

Ethnic Regional Autonomy¹ and National Unity of China

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¹ I was confused by how to translating the word *Minzu*(民族) into English at first, nationality or ethnic group? It seems these two words are both used by Chinese scholars in their English essays, but after I read Ruan Xihu's *Ethnicity: Nationality or Ethnic Group?* in *Overseas Chinese History Study* 2008(2), I think *Ethnic Group* is the better one, although China's authorities uses Nationality in the official English vision of China's laws. It 's necessary for you to know, in this paper, all the words of *Nationality* in cited laws can be replaced by *ethnic group(s)*.

I. Introduction

China is a multi-ethnic country with the largest population of the world, the complication of China's ethnic situation and the goal to maintain the national unity, makes the power holders of this country must sharing state's powers between center and ethnic local places very carefully. Nowadays, in China the basic solution of this problem is ethnic regional autonomy on different levels.

The building of China's ethnic regional autonomy system didn't not totally follow the Chinese traditional culture thoughts, but mainly the theories from western world: both Marxism and west legal theories about state structure, power sharing and other concerning things.² In other words, this system is not born in China. After more than half-century's stability of minorities' regions and unity of state with fast economic development, we can see that governing ethnic minorities' region in this way may achieve a general balance of state's power sharing between center and local regions.³ however, the conflicts happened in Tibet and Xinjiang recent years may expose some problems of this system, these problems may caused by reasons of law, politics, culture or history, such a complicated situation may make us need to review the ethnic regional autonomy and national unity of China more prudently.

II. Overview of history and current situation of China's ethnic minorities

Thousands years ago, China is already a multi-ethnic country; each ethnic groups in China have a long history dating back to ancient times. On one hand, during the Qin Dynasty (221BC-206BC), China had already formed a united multi-ethnic entity, especially when Xinjiang and Tibet became parts of China in 60BC and 1264. The various ethnic groups worked together to create China's ancient culture, which made a great impact on the civilizations of the world. On the other hand, before Qin Dynasty, people lived in Center China classified different culture groups into four parts: Dongyi, Xirong, Nanman and Beidi (these means Foreigners and minority ethnic groups lives in four directions for Center China), and the cognition of separation between Xia (the origin of ethnic Han) and Yi (people who is not ethnic Han) was formed since then.⁴

The cognition of Xia and Yi has profound impact on the following rulers, almost all Feudal dynasties in Chinese history handled the minorities' affairs with military force or mollification policies to maintain the national unity, but never treat ethnic minorities as equal members of Chinese. All these unequal status may mainly caused by the feudal ruling class' narrow-mind cognition of Different Ethnic Groups, With Different Minds,⁵ and the orthodoxy philosophy based on Han's culture, which

² Jiao Hongchang: The Constitution Law, published by Peking University Press. P202-203

Bai Xi: Comparison and Research on the Modes of Autonomy of Minority Region---in the Perspective of Chinese Autonomy of Minority Region. Jilin University Master's Thesis, P26-30

³ Wen Min: A Study about China's System of Regional Ethnic Autonomy on The Practice, Xinan University Master's Thesis, P19-23

Dai Xiaoming: Research on Regional National Autonomy of China---from the Perspective of Constitutionalism, doctoral dissertation of Central China Normal University. P120-126

⁴ Li Chengwu: Autonomy and Unity in Multi-cultural Society: On the System of Ethnic Regional Autonomy of China. Essays of the 3rd Annual Academic Meeting of National History, Institute of Contemporary China. P173

⁵ This sentence comes from a Chinese history book: *The Zuo Zhuang*, which is written by Zuo Qiuming about 2400 years ago.

was founded following the centralization since Qin and Han Dynasty. No matter what policies the central government adopted, the main idea would never change in China's Feudal times,⁶ but this situation changed when Communist Party of China (CPC) take-over in 1949. The CPC has built a new equal ethnic relationship when the new government is built, and a new way to share power between center and ethnic local places was found, that is ethnic regional autonomy.

