



UNIVERSITY OF LEEDS

This is a repository copy of *Ethnic Conflict and the New Legalism in China*.

White Rose Research Online URL for this paper:
<http://eprints.whiterose.ac.uk/101865/>

Version: Accepted Version

Article:

Tyson, A orcid.org/0000-0002-4458-6870 and Wu, X (2016) Ethnic Conflict and the New Legalism in China. *Nationalism and Ethnic Politics*, 22 (4). pp. 373-392. ISSN 1353-7113

<https://doi.org/10.1080/13537113.2016.1239441>

© 2016, Taylor & Francis Group, LLC. This is an Accepted Manuscript of an article published by Taylor & Francis in *Nationalism and Ethnic Politics* on 02 Nov 2016, available online: <https://doi.org/10.1080/13537113.2016.1239441>. Uploaded in accordance with the publisher's self-archiving policy.

Reuse

Items deposited in White Rose Research Online are protected by copyright, with all rights reserved unless indicated otherwise. They may be downloaded and/or printed for private study, or other acts as permitted by national copyright laws. The publisher or other rights holders may allow further reproduction and re-use of the full text version. This is indicated by the licence information on the White Rose Research Online record for the item.

Takedown

If you consider content in White Rose Research Online to be in breach of UK law, please notify us by emailing eprints@whiterose.ac.uk including the URL of the record and the reason for the withdrawal request.



eprints@whiterose.ac.uk
<https://eprints.whiterose.ac.uk/>

Ethnic Conflict and the New Legalism in China

ADAM TYSON
University of Leeds

XINYE WU
East China University of Political Science and Law

In October 2014 the Communist Party of China committed to the establishment of a “*socialist rule of law with Chinese characteristics*.” Since then a group of Chinese political elites that we refer to as new legalists has been calling for ethnic conflict to be managed in accordance with the rule of law. This article finds that the deeply embedded and highly politicized problem of ethnic conflict in China lends credence to the legalist position that new law-based approaches are needed, although a number of practical problems arise when attempting to strengthen the rule of law. There are for instance powerful factions in the country supporting the continuation of repressive policies or selective ethnic preferentialism, there are relatively low levels of legal awareness in ethnic minority communities, and general inadequacies in the Chinese legal system. We argue that an elite group of new legalists in China is attempting to reshape ethnic minority policy in order to break free from the everyday protean politics of ethnic relations that is based largely on a negative cycle of violent confrontation and financial compensation.

INTRODUCTION

The Fourth Plenum Decision of the 18th Central Committee of the Chinese Communist Party (CCP) in October 2014 led to the establishment of a “socialist rule of law with Chinese characteristics” (*zhongguo tese shehuizhuyi fazhi*). One outcome of the Fourth Plenum is that Chinese political elites, led by members of the Politburo Standing Committee, are calling for ethnic conflict to be managed in accordance with the rule of law.¹ The call for a policy change in the area of ethnic minority relations is a form of political signaling, where CCP leaders are using speeches and public statements to signal their political preferences and commitments to long-term incremental change.² Generally speaking, legalism refers to the prioritizing of law over politics, where law is said to be based on the impartial pursuit of justice, and politics is based on expediency and self-interest.³ The commitment to the rule of law (*fazhi*) is not universal in China. Indeed, there are powerful factions in the country supporting the continuation of repressive policies and selective ethnic preferentialism. While there are elite divisions between autocratic and more liberal-minded legalists in China, there is a general consensus in Beijing that ethnic minority policy needs to be reformed in order to break free

from the everyday protean politics of ethnic relations that is based largely on a negative cycle of violent confrontation and financial compensation.

Ethnic conflicts in China can be situated above or below a perfunctory “red line” (hong xian) that can be used to distinguish between nationalist, separatist or ideological conflicts that threaten the unity and integrity of the state (above the red line), and everyday forms of strife such as labor disputes, localized protest movements and riots that constitute a lower level of threat and fall below the red line.⁴ In this article we assess the different and often competing legalist views of, and approaches to, ethnic conflict in China by analyzing recent political statements and policy speeches from Chinese elites at the executive level of the Politburo Standing Committee, as well as central Politburo members and provincial Party secretaries. We find that CCP elites are justifying their calls for the rule of law on the basis that government intervention in cases of ethnic conflict has been negatively influenced by a combination of public pressure, critical media reports and the mismanagement of discretionary funds used to compensate victims in places such as Menglian, Shaoguan and Yueyang.

DEBATING POLITICS AND THE RULE OF LAW IN CHINA

Observers such as Orville Schell express alarm at the extent of the recent CCP crackdowns on public dissent and the intensity of the anti-corruption purge taking place under the “retrograde” leadership of Xi Jinping, with the implication that China’s normative convergence with the rest of the world is now at risk.⁵ We feel that some of Schell’s arguments are justified while others are overstated. Explanatory models such as Jessica Teets’ consultative authoritarianism are more nuanced and rigorous. Under the consultative authoritarian model the government in China is allowing greater autonomy for NGOs and the strengthening of the rule of law while simultaneously expanding the tools for indirect state control.⁶ The Fourth Plenum Decision in 2014 is the most comprehensive effort to date by the CCP to develop its own conception of the rule of law that includes specific implementing rules.⁷ In order to complete the transition from a discretionary authoritarian rule by law to a more legitimate rule of law that citizens can trust and believe in, China needs a “system of internal norms, standards and practices that guide judges, lawyers, arbitrators, prosecutors, police, and other legal sectors in determining what is right and what is wrong, what is permissible and what is not.”⁸

In the context of China’s long march to democracy⁹ and the rule of law¹⁰, the reforms announced in 2014 mark a new chapter in the country’s gradual transformation from an autocratic regime under the absolute rule of Mao Zedong to a partial rule of law regime, where authoritarian rulers respect the rule of law in order to strengthen market reforms while protecting their privileges and impunity by extending their discretionary power in the political realm.¹¹ Partial rule of law regimes can be compared to hybrid regimes of the type found in China and Venezuela, two countries that appear to be moving toward more autocratic rather than liberal legalism.¹² According to Javier Corrales the three main elements of autocratic legalism are the selective use, abuse and non-use of the law in the service of the executive branch of government. The use of law refers to the tendency to introduce an array of legal clauses or articles that empower citizens on the condition that there is one overriding clause

ensuring the supremacy of the executive branch over all other actors. The abuse of law refers to the inconsistent and biased implementation of laws and regulations. And finally, the non-use of law refers to the irregularities and corrupt practices (usually electoral) used to keep governments in power. Weifang He finds examples of each of these main elements of autocratic legalism in China, where the overall power structure is unconstitutional and where the Party is expanding its control over parliament and the judiciary.¹³

Mary Gallagher and Yujeong Yang identify the problem of “legal mobilization in the absence of institutional complementarity” in China that exacerbates public perceptions of an unresponsive and biased state.¹⁴ When dealing with below red line conflicts that have little or nothing to do with state ideology or sovereignty, the CCP claims to be more flexible, responsive and open to liberal interpretations of the rule of law, and some Chinese scholars argue that traditional autocratic legalism is starting to change.¹⁵ There is no coherent group of new legalists per se, although we have identified a number of Chinese political elites who, based on their positive signaling (speeches and public statements), are committed to strengthening the rule of law in China without undermining the CCP’s grip on power. Our analysis of political signaling is based on the assumption that CCP elites are committing to long-term policy reforms without a definitive timeline for delivery. The official speeches and media statements highlighted below represent a general political promise made to the public by an unelected but increasingly accountable and responsive government that is determined to stay in power. Rather than attempting to pass judgement on the underlying beliefs or sincerity of CCP elites, we examine the political signaling that has been taking place since the public announcement of the Fourth Plenum Decision about the rule of law in 2014, and refer to a number of ethnic conflicts in order to explain the political rationale and context within which these Party pledges are made.

