

## **A US/India Model for China's Ethnic Policies: is the Cure Worse than the Disease?**

Barry Sautman

Some scholars in China argue that minority rights inscribed in law, such as ethnic regional autonomy and preferential policies, must be reformed along liberal lines: minorities should be “depoliticized” -- treated as cultural groups whose members have only individual, not collective, rights. They propose a “second generation of ethnic policies” for China that they argue would resemble policies in the United States and India. This article shows, however, that the United States and India do not have the features of ethnic equity and peace that they are supposed to exemplify, as their minorities have subordinate, deteriorating social positions and are generally disaffected. The choice for China's minorities need not be a binary of individual rights only or no change in the present system. An expansion, rather than contraction, of minority rights may instead create greater ethnic equality and stability in China.

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## INTRODUCTION

The United States is often proclaimed the “world’s greatest democracy,” although social scientists have concluded otherwise.<sup>1</sup> India styles itself “the world’s largest democracy,” a sobriquet that some Indians themselves challenge.<sup>2</sup> In any case, the policy sets that the two countries embody in their laws, regulations, and practices expectedly attract attention from liberal-minded Chinese, who assume that U.S. and Indian government policies are better than their counterpart in the world’s largest one-party state, China. Such an assumption has certainly characterized the important ongoing discourse about China’s ethnic policies in recent years.

In a decade-long debate in China on whether to sharply change the country’s system of ethnic laws and policies, prominent scholars, such as Peking University sociologist Ma Rong – himself a member of the Hui or Muslim Chinese ethnic minority – and Tsinghua University economist Hu Angang, have sought a liberalist “depoliticization” of minorities. They want ethnicity-related law and practice to be pared, in order to de-emphasize collective rights for members of China’s minority groups, subordinate ethnic identity to national identity, and secure China’s territorial integrity. Their argument is that diminished ethnic identity among minorities will lessen hostility toward the Han majority, although studies elsewhere have shown that high levels of ethnic identity and even political activism among minorities in fact tend to increase their *positivity* toward their countries’ ethnic majorities.<sup>3</sup>

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<sup>1</sup> The Democratic Barometer, using 100 empirical indicators to measure democratic principles and functions of 30 “consolidated democracies” in 1995-2005, found that Denmark (score: 88.3) ranked number one; the US (score: 74.9), ranked number ten. University of Zurich, DENMARK, FINLAND, AND BELGIUM HAVE BEST DEMOCRACIES (2011), [http://www.mediadesk.uzh.ch/articles/2011/schweizerdemokratie/110115\\_MM\\_Demokrati\\_ebarometer\\_Europa\\_E\\_def.pdf](http://www.mediadesk.uzh.ch/articles/2011/schweizerdemokratie/110115_MM_Demokrati_ebarometer_Europa_E_def.pdf). The Economist Intelligence Unit’s “Democracy Index 2012,” which applied five procedural and substantive criteria to 165 countries, ranked Norway number one and the US number 21, [https://portoncv.gov.cv/dhub/porton.por\\_global.open\\_file?p\\_doc\\_id=1034](https://portoncv.gov.cv/dhub/porton.por_global.open_file?p_doc_id=1034). See generally Daniel A. Bell, BEYOND LIBERAL DEMOCRACY: POLITICAL THINKING FOR AN EAST ASIAN CONTEXT (2009) (discusses disjunctions between liberal democracy and ethnic rights.)

<sup>2</sup> Sukhman Dhani, *India Won't Be 'The World's Largest Democracy' Until It Upholds Human Rights*, THE CHRISTIAN SCIENCE MONITOR, (Mar. 29, 2013), <http://www.csmonitor.com/Commentary/Opinion/2013/0329/India-won-t-be-the-world-s-largest-democracy-until-it-upholds-human-rights>.

<sup>3</sup> Fiona Kate Barlow et al., *Rejection as a Call to Arms: Inter-racial Hostility and Support for Political Action as Outcomes of Race-based Rejection in Majority and Minority Groups*, 51 BRITISH JOURNAL OF SOCIAL PSYCHOLOGY, 167-77 (2012); Sylvia Chen, et al., *Do*

Proponents of depoliticization hold that a “second generation” of ethnic policies (*di er dai minzu zhengce*) would move away from the official division of Chinese into 56 ethnic groups,<sup>4</sup> the existing low-level, legally-mandated ethnic regional autonomy (*minzu quyū zizhi*) that aims for a modicum of ethnic minority leadership and cultural preservation in minority areas,<sup>5</sup> and preferential policies (*youhui zhengce*) for minorities in such areas as university admissions, family planning, hiring officials, and business loans.<sup>6</sup> That change would render minorities strictly cultural entities, who retain only whatever individual rights are provided Chinese citizens.

Scholars who favor depoliticization bolster their arguments by citing India and the United States as successful models of systems that supposedly do without the range of laws, regulations and official practices related to ethnic relations that are found in China.<sup>7</sup> Hu Angang, for example, contends that rising ethnic consciousness threatens social stability. China, he claims, should dissipate ethnic identity, strengthen national identity, and depoliticize ethnic issues through institutional arrangements that do not to allow anyone to claim to be representatives of local and

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*Whites Direct their Prejudice toward Strongly Identified Asians?* 5 MIND MATTERS: THE WESLEYAN JOURNAL OF PSYCHOLOGY, 39-50 (2010) (discussing how stronger ethnic identity among minorities may also correlate with more positive majority attitudes toward minorities). See also Christopher Wolsko et al., *Framing Interethnic Ideology: Effects of Multicultural and Color-blind Perspectives on Judgments of Groups and Individuals*, 78 JOURNAL OF PERSONALITY AND SOCIAL PSYCHOLOGY, No. 4, 635-54 (2000)(explicating how increased differentiation of ethnic out-groups from ethnic in-groups actually increases positivity toward the out-group.)

<sup>4</sup> See generally Emily C. Hannum & Meiyang Wang, *Ethnicity, Socioeconomic Status, and Social Welfare in China*, in INDIGENOUS PEOPLES, POVERTY AND DEVELOPMENT (Gillette Hall & Harry Patrinos ed., 2010).

<sup>5</sup> See Zhonghua Renmin Gongheguo Minzu Quyū Zizhifa (中国人民共和国民族区域自治法) [Regional Ethnic Autonomy Law of the People's Republic of China] (promulgated by National People's Congress, May 31, 1984, effective Oct. 1, 1984). See Haiting Zhang, *The Laws on the Ethnic Minority Autonomous Regions in China: Legal Norms and Practices*, 9 THE. LOY. U. CHI. INT'L L. REV. 249, 249-64 (2011)(discusses the law's deficiencies); Xia Chunli, *From Discourse Politics to Rule of Law: A Constructivist Framework for Understanding Regional Ethnic Autonomy in China*, 14 INTERNATIONAL JOURNAL ON MINORITY AND GROUP RIGHTS, 399-424 (2007).

<sup>6</sup> See, e.g., Wang Tiezhi, *Preferential Policies for Ethnic Minority Students in China's College/University Admission*, 8 ASIAN ETHNICITY 149, 149-63 (2007); Gu Baochang et al., *China's Local and National Fertility Policies at the End of the Twentieth Century*, 33 POPULATION AND DEVELOPMENT REVIEW 129, 129-47 (2007).

<sup>7</sup> See Ma Rong, *Lijie Minzu Guanxi De Xinsilu Shaoshu Zuqun De Quzhengzhijia*, 41 BEIJING DAXUE XUEBAO 122 (北京大学学报), 122-33 (2004). See generally Barry Sautman, *Paved with Good Intentions: Proposals to Curb Minority Rights and Their Consequences for China*, 38 MODERN CHINA 10, 10-39 (2011).

ethnic interests. He asserts that the United States government does not recognize racial/ethnic corporatism or allow any ethnic group its own autonomous territory. United States citizens' identity thus has no ethnic content. Because the United States emphasizes individual, not group, rights and avoids linking gaps in citizens' wealth, power, employment and education to ethnic status, unity is assured and individual conflicts do not evolve into ethnic conflicts. In China, however, autonomous areas, together with their resources, are seen as ethnic groups' own property. Ethnic leaders view themselves as the highest proponents of their group's interests, vying to be its spokespeople within a federal framework. Angang views this as flawed, believing that no privileges, rights or duties should accrue from ethnicity, all jurisdictions should be equal before the law, and depoliticization should be used to promote ethnic amalgamation.<sup>8</sup>

Leading critics of depoliticization among China's scholars, such as ethnic Mongolian anthropologist and Chinese Academy of Social Sciences (CASS) Deputy Secretary General Hao Shiyuan and his CASS colleague Chen Jianyue, argue that while existing policies give most minorities a solidly Chinese identity, the United States and India are replete with ethnic problems and cannot be successful models.<sup>9</sup> China's government, of course, also defends its policies<sup>10</sup>

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<sup>8</sup> Hu Angang and Hu Lianhe, *Dierdai Minzu Zhengce: Cuijin Minzu Jiaorong Yiti He Fanrong* (第二代民族政策: 促民族交融一体和繁荣一体) [*The Second Generation Ethnic Policy: Promoting Amalgamation and Prosperousness of Ethnicity*], 32 XINJIANG SHIFAN DAXUE XUEBAO (新疆范大学学报) [JOURNAL OF XINJIANG NORMAL UNIVERSITY] (2011). Ma Rong discusses India and the U.S.; Hu and Hu also discuss Brazil. Hao Shiyuan, *Baxi Yindu Nengwei Zhongguo Minzu Shiwu Tigong Shime Jingyan Pingxi Dierdai Minzu Zhengceshuo Zhisi* [What 'Experience' Can Brazil and India Provide for China in Dealing With Ethnic Issues?], RENWEI YU SHEHUI (人文与社会), (Aug. 22, 2012), <http://wen.org.cn/modules/article/view.article.php/3465>. See Tom Phillips, *Brazil Census Shows African-Brazilians in the Majority for the First Time*, THE GUARDIAN, (Nov. 17, 2011), available at <http://www.theguardian.com/world/2011/nov/17/brazil-census-african-brazilians-majority/> (The 2010 census indicated 51% of Brazilians are "mixed race" or black. White people, on average, earn 2.4 times what black people earn.). Discrimination causes a substantial portion of Brazilian "racial" inequality. Stanley Bailey et al., *Measures of Race and the Analysis of Racial Inequality in Brazil*, 42 SOCIAL SCIENCE RESEARCH 106 (2013).

<sup>9</sup> Hao Shiyuan, *Guoji Jingyan de Bijiao he Jiejian Bixu Shishi Qiushi: Ping Dierdai Minzu Zhengce Shuo Zhisan* (Shang) [Realistically seek truth in comparing and learning from international experience: third comment on the second generation of ethnic policies (part 1)], ZHONGGUO MINZU ZONGJIAO WANG (Mar. 2, 2012), <http://www.mzb.com.cn/html/Home/report/293035-1.htm>; see also Chen Jianyue, *Duominzu guojia he xieshehui de goujian yu minzu wenti de jue ding* [Construction of Harmonious Society and solution of ethnicity complexity in Multi-Ethnic Country: Commentary on Depoliticization And Deculturalization of Ethnic Problems], *Shijie Minzu*

and attributes unrest to uneven development and, in Tibet, to intervention by exiles and their foreign supporters. China's government additionally cites links between Uyghur separatists and external jihadist forces as the source of unrest in the northwestern Uyghur minority region of Xinjiang. Officials hold that problems can be overcome by raising minority living standards.<sup>11</sup> One official, however, United Front Work Department (*tongzhan bu*) vice director for the Tibet issue Zhu Weiqun, has floated proposals loosely tied to depoliticization. He seeks to remove ethnic indicators from identity cards, prevent the creation of more autonomous areas, and promote mixed-ethnicity schools and national education.<sup>12</sup>

Proposed liberalist changes in ethnic policies were criticized at a 2012 gathering at CASS. Scholars saw them as rash, dangerous, and naïve efforts to erase ethnic minorities as subjects bearing political rights and quickly amalgamate (*ronghe*) ethnic groups. They denounced efforts to implement a failed U.S. model of assimilation – while ignoring China's own experience – as simplistic, and argued for the protection of minority rights by expanding cultural justice (*wenhua zhengyi*).<sup>13</sup> Scholars who conducted survey research on ethnic and national identity in China

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(世界民族)[Worldwide Ethnicity] (2005). Many of Hao Shiyuan's essays are collected at Minzubao.com, <http://www.mzb.com.cn/html/Home/folder/292573-1.htm>.

<sup>10</sup> Info. Office of the State Council of the People's Republic Of China, *China's Ethnic Policy and Common Prosperity and Development of All Ethnic Groups*, CHINESE GOVERNMENT'S OFFICIAL WEB PORTAL, (Sep. 27, 2009), [http://english.gov.cn/official/2009-09/27/content\\_1427989.htm](http://english.gov.cn/official/2009-09/27/content_1427989.htm).

<sup>11</sup> Bhavna Singh, *Ethnicity, Separatism and Terrorism in Xinjiang: China's Triple Conundrum*, INSTITUTE OF PEACE AND CONFLICT STUDIES, (Aug. 2010), <http://www.ipcs.org/special-report/china/ethnicity-separatism-and-terrorism-in-xinjiang-chinas-triple-conundrum-96.html>. See also Xiao Jie, *India Still Maintaining Double Standard Toward Exile Tibetans*, GLOBAL TIMES, (Aug. 5, 2012), <http://www.tibetsun.com/elsewhere/2012/08/05/india-still-maintaining-double-standard-toward-exiled-tibetans>.

<sup>12</sup> Chang Xuemei (常雪梅), *Dui Dangqian Minzu Lingyu Wendi De Jidian Sikao [a Few Thoughts on Current Problems in the Field of Ethnicity]*, XUEXI SHIBAO, (Feb. 15, 2012), <http://cpc.people.com.cn/GB/64093/64102/17122242.html>. See also JAMES LEIBOLD, *ETHNIC POLICY IN CHINA: IS REFORM INEVITABLE?* 41-43 (2013) Most sociological studies of ethnicity and education in China see schools as already emphasizing “national unity and patriotism.” Some scholars decry “assimilative schooling” and “favor what they call a multicultural approach.” Hua-Yu Sebastian Cherng et al., *Sociological Perspectives on Ethnicity and Education in China: Views from Chinese and English Literatures* (Apr. 17, 2013), UNIVERSITY OF PENNSYLVANIA, <http://repository.upenn.edu/elmm/4>.