According to the latest sampling statistics in Nov 2005, China's population is 1306 million with 56 ethnic groups together, and the Han ethnic group is the most numerous one which population reaches 1182 million, that is 90.56 percent of the total population, and other 55 minority ethnic groups, making up the remaining 9.44 percent of the population, totaling approximately 123 million persons.⁷ Ethnic Han concentrative live in the three big valleys of the Yellow river, the Yangtze river and the Pearl river, and in the northeastern plain area, but they can also be found all over the country. Not as the Han people, the minorities mainly live in border areas covering 50-60 percent of the total land area of China, a statistics said, on China's 18,000 km coastline, ethnic autonomous regions only cover 9 percent, but on the country's land border, ethnic autonomous regions cover 85 percent of it.⁸ In these minority ethnic groups, according to 2000 census, the ethnic Zhuang is the largest one with some 16 million persons, while the ethnic Luoba with a population of 2905 is the smallest. Besides, there are 17 ethnic groups' populations beyond 1 million, and 7 other ethnic groups are less than 10 thousand persons.⁹ All these ethnic minorities intermingle with the Han and with each other to a very large extent and form small compact communities of different sizes.

In simple words, China's ethnic regional autonomy is established according to these compact communities, after the first ethnic autonomous region was built in Inner Mongolia more than 60 years ago, China has set up 155 ethnic autonomous region, including five autonomous regions (on provincial level)¹⁰, 30 autonomous prefectures and 120 autonomous counties, 44 out of 55 minority ethnic groups have their own autonomous regions, and these regions cover 64 percent of the whole country's land and 71 percent of minority population.¹¹ The details of the legal system of ethnic autonomous regions will be discuss in other sections

The distribution of ethnic minorities forms a very complicated pattern in and out the ethnic regions, for instance, in some of the minority areas, such as Inner Mongolia, Guangxi, Ningxia, etc., the ethnic Han is a majority with more than 60-80 percent of the population. The Hui nationality numbers about 7.2 million, of which only a little more than 1 million live in the Ningxia Hui Autonomous Region; the rest are found all over the country. About 1 million Tibetans out of a total of 3.8 million are found in the Tibetan Autonomous Region, the others live in Gansu, Qinghai. Sichuan. Yunnan and some other

⁶ Li Chengwu: *Autonomy and Unity in Multi-cultural Society: On the System of Ethnic Regional Autonomy of China*. P173-174

⁷ National Bureau of Statistic of China: *Communiqué on Major Data of 1% National Population Sample Survey in 2005*, <http://www.stats.gov.cn>

⁸ Zhang Shanyu and Zeng Mingxing: *The Distributional Change and the Migration Situation of the Ethnic Population: An Analysis of the Data from China's Fifth Census of 2000*. *Ethno-national Studies*, 2005(1), P17

⁹ National Bureau of Statistic of China: *Communiqué on the 5th National Census in 2000*, <http://www.stats.gov.cn/>

¹⁰ It is easy to be confused by Region in the discussion of China's ethnic regional autonomy, besides its normal meaning; there is a type of administration areas which on the same level with province can be translate into *Region*. In this paper, if the *Region* means an administration area, it will be marked a (*on provincial level*) aside when it's confusing.

¹¹ Xu Huiping: *The study of the ethnic regional autonomous power: From relations between central government and regional government view*, Shandong University Master's Thesis, P1-2

province, the ethnic Uyghur is the majority in Xinjiang Uyghur Autonomous Region in population, but lots of 11 other ethnic minorities and the ethnic Han live together with them.¹²

III. From Federal System to Ethnic Regional Autonomy in Unitary System

Ethnic Regional Autonomy is not the choice for Communist Party of China (CPC) to solve ethnic problems and realize ethnic autonomy rights in China in the very first time, before CPC take-over the country, the Kuomintang (KMT) authorities didn't raise a systematic, effective way to deal with distribution of powers in ethnic areas, firstly, the essence of KMT's ethnic policy is the Nationalism of Sun Yat-sen's Three Principles of the People,¹³ it says all ethnic groups are equal members, and all of them should be integrated into the Chinese Nation¹⁴. Secondly, KMT didn't identify others ethnic groups as independent groups except Han, Man, Mongol, Hui and Tibetan. Thirdly,¹⁵ because of the revolution led by CPC and aggression of Japanese in different period, it's impossible for KMT to pay too much attention to deal with ethnic issues. For KMT's policy, the bottom line is non-secession, but the reality was not good for its assumption.