President Xi Jinping gave a speech at a national CCP ethnic affairs conference about the need to achieve ethnic unity and peace by strengthening the legal consciousness of all ethnic groups in China.¹⁶ The president referred to the need for all government officials to respect ethnic minority and religious customs while promoting the rule of law during a national “aid for Xinjiang” meeting in May 2014.¹⁷ Yu Zhengsheng, the chairperson of the National Committee of the Chinese People’s Political Consultative Conference (CPPCC), the top political consultative committee in China, takes the same view. He calls for the safeguarding of ethnic unity by way of law, and for managing ethnic affairs in accordance with the rule of law.¹⁸ Premier Li Keqiang has repeatedly called for law-based governance (*yifa zhili*) throughout the country, and is quoted in the *China Daily*, March 2015, making the following agenda setting points:¹⁹

- We will exercise governance in accordance with the Constitution and other laws and bring all government work in line with the rule of law.
- All government activities must have a legal basis, and no government body may assume any power which is not provided for by law.

- We will deepen the reform of the administrative law enforcement system, enforce the law in a strict, well-regulated, impartial, and appropriate manner, press ahead with coordinated law enforcement, and fully implement the accountability system for administrative law enforcement.
- We must see to it that all violations of laws and regulations are investigated and prosecuted, and all failures to enforce the law in an impartial and appropriate manner are rectified.

While attending an “ethnic work” (minzu gongzuo) conference in Jiangsu province back in 2005, the current vice president Li Yuanchao stated that whoever is involved in ethnic conflict must obey the law and seek legal resolution, and he called for more efforts to strengthen legal education for ethnic minorities.²⁰ Wang Huning, current director of the CCP Policy Institute and member of the Politburo, is one of the key drafters of the Decision of the CCP Central Committee on Major Issues Pertaining to the Rule of Law (zhonggong zhongyang guanyu quanmian tuijin yifazhiguo ruogan zhongda wenti de jue ding) for the Fourth Plenum in 2014. Liu Yandong, the vice premier of China and member of the Politburo, claims that the basic principle underlying all ethnic issues is the rule of law, and that the only way to improve the standard of governance involving ethnic groups is by adhering to the rule of law.²¹ Zhou Qiang was Hunan Party secretary from 2006 to 2013 and is currently serving as president of the Supreme People’s Court. He is a proponent of the implementation of laws and policies that are specifically designed to “safeguard ethnic unity and to enhance legal awareness among ethnic groups.”²² Cao Jianming, president of the Supreme People’s Procuratorate, argues that judicial employees should disseminate their knowledge of the law among ethnic groups, promote law abiding activities and solve ethnic conflicts in a legitimate legal manner.²³

Guo Shengkun was Guangxi Zhuang Autonomous Region Party secretary prior to becoming the minister of public security in 2012. He has stated publicly that the courts and judicial administration, public security agencies and law enforcement agencies must all operate in accordance with the rule of law.²⁴ Wu Aiyong is the longest standing minister currently in power. Her tenure as minister of justice began in 2005, and only Shi Liang, who was justice minister from 1949 to 1959, has managed to retain such an important position for such a prolonged period of time. In one of her many legal publications, Wu Aiyong praises the ongoing efforts in Inner Mongolia and Ningxia to enhance household education (qianjia wanhu song fa gongcheng) as an effective means to popularize the law in autonomous ethnic minority regions, and hopes to continue to extend this effort in Tibet and Xinjiang.²⁵

Based on their recent policy statements, seven provincial Party secretaries seem to qualify as new legalists. Chen Quanguo, who has been serving as Tibet Party secretary since 2011, claims that his overriding mission is to govern by law and promote the rule of law in Tibet.²⁶ Wang Jun, the Inner Mongolia Autonomous Region Party secretary since 2012, is a strong advocate of the rule of law in managing ethnic affairs in autonomous regions.²⁷ Li Jianhua, who has been serving as Ningxia Hui Autonomous Region Party secretary since 2013, is a public supporter of the Fourth Plenum Decision on the rule of law and is taking actions in the Ningxia region, with plans to govern by law and to manage social strife in accordance with the law to ensure social justice.²⁸ Peng Qinghua, the Guangxi Party secretary since 2012, believes

that one of his main objectives is to enforce the rule of law, improve local regulations and develop legal education in Guangxi, in line with President Xi Jinping's visit and speech in March 2015 about rule of law and governance in Guangxi.²⁹ Wang Dongming, who has been serving as Sichuan Party secretary since 2012, has publicly pledged to use local legislation in Sichuan to improve conditions in ethnic minority areas, as well as to reform the process of law enforcement to ensure that justice is upheld.³⁰ Bayanqolu, the Jilin Party secretary since 2014, previously served as Party secretary of Ningbo city in 2006, where he gained a reputation for taking a strong stance on the rule of law and for promoting legal education, youth policy and NGO participation in governance.³¹ Luo Huining, who has been serving as Qinghai Party secretary since 2013, created and now serves as director of an organization called the Qinghai Legal Governance Group (Qinghai yifa zhisheng gongzuo lingdao xiaozu) that coordinates the activities of all the law agencies in the province.³²

Chinese leadership has often been seen as a dialectic of unity and enmity, and Cheng Li is one of the first observers to highlight the rise of a new elite group of lawyers and legal professionals within the top ranks of the CCP.³³ The new legalists have made their public in-principle commitment to the rule of law and risk undermining their legitimacy if they do not continue to take steps strengthen the rule of law, particularly in cases involving ethnic minority conflict. One obstacle to reform however is the extent to which CCP elites have different opinions on the causes of ethnic conflict and harbor their own private political ambitions. There are considerable challenges to overcome, such as factional infighting and elite rivalry, procedural and substantive deficiencies in the legal system, and a persistent lack of public faith in China's legal system, institutions and enforcement agencies.³⁴

The China Justice Index (zhongguo sifa wenming zhishu baogao, hereafter CJI) was initiated as part of former president Hu Jintao's Higher Education Innovative Capacity Improvement Scheme, also known as the national "2011 Project." According to data from the 2015 CJI that involves 16,000 respondents across 20 provinces, there is significant variance in China as confidence in the judicial system is high in places like Shanghai and Zhejiang but low in Heilongjiang and Guizhou, where respondents express concerns about judicial corruption and credibility.³⁵ The purpose of the CJI is to gain a dynamic understanding of how China's emerging "judicial civilization" affects people's daily lives, as well as to give advance warning to judicial authorities and provide support for reforms. One of the lead researchers from the CJI project suggests that civilization (wenhua) refers to the positive side of Chinese culture, and that a civilizing process is currently underway in China, with the CJI serving as one of the instruments of reform that are creating a mirror for all provincial authorities to reflect on their current judicial situation.³⁶ People are capable of pointing out the asperities of the legal system but they appear to lack a strong legal consciousness and understanding of their rights, which makes it challenging for individuals to seek legal protection or representation or even to locate the courts in both a physical and metaphysical sense. In the autonomous regions of China ethnic traditions and religious practices are still prevalent, and people generally have a low acceptance of national laws and the legal system. There are conflicts in Sichuan for example where in-laws are excluded from property inheritance, and in Yunnan, where the maternal customs and traditions (xiguan yu fengsu) of the Naxi are known to deprive men of their civil rights.

