar. Historically, China had not been a top investor in Myanmar, lagging behind ASEAN nations such as Thailand and Singapore. (Thailand invested heavily in the Yadana Gas project and a pipeline to transport the gas to southern Thailand. Singapore was one of the few countries that maintained economic ties with Myanmar despite international sanctions on the country.) By 2008, China's cumulative investment in Myanmar was less than US \$1 billion, but from 2008 to 2011, the total number jumped to nearly US \$13 billion.³⁷¹ The boost came primarily in 2010, through finalizing investment agreements on the Myitsone dam, Letpadaung copper mine, and CNPC oil and gas pipeline. By the end of 2012, China had made a cumulative investment of US \$14.1 billion in Myanmar, more than one-third of the country's total FDI.³⁷²

The rising dominance of China in Myanmar through 2011 was characterized by Myanmar's disproportionate dependence on China. Such an imbalance deviates from Myanmar's traditional

³⁷¹ "China Now No.1 Investor in Burma," *Mizzima News*, Jan 18, 2012. <<http://www.mizzima.com/business/6436-china-now-no-1-investor-in-burma.html>>.

³⁷² "Chinese Chamber of Commerce Hosted New Year's Reception in Mandalay" [曼德勒中国企业商会举行元旦招待会], *Ministry of Commerce*, January 3, 2013, <<http://www.mofcom.gov.cn/aarticle/i/jyj/j/201301/20130108509236.html>>.

neutralist, nonalignment foreign policy and laid the foundation for dramatic readjustment by Myanmar in the following years. Instead of eliminating Myanmar's long-term fear and anxiety about China, the overwhelming Chinese economic and political influence deepened Myanmar's concerns. The suspicion was exacerbated by Chinese business's mercantilist, irresponsible investment activities.

China's Pre-2011 Strategic Thinking about the Bilateral Relations

From China's perspective, Myanmar's dependence on China during this period was a positive development. The disadvantaged position of an isolated and vulnerable Myanmar offered China a unique opportunity to develop economic ties and consolidate political relations according to Beijing's terms. Although Myanmar was never defined as an ally during this period, Chinese analysts widely put Myanmar in the same category as China's two de facto allies—Pakistan and North Korea, with a dependability “higher than North Korea but lower than Pakistan.”³⁷³ A stable bilateral relationship in China's favor rendered a growing confidence on the Chinese side. Gradually, the Chinese policy community began to see Myanmar's dependence on China and China's advantageous position in the bilateral relations not as a blessing or a deviation from the traditional balanced Sino-Myanmar relations, but as a given.

In China's assessment, the 2010 elections would not generate meaningful changes to Myanmar's domestic politics and the new government would be nothing but “old wine in a new bottle.”³⁷⁴

³⁷³ Interviews with Chinese analysts, Beijing, July 2012.

³⁷⁴ *Ibid.*

Indeed, given the military government's support of the Union Solidarity and Development Party (USDP) and its predicted victory, China assumed that such elections and their results would not be accepted by Western countries. By the logic that followed, sanctions imposed on Myanmar would not be lifted and, as long as Myanmar remained isolated, China would be able to maintain its advantaged position in the bilateral relations.

It was under these assumptions that Beijing chose to invest heavily in Myanmar economically and strategically despite potential uncertainties associated with the upcoming elections in 2010. China pushed for the finalization of its three largest investment projects right up until the elections, between 2009 and mid-2010. Beijing also began to instill its own strategic thinking into Sino-Myanmar relations through several endeavors that would fulfill China's strategic agenda. These included: (1) diversification of China's energy transportation routes through the Sino-Myanmar oil and gas pipelines; (2) heavy investment in Myanmar's hydro-power sector to increase power export to China; (3) investment in Myanmar's copper industry to boost China's own strategic copper reserve; (4) a bridgehead strategy that would turn Myanmar into China's outpost into Southeast Asia, South Asia, and Indian Ocean.

These strategic aspirations subtly adjusted the power balance between China and Myanmar by giving Myanmar more potential leverage in the bilateral relations. By virtue of possessing the critical resources that China desires and has invested heavily to pursue, Myanmar enhanced its bargaining power vis-à-vis China. This bargaining leverage would not be usable or meaningful had Myanmar continued to rely on China for more vital national interests of its own, such as validation of the legitimacy of its government, national security, and survival. But when such constraints were re-

moved, equilibrium would instead tilt toward the other side of the spectrum, in Myanmar's favor. What Beijing failed to see: that the power imbalance between China and Myanmar would spur the disadvantaged Myanmar to pursue internal and external changes to rebalance its foreign relations.

China's National Interests in Myanmar

China's national interests in Myanmar encompass some basic factors in China's relationship with all its neighbors: the security and stability of the border, healthy and stable bilateral economic cooperation, and a friendly political relationship. Meanwhile, due to Myanmar's special geographical location, its rich natural resources, and the uniqueness of Myanmar's dependence on China from 1990 to 2011, China's policy toward Myanmar also reflects several distinct features in terms of China's energy and strategic agenda.

Border Security

China and Myanmar share a long border of 2,180 km, with 1,997 km along China's Yunnan province.³⁷⁵ The border's demarcation was reached by a joint Sino-Burmese Boundary Commission on October 1, 1960. By the treaty's provisions, among the three disputes areas, 132 square miles were transferred to

³⁷⁵ "Five Cross Border Tourism Routes Added to Sino-Myanmar Border" [中缅边境新增5条跨境旅游线路], *Xinhua News*, December 11, 2012, <http://yn.xinhuanet.com/newscenter/2012-12/11/c_132032985.htm>.

China (fifty-nine at Hpimaw and seventy-three at Panglao-Panghung), while Burma gained full title to the eighty-five square miles of the Namwan leased territory.³⁷⁶ China also accepted the 1941 line, which it had rejected as a British artificial creation imposed on the KMT government, and embraced Burma's sovereignty over the northern part of Kachin state and a part of Sagaing province.

The result of the Sino-Burma border demarcation has been a controversial issue in China. Many analysts and military observers reject the validity of the 1941 line, citing the illegality of the informal agreement between the Britain and the KMT governments and China's continued presence in the region after 1949. They see the demarcation of the border as China's unilateral sacrifice of its territory and population in exchange for a friendly tie with Burma, something the new China needed desperately in the 1950s. The demarcation, in their view, artificially divided and separated Chinese ethnic groups that resided in the areas, including the Wa, the Kachin ("Jingpo" in China), the Lahu, the Mong ("Miao" in China), and others. Since 1960s, the border ethnic groups were heavily involved in the activities of the Burmese Communist Party. With the material and ideological support from a China under the influence of a radical, revolutionary foreign policy, BCP rapidly expanded its territory, building a thirty thousand-person army and nine base areas, and controlling a population of more than one million.³⁷⁷ When China later adjusted its policy to repair ties with

³⁷⁶ The Geographer Office of the Geographer Bureau of Intelligence and Research, "Burma – China Boundary," *International Boundary Study*, No. 42 (November 1964).

³⁷⁷ Xu Yan, "The Rise and Fall of the Burmese Communist Party" [緬共興亡始末与教训], *WenShiCanKao*, September 13, 2010, <<http://www.people.com.cn/GB/>

Burma, it reduced (eventually stopped) its ties with the BCP. The party disintegrated into several mostly ethnic-based armed groups, such as the United Wa State Army under the Wa, the Kachin Independence Army under the Kachin, and the National Democratic Alliance Army under the Kokang.

Lost Chinese assistance and a hostile relationship with the Burmese central government meant many of these groups resorted to illicit activities for revenue, including poppy farming, drug trafficking, arms sales, and smuggling. These activities have been a headache for both Chinese and Burmese authorities and contribute to the instability along the border. In the most recent case, a Myanmar drug lord, Naw Kham, orchestrated the killing of thirteen Chinese ship crew on the Mekong River in October 2011.³⁷⁸

However, the biggest threat to the border security and stability does not come from the illicit activities along the border. Instead, it lies in the unsettled political status of the border's ethnic groups and their unstable relationship with the Myanmar central government. China learned its lesson the hard way in August 2009 when the Myanmar military launched a surprise attack against the Kokang Special Region (Myanmar National Democratic Alliance Army), cast out its leader Peng Jiasheng, and took over control of the area. The conflict not only created major instability and uncertainty for the border but more importantly, it sent more than thirty-seven thousand Burmese refugees into China. Since then, China had been particularly concerned about potential military

198221/198819/198859/12706724.html>.

³⁷⁸ “October 5 Mekong Tragedy- 13 Chinese Ship Crew Killed” [10-5 湄公河惨案: 中国13名船员被枪杀], *China.com.cn*, May 11, 2012, <http://news.china.com.cn/node_7129577.htm>.

conflicts between border ethnic groups and the Myanmar authorities.

The pressure was particularly high before the 2010 elections, when the military government issued multiple ultimatums for the border ethnic groups to transform into Border Guard Force (BGF) under the command of the Tatmadaw. Beijing was concerned that the failure to resolve the issue would create skirmishes or attacks that would eventually lead to a major civil war in Myanmar along the Chinese border. To prevent such a disastrous scenario, Beijing repeatedly pressed Myanmar leaders on the importance of border stability, arguing that the ethnic groups, even those not subdued, would not present a major threat to the top priority of the military government back in 2010—the elections. China was successfully persuasive in the sense that the military government dropped the BGF plan and no major conflicts broke out prior to the elections.

However, the conflict was only delayed until after the inauguration of Myanmar's new government. In June 2011, the KIA and the Myanmar military ended the seventeen-year-long ceasefire. Armed conflicts have been ongoing since then. Among all the ethnic groups in Myanmar, the UWSA and KIA have the largest armed forces and the strongest military capacity. China's position on the Kachin conflict was originally rather detached, because the fighting, despite its scale and length, did not result in large numbers of refugee inflows. In late 2012, the conflict began to pose a threat to the soon-to-be-completed Sino-Myanmar oil and gas pipelines. The economic disruption, political disturbances, and rising domestic complaints about Myanmar's lack of consideration of Chinese interests promoted Beijing to take action. In early 2013, China appointed a special envoy for Asian affairs to focus on Myanmar and hosted two rounds of dialogue between KIA and the government in Yunnan province. The May negotiation in Myitkyina

rendered a preliminary agreement on ceasefire.

Compared with the Kachin, the issue of the Wa group and UWSA are even of higher concern to China. The Wa strongly identify with China and the Chinese ethnicity. Despite armed skirmishes with the Myanmar military, the UWSA is believed to have exercised restraints, a sign to China that the Wa “has China’s interests in their hearts and would not destabilize the border like the Kachin did.”³⁷⁹ Furthermore, China is appreciative of the fact that the Wa did not turn to the West for either political support or mediation in their relationship with the Myanmar government, a ground rule Kachin repeatedly violated, disregarding China’s strong opposition to any Western intervention in the border region between China and Myanmar.

China’s bottom-line national interest on the Sino-Myanmar border ethnic groups is to prevent armed conflicts that will impact China’s national security and commercial interests. China acknowledges that border ethnic group issues are essentially the internal affairs of Myanmar and supports resolution of the border ethnic group issues. However, China’s precondition for the resolution is that it must be achieved peacefully. In the long run, the common perception in the Chinese policy community is that even though China supports the negotiations, a permanent peace agreement that encompasses both the settlement of the ethnic groups’ political status and a distribution of economic benefits in the ethnic areas will neither happen soon nor be smoothly implemented. The chauvinistic nature of the Burmese and the historical distrusts between the Burmese and the ethnic minorities are constantly

³⁷⁹ Interview with Chinese analysts, Kunming, July 2012.

emphasized. In addition, in Chinese perception, confidence building and dispute resolutions after the agreement is reached will be a long-term, strenuous project.

Energy Security

China has two primary energy interests in Myanmar: energy supply and energy transportation routes. The first one is targeted at Myanmar's rich hydropower resources and natural gas reserves and the second is aimed at diversifying China's traditional energy transportation routes to mitigate risks associated with the over-dependence on sea lane of transportation for China's crude oil imports from the Middle East and North Africa.

Energy Supplies. Myanmar is a country with abundant energy resources and a top exporter of energy in the region. According to the World Energy Council, in 2007 Myanmar had 447.7 TCF of natural gas, 206.9 million barrels of oil, and a hydropower potential of 100,000 megawatts.³⁸⁰ Although the country suffers chronic power shortages due to lack of infrastructure, Myanmar's energy resources are a major attraction for foreign investment and a key source of export revenue. As of September 2011, a third of the country's US \$13.6 billion in direct foreign investment is in the oil and gas sector.³⁸¹

China's interests in Myanmar's natural gas and hydropower resources are rooted in the reality of China's energy demand. China

³⁸⁰_ "Myanmar Energy Investment Summit 2013," <<http://www.myanmarenergyinvestmentsummit.com/>>.

³⁸¹_ *Ibid.*

is the second largest consumer of crude oil, after the United States, and requires a large energy supply to fuel its domestic economic growth. According to government statistics, in 2012 China provided 207 million tons of oil and imported an additional 271 million tons to meet its domestic demand; the dependence on imported oil is as high as 56.4 percent of total used. On the other hand, Myanmar is rich in hydropower resources and has the world's tenth largest natural gas reserve. China's largest three national oil companies, CNPC, CNOOC, and Sinopec are all engaged in agreements with Myanmar Oil and Gas Enterprise (MOGE) for joint exploration and development. In 2008, CNPC and South Korea's Dawoo International signed an agreement with the Myanmar government on the sale and transport of natural gas from Shwe Gas field to China.

China is highly interested in the underdeveloped hydropower resources of Myanmar, conveniently located next to China's Yunnan province. In China's view, despite Myanmar's rich potential, exploring and utilizing its hydropower resources is primarily hindered by its backward infrastructure and lack of financing, which the Chinese government and investors could easily tackle. The hope has been that most of the power generated from the hydropower projects inside Myanmar would be transmitted to China while a small percentage would remain in Myanmar to meet local demands. Meanwhile, Chinese power companies wish to increase the percentage of nonhydrocarbon energy resources in their overall power output. The development of hydropower resources in Myanmar is perceived to be clean and sustainable.

Yunnan's regional demand has also been a part of the calculation. Yunnan has the second largest hydro resources among all Chinese provinces (23 percent of the nation's total) but is con-

strained by the uneven distribution of rivers and occasional drought throughout the province.³⁸² During the severe drought in 2009 and 2010, Yunnan's hydropower industry could only operate at 20 percent to 50 percent of its normal capacity, resulting in a 30 percent gap between the provinces' power supply and demand.³⁸³ The power shortage not only directly impacted the economic development of Yunnan, but also reduced its revenue from selling electrical power to provinces in eastern China, including Guangdong, under the national strategy of transmitting power from western to eastern China. Yunnan in the past has attracted major Chinese power companies to invest in the province's hydropower industry, such as on the Lan Cang and Hong rivers. Given the proximity of Myanmar's several main rivers to Yunnan (the Irrawaddy, Salween, and Shweli), Chinese investment in hydropower projects there is seen as highly beneficial to meet Yunnan's power demand and to generate additional revenue by selling the power surplus to provinces in eastern China.

Building dams in Myanmar is profitable for Chinese dam builders, Chinese power companies, and Yunnan province. China has the most competitive dam builders in the world. Sinohydro, for example, the world's largest dam builder, is estimated to have as much as a 50 percent share of the international market.³⁸⁴ Since 2005, China has constructed multiple major dams in Myanmar, in-

382_ "Yunnan Delegation: Protect and Develop Hydropower Resources" [云南代表团: 保护和发展水资源], *China Radio Station*, March 9, 2005, <<http://www.cnr.cn/home/column/2005lh/ljl/200503090217.html>>.

383_ "Yunnan Decreases the Amount of Power To Transfer to the East to Ensure The Supply To Fight the Drought" [云南调减“西电东送”电量 全力保障抗旱用电], *Xinhua News*, March 26, 2010, <<http://energy.people.com.cn/GB/11235184.html>>.

384_ "Chinese Dam Builders," *International Rivers*, <<http://www.internationalrivers.org/campaigns/chinese-dam-builders>>.

cluding the Shweli River I power station, invested in by Chinese Huaneng Group; the Dapein power station, invested in by China's Datang Group; and the controversial Myitsone dam invested in by China Power International. Almost all of these hydropower projects follow the BOT model (Build-Operate-Transfer), meaning that after a certain number of years, the ownership of the project will be transferred to the Myanmar government. However, during this period, most of the power generated would be transmitted back to Yunnan at a price agreed to by the Myanmar government. Between December 2008 and April 2013, Shweli power station has sold 7.4 billion Kwh to the Yunnan grid. And between August 2010 and June 2011 (when the Kachin conflict stopped its operation), Dapein power station sold 513 million Kwh to the Yunnan grid.³⁸⁵ The original plan for the Myitsone dam was to sell and transfer 90 percent of its power output back to Yunnan as well.

China sees the investment in Myanmar's hydropower industry as a win-win arrangement. In its view, Chinese investment offers the capital Myanmar urgently needs to develop its power industry and meet the local demand for electrical power; the Myanmar government collects revenue from the sales of power to China; and the hydropower generated is clean and believed to be sustainable. Chinese analysts defuse the complains from the Myanmar side about the majority of the power output to be transmitted back to China by citing the inability of Myanmar to consume large amount of power due to the lack of infrastructure, mostly a power grid. These complaints, together with the concerns

385_ "Dapein Resumes Power Transmission" [缅甸太平洋江一级电站恢复送电], *Southern Power Grid*, May 13, 2013, <<http://power.nengyuan.com/html/2013-05-13/238620.html>>.

of the environmental and social impacts of Chinese hydropower dams, led to the suspension of the controversial Myitsone dam in the September 2011.

Energy Transportation. China has only limited options to transport its energy import. More than 80 percent goes through the Malacca Strait, a key vulnerability to China's energy security as argued by almost all Chinese analysts.³⁸⁶ A primary concern is that in the event of deteriorated US-China relations, the United States could shut down the Malacca Strait and cut off China's energy supply from the Middle East and North Africa. To diversify the energy transportation route, China has built a Sino-Russia pipeline and a Sino-Central Asia pipeline, which reduces but does not resolve China's overwhelming dependence upon the Malacca Strait. A South Asia pipeline had been raised and discussed in early 2000s, with China's two close allies in the region, Pakistan and Myanmar, as the potential candidates. Later, when Pakistan's political stability became questionable, the idea of building a pipeline through Myanmar became increasingly popular.

The idea of a Sino-Myanmar oil and gas pipeline was first proposed by scholars from Yunnan University to the Yunnan province in early 2000s. Yunnan was immediately attracted by the potential benefits the pipeline would bring: an energy hub status for Yunnan in southwestern China; massive investment from Beijing; auxiliary facilities to promote Yunnan's industrial development; tolls and sales revenue; enhanced energy supply to Yunnan itself,

³⁸⁶ Ban Yue Tan, "China's Dependence on Imported Oil Deepens - How to Ensure the Energy Security?" [中国原油进口以来日深, 如何确保能源安全?], *Xinhwa News*, March 28, 2013, <http://news.xinhuanet.com/fortune/2013-03/28/c_124515464.htm>.

among others. Despite rampant questions about the feasibility of the project and weaknesses of the proposal, including geographical and technical difficulties, the uncertainties of Myanmar's unstable domestic politics, and the safety of the pipelines, Yunnan successfully convinced Beijing and CNPC of the strategic importance and benefits of the project and the agreement was finalized before the end of 2009.

After three years of construction, the gas pipeline went into operation in July 2013, with the operation of the oil pipeline expected in late 2013 or early 2014. After the suspension of the Myitsone dam in 2011, there has been local opposition and criticism of the pipelines. However, due to the perceived high strategic importance of the project to enhance China's energy security, China pursued a particularly harsh position, preempting any potential similar mishaps. Chinese senior leaders have repeatedly warned their Myanmar counterparts at the bilateral meetings of the importance of smooth implementation of their agreed-upon projects. As summarized by the Chinese government's mouthpiece *Global Times*, "the implementation of agreed projects is the important foundation of the normal Sino-Myanmar relations; Myanmar must be serious about its relationship with China."³⁸⁷ Meanwhile, China also attempted to turn Myanmar into a stakeholder of the pipelines' success. For instance, on profit sharing, the project agreement allows for allocating a maximum of 2 million tons of crude oil and 20 percent of the natural gas annually to Myanmar for local consumption.³⁸⁸ To mitigate local opposition

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 387_ "Oil and Gas Pipelines Are the Test Stone of Myanmar's Attitude toward China" [油气管道缅甸对华态度的试金石], *Global Times*, July 29, 2013.

388_ "China Myanmar Starts Delivering Gas," *China News Agency*, July 29, 2013,

and criticisms, CNPC has substantially enhanced its spending on local communities, committing \$2 million per year for the local corporate social responsibility programs.

Economic Interests

China's investment in Myanmar made a "Great Leap Forward" from 2008 to 2011, going from a cumulative investment of US \$1 billion to US \$13 billion. Between 2004 and 2008, the Myanmar government approved fourteen Chinese investment projects, amounting to US \$1.26 billion.³⁸⁹ In 2010, China became the largest source of foreign direct investment to the country. The rapid growth originated partly from Beijing's desire to consolidate its dominance in Myanmar in preparation for possible policy shifts of the new government and a potential influx of Western competitors. More importantly, the rapid growth reflected the rising economic interests China identifies in the country.

The majority of Chinese investments have been in energy sector, including the US \$3.6 billion for the Myitsone dam and US \$2.5 billion for the oil and gas pipelines.³⁹⁰ The second largest category is the mining sector. The largest endeavor, the Letpadaung

<http://www.china.org.cn/world/2013-07/29/content_29555333.htm>.

³⁸⁹ David Steinberg and Fan Hongwei, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian Perspectives*, p. 230.

³⁹⁰ Arguably, because Myitsone dam was suspended in September 2011, the amount of investment disbursed would be much less than the 3.6 billion USD committed investment. However, the figure is disputed by CPI which insists that the total committed investment for the project is significantly higher than 3.6 billion USD. CPI goes on to explain that although the project is suspended, CPI has not stopped spending on interests paid to the funders and affiliated programs such as the corporate social responsibility programs. The exact amount of investment disbursed is yet to be disclosed.

copper mine project, is a joint venture between Wanbao Mining, a subsidiary of China's state-owned China North Industries Corporation (NORINCO) and Union of Myanmar Economic Holdings Ltd (UMEHL), with a total estimated investment of US \$1.065 billion. The copper mine, as explained by Chinese analysts, is aimed at building China's strategic copper reserve by exploiting and importing copper ores from Myanmar. The US \$880 million Tagaung Taung nickel mine was jointly invested in by China Nonferrous Metal Mining Group and the world's largest stainless steel manufacturer, Taiyuan Iron and Steel Group. The mine has a reserve of more than thirty million tonnes [metric tons] of high grade nickel ore, containing some 700,000 tonnes of nickel. The project, which will be in operation from 2011 to 2031, will produce 85,000 tonnes of nickel iron containing 22,000 tonnes of nickel a year.³⁹¹

In terms of bilateral trade, Myanmar has been an insignificant trading partner for China, accounting for only 1.2 percent of China's total trade with ASEAN from 2000 to 2008.³⁹² The growth of bilateral trade has been rapid, from US \$255 million in 1988 to US \$5 billion in 2011.³⁹³ China was Myanmar's largest trading partner in fiscal year 2010-11³⁹⁴ and the second largest in fiscal year 2011-12.³⁹⁵ China used to run a surplus in its trade with

391_ "TISCO and CNMC to Develop Tagaung Taung Nickel Project in Myanmar", *People's Daily*, August 9, 2010, <<http://www.chinamining.org/Investment/2010-08-09/1281317539d38155.html>>.

392_ David Steinberg and Fan Hongwei, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian Perspectives*, p. 230.

393_ "GreatFuture for Sino-Myanmar Trade" [中缅贸易 大有可为], *Yunnan News*, December 10, 2012, <<http://www.yn.chinanews.com/pub/html/special/2012/1210/11965.html>>.

394_ "Sino-Myanmar Trade Exceeds 5 billion USD in Fiscal year 2010/2011" [2010-2011财年中国贸易超50亿美元], *Chinese Consulate in Mandalay*, May 31, 2011, <<http://mandalay.mofcom.gov.cn/aarticle/jmxw/201105/20110507578286.html>>.