What's KMT did in ethnic problem give some inspiration to CPC. Although the basic theory for ethnic autonomy is totally different from the KMT's, there are many common places between CPC's early theory and KMT's. From the 2ed national congress of the CPC (1922) to the Anti-Japanese War (1937-1945), according to Marxism ethnic equality principle and the practice of China's revolution, CPC proposed a slogan of ethnic self-determination, and thought liberal federalism is proper for a multi-ethnic country like China. CPC raised its liberal federalism theory in its conference declaration of 2ed national congress: Unifying main part of China¹⁶ as a true democratic republic, turn Mongolia, Tibet and Huijiang¹⁷ into democratic autonomy state through ethnic autonomy, then unifying all four parts as Federal Republic of China.¹⁸

If we check this idea of ethnic autonomy, we will find CPC's liberal federal system is not the typical federal system of west world, but a very special state structure combined with Unitary System and Federal System: there are four federal subjects including main part of China, Mongolia, Tibet and Huijiang, at the meantime, the main part of China is a unitary entity comprised by scores of provinces, and all these provinces should be unified as single part of the new federal.

¹² Liu Xingwu & Alatan: China's Policy Towards Her Minority Nationalities, Social Scientist, Vol. 16, No. 1, China: Issues in Development, II (Jan., 1988), P136

¹³ *Three People's Principles*, is a political philosophy developed by Sun Yat-sen, it contains three principles which are The People's Relation, The People's Power, The People's Welfare.

¹⁴ *Chinese Nation*, also be called Zhonghua Minzu, refers to a Chinese nationality transcending ethnic divisions, with a central identity to China as a whole. It includes people of all ethnic groups in China who contributed to Chinese culture.

¹⁵ Li Yuwei: Ethnic Policy Made by the Kuomintang Government & Ethnic Problem of Inner Mongolia in the Republic of China(1912-1949), Journal of the Central University for Nationalities, (Philosophy and Social Science Edition), P84-85

¹⁶ *Main part of China* in this section means the area where the ethnic Han mainly lives in, and it have a similar meaning to *Center China* in section I. It covers an area from the Great Wall in north to the Hainan Island in south, from edge of Qinghai-Tibet Plateau in west to the coastline in east in map.

¹⁷ *Huijiang* is used by Chinese central authority before 1949 to identify ethnic Hui and Uyghur, because ethnic Hui and ethnic Uyghur have a same religious belief, and live in a same area, the KMT authority named the area where these two ethnicities live on a single name.

¹⁸ Li Chunhui: On the Establishment of State Structure From the Building of Ethnic Regional Autonomy System, Journal of Inner Mongolia Normal University (Philosophy & Social Science), Vol. 37, No. 3, P85-86

There are two reasons for CPC to approve this liberal federal, firstly, there are differences of life style, culture, custom, religion, etc. between Mongolia, Tibet, Huijiang and Center China, and it's not an easy thing to satisfy every ethnic group in a unitary country. Secondly, as a Marxism party, the CPC thought at that time, that the federal system may give a chance to realize the rights of ethnic self-determination, ethnic minorities entities equaled with Han's may show the respect to minorities' rights and status.¹⁹ Furthermore, the most important thing of China at that time is not the ethnic problem but the survival of the Chinese Nation because of separatist regime of warlords and aggression of imperialism countries, it's reasonable for CPC raise such liberal federalism and ethnic self-determination to save the country.

But after the Anti-Japanese War, the principle of ethnic self-determination and federalism was no longer in the dictionary of CPC's ethnic policy, although ethnic equality and ethnic autonomy is still the points of Chinese Communists' ethnic policy. CPC replaced the federation with ethnic autonomous regions, and this conception became true in May 1st 1947 when the Inner Mongolian Autonomous Region was founded. This is an important practice that embedded the principle of minorities can autonomy equally in a unified China, and it is the beginning of Ethnic Regional Autonomy.