<sup>13</sup> Liu Ling (刘玲), *Jianchi Jiben Zhengzhi Zhidu Zai Fazhanzhong Giejue Minzu Wenti [Insist on Fundamental Framework Resolve Ethnic Problems]*, (Feb. 23, 2012), <http://iea.cass.cn/content-BA0810-2012031609383390681.htm>.

have also concluded that “[i]f the state fails to continue to promote ethnic identity and guarantee affirmative action and some degree of autonomy, then being Chinese could lose its attraction and the fragile balance between the state and the minorities would collapse.”<sup>14</sup> Debate continues in China and, unusual for such a political matter, has appeared in publications targeting foreigners.<sup>15</sup>

The putative success of U.S. and Indian policies is key to arguments for depoliticization. Ma Rong argues China should learn from U.S. cultural integration policies, which have made minorities into “sub-cultural” groups that view the United States as their nation. These groups communicate well with each other, as shown by substantial intermarriage and other mutual assimilations. Rong also contends that the U.S. government neither sees disadvantage among minorities as a political issue nor acts to separately protect them; instead, the state and non-governmental organizations (NGOs) provide welfare. The state encourages recognition of ethnic cultural differences (cultural pluralism), but treats all groups as politically equal. Despite insistence on assimilation and the primacy of English and Christianity, a consensus allows ethnic groups to preserve their cultures and avoid discrimination. Ethnicity is not specified on U.S. identity cards and is not required on job applications or for the census. The government seeks reduced residential and school segregation. Political homogeneity coexists with cultural diversity and ethnic issues are treated only as individual or social matters. The United States thus has great national cohesiveness and identity, with separatist tendencies found only among the most disadvantaged minorities.<sup>16</sup> India, for Ma Rong, also has a culturalist, depoliticized approach to ethnicity. The state promotes Indian nationalism and 90% of citizens are proud to

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<sup>14</sup> Wenfang Tang and Gaochao He, *Separate but Loyal: Ethnicity and Nationalism in China* 29-35, 38-39, 43-44 (2010)

<sup>15</sup> See, e.g., Wang Wenwen, *Han in Xinjiang Victims of Favorable Minority Policies*, GLOBAL TIMES, (Mar. 18, 2012), <http://www.globaltimes.cn/NEWS/tabid/99/ID/700800/Han-in-Xinjiang-victims-of-favorable-minority-policies.aspx>; Turgunjun Tursun, *Whining From Majority About Affirmative Action Misplaced*, GLOBAL TIMES, (Mar. 18, 2012), <http://www.globaltimes.cn/NEWS/tabid/99/ID/700799/Whining-from-majority-about-affirmative-action-misplaced.aspx>.

<sup>16</sup> Ma Rong, *Meiguo Ruhe Chuli Minzu Wenti [How America Deals With Ethnic Problems]*, NANFANG ZHOUMO (南方周末)[SOUTHERN WEEKEND], (July 16, 2009), available at <http://www.infzm.com/content/31554>.

be Indian. Movements and wars by India's minority tribes are not internationalized and minorities do not threaten national unity.<sup>17</sup>

Depoliticization aligns with classic (conservative) liberalism through a common dislike of group rights.<sup>18</sup> Classic liberalism decries multiculturalism that "supports politicization of group identities, where the basis of the common identity is claimed to be cultural." It upholds John Stuart Mill's ideal of a liberal democratic social contract founded on individual rights.<sup>19</sup>

Chinese classic liberals also endorse individual rights, rather than group rights.<sup>20</sup> The view of proponents of a "second generation of ethnic policies" can be equated with "liberal pluralism," which "forbid[s] area exclusivism," emphasizes "assimilation and acculturation," and opposes a "corporate pluralism" that "tolerates area exclusivism" and "legitimizes preferential treatment of different groups to equalize the distribution of resources."<sup>21</sup> Depoliticization's alignment with classic liberalism is particularized by praise for Indian and U.S. ethnic policies.<sup>22</sup>

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<sup>17</sup> Ma Rong, *A New Perspective in Guiding Ethnic Relations in the 21st Century: Depoliticization of Ethnicity in China*, 8 *ASIAN ETHNICITY* 199, 215-216, no. 3 (2007).

<sup>18</sup> Junning Liu, *Classic Liberalism Catches on in China*, 11 *JOURNAL OF DEMOCRACY*, no.3, 48 (2000). "[T]he demand . . . for recognition for segmental and differentiated collective right [is] something that violates the liberal notion of equality between sovereign and unencumbered individuals." See also Ephraim Nimni, *National Autonomy* in *ENCYCLOPEDIA OF NATIONALISM* 212, 213 (ATHENA LEOSI ed., 2001)

<sup>19</sup> Brian Barry, *CULTURE AND EQUALITY: AN EGALITARIAN CRITIQUE OF MULTICULTURALISM* (2001) (Mill's view of "minority rights" was that Basques and Bretons would remain half-savage relics who revolved in their own little mental orbit unless they became members of the French nation; so too for Welsh and Scots vis-à-vis the British nation.). See J.S. Mill, *REPRESENTATIVE GOVERNMENT* 314 (New York Prometheus 1991) (1861). See also John Stuart Mill, *UTILITARIANISM: ON LIBERTY AND CONSIDERATIONS ON REPRESENTATIVE GOVERNMENT* 360-65 (J. M. Dent & Sons Ltd, 1861) (Mill also wrote that "Free institutions are next to impossible in a country made up of different nationalities . . . Among people without fellow-feeling, especially if they speak different languages, the united public opinion, necessary to the working of representative government cannot exist.).

<sup>20</sup> See Feng Chongyi, *Chinese Liberal Intellectuals' Attitudes Toward the Welfare Mix*, Chinese Studies Association of Australia Conference, Sydney (2009); Jane Leung Larson, *Charter 08's Qing Dynasty Precursor*, *THE ASIA-PACIFIC JOURNAL: JAPAN FOCUS*, (Jan. 15, 2006), available at [http://www.japanfocus.org/-Jane\\_Leung-Larson/3558](http://www.japanfocus.org/-Jane_Leung-Larson/3558).

<sup>21</sup> Jacqueline Simpson, *Pluralism: the Evolution of a Nebulous Concept*, 38 *AMERICAN BEHAVIORAL SCIENTIST* 459, 464 (1995).

<sup>22</sup> Non-classic liberals do not necessarily oppose collective rights for minorities. A leading Canadian liberal political philosopher has urged states to "adopt various group-specific rights of policies which are intended to recognize and accommodate distinctive identities and needs of ethno-cultural groups." WILL KYMLICKA, *POLITICS IN THE VERNACULAR: NATIONALISM, MULTI-CULTURALISM AND CITIZENSHIP* 42 (2001).



The comparative evidence of the results of U.S. and Indian official approaches to ethnicity, set out below, shows, however, that minorities in the two big liberal democracies remain in subordinate and deteriorating positions and do not necessarily have higher levels of national identity or lower levels of political disaffection than China's minorities. Because the depoliticization movement's proposed diminution of minority rights in China will alter the intersection of ethnicity, governance, and human rights in ways detrimental to minorities, it will likely increase, not assuage, instability, especially in Tibetan and Uygur areas.

The choice for ethnic policies in China, moreover, is not a binary of individual rights only or no change. The *expansion*, rather than contraction or status quo, of minority rights should also be considered. One possibility is to create structures, such as ethnic-based associations that minorities could use to deal with matters material to their ethnicity, such as their histories and cultural elements (self-identity, language, and religion, etc.). Such associations would also address their members' positions within China's political and social systems, including issues of inequality. These structures need not be counter-posed to the state or serve as mere vehicles for elites, but could instead focus on pervasive problems. Self-representation may lead to more minority participation in China's governance. The integration, rather than assimilation, of minorities may mitigate separatism while raising the level of human rights by allowing minorities to pinpoint ways to diminish the social and economic gaps between themselves and Han.<sup>23</sup>

We first consider the putative model derived from India – a country often compared with China, but only exceptionally seen as a model for it – where ethnic minorities have the same proportion of the population as in China. Next, we take up the supposed model of the United States, a much less populous, but more developed and more multi-ethnic, state, whose eschewing of collective rights Chinese liberals admire. Reviewing comparative results, the claims of Indian and U.S. success made by proponents of a “second generation of ethnic policies” are shown to be empirically

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<sup>23</sup> See generally Barry Sautman, *Self Representation and Ethnic Minority Rights in China*, 15 *ASIAN ETHNICITY* (forthcoming 2014) (Explicating the concept of self-representation) [Note: *Asian Ethnicity* is a quarterly publication having 4 issues in one year. The first issue is already out. Request to check with author to find which quarter will his publication be slotted to come out] (please refer R. 17.3).

inaccurate, as the relative positions of minorities in those countries are often worse than in China. For United States minorities, much of the gap is attributable to discrimination, and for Indian ethnic minorities, it is in large part due to plundering; for China's minorities, though, the gap is mainly a function of location. Surveys also indicate that Indian and U.S. minorities have no greater level of national identity than Chinese minorities and in some respects actually have lower levels.

Despite the deficiencies of China's ethnic policies, a move to a U.S. or Indian model would exemplify the Chinese idiom *bing ji luan tou yi* – to throw oneself randomly at any doctor in a medical crisis. When that happens, the cure is often worse than the disease.

#### AN INDIAN MODEL?

Indian Prime Minister Manmohan Singh has said his government has “respect for multi-cultural, multi-ethnic, multi-religious rights,”<sup>24</sup> while proposals to depoliticize ethnicity in China claim success for India's ethnic policies. Ma Rong argues that there are no threatening separatist activities in India; insofar as separatism exists, it receives little global attention, and India is nationally united.<sup>25</sup> Hao Shiyuan counters, however, that India cannot be a model because it is not a unified nation or state: deep animosities exist among ethnic groups, castes and even provinces, and society lacks a cohesive force. Denying that India's ethnic policies are depoliticized, he contends that efforts to deal with recurrent and newly-generated ethnic and caste conflict have been highly political and have failed because of strong resentment in Indian society based on extreme Hindu and “regional” nationalism, the lack of shared national consciousness, and intense and persistent ethnic and caste discrimination.<sup>26</sup>

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<sup>24</sup> Varghese K. George, *China's Aggression Baffling: Manmohan*, HINDUSTAN TIMES, Nov. 24, 2009, <http://www.hindustantimes.com/india-news/china-s-aggression-baffling-manmohan/article1-479568.aspx>.

<sup>25</sup> Ma Rong, Yinyong wenxian buneng duan zang qu yi: Lianheguo kaifa jihuashu dui yindu ‘Minzu jiangou’ de pingjia (Citations should not be biased: the report of UNDP on Indian “nation building”), 3 *Zhongyang minzu daxue xuebao (zhixue shehui kexue ban [zskb])* 33, 52-54 (2006).

<sup>26</sup> Hao Shiyuan, *Yindu goujian guojia minzu de 'jingyan' bu zhide Zhongguo xuexi* (India's “Experience” of Constructing National Ethnic Groups is not Worth Study by China), *Minzu wenti yanjiu* no. 2 67-79 (2013).

### *Conditions of the Adivasi*

India's ethnic minorities, officially termed *adivasi* (original people) or "Scheduled Tribes" (STs), number some 103 million and are about the same 8.6% of the population as minorities are in China.<sup>27</sup> Most live not in remote frontier areas but in the heart of India. About 90% of STs, compared to 69% of India's total population, lived in rural areas in 2005.<sup>28</sup> They have far higher illiteracy, unemployment and landlessness rates than Indians generally.<sup>29</sup> STs "are more likely to be ill, less likely to be educated, more likely to cultivate land and more likely to live in a climate of fear and oppression."<sup>30</sup> Deprivation of STs includes:

Poor physical access to services; increasing alienation of STs from their traditional lands; low voice and participation in political spaces; and poor implementation of public assistance-poverty reduction programs, which affects the STs disproportionately because they dominate the ranks of the poor and the disadvantaged.<sup>31</sup>

Adivasi, in fact, are significantly worse off than India's famous *dalits* or "untouchables."<sup>32</sup>

Some 46% of rural and 36 % of urban *adivasi* lived below India's very low poverty line in 2000, compared to 27% of rural

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<sup>27</sup> *STs Form 25% of Population, says Census 2011 Data*, THE INDIAN EXPRESS, May 1, 2013, <http://archive.indianexpress.com/news/scs-sts-form-25--of-population-says-census-2011-data/1109988>.

<sup>28</sup> Maitreyi, Bordia, Das, et al., *Indigenous People, Poverty and Development, in INDIA: THE SCHEDULED TRIBES 210-11* (Gillette Hall and Harry Patinos, eds. 2012).

<sup>29</sup> C.R. Bijoy, *The Adivasi of India: a History of Discrimination, Conflict and Resistance*, PUCL Bulletin, February 2003, <http://www.pucl.org/Topics/Dalit-tribal/2003/adivasi.htm>; *Tribes Living in Stigma and Starvation*, AHRC NEWS, June 4, 2009, <http://www.humanrights.asia/news/ahrc-news/AHRC-STM-129-2009/>.

<sup>30</sup> Raghav Ghaia et al., *Has Anything Changed? Deprivation, Disparity and Discrimination in Rural India* 15(2) BROWN JOURNAL OF WORLD AFFAIRS 113-123 at 122 (2008); Sumeet Jain, *Tightening India's 'Golden Straightjacket': How Pulling the Straps of India's Scheme Reflects Prudent Economic Policy*, 8 WASH. UNIV. GLOBAL STUDIES L. REV. 567, 592 (2009); Anand Teltumbde, *Inequality and Affirmative Action, Episode 20: Pursuing Equality in the Land of Hierarchy: Positive Discrimination Policies in India*, SOCIAL SCIENCE BAHU, (Nov. 10, 2013), <http://soscbaha.org/about-conf/panelsessions/radio-programme/459-episode-20.html>.

<sup>31</sup> Maitreyi, Bordia, Das, et al. *supra* note 28, 8.

<sup>32</sup> Ramachandra Guha, *Unacknowledged Victims*, OUTLOOK INDIA (April 13, 2010), <http://www.outlookindia.com/article.aspx?265069>.

Indians and 23% of Indians generally.<sup>33</sup> The economic situation has worsened for STs since privatization of the Indian economy began in the early 1990s: “In 1993, 25% of those belonging to a [ST] fell into the poorest wealth decile. By 2005, this figure had risen to 30%. Further, whereas 52% of the ST population fell into the poorest three deciles in 1993, this figure had risen to 64% by 2005.”<sup>34</sup>

The Asian Center for the Progress of Peoples (ACPP) reports that:

40.1 percent of the Adivasis are displaced; 5.2 percent of the Adivasis are under the below poverty line; 63.5 percent of the Adivasi households do not have electricity; 53.1 percent of the Adivasi households do not have drinking water source; 83 percent of the Adivasi households do not have access to toilet facility; 56 percent of the Adivasi children are undernourished; 53 percent of the Adivasis are illiterate; 76 percent of the Adivasis do not have permanent houses; and 93 percent of the Adivasis do not possess land.<sup>35</sup>

A survey of nutrition in Adivasi households in two states with relatively high concentrations of these ethnic minorities found that

Out of a total 1000 sample Adivasi households from 40 sample villages in Rajasthan and Jharkhand surveyed for this study, a staggering 99% were facing chronic hunger . . . 25.2% of surveyed Adivasi households had faced semi-starvation during the previous week of the survey. This survey found that 24.1% of the surveyed Adivasi households had lived in semi-starvation condition throughout the previous month of the survey. Over 99% of the Adivasi households had lived with one or another level of endemic hunger and food

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<sup>33</sup> *Caste and Community Profile: People Below Poverty Line in India*, WIKIMEDIA COMMONS. (Mar. 17, 2007), [http://commons.wikimedia.org/wiki/File:Caste\\_and\\_Community\\_of\\_Profile\\_People\\_below\\_povertyline\\_in\\_India.PNG](http://commons.wikimedia.org/wiki/File:Caste_and_Community_of_Profile_People_below_povertyline_in_India.PNG).

<sup>34</sup> Maitreyi, et al., *supra* note 28. See also David Ludden, *Empire Meets Globalisation*, 47 *ECONOMIC & POLITICAL WEEKLY* 213, 221 (2012).