Myanmar, which is expected to change in 2013 after China begins to import natural gas from Myanmar through the pipeline. Despite the insignificant nature of the total volume of the bilateral trade with China, Myanmar is the primary trading partner for the Yunnan province. Border trade with Myanmar makes up 40 to 50 percent of China's total trade with Myanmar. The border trade facilitates Yunnan's provincial economic growth. It also helps to spearhead Chinese products into Southeast Asian markets.³⁹⁶ Politically, the border trade with Myanmar promotes the economic development of China's multiethnic southwestern borderland, which is believed to play a key role in solidifying the government's control of the ethnic minorities and stabilizing the border region.³⁹⁷

Last but not least, China seeks to generate service contracts for Chinese service providers from the economic cooperation with Myanmar so as to create employment opportunities and revenues domestically. Since 2000, China and Myanmar has signed dozens of MOUs and agreements on economic cooperation. Many of these agreements commit China to providing concessionary loans or interest-free loans to Myanmar for the development of infrastructure projects. For example, in 2006, China agreed to provide a prefer-

395_ "GreatFuture for Sino-Myanmar Trade" [中缅贸易 大有可为], *Yunnan News*, December 10, 2012, <<http://www.yn.chinanews.com/pub/html/special/2012/1210/11965.html>>.

396_ Zhu Zhenming, "Yunnan's Border Trade with Neighboring Countries and Its Development" [云南与邻国的边境贸易及其发展], *Yunnan Social Sciences*, Vol. 6 (2000), <http://www.tpcincweb.com/RendaFull/GB/full2001/BF_TXT/002/Full200101_BF_TXT_1001389.html>.

397_ "The Notice from the General Affairs Office of the State Council on the Active Development of Border Trade and Economic Cooperation to Promote the Border Prosperity and Stability" [国务院办公厅转发经贸部等部门《关于积极发展边境贸易和经济合作促进边疆繁荣稳定意见》的通知], *The General Affairs Office of the State Council*, April 9, 1991, <<http://cpc.people.com.cn/GB/64184/64186/66684/4494175.html>>.

ential buyer's credit of US \$200 million to Myanmar to implement projects of five Myanmar ministries.³⁹⁸ In 2009, China's Exim Bank provided US \$200 million in loans to the Myanmar government for the construction of the new Naypyidaw International Airport.³⁹⁹ For many of these loans, Beijing requires infrastructure construction and other contracts to favor Chinese service providers. Most of them go to approved, mostly state-owned, Chinese companies. Therefore, China's financing to Myanmar also creates businesses opportunities for Chinese companies and Chinese labor markets, which is the critical aspect of Beijing's "Going Out" strategy. In the case of the Naypyidaw International Airport, the majority of the construction was carried out by China Harbor, a large state-owned enterprise.⁴⁰⁰ US \$20 million was also spent to purchase construction equipment from Chinese company SUNY in 2011.⁴⁰¹

Strategic Interests

China's strategic perception of Myanmar has undergone different stages since the establishment of diplomatic relations between the two countries. After the founding of the People's Republic of China in 1949, Burma, as one of the first non-socialist

398_ David Steinberg and Fan Hongwei, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian Perspectives*, p. 223.

399_ "Naypyidaw International Airport Launched" [缅甸内比都国际机场正式启用], *Xinhua News*, December 19, 2011, <http://news.xinhuanet.com/world/2011-12/19/c_111256954.htm>.

400_ *Ibid.*

401_ "140 Large Machineries from Hunan Assist the Construction of the Naypyidaw International Airport" [湖南140台大型设备助力缅甸内比都国际机场建设], *China News*, March 1, 2011, <<http://business.sohu.com/20110301/n279598116.shtml>>.

countries to establish a diplomatic relationship with Beijing, was a third world developing country that assisted China to break its international isolation.⁴⁰² Before 2000, political friendship (or *pauk-phaw* friendship) was the one—and almost only—highlight of bilateral relations.⁴⁰³ Despite the strong political relationship and traditional friendship, economic or strategic cooperation largely lagged behind. In the second stage, when China turned to international markets for natural resources and market opportunities in the late 1990s and early 2000s, Sino-Myanmar economic cooperation picked up speed. With the geographical proximity and abundant natural resources, Myanmar became a convenient and natural destination for Chinese investment and business.⁴⁰⁴ By 2010, China became Myanmar's biggest investor and second-largest trading partner.⁴⁰⁵ During this period, Myanmar, as a supplier of natural resources and raw materials, became perceived as a promising economic partner for China.

The discussion about Myanmar's strategic importance for China, therefore, is a more recent phenomenon. There once were concerns about the potential reaction from regional players such as

402_ Zhu Zheming, "China's Good Neighbor Diplomacy and Sino-Myanmar Relationship" [中国的睦邻外交和中缅关系], *Southeast Asia and South Asia Studies*, Vol. 2, No. 3 (Yunnan Academy of Social Sciences, September 21, 2009), <<http://www.seasas.cn/content.aspx?id=635873449441>>.

403_ Interview with former Chinese Ambassador to Myanmar, November, 2009.

404_ "Interview with Commercial Counselor Tang Hai: Sino-Myanmar Cooperation has Great Potential" [访驻缅商务参赞唐海 中缅合作有巨大空间], *Guo Ji Shang Bao*, August 6, 2006, <http://www.caexpo.org/gb/info/dongnanyatouzihuanjing/t20050725_44773.html>.

405_ "China becomes the biggest investor in Myanmar," *People's Daily*, February 22, 2011, <<http://english.people.com.cn/90001/90776/90883/7295205.html>>; "China, Myanmar forges partnership, inks deals on Myanmar president's maiden visit," *Xinhua News*, May 27, 2011, <http://news.xinhuanet.com/english2010/china/2011-05/27/c_13897797.htm>.

India about the strategic/security ties between China and Myanmar and about the xenophobic nature of the Myanmar government, especially its fear and anxiety about China's push for strategic relations. However, as China's strategic vision and aspiration expanded into South and Southeast Asia, Myanmar became an indispensable link in China's regional strategy. To this end, China established a comprehensive, strategic, cooperative partnership with Myanmar in May 2011, two months after the inauguration of the Thein Sein government.

The partnership encompasses basic elements of China's policy targets in Myanmar, such as border stability and political friendship. However, it reflects additional strategic targets China identifies in Myanmar. First, China seeks Myanmar's support of China's position in Southeast Asia. According to the statement made by Chinese President Hu Jintao on the establishment of the comprehensive strategic cooperative partnership, a key component of the partnership concerns Myanmar's role in the regional multi-lateral platforms. China wishes to "coordinate with Myanmar on ASEAN +3, ASEAN+1, and the Greater Mekong Sub-Regional Economic Cooperation to protect the interests of Myanmar and China."⁴⁰⁶ In 2011, when China's position on the South China Sea solicited major dissatisfaction and pushback from Southeast Asian countries, Beijing requested that Myanmar offer its support to China at the ASEAN Regional Forum.

China wishes to turn Myanmar into a corridor for the expansion of China's influence toward the southwest into South Asia

406_ "During Myanmar President's first visit to China, Hu Jintao made four suggestions on the future of the bilateral relations" [缅甸总统首访中国 胡锦涛提发展中缅关系四点建议], *Xinhua News*, May 27, 2011, <<http://www.chinanews.com/gn/2011/05-27/3073339.shtml>>.

and toward the southeast into Southeast Asia. Through economic cooperation, the hope is that China would broaden and deepen the trade, logistical flows, and the transportation network through Myanmar into the two regions.⁴⁰⁷ This endeavor is associated with the national “bridgehead strategy” China formally introduced in 2011, which proposes to turn Yunnan into a strategic corridor and bridgehead for China’s strategic engagement in the Indian Ocean.⁴⁰⁸ Although so far security and military components have been missing from the picture, Chinese analysts have not been shy in promoting the idea of the “Two Ocean Strategy” to free China from the strategic passiveness of relying on the Pacific Ocean alone.⁴⁰⁹

China-Myanmar Relations in the New Era of Myanmar’s Political Reform

China’s Misjudgment about Myanmar Politics

Before Myanmar’s political reform in 2011, China fundamentally misjudged the direction of Myanmar’s domestic political development. In China’s assessment, the 2010 elections were a tac-

407_ “Ruili: Facing the Indian Ocean and Building Key International Land Port for the Opening Up toward the Southwest” [瑞丽：西向印度洋 打造西南开放重要国际陆港], *MinZuShiBao*, September 9, 2013, <http://yn.xinhuanet.com/nets/2013-09/09/c_132704847.htm>.

408_ “Six Strategic Priorities in the 12th Five Year Plan Are Related to Yunnan” [“十二五”六个战略重点涉及云南], *Yunnan Wang*, March 7, 2011, <http://yn.yunnan.cn/html/2011-03/07/content_1521715.htm>.

409_ “Yunnan Wishes to Revitalize the Southern Silk Road, Joining Hands with 9+2 to Launch into the Indian Ocean” [云南欲复兴“南方丝绸之路”联手“9+2”进军印度洋], *China News*, September 22, 2011, <<http://www.chinanews.com/df/2011/09-22/3346478.shtml>>.

tic of the military government to strengthen its domestic rule and legitimacy, but by no means a genuine effort to pursue democracy. The forecast of Myanmar's unchanged political system led to China's conclusion that Myanmar's relationship with the West would not improve in the near future, and it would therefore continue to rely on China for domestic and foreign support. The failure to anticipate the democratic momentum led Chinese government and companies to continue to disregard the public opinion in Myanmar as a critical factor in the implementation of Chinese projects. In their view, as long as the Myanmar government was on China's side, the so-called "people's will" would not trump the decision of the government.

As a result, the anti-China sentiment inside Myanmar that had been brewing during the military government reached its peak after the inauguration of the new government in 2011. The local people became bitterly resentful of China and Chinese investment projects because of China's previous support of the oppressive military government so as to exploit Myanmar's natural resources. In addition, it was widely believed that corruption and bribery were rampant in the negotiation of the Chinese projects and that the economic, social, and environmental impacts of these projects were left largely unaddressed. These factors directly led to the suspension of the Myitsone dam and the Letpadaung copper mine in 2011 and 2012.

China also misjudged US engagement policy in Myanmar as failed when Washington declared the 2010 elections as "neither free nor fair." Believing that the Myanmar government would not make concessions on key issues such as the political status of Aung San Kuu Kyi, freedom of the media or the political prisoners, China assumed that there was an extremely slim chance for Washington

to improve relations with Myanmar. However, starting from the August 2011 meeting between President Thein Sein and Aung San Suu Kyi, the pace and scope of Myanmar's democratic reform largely exceeded China's original expectation. As a result, the improvement of US-Myanmar relations is regarded as an advancement of U.S. "encirclement" of China and a major strategic setback for China in the Southeast Asia.

China's failure to accurately assess Myanmar's domestic politics reflects a fundamental belief in China that an authoritarian government would not willingly give up its monopoly on power. According to China's own experience, the priority of non-democratic governments should be to legitimize their rule through the promotion of economic development. Reflected in China's relationship with Myanmar, this philosophy translates into a perception that so long as China helps Myanmar generate economic development and create revenue, Chinese presence and influence should be welcomed and appreciated by the local governments and people. In China's view, the priority of less-developed countries such as Myanmar should be the quantity, rather than the quality, of the economic development. Therefore, the anti-China sentiment in Myanmar was interpreted as nonindigenous and instigated by hostile Western forces, including the United States.

Shifting Balance

The changes to Myanmar's domestic politics and foreign policy put China in an awkward position. As a result of the political reform since 2011, the Myanmar government has successfully begun its reconciliation process with both the ethnic minorities and the democratic oppositions. Its reliance on China for political support

and validation for its legitimacy has been greatly reduced. Meanwhile, the political reform allowed the Myanmar government to improve ties with the West and diversify its foreign relations, effectively ending the international isolation it has been under since 1990. This opened up new options for its foreign partners and significantly increased its bargaining power vis-à-vis China.

However, due to its previous close ties with the military government and an overwhelming influence inside the country, China already forged and began to implement a series of economic and strategic initiatives in Myanmar that deeply link China's national interests to the future of the country. Implementing these initiatives was conditioned upon Myanmar's continued dependence on China due to domestic and foreign policy constraints. But when these constraints are removed, China is left with a difficult asymmetric dependence on Myanmar.

First, China has committed large investment projects in Myanmar's energy and mining sectors, such as the Myitsone dam, the Sino-Myanmar oil and gas pipelines, and the Letpadaung copper mine. However, since the beginning of the political reform, these large Chinese projects have run into major problems. The US \$3.6 billion Myitsone dam was suspended in September 2011 by President Thein Sein according to "people's will." Then, in November 2012, the Letpadaung copper mine was forced to shut down due to local oppositions and protests. The oil and gas pipelines have proceeded according to the original plan. However, opposition, demonstrations, and criticisms have been rampant. Political change in Myanmar, especially the rising influence of public opinion on government policy, has had a determining effect over the fate of these projects. However, due to the capital-intensive nature of these projects and their fixed locations, China

cannot easily withdraw its investments without suffering major losses.

Second, by building and operating the Sino-Myanmar oil and gas pipelines, China commits itself to dependence on Myanmar for the smooth operation of its fourth largest energy transportation route (after the Central Asia pipelines, Sino-Russia pipelines, and the sea lane transportation). A primary motivation for the pipelines was China's desire to mitigate its vulnerability due to the dependence on the Malacca Strait. The hope that China's energy security would be enhanced through Myanmar elevated the importance of the pipelines to a national strategic project. However, China's reduced dependence on Malacca Strait in this case has translated into an enhanced dependence on Myanmar for the smooth operation of the pipelines. And the new political reality of Myanmar and turbulence in Sino-Myanmar relations has made such a goal much less guaranteed than before.

The strategic design of the pipelines is not only aimed at diversifying China's energy transportation routes, but also relates to mapping the energy network in southwest China. As a central piece of this mapping, the oil and gas pipelines will turn Yunnan into an energy hub among the southwestern provinces, with refineries being built in the adjacent Sichuan and Guangxi provinces. Therefore, by the virtue of partially owning, managing, and supervising the pipelines through its territory, the Myanmar government is holding China's southwest energy network by the throat. China has argued that the Myanmar government also has a vested interest in the success of the joint venture through tolls and energy supplies allocated for local consumption. However, this does not change the fundamental fact that the pipelines are of a much higher strategic importance for China than for Myanmar and the relative gains/loss-

es from its success/failures are hardly comparable between the two sides.

Last but not least, close ties with the military government and confidence about China's future influence in Myanmar had promoted China to develop additional strategic aspirations that would utilize Myanmar's unique geographical location and regional role. These primarily include the hope for Myanmar to support China's foreign policy positions in the region or at regional organizations such as ASEAN; expand Chinese trade, logistics, and transportation networks into Southeast Asia, South Asia, and the Indian Ocean; and increase Chinese presence and influence in these regions. However, as Myanmar rapidly expands ties with the West, especially the United States, China has to either suspend these agendas or pay a much higher price to secure Myanmar's support.

Look Ahead

Since 2011, China has been adjusting its policies toward Myanmar. One result of the perceived unfriendly moves against Chinese investments has been the sharp decrease of Chinese investment in Myanmar, from more than US \$8 billion in fiscal year 2011-12 to US \$407 million in fiscal year 2012-13.⁴¹⁰ While Chinese companies are still interested in the rich natural resources Myanmar has to offer, they are deterred by the volatile investment environment and policy uncertainties of the Myanmar government.

Understanding the price it has to pay for its close ties with the military government in the past, China has softened its approach in

⁴¹⁰ "Chinese Investments in Myanmar Falls Sharply," *Wall Street Journal*, June 4, 2013, <<http://online.wsj.com/article/SB10001424127887324063304578525021254736996.html>>.

the hope of repairing bilateral relations. One key effort has been its significantly enhanced input in public relations campaigns inside Myanmar. Some features of this strategy include public relations events by the Chinese embassy and companies, donations to local communities and corporate social responsibility programs, journalist study tours to China, as well as Chinese cultural activities. These efforts are immediately aimed at safeguarding the continued implementation and operation of important Chinese projects. But in the long term, China also hopes they will improve the image of China and its relationship with the local communities.

A clear decision of the long-term strategic adjustment on Myanmar seems to be still lacking on Beijing's part. To increase China's policy leverage against Myanmar in light of the changing power balance between the two sides, some in China have argued that China should resort to its traditional ties with the border ethnic groups. In their view, even if China could not openly interfere with Myanmar's internal affairs or provide assistance to them, against the government, there are subtle and implicit ways China could lend its support. However, the drawback of the plan is that China has many vested interests in Myanmar. Internal instability or unfriendly moves on China's part will likely contribute to more uncertainties for their future relationship. Moreover, China awaits the future direction of Myanmar's political and economic reforms. If the reform is to sustain and succeed, China will have to adapt its policy and maintain a friendly working relationship with the Myanmar government—hasty, antagonistic actions will only further alienate Myanmar away from China. On the other hand, if the reform falters, China will have a very good chance to resume its previous advantaged position vis-à-vis Myanmar.

Myanmar, on the other hand, is also faced with difficulties

policy choices. Achieving national reconciliation and delivering real economic benefits to the people of Myanmar are the two top priorities for the new government. However, China has major influence on both. China's positions on the resolution of the border ethnic group issues greatly affects the pace and outcome of the reconciliation process. And falling investment from China, especially in infrastructure, has had and will continue to have an impact the progress of Myanmar's economic reform. Despite its liberal political and economic aspirations, Myanmar cannot choose its neighbor. How to pursue independent political and economic courses while keeping China involved and contributing to these courses will be the critical task Myanmar has to resolve in the years to come.

Part 3

*China and International
Institutions*



Korea Institute for
National Unification

7

The People's Republic of China and Respect for International Human Rights Law and Mechanisms

*Sophie Richardson**

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The following assessment of the Chinese government's reaction to international human rights conventions and norms was made as China approached its second round of international scrutiny under the Universal Periodic Review (UPR) mechanism at the United Nations Human Rights Council (HRC) in October 2013 and prepared a bid to run for reelection to the HRC in late 2013.

Over the past three decades, China has ratified many core international human rights treaties, written the state's obligations to respect and protect human rights into its 2004 constitution, and adopted or positively revised many critical pieces of domestic legislation. It has to some extent tolerated growing domestic debate informed and stimulated by those international standards. Yet the Chinese Communist Party's determination to maintain its monopoly on power—enforced through a type of rule that combines rewards and repression and adamant that outside scrutiny of domestic affairs constitutes “unacceptable interference”—means that while respect for human rights protections are extant on paper, implementation of them shows little sign of progress in reality.

This essay aspires to sketch out the contours of China's reform-era interaction with international human rights law and mechanisms. It is necessarily impressionistic, not simply because of the scope of the topic, but also as a result of the opacity of any Chinese government decisions, the illegibility of an increasingly broad set of actors on human rights issues, and the difficulty of identifying the origins and strategies employed particularly by those working within the system to promote better human rights protections.

The piece proceeds in several parts. It first outlines the status of the commitments to international law the Chinese government has undertaken and describes the positive—and deleterious—out-

comes of those efforts. It then explores three scenarios that reveal some of the dynamics of the Chinese government's interactions with specific international human rights mechanisms: its ratifying of the Convention on the Rights of Persons With Disabilities (CRPD), its interaction with the United Nations Human Rights Council's Universal Periodic Review (UPR), and its efforts to block crucial international human rights protections in the devastating armed conflict in Syria.

It concludes that while the Chinese government has been a much more active player in the international human rights realm in the reform era, and that there are ways this has been positive for people in China, for the region, and for the international community, those improvements should not be confused with significant progress in the government's respect and tolerance for citizens' exercise of their rights, particularly when exercise of those rights is perceived as being in conflict with the Chinese Communist Party's or government's objectives or interests. At the same time, it is precisely with reference to international human rights standards that domestic advocates are slowly making some incremental change.

China, Sovereignty, and the International Human Rights Regime

While the international order continues to be premised on state sovereignty, the international human rights regime arose in response to state failures to protect citizens and gross state abuses of citizens. International mechanisms to protect and promote human rights often entail supra-state processes and mechanisms: interna-

tional investigations, scrutiny, and debate; legal proceedings not controlled by domestic authorities; and international mechanisms for citizens to appeal for redress against their own governments.

It is arguably this aspect of the international human rights system with which the Chinese government, which remains deeply wedded to the concept of state sovereignty (and knows that it engages in serious violations of human rights), disagrees most deeply and consistently. It is less often the case that the Chinese government disputes particular interpretations of law or aspirations with respect to certain kinds of rights. It is much more common that China disputes the balance between rights and the state's power and authority to limit those rights. As a practical matter, China resists international mechanisms because of the scrutiny and accountability they enable their citizens to employ independent of the government and the avenues for criticism by other governments and international actors they create. As will be shown later in the chapter, China's approach to the manifestation and implementation of international human rights mechanisms remains highly defensive, effectively seek to limit scrutiny of China itself.

How does the Chinese government describe its human rights record to an international audience? It virtually always stresses its success in economic development, raising the standard of living, and lifting millions of people out of poverty. While doing so, Chinese authorities insist that a basic level of economic development must first be secured for an unspecified portion of the population before turning to advances in civil and political rights. The government will frequently note that while it remains committed to human rights, those rights are often subject to vaguely defined "national conditions." Moreover, the government will point to the host of domestic and international legal obligations undertaken,

including an explicit constitutional guarantee to protect and promote human rights, and note that they do indeed need to make more progress.

Given this insistence on sovereignty and noninterference, some wonder why the Chinese government has chosen to join international human rights regimes. The destruction of the Chinese legal system during the Cultural Revolution (1966-1976) and the evolution of the international legal environment into which China reemerged in the early reform era, presented the government with enormous challenges. China had objected both before and after its isolation from the United Nations to the rise of international norms and mechanisms in which it could not or would not play a part. Yet when faced with the choice in the late 1970s of trying to opt out of or challenge extant or emerging legal regimes, it essentially chose to participate. While most of the international legal regimes in which China has shown interest deal with economic issues, others requiring or attracting Beijing's attention pertain to environmental issues, arms control, security challenges, and human rights. Many of the pathologies at work with respect to human rights obligations under these international treaties can also be seen in the implementation of obligations under the World Trade Organization, as well as a host of environmental treaties.

Overview of China's Interaction with International Human Rights mechanisms

Key International Human Rights Treaties. The Universal Declaration of Human Rights (UDHR) is a set of principles all

United Nations (UN) member states are expected to uphold, but it is not an international treaty binding on states. Adopted in 1948, following a lengthy drafting process that included a well-known Chinese diplomat, P.C. Chang, the UDHR is considered a foundational text, one that serves as “a common standard of achievement for all peoples and all nations ... to secure their universal and effective recognition and observance”⁴¹¹ with respect to human rights.

To date, China has signed and ratified the following core international conventions that are binding on the state, and into conformity with which domestic law must be modified in order to proceed to ratification:

- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW, ratified in 1980);
- Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT, ratified in 1988);
- Convention on the Rights of the Child (CRC, ratified in 1992);
- International Covenant on Economic, Social, and Cultural Rights (ratified in 2001); and
- Convention on the Rights of Persons With Disabilities (ratified in 2008).

China also ratified the Convention relating to the Status of Refugees in 1982, though that is not considered a core human rights convention.

These treaties, taken together, guarantee a host of fundamental rights, ranging from the right of participation in political process and self-determination to the right to form independent

⁴¹¹ UN General Assembly, *Universal Declaration of Human Rights*, December 10, 1948, Resolution 217 A (III), <<http://www.un.org/en/documents/udhr/>>.

trade unions, as well as religious and cultural autonomy. However, China has made reservations on key provisions in some of these treaties, typically on the basis of its perceptions of state sovereignty and noninterference. For example, it has a reservation to the provision in the Convention on the Rights of the Child that guarantees a child's right to life, in light of what the Chinese government considers the superior needs of family planning regulations that limit couples to a single child. Some of the reservations also dramatically limit scrutiny, such as one to the Convention Against Torture disallowing outside scrutiny of complaints. China has also chosen not to sign optional protocols that provide expanded protections and/or redress mechanisms for citizens on key rights.