According to Randall Peerenboom, the mechanisms that check administrative power in China are underutilized for many reasons.³⁷ To paraphrase, the reasons include low levels of legal awareness on the part of citizens and fears of retaliation, the tendency of injured parties to rely on personal connections (*guanxi*), the failure of administrative agencies to comply with procedural requirements, as well as technical problems with jurisdiction, the scope of judicial review and procedural shortcomings. The Fourth Plenum Decision in 2014 requires that all government officials uphold the rule of law and govern with the highest integrity, but it also “repeatedly emphasizes the need to persuade Chinese citizens of the benefits of rule of law and a rule-based order, almost as if they somehow were to blame for human rights violations or the many abuses of power by government officials that so often denies them the justice and fairness they rightfully expect from the legal system.”³⁸ For the new legalists in China to fulfil their public pledges to strengthen the rule of law, a number of reforms need to take place across the country, and particularly in the five special autonomous ethnic regions.

ETHNIC CONFLICT AND THE RULE OF LAW

In the early years of the People’s Republic of China a series of ethnological, anthropological and linguistic expeditions were organized as part of an ethnic classification project (*minzu shibie gongzuo*) that helped create a new “taxonomic orthodoxy” – fifty-six ethnicities, one China – that continues to influence ethnic minority policy in China today.³⁹ There are high levels of political anxiety in China related to conflicts in ethnic affairs (*minzu wenti*) and organized collective action across the country.⁴⁰ China is experiencing a rise in the number, scale and intensity of “mass incidents” (*qunti xing shijian*) and “public disturbances” (*gongzhong saoluan*) resulting from “ethnic contradictions” (*minzu maodun*) and civil conflicts that are causing China’s new legalists to make public announcements in support of the rule of law. In the aftermath of the breakup of Yugoslavia and the dissolution of the Soviet Union, China’s leaders reviewed their national policy toward ethnic minorities in order to reduce the risk of conflict and separatism in China’s autonomous regions and frontiers.⁴¹ There are some hard line secessionist groups fighting in Tibet and Xinjiang (above red line conflicts), although the majority of ethnic conflicts in China are low-intensity and localized, the result of ethnic segregation, labor disputes and claims (or perceptions) of discrimination.

China’s autonomous ethnic regions are governed by special arrangements that include investment and migration flows from the center to the periphery aimed at deepening Beijing’s bureaucratic control and turning ethnic minorities such as the Uyghur into productive and “desirable” citizens.⁴² The CCP’s efforts to achieve social control include preferentialism for ethnic minorities such as the Uyghur in China, which is particularly salient in family planning, education, employment, and public administration.⁴³ According to Article 4 of China’s Constitution, all ethnicities (*minzu*) are equal under law, although a number of special provisions for ethnic minorities are codified in the original 1984 and revised 2001 Law on Regional Autonomy (*minzu quyü zizhi fa*). One general practice in China since the 1980s has been that criminals with ethnic minority backgrounds are to be treated with greater leniency, so that authorities arrest and execute as few ethnic minority criminals as possible.⁴⁴ Hu

Yaobang, general secretary of the CCP from 1980 to 1987, put forward six policies for Tibetan development that included specific instructions for the special treatment of Tibetan criminals and malefactors, such as the avoidance of arrests (where possible) and greater leniency in sentencing compared to the Han Chinese majority.⁴⁵ The Tibetan policy of preferential treatment under law for ethnic minorities was a precursor to the 1984 national criminal justice policy called “two restraints, one leniency” (*liang shao yi kuan*) that affords various exclusive privileges to ethnic minority groups.⁴⁶ This points to a fundamental problem with law enforcement in China: deliberate exemptions from prosecution (*mianyu qisu*). Melanie Manion found evidence that in cases of officials charged with embezzlement, or indeed any crimes involving ethnic minorities, there is a preference for redemption rather than criminal responsibility that violates the principle of equality before the law.⁴⁷

Since the early 1980s the CCP has been pursuing an agenda of good governance and party discipline while closely supervising the courts and ensuring that the CCPs political-legal committees continue to interface with the courts on major policy issues.⁴⁸ One example of a major policy issue is regional autonomy, and responses to ethnic unrest in autonomous regions shifted from “strike hard” (*yan da*) anti-crime crackdowns in 1983 to affirmative action efforts (*liang shao yi kuan*) in 1984. Jiang Zemin, general secretary of the CCP from 1989 to 2002, advocated a pseudo-Confucian authoritarian “rule of virtue” (*de zhi*) that undermined the rule of law and the development of a rules-based social order. Jiang Zemin claimed that “ethnic issues are major problems that are related to the destiny of both the CCP and the country. Ethnic affairs are by no means a trifle, we always need to be cautious.”⁴⁹ Under the leadership of Hu Jintao from 2002 to 2012 there were some early signs of reform, but it is arguable that his introduction of the doctrine of the Three Supremes (the Party, the people, the law) in 2007 brought an end to the optimism about law reform during his tenure.⁵⁰ When Zhou Yongkang was serving as secretary of the CCP Committee of Political and Legislative Affairs (2007–2012) and minister of public security (2002–2007), it was common for the government to use the police to threaten ethnic minority groups, in line with the “swift and severe” punishments that are a hallmark of the *yan da* policy.⁵¹ Wang Lequan stayed true to the spirit of the *yan da* policy and oversaw a severe crackdown on crime (*gao ya*) throughout his 16 years of service (1994–2010) as Xinjiang Uyghur Autonomous Region Party secretary.⁵² Zhou Yongkang’s successor at the Ministry of Public Security, Meng Jianzhu, sought to put an end to the *yan da* policy by promoting the rule of law.⁵³ Meng Jianzhu’s views on terrorism, religious extremism and ethnic conflict are more nuanced than those of his predecessor.⁵⁴ At the provincial level, Wang Lequan’s successor in Xinjiang, Zhang Chunxian, proposed a new form of “cultural governance” (*wenhua zhijiang*) in 2010, but felt compelled to reinstate the hard line *yan da* policy in the aftermath of the 2013 Yarkant riots that left at least 96 dead.⁵⁵

Another cause of ethnic tensions in contemporary China is the legacy of mass resettlement, mobility and transmigration flows that resulted from Deng Xiaoping’s post-1982 “reform and opening” (*gaige kaifang*) policy. Transmigration and cross-provincial flows led to more interactions and communications within and between ethnic minorities and the Han majority. In 2005 there were approximately 147 million internal migrants in China, and by 2014 the number increased to 253 million according to National Health and Family Planning Commission statistics. Indicators suggest that the number could reach 291 million by 2020, the

significant rise being attributed to the new tendency for whole families to transmigrate and relocate.⁵⁶

Rapid urbanization in China resulted in the mass uprooting of rural populations by the 1980s, and migrants from the countryside were often viewed as transient, with cases of abuse and discrimination being commonplace. The public outrage caused by cases such as the death of an innocent migrant from Hubei province in a Guangzhou detention center in 2003 has led to a gradual shift in state orientation toward a more inclusive migration and citizenship policy.⁵⁷ Jeffrey Becker refers a recent trend in China called “grievance pooling” where politically active migrant workers have come to understand that larger protests receive more attention, and where the idea of “strength in numbers” (*renduo liliang da*) is a common refrain.⁵⁸ According to a worker in Shenzhen, “if you cause enough trouble (*naoda*), the authorities will have to deal with you.”⁵⁹ Urban agglomeration is also leading to the mass relocation and eviction of residents in cities such as Beijing and Shanghai, and it is argued that unless the government can find effective legal and institutional mechanisms to curb unrest it is likely to face greater threats to social stability in the future.⁶⁰

In the textile city of Ningbo in Zhejiang province there are reports of widespread swindling, stealing and petty crime being committed by ethnic minority groups.⁶¹ There are an estimated 435,000 transmigrants from 55 different ethnic groups living and working in Ningbo, and many of these transmigrants are disproportionately blamed for the rising crime rates in the city, creating inter-ethnic tensions and perpetuating negative stereotypes.⁶² A similar trend is being reported throughout China. In Tianyang, a county in the Guangxi Zhuang Autonomous Region, ethnic minorities are known to work in the informal sector, running unregistered businesses and working as unauthorized peddlers in downtown areas. In Chengdu, the capital of Sichuan province, ethnic street vendors are routinely implicated in informal and illicit activities.⁶³ Minorities in Chengdu are often accused of refusing to accept the authority of local law enforcement departments such as the Industrial and Commercial Bureau and the Urban Management Bureau, and therefore violent clashes over trade licenses and permits have become a regular occurrence.