<sup>35</sup> *Hotline Asia – Backgrounder on Situation of Adivasis in India*, ACPP (Oct. 2009), [www.acpp.org/uappeals/bgrounder/Adivasis%20in%20India.htm](http://www.acpp.org/uappeals/bgrounder/Adivasis%20in%20India.htm).

insecurity during the whole previous year. Moreover, out of 500 sample Adivasi households surveyed in Rajasthan, not a single one had secured two square meals for the whole previous year.<sup>36</sup>

Moreover, “whether [it is] child mortality, malnutrition, immunization, contraception, pregnancy or maternal care – STs continue to exhibit worse outcomes vis-à-vis the national average and in comparison to non-STs.”<sup>37</sup> In 2004-2005, 53% of STs had no education, compared to a third of non-STs.<sup>38</sup> Prime Minister Singh has admitted that “[t]here has been systemic failure in giving tribals a stake in modern economic processes.”<sup>39</sup> Reasons adumbrated for the “poor outcomes for STs. . . include (but are not limited to) poor physical access to services, widespread removal from their

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<sup>36</sup> *Political Economy of Hunger in Adivasi Areas*, CENTRE FOR ENVIRONMENT AND FOOD SECURITY (New Delhi) (2005), [www.cefs-india.org/reports/Research%20Study%20on%20the%20Political%20Economy%20of%20Hunger%20in%20Adivasi%20\(Tribal\)%20Areas%20of%20India.pdf](http://www.cefs-india.org/reports/Research%20Study%20on%20the%20Political%20Economy%20of%20Hunger%20in%20Adivasi%20(Tribal)%20Areas%20of%20India.pdf). There are also underfed persons in China. A 2011 Gallup survey of 4,000 Chinese reported that 6% agreed “there have been times in the past 12 months when they did not have enough money to buy food that they or their family needed”; 19% of Americans polled in 2011 also agreed with that statement. Rajesh Srinivasan and Bryant Ott, *Chinese Struggling Less than Americans to Afford Basics*, GALLUP WORLD, Oct. 12, 2011, [www.gallup.com/poll/150068/chinese-struggling-less-americans-afford-basics.aspx](http://www.gallup.com/poll/150068/chinese-struggling-less-americans-afford-basics.aspx).

<sup>37</sup> Das, et al., *Indigenous People, Poverty and Development, in INDIA: THE SCHEDULED TRIBES* 210-11 (Gillette Hall and Harry Patinos, eds. 2012).

<sup>38</sup> Maitreyi, Bordia, Das *supra* note 28, 231. The ST under-five mortality in 2007 was 96 per 1,000, but 74 for non-STs. Surveys have shown that among STs living in 10 Indian states, 52% of children aged 1-5 were underweight, compared to 42% nationally. The percentage of underweight Indian children is higher than in sub-Saharan Africa (30%) and much higher than in China (4%), although the percent of underweight children in China's western provinces is twice as high as in its eastern provinces. *See also id.* 224-25; Malavika Vyawahare, *Malnutrition Ravages India's Children*, N.Y. TIMES, Aug. 28, 2013, [http://india.blogs.nytimes.com/2013/08/28/malnutrition-ravages-indias-children/?\\_php=true&\\_type=blogs&\\_r=0](http://india.blogs.nytimes.com/2013/08/28/malnutrition-ravages-indias-children/?_php=true&_type=blogs&_r=0); JACQUE DREZE & AMARTYA SEN, AN UNCERTAIN GLORY: INDIA AND ITS CONTRADICTIONS [Need Page Numbers] (2013); Pranab Bardhan, AWAKENING GIANTS, FEET OF CLAY: ASSESSING THE ECONOMIC RISE OF CHINA AND INDIA [Need page numbers] (2010); Claire Malamed, *Putting Inequality in the Post-2015 Picture*, OVERSEAS DEVELOPMENT INSTITUTE 3, 7 (Mar. 2012), [www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7599.pdf](http://www.odi.org.uk/sites/odi.org.uk/files/odi-assets/publications-opinion-files/7599.pdf).

India's ST infant mortality rate of 62 per 1,000 is much higher than in Tibet (20.7). [not sure what to do with mortality rate info] Jonathan Kennedy and Lawrence King, *Understanding the Conviction of Binayak Sen: Neocolonialism, Political Violence and the Political Economy of Health in the Central Indian Tribal Belt*, 72 SOCIAL SCIENCE & MEDICINE 1640 (2011); *Sixty Years since the Peaceful Liberation of Tibet*, STATE COUNCIL INFORMATION OFFICE (China), 1, 25 (2011), <http://no.china-embassy.org/eng/zyxw/t841187.htm>.

<sup>39</sup> *India Plans Offensive Against Rebels*, SOUTH CHINA MORNING POST, Nov. 9, 2009.

traditional lands and forests, poor enforcement of legislation meant to protect their interest, lack of collective voice, and poor implementation of government programs aimed to assist them . . . .”<sup>40</sup> For example, from 1951 to 1990, 40% of the 21.3 million Indians displaced from their land by state acquisition were STs.<sup>41</sup>

A team of scholars from India, Sweden and China who compared the relationship between poverty and minority status in India and China have concluded that

Most of China’s poor belong to the Han majority, while most of India’s poor are Muslims or belong to the Scheduled Castes/Tribes. Although our study found that the average minority-majority income gap in China and India were similar in magnitude, the results from our multivariate analysis indicated that much of the minority-majority divide in China was due to the fact that China’s majority population was located in its less developed western region. In India there was evidence of the unfavorable treatment of minority group persons living in the same location as persons from the majority group.<sup>42</sup>

### *B. Kashmir, the Northeast, Religious Minorities*

India’s policies for ethnic and religious minorities have been largely unsuccessful in Kashmir and much of the country’s Northeast (Nagaland, Assam, etc.). Additionally, these policies have not been successful as applied to the 15% of the Indian population that is Muslim. The situation is similarly poor even as to some non-minority language and regional groups.

In Kashmir, where two-thirds of the population is Muslim, a two decade-long counter-insurgency against pro-independence forces deployed 500,000 Indian troops, cost 70,000 lives and entailed huge economic and social costs to the state, which now has severely under-endowed infrastructure and state services compared

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<sup>40</sup> Das, et al., *Indigenous People, Poverty and Development*, in INDIA: THE SCHEDULED TRIBES 210-1 (Gillette Hall and Harry Patinos, eds. 2012).

<sup>41</sup> Das, et al., *Indigenous People, Poverty and Development*, in INDIA: THE SCHEDULED TRIBES 236-7 (Gillette Hall and Harry Patinos, eds. 2012).

<sup>42</sup> Vani Borooah et al., *China and India: Income Inequality and Poverty North and South of the Himalayas*, 17 JOURNAL OF ASIAN ECONOMICS 797, 817 (2006).

to the rest of India.<sup>43,44</sup> The vast majority of the dead have been Muslims, with thousands of them civilians murdered by the army and police and dumped into mass graves found as fighting finally dwindled in 2011.<sup>45</sup> There was also a pogrom in Kashmir<sup>46</sup> in which Muslims murdered 260 Hindus<sup>47</sup> and caused the largest mass exodus since the 1947 partition of the sub-continent,<sup>48</sup> with 100,000-150,000 Hindus fleeing the Kashmir valley.<sup>49</sup>

Human rights groups say extra-judicial killings and rapes of Muslims<sup>50</sup> by impunity-bearing Indian security forces<sup>51</sup> have been endemic.<sup>52</sup> A 2012 report by a Kashmiri human rights lawyer said “not only is torture endemic, it is systemic. In one cluster of 50 villages, more than 2,000 extreme cases of torture were documented.”<sup>53</sup> One study found “ample evidence that Muslims in [Jammu & Kashmir] are poorer than Hindus and Sikhs on the basis of all indicators considered.”<sup>54</sup> The Kashmir issue is regionalized: neighboring countries control parts of what India regards as its state of Jammu & Kashmir. Pakistan controls “Azad [Free] Kashmir,” while China regards the uninhabited Aksai Chin as its territory. The Kashmir issue is also internationalized, as the world’s media, especially in Muslim lands, give it significant attention. Kashmir has globally been a much better-known issue than Xinjiang, except for a short time after the 2009 riot in Xinjiang’s capital, Urumqi.<sup>55</sup>

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<sup>43</sup> Debidatta Mahapatra & Shailender Shekhawat, *Kashmir Conflict: Causes, Costs and Prospects of Peace*.

<sup>44</sup> Seena Shekhawat & Debidatta Mahapatra, *AFRO-ASIAN CONFLICTS: CHANGING CONTOURS, COSTS AND CONSEQUENCES* 151-160 (Delhi: New Century Publication, 2008).

<sup>45</sup> *Id.*

<sup>46</sup> Amrit Dhillon, *Few Kashmiri Pandits Tempted by Generous Offers to Return Home*, SOUTH CHINA MORNING POST, Sep. 21, 2009.

<sup>47</sup> *Kashmir*, THE NEW YORK TIMES, June 25, 2012, available at <http://topics.nytimes.com/top/news/international/countriesandterritories/kashmir/index.htm>

<sup>48</sup> Robert Wirsing, *KASHMIR: IN THE SHADOW OF WAR* (Armonk: ME Sharpe, 2004) (showing how fighting abated in 2011, but police violence against protestors continued).

<sup>49</sup> *Curbs, Strike Shut Valley Down*, KASHMIR OBSERVER, Feb. 22, 2013.

<sup>50</sup> Izhar Wani, *Violence in Kashmir Dips to Record Low: Police*, AFP, Aug. 31, 2009.

<sup>51</sup> Lydia Polgreen, *Two Killings Stoke Kashmiri Rage at Indian Force*, THE NEW YORK TIMES, Aug. 16, 2009 (showing that “In Kashmir, separatist tendencies were least when democracy and autonomy were strongest.”)

<sup>52</sup> Deepa M. Ollapally, *The Politics of Extremism in South Asia* 116 (Cambridge: Cambridge University Press, 2008).

<sup>53</sup> Cathy Scott-Clark, *The Mass Graves of Kashmir*, THE GUARDIAN, Jul. 9, 2012.

<sup>54</sup> Ajit Bhalla, et al., *Social Discontent and Minorities in China and India*, CENTER FOR RESEARCH AND DEBATES IN DEVELOPMENT POLICY, Discussion Paper 73, July 2011.

<sup>55</sup> *Id.* at 26 (finding that “In Xinjiang, both poverty incidence and income inequality are greater among the Han majority than among Muslim minority (Uyghur). Poverty and

It has been noted that “there are increasingly violent insurgent movements in tribal areas. A recent [2008] Planning Commission report links these movements squarely to underdevelopment and marginalization of STs.”<sup>56</sup> Multiple ethnic-based insurgencies exist around India,<sup>57</sup> but especially in the Northeast where more than 16 million *adivasi* live, with some insurgencies ongoing for as long as six decades and costing tens of thousands of lives.<sup>58</sup>

[T]he centralized power of the Indian state is repeatedly questioned in the Northeast of that country, where several ethnic groups live in eight states. Also questioned is its management of the problems of dissent and political identity and especially the question of ‘one nation,’ with an emphasis on homogeneity.<sup>59</sup>

The Extrajudicial Victim Families Association, Manipur has presented courts a list of 1,528 victims of extrajudicial police killings in that Northeast state from 2007-2012.<sup>60</sup> The conflict involving two million Nagas in the Northeast dates to India’s independence in 1947, when Naga leaders sought a separate state. The conflict has since been internationalized, involving at various times the United States, Burma, China, Bangladesh and Pakistan.<sup>61</sup> Many Naga leaders reject that Nagas are Indian.<sup>62</sup> A 2004 survey in Nagaland found that 57% of respondents identified as “only Naga,”

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inequality indicators are lower for Xinjiang than for J&K. Rural-urban disparities in per capita consumption are minimal in Xinjiang compared to the rest of Chin”).

<sup>56</sup> Das, *supra* note 28.

<sup>57</sup> See generally *India: The Land of the Largest Number of Separatist Movements in the World*, SINLUNG (Aug. 16, 2012) <http://www.sinlung.com/2012/08/india-land-of-largest-number-of.html>.

<sup>58</sup> *Northeast India Clashes*, REUTERS, Oct. 22, 2008, [www.alertnet.org/db/crisisprofiles/IN\\_CLA.htm?v=in\\_detail](http://www.alertnet.org/db/crisisprofiles/IN_CLA.htm?v=in_detail) (showing that Naga insurgency leaders have claimed 200,000 Nagas have been killed); see also Luke Harding, *Naga Rebels Declare End of War with India*, THE GUARDIAN, Jan. 14, 2003.

<sup>59</sup> Charles Chasie & Sanjoy Hazarika, *The State Strikes Back: India and the Naga Insurgency*, EAST-WEST CENTER POLICY STUDIES 52, 2009, at viii.

<sup>60</sup> Hari Kumar, *Supreme Court to Investigate Police Killings in Manipur*, THE NEW YORK TIMES, Oct. 2, 2012.

<sup>61</sup> Dinesh Kotwal, *The Naga Insurgency: The Past And The Future*, 24 STRATEGIC ANALYSIS (IDSA) (2000); see also Sanjay Baruah, *Durable Disorder: Understanding the Politics of Northeast India* (Delhi: Oxford University Press, 2005) (discussing the Northeast’s insurgencies).

<sup>62</sup> See, e.g., Kaka D. Iralu, *Naga Issue: Internal Indian Ethnic Conflict or a Conflict between Two Nations?* IMPHAL FREE PRESS (India), Jan. 30, 2012.



9% as “only Indian” and 34% as “Indian and Naga.”<sup>63</sup> An anthropologist who has done fieldwork among Nagas has noted

For the Naga, "Indians" are people from non-Northeastern part of India, who also compose of the people of India; "India" is the country where "Indian" people live. For the Naga, they are not ethnically "Indians" and they are not "Indian" either, although they are technically Indian nationals.<sup>64</sup>

Northeasters may reject Indian identity in part because of racism directed against them. Many “mainland” Indians call East Asian-appearing Northeasters by the British anti-Chinese epithet “Chinki” and often do not regard them as Indians.<sup>65</sup> Violent conflict in the Northeast is now only intermittent, but that is because Indian federal authorities have been put into place and tolerate autocratic “local regimes of corruption and repression.”<sup>66</sup>

In India, the term “minorities” is used not for ethnic groups, which are STs, but for non-Hindu religious groups, such as Sikhs and Muslims. India repelled Sikh separatists seeking an independent Punjab in the 1980s and 1990s. A massive pogrom against Sikhs followed the retaliatory assassination of PM Indira Gandhi by her Sikh bodyguards in 1984, causing 7,000 deaths.<sup>67</sup> That was followed widespread killings by security forces that peaked in the early 1990s, racking up a total of perhaps 20,000 deaths.<sup>68</sup> Punjab is still said to be “perhaps [India’s] most separatist [area] outside of the internationally disputed territory of Kashmir.”<sup>69</sup>

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<sup>63</sup> Alfred Stephan et al., *Crafting State-Nations: Indian and Other Multinational Democracies* 108, fn. 35 (The Johns Hopkins University Press, 2011) (discussing how even in neighboring Mizoram, where a post-insurgency high degree of autonomy has been in place since 1986, 32% of respondents to a 2003 survey identified as “only Mizo”).

<sup>64</sup> Satoshi Ota, *Ethnic Identity and Consumption of Popular Culture among Young Naga People, India*, 7:3 *IJAPS* :65, 53-75 (2011).