When CPC win the civil war and the regime of China, however, problem of choice between federal system and unitary system didn't solved at once, Federalism like Soviet Union was still a possible option for someone. After a famous ethnologist Li Weihan made a report to CPC central committee, suggested that ethnic regional autonomy in a unitary country should be a better choice for China since China's ethnic history and relationship were different from Soviet Union's, the CPC made a decision finally.²⁰ But besides the report made by Li, others studies suggests three reasons for China abolishing federal system in ethnic minorities' problem.²¹ Firstly, ethnic regional autonomy conform to Marxist's general principle of solving ethnic problems, although Marxism think Federal Republic is a acceptable transitional form for a unitary country, they fundamentally believe a unitary big country will be more effective to develop economy than small countries. Secondly, there is no historical fundament for China to adopt federal system, in most time of Chinese history since Qin Dynasty, China is a highly centralized unitary country, and even existence of separatist regime of warlords in 1910s-1940s didn't give birth to an ethnic republic delimited by ethnic area. Thirdly, the distribution of ethnic minorities forms a very complicated pattern as the 2nd section says, and that is difficult to found a federal.

IV. Power sharing in China's ethnic regional autonomy and its contribution to national unification

Before the discussion of China's power sharing, there is a bottom line drawn by the Constitution: No matter how many powers the ethnic autonomous regions share from center, they will never get a power to be independent from the People's Republic of China;²² State's unity is the top-priority of

¹⁹ Zhou Pin: The Establishing and Modifying of Ethnic Regional Autonomy, Journal of Yunnan Administration College, P5-6

²⁰ Li Chunhui: On the Establishment of State Structure From the Building of Ethnic Regional Autonomy System, P87

²¹ Hou Wanfeng: State Structure and Political integration in a Multi-ethnic Country, Hubei Social Science. 2008(2), P54

Shi Yazhou: The Choice of China's State's Structure and the Solution of Ethnic Problem, Study and Exploration. 2008(3) P223-224

²² "All national autonomous areas are integral parts of the People's Republic of China." Constitution of the People's Republic of China, Article 5.

China's ethnic regional autonomy.

There are some summary provisions about ethnic regional autonomy in China's Constitution and other basic statutes. In Article 4 of Constitution of the People's Republic of China, it says: Regional autonomy is practiced in areas where people of minority nationalities²³ live in concentrated communities; in these areas organs of self-government are established to exercise the power of autonomy. All national autonomous areas are integral parts of the People's Republic of China. In Law of the People's Republic of China on Regional National Autonomy, the Preface says: Regional national autonomy means that the minority nationalities, under unified State leadership, practice regional autonomy in areas where they live in concentrated communities and set up organs of self-government for the exercise of the power of autonomy. Article 3 says: Organs of self-government shall be established in national autonomous areas as local organs of the State power at a particular level. And Article 7 says: The organs of self-government of national autonomous areas shall place the interests of the State as a whole above anything else and make positive efforts to fulfill the tasks assigned by State organs at higher levels.²⁴ All these provisions make a point that all the organs of self-government of ethnic autonomous regions are the local governments lead by center governments as other local places', they must practice their powers of autonomy under central leadership. The authorities believe that a powerful central authority can safeguard social stability and national unity, which are the top interest of the Chinese Nation.

Ethnic autonomous areas can be classified into autonomous regions (on provincial level)²⁵, autonomous prefectures and autonomous counties. The autonomous organs of these regions are people's congresses and governments without People's Courts and the People's Procuratorates of these places. The governments of ethnic autonomous regions shall be responsible to and report on their work to the people's congresses and their standing committees (when the people's congresses are not in session) at corresponding levels and to the administrative organs of the State at the next higher level, and the governments of all ethnic autonomous regions shall be under the unified leadership of the State Council and shall be subordinate to it.

Under the premise of national unity, ethnic autonomous regions share lots of powers, which is much more than general administrative regions such as provinces, municipalities, cities and villages. Details of those autonomous powers the ethnic autonomous regions have are as follows:²⁶

- I. Having the power to enact regulations on the exercise of autonomy and separate regulations in the light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned.
- II. May either implement a resolution, decision, order or instruction of a State organ at a higher level with certain alterations or cease implementing, if it does not suit the conditions in an ethnic autonomous region.
- III. Having the power of autonomy in administering the finances of the regions. All revenues accruing to the ethnic autonomous regions under the financial system of the State shall be

²³ Nationality or ethnic group? see note 1

²⁴ All the provisions of the Constitution and Law of Regional National Autonomy come from the Database of Laws and Regulations on the official website of National People's Congress, <http://www.npc.gov.cn/>, so all the follows.