According to a comparative study by Arman Grigoryan governments have two main options for dealing with ethnic conflict: concessions or coercion.⁶⁴ Serious (above red line) outbreaks of ethnic conflict or rebellion that include the rejection of state ideology are usually met by correspondingly severe coercive responses from governments, whereas concessions tend to be offered in cases of civic strife or riots. In China, when concessions are offered, a bargaining process tends to ensue, and the individuals responsible for mobilizing demonstrators and rioters often profit by securing group benefits, rights and recognition. The *naoda* phenomenon, which roughly translates as “disobedience,” occurs when well connected local entrepreneurs and activists attempt to mobilize protestors, forcing government officials to negotiate directly with them in order to limit or avoid ethnic conflict, usually resulting in payoffs.⁶⁵ *Naoda*-related payoffs are temporary transactional solutions that tend to embolden rather than deter local activists, who are known to bide their time until they are ready to organize new and larger protests that increase in compound value, meaning that the government payoffs become more costly on each occasion. Ethan Michelson explains the *naoda*

phenomenon with reference to the “squeaky wheel theory”⁶⁶ of dispute escalation, and Han Zhiming found evidence of naoda-related payoffs in the Menglian case.⁶⁷

On 19 July 2008 approximately 500 rubber farmers from a range of ethnic groups such as the Dai in Menglian county, Yunnan province violently clashed with police because of the economic injustices they faced. The rubber farmers broke their contract with a local town-owned enterprise by refusing to sell raw unprocessed rubber below market value. Private security guards aided by local police were deployed to intimidate the farmers and to force them to comply with their contractual obligations, resulting in fatal clashes. The Menglian 7-19 incident has been classified as a violent criminal case where a number of ethnic minority rubber farmers attacked police officers with long knives, steel pipes and cudgels, resulting in two deaths, 41 injuries and the destruction of at least two police cars.⁶⁸ The Menglian case became a public sensation because of the scale of the attacks against the police and company security guards, the level of organization demonstrated by the rubber farmers, and the apparent capitulation of the local government. Following the naoda payoff model, the government negotiated an end to the violence by paying compensation to rubber farmers and by removing the inept county Party secretary from his post.⁶⁹

The rise in ethnic conflict in contemporary China can be attributed in part to the government’s political framing of conflicts and interventionist approach to social strife that is inconsistent with the rule of law. Responses to ethnic conflict are usually based on political instructions from government officials who operate according to a rigid hierarchy. In the event of a mass incident or indeed any public disturbance involving ethnic minorities the dominant principle is that the government must pay for the damages regardless of who is at fault. The CCP is increasingly wary of the impact of new social media, particularly the reputational damage and political fallout caused by uncensored and rapidly circulated reports of ethnic violence. Decisions to intervene and provide compensation are influenced by political anxieties that have become routinized, creating a negative precedent and undermining the reforms proposed by the new legalists who have publicly committed to the design and implementation of law-based solutions to ethnic conflict.

MANAGING ETHNIC CONFLICT

One of the most contentious political decisions made by local governments when dealing with ethnic conflict is the dispersal of compensation, which is rather like pouring oil on a fire (huo shang jiao you). After reviewing a number of cases of ethnic conflict in China, we find that political intervention blurs the boundary between the public interest and private grievance, and undermines efforts to transition from a discretionary rule by law to a more legitimate rule of law that citizens can believe in and reasonably rely upon. We also find that political intervention tends to obstruct the normal legal procedures for dealing with civil disputes. In most cases administrative law agencies attempt to resolve ethnic conflicts through mediation so as to avoid lengthy legal processes. In criminal cases involving ethnic minorities, political negotiations and solutions are preferred by local governments who feel compelled to intervene and often impede the application of the law. Local governments attempt to resolve ethnic

conflicts as quickly and quietly as possible, although this rarely happens because of the impact of new media, the lasting impressions made on the public, and the ways in which conflicts are reproduced through *naoda* payoffs and other perverse incentives.

In addition to Randall Peerenboom's recent findings, we identify a number of defects in the current legal system that encourage local authorities to rely on political solutions to cases of ethnic conflict.⁷⁰ There are legal lacuna and loopholes and a lack of procedural norms that make the application and operation of the law difficult in China, and there are contradictions between the national laws and customary or indigenous laws. The complexity of the national legal system and the influence of a plurality of religious doctrines, ethnic traditions and socio-political interests should be taken into account when addressing cases of minority conflicts that register both above and below the red line.

According to the policy reforms announced after the Fourth Plenum Decision in 2014, law-based approaches will offer a more structured, legitimate and just alternative for responding to outbreaks of ethnic conflict. The need for reform arises from the fact that local governments in China tend to adopt political measures instead of legal norms to handle ethnic conflict, which we refer to as the "political consideration priority" (*zhengzhi youxian*) based on policy agendas, instructions from local government officials and precedents from previous cases. The prioritizing of politics over law in cases of ethnic conflict follows a logic of expediency and containment, although we find a number of flaws inherent in this approach. For instance, the political criterion applied to cases of ethnic conflict are highly localized and discretionary, leading to considerable variance across China's 31 provinces. Generally speaking, political approaches focus on reaching consensus by consultation, compromise and compensation that may prove fragile and transitory, while legal approaches place more emphasis on legitimate evidence-based solutions and the pursuit of justice that should prove to be more durable and sustainable. China's new legalists have publicly committed to the position that only the rule of law can overcome the problems of ethnic conflict that are so heavily interwoven with unilateral claims and counterclaims, questionable appeals and discretionary decisions to award compensation to aggrieved parties and their trustees. The issue here is not whether the new legalist commitment to the rule of law is genuine or merely propagandist rhetoric, but rather the need to identify the underlying factors that cause CCP elites to make such ambitious public promises and announcements about reform in the first place, using evidence from a select number of high profile contemporary cases of ethnic conflict in provincial China.

In June 2009 violent confrontation broke out between Han and Uyghur youths in Shaoguan city, Guangdong province, which was labelled a serious crime by the governor of the Xinjiang Uyghur Autonomous Region at the time because of the organized and inter-ethnic nature of the violence.⁷¹ The trouble began when an inflammatory article entitled "The Xuri Company is like a trash can" appeared on a website called Shaoguan Homepage (Shaoguan Jiayuan Wang) containing allegations that a Han woman working for the Xuri Toy Factory was raped by six migrants from Xinjiang.⁷² In retaliation Han factory workers attacked Uyghur migrant workers, and local authorities eventually charged 11 Han Chinese men for their roles in organizing the violence.⁷³ No signs of outside provocation or political mobilization were identified in this incident, although the Shaoguan incident took on added significance when, ten days later, inter-ethnic riots broke out in Urumqi city, the capital of Xinjiang province on China's western

frontier. The Urumqi riots on 5 July 2009 qualify as an above red line conflict, a case of criminal violence caused by ethnic and religious antagonism and clashes of ideology that provoked fears of separatism. The official government view is that the July riots were premeditated and politicized, thus increasing the risk of contagion.