China signed the International Covenant on Civil and Political Rights (ICCPR) in 1998, but has yet to ratify the treaty. Some argue that China did so essentially in bad faith, signing to mitigate international pressure but with no real intention of ratifying and fulfilling the obligations. Others suggest that signing represented a victory for pro-rights, internationalist voices within the government, who probably also felt that ratification was unlikely, but that signing at least established the key standard. The government continues to argue that it needs more time to study various aspects of the obligations the ICCPR requires, particularly with respect to the death penalty and arbitrary detention. It is typically only after a wave of international pressure to ratify the ICCPR that the government signals its intention to do so. For example, the European Union and its member states have particularly pressured China to expedite ICCPR ratification, largely due to EU-wide opposition to the death penalty. In 2004, in an apparent attempt to again persuade the EU to drop its Tiananmen massacre-induced arms embargo, the Chinese government announced at a dialogue

with EU human rights officials that it would establish a working group on ICCPR ratification. Nearly a decade later, that and other efforts have not resulted in ratification.

Ratification of these treaties also requires China to undergo regular review through the treaty body reporting mechanisms. This involves periodically submitting reports to the relevant committee, answering questions, hosting visits by UN experts on relevant topics (see below), and engaging in interactive dialogues. While China is generally nominally compliant with these requirements, its reviews are often fundamentally compromised by government resistance in providing critical information, reporting in a timely fashion, seriously limiting nongovernment input into the processes, and providing evasive or simply false answers during reviews. For example, in its review under the Convention on the Rights of Persons with Disabilities, Chinese authorities unilaterally insisted that the government had done all it could to support this community, when ample evidence to the contrary was readily available.

Cooperation with UN Special Rapporteurs. Subject matter experts, known as “special rapporteurs,” from within the UN human rights system frequently ask to visit countries to report on the status of human rights issues within their mandates. An openness to such experts is generally considered an indication of respect for and cooperation with international mechanisms; other states feel some pressure to allow such visits but often seek to select thematic experts that would be expected to draw positive conclusions or control their visits as a means of ensuring a positive review.

Over the past decade, China has accepted visits from:

- Special Rapporteur for Economic, Social, and Cultural Rights, Katarina Tomasevski, focusing on the right to education,

November 2003;

- Special Rapporteur on Torture and Other Cruel, Inhumane, and Degrading Treatment or Punishment, Manfred Nowak, November 2005; and
- Special Rapporteur on the Right to Food, Olivier DeSchutter, December 2010.

During that same period, the following visit requests have been made to but not accepted by Beijing:

- Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions, Philip Alston, 2005;
- Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, Frank LaRue;
- Special Rapporteur on the Rights of Freedom of Peaceful Assembly and Association, Maina Kiai;
- Special Rapporteur on the Situation of Human Rights Defenders, Margaret Sekaggya (2008, 2010);
- Special Rapporteur on the Independence of Judges and Lawyers, Gabriela Knaul (2011); and
- Special Rapporteur on Trafficking in Persons, Especially Women and Children (2010).

The November 2005 visit of Manfred Nowak proved particularly difficult for China. Nowak, a well-regarded international human rights law expert, insisted on a fair amount of autonomy in determining, for example, which prisons he would visit, insisting among others on going to Drapchi Prison in Tibet, from which there were many serious and credible reports of torture in detention. Chinese authorities repeatedly sought to limit his investigations; Nowak showed equal tenacity in thwarting those

restrictions. Ultimately, Nowak's report on the trip was highly critical of Chinese authorities, leading to a near-total resistance to any subsequent visits. In accepting the visit of Special Rapporteur on the Right to Food, Chinese officials clearly thought the visit would result in a wholly positive review; they were furious when Special Rapporteur DeSchutter's report touched on limited access to food for individuals placed under house arrest, and for resettled Tibetan nomads.

Human Rights Council. As is discussed in greater detail below, a focus on China's human rights record at the former United Nations Human Rights Commission contributed in part to the demise of that body and the practices of the current Human Rights Council (HRC). The HRC has been in operation since 2006, and while China has been an increasingly present and active participant, it maintains a relatively low profile in terms of actual leadership.⁴¹²

Chinese officials have clearly emphasized what they perceive to be the more cooperative aspects of the council's work, such as promoting exchanges or dialogue, and remain slightly more amenable to thematic resolutions, though on these, too, the strategy seems designed to prevent singling out China's policies. China generally presents itself at the HRC as aligned with developing states, and is involved in thematic working groups that focus to a large extent on development issues. A study by Chatham House showed that China's voting record at the HRC coincided to a large extent

⁴¹² Rivero, Juliette, Judit Costa and Philippe Dam, *Keeping the Momentum: One Year in the Life of the UN Human Rights Council*, (New York: Human Rights Watch, 2011), <<http://www.hrw.org/sites/default/files/reports/hrc0911ForWeb.pdf>>.

with that of Brazil (83 percent), India (78 percent), and South Africa (96 percent).⁴¹³

China has initiated and cosponsored relatively few resolutions at the HRC. It dissociated itself from a consensus resolution to strengthen protections on the freedom of peaceful assembly and association, and objected to a resolution to ensure protections in the context of peaceful protests.

At the same time, China has worked to prevent scrutiny or criticism of individual states' human rights records even in the face of significant evidence of gross abuses, such as North Korea, Sri Lanka, or Sudan, even though the council is explicitly mandated to respond to crises and to try to prevent violations. Human Rights Watch has written, "China's defensive response on country situations seemingly reflects its concern that allegations of serious human rights violations in China could be brought to the attention of the Council."⁴¹⁴ In addition, China has opposed reform initiatives that would likely strengthen the HRC's capacity to respond to abuses, including opposing independent agenda-setting mechanisms whereby the UN Secretary-General, special procedures, and/or the UN High Commissioner for Human Rights could bring issues directly to the council's attention.

Slight Softening on Sovereignty? Over the past decade, Chinese trepidation over two forms of international intervention has softened slightly. The International Criminal Court (ICC) formally

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⁴¹³ Sonya Sceats and Shaun Breslin, *China and the International Human Rights System* (London: Chatham House, 2012), p. 22.

⁴¹⁴ Rivero, Juliette, Judit Costa and Philippe Dam, *Keeping the Momentum: One Year in the Life of the UN Human Rights Council*, <<http://www.hrw.org/sites/default/files/reports/hrc0911ForWeb.pdf>>.

came into existence in 2002, following the adoption of the Rome Statute in 1998. China, the United States, and five other countries vetoed the Rome Statute, while 120 other states supported it. In the first few years following the ICC's establishment, Chinese officials stated numerous objections to the court, particularly the possibility that its citizens could be disproportionately targeted for prosecution, and said that unless the United States also agreed to be held accountable through this mechanism, it would not join. In recent years some Chinese legal experts and foreign policy officials and scholars have suggested a slightly less hostile position, stating that the Chinese government might at some point be open to signing the Rome Statute. China abstained at the Security Council vote in support of an ICC referral on Sudan in 2009, but voted in support of a comparable referral for Libya in 2011. And, as has been the case for a number of international human rights mechanisms or venues in which China is not formally a participant, it has increasingly deployed diplomats to observe and report on the proceedings.

The concept of “responsibility to protect,” often referred to as R2P, emerged in the late 1990s, largely in response to the international community's multiple failures to intervene in the face of mass atrocities against civilians such as in Sudan. Codified in a commitment at the UN in 2005, R2P essentially clarifies that states are responsible for protecting their citizens from genocide, war crimes, and crimes against humanity; that other states have a responsibility to help them do so; and that should a state fail to provide such protections or itself carry out such violations, international responses up to and including UN Security Council-authorized use of force is appropriate. Such a set of principles presents a direct challenge to state sovereignty.

Despite this, surprisingly, the Chinese government has been

rhetorically supportive of R2P. It has acknowledged that states sometimes do fail to protect their populations, and that on some occasions force is necessary to prevent abuses worsening.⁴¹⁵ Yet China continues to articulate strong preference for express consent of the state in question prior to any kind of intervention, effectively undermining the application of the doctrine in practice. Despite the eruption or worsening of conflicts around the world about which a case for intervention on the basis of R2P could be made, many UN member states—and, indeed, the UN itself—remain at odds about where, when, and how to intervene. The degree of disunity in practice has created room for China to continue to rhetorically support the principles of R2P without having to actually vote for or against action on this basis.

What explains the differences between the Chinese government's attitude towards, for example, country-specific resolutions at the Human Rights Council as opposed to a far more interventionist doctrine such as R2P or mechanism such as the ICC? It is not that one is considered a more acceptable challenge to state sovereignty, but rather a function of the Chinese government's calculation about how likely certain mechanisms are to actually function, and to function in ways that could challenge their authority.

Positive Outcomes

Has China's interaction with the international human rights

⁴¹⁵ Sonya Sceats and Shaun Breslin, *China and the International Human Rights System*, pp. 46-47.

system resulted in positive outcomes for people inside and outside China? Despite the government's intense resistance to these mechanisms, it is impossible to argue that having China opt out of the system would be a preferable outcome. There are at least three distinct advantages to China's involvement.

First, exposure to—and adoption of—international standards has undoubtedly been positive, even if those standards have not been upheld in practice (see below). Numerous Chinese legal experts, lawyers, and diplomats said they have benefited from that exposure when debating, critiquing, or drafting new laws and practices. Lawyers who focus specifically on human rights issues repeatedly cite the importance of international law and standards in pushing for reform of domestic laws and practices. Many policy analysts and activists have attributed the Chinese government's willingness to refer to human rights as universal as a result of exposure to international norms and mechanisms. Recent efforts to reduce the scope of capital punishment, and admissions by senior Chinese government officials of the need to reform the notorious reeducation-through-labor system, in which individuals can be detained for up to three years without any review before a court, are certainly the result of exposure to international standards and norms.

Second, while interaction with or preparation for treaty-body reviews, visits by Special Rapporteurs, debates at the General Assembly, or managing bilateral human rights dialogues with other governments have not necessarily yielded significant improvements in practice, it is the case that these events and interactions have created room for debate where previously relatively little existed. For example, preparations for drafting the first National Human Rights Action Plan, which was to some extent a response to

China's first Universal Periodic Review in February 2009, involved more than fifty government ministries or agencies, as well as some academics and representatives of government-organized civil society groups. Some of the bilateral human rights dialogues contain a civil society component. As the National People's Congress considered changes to the criminal procedure law in the first half of 2012, more than eighty thousand comments were submitted via the NPC's website. Some made specific reference to international standards regarding issues like treatment in detention and juvenile justice.

A third positive is the rise of rights awareness amongst Chinese citizens, made possible in part by growing Internet access for ordinary people as well as some tolerance in state-approved curricula for exposure to international human rights standards. These have had the somewhat unintended consequence of exposing new generations of people to those standards, to normalizing the idea that people can and do hold government officials accountable, and, for a small but sophisticated set of domestic actors, that recourse to international bodies and organizations is increasingly common and possible. Some of these efforts include:

- submissions to various UN working groups, such as the one focused on arbitrary detention;
- publication of opinion pieces critical of the Chinese government in international media such as the *New York Times* and the *Wall Street Journal*;
- increasing of lawsuits against state authorities; and
- growing demand for citizens to be involved in international reviews of or discussions about the Chinese government's human rights record (see below).

Problems

Despite these gains, there are multiple, serious problems with respect to the Chinese government's interaction with international human rights laws and standards. An international human rights regime that cannot adequately protect a fifth of the world's population is simply not sufficiently robust.

First, the Chinese government consistently fails in practice to fulfill many of its most basic obligations under conventions and domestic law. Domestic and international human rights organizations, academics, and political analysts regularly publish credible evidence of restrictions on the rights to freedom of assembly, association, and expression; torture and arbitrary detention at the hands of state authorities; severe restrictions on the freedom of religion, particularly for ethnic minorities; and no meaningful opportunities for citizens to participate in the political process, including the lack of democratic elections. It forcibly returns refugees to likely circumstances of persecution, and blocks the return to China of PRC citizens considered politically problematic. As will be discussed in greater detail below, the Chinese government has on numerous occasions resisted a variety of international mechanisms to assess its human rights record, and failed to comply with the spirit and/or letter of treaty body reporting requirements.

Second, arguably one of the most alarming trends of recent years is implicit or explicit Chinese government pressure put on other governments or actors to violate their international human rights obligations. These, too, cut across a host of issues. Some of the most egregious examples revolve around the Chinese government's pursuit of those seeking asylum in other countries.

In December 2009, Cambodian authorities, acting at the request of the Chinese government, forcibly returned to China twenty ethnic Uighurs who had fled after violence in Urumqi, the capital of Xinjiang, earlier that year. The twenty had already been issued “Persons of Concern” letters by the local office of the UN High Commissioner for Refugees (UNHCR), indicating that the individuals had claims meriting full refugee status determination. Their whereabouts and wellbeing remain unknown. Similarly, six Uighurs were forcibly returned to China from Malaysia in December 2012; Malaysian counterterrorism police removed the men from immigration detention, from which they had lodged claims with UNHCR, drove them to an airfield, and relinquished them into the custody of Chinese officials. In both cases, Chinese officials insisted the individuals in question were criminals, yet all asylum seekers are entitled to refugee status determination in which their claims of likely persecution can be heard, and even criminals are categorically protected from return to a place where they would face a serious risk of torture. In these instances, Cambodian and Malaysian authorities blatantly violated these obligations. In other instances, Chinese officials have publicly told Nepal authorities not to allow peaceful protests by Tibetans in Kathmandu; Nepal officials have in some subsequent circumstances limited that right to the freedom of association and assembly. Numerous Southeast Asian governments have been cautioned not to allow Falun Gong-affiliated groups to broadcast, and some, including Indonesia and Vietnam, have effectively complied.

Third, even on issues on which the Chinese government adheres to international human rights law (such as labor standards), authorities show little willingness to comply or strive to promote international standards in other counties, in part because such

standards are not met in China itself. As more Chinese investors go out to parts of the developing world, they bring with them little experience in labor standards enforcement at home and are often given considerable latitude by local authorities to further cut corners. In 2011-12, Human Rights Watch documented multiple violations of labor laws in mines in Zambia by China Nonferrous Metals, a large state-owned enterprise. Chinese managers at CNMC-run subsidiaries expressed surprise at the expectations that multiple unions should be allowed to organize at their facilities, that local labor laws had to be upheld, and, in a larger sense, that conditions better than what was on offer inside China must be achieved. Obviously such violations are not unique to Chinese companies, but to the extent that such investment now constitutes such a large part of Chinese state interaction in those countries (and creates both considerable financial opportunities and threats), to be a better employer would be key not only in terms of global rights, but also for China's international profile. Given the growing resistance in some quarters to Chinese investment for precisely this reason, it is absolutely in the Chinese government's interest to comply with better standards.

Fourth, the Chinese government has clearly sought to limit the operations of some key international human rights mechanisms and agencies. For example, efforts to exercise protection mandates by key UN agencies inside China simply go unfulfilled. The office of the High Commissioner for Refugees (UNHCR) in Beijing is consistently denied the ability to investigate, let alone assist, known refugee populations inside China, particularly those residing in the provinces bordering North Korea and Burma. UNICEF has declined on occasion to fully exercise its global mandate to protect children in China. For example, it failed to inquire

into the circumstances under which Chinese border authorities shot dead a sixteen-year-old Tibetan in 2007, into the arbitrary detention of Uighur boys in the aftermath of the July 2009 protests in Urumqi, or into the Chinese government's imposition of house arrest on government critics' families, including their children. In 2000, the Chinese government and the Office of the High Commissioner for Human Rights (OHCHR) signed a memorandum of understanding for technical cooperation. While OHCHR's expertise was clearly in need, Chinese authorities showed little interest in making these interactions meaningful. The series of exchanges and workshops that followed may have been useful to the immediate participants, but the shallowness of the exchanges damaged the reputation of OHCHR's engagement, created little new movement towards change, and gave the Chinese government the opportunity to say it was cooperating with the UN's flagship human rights agency. The current high commissioner, Navanethem Pillay, is set to finish a six-year term as the first-ever high commissioner to not have been invited to visit China.

Finally, it is of genuine concern that in the past two years the Chinese government has again retreated from the language of universality with respect to human rights. The second National Human Rights Action Plan reiterated the government's adherence to the idea of universality, but conditioned the enforcement of those rights on undefined concepts such as "the principle of practicality," "China's national conditions," and "new realities." In addition, Chinese officials recently stated, including around the July 2013 US-China Strategic and Economic Dialogue in Washington, that official interactions about human rights had to proceed on the basis of "mutual respect and non-interference." Particularly alarming is a Communist Party of China (CCP) document drafted in

April 2013, apparently at the direction of new leader Xi Jinping, explicitly rejecting the universality of rights. Rather than increasingly integrating into a robust international human rights regime, the Chinese government instead seems determined to limit rights, and deny citizens meaningful, enforceable rights respected in other parts of the world.

The global human rights regime will remain fundamentally weakened until Chinese authorities embrace the idea that to be a member in good standing of the United Nations and the international community it must uphold its freely undertaken international legal obligations and allow citizens and foreigners alike a role in the debate about its domestic human rights record.

Case Study

Superficial Participation:

China and the Convention on the Rights of Persons with Disabilities

As noted above, some wonder why the Chinese government signs and ratifies international human rights treaties when it appears to have limited intentions of complying with them. China's participation in the Convention on the Rights of Persons with Disabilities (CRPD) is perhaps an illustrative example of how Beijing thought it could look like a good international citizen, yet not actually be obliged to uphold the standards. While China was nominally cooperative with the treaty monitoring body's review, it displayed many of the pathologies seen in other interactions: resisting international scrutiny and pursuing policies domestically that are diametrically opposed to international best practice.

The Chinese government began expressing interest in disability rights in the late 1980s and adopted domestic regulations sketching out basic obligations in areas like education and employment. That the Chinese government hosted the first major international conference of nongovernmental organizations (NGOs) on the rights of persons with disabilities in 2000 is noteworthy. The resulting Beijing Declaration on the Rights of People with Disabilities in the New Century explicitly called for the drafting of an international convention on those rights. The CRPD was opened for signatures in early 2007, and by the time the treaty came into force in March 2008, China had already signed and ratified it, suggesting positive participation.

States party to the CRPD are obliged, within two years of ratification, to submit a report for review by the Committee on the Rights of Persons with Disabilities, the body charged with overseeing states' implementation. China submitted its initial report on schedule in August 2010, but because it delayed submitting an official translation of that report, its actual review took place in September 2012 rather than September 2011. In addition, a number of international diplomats and experts involved in the process expressed concerns about efforts by Chinese diplomats to obstruct the review process and its modalities over the course of 2011 and 2012. Those concerns included an unwillingness to provide key information, a failure to provide timely translations, efforts to limit which Chinese and international experts Committee members met, and discouraging transparency of the review.

Some of these issues were expressed in the committee's List of Issues, published in April 2012 in response to the government's submission. The committee's requests for information make clear some of the fundamental obstacles to Chinese government cooper-

ation with international human rights treaties. Not only had the state's report failed to provide basic data about the size and diversity of the community of persons with disabilities in China, nor the scope of government assistance to that community, there was little information about how the state engaged in the implementation of antidiscrimination laws and regulations or even efforts to combat infanticide or eugenicist policies against persons with disabilities. Despite the committee's articulation of concerns, Chinese government officials were not significantly more forthcoming on these and other issues in the review itself in September 2012.

While the process of China's first review under the CRPD fell short of expectations, far more troubling is the government's unwillingness to actively embrace some of the most basic principles set out in the CRPD. One of the most important aspects of the treaty is that it reflects a fundamental shift away from a medical perception of disability—in which persons with disabilities are seen as damaged and in need of repair in order to function effectively—to the prevailing social view of disability as a reality requiring the removal of barriers that exclude people from the communities in which they live. As a policy matter, fulfilling this principle involves doing away with barriers by providing reasonable accommodations to people with disabilities to ensure that they can be included in the communities in which they live. Yet in at least one key area—ensuring access to education for children with disabilities by making mainstream schools inclusive—the Chinese government continues to pursue the opposite strategy. It is still constructing special education schools that segregate children with disabilities from other children while failing to adapt mainstream schools to ensure that children with disabilities can attend the same schools as their peers without disabilities. Children with and without disabilities—

and the effort to ensure international standards and best practice—suffer as a result.

Limiting a Key Institution: China and Universal Periodic Review

The Chinese government's attitude towards the Universal Periodic Review (UPR) system is perhaps one of the best indications of its efforts to not just limit scrutiny of China, but to fundamentally manipulate a mechanism that scrutinizes all countries—thus weakening its international utility.

After years of debate, the UN's Human Rights Council in 2007 launched a new system of reviewing individual states' human rights records. Under the old human rights commission, any individual state could be highlighted, but typically only about a dozen were; this included an annual resolution on China. The Chinese government objected vehemently to this scrutiny and the resolutions, and this resistance contributed in part to the demise of the Human Rights Commission and the establishment of the Human Rights Council. The possibility for the council to respond to situations of widespread human rights violations through the adoption of country specific resolution is maintained—but the political reality of the council since 2006 has made it difficult to achieve.

In addition, under the new UPR system, all UN member states were to have their records reviewed every four years. Each UPR involves states, UN human rights mechanisms, and domestic and international civil society organizations submitting reports about a given country's record to serve as the basis of an interactive dialogue. That dialogue becomes the main venue in which other governments can raise concerns and make recommendations. Following the dialogue, the government under review announces

which recommendations it will implement or reject, and other governments have the opportunity to comment on that status. No part of the UPR is binding on states, though as the second four-year cycle gets underway, clearly the focus is on progress or lack thereof since a government's previous review. While few officials from any government like having to describe abuses or shortcomings in their own country, many governments have come to view this process as more equitable, in light of the full scope of member states, and some have expressed genuine enthusiasm for the recommendations made.

China underwent its first review in February 2009, relatively early in the first four-year UPR cycle. And while it generally complied the letter of the review process, it showed little good faith in the spirit of it. First, the government's own national report—one of the three key pieces of documentation for the review—focused heavily on poverty alleviation and other economic and social accomplishments. The document made virtually no reference to any of the serious abuses inside the country, including the death penalty, torture in detention, arbitrary detention, or limits on the freedom of expression. The national report was also developed with no input from independent civil society organizations. The government sought to manipulate another aspect of the reporting process, seeking in at least two ways to water down criticisms raised via the stakeholder, or civil society, report. Because the process for amalgamating dozens of individual civil society reports into a single ten-page document made no distinction between independent human rights organizations and so-called government-organized NGOs or GONGOs, which demonstrate a much less critical analysis of the government's human rights record, Chinese diplomats insisted on compilation strategies that would

heavily favor a more positive document. In order to ensure that outcome, a new crop of Chinese state-sponsored NGOs inside and outside the country—of which most close observers of the China’s human rights environment had never heard—submitted glowing reports about the Chinese government’s human rights successes. The government also failed to reply to questions submitted by other delegations in advance of the review about its report.

The government also sought to forestall criticism in the interactive dialogue itself by mobilizing its allies to register on the list of speakers. At the time, because of speaking time constraints during the UN debate, no more than sixty states were allowed to sign up for speaking slots; with Chinese encouragement, human rights luminaries such as Algeria, Sudan, and Vietnam were high on the list—while only a handful of potentially critical delegations were able to contribute to the debate. China was not the only state to have mobilized dozens of its friends to occupy the available speaking slots to make positive statements, making the review itself less critical; others like Ben Ali’s Tunisia and Cuba used the same tactic. But the extent to which China succeeded to limit critical voices was unique.

During the dialogue itself, Chinese officials made wildly untrue claims, including denying the existence of well-documented abuses such as arbitrary detention or state-sponsored censorship. It accepted no recommendations about abuses of ethnic minorities, reduction in the use of the death penalty, judicial independence, securing basic rights to the freedom of assembly, association, and expression, protection of human rights defenders, or addressing torture.⁴¹⁶ It gave no reasons for rejecting these recommendations.

Since that time, the Chinese government has pursued strategies that appear designed to further blunt criticism of its rights re-

cord during its second review, scheduled for October 2013. It has published two national human rights actions plans, one in April 2009 and another in June 2012. While it appears that the development of the first NHRAP actually made room for domestic experts on human rights to be part of a larger, government-driven discussion, the document itself was not a tool for effective human rights protection or promotion on the ground.