<sup>65</sup> *Northeast Students Make Merry after Mary Kom’s Olympic Feat*, DAILY NEWS & ANALYSIS, Aug. 10, 2012, available at <http://www.dnaindia.com/sport/report-northeast-students-make-merry-after-mary-koms-olympic-feat-1726173>.

<sup>66</sup> See Bethany Lacina, *The Problem of Political Stability in Northeast India*, 46:4 *ASIAN SURVEY* 998-1020 (2009).

<sup>67</sup> Lily, *RS Admits Calling Attention Notice*, RIGHT VISION NEWS, Nov. 26, 2009.

<sup>68</sup> Dhami, *supra* note 2.

<sup>69</sup> Henry Hale, *A Political Economy of Secessionism in Federal Systems*, May 2002, [www.core.ucl.ac.be/PolIntDes/papers/Hale.pdf](http://www.core.ucl.ac.be/PolIntDes/papers/Hale.pdf).

In 2002, more than 2,700 Muslims were brutally murdered in a pogrom in the far western state of Gujarat.<sup>70</sup> The state's leader then and now has been Narendra Modi, who failed to act against and even justified the pogrom. He was thereafter shunned for a while by European Union states, but that ban was lifted in 2012 by the "mother of democracies," Britain, in order to promote the interests of BP, British Gas and other firms "with substantial interests in Gujarat."<sup>71</sup> In 2013, Modi became leader for the 2014 national electoral campaign of India's main opposition party, the "Hindu nationalist" Bharatiya Janata Party.<sup>72</sup> Expectedly, jihadi groups such as the Indian Mujahideen, inspired by Gulf-based organizations, emerged in India in the 2000s and have killed hundreds of people, mainly through bombings.<sup>73</sup>

There have also been smaller-scale pogroms against Indian Christians, language and region-based persecution among Hindus, and caste discrimination which, while not ethnic, is analogous and severe.<sup>74</sup>

### *Adivasis and Maoist Insurgency*

Indian Maoists are mainly based among mainland Indian *adivasis*. Links between Maoists and Kashmir and Northeast separatists have also been reported.<sup>75</sup> Said to number 100,000 in armed militia, Maoists operate in 22 of India's 28 states. They killed 900 police in 2005-2009.<sup>76</sup> By 2007, 6,000 people had died in the

<sup>70</sup> Francis Elliott, *Anger at UK Talks with Leader Who Stood By During Riots*, THE TIMES, Oct. 23, 2012.

<sup>71</sup> *Id.*

<sup>72</sup> Lakshmi Rama, *India's Nationalist Opposition Names Controversial Hindu Leader to Lead Campaign*, WASHINGTON POST, June 9, 2013.

<sup>73</sup> *Profile: Indian Mujahideen*, BBC, Aug. 29, 2013, <http://www.bbc.com/news/world-asia-india-23876150>; Jethro Mullen & Neha Sharma, *Indian Arrests Yasin Bahtkial, Indian Mujahideen Terrorism Suspect*, CNN, Aug. 29, 2013, <http://www.cnn.com/2013/08/29/world/asia/india-terrorist-arrest/>.

<sup>74</sup> Arundhati Roy, *Listening To Grasshoppers: Field Notes On Democracy* 3-8, 150-151, 184-185 (Hamish Hamilton 2009)

<sup>75</sup> Antony, *No Army Troops To Fight Maoists*, UPI, Nov. 2, 2009; B. Vijah Murty, *If Taliban Attacks India, We'll Fight Them, Say Maoists*, HINDUSTAN TIMES, Oct. 20, 2009, <http://www.hindustantimes.com/StoryPage/Print/467031.aspx?s=p>; *Official: India's Maoist Rebels Expand Influence*, AP, Sept. 15, 2009

<sup>76</sup> Thomas Marks, *Return of the Beast: Maoist Insurgency Lives*, 15 J. OF COUNTER-TERRORISM AND HOMELAND SECURITY, 2009 at 3; Jim Yardley, *Rebels Widen Deadly Reach Across India*, THE NEW YORK TIMES, Nov. 1, 2009, available at [http://www.nytimes.com/2009/11/01/world/asia/01maoist.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2009/11/01/world/asia/01maoist.html?pagewanted=all&_r=0);

insurgency, including 1,300 insurgents and 2,900 civilians, mostly STs. Maoists killed 1,700 police and police-supported militiamen in the Bastar district of Chhattisgarh, a state where the Indian government is particularly active in assisting land grabs by “some of the most powerful industrial empires in India: Jindal Power & Steel and Tata Steel”<sup>77</sup> and where “sovereignty is contested over large parts of terrain.”<sup>78</sup>

An Indian anthropologist has specified “the driving forces for the current civil war as including sharpening inequality, strengthened rent seeking among business people and politicians in two states with high ST concentrations, a liberalized national mining policy, and a growing emphasis on industrialization which displaces adivasi and other rural people.”<sup>79</sup> The 180 districts in 10 states where Maoists now “hold sway” are 40% of the country’s territory, four times that of 2001.<sup>80</sup> Most Maoist cadres are *adivasi* or *dalit* and most of their strongholds are in ST areas,<sup>81</sup> but the mobilization focus varies: in Chhattisgarh and West Bengal it is tribal rights; in Orissa and Jharkhand it is mostly mining firm infringement; in Bihar, Uttar Pradesh and Haryana it is caste and land; and in Punjab, water.<sup>82</sup>

India’s Home Ministry has said Maoists “espouse local demands” based on “prevalent dissatisfaction and feelings of perceived neglect and injustice among underprivileged and remote segments of the population.”<sup>83</sup> An anti-terrorism specialist has

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*Cabinet Nod for anti-Naxal Force*, INDIAN EXPRESS, Aug. 28, 2008, <http://archive.indianexpress.com/news/cabinet-nod-for-antinaxal-force/354300/>

<sup>77</sup> *Senior Maoist ‘arrested’ in India*, BBC, Dec. 19, 2007, [http://news.bbc.co.uk/2/hi/south\\_asia/7151552.stm](http://news.bbc.co.uk/2/hi/south_asia/7151552.stm); Megha Bahree, *The Forever War: Inside India’s Maoist Conflict*, 27 WORLD POL’Y J. 83, 83-89; On this epicenter of the Maoist insurgency, see Nandini Sundar, *Subalterns and Sovereigns: an Anthropological History of Bastar 1854-2006* (Oxford University Press, 2007); Jason Motlagh, *The Maoists in the Forests: Tracking India’s Separatist Rebels*, VIRGINIA Q. REV., Jul. 2008, at 102-129.

<sup>78</sup> Nandini Sundar, *Insurgency, Counter-insurgency and Democracy in Central India*, in MORE THAN MAOISM: POLITICS, POLICIES AND INSURGENCIES IN SOUTH ASIA 149-168 (Robin Jeffrey et al. eds., 2012).

<sup>79</sup> Sundar, *supra* note 68 at 151.

<sup>80</sup> *Army not to be Used Against Naxals*, HINDUSTAN TIMES, Oct. 12, 2009, <http://www.hindustantimes.com/india-news/mumbai/army-not-to-be-used-against-naxals-pm/article1-464026.aspx>; Sundar, *supra* note 68 at 150. See also Amulya Ganguli, *Battle against Maoists Being Undermined by Intellectuals*, INDO-ASIAN NEWS SERVICE, Oct. 17, 2009 (Maoists in 231 of India’s 626 districts).

<sup>81</sup> *Id.*

<sup>82</sup> Sudeep Chakravarti, RED SUN: TRAVELS IN NAXALITE COUNTRY (Penguin/Viking, 2008).

<sup>83</sup> Ministry of Home Affairs, ANNUAL REPORT OF THE UNION MINISTRY OF HOME AFFAIRS, at 15-6 (Government of India, 2009).

stated that general public sympathy for Maoists “is relatively strong . . . because inequalities and injustices of society are blatantly obvious and the Maoists have been very effective at tapping into resentments of controversial government actions like the acquisition of tribal land for mining projects.”<sup>84</sup> An historian who writes about *adivasi* and is anti-Maoist nevertheless observed that “the Maoists are prepared to walk miles to hold a village meeting, and listen sympathetically to tribal grievances . . . . That the Maoists live among, and in the same state of penury as the tribals, is unquestionable. That some of their actions have sometimes helped the *adivasis* can also be conceded.”<sup>85</sup>

In a 2010 survey in 36 districts of seven states affected by the Maoist insurgency, 10% of respondents said they were Maoist sympathizers, while an additional 37% expressed “mild sympathy.”<sup>86</sup> The survey takers concluded that “Adivasis sympathize as much as the rest.”<sup>87</sup> In Andhra Pradesh, a major state in which it was thought the Maoists had been wiped out through repression, a 2010 *Times of India* (TOI) poll found that 58% of a random sample agree that “Naxalism” [Maoism] had been good for their area.<sup>88</sup> Prime Minister Singh terms the Maoists “the biggest homegrown threat to India's internal security” and admits that the campaign against them is failing.<sup>89</sup> Indeed, in the view of many *adivasi*, the biggest threat to the STs has been the Indian state and the civilian militias it employs to wage war on them.

*Adivasi* do, however, have “special privileges” under the Constitution’s Schedules V (areas where the majority of the population are STs) and VI (northeast India) and

Several well-known state-sponsored commissions have recommended greater voice for STs in their own development, and underscore the importance of land and forest in this process. Of late, the state

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<sup>84</sup> Jason Overdorf, *India's Hidden War Heats Up*, GLOBALPOST, Sept. 24, 2009, <http://www.globalpost.com/dispatch/india/090921/indias-hidden-war-heats>.

<sup>85</sup> Guha, *supra* note 32.

<sup>86</sup> *Id.*

<sup>87</sup> *State of the Nation Survey: 2010*, Aug. 2010, [www.lokniti.org/state\\_of\\_the\\_nations\\_survey\\_august\\_2010.html](http://www.lokniti.org/state_of_the_nations_survey_august_2010.html).

<sup>88</sup> *58% in AP say Naxalism is Good, Finds TOI Poll*, TOI, Sept. 28, 2010 (This support was expressed though such polls were carried out in places where security forces have “penalized anything that could be construed as support for the Maoists.”); Sundar, *supra* note 68 at 161.

<sup>89</sup> *India's Fight Against Maoists Failing says Manmohan*, DAILY TIMES (India), Sept. 16, 2009.

has legislated to acknowledge the 'rights' of ST areas by taking them further toward self-rule . . . [T]here are earmarked development funds from both the central government and the states that flow to tribal areas through a special budgetary instrument called the 'tribal sub-plan' (TSP). STs also have quotas in public employment, with 7.5% seats in all government and quasi-government jobs (which form the major part of all regular salaried jobs) reserved for them. They have similar quotas in public educational institutions and . . . reserved seats in local governments [but] enforcement of these far-reaching laws and policies has been weak for a variety of reasons . . . .<sup>90</sup>

*Adivasis* are thus by no means "depoliticized" and it is strikingly inaccurate to imply that they have no rights beyond the individual rights proclaimed by the Indian constitution for all citizens. The STs' collective rights or preferential policies are inscribed in law, but their effect is mainly seen in urban areas. STs' incomes there match those of the "forward classes" (general castes),<sup>91</sup> yet only a tenth of STs are urban. Chinese proponents of a second generation of ethnic policies in effect seek to centralize rights by individualizing them and making them uniform throughout the country. Studies indicate, however, that when Indian leaders have opted for re-centralization, they were more likely to fail to accommodate ethnic and territorial cleavages and thus increase disaffection among ethnic groups.<sup>92</sup>

India's security issues involving minorities are at least as serious as those in Tibet and Xinjiang, calling into question claims that India has greater national unity than China.<sup>93</sup> Surveys support

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<sup>90</sup> Das, *supra* note 28, at 208-9.

<sup>91</sup> Das, *supra* note 28, at 221-2.

<sup>92</sup> Atul Kohli, *India: Federalism and the Accommodation of Ethnic Nationalism*, in *FEDERALISM AND TERRITORIAL CLEAVAGES* 281-300 (Ugo Amoretti & Nancy Bermeo eds. 2004).

<sup>93</sup> Exiles assert Tibetans and Uygurs do not at all identify with China. The Dalai Lama has said that "Not a single Tibetan consider themselves as Chinese." *Tibetans Open to Talks with China*, AFP, Nov. 17, 2009. Reportedly however "10,000 pro-Chinese Tibetans" gathered in Lhasa in 2009 to celebrate the 50<sup>th</sup> anniversary of the abolition of Tibet's serfdom. *For Tibetans in Exile, the 'End of Slavery' is Nothing but Propaganda*, ASIA NEWS, Mar. 28, 2009, <http://www.asianews.it/index.php?l=en&art=14849&size=A>. In 2004, the Communist Party in the TAR had 120,000 members, 72,000 of them Tibetan.

that view as well. In a 2009, 33-country poll, measuring “trust, admiration, respect and pride in [the participants’] country,” Indians and Chinese came out virtually the same, with the sixth and seventh highest rates of admiration for their countries.<sup>94</sup> In a 2005 survey on “pride in India” in which the all-India total of “very proud” and “proud” was 89%, the result for STs was lower, 77%. That has been explained to be “partly because these groups fail[] to understand the question (itself a reflection of the uneven dissemination of the idea of nationalism in modern India) and partly because they are genuinely less enthusiastic about Indian nationalism.”<sup>95</sup> Indeed, a large 2010 survey found that 18% of a random sample of Indians “did not even know the name of their country.”<sup>96</sup> The figure equally applied to illiterates, many of whom are STs. A sixth of those polled identified only by their ethnicity, state (i.e. province) or religion and not as Indians.<sup>97</sup>

Subjective attitudes toward national unity in China and India thus may be rather similar, but overall, disaffection among ethnic minorities in India seems higher than in China. Chinese generally are moreover much more satisfied with the direction their country is going (83%) than are Indians (38%), according to a 2012 Pew survey. If that continues, there may be a greater chance of long-lived national coherence in China than in India.<sup>98</sup>

## THE UNITED STATES AS EXEMPLARY?

### *Pervasive Racialization*

Opponents of depoliticization have strongly interrogated claims that the United States has largely unproblematic ethnic policies and strenuously argue that the United States cannot be a proper model for Chinese policy. This argument is premised on the claim that, unlike China, the United States has a society that needs

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Harish Chandola, *Communist Party Controls Tibet*, Times of India (TOI), INDIA TIMES, Jul. 30, 2004, [http://articles.timesofindia.indiatimes.com/2004-07-31/rest-of-world/27146459\\_1\\_renminbi-tibetan-communist-party](http://articles.timesofindia.indiatimes.com/2004-07-31/rest-of-world/27146459_1_renminbi-tibetan-communist-party).

<sup>94</sup> *National Pride*, THE ECONOMIST, Sept. 29, 2009.

<sup>95</sup> Alfred Stepan et al., *Crafting State-Nations* 69 (Johns Hopkins University Press, 2001)

<sup>96</sup> *Id.*

<sup>97</sup> Sanjay Kumar & Yogendra Yadav, *Indians not Chauvinist, Hate Hegemony*, CNN-IBN-Hindustan Times State of the Nation survey, 2011, <http://ibnlive.in.com/features/rday/stgateofthenation/natioal.php>.