The criminal acts in Shaoguan were perpetrated by individuals and legal proceedings could have potentially resolved the matter by holding the guilty parties to account and passing sentences according to the Criminal Law of the People's Republic of China. But because of the heightened tensions at the time surrounding the extremist East Turkestan Islamic Movement in Xinjiang, legal solutions were withheld and replaced by authoritative instructions (*lingdao pishi*) from the political and judicial commission under (a) the Central Committee of the CCP, (b) the Party secretary of Guangdong province and the Party secretary of the Xinjiang Uyghur Autonomous Region, and (c) other high-ranking provincial officials with investigative responsibilities. The Guangdong Party secretary and the mayor of Shaoguan scheduled separate hospital visits to comfort the injured parties and issued contradictory instructions for resolving the violence. If the rule of law was applied more systematically, in accordance with the principles set out in the Fourth Plenum Decision in 2014, the local authority would have jurisdiction and would take responsibility for the implementation of pacification measures. In the days following the Shaoguan incident, however, there was a degree of confusion and uncertainty, and rumors spread about the mistreatment of Uyghur minority groups, leading to new waves of protests and violent clashes. In response, overlapping instructions were issued at provincial level by the Party secretaries in Guangdong and Xinjiang, Wang Yang and Wang Lequan respectively, and at national level by Meng Jianzhu, the minister of public security at the time, and Zhou Yongkang, who was serving as the secretary of CCP Committee of Political and Legislative Affairs.

In December 2012 an event known as the Xinjiang nut cake incident took place in Yueyang, a small town in Hunan province.⁷⁴ A dispute over prices between Uyghur traders and Han customers ended in a mass brawl and the destruction of a large and valuable supply of nut cake. According to the Baidu internet search engine in China, the violence in Shaoguan has approximately 900,000 hits, whereas there are more than 1.1 million webpages with references to the relatively minor Xinjiang nut cake incident. The Shaoguan factory incident involved more people, caused more serious harm and bloodshed, and took place in a more developed and modernized city, and yet the cake-related mass brawl in Yueyang generated a higher media profile and a higher level of political priority. The public criticized the local government's handling of the Yueyang incident, particularly the payment of 200,000 yuan in compensation for the losses incurred by 16 Uyghur street vendors, and the level of sustained public scrutiny is an ongoing source of anxiety for CCP leaders.⁷⁵ The interventionist measures deployed by the government in the Xinjiang nut cake incident included the allocation of large sums of money as compensation, creating a social media sensation with netizens complaining that the local government is misguidedly spending taxpayer money in the hope of "buying stability" (*renminbi weiwen*). The pattern of civil dispute settlement when ethnic minorities are involved is for local governments to act as mediators in the hope of pacifying the conflicting parties as quickly as possible through financial compensation. But this routine measure is often taken advantage of by interest groups and entrepreneurial third parties intervening in the hope

of securing larger sums of money from local governments. The irregularities of naoda payoffs and appeasement strategies in cases of ethnic conflict are one of the reasons why China's new legalists are making public promises to strengthen the rule of law.

When the mainstream press and new social media outlets cover ethnic conflicts there is a reductionist tendency to treat all cases as evidence of deep social and political antagonisms. For example, in 2010 the official CCP newspaper of Guangxi Zhuang Autonomous Region issued a sweeping warning that all conflicts involving ethnic minorities run the risk of escalating into national crises.⁷⁶ When covering public disturbances, reporters have been known to distort facts and publish exaggerated headlines that mislead and provoke the public. In recent years, rumors and reports circulating on social media have led to large amounts of inaccurate information being transmitted online, including exaggerated reports about inter-ethnic violence, ramping up the pressure on local governments. The social media and communications vortex has forced local governments to fall back on what we consider to be simplistic narratives and framings of ethnic conflicts, such as “irregular” (teshu), “sensitive” (mingan) and “internationally influential” (guoji yingxiang). Irregularity refers to the ethnocentric nature of the conflict in autonomous regions such as Xinjiang. Sensitive denotes a particular vulnerability and sends a message to government officials and the media about the ways in which they should represent and cover cases of ethnic conflict. And ethnic conflict is said to have an international dimension when outbreaks of conflict or strife are utilized by the international community to intervene and exert pressure on China. By treating conflicts involving ethnic minority groups as irregular, highly sensitive and internationally significant, it is likely that the government is creating greater insecurity by distorting public perceptions of ethnic relations and reinforcing negative predispositions.

CONCLUSION

In this article we found that the deeply embedded and highly politicized problem of ethnic conflict in China lends credence to the legalist position that new law-based approaches are needed. A number of practical problems arise however when attempting to strengthen the rule of law, for instance the inadequacies of the Chinese legal system, the prevailing power structure that enables the CCP to control the parliament and judiciary, the relatively weak legal awareness held by ethnic minority peoples, and the tension between the application and overlapping jurisdictions of national and indigenous (ethnic) laws. Some of these problems stem from the fact that there is only one national law concerning ethnic minorities, the Law on Regional Autonomy, and the difficulty of applying national laws and regulations in local contexts where alternative justice systems exist and where the capacity to implement and enforce national legal provisions is often lacking.

We found that the Fourth Plenum Decision in 2014 represents the most comprehensive effort to date by the CCP to develop its own conception of the rule of law, captured by the slogan “socialist rule of law with Chinese characteristics.” Since the early 1980s ethnic minority policy in China has oscillated between severe repression (yan da) and crackdowns on crime (gao ya), to selective preferentialism (liang shao yi kuan) and exemptions from

prosecution (*mianyu qisu*), to the highly abstract rule by virtue (*de zhi*) and then, as of 2014, to the rule of law (*fazhi*). We explain this new commitment to the rule of law by examining contemporary cases involving ethnic conflict. We identified a group of Chinese elites that we call new legalists because of their public speeches and stances in support of the rule of law. The new legalists that we identified include three members of the executive Politburo Standing Committee – Xi Jinping, Li Keqiang and Yu Zhengsheng – as well as Vice President Li Yuanchao and Vice Premier Liu Yandong, Director Wang Huning of the CCP Policy Institute, President of the Supreme People’s Court Zhou Qiang, President of the Supreme People’s Procuratorate Cao Jianming, Minister of Public Security Guo Shengkun, Minister of Justice Wu Aiyong, Secretary of the CCP Central Committee of Politics and Law Meng Jianzhu, and seven provincial Party secretaries. The new legalism in China can be explained by the CCPs need to manage all types of conflicts in a consistent and impartial manner, without denying the reality that ethnic conflicts are highly emotive, politically-charged issues that give rise to subterfuge, payoffs and trade-offs.

Cases of ethnic conflict that register below the red line (*hong xian*), such as the Menglian, Shaoguan and Yueyang incidents, occur because of grievance and strife and do not challenge the prevailing state ideology nor do they seek to overturn the current political system. By contrast, the 2009 ethnic Uyghur riots in Urumqi, the 2012 Tibetan riots and the 2013 Yarkant riots are framed as existential secessionist threats to the state (ideology, territorial integrity). The new legalists in China publicly state that ethnic conflicts must be handled in accordance with the rule of law, while accepting that above red line conflicts also require degrees of political intervention in the form of consultation, compromise and compensation. In cases of social strife involving ethnic groups, it is understandable that local governments have a tendency to prioritize political solutions (*zhengzhi youxian*) on the grounds of expediency and in recognition of the deficiencies of the judicial system. One of the core requirements for the successful reliance on the rule of law is public trust and belief in the law. The habitual reliance on political compromise, discretionary authority and victim compensation has damaged the civic spirit and legal consciousness of the Chinese people. According to the Fourth Plenum Decision in 2014 the government is promoting the ideal that the “authority of the law is derived from the inner support and sincere faith of the people” (*fa lv de quanwei laiziyu renmin qunzhong de zhencheng yonghu he neixin xinyang*). The reality for many ethnic minorities who lives in autonomous regions or who migrate to and compete in the megacities of eastern China is that they have neither the time nor the will to fully endorse the rule of law. In the event of crime or conflict involving ethnic minorities, people have come to expect the authorities to propose a settlement outside of the formal legal and administrative institutions, and despite the promises made by China’s new legalists, it will take some time before these practices change.