It remains to be seen how the Chinese government will answer later this year for the deteriorating human rights environment over which it has presided, including the late 2009 sentencing of Nobel Peace Prize winner Liu Xiaobo to eleven years for attempting to subvert the state, the enforced disappearances of human rights lawyers and government critics, the rise of an unaccountable domestic security apparatus, or the deeply alarming phenomenon of self-immolation of Tibetans. But authorities in Beijing are well underway in their attempts to limit discussion of UPR inside the country. One private citizen who petitioned the Ministry of Foreign Affairs for information about the public consultation aspect of drafting the national report was actually told that drafting was a state secret.⁴¹⁷ Others who have protested peacefully outside the

416_ For a full list of the recommendations rejected, see Human Rights Watch, "Human Rights Watch Statement on UPR Outcome Report of China," <<http://www.hrw.org/news/2009/06/10/human-rights-watch-statement-upr-outcome-report-china>>. It mentions, "Why couldn't the Chinese government answer any of the questions submitted in writing in advance of the session, or provide reasoning for the rejection of recommendations 27(b),(c),(d),(e),(f), (g), 28 (a), (c), (d), (e), (f), (g), (h), 30(b),(c), 31 (a),(b),(c),(d), 38, 42 (a), (b), (c),(d), 43(a),(b),(e), (f),(g),(h) 56 (a),(b),(c),(d), 79(a), (c), 81(b), 82 (a),(b),(c),(d),(e),(f),(g),(h), (i),(j), 83(a),(c),(d),(e), (g), 84(a), 85(b),86(b),(e), 92(b),(c),(d),(e),(f),(g), (h), 95(b), (c), (d), 96 (a), (b), (c), and 97?"

417_ Chinese Defenders for Human Rights, *The Chinese Government Must End Reprisals Against Activists Demanding Participation in UPR*, July 4, 2013, <http://files.ishr.ch/public/otherdocs/chinese_government_m____hu

MFA have been detained and told to disperse. Offers by officials of other governments, international experts, and academics to provide assistance to Chinese authorities on the UPR process have been uniformly rejected.

Obstructing Urgent Protection Needs: China and Syria

Many observers of China's foreign policy were surprised by its vote of support for United Nations Security Council Resolution 1970, referring Libya to the ICC and imposing sanctions on it, and its abstention on Resolution 1973. That abstention, rather than a veto, had the practical effect of helping the resolution pass, and therefore enabling the authorization of NATO airstrikes in Libya, which were carried out between March and October 2011 "to protect civilians and civilian protected areas." NATO's campaign contributed to the downfall of Muammar Gaddafi, Libya's strongman of forty-two years. Some wondered whether China's traditional opposition to such interventions might be weakening; others attributed the uncharacteristic vote to Chinese discomfort at being left alone opposing a broad international consensus. But Chinese government discomfort with the implementation of 1973 grew considerably over the course of 2011 as Beijing came to believe that NATO powers, and particularly the United States, had acted beyond the parameters of the mandate to protect civilians, and brought about regime change instead. By March 2012, China suddenly and opportunistically set aside its hostility towards such mechanisms and expressed a concern for the human cost to Libyans it had not showed prior to the resolution or in many other

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 man_rights_defenders.pdf> (accessed August 30, 2013).

comparable situations and called for an investigation into whether NATO airstrikes had caused civilian casualties.

China's growing unease with international intervention has featured prominently in its posture towards the conflict in Syria, even in the face of widespread human rights abuses and the appalling toll on civilians in conflict. China's position is buttressed by its perception of the Libya intervention. The Syrian conflict began in 2011 as a crackdown on anti-government protests. According to UN Secretary-General Ban Ki-moon in July 2013, the death toll from the conflict surpassed 100,000 people, many of them civilians. The fighting has caused an extraordinary humanitarian crisis inside the country and in neighboring countries where countless Syrians have sought refuge.

Throughout the conflict, Chinese officials continued to call for a political solution when there is no realistic prospect of such an outcome in the short-term, and claimed that its efforts at promoting peace in Syria were "unremitting." It has consistently objected to any sort of international action that did not have the explicit support of the Assad government. Not only has the Chinese government failed to call for an end to indiscriminate attacks on civilians, the use of incendiary weapons, and summary executions and torture in the Syrian conflict, it has also blocked Security Council-driven efforts to deliver desperately-needed humanitarian assistance across the border to rebel-controlled areas in northern Syria. China has also been unwilling to support sanctions on the Syrian leadership, an arms embargo, or the referral of the situation in Syria to the International Criminal Court. Beijing has had the ability to essentially hide behind Russia's much deeper objections to intervention in Syria. It remains unclear whether absent such an ally China would continue to obstruct these efforts.

Even in the face of growing evidence in August 2013 that the Syrian government has used chemical weapons against civilians, Beijing's position shows no sign of softening. This stands as arguably the starkest example of the price China is willing to let others pay, and the damage done to obligations and opportunities for international intervention to protect the most basic of human rights, as it insists on the need to respect the views of a sovereign state.

What Can the International Community Do?

The Chinese government's disdain towards the international human rights regime, coupled with its significant economic and strategic growth over the past decade, has made it appear a formidable opponent. Officials of many governments will often say that they pursue a strategy of private diplomacy with the Chinese government on human rights issues, claiming that they believe such an approach is more effective. In some circumstances this may be true, but it is also politically convenient for those diplomats who want to avoid irritating the Chinese government, and for the Chinese government itself, which can simply ignore entreaties made privately. International human rights institutions, including parts of the UN and private non-governmental organizations, are not opposed to issues being raised behind closed doors—indeed, such is the nature of most diplomatic interactions—but believe that pushing publicly for accountability for rights abuses in China has proven more effective. Increasingly, human rights activists in China are calling on foreign governments and UN agencies to raise rights issues and cases with Chinese officials. While the Chinese govern-

ment often reacts with rhetorical hostility towards some international human rights interventions, or tries to limit the discussions to particular venues like bilateral dialogues, often the fate of individual cases, key issues, and sustained pressure for legal reform in China only advances as a result of international interventions.

There are at least two other reasons foreign governments need to remain an active part of the push for better human rights protections in China. First, at no point in time has the relationship between rights protections—or lack thereof—inside China had such clear consequences outside the country. The lack of press freedom inside China means that food or other product safety scandals are not reported and corrected before products enter the export stream. The profoundly politicized judicial system cannot be relied upon to enforce contracts or mediate in a predictable, law-based fashion. Even the long traditions of censorship on Chinese university campuses are now being exported and play out at academic institutions outside the country. There are few aspects of any bilateral relationship with China that do not fundamentally rest on the free flow of information, the need for an independent judiciary, and ability of people to speak their minds peacefully without fear of retribution. It is in everyone's interests to push for this, if not for the sake of principle, than for the clear advancement of those agendas.

There is also a strong link between respect for human rights and stability—a goal the Chinese government says it strives for, and with which many other governments agree. But, according to official statistics, there are now approximately 250 to 500 mass incidents—protests—per day in China. Many of these are about forced evictions, land dispossession, environmental crises, corruption, or public health scandals. Some have a more explicit political

dimension, such as the protests in Tibetan areas in March 2008 and in Urumqi in July 2009. Abuses at the hands of domestic security forces are rampant, and those forces are rarely held to account. As a result, there are important questions to be raised about just how stable contemporary China is, and how the government will deal with increasing challenges to its legitimacy as citizens become more rights-conscious but have few formal, impartial avenues through which to seek redress.

Regular, coordinated intervention by rights-respecting governments is critical to advancing rights in China. Most of the “usual suspects” are Western powers—the United States, Germany, the European Union, the United Kingdom, and Canada—though India, Japan, and South Korea play roles as well. Greater involvement by these governments would, among other things, help challenge the Chinese government’s canard that human rights are a Western conspiracy designed to limit China’s rise, and help to show that governments in Asia can and will be universal in their approaches to human rights.

Japan. Japan has an official bilateral human rights dialogue with the Chinese government. But Japanese officials, who have long been reticent to talk about human rights issues in other parts of Asia, citing their inability to speak to World War II-era atrocities committed by Japan, are particularly loathe doing so with Chinese officials. The Chinese government is, of course, especially ferocious on the subject of Japanese atrocities in Nanjing and other parts of China. It remains an obstacle to effective Japanese human rights diplomacy worldwide that it cannot or will not reconcile with that past; find a way to assert that it supports and adheres to international human rights dialogues; and is concerned about the fate of

people in China. Japan's bilateral human rights dialogue is not announced in advance; does not invite input from civil society in either country or from international human rights organizations; and does not involve any sort of briefing or information post-dialogue.

In China's first UPR in February 2009, Japan did express concern about the cultural rights of ethnic minorities in China—a relatively soft criticism. In late 2012 opposition Liberal Democratic Party leader Shinzo Abe and Diet members from across the political spectrum met with the Dalai Lama, leading to some unusually public comments expressing concern about the lack of respect for Tibetans' human rights. In early 2013, then newly-reelected Prime Minister Abe further irked Beijing by providing critical support for the formation of a United Nations-backed commission of inquiry. The commission will investigate and report on human rights abuses in North Korea and assess prospects for accountability and whether violations that have occurred constitute crimes against humanity. But these efforts have not been linked to other major concerns in the bilateral relationship, and Japan in general remains a very weak defender of international human rights.

South Korea. South Korea's efforts have been roughly similar to Japan's. Most of its human rights-related interventions with the Chinese government have revolved around the treatment of North Koreans, particularly trying to prevent the forced return to North Korea of North Korean asylum seekers hiding in China. Seoul supported the UN Commission of Inquiry into abuses by the North Korean government. Presumably South Korea's concern is in part a function of its view that North Koreans are citizens of South Korea, though the sporadic nature of those interventions suggests that some of the same dynamics, including diplomatic, economic, and

strategic considerations also push human rights concerns to the background. Seoul does not have a bilateral human rights dialogue with China.

A few recent incidents demonstrate the contours of South Korean interventions. In February and March 2012, China forcibly returned thirty North Koreans, prompting criticism from then-President Lee Myung-bak and protests outside the Chinese Embassy in Seoul. South Korean officials at the United Nations Human Rights Council raised concerns about this forced return, an unusually public and international criticism that prompted harsh criticism from Beijing. In July 2012, a North Korean human rights activist was expelled from China after being held there for at least three months, during which time he claimed he was tortured. South Korean officials demanded that China investigate the allegations, and South Korea's National Human Rights Commission considered taking the case to the UN's Special Rapporteur on Torture and the Working Group on Arbitrary Detention. Later that year, South Korean authorities appealed to China to not forcibly return approximately four-dozen asylum seekers to North Korea. In mid-2013, South Korean authorities asked Lao officials to release into their care nine North Korean children; after Lao authorities permitted North Korean officials to take custody of the children and fly them to China, South Korea requested that Chinese authorities protect them from return to North Korea, but this request appears to have been ignored.

India. While in recent years the Indian government has been willing to express deep concern about human rights abuses in the region, particularly in Sri Lanka but also Burma and Malaysia, at international forums, it has been unwilling to take a compre-

hensive stand on human rights abuses in China. This is largely a function of the two countries' rocky relationship: longstanding disputes, including a war in 1962 over the Sino-Indian border; China's close relationship with Pakistan; and especially India's six decades of sanctuary to exiled Tibetan spiritual leader, the Dalai Lama, roughly 100,000 Tibetan refugees, and the seat of the Tibetan government in exile in the northern Indian city of Dharamsala. The Indian government generally respects the Tibetan community's rights, particularly with respect to freedoms of assembly and expression on the occasion of peaceful protests around visits to India by senior Chinese officials or to teachings by the Dalai Lama. There is also respect for the freedom of movement into and out of India.

But no other human rights issues in China visibly feature in consequential diplomatic interactions, and it is even rare for Indian officials to urge China to address the grievances of Tibetans that cause the outflow of refugees, let alone any other issues with less immediate bearing on the bilateral relationship. India made no comments at China's first UPR, and has shown no enthusiasm for using international forums to express concerns about human rights abuses in China. It did, however, send a diplomat to the December 2009 Nobel Peace Prize ceremony in Oslo honoring Liu Xiaobo; the Chinese government had pressured many governments to refrain from attending the ceremony.

Are There Steps to be Taken? As democracies with strong nominal commitments to human rights at home, India, Japan, and South Korea could take steps to make their human rights diplomacy both more internally coherent and effective for the defense of human rights in China.

Arguably most important, these governments need to avoid the phenomenon of China exceptionalism—a pathology of governments around the world, one in which disproportionate fear of punishment by Beijing leads governments to remain silent about issues they would be highly vocal about elsewhere. For example, if India, Japan, and South Korea regularly comment on the successful (or unsuccessful) completion of elections in countries around the world, they must also do so on the lack of elections in China. While Japan's historical relationship with China is obviously complicated and riddled with human rights abuses by Japan, Japan cannot be so silent or selective on current human rights issues in China and expect to be thought of as a serious international player with respect to human rights. South Korea should express concerns about abuses of people in China other than those it considers its citizens, or at least publicly press China on its broader obligations to refugees. India's position towards Tibetans has been a remarkable effort in protecting that community's human rights, but it cannot then be considered credible if it refuses to speak about any other human rights issues in China.

Each of these governments need to examine its toughest, most consistent interventions globally on human rights and ensure they are pursuing similar efforts in tone and style with China—the Chinese government is a highly cognizant observer of which governments fail to weigh in, and cites those failures as evidence that other governments' or institutions' criticisms are baseless. At a minimum, these three governments should commit to raising at least two or three pressing human rights issues in China, some of which should move beyond their established interests. Doing so helps put the Chinese government on notice that its conduct is being discussed, and occasionally leads to minor improvements.

Greater concern expressed by regional powers would also materially contribute to ending the idea that human rights and Asian cultures or values are somehow fundamentally incompatible. As democracies, all three of these countries can and should extol the merits of political participation, a free press, transparency, independent judiciaries, and individuals' rights to make claims against the state. As the new Chinese leadership appears to be stepping away from the universality of human rights, few efforts would carry greater weight than vigorous defenses of human rights by governments in the region.

Conclusion

The Chinese government is certainly participating much more actively in the realm of international human rights, but this should not be confused with active compliance with or support for making those rights realities inside China. Arguably those who have benefited most from exposure to international norms and standards are activists and academics inside the country pushing for convergence with those standards and trying to make use of those mechanisms. But absent a dramatic change of view by Chinese authorities, consistent support and intervention from other members of the international community, and robust efforts by international human rights mechanisms to play an active role in China, these efforts are fundamentally limited. Of equal concern are the fundamental limitations placed on those norms and mechanisms by China's noncompliance. The integrity of international human rights protections is at stake until such time as the Chinese government becomes an active, good-faith participant.

8

*International Human Rights Law
and the Democratic Peoples Republic
of Korea:
The “UN Roadmap” for Human Rights
Improvements in North Korea*

David Hawk

There is a very simple, straightforward way to view and understand the human rights situation in the Democratic Peoples Republic of Korea (DPRK or North Korea): North Korea's oft-repeated insistence that there are no human rights issues in North Korea at all, that "there can be no human rights problems in their people-centered socialism," and that allegations otherwise are the slanders of the "human scum" who are traitors to their country, versus the widespread international recognition that North Korea's human rights violations are systematic and severe and that the DPRK's human rights record is among the worst in the world.

Even if the present human rights situation is fully as bad as commonly recognized, there is a more holistic approach to North Korea's human rights record, one that may have potential importance to the possible future of human rights in the DPRK. This fuller picture involves an examination of North Korea's approach to, and interaction with, contemporary international human rights law. This approach takes into account the DPRK's accession to four of the core international human rights conventions⁴¹⁸ and North Korea's participation in the compliance and implementation review processes associated with the human rights conventions that set forth and define, or enshrine in law, a large portion of contemporary international norms and standards.

Four of the United Nations' expert committees on international human rights law that implement reviews of provisions

⁴¹⁸ Perhaps soon to be five. On July 18, 2013 North Korea signed the Convention on the Rights of Persons with Disabilities (CRPD). "Signing" a multilateral convention usually indicates the intention of that nation-state to "ratify" the convention according to the constitutional provisions and political processes of that nation-state. (Very little is presently known about the situation of disabled persons in the DPRK.)

contained in their respective conventions—the Human Rights Committee,⁴¹⁹ the Committee on Economic, Social and Cultural Rights, the Committee on the Elimination of Discrimination against Women, and the Committee on the Rights of the Child—have, on the basis of an intensive consultation with DPRK officials, issued a series of observations and recommendations to North Korea on the measures it should take to bring its policy and practice into alignment with the norms and standards of contemporary international human rights law.

Taken together, these recommendations constitute what is being referred to here as the UN roadmap, a veritable to-do list for human rights improvements in the DPRK.⁴²⁰ Again, these recommendations are the result of an extensive consultation process in which North Korea participated. The DPRK's sustained participation in this process stands in contradistinction to its virulently hostile noncooperation toward the other initiatives, mechanisms, and procedures that the United Nations pursues, under the provisions of the UN Charter, to promote and protect human rights in UN member states.

This roadmap has both domestic and international utility.

⁴¹⁹ The UN Human Rights Committee should not be confused with the UN Human Rights Council. The council is a subsidiary organ of the General Assembly (GA) consisting of forty-seven member states that are elected to the council by the GA. At the council, diplomats speak and vote according to the instructions of their respective foreign ministries. The committee is a group of experts, often constitutional or international lawyers, chosen by the nation-states that have ratified the International Covenant on Civil and Political Rights. These experts serve in an individual capacity. The individuals on the Human Rights Committee, like those on the other treaty implementation review committees, are among the world's leading experts on human rights.

⁴²⁰ “UN roadmap” is a construction of this author, not official United Nations terminology. But all elements in the “UN roadmap” are taken directly from formal recommendations of official Committees of the United Nations.

Internationally, the series of recommendations from the human rights treaty review committees could play a central role in any human rights dialogue with North Korea. While there is next to no human rights dialogue with North Korean officials at any level,⁴²¹ in the event, however unlikely, of any human rights dialogue, the UN roadmap provides both a framework and the specific content for such discussions. International interlocutors could ask the North Korean participants about review committee's recommendations that have adopted and at least partially implemented, such as revisions in the DPRK criminal code and criminal procedure codes or new laws on women's and children's rights. (These

⁴²¹ Early in the 2000s, the European Union (EU), mostly those EU member states with diplomatic missions in Pyongyang initiated a human rights dialogue in the DPRK comparable to EU human rights dialogues with numerous other countries. But the DPRK broke off the dialogue after two preliminary meetings when the EU sponsored the North Korean human rights resolution at the UN Human Rights Council in 2003. The most obvious dialogue partner with North Korea should be the appropriate UN officials, the High Commissioner for Human Rights and the Special Rapporteur's on the situation of human rights in the DPRK, but North Korea vehemently refuses to cooperate with these UN human rights officials. During the "Sunshine" years, South Korean officials had extensive discussions with North Korean officials, but the participating South Korean officials declined to raise human rights issues with their northern counterparts, even on such question as the unreturned South Korean POWs from the Korean war, or the South Korean citizens abducted by North Korea. One of the major American interlocutors with the DPRK is the special envoy for human rights issues in North Korea. But, so far, discussions have focused primarily on humanitarian food assistance. There is talk about talking about human rights, but these discussions have never gone any further. It was theoretically possible for human rights issues to have come up in some of the Working Groups during Phase Three of the Six Party Talks, or as part of the more recent Leap Day (February 29) Agreement. But these negotiations with North Korea broke down for reasons that have nothing to do with human rights. Almost certainly the U.S. Congress would insist that a human rights dialogue, if not outright improvements, be part of any process of normalization of relations with the DPRK. But relations between the US and the DPRK are, presently, substantially stuck on North Korea's determination to stick with its nuclear weapons and missile programs.

are briefly examined below.⁴²²) If they acknowledge that some recommendations have been adopted, a dialogue could continue by asking the North Korean participants what is their evaluation and response to recommendation “X” by the Human Rights Committee, recommendation, “Y” by the Committee on Economic, Social and Cultural Rights, and recommendation, “Z” by the Committee on the Elimination of Discrimination against Women, and so on.

As discussed below, it is the domestic application and utility of human rights law that gives the internationally negotiated and posited norms and standards their potential. The domestic utility of the roadmap, the series of recommendations to the DPRK from the international human rights treaty review committees, is likely more important than its possible usage in international discussions.

If Kim Jong Un and his closest advisors believe that the DPRK should improve its human rights situation, the recommendations resulting from the international human rights law review processes summarized at the end of this chapter provide exactly the roadmap for North Korea to follow. In all likelihood, there are scores, if not hundreds, of officials in the various ministries in Pyongyang who would agree with many of the recommendations in the UN roadmap, and who would wish to see them adopted as DPRK policy and practice. There are likely larger numbers of local officials outside of Pyongyang, who know in even more detail than the privileged officials in the capitol, that North Korea’s sacred social system is not working well, and who would welcome the adoption of many of the UN roadmap’s recommendations.

⁴²² This is sometimes referred to as “knowledge sharing,” as neither diplomats, human rights experts, nor Korea experts understand how these changes have worked out and what they mean to North Korea’s citizenry.

Realistically, this domestic potential should not be overstated. The government ministries have, by-in-large, less power and influence that either the Korean Workers Party or the Peoples Liberation Army. The later will oppose any divergence of resources from itself in order to better fulfill the North Korean people's right to food, or their right to the best possible health services. The party will likely oppose measures, including civil or political rights, that would enable the citizenry to deviate from what the North Koreans call the "monolithic ideology system" installed by Kim Il Sung and Kim Jong Il.⁴²³ The domestic utility of international human rights law in the DPRK remains largely one of future potential, not present-day reality. While the outside world can encourage North Korea to improve its human rights policy and practices—primarily through concerted action at the United Nations—in a world dominated by sovereign states, actual change can come only from within. How international human rights law works to bring about changes in domestic practices of the nation-states that adopt the international human rights legal framework is examined below, as is the presently constrained political and social space in which domestic law can operate in the North Korean system of governance.

North Korea's limited cooperation with the United Nations treaty-based mechanisms and procedures is juxtaposed with the DPRK's noncooperation with charter-based mechanisms and procedures to promote and protect human rights. The uneven history of North Korea's participation in the UN human rights treaty re-

⁴²³ See Patrick McEachern, *Inside the Red Box: North Korea's Post-Totalitarian Politics* (Columbia University Press, 2010) for a description and analysis of the bureaucratic conflicts between the government ministries, the Korean Workers Party (KWP) and the Korean Peoples Army (KPA), and how poorly the government ministries often fare in these bureaucratic maneuverings.

gimes is outlined, as are several examples of the DPRK's limited efforts to implement the recommendations from the UN human rights conventions' review committees. A fuller listing of these UN roadmap recommendations for human rights improvements in the DPRK is included.

At the outset, however, there are two preliminary issues. First, it is only a slight exaggeration to say that North Korea violates virtually all of the substantive rights set forth in the Universal Declaration of Human Rights, with the possible exception of the right to a nationality.⁴²⁴ So what does it mean for a country to declare, proclaim, or accede to rights treaties and conventions that the country routinely disregards? This question has vexed observers ever since a group of colonial leaders, including several slave owners, gathered in Philadelphia in 1776 to declare the self-evident truth that all men are created equal and endowed with inalienable rights including liberty. But wondering why states declare, proclaim, recognize, or accede to rights they proceed to violate is actually the wrong question.⁴²⁵ The right question is whether or not the people of those states are better off because their government has signed on to international human rights law. It is the assumption of this paper that the North Korean people are potentially better off because the DPRK has accepted the international human rights laws that it has.

⁴²⁴ Universal Declaration of Human Rights, Article 15(1), though certainly not 15(2) "No one shall be deprived of his nationality nor denied the right to change his nationality."

⁴²⁵ See Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics* (New York: Cambridge University Press, 2009), Chapter 3, "Theories of Commitment" for an examination of the diverse reasons nation-states ratify human rights conventions.

Along-term scholar of Northeast Asia, Professor Mel Gurtov, poses a second preliminary issue. Noting that “the North Korean regime’s gulag puts it in a class by itself,” Gurtov posits that there are times when engagement with a dictatorial or authoritarian government is a “morally and strategically foolish pursuit.” He contends that:

A government that engages in genocide, ethnic cleansing or other heinous crimes does not deserve to be “engaged.” In cases such as these, engagement amounts to appeasement and the abandonment of vulnerable populations.⁴²⁶

As this chapter was being prepared, an official United Nations investigation, termed a Commission of Inquiry, was underway to ascertain if some of the North Korean human rights violations constitute crimes against humanity. Should the Commission of Inquiry conclude violations occurred, North Korea’s overwhelming obligation to international law, the world community, and to its own people is to stop such crimes.

Notwithstanding, this author’s perspective is that that engagement with North Korea on human rights issues remains critical, provided that the vulnerable populations, in this case the victims of crimes against humanity, are not abandoned. Such engagement, if and when it occurs, is likely to be substantially conditioned on North Korea’s formal acceptance of international human rights law.