<sup>98</sup> Muneeza Naqvi, *Survey: Indians Disappointed with Economy, Gov’t*, Associated Press, Sept. 11, 2012. The figure for the U.S. was 29%. *Id.*

to consolidate disparate immigrant groups, and the political elites have done so by claiming perpetual threats to a vaunted and universalized political system and way of life. It has also been argued, contrary to what proponents of depoliticization assert, that the United States does have explicit ethnic policies, such as affirmative action.<sup>99</sup>

In fact, the United States has few ethnic policies, even in terms of multiculturalism and even compared to less multi-ethnic liberal democracies. Scholars at Canada's Queens University who measured the presence of multiculturalist policies applied to national minorities in 21 liberal democracies have shown that in 2010 the United States was behind or far behind all countries surveyed except France and Japan, the two states among those surveyed that, in effect, refuse to officially recognize the existence of their national minorities.<sup>100</sup>

With U.S. political elites generally unconcerned with the promotion of multiculturalism, let alone ethnic equality, everything consequential in the United States remains racialized. Take, for example, opinions about the major U.S. issue of health care. A 2009-2010 survey showed that racial attitudes had a much larger impact on such views than was shown by polls taken before President Obama became associated with the policy.<sup>101</sup> The racial divide in health care views was 20% greater in 2009 than for similar policies that President Clinton had proposed in 1993-1994.<sup>102</sup> Thus, it is reasonable to conclude that some of the opposition to "Obamacare" stems from racist viewpoints toward President Obama.

Issues ranging from Obama's nomination of a Supreme Court Justice to the likeability of his dog have been similarly racialized,<sup>103</sup> but racialization of views on health care stands out, as

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<sup>99</sup> Hao Shiyuan, *Meiguo minzu zhengce bu shi Zhongguo de bangyang* [The U.S.'s ethnic policies are not a model for China], HUANQIU RIBAO, July 13, 2012, <http://opinion.huanqiu.com/1152/2012-07/2910028.html>.

<sup>100</sup> Multiculturalism Policy Index, [www.queenu.ca/mcpi/](http://www.queenu.ca/mcpi/); last accessed Oct. 29, 2012.

<sup>101</sup> *Id.*

<sup>102</sup> Michael Tesler, *The Spillover of Racialization into Health Care: How President Obama Polarized Opinion by Racial Attitudes and Race*, 56 AM. J. POLI. SCI. 690, 691 (2012)

<sup>103</sup> Sasha Issenberg, *It All Comes Down to Race*, SLATE, June 1, 2012, [http://www.slate.com/articles/news\\_and\\_politics/victory\\_lab/2012/06/racialization\\_michael\\_tesler\\_s\\_theory\\_that\\_all\\_political\\_positions\\_come\\_down\\_to\\_racial\\_bias.html](http://www.slate.com/articles/news_and_politics/victory_lab/2012/06/racialization_michael_tesler_s_theory_that_all_political_positions_come_down_to_racial_bias.html). Ethnic polarization was also seen in the 2012 U.S. Presidential election. White people were 71%, black people 12%, Latinos 11% and others 6% of eligible voters. William Frey, *Why Minorities will Decide the 2012 U.S. Election*, BROOKINGS, May, 2012, [www.brookings.edu/research/opinions/2012/05/01-race-elections-frey](http://www.brookings.edu/research/opinions/2012/05/01-race-elections-frey). Some 40% of

the health problems of most minorities are far worse than those of white people. For example, black people are seven times more likely than white people to be HIV infected, with African American women 23 times more likely than white women, mainly because the rate of the HIV infection is seven times higher in prison than outside and the incarceration rate of black people is almost seven times that of white people (see below).<sup>104</sup> Similarly, a 2012 study of cardiac arrests found that in low-income black neighborhoods, the odds of bystander-initiated cardiopulmonary resuscitation (CPR) is 50% lower than in high-income non-black neighborhoods.<sup>105</sup> Regardless of the character of the neighborhood where cardiac arrest takes place, black people and Latinos are 30% less likely than white people to receive CPR from a bystander and many die as a result.<sup>106</sup>

### *Poverty, Incarceration, and Discrimination*

The only U.S. practices aimed at ameliorating white/minority gaps -- affirmative action (preferential policies) and a putatively inclusive political process -- have in recent decades mainly *not* been ameliorative. Disparities remain huge and the position of African Americans has generally worsened. In 2009, 7.1% of white people and 12.7% of black people were unemployed; in 2012, the figures were 7.4% and 14.1%.<sup>107</sup> Due to the long history of enforced marginality of black labor, direct discrimination has been joined by a relative lack of job networks, which has ensured a high rate of African American unemployment.<sup>108</sup> That applies after higher education as well: joblessness for African American college graduates is nearly twice as high as for their white

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white people, but 80% of minorities (93% of black people; 70% of Latinos and Asian Americans) voted for Barack Obama. *Minorities Came Out in Drove for Obama*, CNN, Nov. 8, 2012, <http://transcripts.cnn.com/TRANSCRIPTS/1211/08/sitroom.02.html>; *Face of U.S. Changing*, AP, Nov. 12, 2012, <http://bigstory.ap.org/article/face-us-changing-elections-look-different-0>.

<sup>104</sup> Sadhbh Walshe, *Incarceration: When HIV Infection does Discriminate*, GUARDIAN, June 21, 2012, <http://www.theguardian.com/commentisfree/2012/jun/21/incarceration-hiv-infection-discrimination/print>.

<sup>105</sup> Comilla Sasson, et al., *Association of Neighborhood Characteristics with Bystander-initiated CPR*, 367 NEW ENGLAND J. MEDICINE 1607, 1613 (2012).

<sup>106</sup> *Id.*

<sup>107</sup> *First Black President Can't Help Blacks Stem Wealth Drop*, BLOOMBERG NEWS, Sept. 6, 2012, <http://www.bloomberg.com/news/print/2012-09-05/first-black-president-can-t-help-blacks-stem-wealth-drop.html>.

<sup>108</sup> Deidre Royster, *Race and the Invisible Hand: How White Networks Exclude Black Men from Blue-Collar Jobs* (Berkeley: University of California Press, 2003).



counterparts.<sup>109</sup> There is evidence from the U.S.'s gigantic retail sector that both the racial/ethnic preferences of non-black managers and lesser job networks continue to diminish hiring opportunities for black people.<sup>110</sup>

The official African American poverty rate was 22.5% in 2000; in 2012, 28% of African Americans and 37% of black children were poor, compared with 25.3% of Latinos and 34.1% of Latino children, and 10% of white people and 13% of white children.<sup>111</sup> Black household income was 63% that of white people in 1999, but only 55% in 2011.<sup>112</sup> From 2009 to 2012, African American household income fell over 11.1%, twice the percentage fall in white income.<sup>113</sup>

The United States has the highest incarceration rate in the world, 730 people behind bars per 100,000 inhabitants in 2010, compared to 114 in neighboring Canada and 170 (imprisoned or detained) in China as of 2009.<sup>114</sup> The 2.3 million U.S. incarcerated exceed the total incarcerated in the 35 largest European states.<sup>115</sup> The number of United States incarcerations is up 350% since 1970,

<sup>109</sup> *Your Wallet*, CHICAGO SUN TIMES, Apr. 23, 2009, <http://www.highbeam.com/doc/1N1-127C198FB4F0A0A8.html>.

<sup>110</sup> Laura Giulano, et al., *Manager Race and the Race of New Hires*, 27 J. LAB. ECON., 589, 626 (2009). In stores outside the South, changing from a black to a white manager typically leads to a proportional decline of 15% in black employment in the store, while the effect in the South is much greater. Change from a white to a black manager increases by 15% the rate at which white people quit.

<sup>111</sup> Algernon Austin, *Three Lessons about Black Poverty*, ECONOMIC POLICY INSTITUTE, Sept. 18, 2009, [www.epi.org/publication/the\\_lessons\\_of\\_black\\_poverty/](http://www.epi.org/publication/the_lessons_of_black_poverty/); Frederick C. Harris, *The Price of a Black President*, THE NEW YORK TIMES, Oct. 28, 2012, [http://www.nytimes.com/2012/10/28/opinion/sunday/the-price-of-a-black-president.html?pagewanted=all&\\_r=0&pagewanted=print](http://www.nytimes.com/2012/10/28/opinion/sunday/the-price-of-a-black-president.html?pagewanted=all&_r=0&pagewanted=print); Tami Luhby, *Median Income Falls, So Does Poverty*, CNN, Sept. 12, 2012, <http://money.cnn.com/2012/09/12/news/economy/median-income-poverty/>; *Information on Poverty and Income Statistics*, APSE Issue Brief, Sept. 12, 2012, <http://aspe.hhs.gov/hsp/12/povertyandincomeest/ib.shtml>.

<sup>112</sup> Robert Ross, *Poverty More than a Matter of Black and White*, INEQUALITY.ORG, Oct. 8, 2012, <http://inequality.org/poverty-matter-black-white/>.

<sup>113</sup> Patrik Jonsson, *Will Black Voters Give Obama What he Needs in Southern Swing States?*, CHRISTIAN SCIENCE MONITOR, Oct. 5, 2012, <http://www.csmonitor.com/USA/Elections/President/2012/1005/Will-black-voters-give-Obama-what-he-needs-in-Southern-swing-states>.

<sup>114</sup> International Centre for Prison Studies, University of Essex, UK, *World Prison Brief*, 2012,

[www.prisonstudies.org/info/worldbrief/wpb\\_stats.php?area=northam&category=wb\\_poptotal](http://www.prisonstudies.org/info/worldbrief/wpb_stats.php?area=northam&category=wb_poptotal). The U.S. has about 20 million felons, with 1.5 million of them currently in prison. *Candidates Ignore Captive Audience*, South China Morning Post (SCMP), Oct. 26, 2012.

<sup>115</sup> Albert R. Hunt, *A Country of Inmates*, THE NEW YORK TIMES, Nov. 20, 2011, <http://www.nytimes.com/2011/11/21/us/21iht-letter21.html?pagewanted=print>.

although the U.S. population has grown only 33% in that same timespan.<sup>116</sup> Incarceration doubled in 1995-2010 alone, although the number of violent crimes has scarcely increased after 1980 and property crime has fallen sharply.<sup>117</sup>

Some 62% of persons incarcerated in the United States are either Black (44%) or Latino (18%), while these groups make up just 13% and 15% of U.S. adults, respectively. Three-fourths of those behind bars for drug offenses are persons of color.<sup>118</sup> In 2007, among U.S. adults, 9.2% of black people, 3.7% of Latinos, and 2.2% of white people were in the corrections system (prison, jail, probation and supervision).<sup>119</sup> Some 11% of black males aged 25-34 were incarcerated as of June, 2006.<sup>120</sup> Among male adults, 16% of black people, 8% of Latinos and 3% of white people had served prison time at some point in their life.<sup>121</sup> Black men are more likely to go to prison than graduate with a four-year college degree or complete military service.<sup>122</sup> Young black males without high school diplomas are more likely to be in prison than working.<sup>123</sup> Among young men without high school diplomas born in 1975-1979, 68% of black people, but 28% of white people, had been imprisoned at some point by 2009 and 37% of black people, but 12% of white people, were incarcerated that year.<sup>124</sup> A black boy

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<sup>116</sup> *Id.*

<sup>117</sup> Nike Kamrany and Ryan Boyd, *U.S. Incarceration Rate is a National Disgrace*, HUFFPOST, Apr. 13, 2012, [http://www.huffingtonpost.com/nike-m-kamrany/incarceration-rate\\_b\\_1423822.html?view=print&comm\\_ref=false](http://www.huffingtonpost.com/nike-m-kamrany/incarceration-rate_b_1423822.html?view=print&comm_ref=false)

<sup>118</sup> *Id.*; Chinta Strausberg, *The Sentencing Project Calls for an Overhaul of the Criminal Justice System*, COPYLINE NEWS MAGAZINE (Apr. 2, 2011), <http://www.copylinemagazine.com/news/2011/04/02/the-sentencing-project-calls-for-an-overhaul-of-the-criminal-justice-system/> (explaining that the Latino incarceration rate is not greatly disproportionate because many Latinos are immigrants and immigrants are 45% less likely than third generation Americans to commit violent crimes); Marc Parry, *The Neighborhood Effect*, CHRONICLE OF HIGHER EDUCATION (Nov. 5, 2012), <http://chronicle.com/article/The-Neighborhood-Efect/135492/>.

<sup>119</sup> PEW CENTER ON THE STATES, ONE IN 31: THE LONG REACH OF AMERICAN CORRECTIONS (2009), [http://www.pewcenteronthestates.org/uploadedFiles/PSPP\\_1in31\\_report\\_FINAL\\_3-26-09.pdf](http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_3-26-09.pdf).

<sup>120</sup> Carlos Gradín, *Poverty among Minorities in the United States: Explaining the Racial Poverty Gap for Blacks and Latinos*, 44:29 APPLIED ECON. 3793-3804 (2011).

<sup>121</sup> Steven Raphael, *Causes and Labor-Market Consequences of the Steep Increase in U.S. Incarceration Rates*, in LABOR IN THE ERA OF GLOBALIZATION 375, 392-4 (Clair Brown et al. eds., 2010).

<sup>122</sup> *Id.*

<sup>123</sup> *Id.*

<sup>124</sup> Becky Pettit, *Invisible Men: Mass Incarceration and the Myth of Black Progress* (2012).

born in 2001 is projected to have a 1 in 3 chance of going to prison; a Latino boy a 1 in 6 chance; and a White boy a 1 in 17 chance.<sup>125</sup>

In part, racial differences in offending, and therefore in incarceration, are directly tied to social status disparities and black inner-city residence. A U.S. criminologist has observed:

[S]tatus and residential differences, and the crimes they foster, are the legacy of historic, deliberate racial bias, combined with a willful blindness that allows the modern products of that bias to continue and in some ways grow worse. In particular, city, county, and metro-level policies regarding schools, housing, transportation, and other public services and subsidies have often worsened, and rarely tried to ameliorate, criminogenic concentrations of race and poverty . . . . The criminal justice system's response to crime in poor, nonwhite areas magnifies and perpetuates differences in socioeconomic status and criminal behavior.<sup>126</sup>

Direct discrimination in arrests and sentencing play a large role in racial disparities in incarceration. Ernest Drucker, a specialist on the effects of mass incarceration has noted that "there is no evidence that drug use is dramatically different by race or ethnicity, but the pattern of arrests is very different,"<sup>127</sup> African American arrestees for drug and property crimes, which account for 60% of all imprisonments, are jailed at three and two times the rates for white arrestees. Disparities also stem from mandatory minimum sentencing requirements and laws that force judges to especially apply higher sentences to crimes more likely to be committed by black people, such as possession of crack (solid) cocaine, as opposed to powdered cocaine white people are more likely to use.<sup>128</sup> As to sentencing, studies have found that:

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<sup>125</sup> CHILDREN'S DEFENSE FUND, ANNUAL REPORT 2007, at 22 (2007).

<sup>126</sup> Robert S. Frase, *What Explains Persistent Racial Disproportionality in Minnesota's Prison and Jail Populations?*, in 38 CRIME AND JUST.: A REV. OF RES. 201, 263 (2009).

<sup>127</sup> Paul Harris, *Obama's Presidency 'Has Not Helped the Cause of Black People in U.S.'*, OBSERVER (Oct. 13, 2012), <http://www.theguardian.com/world/2012/oct/13/barack-obama-presidency-black-people/print>.