ACKNOWLEDGMENTS

The authors would like to thank the three anonymous reviewers as well as the editor of *Nationalism and Ethnic Politics* for their critically engaging comments on an earlier draft of this article.

FUNDING

Research for this article is supported by the China Scholarship Council under grant number 201508310047.

NOTES

¹ The Decision of the CCP Central Committee on Major Issues Pertaining to the Rule of Law (zhonggong zhongyang guanyu quanmian tuijin yifazhiguo ruogan zhongda wenti de jue ding) announced in October 2014 makes specific references to problems of ethnicity and religion. In addition, a joint declaration issued by the CCP and State Council in December 2014 entitled Opinions on Strengthening and Improving Ethnic Work in the New Situation (guanyu jiaqiang he gaijin xinxingshi xia minzu gongzuo de yijian) requires officials to resolve all disputes involving ethnic minorities in accordance with the rule of law.

² Matthew Eshbaugh-Soha, “The Impact of Presidential Speeches on the Bureaucracy,” *Social Science Quarterly* 89(1): 116–132 (2008).

³ Duncan McCargo refers to legalism in the context of the transitional justice debate and draws on Judith Shklar’s earlier work on legalism. Duncan McCargo, “Transitional Justice and its Discontents,” *Journal of Democracy* 26(2): 5–20 (2015), 10. Judith N. Shklar, *Legalism: Law, Morals, and Political Trials* (Cambridge, MA: Harvard University Press, Second Edition, 1986).

⁴ Shiao-ling Yu’s study of politics and theatre in China is, to our knowledge, the only English language publication that refers to the “red line” (hong xian). She uses the term to represent the holding of a distinct political orientation. Shiao-ling Yu, “Politics and Theatre in the PRC: Fifty Years of Teahouse on the Chinese Stage,” *Asian Theatre Journal* 30(1): 90–121 (2013), 106.

⁵ Orville Schell, “Crackdown in China: Worse and Worse,” *The New York Review of Books* (21 April 2016), <http://www.nybooks.com/articles/2016/04/21/crackdown-in-china-worse-and-worse/> (accessed 23 June 2016). For a broad overview of the debate about the extent to which Xi Jinping is an “imperial president” see Zhengxu Wang and Jinghan Zeng, “Xi Jinping: The Game Changer of Chinese Elite Politics?” *Contemporary Politics* [early view] 1–18 (2016).

⁶ Jessica C. Teets, “Let Many Civil Societies Bloom: The Rise of Consultative Authoritarianism in China,” *The China Quarterly* 213(March): 19–38 (2013), 20.

⁷ Randall Peerenboom, “Fly High the Banner of Socialist Rule of Law with Chinese Characteristics! What Does the 4th Plenum Decision Mean for Legal Reforms in China?” *Hague Journal on the Rule of Law* 7(1): 49–74 (2015), 72.

⁸ *Ibid.*, 73.

⁹ Elizabeth J. Perry and Ellen V. Fuller, “China’s Long March to Democracy,” *World Policy Journal* 8(4): 663–685 (1991).

¹⁰ Randall Peerenboom, *China’s Long March toward Rule of Law* (Cambridge: Cambridge University Press, 2002).

¹¹ Yuhua Wang, *Tying the Autocrats Hands: The Rise of the Rule of Law in China* (Cambridge: Cambridge University Press, 2015), 3–4.

¹² Javier Corrales, “Autocratic Legalism in Venezuela,” *Journal of Democracy* 26(2): 37–51 (2015).

¹³ Weifang He, *In the Name of Justice: Striving for the Rule of Law in China* (Washington, DC: Brookings Institution Press, 2012), 128-129.

¹⁴ Mary Gallagher and Yujeong Yang, “Getting Schooled: Legal Mobilization as an Educative Process” *Law & Social Enquiry* [early view] 1–32 (2016), 4.

¹⁵ Yong Xu, “Dongfang Ziyou Zhuyi Chuantong de Fajue” [An Inquiry into the Origins of Oriental Liberalism] *Academic Monthly* 4: 5–18 (2012).

¹⁶ “Zhongyang Minzugongzuo Huiyi Ji Guowuyuan Di Liu Ci Quanguo Minzu Tuanjie Jinbu Biao Zhang Dahui Zai Beijing Jvxing” [The CCP Central Conference on Ethnic Affairs and the State Council No.6 Recognition Conference on National Ethnic Unity and Progress are Held in Beijing], *People’s Daily* (30 September 2014), <http://politics.people.com.cn/n/2014/0930/c1024-25763359.html> (accessed 15 February 2016).

¹⁷ “Jianchi Yifa Zhi Jiang Tuanjie Wen Jiang Changqi Jian Jiang, Tuanjie Gezu Renmin Jianshe Shehuizhuyi Xinjiang” [Governing Xinjiang According to the Rule of Law to Maintain Stability and Construct Xinjiang for the Long Term, Uniting Various Ethnic Groups to Build a Socialist Xinjiang], *People’s Daily* (30 May 2014), http://paper.people.com.cn/rmrb/html/2014-05/30/nw.D110000renmrb_20140530_2-01.htm (accessed 15 February 2016).

¹⁸ “Yu Zhengsheng Shengbuji Ganbu Minzu Gongzuo Zhuanti Yantaoban Xueyuan Zuotan” [Yu Zhengsheng Holds a Workshop on Ethnic Affairs for Provincial Cadres], *People’s Daily* (17 May 2015), <http://cpc.people.com.cn/n/2015/0517/c64094-27012403.html> (accessed 15 February 2016).

¹⁹ Li Keqiang, “Report on the Work of the Government,” *China Daily* (16 March 2015), http://usa.chinadaily.com.cn/china/2015-03/16/content_19826396.htm (accessed 24 March 2016).

²⁰ Xuanjiao Shen and Leiming Gu, “Li Yuanchao Liang Baohua: Quanmian Tuijin Jiangsu de Minzu Tuanjie Jinbu Shiye” [Li Yuanchao and Liang Baohua: Comprehensive Promotion of Both Ethnic Unity and Progress in Jiangsu Province], *Xinhua News* (9 December 2005), <http://unn.people.com.cn/GB/14748/3930096.html> (accessed 4 July 2016).

²¹ Yandong Liu, “Weirao ‘Sige Quanmian’ Zhanlue Bujv, Cujin Minzu Tuanjie Jinbu he Gongtong Fanrong Fazhan” [Strategic Design of the ‘Four Comprehensions’ for the Improvement of Ethnic Unity], *China Ethnic News* (12 June 2015), http://www.mzzjw.cn/zgmzb/html/2015-06/12/content_106470.htm (accessed 12 March 2016).

²² Maoyu Yu, “Chongfen Fahui Renmin Fayuan Zhineng Zuoyong, Yifa Weihu Minzu Tuanjie Guojia Tongyi” [Deepening the Function of the People’s Court, Maintaining Ethnic Unity by Law], *People’s Court Daily* (9 October 2014), http://rmfyb.chinacourt.org/paper/html/2014-10/09/content_88694.htm?div=-1 (accessed 15 February 2016).