⁴²⁶ Mel Gurtov, “Engaging Enemies: Fraught With Risk, Necessary For Peace,” *Global Asia*, Vol. 8, No. 2 (Summer 2013), p. 2, <<http://www.globalasia.org/Issue/ArticleDetail/3/engaging-enemies-fraught-with-risk-necessary-for-peace.html>>.

International Human Rights Law

Human rights in contemporary international affairs are the norms and standards that circumscribe the relationship between state and citizen: what governments *should not* do to their citizens; and what governments *should* do for their citizens. Of course, various norms and standards, denominated as “duties” (including the duties of good or beneficent governance), long preceded the norms and standards denominated as “rights.”⁴²⁷ Rights emerged gradually in the process of political, economic, and social modernization, as kingdoms and empires evolved into states, and men and women evolved from being the subjects of kings and emperors to being the citizens of states in a world made up of nation-states, and as national or international markets for plantation and industrial commercial production replaced subsistence agriculture and craft production for local consumption.

Historically, upon the creation of a new nation-state or a new social or political order within an existing nation-state, norms delineated as rights were declared as part of the new order, incorporated into a constitution, or newly posited as domestic law. The victors of World War II, recognizing the failures of the pre-war League of Nations and the terrible atrocities that preceded and accompanied the war, gathered in 1945 to again try to form an international organization that could better resolve conflicts and keep

⁴²⁷ Often prescribed as duties to the moral order, the obligations of harmonious or beneficent political and social order, or duties to God, the *rights* of the beneficiaries of such *duties* were implicit, even though not explicitly stated as *rights*. For example the duties to God in the Ten Commandments “thou shall not kill” and “thou shall not steal” necessarily assume right to life and a right to personal property.

peace among nation-states. One of the posited core purposes and goals of the United Nations was to promote respect for the obligations arising from treaties and other sources of international law.⁴²⁸ The first step was to draft a short, clear, definitive declaration of what human rights are recognized to consist of in mid-twentieth century. This was achieved in 1948 after years of negotiations and debate with the proclamation by the General Assembly of the Universal Declaration of Human Rights as a “common standard of achievement for all nations and all peoples.”⁴²⁹ This was followed by the long and painfully delayed codification of the straightforward principles posited in the Universal Declaration into the more specific and precise language of law as legally binding international obligations in the form of two multilateral treaties, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights.⁴³⁰ Taken to-

428_ The other two goals and purposes of the UN are to maintain international peace and security, and to promote social progress and better standards of life in larger freedom. (Preamble and Article 1 of the United Nations Charter.)

429_ Adoption of the UDHR was in the form of a resolution at the General Assembly that the member states had the choice to vote for, vote against, or to abstain from voting. No state wanted to be counted as opposed to human rights, so no Member State voted against the UDHR, but a small handful of countries abstained because their governments were either opposed to one or two of the Articles, or because they were dissatisfied with the wording. (South Africa abstained because the UDHR posited racial equality. Saudi Arabia abstained because of the Articles declaring women’s rights and freedom of religion. The “Soviet bloc” abstained because they wanted an explicit condemnation of Nazi fascism and more attention to the rights of the state.)

430_ The archaic term “covenant” was used rather than “convention” as covenant implies a pact or mutual agreement of the most fundamental, even sacred, sort. In international affairs, the term “covenant” had been popularized by President Woodrow Wilson during and after WWI. The “charter” of the post-war League of Nations was called a “covenant.” And following WWII, the UN retained the use of this formulation. In this sense, the twin “Covenants” are the most basic and fundamental of the other international human rights conventions that followed.

gether, these covenants “legislate essentially what the Universal Declaration had declared.”⁴³¹

During the prolonged drafting and negotiations, it was decided that a distinction needed to be made between what are sometimes termed negative and positive rights. In this reckoning negative rights are those things (torture, for example), that a government should not do *to* its citizens. Such rights can, it was thought, be outlawed immediately and enforced without delay. Positive rights are those things, such as the right to education, the right to adequate food and health, that governments should do *for* its citizens. In this reckoning, promoting and protecting such positive rights were contingent on national resources and the stage of economic development. These kinds of rights were thought to require sometimes considerable economic development, and therefore could only be realized progressively in the sense that a nationwide school system or hospital and public health system could not simply be legislated into existence in the same way that torture or arbitrary and unjustified imprisonment can be immediately prohibited and enforced.⁴³²

What distinguishes a convention from a declaration is that a convention has to be ratified, or acceded to, by the home government according to the constitutional provisions of that nation-state.⁴³³ When a government ratifies or accedes to a treaty or

⁴³¹ Louis Henkin, “International Human Rights as “Rights,”” Morton Winston (ed), *The Philosophy of Human Rights* (Belmont, California: Wadsworth, 1989), p. 131.

⁴³² In reality, this distinction is not so clear-cut. Some civil and political rights, such as what are called “fair trial” or “due process” of law rights required a legal and court system that can take considerable time and resources to construct.

⁴³³ While the terms are sometimes used inter-changeably, in states with strong

convention that means the government or governments involved agrees to observe the terms and provisions of that treaty. The most essential characteristic of an international human rights convention is that the act of ratification or accession indicates, and can be taken to indicate, that the government recognizes and agrees to respect, and not violate or disregard, the rights specified and defined in that treaty.⁴³⁴

Finally, most conventions specify that a certain number of nation-states have to ratify or accede to a particular treaty before it will enter into force or enter into effect, meaning becoming fully operational as international law. Once a treaty enters into force its terms and provisions are considered to be legally binding on those states that have ratified or acceded to that treaty. In the case of the international human rights covenants, it took an additional ten years until enough nation-states had submitted the twin covenants through their constitutional/political process for accession or ratification. Once a convention enters into force, the compliance review mechanisms and procedures for that convention (further described below) are set in motion.

The twin covenants, transforming the rights recognized, enumerated, and proclaimed in the 1948 Universal Declaration into the format and language of international law, became the plat-

legislative branches, the head of executive branch “signs” and then the legislative branch “ratifies” by a majority or super-majority vote. In more unitary systems of government a state “accedes” to a treaty. Either way, it indicates that a government accepts and pledges to observe the terms and provision of the treaty it has ratified or acceded to.

⁴³⁴ There are formal procedures by which a government can explain its “understanding” or “reservation” to a particular article or provision of a particular treaty, though such reservations or understandings are not supposed to contradict or subvert the fundamental purposes of the treaty.

form and starting point for the considerable additional codifications of international human rights law that followed. A series of additional international human rights conventions were laboriously negotiated, also under the auspices of the United Nations, to deal with the special circumstances of particular groups of people deemed particularly vulnerable to human rights abuse: women, children, racial or ethnic minorities, refugees, migrants, and persons with disabilities, for example.⁴³⁵ Another set of human rights treaties were negotiated by an expanding number of UN member states to further define particular repressive crimes against humanity such as genocide, torture, racial discrimination, and enforced disappearances.⁴³⁶

Taken together, these conventions comprise modern interna-

⁴³⁵ On the rights of women and girls, it was widely recognized that sometimes quite awful discrimination can be based on deeply embedded cultural or religious traditions in which case governments have the responsibility to address and eliminate culturally embedded gender discrimination. Another example in regards to the special needs of persons with disabilities: in promoting and protecting a citizens access to cultural rights, it was recognized that libraries, museums and concert halls with only an embankment of steps rendered such cultural institutions inaccessible to persons whose mobility was limited to wheelchairs.

⁴³⁶ It was recognized that such abhorrent violations as genocide or torture required further definition. It was widely recognized that the virulent violation of “enforced disappearances” which emerged in Latin America’s “dirty wars” 1970s was not recognized, defined or outlawed in the human rights conventions drafted in the 1950s and ‘60s. Some of the human rights conventions such as the Convention on the Elimination of Discrimination Against Women (CEDAW) or the Convention on the Elimination of Racial Discrimination (CERD) fit into both categories, i.e., they prohibit the human rights violations of racial discrimination and gender-based discrimination against women and girls; and protect vulnerable groups -- women and racial or ethnic minorities. There are other Conventions such as the Mine Ban Treaty, the Convention on Cluster Munitions, or the Arms Trade Treaty that are primarily regarded as arms control treaties, but that are strongly supported and closely monitored by human rights NGOs because of the effects of these weapons have on vulnerable civilian populations.

tional human rights law. Even a partial listing of their formal titles conveys the breath and reach of the contemporary international law of human rights:

- International Covenant on Civil and Political Rights (ICCPR);
- International Covenant on Economic Social and Cultural Rights (ICESCR);
- Convention on the Elimination of Racial Discrimination (CERD);
- Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW);
- Convention on the Rights of Persons With Disabilities (CRPD);
- Convention on the Rights of the Child (CRC);
- Convention on the Rights of All Migrant Workers and Their Families;
- Convention Against Torture and Other Cruel, Inhumane or Degrading Treatment or Punishment (CAT);
- Convention on the Prevention and Punishment of the Crime of Genocide; and
- International Convention for the Protection of All Persons From Enforced Disappearances.⁴³⁷

International Human Rights Law: Capacities and Limitations

International human rights law is now an essential framework for nation-state behavior in the modern world. The essential

⁴³⁷ There are also, it should be noted, important regionally-based human rights conventions. However, there are no regional human rights conventions for the region designated at the UN as the Asia-Pacific region, in part because Asia —encompassing Northeast Asia, Southeast Asia, South Asia, Central Asia, and what used to be called the “Near East” — is far too large and culturally diverse.

characteristic of international human rights law is that it defines for the modern world what human rights and human rights violations are. When a government ratifies or accedes to a particular human rights convention, that government formally and officially agrees with and buys into the rights set forth in that convention. Thereafter, it is entirely appropriate for its own citizens, other states party to that convention, officials of the United Nations, and representatives of global civil society⁴³⁸ to ascertain or query a state party's adherence to the terms and provisions of that treaty.⁴³⁹

However, like almost all international law, human rights treaty law is implemented or carried out voluntarily. While lawyers use the term enforcement mechanisms, international human rights law has no enforcement authority. If it did, fewer nation-states would ratify or accede to these conventions. "Despite the proliferation of treaties and monitoring mechanisms, there is no central lawmaking body, no international tribunal broadly accepted as a legitimate interpreter of legal obligations, and no global 'law enforcement' corps to enforce the rules," writes Beth Simmons.⁴⁴⁰ Further, "Human rights [treaty] regimes, do not involve *reciprocal* compliance (as is the case with trade agreements)."⁴⁴¹

It needs to be recognized at the outset that despite global-

438_ Because they are widely recognized for their information and expertise, non-governmental organizations have an internationally accepted role in this process.

439_ There are also, it should be noted, human rights standards internationally regarded as so fundamental they are deemed to be part of what is termed "customary international law" and, in theory, applicable to all nation-states, irrespective of participation in a given treaty regime or not.

440_ Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*, p. 114.

441_ *Ibid.*, p. 129.

ization, including the internationalization of human rights, the international community is primarily dominated by sovereign states that operate according to the ancient rules of power politics, national interest, and national aggrandizement. Further, notwithstanding the human rights provisions of the UN Charter cited above, the UN Charter also provides that “nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state....”⁴⁴² Sovereign states can “recommend” one to another. On occasion such recommendations can amount to diplomatic pressure. But one sovereign state or a group of sovereign states cannot enforce the law of another sovereign state or the international law of nations on another sovereign state.

Some scholars refer to the legal frameworks and international human rights law treaty regimes as the “international human rights legal system.”⁴⁴³ But this promises more than a legal system without courts or sheriffs can deliver.⁴⁴⁴ What international human rights law has in lieu of courts and sheriffs is the periodic compliance and implementation reporting and review mechanisms.

Nation-states that have ratified or acceded to a convention

⁴⁴² The UN Charter, Article 2.7.

⁴⁴³ See, for example, Emile Hafner-Burton, *Making Human Rights A Reality* (Princeton, New Jersey: Princeton University Press, 2013), Chapter 4.

⁴⁴⁴ There is an International Court of Justice (ICJ). But the ICJ mostly adjudicates disputes between states, or, more rarely, issues an advisory legal opinion at the request of the General Assembly. As of 2002, there is an International Criminal Court (ICC) that can assess individual accountability, but only for the most egregious human rights violations – genocide, war crimes and crimes against humanity – not the much larger body of rights posited in the multiple human rights treaties. The jurisdiction of the ICC is constrained to nation states that have acceded to the Rome Statutes of the ICC, or to cases referred to it by the UN Security Council.

are termed state parties. States parties to a convention periodically submit reports to official UN committees of experts (“treaty bodies” in UN parlance) elected by the state parties. These reports articulate the measures that have been taken (or the measures the state parties claim have been taken) to implement the rights detailed in the convention. The treaty bodies are composed of geographically diverse human rights experts (mostly professors of international or constitutional law) who have been elected by the state parties to that convention. The experts on the treaty bodies also called convention implementation review committees, usually also review shadow reports submitted by national and international NGOs, which often counter the information and claims submitted by the state parties. The committee members then closely review the reports of the participating state party on a provision-by-provision, article-by-article, and clause-by-clause basis.

The state party under review sends a team of representatives to the UN in Geneva for detailed discussions with the convention review committees. Following these discussions with the state party representatives, the convention review committees issue concluding observations and recommendations, providing advice on how to better improve compliance with the provisions of the convention.⁴⁴⁵ It is this process that, for North Korea, resulted in

⁴⁴⁵ These conventions, as can be seen in the long list of recommendations to North Korea, cover a very wide range of human rights. The conscientious preparation of state party implementation reports can be a considerable undertaking requiring input from many government ministries and departments, particularly for member states that have ratified multiple conventions. Some state parties are behind schedule in their submission of implementation reports. And some of the treaty bodies are behind schedule in their review of reports submitted to them by the States Parties. See Hafner-Burton, *Making Human Rights a Reality*, Chapter 6 and 7, for a good discussion of this situation.

the road map for human rights improvements summarized at the end of this paper.

The Domestic Import of International Human Rights Law

The overall goal of the whole process is to positively affect the domestic human rights policies and practices of the state parties. How do the human rights conventions affect the behavior of the ratifying state party? How does accession to an international human rights convention benefit the citizens of that country?

Legal scholars outline a transnational legal process in which global norms of international human rights law are debated, interpreted, and ultimately internalized by domestic legal systems.⁴⁴⁶ In the words of a major study of this process:

If international human rights treaties have an important influence on the rights practices of governments that commit to them, it is because they have predictable and important effects on domestic politics. Like other formal institutions, *treaties are causally meaningful to the extent that they empower individuals, groups, or parts of the state with different rights preferences that were not empowered to the same extent in the absence of the treaty* (emphasis in the original).⁴⁴⁷

In many state parties of the human rights conventions, domestic empowerment occurs, and quite often can be observed, in the following three ways; (1) altering the national agenda, espe-

⁴⁴⁶ Harold Hongju Koh, "How Is International Human Rights Law Enforced?," Richard Pierre Claude and Burns H. Weston (eds.), *Human Rights in the World Community: Issues and Action* (Philadelphia, Pennsylvania: University of Pennsylvania Press, 2006), p. 306.

⁴⁴⁷ Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*, p. 125.

cially, an effect on national legislation, (2) utilization in judicial processes or court decisions, (3) empowering political mobilization.⁴⁴⁸

Needless to say, domestic compliance and domestic empowerment works best in stable democracies. It can work importantly in partially democratic or transitional regimes. And it works least in stable autocracies.⁴⁴⁹

In this comparative typology, North Korea is a stable autocracy. Applying the three categories of domestic empowerment, it is very hard to imagine international human rights law being used in judicial processes or law court decisions in North Korea, at least as far as those judicial processes have been described by North Korean refugees. Given the DPRK's closed and opaque society, it is not even known how widely the international human rights law that North Korea has subscribed to is known even in government and legal circles outside of Pyongyang.

Likewise, the third avenue of domestic empowerment, enabling or strengthening political mobilization, barely applies to North Korea. It is the civil society associations in many nation-states that are empowered by their country's ratification of the human rights conventions. But North Korea is unique in today's world in not allowing civil society organizations that are not under control of the Korean Workers Party. It is theoretically, even legally, possible that some of the Workers Party-affiliated (and controlled) organizations such as the Women's Union (also translatable as association, federation, or coalition) could push in conjunction with

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⁴⁴⁸ Simmons empirically-minded book provides scores of examples of how the human rights treaties have brought concrete improvements in a wide variety of nation states.

⁴⁴⁹ Beth Simmons, *Mobilizing for Human Rights: International Law in Domestic Politics*, pp. 148-155.

CEDAW for aspects of women's rights and empowerment in conjunction with the civil society associations and pose no challenge to Kim dynasty rule.⁴⁵⁰ It is also theoretically possible that the religious believers' federations (or associations) could push for more social or legal space for religious belief. But for the present, these unions, federations, or associations function mostly as transmission belts to educate the citizenry on the Workers Party political policy line or to mobilize citizen labor for volunteer construction projects.

Notwithstanding humankind's proclivity to form all manner of groups and associations, it is not impossible that some form of civil society organizations will emerge in the future now that market places function as public squares and widespread domestic cell phone networks allow North Koreans to talk to each other without being monitored by police, party, workplace or neighborhood spies, and informers.

Presently, North Korea's utilization of international human rights law falls only within the first possible avenue of cause and effect: "altering the national agenda, especially an effect on national legislation." In at least four cases the DPRK has incorporated recommendations of the UN human rights treaties implementation review committees into its legislation. These incorporations are described below.⁴⁵¹

The process of domesticating international human rights law in North Korea, however, operates under very difficult conditions. The DPRK can be characterized as a rule-*by*-law but not a rule-*of*-law state. While North Korea has a constitution and laws

⁴⁵⁰ In fact, Article 7 of the 2010 Women's Rights Law, seems to mandate this.

⁴⁵¹ See Part VI.

that are frequently revised and updated, in practice these laws, and even the constitution, are subordinate to the directives of the Workers Party and, even more so, to the dictates and guidance of the Kim dynasty.

The Political and Ideological Constraints on Human Rights Law in the DPRK

Even as nation-states seek the reputation of being law-abiding, they do not approach international human rights law primarily from a legalistic point of view. Rather, a nation-state's approach to international human rights law is predicated on its approach to the substance of human rights. Unfortunately, North Korea's overall approach to human rights has seriously constrained the political and ideological space available for the domestic application of international human rights law.

Beginning in 1945 with the surrender of Japan, the Soviet Union initiated a "people's democratic revolution" in Korea north of the 38th parallel. A people's democratic republic would replace Japanese colonial occupation and the decayed Korean feudalism that preceded Japanese colonialism. The people's democratic revolution introduced the semblance of modern republicanism including a constitution, national assembly, elections, political parties, a court and legal system, labor and land reform, compulsory education, and an end to feudalist repression of women. These measures, including the 1948 DPRK constitution, may have been drafted almost word-for-word in Moscow, but the reforms were enormously popular in North Korea. However, the people's democratic revolu-

tion also included, in the 1946 Twenty Point [Workers i.e., Communist] Party Platform, the concept of enemies of the people—initially collaborators with the Japanese occupation, but also including “reactionaries, fascist, anti-democratic” segments of the population who were not entitled to the rights and rights’ protections otherwise elaborated in the party platform.⁴⁵²

At the time of the 1956 twentieth party congress in the USSR, where Khrushchev delivered his “secret speech” denouncing Stalinism, party leaders in the Soviet Union introduced what became known derisively in Asia, as revisionism. Revisionist ideas included the restoration of socialist legality, an end to the cult of personality, and the possibility of peaceful co-existence with the capitalist-democratic world. As these ideas circulated in the Communist world, North Korean advocates of revisionism raised issues of equality before the law and ‘protection of human rights and in so doing introduced a human rights discourse into [North Korean] domestic politics.⁴⁵³ In response to challenges to his increasingly personalized rule, Kim Il Sung furiously and massively purged the party, army, and ministries of elements who spread “revisionist internationalism disguised with the protection of human rights.” Kim condemned North Korean cabinet members and especially the Ministry of Justice for “abandoning the seriousness of revolution and giving up the inalienable fight against anti-revolutionary forces in the guise of human rights protection.”⁴⁵⁴

Kim Il Sung also initiated the citizen classification process

⁴⁵² Jiyoung Song, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian perspectives* (London: Routledge, 2011), p. 78. (This volume contains many official documents not previously translated into English.)

⁴⁵³ *Ibid.*, p. 97.

⁴⁵⁴ *Works of Kim Il Sung 11*, January – December 1957, p. 159 (cited in *Ibid.*, p. 97).

known as *Songbun*, identifying all citizens according to their presumed loyalty to the regime: loyal, neutral, or hostile. According to some estimates nearly a third of the population was deemed antagonistic to the regime, expanding the number of persons to whom nondiscriminatory human rights protection was denied. “Members of the ‘hostile strata’ [were] denied rights in such areas as education, employment, housing and medical benefits,” according to Jiyoung Song.⁴⁵⁵ Further, Kim Il Sung defended the use of imprisonment and forced labor to “protect the country’s democracy from hostile and impure elements”:

Our communists are not hiding the Party’s identity or class-consciousness...Socialist democracy is not supra-class democracy that can provide freedom and rights to hostile elements who oppose socialism or impure elements who act against the interests of the People...The type of democracy which can guarantee freedom and rights to the People...and at the same time can punish a small number of class enemies is the type of socialist democracy we have in our country.⁴⁵⁶

Subsequently Kim Jong Il explicitly extended the perversion of socialist democracy to human rights claiming that dictatorship against hostile forces is the protection of human rights:

The fact that the People’s regime uses dictatorship against the forces violating the interests of the People is indeed the protection of human rights, not violation of human rights....The original meaning of People’s Democratic Dictatorship is a powerful func-

⁴⁵⁵ Jiyoung Song, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian perspectives*, p. 103.

⁴⁵⁶ *Works of Kim Il Sung* 32, January – December 1977, pp. 535-537 (cited in *Ibid.*, p. 104).

tion of the People's regime in an aim to guarantee democratic rights and freedoms for the People as the master of state and society.⁴⁵⁷

This perversion endured. In 1995, the Korean Workers Party made the point even more bluntly in a *Rodong Sinmun*, the party's official newspaper, in an article entitled "For True Human Rights":

With regards to anti-revolutionary forces in socialist states, they are rebels and traitors against the People's interests and the scum of society, violating the human rights of the People. To these anti-revolutionaries, the term human rights itself is completely inappropriate...[W]e do not obscure our class-consciousness in the context of human rights. Socialist human rights are not class-transcending human rights to grant freedom and human rights to hostile enemies who oppose socialism, or to disobedient traitors who stand against the People's interests. Our human rights are the rights that legitimize the persecution of enemies of class, violating the rights of the People...⁴⁵⁸

Kim Il Sung, and, as he rose to power, Kim Jong Il, embarked upon an extensive program of extreme collectivization of social, economic, and political life, that left little or no room for individual rights. Underwritten by Soviet, Chinese, and Eastern European economic aid, North Korea's first Five Year Plan succeeded and the DPRK was able to construct its much-bragged-about worker's paradise—one that rigorously suppressed civil and political rights (not withstanding their constitutional provision) but promised housing, food, employment, health care, education, and culture to the rights-deserving portion of its citizenry.

⁴⁵⁷ *Selected Works of Kim Jong Il* 13, February 1992 – December 1994, p. 274 (cited in *Ibid.*, p. 156).

⁴⁵⁸ "For True Human Rights," *Rodong Sinmun*, June 24, 1995 (cited in *Ibid.*, p. 151-152).