<sup>128</sup> Paige M. Harrison & Allen J. Beck, U.S. DEP'T OF JUSTICE, *Prison and Jail Inmates at Mid-Year 2005* 9 (2006); NAT'L RESEARCH COUNCIL, MEASURING RACIAL DISCRIMINATION 46 (Rebecca M. Blank et al., 2004); Pamela E. Oliver, *Racial Disparities in Imprisonment: Some Basic Information*, 21:3 FOCUS 28, 28-31 (2001).

- Young, black and Latino males (especially if unemployed) are subject to particularly harsh sentencing compared to other offender populations;
- Black and Latino defendants are disadvantaged compared to white people with regard to legal-process related factors such as the “trial penalty,” sentence reductions for substantial assistance, criminal history, pretrial detention, and type of attorney;
- Black defendants convicted of harming white victims suffer harsher penalties than black people who commit crimes against other black people or white defendants who harm white people;
- Black and Latino defendants tend to be sentenced more severely than comparably situated white defendants for less serious crimes, especially drug and property crimes.

Studies that examine death-penalty cases have generally found that:

- In the vast majority of cases, if the murder victim is white, the defendant is more likely to receive a death sentence;
- In a few jurisdictions, notably the federal system, minority defendants (especially black people) are more likely to receive a death sentence.<sup>129</sup>

The 1930s incarceration rate of U.S. black people was 3:1<sup>130</sup>; in 2010 it was 6.7 times that of white people;<sup>131</sup> Disproportionate imprisonment is found in many multi-ethnic liberal democracies:

Table 1: Ethnic Majority/Minority Incarceration Rate Ratios

Jurisdiction	Comparison	Ratio
UK <sup>132</sup>	Black/white	5:1
Canada <sup>133</sup>	Aboriginal/white; black/white	7.8:1; 3:1

<sup>129</sup> Tushar Kansal, *The Sentencing Project, Racial Disparity in Sentencing: A Review of the Literature 2* (Marc Mauer ed., 2005).

<sup>130</sup> Harris, *supra* note 111.

<sup>131</sup> Paul Guerino et al., U.S. DEP’T OF JUSTICE, *Prisoners in 2010*, 7 (2011), available at <http://bjs.ojp.usdoj.gov/content/pub/pdf/p10.pdf>.

<sup>132</sup> MINISTRY OF JUSTICE, *Statistics on Race and the Criminal Justice System, 2007/8: A MINISTRY OF JUSTICE PUBLICATION UNDER SECTION 95 OF THE CRIMINAL JUSTICE ACT 1991* 171 (U.K.) (2009) (estimating that the black/white ratio of stop and searches is 8:1).

Australia <sup>134</sup>	Aboriginal/white	13:1
S. Africa <sup>135</sup>	Black/white; colored white	5.7:1; 11:1
Taiwan <sup>136</sup>	Aborigine/Han	6:1
New Zealand <sup>137</sup>	Maori/non-Maori	6:1
Greece <sup>138</sup>	Roma/non-Roma	7:1

In comparison, the late 1990s rate for Tibet Autonomous Region ethnic Tibetans was 70% that of the all-China incarceration rate and only one eightieth the African American rate. For Tibetans in neighboring Qinghai province, the incarceration rate was only a seventh to an eighth of the all-China rate and a mere one four-hundredth of the African American rate.<sup>139</sup>

<sup>133</sup> PRISON DAY JUSTICE CTR., *Behind the Bars in Canada* (2008), available at [http://www.prisonjustice.ca/downloads/behindbarsleaflet\\_08.pdf](http://www.prisonjustice.ca/downloads/behindbarsleaflet_08.pdf); Peter McKnight, *Race and Crime Not Exactly a Black and White Matter*, VANCOUVER SUN, Mar. 25, 2006, at C5 (demonstrating that Aboriginals are 2.7% of Canada's population, but 21% of Canadian federal prisoners and for black, the comparable figures are 2.5% and 9%); *Federal Prison Population in Canada Growing*, LONDON COMMUNITY NEWS, Oct. 24, 2012.

<sup>134</sup> MINORITY RIGHTS GRP. INT'L, *State of the World's Minorities and Indigenous Peoples* (2009), <http://www.unhcr.org/refworld/category/COIAUS/4a66d9c1c0.html> (identifying that the black Australian incarceration rate is five times higher than that of black South Africans during the apartheid era and two-thirds of Aborigine children who have contact with police are jailed, two-thirds of white children who do so are cautioned); John Pilger, *Return to a Secret Country*, NEW STATESMAN, Nov. 30, 2009, at 20.

<sup>135</sup> SAPA, *Prison Rates Shock*, IOL NEWS, Nov. 25, 2008, [www.iol.co.za/news/south-africa/prisons-race-shock-1.426802](http://www.iol.co.za/news/south-africa/prisons-race-shock-1.426802).

<sup>136</sup> Roderic Broadhurst, *Crime and Indigenous People*, in HANDBOOK OF AUSTRALIAN CRIMINOLOGY 256, 277 (Adam Graycar & Peter Grabosky eds., 2002).

<sup>137</sup> DEP'T OF CORRECTIONS OF N. Z., *Over-representation of Maori in the Criminal Justice System* (2007), available at [www.corrections.govt.nz/news-and-publications/over-representation-of-maori-in-the-criminal-justice-system/1.0-introduction/1.html](http://www.corrections.govt.nz/news-and-publications/over-representation-of-maori-in-the-criminal-justice-system/1.0-introduction/1.html).

<sup>138</sup> U.S. DEP'T OF STATE, 2010 HUMAN RIGHTS REPORT: GREECE (2011), available at [www.state.gov/j/drl/rls/hrrpt/2010/eur/154427.htm](http://www.state.gov/j/drl/rls/hrrpt/2010/eur/154427.htm).

<sup>139</sup> *What is Going on in Tibet's Prisons*, XINHUA NEWS AGENCY, Apr. 17, 2000; James D. Seymour & Richard Anderson, NEW GHOSTS, OLD GHOSTS: PRISONS AND LABOR REFORM CAMPS IN CHINA 168 (2d ed. 1998) (explaining that the low incarceration rate for Tibetans for ordinary crimes may partly result from a policy for minorities of "two restraints [in arrests and executions] and one leniency [in treatment]" (*liang shao yi kuan*)). See Zhang Qimin, *Dui shaoshu minzu zhong de fazui fenzi bixu shixing 'liang shao yi kuan' zhengce* (The policy of two restraints and one leniency must be practiced among ethnic minority criminal elements). QINGHAI MINZU XUEYUAN XUEBAO SHEHUI KEXUE BAN 1, 1991, available at <http://bbs.m4.cn/thread-183351-1-1.html>; Zhang Qimin, *Liang shao yi kuan shi zenme hui shi?* (How did two restraints and one leniency come to be?), Jun. 30, 2009, <http://hi.baidu.com/daidangwei/blog/item/dc2295d7445.cb02607088bb3.html> (noting that "in legal and civil disputes, authorities throughout the nation tend to side with ethnic minorities for the sake of preserving ethnic unity, even to the dissatisfaction of the Han"); Lai Hongyi, *Ethnic Autonomous Regions: a Formula for a Unitary Multiethnic State*, in CHINA'S LOCAL ADMINISTRATION: TRADITIONS AND CHANGES IN THE SUB-NATIONAL HIERARCHY 62, 77 (Jae Ho Chung & Lam Tao-Chiu eds., 2010).

The past few decades of large increases in imprisonment of young African American men may mean that many claims of black progress are misleading because statistics on employment and high school graduation are based on household surveys that do not include people behind bars. For example, a 2012 study showed that, “including inmates in assessments of high school completion indicates no improvement in the black-white gap in high school graduation rates among men since the early 1990s.”<sup>140</sup>

When identically-qualified U.S. black and white “testers” were used to study housing discrimination, black people who expressed interest in a loan, home viewing, or realtor services were discriminated against half the time as renters and 59% as buyers.<sup>141</sup> The U.S. government has implemented programs that foster residential segregation and fail to adequately respond to housing discrimination.<sup>142</sup> Residential segregation of African Americans has declined only slightly in the past two decades; most black people are still severely segregated from white people and in many large metropolises, the dissimilarity index (no segregation = 0; complete segregation = 1) exceeds 0.7. Latino and Asian American residential segregation from other “races” has increased or at least remained at the level of 30 years earlier, while the U.S. now has intense Latino and Asian American ethnic enclaves in many parts of the country.<sup>143</sup> As a result in part of segregation, two-thirds of African-American children born between 1985 and 2000 are being raised in high poverty neighborhoods, as against 6% of white children.<sup>144</sup>

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<sup>140</sup> Tyjen Tsai & Paola Scommegna, Population Reference Bureau, *U.S. has World's Highest Incarceration Rate*, STATE NEWS SERVICE, Oct. 10, 2012.

<sup>141</sup> Joe Feagin, RACIST AMERICA: ROOTS, CURRENT REALITIES AND FUTURE REPARATIONS 155 (2000).

<sup>142</sup> *Residential Segregation and Housing Discrimination in the United States*, U.S. HOUSING SCHOLARS AND RESEARCH AND ADVOCACY ORGANIZATIONS (2008), available at [http://www.prrac.org/pdf/FinalCERDHOUSING DiscriminationReport.pdf](http://www.prrac.org/pdf/FinalCERDHOUSING%20DiscriminationReport.pdf).

<sup>143</sup> Camille Zubrinsky Charles, *The Dynamics of Racial Residential Segregation*, 29 ANN. REV.SOC. 167-203 (2003); George P. Mason et al., *Residential Segregation and Desegregation: is Housing Discrimination a Relevant Sociological Issue in the 21<sup>st</sup> Century?* paper, AM. SOC. ASS'N MEETING, Aug. 10, 2006; John R. Logan & Brian J. Stults, *The Persistence of Segregation in the Metropolis: New Findings from the 2010 Census (2011)*, available at <http://www.s4.brown.edu/us2010/Data/Report/report2.pdf>; see also Steven Holloway et al, *The Racially Fragmented City: Neighbourhood Racial Segregation and Diversity Jointly Considered*, in 64.1 PROFESSIONAL GEOGRAPHER 63 (2011).

<sup>144</sup> *Economic Mobility for African Americans May be a Myth, Pew Reports Shows*, HUFFPOST BLACK VOICES, July 17, 2012,

U.S. schools are more segregated now than in earlier decades, in part because in 1970, four-fifths of white students were in public schools, but in 2012, less than half were.<sup>145</sup> Some 80% of Latino and 74% of African American students were in schools where most students are not white; while 43% of Latinos and 38% of black people attend "intensely segregated schools," where white people are 10% or less.<sup>146</sup> Most black students are now in schools where almost two-thirds of students are low-income, nearly double the level in schools of most white or Asian American students.<sup>147</sup> Re-segregation of U.S. schools partly results from government policy:

The Obama Administration, like the Bush Administration, has taken no significant action to increase school integration or to help stabilize diverse schools as racial change occurs in urban and suburban housing markets and schools. Small positive steps in civil rights enforcement have been undermined by the Obama Administration's strong pressure on states to expand charter [publicly-funded, but privately-operating] schools, the most segregated sector of schools for black students.<sup>148</sup>

Black and Latino student performance has also declined to the level at the beginning of the 1980s, with high school seniors (17 years old) performing at the level of 13-year old white people. The gap is widening in math and other subjects. The main reasons are a growing inequality in the resources provided schools and "unconscious bias."<sup>149</sup> A 2012 report showed that 52% of black males, 58% of Latino males, but 78% of white males graduate high school. That represents a very small narrowing of the gap between white people and black people (26%) from what it was ten years

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[http://www.huffingtonpost.com/2012/07/17/economic-mobility-african-americans\\_n\\_1676811.html](http://www.huffingtonpost.com/2012/07/17/economic-mobility-african-americans_n_1676811.html),

<sup>145</sup> Gary Orfield, John Kucsera & Genevieve Siegel-Hawley, *E Pluribus...Separation: Deepening Double Segregation for More Students*, UCLA CIVIL RIGHTS PROJECT, 15 (September 2012), <http://civilrightsproject.ucla.edu/research/k-12-education/integration-and-diversity/mlk-national/e-pluribusseparation-deepening-double-segregation-for-more-students>.

<sup>146</sup> *Id.* at 7.

<sup>147</sup> *Id.*

<sup>148</sup> *Id.* at 9.

<sup>149</sup> *Black, Latino Students Perform at Levels of 30 Years Ago*, HUFFPOST EDUCATION, Jan. 23, 2012, [www.huffingtonpost.com/2012/01/23/black-latino-students-per\\_n\\_1224790.html](http://www.huffingtonpost.com/2012/01/23/black-latino-students-per_n_1224790.html).

earlier (29%), but only, as mentioned above, if incarcerated black people are ignored in calculating graduation rates. In states where black populations are small (Idaho, Maine, Utah, Vermont), black males do about as well or better than white males, because there they are not relegated to under-resourced education. International experience (Canada's Ontario province, Finland, Singapore, etc.) shows that when developed countries want to rapidly raise high school graduation rates, they can, but the U.S. government has chosen to not do so.<sup>150</sup>

In the past three decades, the number of black people with advanced degrees and producing growth in the share of minorities in bachelor's degree programs.<sup>151</sup> A large gap remains however: 40% of white people, but only 23% of African Americans and 25% of Latinos who turned 24 in 2009 had a bachelor's degree or were studying for one.<sup>152</sup> A 2011 report stated that black people with bachelor's degrees on average earn 20% less than white people with these degrees; black people with professional degrees earn 23% less in lifetime earnings, while those with master's degrees earn less than white people with bachelor's degrees.<sup>153</sup> The New York Times has said that it is "difficult not to attribute the wage gap to outright bias."<sup>154</sup>

Affirmative action is far from compensating for bias. A 2009 study found that affirmative action barely exists in the U.S. and notes that 18 of the 50 U.S. states, including highly diverse California, "have on their books legislative enactments or constitutional amendments prohibiting race-based admissions, policies in public education and other government programs."<sup>155</sup> Most higher education institutions have no preferential policies for minorities and thus calculations show that if all such programs

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<sup>150</sup> "The Urgency of Now: The Schott 50 State Report on Public Education and Black Males," SCHOTT FOUNDATION, 2012, [www.schottfoundation.org/publications-reports/](http://www.schottfoundation.org/publications-reports/).

<sup>151</sup> Stephen Carter, *Affirmative Distraction*, THE NEW YORK TIMES, July 6, 2008, [http://www.nytimes.com/2008/07/06/opinion/06carter.html?pagewanted=all&\\_r=0](http://www.nytimes.com/2008/07/06/opinion/06carter.html?pagewanted=all&_r=0).

<sup>152</sup> Bureau of Labor Statistics, *America's Young Adults at 24*, 2012, [www.bls.gov/news.release/pdf/nlsyth.pdf](http://www.bls.gov/news.release/pdf/nlsyth.pdf).

<sup>153</sup> Anthony Carnevale, Stephen Rose & Ban Cheah, *The College Payoff: Education, Occupation, Lifetime Earnings*, THE GEORGETOWN UNIVERSITY CENTER ON EDUCATION AND THE WORKFORCE, 11 (2011), <http://cew.georgetown.edu/collegepayoff/>.

<sup>154</sup> Motoko Rich, *It's not Just the Degree, but what you Study*, THE NEW YORK TIMES, Aug. 11, 2011, <http://economix.blogs.nytimes.com/2011/08/04/its-not-just-the-degree-but-what-you-study/>.