²³ Zhiguo Wang and Yingyan Xv, “Cao Jianming: Jianchi Yifa Zhi Zang, Pingdeng Baohu Gezu Qunzhong Hefa Quanyi” [Cao Jianming: Governing Tibet by Law, Protecting the Legitimate Rights and Interests of All Ethnic Groups], *China Procuratorial Daily* (30 September 2015), http://newspaper.jcrb.com/html/2015-09/30/content_196829.htm (accessed 15 February 2016).

²⁴ Guo Shengkun, “Jiaqiang he Gaishan Dangdelingdao, Chongfen Fahui Jiancha Gongzuo Zai Shehui Hexie Wending Mofanqu Jianshe Zhong de Zhongyao Zuoyong” [Strengthening and Improving the Party’s Leadership, Making Full Use of Procuratorial Work for Social Harmony and Stability

Construction], *China Procuratorial Daily* (26 March 2010), http://newspaper.jcrb.com/html/2010-03/26/node_2.htm (accessed 24 March 2016).

²⁵ Wu Aiyong, “Quanmian Guanche Shishi ‘Liuwu’ Pufa Guihua, Nuli Wei Shixian ‘Shierwu’ Guihua Mubiao Yingzao Lianghao Fazhi Huanjing” [Implementing the 6th Five Year Plan of Legal Popularization in an All-Inclusive Way, and Striving to Realize the Targets Set in the 12th Five Year Plan], *Justice of China* 6: 8–15 (2011).

²⁶ “Quanmian Tuijin Yifa Zhi Zang, Nuli Jianshe Fazhi Xizang” [Promoting Governance by Law in Tibet, Constructing a Legal Tibet], *Tibet Daily* (31 December 2014), http://epaper.chinatibetnews.com/xzrb/html/2014-12/31/content_590574.htm (accessed 15 February 2016).

²⁷ Na Wei, “Quanmian Guanche Luoshi Zhongyang Minzu Gongzuo Huiyi Jingshen, Buduan Kaichuang Wo Qu Minzu Tuanjie Jinbu Shiye Xin Jvmian” [Implementing the Decisions Made by the National Working Conference on Ethnic Affairs Comprehensively So As To Create a New Situation of Ethnic Unity in Inner Mongolia], *Inner Mongolia Daily* (20 November 2014), <http://inews.nmgnews.com.cn/system/2014/11/20/011575808.shtml> (accessed 10 March 2016).

²⁸ Jianhua Li, “Quanmian Tuijin Yifa Zhiqiu, Wei Jianshe ‘Sige Ningxia’ Tigong Youli Fazhi Baozhang” [Promoting the Rule of Law in the Ningxia Autonomous Region, Legally Constructing the ‘Four Ningxia’], *Ningxia Daily* (26 November 2014), http://sz.nxnews.net/nxrb/html/2014-11/26/content_569118.htm (accessed 10 March 2016).

²⁹ Huan Wei, “Jianchi Wenti Daoxiang, Chongyang Fazhi Jingshen, Jiehe Guangxi Shiji Ba Quanmian Yifa Zhiguo Luoshi Daowei” [Enforcing the Rule of Law Comprehensively in Guangxi in Terms of the Response to Legal Problems and the Spirit of the Law], *Guangxi Daily* (24 March 2015), http://gxrb.gxnews.com.cn/html/2015-03/24/content_1105249.htm (accessed 10 March 2016).

³⁰ Wang Dongming, “Zhi Shu Xing Chuan Zhong Zai Lixing Fazhi” [Law is the Fundamental Approach for the Governance and Prosperity of Sichuan Province], *Legal Daily* (6 December 2013), <http://epaper.legaldaily.com.cn/fzrb/content/20131206/Article101009GN.htm> (accessed 10 March 2016).

³¹ Bayanqolu, “Hongyang Fazhi Jingshen, Jianshe Fazhi Ningbo” [Developing and Spreading Legal Culture, Constructing Ningbo in Accordance with the Rule of Law], *Ningbo Daily* (1 September 2006).

³² “Sheng Yifa Zhi Sheng Gongzuo Lingdao Xiaozu Di Yi Ci Huiyi Zhaokai” [The Provincial Leaders Working Group for the Rule of Law Holds its First Conference in Xining], *Qinghai Daily* (27 March 2015), http://epaper.tibet3.com/qhrb/html/2015-03/27/content_229661.htm (accessed 15 February 2016).

³³ Cheng Li, “The Chinese Communist Party: Recruiting and Controlling the New Elites,” *Journal of Current Chinese Affairs* 38(3): 13–33 (2009), 17.

³⁴ Ruizhen Geng, “Falv Xinyang de Jiazhi Ji Peiyu” [On the Value and Cultivation of Belief in Law], *Journal of China’s Characteristics of Socialism* 6: 40–44 (2015).

³⁵ Baosheng Zhang, Zhong Zhang and Hongqi Wu, *Zhongguo Sifa Wenming Zhishu Baogao* [Report on the China Justice Index 2015] (Beijing: China University of Political Science and Law Press, 2016).

³⁶ Interview with a lead CJI researcher at the China University of Political Science and Law, Beijing, 22 April 2016.

³⁷ Peerenboom, “Fly High the Banner of Socialist Rule of Law with Chinese Characteristics,” 67.

³⁸ *Ibid.*, 57.

³⁹ Thomas Mullaney, *Coming to Terms with the Nation: Ethnic Classification in Modern China* (Berkeley, CA: University of California Press, 2011), 1.

⁴⁰ This is a view held by Timur Da Wamaiti, an ethnic Uyghur from Xinjiang who served as vice chairman of the National People’s Congress Standing Committee, and was formerly the deputy director of the State Ethnic Affairs Commission. For a sample of his views see Timur Da Wamaiti, “Jiejue Zhongguo Minzu Wenti de Chenggong Zhi Lu” [Successful Path to Resolving China’s Ethnic Confrontation], *People’s Daily* (29 June 2001), <http://www.people.com.cn/GB/guandian/26/20010629/499885.html> (accessed 4 July 2016).

⁴¹ Uradyn Erden Bulag, “Alter/native Mongolian Identity: From Nationality to Ethnic Group,” in Elizabeth J. Perry and Mark Selden, eds., *Chinese Society: Change, Conflict and Resistance*. (Abingdon, London and New York: Routledge, Third Edition, 2010), 261–287.

⁴² Elena V. Barabantseva, “Development as Localization: Ethnic Minorities in China’s Official Discourse on the Western Development Project,” *Critical Asian Studies* 41(2): 225–254 (2009), 229.

⁴³ Barry Sautman, “Preferential Policies for Ethnic Minorities in China: The Case of Xinjiang,” *Nationalism and Ethnic Politics* 4(1-2): 86–118 (1998).

⁴⁴ Samsak Erkin, “Lun Xin Shiqi Woguo Shaoshu Minzu Xingshi Zhengce Zhi Guanche Yu Wanshan” [The Fulfillment of China’s Current Ethnic Policy], *Journal of South-Central University for Nationalities (Humanities and Social Sciences)* 3: 120–123 (2012).

⁴⁵ Hu Yaobang, “Jianshe Xiang Yao Zuo de Liu Jian Dashi” [Six Big Issues to be Settled for the Development of the Tibetan Autonomous Region], *People’s Daily* (30 May 1980).

⁴⁶ Barry Sautman, “Paved with Good Intentions: Proposals to Curb Minority Rights and Their Consequences for China,” *Modern China* 38(1): 10–39 (2012).

⁴⁷ Melanie Manion, *Corruption by Design: Building Clean Government in Mainland China and Hong Kong* (Cambridge, MA: Harvard University Press, 2004), 148–149.

⁴⁸ Peerenboom, “Fly High the Banner of Socialist Rule of Law with Chinese Characteristics,” 71.

⁴⁹ Jiang Zemin, *Jiang Zemin Wenxuan* [The Selected Works of Jiang Zemin], (Beijing: Renmin Chubanshe, 2006), 392.