Boasting that it was a workers paradise because of its provision of social, economic, and cultural rights, North Korea loudly and widely castigated human rights violations in capitalist democracies such as South Korea and the United States, thus fulfilling Marx's contemptuous dismissal of bourgeois rights and freedoms: "Marxists... behave consistently when they fight for civil liberties and human rights in despotic nonsocialist regimes and then destroy those rights and liberties immediately upon seizing power."⁴⁵⁹

During Kim Jong Il's rise to power in the 1980s, North Korea, began to supplement, and then replace, Marxism (or at least Marxist historical materialism) with what they called *Juche* ideology or "KimIlSungism." Philosophically arcane and illusive to the point of solipsism, most scholars posit that *Juche* ideology reinstated many features of Korean neo-Confucianist feudalism, not the least of which was dynastic succession, but also included "hermit kingdom"-style self-isolation of the citizenry, the suppression of private commerce, and the three-generation guilt-by-association system that sent family members to the labor camps along with the presumed dissident family patriarch. *Juche* ideology inculcated a semi-divine leadership (*Suryong*) theory, the likes of which hasn't been seen in modern world history, with the exception of the emperor-worship of Imperial Japan. *Juche Sasang* (thought) or KimIlSungism proclaimed itself to be a monolithic or "one-and-only" ideology system under which North Koreans were required to literally worship their benevolent Great Leader. While retaining some of the nomenclature of classic republicanism and socialism,

⁴⁵⁹ Leszek Kolakowski, "Marxism and Human Rights," *Daedalus*, Vol. 112, No.4 (Fall 1983), p. 86. (Kolakowski is the author of the authoritative two-volume history, *Main Currents of Marxism*.)

in reality North Koreans were forcibly relapsed into becoming in effect the subjects of their benevolent semidivine absolute ruler who granted or bestowed rights on only those subjects who ably performed their duties to the regime.⁴⁶⁰

Following the death of Kim Il Sung, Kim Jong Il introduced “our-style human rights” as a subsidiary of “our-style socialism.”⁴⁶¹ Our-style human rights carries on the duty-based, benevolent leader-bestowed, welfare-centered, “virtuous politics” approach to rights initiated by *Juche* ideology. Our-style human rights introduced the now oft-repeated claim that protection and defense of state sovereignty is the highest and most important human rights protection: a proposition that virtually stands modern human rights law and practice—which posits human rights as citizens protection against arbitrary or rights-indifferent sovereign state power—on its head.

Kim Jong Il also introduced “military-first” politics. Narrowly defined, military-first politics meant that the Korean Worker’s Party was in effect second, as Kim Jong Il governed through the Military Defense Commission, rather than through the party’s central and standing committees. (In this iteration, the government ministries are a distant third.)

In a larger sense, military-first politics was the ideological and political rationale for the prioritization and devotion of scarce resources to the expensive development of nuclear weapons and

⁴⁶⁰ In the modern approach to human rights and in modern international human rights law, “rights” are “recognized” to be the inherent and inviolable birthright of all men and women, not blessings bestowed on loyal subjects by a semi-divine or divinely-legitimated monarch.

⁴⁶¹ Alternatively translatable as “human rights in our style” and “socialism in our style.”

missile systems in the midst of the substantial breakdown in industrial and agricultural production and the breakdown of the public food distribution and health systems that claimed the famine-related deaths of some eight hundred thousand to 1.2 million North Koreans. This economic meltdown resulted in large part from the end to Soviet and Chinese financial assistance that had previously underwritten the North Korean political economy and from the failure of successive socialist-style multiyear economic plans.

The human rights consequences were enormous. Having proclaimed the DPRK to be “exploitation-free and repression-free,”⁴⁶² with a population whose hearts beat as one with the thoughts and desires of the Great Leader and Dear Leader, as Kim Il Sung and Kim Jong Il were referred to, the DPRK had long removed the civil and political rights set forth in international human rights law from North Korean society and the successive DPRK constitutions. In the words of a recent study of North Korea’s official thinking and pronouncements on human rights, “The idea of the rights of man has been void in the DPRK from the very beginning of its establishment...The DPRK has devised extreme forms of institutionalized collectivism while suppressing individual freedom in every social sector of peoples daily lives....”⁴⁶³

Nevertheless, North Korea continued to brag of its human rights record on account of its efforts to fulfill economic, social, and cultural rights through providing food, housing, employment, ed-

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⁴⁶² *Works of Kim Il Song* 37, January 1982 – May 1983, pp. 183-184 (cited in Jiyoung Song, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian perspectives*, p. 136).

⁴⁶³ Jiyoung Song, *Human Rights Discourse in North Korea: Post-colonial, Marxist and Confucian perspectives*, p. 183.

ucation health services, and monumental cultural festivals to its citizenry. With substantial breakdown of agricultural and industrial production, the DPRK became unable to fulfill the economic and social rights of its people about which it had long boasted.

Upon the death of Kim Jong Il, his successor, Kim Jong Un, instituted a new political line, *Bungjin*, to succeed the military-first politics of his father. *Bungjin* promises both continued development of nuclear and missile programs and economic development. Many observers believe that continued pursuit of nuclear weapons will preclude the economic investment necessary for sustained economic development. Nevertheless, the economic collapse of the 1990s has bottomed out and, based on trade with China, North Korea's economy is improving modestly. Still, significant portions of the population lack food security and health services. The United Nations is seeking nearly 100 million dollars in contributions in 2013 in order to continue food and medical assistance to the North Korea population.

How and where the domestic incorporation of international human rights law might be applied in the future as Kim Jong Un, the Great Successor, consolidates his power remains to be seen. But what can be seen in the survey of official human rights policy in the DPRK is that the political and social space for implementing and domesticating international human rights law is circumscribed by the ideology of the Kim family dynasty. The Kim Il Sung and Kim Jong Il quotes cited above read like the outdated thinking of a by-gone era. But in substantial measure they still apply. And there is a powerful body of opinion inside North Korea that remains loyally dedicated to the ideology and politics of a revolutionary guerilla state still seeking "final victory" in the long struggle against colonialism and imperialism. This political ideology continues to be

seen in the regime's official pronouncements. Kim Jong Il's approach to "human rights in our-style" is substantially evident in the DPRK's interaction with the contemporary UN human rights system.

North Korea's Non-cooperation with the United Nations in the Field of Human Rights

The founding member states of the United Nations determined that "...promoting and encouraging respect for human rights and fundamental freedoms without distinction as to race, sex, language, or religion" is one of the four principle purposes of the UN.⁴⁶⁴ The UN General Assembly is mandated to assist in the realization of human rights and fundamental freedoms and to encourage the progressive development of international law and its codification.⁴⁶⁵ Nation-states that join the United Nations are mandated to take "joint and separate action in cooperation with the [UN] Organization" to "achieve universal respect for and observance of human rights and fundamental freedoms..."⁴⁶⁶

The United Nations currently utilizes four distinct but inter-related approaches to promote and protect internationally recognized human rights in UN member states. Within the UN system

⁴⁶⁴ UN Charter, Article 1.3. The other three purposes are to maintain peace and security, to develop friendly relations among nations, and to be a centre for harmonizing the actions of nations in the attainment of the other three purposes.

⁴⁶⁵ UN Charter, Article 13.1.

⁴⁶⁶ UN Charter, Articles 55 and 56.

these approaches are called “special procedures,” “technical cooperation,” “universal periodic review,” and the treaty implementation review procedures.⁴⁶⁷ Much of this work is undertaken by the UN Human Rights Council, a subsidiary organ of the General Assembly, in conjunction with the Office of the High Commissioner for Human Rights, a branch of the UN secretariat.⁴⁶⁸

DPRK Non-cooperation with the Special Procedures of the Human Rights Council

“Special procedures” is the name given to a reporting, review, and discussion process involving reporters, officially called special rapporteurs (occasionally, “special representatives”) who, following a mandate from member states on the Human Rights Council,⁴⁶⁹ undertake investigations and report their findings and recommendations to the Human Rights Council. There are thematic rapporteurs who examine various phenomena of repression such as violence against women, international religious freedom, child soldiers, the right to food, torture, human rights defenders, and two-dozen other human rights issues, across a variety of country situations.⁴⁷⁰ There are also country-specific rapporteurs who in-

⁴⁶⁷ There are other rights programs, such as human rights components of peace-keeping missions, that are not relevant to the DPRK and are not included herein.

⁴⁶⁸ Many other UN agencies, programs and funds also have large-scale technical cooperation programs in the field of human rights, as is noted below.

⁴⁶⁹ Prior to 2006, this body was called the Commission on Human Rights. The 47 member-states on the Council are apportioned on a regional basis and elected by the members of the General Assembly. Almost all other General Assembly members attend the Council as Observers, who can and do speak at the Council and who can co-sponsor resolutions. But only the member states of the Council vote on the resolutions.

investigate and report on the human rights situation in a particular member state. In both cases, the position and mandate of the rapporteurs is created, and renewed, usually annually, by a vote of member states at the Council. The rapporteurs are appointed by the revolving President of the Council from a list of potential candidates furnished by the member states.⁴⁷¹ The rapporteurs' written reports are circulated in advance of a Council meeting at which the rapporteurs present an oral summary of their report. This is followed by an "Inter-Active Dialogue" in which Member and Observer States at the Council comment on the findings or recommendations of the rapporteur. In practice, what often happens is that countries that are cited by the rapporteurs for human rights violations take this opportunity to dispute the rapporteur's findings and sometimes even denounce the rapporteurs. Other member states then frequently debate the substance of the rapporteurs' findings. The findings of country-specific rapporteurs are frequently incorporated into resolutions at the Council sponsored by and voted on by the Council member states.

In 2003, spurred by a wave of NGO reports on human rights violations in the DPRK that were based on the accounts of North Korean refugees who had fled to China and South Korea during and after the North Korean famine of the 1990s, the member states of the European Union (EU) introduced a resolution on the

⁴⁷⁰ On occasion, recently, the DPRK has responded to written inquiries by thematic rapporteurs. But for the most part, North Korea has refused cooperation. Most notably, the DPRK refused to cooperate with the special rapporteur on the right to food, who six times requested to visit North Korea during a time when UN humanitarian agencies were providing food to almost a third of the North Korean population.

⁴⁷¹ The President of the Council is elected by the member states of the Council.

situation of human rights in the DPRK. The DPRK denounced the resolution as a slander masterminded by the hostile American imperialists. Still, the resolution passed, and for the first time the nations of the international community recognized the gross violations of human rights in North Korea, and urged the DPRK to work with UN human rights officials to address and improve the situation. North Korea refused.

DPRK noncooperation led the EU and a growing list of member state cosponsors to add the appointment of a country-specific special rapporteur to the 2004 resolution on the situation of human rights in the DPRK. The president of the Human Rights Council appointed Vitit Muntarbhorn, a Thai law professor who had previously handled many other assignments for the UN, to be the special rapporteur for the DPRK. Professor Muntarbhorn requested an invitation to visit North Korea, but the DPRK refused.⁴⁷² Notwithstanding, the special rapporteur was able to visit South Korea, Mongolia, and Japan to interview North Korean refugees with first-hand knowledge of human rights, and began what became a series of annual reports to the Human Rights Council, and after 2005, to the General Assembly as well.⁴⁷³

⁴⁷² Unless covered by previously existing bilateral Memoranda of Understanding, UN officials can enter the territory of member states only with the prior authorization of that government. Member States also control the travel of UN personnel within the governments territory and jurisdiction.

⁴⁷³ In 2005, because of DPRK's non-cooperation, the EU, joined by Japan as a primary co-sponsor, began to introduce a resolution on the DPRK human rights situation at the General Assembly (GA). The GA reviews and resolutions, which take place between October and December, follow closely the concerns and wordings of the resolutions that were adopted earlier in that year at the March meetings of the Human Rights Council. The GA resolutions also request the Secretary-General (S-G) to submit an annual report to the GA outlining all UNO considerations and programs of the various aspects of the North Korea situation: security, humanitarian as well as human rights.

Special rapporteurs have term limits, and when Professor Muntarbhorn's term expired, the president of council appointed former Indonesian Attorney General Marzuki Darusman as the special rapporteur.⁴⁷⁴

Both Muntarbhorn and Darusman would have made superlative interlocutors in a human rights dialogue with North Korea. But, regrettably, the DPRK continues to rebuff requests for dialogue. In the face of a growing mound of persuasive, indeed, heart-rending evidence of ongoing severe and systematic violations, North Korea's refusal to cooperate with the Human Rights Council has led to the DPRK's increasing isolation at the United Nations. The number of member states cosponsoring and voting for the DPRK human rights resolution increased year by year to the extent that, beginning in 2012 the council and General Assembly began to adopt the North Korea human rights resolutions by "consensus," meaning that the level of support was so high no vote was even required.⁴⁷⁵

In March 2013, the council, by consensus, authorized a Commission of Inquiry (COI), a three-person panel to more thoroughly investigate the violations in the DPRK and determine if some of those violations constitute crimes against humanity.⁴⁷⁶

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⁴⁷⁴_ Prof. Muntarbhorn now serves as a member of the UN Commission of Inquiry on Syria.

⁴⁷⁵_ Adopting a measure by "consensus" is a diplomatic nicety intended to spare those member states in opposition the embarrassment of being so far out-of-line with the global inter-governmental "consensus". Member states can still express their disassociation with the consensus, but in the case of North Korea fewer and fewer governments avail themselves of this opportunity to support the DPRK on the matter of human rights.

⁴⁷⁶_ (The COI is headed by Judge Michael Kirby, a former justice of the High Court of Australia and includes the current Special Rapporteur, Marzuki Darusman, and Sonja Biserko, a Serbian human rights expert, and. The work

North Korea refuses to cooperate with the COI or provide any evidence to contradict the testimony made by the victims of violations at public hearings held in Seoul, Tokyo, London, and Washington DC. (The Commission of Inquiry will report its findings and recommendations to the Council in March 2014.)

Non-cooperation at the Universal Periodic Review

The Universal Periodic Review (UPR) is a recent addition to the UN human rights system. Over a three- to four-year cycle every UN member state presents a written and oral report to the Human Rights Council on the human rights situation in that country. During the oral report period, a delegation of officials is sent from the capitol of the country to outline the human rights situation within the country. Following this presentation, on the basis of the written and oral reports, other member and observer states publicly recommend to the reporting government suggested measures that could be taken to improve human rights practice in the reporting state.⁴⁷⁷ The next steps in this process are the crucial measures. The visiting governmental officials take the recommendations from their fellow governments back to their home governments for further consideration. Then, at the next session of the Human Rights Council, the representatives of the previously reviewed na-

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 of the COI is backed by a much larger UN support staff than is available to rapporteurs)

⁴⁷⁷ In practice, many non-governmental human rights organizations (NGOs) submit “shadow reports” that highlight human rights violations and problems that are not mentioned in the previously submitted written report by the various governments. Many of these “shadow reports” from NGOs that have “consultative status” with the UN Economic and Social Council (ECOSOC), are circulated at the Human Rights Council. But only Member and Observer States make recommendations under the period review.

tion-state announce which of the recommendations his or her government has agreed to.⁴⁷⁸

North Korea initially cooperated with the UPR. They submitted their report. A delegation was sent to Geneva to make the oral presentation to the council. The delegation listened as the other member and observer states at the council made some 117 (inevitably overlapping) recommendations to North Korea on measures to improve human rights in the DPRK. And the North Korean delegation from Pyongyang made initial responses to some of the orally presented recommendations.

But at the crucial step, North Korean cooperation and participation ceased. At the subsequent meeting of the council, the representative of the DPRK refused to accept or endorse any of the recommendations made to it previously by its fellow UN member states. To date, North Korea appears to be the only UN member state to refuse to accept a single one of the recommendations previously offered by its fellow governments.

Some of the recommendations to North Korea came from member states that are close and/or long-term friends of North Korea such as China and Vietnam, or from council Observers, such as the Palestinian Authority, that are far removed from the geopolitical conflicts on the Korean peninsula. Needless to say, their

⁴⁷⁸ The Universal Periodic Review was designed to answer charges of “selectivity” and “politicalization” in the approaches to human rights issues among and between UN member states. The initial four-year cycle of periodic reviews has just been completed, so it will soon be possible to examine how well this new system is working. The crucial determinate will be to see which, and to what extent, any or all of the recommendations that the previously reviewed nation-state has formally accepted and agreed to, has actually been implemented. However, it is already clear that this process has added additional legitimacy to the modern principle that a sovereign state’s treatment of its own citizenry is a fit subject of international consideration and comment.

recommendations to the DPRK were hardly of the sort that would subvert or undermine the North Korean government. When the DPRK refusal to accept any recommendation was challenged by other diplomats in Geneva, the North Korean ambassador could not provide an explanation. His government had not accepted any recommendations, and the ambassador obviously had no instructions to make any statement accepting any recommendation.

The decision of the North Korean government not to accept any recommendations from its fellow governments in the UN may well have been taken for domestic political reasons.⁴⁷⁹ It certainly contributed to the DPRK's isolation in the community of nations. The DPRK is shortly scheduled for its second round of periodic review. Now under much more intense scrutiny via the Commission of Inquiry, North Korea's posture at the next sessions of the UPR will be closely observed.

Refusing Technical Cooperation

“Technical cooperation” is the name given to the education, training, and information programs funded by UN member states and carried out by the United Nations Organization (UNO) in many countries around the world at the invitation of the host

⁴⁷⁹ Even in the corridors and coffee shops at the Palais des Nations where the Council meets, North Korean diplomats assert that there are no human rights problems or violations in the DPRK, shorthand for the more formal oft repeated declaration that “there can be no human rights violations under their people centered socialism.” This dialogue-stopping assertion is also counter-productive it is commonly recognized that virtually all governments have human rights issues and problems of one sort or another. Most diplomats will try to explain that their government is trying its best to deal with a complicated situation. The claim that a country has no human rights issues strikes most hearers as the sort of thing that would be said by a country with a host of human rights problems.

government. Essentially, these are bilateral programs guided by memoranda of understanding between the host member state and the UNO. The Office of the UN High Commissioner for Human Rights (OHCHR) has scores of technical cooperation programs in dozens of countries. The even-larger specialized agencies, programs, and funds of the UN—UN Development Fund (UNDP), UN Women, UN Educational, Scientific and Cultural Organization (UNESCO), the UN Children’s Fund (UNICEF), the UN Population Fund (UNFPA), for example, have scores of human rights education and training programs and projects, some carried out with national or local government units, some with indigenous NGOs. Between the OHCHR and the specialized agencies, the United Nations spends hundreds of millions of dollars annually on education, training and information programs in the field of international human rights promotion and protection.

Presently, neither the Office of the High Commissioner for Human Rights, nor any of the specialized agencies, programs, or funds of the United Nation are known to conduct education, training, or information programs in North Korea in the field of human rights, notwithstanding the likelihood that many of the kinds of education, training, and information programs that the UN operates in many other countries would be of great benefit to large numbers of North Koreans at the ministerial, provincial, and local levels.

The rationale that the DPRK provides for their refusal to agree to any program of technical cooperation with the Office of the High Commissioner for Human Rights is that such programs are recommended in the slanderous human rights resolutions engineered against North Korea by American imperialism. Yet, the resolutions at the Human Rights Commission/Council that authorize the UN to undertake technical cooperation programs in UN member states

predate the country-specific DPRK resolution by decades. Such programs could be carried out in North Korea under the mandate and authority of the earlier omnibus resolutions on technical cooperation.

North Korea's Partial Cooperation with International Human Rights Law: Highlights and Sample Outcomes

Juxtaposing North Korea's refusal to cooperate with the UN to the programs outlined above highlights the potential of the one area where the DPRK does cooperate with efforts by the United Nations to promote and protect human rights: international human rights law. North Korea submitted its reports to the implementation review committees associated with each convention detailing, or purporting to detail, the measures the government was taking to promote and protect the specific rights enumerated in these conventions. Pyongyang has sent delegations to Geneva to engage in detailed discussions of its implementation report. Pyongyang has not denounced the concluding observations and recommendations of the review committees. Indeed, North Korean authorities claim that they have implemented at least some of those recommendations.

A Brief History

North Korea's participation in the international human rights treaty regimes got off to a rocky and uneven start. The DPRK signed the International Covenant on Economic, Social and Cultural

Rights in 1966, as soon as that Covenant became “open for signature.”⁴⁸⁰ But it did not ratify the Covenants for another decade-and-a-half. In September of 1981 the DPRK ratified the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).⁴⁸¹

In 1983 the DPRK submitted its first compliance report to the UN. But this report was an attack on human rights violations in South Korea, and a proclamation of North Korea’s superior system.⁴⁸² The UN rejected North Korea’s initial report informing the DPRK that its compliance report under the covenant should detail the implementation of the covenant’s provisions with respect to the territory and population under the DPRK’s effective jurisdiction and control. North Korea would not submit its report, following these

480_ After the long drafting process the final text of a convention is adopted by the General Assembly. At that point the convention is “open for signature.” Many nation states promptly submit their signatures to the Secretary General’s office, which is the repository for articles of accession and ratification, to indicate their support for the convention. It is understood that ratifications, according to domestic constitutional provisions, will take additional time.

481_ The texts of the twin covenants were adopted by the UN General Assembly in 1966. The Covenants “entered into force” in 1975 when 20 states had ratified them. Technically, there are two ways of subscribing to international conventions: “accession” and “signature and ratification.” Signature and ratification is primarily for nation states that have independent legislatures. In this case the executive branch, a President or Prime Minister, signs the convention indicating intent to ratify and sends the signature letter to the UN Secretary General. The legislative branch must then ratify the convention according to constitutional and political processes, usually by majority or super-majority vote. Only after ratification is that state legally bound by the provisions of that convention. Accession, on the other hand, allows a nation state to join a treaty regime in one action. In practice, there is little difference between ratification and accession, and the two terms are sometimes used almost interchangeably.

482_ This was period of considerable international criticism of human rights violations in South Korea, particularly following the murderous suppression of pro-democracy demonstrations in Kwang-ju, South Cholla Province in May 1981.

instructions, for another seventeen years.⁴⁸³

In 1989 North Korea ratified the Convention on the Prevention and Punishment of the Crime of Genocide. While the genocide convention is the first of the post-World War II human rights treaties—it was adopted by the General Assembly and opened for signature on December 9, 1948, the day before the General Assembly adopted the Universal Declaration of Human Rights—the genocide convention differs from the subsequent human rights conventions in that it does not have reporting obligations or implementation review.⁴⁸⁴

In September 1990 North Korea ratified the Convention on the Rights of the Child (CRC), just as the CRC was “entering into force.”⁴⁸⁵ North Korea then attended the September 29-30, 1990, UN World Summit for Children. The DPRK submitted its first report on the implementation of the CRC in February 1996.⁴⁸⁶

In 1997, as the North Korean famine of the 1990s led to a refugee outflow to China and increased international concern about the situation in North Korea, the UN Human Rights Sub-Commission, passed a resolution that urged the DPRK to respect Article 12 of the ICCPR (the rights of its citizens to leave and return to their country of origin) and to submit its then long- overdue re-

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⁴⁸³ It is in response to this periodic report that the UN Human Rights Committee made the conclusions and recommendations summarize below.

⁴⁸⁴ While the severe and systematic violations of human rights in the DPRK are sometimes called “genocide,” the present author does not view the North Korean violations as constituting genocide because of the narrowness of the definition of genocide in the 1948 Convention.

⁴⁸⁵ The text of the CRC was adopted by the General Assembly and opened for signature in 1989. The CRC entered into force in September 1990 after twenty states ratification the convention.

⁴⁸⁶ This is some four years after it was due, although it should be noted that many other States-Parties submit their reports late.

port on the implementation of the ICCPR to the Human Rights Committee.⁴⁸⁷ Incensed, North Korea announced that it would withdraw its ratification of the ICCPR and postpone participation in the review of its report to the Committee on the Rights of the Child.⁴⁸⁸

However, the Human Rights Committee subsequently determined that while a state party may withdraw its recognition of the competence of the Human Rights Committee to hear an interstate complaint,⁴⁸⁹ there is no provision for denunciation or withdrawal from the covenant itself, because the “Covenant has no temporary character typical of treaties where a right of denunciation is deemed to be admitted.”⁴⁹⁰ And further:

The rights enshrined in the Covenant belong to the people living in the territory of the State party. The Human Rights Committee has consistently taken the view that once the people are accorded the protection of the rights under the Covenant, such protection devolves with territory and continues to belong to them.⁴⁹¹

487_ The “Sub-Commission” is subsidiary group of experts that prepares studies and other matters for the Commission on Human Rights (now renamed as the Human Rights Council). The Sub-Commission, technically the Sub-Commission on the Prevention of Discrimination and the Protection of Minorities was initiated at the urging of African UN member states to tackle problems related to minority rights protection. Subsequently, the Sub-Commission expanded its focus to other human rights matters as well. The resolution “Situation of Human Rights in the DPRK (draft resolution),” UN Doc.E/CN.4/Sub.2/1997/L13 (August 15, 1997) also called upon the international community to increase food assistance to North Korea. (The “Sub- Commission” no longer passes its own resolutions.)

488_ “Letter from the Charge d’affaire of the Permanent Mission of the DPRK to the UN in Geneva addressed to the Chairman of the 49th session of the Sub-Commission on the Prevention of Discrimination and Protection of Minorities,” UN Doc. E/CN.4/Sub.2/1997/43 (August 18, 1997).

489_ ICCPR Article 41.2.