<sup>155</sup> John Johnson and Robert Green, *Affirmative Action* (Santa Barbara: ABC Clio, 2009): 172-173.



ended, the chances of a white applicant's admission would only rise by 1.2%.<sup>156</sup> At U.S. law schools, affirmative action expands the pool of black students by only 14% and only a third of black students admitted under affirmative action succeed in becoming lawyers.<sup>157</sup> In U.S. society generally, white women are affirmative action's main beneficiaries.<sup>158</sup> Affirmative action in higher education may be further curtailed after a 2013 Fifth Circuit Court decision that requires judges to strictly scrutinize "inherently suspect" admissions programs that have race as a component and permit only those narrowly tailored to "further compelling government interests."<sup>159</sup> However, this particular decision was later appealed and reversed.

African Americans face discrimination in 20% of job interviews; employers are 16% more likely to give a job to a white person even when a black person applied first and was better qualified, and are four times more likely to ask black applicants about job absenteeism than to ask white people.<sup>160</sup> White people get 50% more call-backs than similarly-qualified African Americans; white people's higher-qualified resumes elicit 30% more call-backs than lower-qualified ones, but for black people, having higher qualifications makes no difference in terms of call-backs.<sup>161</sup> White people with criminal records actually get more call-backs than equally-qualified black people who have no criminal record.<sup>162</sup> From 1994 to 2004, complaints of racial discrimination filed at the U.S. Equal Employment Opportunity Commission (EEOC) rose by 125%.<sup>163</sup> A 2012 study of five million private workplaces showed

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<sup>156</sup> Tim Wise, *Affirmative Action: Racial Preference in Black and White* (New York: Routledge, 2005): 72;

<sup>157</sup> Richard Sander, *A Systemic Analysis of Affirmative Action in American Law Schools*. 57 STANFORD L. REV. 479 (2004).

<sup>158</sup> Ella Bell and Stella Nkomo, *Our Separate Ways: Black and White Women and the Struggle for Professional Identity* (New York: McGraw Hill, 2001).

<sup>159</sup> *Fisher v. University of Texas at Austin et. al.* 631 F.3d. 248 (5th. Cir. 2011) (quoting *Miller v. Johnson*, 515 U.S. 900, 904, 115 S.Ct. 2475, 132 L.Ed.2d 762 (1995) (quoting *Regents of the Univ. of Cal. v. Bakke*, 438 U.S. 265, 291, 98 S.Ct. 2733, 57 L.Ed.2d 750 (1978)); *Fisher v. University of Texas at Austin et. al.*, 631 F.3d. 218 (5th Cir. 2011) (quoting *Grutter v. Bollinger*, 539 U.S. 306 (S.Ct. 2003).

<sup>160</sup> Richard Schaefer, *RACIAL AND ETHNIC GROUPS*, (Upper Saddle River: Prentice Hall, 10<sup>th</sup> ed., 2006).

<sup>161</sup> Marianne Bertrand and Senhil Mullainathan, *Are Emily and Greg More Employable than Lakisha and Jamal: a Field Experiment on Labor Market Discrimination*, 94 AM. ECON. REV. 992 (2004).

<sup>162</sup> Devah Pager, *The Mark of a Criminal Record*, 108 AM. J. SOC., 958 (2003).

<sup>163</sup> U.S. EEOC, *Race/Color Discrimination: Statistics*, 2008, [www.eeoc.gov/types/race.html](http://www.eeoc.gov/types/race.html).

that the trend to greater racial equality in U.S. workplaces had halted by 1980 and that the biggest gainers in managerial positions have been white men. Employment segregation of U.S. workplaces is high and, in one-sixth of U.S. industries, mainly those with high wages, racial segregation of white and black men is in fact increasing.<sup>164</sup>

*Increasing Ethnic Inequality in Income and Wealth*

In recent decades, average black incomes have fallen relative to white incomes: they were 34% of white incomes in 1880, 47% in 1947, 60% in 1971, 63% in 1974, 58% in 2010, and 55% in 2012.<sup>165</sup> Moreover, “the median annual household income for black people declined by 11.1% (from \$36,567 to \$32,498) from June 2009 to June 2012.”<sup>166</sup> The decline for white people was 5.2% and for Latinos 4.1%,<sup>167</sup> but over the longer term and in many respects, there is a decline among Latinos as well. Princeton University sociologist Douglas Massey, who studies the Latino population, remarked in 2012 that “over the past 20 years they have fallen on almost every measure of social and economic well-being . . . .”<sup>168</sup>

Contrary to “American Dream” scenarios, children from low-income backgrounds have little opportunity to strike it rich; they have a 1% chance to make it to the top 5% of income earners, whereas children of the rich have a 22% chance. Black children born in the bottom quartile of income distribution are nearly twice as likely to remain there as adults than white children with parents having identical incomes. Because differences in mobility for African Americans and white people persist, even after taking into account many parental background factors and children’s education and health, race per se remains an important determinant of economic mobility.<sup>169</sup> Black people born into the middle class have

<sup>164</sup> Kevin Stainback and Donald Tomaskovic-Devey, *Documenting Desegregation: Racial and Gender Segregation in Private Sector Employment Since the Civil Rights Act* (2012).

<sup>165</sup> Catherine Rampell, *Big Income Losses for those Near Retirement*, THE NEW YORK TIMES, Aug. 23, 2012, <http://economix.blogs.nytimes.com/2012/08/23/big-income-losses-for-those-near-retirement/>.

<sup>166</sup> *Id.*

<sup>167</sup> *Id.*

<sup>168</sup> Parry, *supra* note 108. See generally Scot Gray, *Back at the Lunch Counter Again?* INSIGHTNEWS.COM (Apr. 3, 2012), <http://insightnews.com/lifestyle/8741-back-at-lunch-counter-again>.

<sup>169</sup> Tom Hertz, CENTER FOR AMERICAN PROGRESS, UNDERSTANDING MOBILITY IN AMERICA (2006).

a much higher chance (50%) of downward income mobility than middle-class-born white people (16%). African Americans born into poor families (lowest quintile income) have a higher chance (54%) of staying poor than white people born into a poor family (31%).<sup>170</sup> In 2000, black people reached the 1991 white high school completion rate and 1977 white college completion rate, but their incomes averaged only those of white families in 1963. Only a third of the more than 20% gap in wages between black and white men can be explained by the sum of factors other than race discrimination.<sup>171</sup>

Black people have much less wealth than white people and their position declined from the mid-1990s to mid-2000s and then declined further in the mid-to-late 2000s as the recession held sway:

From 2005 to 2009, inflation-adjusted median wealth fell by 66% among Latino households and 53% among black households, compared with just 16% among white households. As a result of these declines, the typical black household had just \$5,677 in wealth (assets minus debts) in 2009; the typical Latino household had \$6,325 in wealth; and the typical white household had \$113,149. Moreover, about a third of black (35%) and Latino (31%) households had zero or negative net worth in 2009, compared with 15% of white households.

Thus in 2009, white wealth was on average 20 times African American wealth; the white-to-Latino wealth ratio was 15:1. In 1995, the differences in both cases had been seven times. About a quarter of all Latino (24%) and black (24%) households in 2009 had no assets other than a vehicle, compared with just 6% of white households<sup>172</sup>

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<sup>170</sup> Julia Issacs, ECONOMIC MOBILITY PROJECT, ECONOMIC MOBILITY OF BLACK AND WHITE FAMILIES (2007); Kenneth Ng & Nancy Virts, *The Black-White Income Gap in 1880*, 61:1 AGRICULTURAL HISTORY 1(1993); *Distribution of Household Income by Race*, INFOPLEASE (2012), [www.infoplease.com/ipa/A0104552.html](http://www.infoplease.com/ipa/A0104552.html)(identifying that Latino family income in 2007 was 62% that of white people, down from 63% in 2001); APPLIED RESEARCH CENTER AND CENTER FOR THE STUDY OF SOCIAL POLICY, CHECK THE COLOR LINE: 2009 INCOME REPORT, *available at* [www.racewire.org/archives/2009/02/report\\_racial\\_income\\_gap\\_chron.html](http://www.racewire.org/archives/2009/02/report_racial_income_gap_chron.html).

<sup>171</sup> William Spriggs, *The Economic Crisis in Black and White*, AMERICAN PROSPECT (September 19, 2008), <http://prospect.org/article/economic-crisis-black-and-white>.

<sup>172</sup> Rakesh Kochhar et al., *Wealth Gaps Rise to Record Highs Between Whites, Blacks and Hispanics*, PEW RESEARCH CENTER, (July 26, 2011), *available at*

Some 80% of black people start adulthood with no wealth and no access to it through relatives.<sup>173</sup> A 2012 report found that 68% of African Americans reared in middle quintile households fall into the bottom two quintiles, compared to 31% for white people.<sup>174</sup> Compared to white people, black people continue to be bereft of important assets. Of the 932 million acres of agricultural land in the U.S. in 1999, 98.1% was owned by white people and only 0.9% by black people.<sup>175</sup> Only 18% of black people and Latino people, but 43% of white people, have retirement savings accounts.<sup>176</sup> Much of African American wealth loss in the recession was because 60% of black peoples' wealth was in home ownership. Banks had disproportionately steered black and Latino people into buying high interest sub-prime mortgages: members of these minorities with good credit ratings received sub-primes at three times the rate of white people with equal credit ratings. The result is that about a fourth of African American homeowners are likely to have lost their homes in the crisis.<sup>177</sup>

U.S. ethnic policies have not created harmonious "race relations." Black people in 2010 were 13% of Americans, but 70% of racial hate crimes victims, while white people, were 72.4% of the U.S. population, but 17% of victims.<sup>178</sup> Almost all minority people see white people as economic and political competitors; white people are so advantaged they do not see minorities as competitors.<sup>179</sup>

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[www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-Latinos/](http://www.pewsocialtrends.org/2011/07/26/wealth-gaps-rise-to-record-highs-between-whites-blacks-Latinos/).

<sup>173</sup> Melvin L. Oliver & Thomas M. Shapiro, *Black Wealth, White Wealth: A New Perspective on Racial Inequality* (1997).

<sup>174</sup> PEW CHARITABLE TRUST & ECONOMIC MOBILITY PROJECT, *Pursuing the American Dream: Economic Mobility Across Generations* 3 (July 2012), available at [http://www.pewstates.org/uploadedFiles/PCS\\_Asset/2012/Pursuing\\_American\\_Dream.pdf](http://www.pewstates.org/uploadedFiles/PCS_Asset/2012/Pursuing_American_Dream.pdf).

<sup>175</sup> Jess Gilbert et al., *Who Owns the Land? Agricultural Land Ownership by Race/Ethnicity*, 17:4 RURAL AMERICA 55, 56 (2002).

<sup>176</sup> Barbara Ehrenreich & Dedrick Muhammad, Op-Ed., *The Recession's Racial Divide*, THE NEW YORK TIMES, Sept. 13, 2009, available at <http://www.nytimes.com/2009/09/13/opinion/13ehrenreich.html>.

<sup>177</sup> Debbie Gruenstein Bocian et. al., CENTER FOR RESPONSIBLE LENDING, *Lost Ground, 2011: Disparities in Mortgage Lending and Foreclosures*. See also Emily Badger, *Were Banks Guilty of Racial Discrimination in the Housing Crisis?*, THE ATLANTIC CITIES, Oct. 16, 2012, available at [www.theatlanticcities.com/housing/2012/10/did-big-banks-subprime-mortgage-crisis-violate-civil-rights-law/3598/](http://www.theatlanticcities.com/housing/2012/10/did-big-banks-subprime-mortgage-crisis-violate-civil-rights-law/3598/).

<sup>178</sup> Federal Bureau of Investigations, *Hate Crime Statistics 2010*, [www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-victims](http://www.fbi.gov/about-us/cjis/ucr/hate-crime/2010/narratives/hate-crime-2010-victims).

<sup>179</sup> Vincent Hutchings et al., *Whose Side Are You On? Explaining Perceptions of Competitive Threat in a Multi-Racial and Multi-Ethnic National Sample* (Aug. 31, 2006).

After uprisings in scores of U.S. cities from 1964-1968, a safety valve was supposed to have opened through opportunities for ethnic minorities to join elites; yet, in Miami in 1980 and Los Angeles in 1992 there were major uprisings, while smaller ones occurred in many other U.S. cities.<sup>180</sup> A systematic study of such events has concluded that more are likely, albeit in forms different from the earlier ones.<sup>181</sup> Meanwhile, affirmative action has hardly affected the ethnic profile of the top rungs of firms that dominate the U.S. economy: in 2005, 98% of CEOs of Fortune 500 companies and 95% of their top earners were white males.<sup>182</sup>

Contrary to common assumption, the U.S. government does not have a vigorous program to promote ethnic equality and President Obama years has been exceptionally quiescent about ethnic inequality. University of Pennsylvania scholar Daniel Gillion examined Public Papers of the Presidents and determined that in his first two years in office, President Obama had spoken less about race than any Democratic President since 1961.<sup>183</sup> President Obama's 2011 State of the Union message was the first such speech since 1948 to not mention either poverty or the poor.<sup>184</sup>

If there has been little "Black progress" in the U.S. and significant evidence of deterioration in the material position of African-Americans, there has also been an increase in white racial prejudice against Black people during the tenure of the U.S.'s first African American president. In a 2012 random sample survey of Americans conducted for Associated Press (AP) by university researchers, 51% expressed explicit anti-black attitudes, up from 48% in 2008, while 56% had implicit anti-black attitudes, up from 49% in 2008. In a 2011 AP survey, 52% of non-Latino white people expressed anti-Latino attitudes and 57% did so implicitly.<sup>185</sup>

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<sup>180</sup> *Los Angeles Engulfed in Riots*, HISTORY.COM, Apr. 29, 1992, <http://www.history.com/this-day-in-history/riots-erupt-in-los-angeles>.

<sup>181</sup> Janet Abu-Lughod, *Race, Space, and Riots in Chicago, New York, and Los Angeles* (2007).

<sup>182</sup> Marilyn Gardner, *Is "White" the Only Color of Success?*, CHRISTIAN SCIENCE MONITOR (Oct. 31, 2005), <http://www.csmonitor.com/layout/set/print/2005/1031/p13s01-wmgn.html>.

<sup>183</sup> Ta-Nehisi Coates, *Fear of a Black President*, ATLANTIC (Sept. 2012), <http://www.theatlantic.com/magazine/archive/2012/09/fear-of-a-black-president/309064/>.

<sup>184</sup> Harris, *supra* not 111.

<sup>185</sup> Sonya Ross & Jennifer Agiesta, *Racial Views: Poll Shows Majority Harbor Prejudice against Blacks*, HUFFPOST (Oct. 27, 2012), [http://www.huffingtonpost.com/2012/10/27/racial-views-new-polls-sh\\_n\\_2029423.html](http://www.huffingtonpost.com/2012/10/27/racial-views-new-polls-sh_n_2029423.html).

*Indigenous and Colonized U.S. Minorities*

The rights of Native Americans (“American Indians”), the only Americans who have been endowed by law with comprehensive minority group rights, are now under assault from those who want to end all government-sponsored ethnic preferences. Opponents of affirmative action seek to gut the body of “Indian law” that singles out for special treatment tribal Indians living on or near reservations.<sup>186</sup> Scaled-back rights would adversely impact this indigenous minority, whose income level is only two-thirds that of white people, whose college enrollment rate is only 42% of white people, who have a 25% poverty rate, a 40% unemployment rate, and a suicide rate more than twice the national average.<sup>187</sup> In the plains states, where Native Americans are concentrated, they have a very high incarceration rate compared to the averages in those states.<sup>188</sup>

Table 2: Percent Native Americans (NA) in Plains States Populations and Imprisoned There

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<sup>186</sup> Carole Goldberg, *American Indians and “Preferential” Treatment*, 49 UCLA L. REV. 943 (2002).