²⁵ See note 7.

²⁶ Law of the People's Republic of China on Regional National Autonomy, Article19-45.

managed and used by the organs of self-government of these areas on their own.

- IV. Can work out the guidelines, policies and plans for economic development and independently arrange for and administer local economic development in the light of local characteristics and needs.
- V. Shall independently develop undertakings of education, science and technology, culture and art, public health, sports, etc, and develop exchanges and cooperation with other areas in such things.
- VI. Can organize local public security forces for the maintenance of public order, in accordance with the military system of the State and practical local need and with the approval of the State Council.
- VII. Can use one or several languages commonly used in the locality while performing its functions, and develop education by using textbooks in ethnic languages and using ethnic languages as the media of instruction.

The Constitution and Law of Regional National Autonomy grant the autonomous organs of ethnic autonomous regions so many political, economic and cultural powers, however, these powers should be limited in the internal affairs of local area and local ethnic, and never try to exercise the powers that Constitution and laws didn't grant.²⁷ All these grant and limitation of autonomous powers reflects China's authority's discretion on such a sensitive issue, it try to realize rights of autonomy of the greatest number of ethnic minorities, and at the meantime, solve the problem of ethnic equality and unitary when Han people has absolute superiority in both population, culture and social resources.

Although minorities areas are rich of mineral and energy resources, these areas are next to border and far from the Center China with terrible living condition, that make social and economic developments lagged behind the coastal areas, this makes sense that the central authority supports the minorities areas in every aspects. There is even a whole section named Responsibilities of State Organs at Higher Levels with 19 provisions in the Law of Regional National Autonomy details how to support the development in ethnic autonomous regions,²⁸ in the view of China's state structure, all these supports are legal responsibilities of central and higher authorities', and it's definitely a indispensable part of China's ethnic regional autonomy.

V. Not perfect: the deficiencies of China's ethnic regional autonomy

After checked all the details of China's ethnic regional autonomy, we can find it's a complete system designed deliberately, this design keeps China stable and unitary basically with great economic developments in minorities regions in 60 years after the founding of PRC, and the central authority keeps a firmly control over the minorities areas that KMT authorities can never image, but none of legal system is perfect, so as this one. Some problems of ethnic regional autonomy are exposed in so

²⁷ Jiao Hongchang: The Constitution Law, P305-306

²⁸ From Article 54 to Article 72, the helps and assistances cover the fields of finance, education, technology, investment, fundamental constructions, environment and so on.

many years' practice, and we can't turn a blind eye on this problems while we try to optimize sharing of state powers and keep national unity for a longer time.

The first deficiency comes from financial factor, most ethnic autonomous regions have very weak economic foundations, and there are not so many sources for local revenues.²⁹ The unpromising reality makes the ethnic autonomous regions can only get small revenues under the power of financial autonomy. The self-insufficiency of ethnic autonomous regions' revenues makes the power of autonomy can't be fully practiced without central financial support in a large extent. This financial relation between central authority and ethnic autonomous regions may be not a bad thing for national unity, but it undermines the free using of power of autonomy. In many minorities areas, financial deficits increased year by year, the local finance even can't afford the salaries of government employees, the wider the gap between receipts and expenditures, the more the local places ask from center, all these have bad effects not only on running of autonomous organs but also on local economic constructions. The fact that ethnic autonomous regions can't sustain its organs well only with its own revenues and have to depend on central financial allocation makes it hard to be believed the ethnic autonomous regions can practice its power of autonomy fully. To some extent, we can say the financial independence is the most fundamental factors for deficient practice of autonomy.