490_ Human Rights Committee, “General Comment on issues relating to the continuity of obligations to the International Covenant on Civil and Political Rights,” UN Doc. CCPR/C/21/Rev.1/Add.8 (December 8, 1997), para. 3.

While occasioned by the DPRK statement of withdrawal, the general comment was not specifically directed to North Korea. Subsequently, the DPRK authorities changed their position and decided to cooperate with the review of its compliance report with the Committee on the Rights of the Child and to submit its compliance report under the international covenant, which it did in 2000.

In 2001 the Human Rights Committee reviewed North Korea's compliance report under the ICCPR and issued its series of recommendations including:

- Establish an independent judiciary
- Establish a national human rights institution (usually called a commission)
- End criminal code provisions allowing public executions and work toward elimination of capital punishment
- Amend criminal code provisions that allow prosecutions for actions not explicitly specified as unlawful
- Allow detained persons access to family members and counsel, bring detained persons promptly before a judge
- Eliminate practice of internal travel certificates
- Curb use of exit visa for foreign travel
- Ensure the free exercise of religious practice
- End restrictions on public assembly
- Allow foreign periodicals into North Korea and allow North Korean journalists to travel abroad.⁴⁹²

In 2003 the UN Committee on Economic, Social and

⁴⁹¹ *Ibid.*, para. 4.

⁴⁹² This is an abbreviated listing. A fuller list appears in the "Roadmap" below.

Cultural Rights reviewed the DPRK report under the ICESCR and made recommendations including:

- Set up a mechanism for monitoring the progressive implementation of economic and social rights
- Seek assistance and cooperation, including from the Office of the High Commissioner for Human Rights⁴⁹³
- Provide information on the functioning of the law on complaints and petitions as it relates to economic, social and cultural rights
- Eliminate penalties against persons who traveled abroad in search of employment
- Alter legislation to allow independent trade unions
- Explore increasing budgetary allocations for social expenditure and public assistance or people in need
- Increase attention to adequate nutrition and health care for children.⁴⁹⁴

On February 27, 2001, the DPRK acceded to the Convention on the Elimination of All Forms of Discrimination Against Women,⁴⁹⁵ and in September 2002 North Korea submitted its compliance report to the CEDAW Committee.⁴⁹⁶ In 2005 the CEDAW review

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⁴⁹³ N.B. It should be possible for the DPRK to use this recommendation from the Committee on Economic, Social and Cultural Rights as the basis for a program of cooperation with the OHCHR, rather than the refusal to cooperate with the OHCHR, noted earlier in this paper, because the issue was raised in the North Korea resolution at the Human Rights Council.

⁴⁹⁴ This is an abbreviated listing. A fuller list appears in the “Roadmap” below.

⁴⁹⁵ The DPRK ratification to CEDAW contains three “reservations”—two of which are substantive—meaning North Korea does not accept the provisions of the “reserved” articles of the Convention. The CEDAW Committee observed that those reservations were incompatible with the Convention and requested that they be withdrawn. (N.B. That the DPRK would enter such “reservations” does indicate that it carefully assessed its subscription to the Convention.)

committee made its recommendations including:

- Revise 1946 law on gender equality in accordance with CEDAW provisions
- Ensure adequate representation of women on people's committees (local governments)
- Increase the number of women in decision-making positions in all spheres
- Introduce specific poverty alleviation measures aimed at improving the situation of women particularly in rural areas
- Protect the rights of women who went abroad without valid travel permits
- Ensure that violence against women and girls constitutes a criminal offense
- Intensify international, regional, and bilateral cooperation to combat trafficking
- Provide more detailed information on the number and condition of women in detention
- Provide more detailed information on the availability and access to general and reproductive health services for women in all parts of the country
- Encourage the establishment of women's human rights NGOs.⁴⁹⁷

As noted above, North Korea ratified the Convention on the Rights of the Child in 1990 and submitted its first compliance report in 1996,⁴⁹⁸ which was reviewed in 1998.⁴⁹⁹ In 2004, just prior

⁴⁹⁶_ UN Doc. CEDAW/C/PRK/1 (September 11, 2002).

⁴⁹⁷_ This is an abbreviated listing. A fuller list appears in the "Roadmap" below.

⁴⁹⁸_ UN Doc. CRC/C/3/Add. 41 (June 17, 1996).

⁴⁹⁹_ UN Doc. CRC/C/15/Add. 88 (June 24, 1998).

to the scheduled Committee on the Rights of the Child's review of the next North Korean compliance report on the implementation of the CRC, the DPRK invited the chair and two other members of the CRC Committee to Pyongyang—a *cooperative engagement that the DPRK has not extended to any other UN human rights officials*. North Korea submitted a combined third and fourth report in 2009.⁵⁰⁰ The concluding observations and recommendations to the most recent report include:

- Strengthen and harmonize legislation with the provisions of the CRC
- Establish a national human rights commission to receive complaints and monitor compliance
- Allow the emergence of civil society
- Increase budgetary allotment for the economic and social rights of children
- Increase budgetary allotments for the educational sector
- Improve food availability to children
- Avoid early militarization of children in school
- Ensure that work performed by children does not exceed educational goals or jeopardize the right to education.⁵⁰¹

North Korea's Follow-up to the Review Committee Recommendations: Examples and Commentary

The DPRK has responded, albeit highly selectively, to a small number of the recommendations made to North Korea by the UN

⁵⁰⁰_ UN Doc. CRC/C/PRK/4 (March 24, 2009).

⁵⁰¹_ A partial list. A fuller listing is in the "Roadmap" below.

compliance review committees. Several examples:

In 2001, the UN Human Rights Committee (the review committee for the International Covenant on Civil and Political Rights) recommended that North Korea eliminate from its criminal code provisions that allow for prosecutions on the basis of analogous or related offenses.⁵⁰² That is, if there was no precise legal prohibition on a particular action, an offender could be prosecuted using laws against a seemingly related or analogous offense. This is contrary to the well-established legal principle that there can be no crime without a law explicitly making a particular act a criminal offense (*nullem crimen sine lege*). In 2004, responding directly to the recommendation of the Human Rights Committee, the DPRK altered Article 10 of its criminal code to incorporate this legal principle.

The Human Rights Committee also recommended that North Korea reduce the number of crimes that were subject to the death penalty in the event of conviction.⁵⁰³ Subsequently the DPRK reportedly reduced the number of capital offenses from thirty-three to five. (However, four of the five, it should be noted, are essentially political offenses.⁵⁰⁴)

In 2004 the Children's Rights Convention (CRC) review

⁵⁰² UN Doc. CCPR/CO/72/PRK (August 27, 2001), para. 14.

⁵⁰³ *Ibid.*, para. 13. (The Covenants only absolutely prohibits the execution of minors. Otherwise, the Covenants only posit a reduction in the use of the death penalty.)

⁵⁰⁴ In addition to "intentional murder" capital offenses currently include "conspiracy against the state," "terrorism," "anti-national treachery," and "high treason." There may, however, still be additional capital offenses in the North Korean Criminal Code. See the "2012 Report of the Special Rapporteur on the situation of human rights in the DPRK," UN Doc. A/HRC/19/65 (February 13, 2012), paras. 36-37. (The UN Committee also recommended the elimination of provisions allowing for public execution. The DPRK does not publish statistics on executions, so it is not known if the number or rate of public or non-public executions has declined.)

committee, just prior to their review of North Korea's compliance report on the implementation of the CRC, sent Pyongyang a list of issues to be taken up in connection with the consideration of the second periodic report of the DPRK. North Korea responded that that it had made amendments to more than fifty articles in its citizenship law and family law to bring those laws closer to the norms and standards of the Convention on the Rights of the Child.⁵⁰⁵

More recently, in 2010, the DPRK updated its 1948 gender equality law with a women's rights act. This was recommended by the 2005 CEDAW review committee.⁵⁰⁶ Also in 2010, the DPRK passed a children's rights act, as had been recommended by the 2009 review by the Committee on the Rights of the Child.⁵⁰⁷

What these positive changes in DPRK legislation, made in large measure in response to the UN recommendations, actually mean to North Koreans in their towns and villages is difficult to ascertain. In regards to changes in the DPRK criminal code and criminal procedure codes, the author has interviewed some sixty North Koreans previously imprisoned or detained by various police authorities. Most of those interviewed had no trial or judicial procedures whatsoever, and they were never told what laws they

505_ UN Doc. CRC/C/Q/PRK/2 (February 13, 2004) (Cited in Citizen's Alliance for Human Rights in North Korea, "The Child is the King of the Country: Briefing Report on the Situation of the Rights of the Child in the DPRK," *NKHR Briefing Report*, No. 3 (September 2009), p. 82.

506_ Incorporate fully the definition of both direct and indirect discrimination, undertake proactive measures to ensure formal and substantive equality, undertake awareness-raising campaigns, especially for legislators, the judiciary and legal profession (para. 38). Revise 1946 law in accordance with CEDAW provisions (para. 40).

507_ "Harmonize legislation with provisions of Convention and strengthen the implementation of domestic legislation." UN Doc. CRC/C/PRK/CO/4 March 24, 2009), para. 8.

had violated. Nor had they been arrested and detained according to the procedures of the criminal procedure codes. Of the few former prisoners who did have a trial, and who were informed of the laws they were charged with violating, most did not think they had a lawyer present at their trial. Others thought they did have a lawyer, but were not sure which of the men sitting at the table in the courtroom he was. As noted, North Korea does not publish statistics, so it is not known if the number of executions, public or otherwise, has declined as a result of the above-noted diminution in the number of capital offenses. Regarding to the 2010 Women's Rights Act, the Seoul-based human rights NGO Citizens Alliance for Human Rights in North Korea conducted a survey of sixty North Korean refugees who fled to China and South Korea in 2011 and 2012. Of these, only four women even knew about the 2010 Women's Rights Act, and only one had any knowledge of its provisions.⁵⁰⁸

Implications

In sum, the most important aspect of international human

⁵⁰⁸. Citizen's Alliance for Human Rights in North Korea, "Status of Womens' Rights in the Context of Socio-Economic Changes in the DPRK," *NKHR Briefing Report*, No. 7 (May 2013), p. 10. (This survey, like virtually all surveys of North Korean refugees in South Korea is heavily skewed toward former residents of the Northeast provinces closest to the NK-China border. This report contains a valuable article by article legal analysis of the 2010 Act that also draws on a comparison similar womens' rights acts in China and Laos. While the 1948 Gender Equality Act had an enormous impact on the status and rights of women in North Korea, the Citizen's Alliance researchers concludes that "the new act essentially... remains on paper, but that the status of women in North Korea would see an improvement if the DPRK "follows the spirit of this law," p. 21.)

rights law is the effect it has on the domestic policy and legislation of states that accede to the conventions. And in North Korea, some domestic legislation has been modestly adjusted to take into account a modicum of recommendations from the review processes that are part of international human rights law.

There is a corps of competent officials in Pyongyang, associated with the central court and the Supreme People's Assembly who follow international law and procedure closely and who work on a variety of other laws that directly touch on human rights, such as laws on the composition of the court, a lawyers' law, and a law on petitions and complaints. (This is not well known abroad or perhaps even domestically).

What also seems clear, however, is that these officials, like other officials in the various government ministries, have much less power and influence on DPRK policy and practice than the police organs, particularly the state security agency, the workers party, and the military and defense organs. Kim Jong Il had given primacy to the military and defense organs in his Military First policy. Kim Jong Un seems to be reasserting a stronger role for the Korean Workers Party. Whether he will also strengthen the role and increase the resources of the government ministries and institutions, including those that deal with matters of law, remains to be seen. In the meantime, there remain considerable limits and constraints on legal frameworks and institutions in the DPRK, certainly that affect domestic application of international human rights law.

Changes from Top Down or Bottom Up?

There have been enormous changes in North Korea since the early 1990s, including the substantial collapse of industrial and ag-

ricultural production, caused in large measure by the end of Soviet and Chinese economic aid. The most important and far-reaching economic and social change is the emergence of markets and private commerce in food and consumer goods. The regime fought against these changes forcibly and repeatedly, but to little avail. Additionally, owing to modern broadcast and communications technologies, the regime has also lost some of its ability to prevent information about the outside world from entering North Korea. It is accurate to say that overwhelmingly, change in the DPRK in the last two decades has been from the “bottom up.” But that doesn’t preclude the possibility of change from the “top down.”

Upon his succession, the current leader, Kim Jong Un declared “Expect no change from us.” North Korea continues to avow its determination not to reform or open up.”⁵⁰⁹

Nonetheless, several changes in North Korea’s domestic human rights policy have come from the top down. Two examples can be provided from DPRK’s human rights practice involving its political prison camps. First, sometime around 2006 one of the largest prison camps, No.18 near Bukchang, South Pyong-an Province, was dismantled and the (albeit limited) liberties extended to non-elite North Korean citizens were restored to those previously imprisoned, subjected to forced labor under extremely harsh conditions, and severely deprived of their liberties. The decision to dismantle Camp No. 18 and restore the liberties of those previously imprisoned there had to be made at the very top of the national police agency that administered this camp, if not higher.

Second, it is reasonable to infer from the trend of testimonies

⁵⁰⁹ Though, of course, this is exactly what they would likely say even if they did undertake “reform.”

of former political prisoners that the practice of family-member collective punishment for political dissidents—the three-generation guilt-by-association—has been substantially curbed. The imprisonment of scores of thousands of family members of purged (presumed to be disloyal) North Korean citizens filled up the prison camps in the late 1950s, '60s, and '70s. From the testimony of former prisoners released or escaped between 2000 and 2005, it seems that nowadays most of those presumed (without trial) guilty of wrong-thinking or wrong-action are imprisoned as individuals without the imprisonment of their family members.⁵¹⁰ The previous family imprisonment policy was initiated by Kim Il Sung. It could only be ended by approval of Kim Jong Il.

Thus, it can be argued that changes in human rights policy and practice can be made from the top. And it is possible that North Korea's adherence to international human rights law could contribute to this. The recommendations from the international human rights law review process provide the roadmap for human rights improvement in the DPRK, should the regime decide to repair its human rights situation.

The limited space for international human rights law notwithstanding, the recommendations resulting from the human rights convention's implementation review process remain the best available approach for a dialogue with the DPRK on human rights, if or when such a dialogue becomes possible.

⁵¹⁰ See David Hawk, "North Korea's Hidden Gulag: Interpreting Changes in the Prison Camps," *Committee for Human Rights in North Korea*, August 27, 2013 for a discussion of these changes.

The 'UN Roadmap' for Human Rights Improvements in the DPRK

I. SUMMARY OF HUMAN RIGHTS COMMITTEE RECOMMENDATIONS

(UN DOC. CCPR/CO/72/PRK, August 27, 2001)

1. Establish an independent judiciary (para 8).
2. Establish a "national human rights institution" (para 10).
3. Allow international human rights organizations and NGOs to visit North Korea regularly to gather information on human rights (para 11).
4. Provide more information to the UN on efforts to eliminate malnutrition, increase life expectancy, and reduce infant mortality (para 12).
5. Elimination provisions of the criminal code that allow public executions and work toward the elimination of capital punishment. (para 13).
6. Repeal parts of the criminal code allowing punishment for offenses not explicitly specified as unlawful (para 14).
7. Investigate allegations of torture and institute independent oversight of places of detention and custody to prevent torture and ill treatment (para 15).
8. Ensure that sufficient food and medical care are available to all detainees, and allow independent internal and international inspection of prisons, prison camps, and detention facilities (para 16).
9. Amend the labor law to prohibit forced labor (para 17).
10. Provide more information on pre-trial detention, and allow arrested or detained persons immediate access to family mem-

bers and legal counsel and bring arrested and detained persons promptly before a judge (para 18).

11. Eliminate the practice of internal travel certificates (para 19).
12. Eliminate requirements of administrative permission and exist visas for foreign travel (para 20).
13. Consider the adoption of legislation to make expulsion of aliens consistent with principle of non-refoulement [returning a victim of persecution to his or her persecutor] (para 21).
14. Provide more information on religious memberships and practices, and take measures to ensure the free exercise of religious practice (para 22).
15. Allow foreign periodicals, relax restriction on travel abroad by journalists, and stop the use of “threats to state security” to repress freedom of expression (para 23).
16. Provide more information on public assembly and end restrictions on public assembly (para 24).
17. Allow greater citizen participation in public affairs through freely chosen representatives (para 25).
18. Investigate situation of trafficking in women and report findings to the [Human Rights] Committee (para 26).
19. Provide statistical data on the status of women, and improve the number of women in senior positions in the public workforce (para 27).
20. Widely disseminate these concluding observations within North Korea (para 28).
21. Submit the next periodic report to the [Human Rights] Committee, including the measures it has taken or envisages taking to implement the above recommendations by January 2004 (paras 29, 30).

2. SUMMARY OF RECOMMENDATIONS
FROM THE COMMITTEE ON ECONOMIC, SOCIAL AND
CULTURAL RIGHTS

(UN Doc. E/C.12/1/Add.95, December 12, 2003)

1. Set up a mechanism for monitoring the progressive implementation of economic, social, and cultural rights (para 26).⁵¹¹
2. Seek international assistance and cooperation including from the Office of the High Commissioner for Human Rights (para 27).
3. Review constitutional and legislative provisions negatively affecting independence of the judiciary and provide information on the incorporation of the covenant's provisions in domestic legislation and national courts (paras 28, 29).
4. Provide information on the functioning of the law on complaints and petitions as it relates to economic, social, and cultural rights (para 30).
5. Ratify the convention against racial discrimination (para 31).
6. Join the International Labor Organization (ILO) and reform legislation to fulfill the ILO tripartite [employer, employee, government] system (para 32).
7. Implement specific programs to promote the rights of women and their advancement (para 33).
8. Take legislative measures to guarantee the right of everyone to choose his/her career and workplace (para 34).
9. Eliminate penalties against persons who traveled abroad in quest

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⁵¹¹ The earlier paragraphs (9-25) of the Concluding Observations contain a listing of Committee "concerns": the high rate of chronic child malnourishment, alarming increases in maternal mortality, a compromised non-independent judiciary, forced labor for those who travelled abroad without state permission, the absence of the right to form trade unions, etc.

- of employment and/or better working conditions (para 35).
10. Alter legislation to allow independent trade unions and the right to strike (para 36).
 11. Provide information on the conditions of entitlement under social security system for persons with disabilities and the elderly (para 37).
 12. Explore increasing budgetary allocations for social expenditures and public assistance to people in need (para 38).
 13. Amend legislation to adopt provisions against domestic violence (para 39).
 14. Restore ability of children who suffered natural disasters to return to school (para 40).
 15. Increase attention to adequate nutrition and health care to children (para 43).
 16. Take measures to improve maternal health (para 44).
 17. Adopt comprehensive HIV/AIDS prevention strategy (para 45).
 18. Integrate disabled school children into the regular school system (para 46).
 19. Widely disseminate these observations and recommendations (para 48).
 20. Submit the third periodic report by June 2008 (para 49).

3. SUMMARY OF CEDAW COMMITTEE RECOMMENDATIONS (UN Doc. CEDAW/C/R/PRK/CO1, 2005)

1. Incorporate fully definition of both direct and indirect discrimination; undertake proactive measures to ensure formal and substantive equality; undertake awareness-raising campaigns, especially for legislators, the judiciary, and the legal profession (para 38).

2. Revise 1946 law in accordance with CEDAW provisions (para 40).
3. Ensure adequate representation of women in Peoples Committees, put in place effective remedies for all forms of discrimination, and establish mechanisms to monitor effectiveness of such remedies (para 44).
4. Recognize and analyze persistence of indirect and hidden discrimination, identify it where it occurs, and be proactive in its elimination (para 46).
5. Ensure that the DRPK National Committee for Implementation of CEDAW has adequate visibility, power, and resources (para 48).
6. Develop and implement a comprehensive and coordinated plan of action to promote gender equality and mainstreaming, involving women's groups at all stages, following the Beijing Platform for Action (para 50).
7. Put in place a comprehensive system of data collection and measurable indicators to assess trends in the situation of women, include statistical collection and analysis disaggregated by sex and rural/urban areas, seeking, as necessary, international assistance for training in data collection and analysis (para 52).
8. Increase efforts to address stereotypical attitudes about the role and responsibility of women and men, including hidden patterns of discrimination about women and girls in education and employment, including revisions to school textbooks and curricula and awareness campaigns for both men and women regarding stereotypical gender roles (para 54).
9. Conduct research on the incidence and causes of violence against women; train health workers to identify signs of abuse; ensure that violence against women and girls constitutes a crim-

- inal offense and that women and girls have immediate access to means of redress, protection and counseling services; and train law enforcement agencies to respond to victims of violence. (paras 56 and 58).
10. Introduce specific poverty alleviation measures aimed at improving the situation of women, particularly women from rural areas; assist and protect the rights of women who went abroad without valid travel permits. Evaluate the phenomena of trafficking of North Korean women and formulate a comprehensive strategy to prevent, prosecute, and punish offenders; rehabilitate and reintegrate victims; and intensify international, regional, and bilateral cooperation to combat trafficking and report on progress made in the next periodic report (para 60).
 11. Increase the number of women in decision-making positions in all spheres, including the foreign service and missions abroad. Strengthen and accelerate efforts to promote and elect women to positions of power (para 62).
 12. Provide the committee with more detailed information on availability and access to general and reproductive health services for women in all parts of the country (para 64).
 13. Provide the committee with information on the number and condition of women in detention (para 68).
 14. Provide an environment that encourages the establishment of women's human rights NGOs and create a national human rights institution (para 70).
 15. Ratify several other key human rights conventions and the optional protocol to CEDAW. Disseminate widely the recommendations of the CEDAW committee, the Beijing Declaration and Program for Action, and the General Assembly outcome

document “Women 2000: Gender Equality, Development, and Peace for the Twenty-First Century (paras 74 and 75).

**4. SUMMARY OF RECOMMENDATIONS TO THE DPRK
BY THE COMMITTEE ON THE RIGHTS OF THE CHILD**

(UN Doc. CRC/C/PRK/CO/4, March 24, 2009)

1. Harmonize legislation with provisions of the convention and strengthen implementation of domestic legislation (para 8).
2. Provide budget and follow-up mechanism for a national program of action for the well-being of children (para 10).
3. Establish an independent national human rights institution to receive complaints and monitor compliance [with rights conventions] (para 12).
4. Allow creation of civil society (para 14).
5. Increase budgetary allocations for economic, social, and cultural rights of children (para 16).
6. Collect and publish data on implementation of convention (para 18).
7. Respect in practice the implementation of nondiscrimination laws regarding children with disabilities, children in institutions, and children in conflict with the law (para 19-20).
8. Implement rights to freedom of expression, association, and assembly (para 28).
9. Ratify Convention Against Torture, prohibit torture in domestic legislation, investigate and prosecute cases of torture and ill-treatment, and rehabilitate victims among street children, children who crossed the border without permission, and children taken into custody by police or other state agencies (para 30-31).

10. Collect data on the prevention of physical, sexual and psychological violence against children, in partnership with civil society, and seek technical cooperation from OHCHR, UNICEF, WHO as well as NGO partners (para 33).
11. Undertake study of children placed in institutions (para 37).
12. Allocate resources to provide social service support to families so as to minimize institutionalization of children, and only as a last resort (para 35).
13. Review legislative framework for domestic and intercountry adoption (para 39).
14. Ratify the Convention on the Rights of Persons with Disabilities, collect disaggregated data on children with disabilities, adopt policy and action plan for children with disabilities, and pursue efforts to ensure their right to education (para 43).
15. Improve effectiveness of system of subsidized health care, especially for families and children in rural areas, possibly through national and local governmental bodies in charge of maternal and child health care (para 45).
16. Conduct a study on adolescent health care problems, and improve reproductive and mental health assistance to adolescents and children (paras 47, 48, 50).
17. Improve food availability to children and improve access by UN agencies to ensure equal distribution of humanitarian assistance, including food aid (para 52).
18. Increase budgetary allocations to educational sector and eliminate burden of additional costs to schooling (para 55).
19. Ensure that no persons under 18 are subjected to punishment for leaving territory of state party without authorization (para 57).