⁵⁰ Jerome A. Cohen, “Reforming China’s Criminal Procedure: An Introduction to This Symposium,” *Columbia Journal of Asian Law* 24(2): 214–227 (2011), 217.

⁵¹ Susan Trevaskes, “Yanda 2001: Form and Strategy in a Chinese Anti-Crime Campaign,” *The Australian and New Zealand Journal of Criminology* 36(3): 272–292 (2003), 273. Zhou Yongkang is currently serving a life sentence in prison for corruption.

⁵² Lixin Cheng, “Wang Lequan Weiwen Zhujiang Budui Guanbing He Gongan Minjing” [Wang Lequan Offers Condolences to Soldiers and Police Officers Stationed in Xinjiang], *Xinhua News* (1 February 2007), http://www.xj.xinhuanet.com/2007-02/01/content_9201322.htm (accessed 4 July 2016).

⁵³ Meng Jianzhu, “Shenru Xuexi Shijian Kexue Fazhanguan, Zuo Dang de Zhongcheng Weishi he Renmin Qunzhong de Tiexinren” [Studying and Fulfilling the Scientific Outlook on Development, Showing Loyalty to the Party and the People], *Quishi* 21: 15–18 (2008).

⁵⁴ Liang Zhou and Yong Li, “Meng Jianzhu Chuxi 2nd Anquan Shiwu Gaoji Gaibiao Guoji Huiyi” [Meng Jianzhu Attends the Second Session of the International Conference on Security Affairs], *People’s Daily* (22 September 2011), <http://politics.people.com.cn/GB/1027/15727639.html> (accessed 24 March 2016).

⁵⁵ Lixin Cheng, “Qianghua Yanda Gaoya, Da Hao Yulun Zhudong Zhang” [Initiatives to Strengthen Public Opinion Regarding Strike Hard Policies], *Xinjiang Daily* (2 July 2013), <http://epaper.xjdaily.com/index.aspx?date=2013-07-02&paperType=xjrb> (accessed 15 February 2016).

⁵⁶ “China’s Migrant Population Expected to Reach 291m by 2020,” *China Daily* (12 November 2015), http://europe.chinadaily.com.cn/china/2015-11/12/content_22441629.htm (accessed 24 March 2016).

⁵⁷ Helen F. Siu, “Grounding Displacement: Uncivil Urban Spaces in Postreform South China,” *American Ethnologist* 34(2): 329–350 (2007).

⁵⁸ Jeffrey Becker, *Social Ties, Resources, and Migrant Labor Contention in Contemporary China: From Peasants to Protesters* (London: Lexington Books, 2014), 12.

⁵⁹ *Ibid.*, 12.

⁶⁰ Steve Hess, “Nail-Houses, Land Rights, and Frames of Injustice on China’s Protest Landscape,” *Asian Survey* 50(5): 908–926 (2010), 919.

⁶¹ Xiangzheng Wu, “Sheng Renda Lai Yong Diaoyan Minzu Zongjiao Gongzuo” [Delegation of Zhejiang Provincial People’s Congress Investigates Ethnic and Religious Affairs in Ningbo City], *Ningbo Daily* (5 June 2015), http://daily.cnnb.com.cn/nbrb/html/2010-05/20/content_193919.htm (accessed 15 February 2016).

⁶² *Ibid.*

⁶³ Xindong Tu and Jian Yang, “Qiantan Shaoshuminzu Shangfan Weigui Baitan Shedian Xianxiang de Zhili” [On the Governance of Ethnic Vendors Who Illegally Set Up Stalls], *Urban Management* 2: 38–39 (2009).

⁶⁴ Arman Grigoryan, “Concessions or Coercion? How Governments Respond to Restive Ethnic Minorities,” *International Security* 39(4): 170–207 (2015).

⁶⁵ Zhiming Han, “Gongmin Kangzheng Xingdong Yu Zhili Tixi de Suipianhua: Duiyu Naoda Xianxiang de Miaoshu Yu Jieshi” [Contentious Action and the Fragmentation of the Governance System: An Analysis of Disobedience in China], *The Journal of Humanities* 3: 163–171 (2012).

⁶⁶ Ethan Michelson, “Justice from Above or Below? Popular Strategies for Resolving Grievances in Rural China,” *The China Quarterly* 193(March): 43–64 (2008), 45.

⁶⁷ Zhiming Han, “Contentious Action and the Fragmentation of the Governance System.”

⁶⁸ Hanyong Li, “Wo Sheng Tuoshan Chuzhi Menglian Chongtu Shijian” [The Menglian Incident has Settled Down], *CCP News Yunnan Province* (21 July 2008), http://special.yunnan.cn/index/content/2008-07/21/content_46097.htm (accessed 4 July 2016).

⁶⁹ Yongshun Cai and Lin Zhu, “Disciplining Local Officials in China: The Case of Conflict Management,” *The China Journal* 70(July): 98–119 (2013), 111.

⁷⁰ Peerenboom, “Fly High the Banner of Socialist Rule of Law with Chinese Characteristics,” 67.

⁷¹ Nur Bekri, “Guanyu 6.26 he 7.5 Shijian de Dianshi Jianghua” [A Televised Address about the 6-26 and 7-5 Incidents], *Kizilsu Kirghiz Newspaper* (7 July 2009).

⁷² Guihong Tang, Chang Feng and Ling Li, “Shaoguan Wangshang Zao ‘Qiangjian’ Yaoyan Zhe: Zhende Hen Houhui” [Rumor Maker of the Shaoguan ‘Rape by Natives of Xinjiang’ Incident: I Really Regret It], *China News* (9 July 2009), <http://www.chinanews.com/sh/news/2009/07-09/1768674.shtml> (accessed 12 March 2016).

⁷³ Angel Ryono and Matthew Galway, “Xinjiang under China: Reflections on the Multiple Dimensions of the 2009 Urumqi Uprising” *Asian Ethnicity* 16(2): 235–255 (2015), 236.

⁷⁴ Xinjiang nut cake (qie gao) is a street snack resembling baklava that is usually sold by Uyghurs riding bicycles. The cake holds more cultural significance than the average street food in Xinjiang. For more on the case, see Lei Zhang, “Qiegao Yin Reyi, Falv Buneng da Zhekou” [Heated Debate Over Nut Cake, Selective Attitude to the Rule of Law], *Beijing Daily* (12 December 2012), 18.

⁷⁵ *Ibid.*, 18.

⁷⁶ “Minzu jiufen” [Ethnic Conflicts], *Guangxi Daily* (9 September 2010), http://gxrb.gxnews.com.cn/html/2010-09/09/content_434489.htm (accessed 10 March 2016).

Adam Tyson is lecturer in Southeast Asian Politics at the School of Politics and International Studies, University of Leeds. His research interests include political transitions in Southeast Asia, decentralization policy and minority rights in comparative contexts. He has published in journals such as the *Journal of Genocide Research*, *Critical Asian Studies* and the *Asian Journal of Social Science*, and has a monograph entitled *Decentralization and Adat Revivalism in Indonesia: The Politics of Becoming Indigenous* published by Routledge in 2010.

Xinye Wu is a professor at the School of Politics and Public Management, East China University of Political Science and Law, and a visiting scholar at the School of Politics and International Studies, University of Leeds. His research interests include contentious politics, NGOs in China, and public administration. He has recently published in journals such as the *CASS Journal of Political Science*, the *Journal of Wuhan University (Social Sciences Edition)*, and *Chinese Public Administration*, and has published four monographs on NGOs and grassroots politics in China, the most recent being *Rural Social Governance in the Process of Urbanization in China*, published by the Shanghai People’s Press in 2014.