Besides finance, the double-identity of organs of self-government also makes system of ethnic regional autonomy unperfected. These two different identities are organs of self-government and state administrative organs. On one hand, these organs enjoy powers of autonomy as organs of self-government according to the Constitution and laws, on the other hand, they have authorities of general local governments as state administrative organs, these two natures are not in an equal place, and we can found the definition in the Law of Regional National Autonomy suggests that organs of ethnic autonomy are state administrative organs prior to organs of ethnic self-government.³⁰ This conception gives a profound negative impact: the local governments of ethnic autonomous regions show more features of state administrative than ethnic autonomy, makes the powers of autonomy being corrupted by administrative powers in the practice. What make worse is the laws haven't separated autonomous affairs from local administrative affairs, this confused local authorities that things they deal with is whether the excising of autonomy or power of administrative since the Constitution and laws never try to tell them apart. When connecting this mess with legislative power of ethnic autonomous regions, the problem will become more serious. The local regulations the local authorities make as state administrative organs can become active only after reporting to State organs at a higher level for the record, but if they want to make active regulations on the exercise of autonomy and active separate regulations³¹ as organs of ethnic autonomy, they need these regulations be approved by State organs at a higher level, this difference makes ethnic autonomy authorities prefer their identity of state administrative organs to the other one, and the identity of ethnic autonomy will be weakened in the end.³²

²⁹ Song Caifa: On the Financial Autonomy of Ethnic Autonomous Region, Academic Forum, 2005(1), P64-69

³⁰ De Quanying: Autonomy Powers of Ethnic Regions---The Practice of Legalization of Chinese Ethnic Relationship, doctoral dissertation of Chinese Academy of Social Sciences, P106-111

³¹ *Separate regulation* mean a kind of normative document about some special issues, this regulation is made by the people's congress of ethnic autonomous regions with regard to the particularities in economy, politics and culture of this region.

³² Xu Huiping: The study of the ethnic regional autonomous power: From relations between central government and regional government view, P39-40

At last, the fact that system of autonomy is not complete has impaired the exercise and realization of autonomy in ethnic autonomous regions, and it can be detailed as three aspects. Firstly, the Constitution and the Law of Regional National Autonomy grant powers of autonomy without providing accountability for infringement, not mention the regulations on the exercise of autonomy worked out by local authorities. The missing of accountability in laws destroys the integrity of legal norms, and causes an awful situation when infringement happens; there will be no way to punish it. Secondly, rights of alternating law is hard to be excised, although the Constitution and many laws such as Criminal Law, Marital Law, Civil Law, etc grant authorities of ethnic autonomous regions rights of alternating if they consider the provision does not suit local conditions, there are only few exercising of this right mainly only covers a narrow field of marriage, inheritance, compulsory education, birth control and so on. Reason for this problem may be the vulnerable balance between local and central interests; any alternation of laws may break the balance of powers and interests, and hard to be approved by most people.³³Thirdly, every laws and the Constitution concerning ethnic regional autonomy are exclude the People's Courts and the People's Procuratorates from the organs of self-government, because the Central authority supposed giving ethnic local regions jurisdiction procuratorial power will impair the unitary of China's legal system,³⁴ but compared to Special Administrative Regions, including Hong Kong and Macau, this reason seems making not so much sense.

VI. Conclusion

China is a multi-ethnic country with 56 ethnic groups live together with complicated connections with caused by historical and reality reasons, it's extremely important that China build a right system to deal with this situation. Before establishing ethnic regional autonomy system and founding a unitary state, Chinese former and present rulers tried to solve the ethnic problem with federalism. After 60 year practice and development, the ethnic regional autonomy has finally became a complete matured system, it mainly included following points: firstly, its basic premise is that the ethnic autonomous regions are parts of a unitary state, it must contribute to national unity and respect the leadership of center. Then, the ethnic autonomous regions only exist in the area where ethnic minorities inhabit, and this fact makes ethnic regional autonomous different from normal local autonomy. At last, the organs of self-government in these regions enjoy more powers of autonomy more than general local places, and they practice those powers according to its political, economical, social features. As mentioned before,³⁵ the ethnic regional autonomy makes great contribution to national unity, but it also has some problems. Since the center pays too much attention to national unity when it deal with the ethnic affairs, it becomes more and more centralized through practice. Lots of delicate legal designs can't realized, the two sides of ethnic regional autonomy that is national unity and self-governing can't reach a balance in China nowadays, it will undoubtly need great efforts to solve this problem.

³³ Xu Huiping: The study of the ethnic regional autonomous power: From relations between central government and regional government view. P42-43

Li Chengwu: Autonomy and Unity in Multi-cultural Society: On the System of Ethnic Regional Autonomy of China. P179-181

³⁴ De Quanying: Autonomy Powers of Ethnic Regions---The Practice of Legalization of Chinese Ethnic Relationship, P105-106

³⁵ See page 10-13.

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