20. Avoid early militarization of children in schools (para 59).
21. Ensure that work performed by children as part of schooling does not exceed vocational and educational goals or jeopardize their right to education (para 61).
22. Ensure that street children (*khojetbis*) are provided with adequate nutrition, clothing, housing, and health care. Seek technical cooperation on this from UNICEF (para 65).
23. Strengthen legislative and other measures to curb sexual exploitation and trafficking of children (paras 67, 69).
24. Provide more information on the administration of juvenile justice and bring system of juvenile justice fully in line with the [CR] Convention (paras 72, 73).
25. Ratify the other core international human rights instruments and Optional Protocol to the [CR] Convention on the sale of children, child prostitution, and pornography, and on the involvement of children in armed conflict (paras 77, 75).
26. Transmit these recommendations to the Supreme People's Assembly, relevant ministries, municipal authorities, civil society organizations, and the public at large (paras 78, 79).

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Contributors

<Editors>

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Hawk, David is a former executive director of Amnesty International, USA, a fellow at the Columbia University Center for the Study of Human Rights, and a former UN human rights official, having directed the Cambodia Office of the UN High Commissioner for Human Rights. He has written numerous reports on human rights issues, most notably on genocide in Cambodia, massacres in Rwanda, and severe violations in North Korea. On North Korea, Hawk researched and authored *Hidden Gulag: Exposing Prison Camps in North Korea* (Committee for Human Rights in North Korea); *Thank You Father Kim Il Sung: Eyewitness Accounts of Severe Violations of Freedom of Thought, Conscience and Religion in North Korea* US Commission on International Religious

Freedom); *Concentrations of Inhumanity: An Analysis of the Phenomena of Repression Associated with North Korea's Political Prison Camps* (Freedom House) and *Pursuing Peace While Advancing Rights: The Untried Approach to North Korea* (U.S.-Korea Institute at SAIS). Educated at Cornell, Columbia and Oxford Universities and Union Theological Seminary, Hawk currently teaches human rights courses at Hunter College, City University of New York.

Ma, Haiyun earned his PhD in history from Georgetown University in 2007. His research covers Chinese history with a focus on Islam and Muslims of China proper and Xinjiang. Previously, he taught at Fort Lewis College and the University of North Carolina as an assistant professor. Dr. Ma relocated to Washington, D.C. and currently teaches at the Frostburg State University and revises his manuscript "New Territories and New Teachings: Regulation, Religion, and Rebellion in Qing Amdo-Gansu: 1750-180."

Richardson, Sophie is currently the China director at Human Rights Watch. She is the author of numerous articles on domestic Chinese political reform, democratization, and human rights in Cambodia, China, Indonesia, Hong Kong, the Philippines, and Vietnam. She has testified before the European Parliament and the US Senate and House of Representatives. Dr. Richardson has provided commentary to the BBC, CNN, the Far Eastern Economic Review, Foreign Policy, National Public Radio, the New York Times, the Wall Street Journal, and the Washington Post. She is the author of *China, Cambodia, and the Five Principles of Peaceful Coexistence* (Columbia University Press, Dec. 2009), an in-depth examination of China's foreign policy since 1954's Geneva Conference, including rare interviews with policy makers. Dr. Richardson is a graduate of the University of Virginia, the Hopkins-Nanjing Program, and Oberlin College.

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ment Program starting from 2012. In 2011, she was a visiting fellow at the Center for Northeast Asia Policy Studies at the Brookings Institution, where she focused on the Chinese national security decision-making processes. From 2008 to 2011, Yun was the China analyst for International Crisis Group based in Beijing, specializing on China's foreign policy towards conflict countries in Asia and Africa. Prior to ICG, she worked in the Asia policy community in Washington DC for five years. Her expertise is in Chinese foreign policy, U.S.-China relations and China's relations with neighboring countries and authoritarian regimes. Yun earned her master's degree in international policy and practice from George Washington University, an MA in Asia Pacific studies and a B.A. in international relations from Foreign Affairs College in Beijing.

Thayer, Carlyle A. is Emeritus Professor, The University of New South Wales at the Australian Defence Force Academy (ADFA) in Canberra. He was educated at Brown and holds an M.A. in Southeast Asian Studies from Yale and a Ph.D. in International Relations from The Australian National University (ANU). Thayer began his academic career teaching at The Royal Military College-Duntroon (1979-85) and then at ADFA (1986-2010), where he served as Head of the School of Politics from 1995-97. He has held senior attachments with the ANU (1992-95); Asia-Pacific Center for Security Studies in Hawaii (1999-02); Centre for Defense and Strategic Studies (2002-04); and the Australian Command and Staff College (2006-07 and 2010). In 2005, he was the C. V. Starr Distinguished Visiting Professor of Southeast Asian Studies at the School of Advanced International Studies, Johns Hopkins University. In 2008, he was the inaugural Frances M. and Stephen H. Fuller Distinguished Visiting Professor at the Center of Southeast Asian Studies, Ohio University. He is the author of over 450 publications including *Southeast Asia: Patterns of Security Cooperation* (Canberra: Australian Strategic Policy Institute, 2010). Thayer is Director of Thayer Consultancy, a small business registered in Australia that provides political analyses and research support on current regional security issues.

최근 발간자료 안내

연구총서

2011-01	제2차 핵안보정상회의와 북한 핵문제	전성훈	14,500원
2011-02	북한군의 기강 해이에 관한 연구	이교덕 외	11,000원
2011-03	통일 진입과정에서의 북한 재건 방향	최진욱, 김진하	5,500원
2011-04	북한의 부문별 조직실태 및 조직문화 변화 종합연구	정영태	16,000원
2011-05	북한형사재판제도 연구: 특징과 실태	이규창, 정광진	8,000원
2011-06	북한주민의 삶의 질: 실태와 인식	김수암 외	12,000원
2011-07	한반도 평화와 북한 비핵화: 협력적 위협감축(CTR)의 적용방안	박종철 외	10,000원
2011-08	대북한 핵협상 전략구상방향	홍우택 외	6,000원
2011-09	중국의 부상에 대한 북한의 인식과 대응	허문영, 마민호	10,000원
2011-10	북한 핵의 국제정치와 한국의 대북 핵전략	배정호 외	11,000원
2011-11	평화통일을 위한 통일외교 전략	박영호 외	13,500원
2011-12(I)	중국의 G2 부상과 한반도 평화통일 추진전략 제1부	황병덕 외	15,500원
2011-12(II)	중국의 G2 부상과 한반도 평화통일 추진전략 제2부	황병덕 외	13,500원
2011-12(III)	중국의 G2 부상과 한반도 평화통일 추진전략 제3부	황병덕 외	18,000원
2012-01	미국의 對韓 핵우산정책에 관한 연구	전성훈	14,000원
2012-02	북한부패와 인권의 상관성	김수암 외	11,000원
2012-03	보호책임(R2P) 이행에 관한 연구	이규창 외	11,000원
2012-04	EC/EU사례 분석을 통한 남북 및 동북아공동체 추진방안: 유럽공동체 형성기를 중심으로	손기웅 외	14,000원
2012-05	김정은체제의 권력엘리트 연구	이교덕 외	13,000원
2012-06	독재정권의 성격과 정치변동: 북한 관련 시사점	박형중 외	11,000원
2012-07	북방삼각관계 변화와 지속: 북한의 균형화 전략을 중심으로	허문영, 유동원, 심승우	10,000원
2012-08	북한 핵문제의 전망과 대응책: 정책결정모델(Decision Making Model)을 이용한 전략 분석	홍우택	8,000원
2012-09	중국의 한반도 관련 정책연구기관 및 전문가 현황분석	전병곤, 양갑용	6,000원
2012-10	2000년대 대북정책 평가와 정책대안: '동시병행 선순환 모델'의 원칙과 과제	박종철 외	12,500원
2012-11	리더십교체기의 동북아 4국의 국내정치 및 대외정책 변화와 한국의 통일외교 전략	배정호 외	11,500원
2012-12	김정은 정권의 정책전망: 정권 초기의 권력구조와 리더십에 대한 분석을 중심으로	최진욱, 한기범, 장용석	7,500원
2012-13	신장부 '국가전략 DMZ 평화적 이용'	손기웅 외	8,000원
2013-01	남북러 가스관과 동북아 에너지 협력의 지정학	이기현 외	6,000원
2013-02	한국의 FTA전략과 한반도	김규륜 외	8,500원
2013-03	김정은 체제의 변화 전망과 우리의 대책	박종철 외	10,000원
2013-04	EC/EU사례 분석을 통한 남북 및 동북아공동체 추진방안 - EC기 분석을 중심으로 -	손기웅 외	12,000원

2013-05	오바마·시진핑 시대의 동북아 국가들의 국내정치 및 대외정책과 한국의 대북 및 통일외교	배정호 외	11,000원
2013-06	북한사회 위기구조와 사회변동전망: 비교사회론적 관점	조한범, 황선영	6,000원
2013-07	인도적 지원을 통한 북한 취약계층 인권 증진 방안 연구	이규창 외	12,500원
2013-08	새로운 세대의 탄생: 북한 청소년의 세대경험과 특성	조정아 외	15,000원
2013-09	북한의 핵·미사일 대응책 연구	홍우택	6,000원
2013-10	북한에서 국가재정의 분열과 조세 및 재정체계	박형중, 최사현	7,000원

학술회의총서

2011-01	한반도 통일비전과 국제협력		4,000원
2011-02	북한인권 실상과 효율적 개입방안		8,500원
2012-01	The Outlook for the North Korean Situation & Prospects for U.S.-ROK Cooperation After the Death of Kim Jong-il		6,000원
2012-02	김정은 체제의 북한 인권문제와 국제협력		19,000원
2012-03	해외 이주·난민 지원제도의 시사점		12,000원
2013-01	유엔 인권메커니즘과 북한인권 증진방안		20,000원
2013-02	한반도신뢰프로세스 추진전략		19,000원

협동연구총서

2011-14-01	북한정보관리체계 개선방안(총괄보고서)	황병덕 외	14,500원
2011-14-02	북한정보관리체계 개선방안(상)	황병덕 외	13,000원
2011-14-03	북한정보관리체계 개선방안(중)	황병덕 외	12,000원
2011-14-04	북한정보관리체계 개선방안(하)	황병덕 외	13,500원
2011-15-01	북한 경제발전을 위한 국제협력 프로그램 연구: 국제사회의 경험 분석(총괄보고서)	임강택 외	11,000원
2011-15-02	부패의 개념과 실태 및 반부패 개혁	박형중 외	10,000원
2011-15-03	체제전환국의 시장-민주제도 건설 지원	박영호 외	13,000원
2011-15-04	국제사회의 개발지원전략과 협력체계 연구	장형수 외	9,500원
2011-15-05	수원국의 역량발전을 위한 개발협력전략과 사례연구	이중무 외	9,500원
2011-15-06	인프라 개발을 위한 국제협력 사례와 시사점	이상준 외	9,000원
2012-11-01	북한 경제발전을 위한 국제협력 프로그램 실행방안(총괄보고서)	임강택 외	11,000원
2012-11-02	북한 부패실태와 반부패 전략 국제협력의 모색	박형중 외	10,000원
2012-11-03	북한 경제발전을 위한 국제협력체계 구축 및 개발지원전략 수립 방안	장형수 외	8,000원
2012-11-04	북한의 역량발전을 위한 국제협력 방안	이중무 외	8,000원
2012-11-05	북한의 인프라 개발을 위한 국제사회 협력 프로그램 추진방안	이상준 외	8,000원
2012-12-01	한반도 통일 공공외교 추진전략(1) - 공공외교의 이론적 조명과 한반도 주변4국의 對한국 통일 공공외교(총괄보고서)	황병덕 외	13,500원
2012-12-02	공공외교의 이론적 조명과 주변4국의 한반도통일 공공외교 분석틀	김규륜 외	8,500원

2012-12-03 미국의 對한국 통일 공공외교 실태	박영호 외	9,500원
2012-12-04 중국의 對한국 통일 공공외교 실태	이교덕 외	7,500원
2012-12-05 일본의 對한국 통일 공공외교 실태	이진원 외	8,000원
2012-12-06 러시아의 對한국 통일 공공외교 실태	여인곤 외	7,500원

논 총

통일정책연구, 제21권 1호 (2012)	10,000원
<i>International Journal of Korean Unification Studies</i> , Vol. 21, No. 1 (2012)	10,000원
통일정책연구, 제21권 2호 (2012)	10,000원
<i>International Journal of Korean Unification Studies</i> , Vol. 21, No. 2 (2012)	10,000원
통일정책연구, 제22권 1호 (2013)	10,000원
<i>International Journal of Korean Unification Studies</i> , Vol. 22, No. 1 (2013)	10,000원
통일정책연구, 제22권 2호 (2013)	10,000원

북한인권백서

북한인권백서 2010	박영호 외	10,000원
<i>White Paper on Human Rights in North Korea 2010</i>	박영호 외	20,000원
북한인권백서 2011	김국신 외	17,500원
<i>White Paper on Human Rights in North Korea 2011</i>	김국신 외	17,500원
북한인권백서 2012	김수암 외	19,500원
<i>White Paper on Human Rights in North Korea 2012</i>	손기웅 외	23,500원
북한인권백서 2013	조정현 외	24,000원
<i>White Paper on Human Rights in North Korea 2013</i>	조정현 외	23,000원

기 타

2011	통일대비를 위한 북한변화 전략(통일대계연구 2011-01-1)	박형중 외	17,000원
2011	북한변화를 위한 한·중 협력방안(통일대계연구 2011-01-2)	임강택 외	6,500원
2011	남북 친화력 확대 방안(통일대계연구 2011-02)	조 민 외	6,000원
2011	통일대비를 위한 국내과제(통일대계연구 2011-03)	박종철 외	13,000원
2011	통일외교 과제와 전략(통일대계연구 2011-04)	최진욱 외	13,000원
2011	US-China Relations and Korean Unification (Grand Plan for Korean Unification 2011-05)	최진욱 편저	12,000원
2011	통일 비용·편익 연구의 새로운 접근: 포괄적 연구요소의 도입과 대안의 모색 (통일 비용·편익 종합연구 11-01)	김규륜 외	19,000원
2011	체제전환 비용·편익 사례연구(통일 비용·편익 종합연구 11-02)	조한범 외	10,500원
2011	통일 비용·편익 추계를 위한 북한 공식경제부문의 실태연구 (통일 비용·편익 종합연구 11-03)	임강택 외	9,500원
2011	2011년 통일예측시계구축	박영호, 김형기	8,000원
2011	한반도 통일과 동북아 4국의 입장과 역할	배정호 외	6,500원

2011	Korean Unification and the Positions and Roles of the Four Neighboring Powers	배정호 편	8,000원
2011	중국의 부상에 따른 동북아 전략환경의 변화와 한반도	배정호 편	12,000원
2011	2011 Unification Clock: When will We See a Unified Korea?	Park Young-Ho, Kim Hyeong Ki	4,000원
2011	알기쉬운 통일교육 12주제	허문영 외	35,000원
2012	탈북자 관련 국제조약 및 법령	이규창 외	19,500원
2012	북한인권 이해의 새로운 지평	북한인권연구센터 편	20,500원
2012	알기쉬운 통일교육: 해외한인용	허문영 외	30,000원
2012	통일대비를 위한 대북통일정책 모색(통일대계연구 12-01)	박형중 외	15,000원
2012	통일한국에 대한 국제적 우려해소와 편익: 지역 및 주변국 차원 (통일대계연구 12-02)	박종철 외	14,000원
2012	Korean Unification and a New East Asian Order (Grand Plan for Korean Unification 12-03)	최진욱 편저	6,000원
2012	Korean Peninsula Division/Unification: From the International Perspective	Kim Kyuryoon, Park Jae-Jeok	13,000원
2012	중국의 국내정치 및 대외정책과 주요 국가들의 대중국 전략	배정호, 구재희 편	22,000원
2012	China's Domestic Politics and Foreign Policies and Major Countries' Strategies toward China	Bae Jung-Ho, Ku Jae H.	22,500원
2012	통일 비용·편익의 분석모형 구축(통일 비용·편익 종합연구 2012-1)	김규륜 외	11,500원
2012	'선도형 통일'의 경로와 과제(통일 비용·편익 종합연구 2012-2)	김규륜 외	9,000원
2013	유엔 인권매커니즘과 북한인권	북한인권사회연구센터 편	18,000원
2013	중국 시진핑 지도부의 구성 및 특징 연구 (중국 지도부의 리더십 분석과 한중정책협력방안 2013)	전병곤 외	9,000원
2013	통일 이후 통합을 위한 갈등해소 방안: 사례연구 및 분야별 갈등해소의 기본방향	박종철 외	13,000원
2013	한반도 통일에 대한 동북아 4국의 인식 (통일외교 컨텐츠 생산 1)	배정호 외	16,500원
2013	알기 쉬운 통일교육III: 북한이탈주민용	조정아 외	11,000원
2013	알기 쉬운 통일교육III: 북한이탈주민용 수업지침서	조정아 외	6,000원
2013	민주화 및 양질의 거버넌스 수립: 북한 변화와 통일을 위한 시사점 (통일대계연구 13-01)	박형중 외	13,500원
2013	시장화 및 빈곤감소형 경제질서 수립: 북한 변화와 통일을 위한 시사점 (통일대계연구 13-02)	임강택 외	12,500원
2013	정치·사회·경제 분야 통일 비용·편익 연구 (통일 비용·편익 종합연구 2013-02)	조한범 외	17,500원
2013	전환기 중국의 정치경제 (통일대비 중국에 대한 종합적 전략 연구: 통일시대 한중관계 전망 2013-1)	배정호 외	15,500원
2013	China's Internal and External Relations and Lessons for Korea and Asia (통일대비 중국에 대한 종합적 전략 연구: 통일시대 한중관계 전망 2013-2)	Bae Jung-Ho, Ku Jae H.	17,500원

연례정세보고서

2011	통일환경 및 남북한 관계 전망: 2011~2012	6,000원
2012	통일환경 및 남북한 관계 전망: 2012~2013	7,000원
2013	통일환경 및 남북한 관계 전망: 2013~2014	7,000원

통일정세분석

비매품

2011-01	2011년 북한 신년 공동사설 분석	최진욱 외
2011-02	미·중 정상회담의 의미와 한국의 전략적 고려사항	배정호 외
2011-03	2011년 미·중 정상회담 평가: 동북아 및 한반도예의 합의	황병덕 외
2011-04	2009년 헌법 개정 이후 북한 노동법제 동향	이규창
2011-05	최근 북한 주민의 의식변화와 정책적 시사점	임순희
2011-06	최고인민회의 제12기 제4차 회의 결과 분석	임강택, 최진욱
2011-07	중동 민주화 혁명과 한반도 전략적 함의	배정호, 박영호, 박재적, 이기현
2011-08	북한의 여성권·아동권 관련 법 제정 동향	임순희, 김수암, 이규창
2011-09	상반기 북한정세 분석 보고서	최진욱 외
2012-01	2012년 북한 신년 공동사설 분석	최진욱 외
2012-02	북한의 아동교육권 실태와 관련 법령 제정 동향	임순희, 조정아, 이규창
2012-03	북한 미사일 발사에 대한 국제사회의 대응	배정호 외
2012-04	제4차 당대표자회의와 제12기 제5차 최고인민회의 분석	박형중 외
2012-05	최근 국제사회의 북한인권 논의동향	이금순, 한동호
2013-01	2013년 북한 신년사 집중분석	전성훈 외
2013-02	3차 핵실험 이후 김정은 정권의 대내외 정책	전성훈 외
2013-03	시진핑 체제의 출범과 대외정책 방향 12기 전국인민대표대회 제1차 회의 결과분석	전병곤, 이기현
2013-04	북한 3차 핵실험 이후 미국의 대북정책 논의 동향	박형중, 박영호, 김동수
2013-05	대북경제제재에 대한 북한의 반응과 대북정책예의 합의	임강택
2013-06	한미정상회담 결과 분석	김규륜 외
2013-07	한중정상회담 결과 분석	이기현
2013-08	김정은 정권의 대내외 정책평가와 우리의 대응방향	박영자

KINU정책연구시리즈

비매품

2011-01	재스민혁명의 분석과 북한에 대한 시사점	박종철 외
2011-02	창지투(長吉圖) 선도구와 북한나선특별시, 러시아 극동지역 간 경제협력 과제	림금숙
2011-03	6자회담과 남북관계: 전망과 대책	박종철 외
2011-04	보호책임(R2P)의 이론 및 실행, 그리고 한반도예의 합의: 리비아 및 코트디부아르 사태를 중심으로	조정현
2011-05	남북러 가스관 사업의 효과, 쟁점, 과제	이윤식
2011-06	DMZ 총람: 개요, 정치·군사적 현황	손기웅 외
2011-07	DMZ 평화적 이용의 국가적 의미	손기웅 외
2012-01	통일재원 마련 및 통일외지 결집 관련 국민의 인식	김규륜, 김형기

2012-02	2012년 상반기, 북한 정책동향 분석: 북한 매체의 논조를 중심으로	박형중 외
2012-03	러시아의 극동개발과 북한 노동자	이영형
2012-04	오바마 2기 행정부의 대 한반도 정책 전망	김장호 외
2012-04(E)	The Second Term Obama Administration's Policy towards the Korean Peninsula	Jangho kim
2012-05	중국 18차 당대회 분석과 대내외정책 전망	이기현 외
2013-01	북한 지하자원을 활용한 DMZ/접경지역 남북 산업단지 조성방안	손기웅 외
2013-02	박근혜정부의 대북정책 추진 방향	최진욱 외
2013-03	박근혜정부의 통일외교안보 비전과 추진 과제	최진욱 외
2013-04	유엔조사위원회(COI) 운영 사례 연구	김수암 외
2013-05	Trustpolitik: 박근혜정부의 국가안보전략 - 이론과 실제 탐색연구 -	박형중 외
2013-06	서독의 대동독 인권정책	안지호 외

북한인권: 국제사회 동향과 북한의 대응

비매출

2011	북한인권: 국제사회 동향과 북한의 대응, 제6권 1호	김수암, 전현준, 이규창
2011	북한인권: 국제사회 동향과 북한의 대응, 제6권 2호	김수암, 김국신, 이규창
2012	북한인권: 국제사회 동향과 북한의 대응, 제7권 1호	손기웅 외
2012	북한인권: 국제사회 동향과 북한의 대응, 제7권 2호	손기웅 외
2013	북한인권: 국제사회 동향과 북한의 대응, 제8권 1호	이금순 외

Study Series

비매출

2011-01	A New Approach to the National Community Unification Formula Park Jong Chul, Hong Woo Taek, Lee Kyu Chang, Kim Philo, Chun Chae Sung, Cho Seong Ryoul, Hong Ilk Pyo, Hwang Sun Hye	
2012-01	Study of Disciplinary Problems in the North Korean Army Lee Kyo Duk, Chung Kyu Sup	
2012-02	The Quality of Life of North Korean: Current Status and Understanding Kim Soo Am et al.	
2012-03	Basic Reading on Korean Unification Huh Moon Young et al.	
2013-01	Study on the Power Elite of the Kim Jong Un Regim Lee Kyo Duk et al.	
2013-02	Relations between Corruption and Human Rights in North Korea Kim Soo Am et al.	
2013-03	Easing International Concerns over a Unified Korea and Regional Benefits of Korean Unification Park Jong Chul et al.	
2013-04	'Peaceful Utilization of the DMZ' as a National Strategy Son Gi Woong et al.	

■■ 통일연구원 定期會員 가입 안내

통일연구원은 민족공동체 실현을 위한 국민 역량을 축적하고 통일환경 변화에 적극적 주도적으로 대응할 수 있도록 통일문제에 관한 제반 사항을 전문적, 체계적으로 연구하고 있습니다. 본원의 연구성과에 관심이 있는 분들에게 보다 많은 정보와 자료를 제공하고자 연간 회원제를 운영하고 있습니다.

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- 나) 일반회원: 학계나 사회기관소속 연구종사자
- 다) 기관회원: 학술 및 연구단체 또는 도서관

2. 가입방법

- 가) 「회원 가입신청서」 작성
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- 가) 연구원이 주최하는 국제 및 국내학술회의 등 각종 연구행사에 초청
- 나) 연구원이 발행하는 정기간행물인 『통일정책연구』, 『International Journal of Korean Unification Studies』, 단행본 시리즈인 연구총서, 학술회의의 총서, 협동연구총서, 통일정세 분석 등 우송
- 다) 도서관에 소장된 도서 및 자료의 열람, 복사이용
- 라) 구간자료 20% 할인된 가격에 구입

4. 회원가입 문의

- 가) 주소: (142-728) 서울시 강북구 4.19로 123(수유동) 통일연구원
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China's Internal and External Relations and Lessons for Korea and Asia