<sup>187</sup> Carmen DeNavas-Walt et al., U.S. CENSUS BUREAU, INCOME, POVERTY, AND HEALTH INSURANCE COVERAGE IN THE UNITED STATES: 2005 (2006), available at <http://www.census.gov/prod/2006pubs/p60-231.pdf>; Graduate Management Admissions Council, *Key Statistics: American Indians and Alaska Natives* (Sept. 2011), [http://www.gmac.com/NR/rdonlyres/3B683F19-18D9-4620-A73A-96F9CF0FF19E/0/HO\\_NativeAmericanIndiansData.pdf](http://www.gmac.com/NR/rdonlyres/3B683F19-18D9-4620-A73A-96F9CF0FF19E/0/HO_NativeAmericanIndiansData.pdf); Laurel Morales, *Native Americans Have the Highest Suicide Rate*, FRONTERAS, Aug. 31, 2012, available at [www.fronterasdesk.org/news/2012/aug/31/native-americans-have-highest-rate-suicide/](http://www.fronterasdesk.org/news/2012/aug/31/native-americans-have-highest-rate-suicide/) (identifying that some 45% of self-declared American Indians are of mixed ancestry, and the social conditions of “full blooded Indians,” especially on reservations, are significantly worse).

<sup>188</sup> See Greg Guma, *Native Incarceration Rates are Increasing*, TOWARDSFREEDOM.COM (May 27, 2005), [www.towardfreedom.com/americas/140-native-incarceration-rates-are-increasing-0302](http://www.towardfreedom.com/americas/140-native-incarceration-rates-are-increasing-0302) (stating that 709 per 100,000 American Indians were incarcerated in U.S. prisons in 2000 as opposed to African Americans, whose rate hit 1815 per 100,000); Lisa Desjardins & Emma Lacey-Bordeaux, *Problems of Liberty and Justice of the Plains*, CNN, <http://www.cnn.com/2012/08/10/us/embed-america-tribal-justice/> (last updated Dec. 13, 2012) (discussing the alarming rates of incarceration among American Natives, particularly in South Dakota); *The Role of the SBA 8(a) Program in Enhancing Economic Development in Indian Country: Hearing Before the S. Comm. on Indian Affairs*, 116th Cong. (2011) (statement of Lance Morgan, Chairman Native Am. Contractors Ass’n)

State	% NA Pop.	NA % Prison Pop.
South Dakota	8.9	29
North Dakota	5	19
Nebraska	1	5
Wyoming	2	7
Montana	7	19 male; 33 female
Minnesota	1.3	9

The U.S. Commission on Civil Rights attributes such disparities to differential treatment by the criminal justice system, lack of access to adequate counsel, and racial profiling.<sup>189</sup>

Native Hawaiians have even worse conditions than Native Americans. Between first contact with Europeans in 1778 and the U.S. annexation of 1900, the native Hawaiian population decreased by about 95%, mainly through the introduction of diseases.<sup>190</sup> In the subsequent century, the native population partially recovered, but largely due to intermarriage, which spread out the potential to claim Native Hawaiian status, so that full Native Hawaiians are now less than 5% of the native population.<sup>191</sup> Native Hawaiians are, by official reckoning, 20% of the state's population; but they account for 75% of Hawaii's annual deaths among persons less than 18 years of age.<sup>192</sup> While in the last three decades, rates of death from diseases have decreased for the state's non-indigenous people, they have increased significantly for Native Hawaiians.<sup>193</sup> The life expectancy of Native Hawaiians is about 10.5 years less than the statewide average and around the level of poor Latin American countries.<sup>194</sup>

Hawaiian poverty and incarceration rates are twice the statewide average. The higher the level of education, the lower the participation of Hawaiians: they are 25% of elementary and secondary students, but 16% of community college students, 9% of

<sup>189</sup> *Native Americans and the Death Penalty*, DEATH PENALTY INFORMATION CENTER, <http://www.deathpenaltyinfo.org/native-americans-and-death-penalty#criminal> (last visited Feb. 6, 2014).

<sup>190</sup> David E. Stannard, *The Hawaiians: Health, Justice, and Sovereignty*, 24.1 CULTURAL SURVIVOR QUARTERLY, <http://www.culturalsurvival.org/ourpublications/csq/article/the-hawaiians-health-justice-and-sovereignty> (2000).

<sup>191</sup> *Id.*

<sup>192</sup> *Id.*

<sup>193</sup> *Id.*

<sup>194</sup> *Id.*

University of Hawaii main campus students and only one out of every 200 students awarded MA, PhD, law, and medicine degrees.<sup>195</sup> Yet, “the university and the state legislature refuse to fund request for tuition waivers and other educational aid specifically targeted for Hawaiians.”<sup>196</sup> Adult Native Hawaiians have an arrest rate that equals their proportion of the population (20%) and a lower rate still for violent crimes, but an incarceration rate that is twice the state average; so that they make up 40% of the state’s inmates.<sup>197</sup> Native Hawaiian juveniles have an arrest rate equal to their proportion in the population, but are 50% of incarcerated juveniles. State authorities largely blame Native Hawaiians themselves for these conditions, ignoring the routine discrimination that they face.<sup>198</sup>

Indigenous Alaskans (Inuit or “Eskimos” and Natives, e.g. Athabaskans, Aleuts, etc.) are 16% of the state’s population and have conditions very like those of Native Hawaiians.<sup>199</sup> They earn on average less than half white Alaskans’ incomes per capita and have much greater educational failure, health problems, poverty, language loss, alcoholism and violence than other Alaskans.<sup>200</sup> Their rates for these disabilities are some of the highest in the U.S. The overall unemployment rates for indigenous Alaskans have been pegged at 27.3% (men) and 16% (women). The poverty rate for Alaskan native has been put at 27.5%, versus 9.8% for all Alaskans. Alaska Natives’ rate of incarceration exceeds 250% of their numbers in the state’s general population.<sup>201</sup> Their suicide rate is twice that of the state’s non-natives.<sup>202</sup>

The U.S. government treats one group of U.S. minority citizens as second-class in law. Puerto Ricans living in their large island U.S. territory “plainly possess fewer political rights than their

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<sup>195</sup> *Id.*; U.S. Census Bureau *Facts for Features: Asian Pacific Heritage Month* (Apr. 29, 2011), [https://www.census.gov/newsroom/releases/archives/facts\\_for\\_features\\_special\\_editions/cb11-ff06.html](https://www.census.gov/newsroom/releases/archives/facts_for_features_special_editions/cb11-ff06.html) (some 14% of Native Hawaiians have bachelor’s degrees; 4% have professional or graduate degrees, 50% and 40% the U.S. national averages)

<sup>196</sup> *Id.*

<sup>197</sup> *Id.*

<sup>198</sup> *Id.*

<sup>199</sup> *Inuit and Alaska Natives*, WORLD DIRECTORY OF MINORITIES, [www.minorityrights.org/?lid=2617&tmpl=printpage](http://www.minorityrights.org/?lid=2617&tmpl=printpage) (last updated Apr. 2009).

<sup>200</sup> *Id.*

<sup>201</sup> *Id.*

<sup>202</sup> Mark Thiessen, *Alaska Native Suicide Rate More Than Twice That of Natives*, ADN.COM (Jul. 30, 2012), <http://www.adn.com/2012/07/30/2563810/native-suicide-rate-in-alaska.html>.



counterparts in the fifty states. They are subject to various forms of external tutelage (both legislative and judicial) on which they have weak voice and no vote."<sup>203</sup> Some scholars have thus regarded Puerto Rico as a colony.<sup>204</sup> In contrast, while political rights in China are constrained, second-class citizenship is not inscribed in law for any minority area; in fact, China's minority areas have some rights beyond those of non-minority areas (*see below*). Puerto Rico has a 45% poverty rate, three times the U.S. national average and 83% of Puerto Rican children live in high poverty areas, versus 11% of U.S. mainland children.<sup>205</sup>

### *Mistrust and Separatism*

The large and growing disparities between white people and most U.S. ethnic minorities reflect that there is, in effect, no U.S. government initiative to specifically better the lot of minorities. The remains of affirmative action and inclusion of minority politicians are virtually the limit of U.S. ethnic policies.<sup>206</sup> These policies however are not mainly fruits of the labors of U.S. political elites, who have mostly resisted them, but products of the 1960s and 1970s civil rights movement. Since then, it has largely been social

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<sup>203</sup> Laurence Whitehead, *Two-Tier Citizenship: The Unresolved Challenge of Puerto Rico's Electoral Exclusion*, DEMOCRATIZATION IN AMERICA: A COMPARATIVE-HISTORICAL ANALYSIS 56, 67 (Desmond King et al. eds., 2009).

<sup>204</sup> See e.g., Pedro A. Malavet, AMERICA'S COLONY: THE POLITICAL AND CULTURAL CONFLICT BETWEEN THE UNITED STATES AND PUERTO RICO (Richard Delgado & Jean Stefancic eds., 2004). (The lack of fully equal rights for Puerto Ricans is the basis for terming it a colony. Both Puerto Rican pro-independence and pro-statehood parties regard Puerto Rico as a colony.); Davin A. Rezvani, *The Basis of Puerto Rico's Constitutional Status: Colony, Compact, or "Federacy"?*, 122 POL. SCI. Q. 115, 117 (2007).

<sup>205</sup> Dania Alexandrino, *Study: Puerto Rico's Children Mired in Poverty that Dwarfs Rest of U.S.*, CNN, <http://www.cnn.com/2012/08/01/us/puerto-rico-child-poverty/> (last updated Aug. 1, 2012).

<sup>206</sup> See Jennifer E. Manning, CONG. RESEARCH SERV., MEMBERSHIP OF THE 112<sup>TH</sup> CONGRESS: A PROFILE (Nov. 26, 2012), available at [http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%260BL\(Q%2CK%3C%0A](http://www.senate.gov/CRSReports/crs-publish.cfm?pid=%260BL(Q%2CK%3C%0A) (The U.S. is not distinguished by a high proportion of minority political leaders. In 2012, 16% of the 539 U.S. Congress members were minorities: 8% African Americans, 5.7% Latinos, 2.2% Asian Americans, .2% Native American. Meanwhile, minorities were about 34% of the U.S. population); *United States Demographics Profile 2013*, INDEXMUNDI.COM, [http://www.indexmundi.com/united\\_states/demographics\\_profile.html](http://www.indexmundi.com/united_states/demographics_profile.html) (last viewed Feb. 2, 2014); *List of Members of the 18<sup>th</sup> CPC Central Committee*, XINHUANET.COM (Nov. 14, 2011), [http://news.xinhuanet.com/english/special/18cpcnc/2012-11/14/c\\_131974817.htm](http://news.xinhuanet.com/english/special/18cpcnc/2012-11/14/c_131974817.htm) (Of 376 Chinese Communist Party 18<sup>th</sup> Central Committee members elected in November, 2012, 38 or 10.1% were minorities, while minorities were about 8.5% of China's population).

movements and not state policies that have deployed to counteract deterioration in minorities' social position. These efforts have largely been unsuccessful, in part because many Americans despise politicians,<sup>207</sup> but cling to electoral politics as the *sine qua non* for redressing inequity.<sup>208</sup> Yet, political mistrust is much higher among African Americans than among white people and has a different character: white people' mistrust tends to be based on discontent with government performance, while black people's mistrust is more a function of unhappiness with the political system itself.<sup>209</sup>

The absence of policies to close the ethnic gaps in every aspect of U.S. life contributes to disproportionate support for separatism and a lesser degree of U.S. nationalism among black and Latino minorities. In a 2008 poll, 22% of Americans supported a right to secession for their state or region, but 43% of Latinos and 40% of black people did so, while 18% of Americans, but 33% of African Americans, say they would support a secessionist movement. The strongest support for a right to secession (40%) and for secessionist movements (25%) was among 18-24 year olds and such support was stronger among liberals than conservatives.<sup>210</sup> A 2012 poll for Rasmussen Reports found that 24% of Americans "believe states that should be able to withdraw from the United

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<sup>207</sup> Frank Newport, *Congress Retains Low Honesty Rating*, GALLUP.COM (Dec. 3, 2012), <http://www.gallup.com/poll/159035/congress-retains-low-honesty-rating.aspx> (A 2012 random sample of U.S. adults rating those in 22 fields on honesty and ethical conduct put members of Congress at the bottom, lower than car salespeople.); Jeffrey M. Jones, *Congress' Approval Rating Remains Near Historical Lows*, GALLUP.COM (Aug. 13, 2013), <http://www.gallup.com/poll/163964/congress-approval-rating-remains-near-historical-lows.aspx>.

<sup>208</sup> Deva Woodly, *Black Youth Book Project: Political Efficacy Literature Review*, BLACK YOUTH PROJECT RESEARCH, available at <http://research.blackyouthproject.com/survey/topics/political-efficacy/> (That does not seem to be the case for African-American youth, however. Studies show that "understanding the political situation actually *decreases* the level of trust in African American youth.")

<sup>209</sup> James M. Avery, *Political Mistrust Among African Americans and Support for the Political System*, 62 POL. RES. Q. 132 (2009); James P. Wenzel, *Acculturation Effects on Trust in National and Local Government Among Mexican Americans*, 87 SOC. SCI. Q. 1073 (2006) (Latino political mistrust of the U.S. government increases with acculturation.); Katherine Tate, *Black Faces in the Mirror: African Americans and their Representatives in the U.S. Congress 47* (Princeton: Princeton University Press, 2003) (Some 60% of African Americans favor altering electoral rules to guarantee black people and Latinos are represented in Congress in their proportions of the U.S. population).

<sup>210</sup> *One in Five Americans Believe States Have the Right to Secede*, MIDDLEBURY INSTITUTE (July 23, 2008), <http://middleburyinstitute.org/zogbysecessionpoll2008.html>.

States to form their own country, if they want” and 51% said that the U.S. federal government presents a “danger to liberty.”<sup>211</sup>

After the Texas governor hinted in 2009 that Texas might secede if Texans found the federal government’s policies not to their liking, 31% of polled Texans believed Texas has a right to secede,<sup>212</sup> despite a post-Civil War U.S. Supreme Court ruling that held that no state has that right.<sup>213</sup> Some 35% of surveyed Texans and 48% who identify with the Republican Party agreed Texas would do better if independent; 61% of all Texans and 48% of Republicans disagreed.<sup>214</sup> After President Obama’s re-election in 2012, a petition endorsing Texas independence garnered 116,000 signatures in one week<sup>215</sup> and 20% of Texans (35% of Texas Republicans) indicated they would support Texas seceding because of President Obama’s election victory.<sup>216</sup> Nationally, 18% of American adults and 25% of Republicans voiced the same position.<sup>217</sup>

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<sup>211</sup> Liz Harrington, *American Support for Secession Increases 10% in Just 2 Years*, CNSNEWS.COM (June 6, 2012), [www.freerepublic.com/focus/f-news/2892159/posts](http://www.freerepublic.com/focus/f-news/2892159/posts). Secessionists in the U.S. have advanced an intellectual basis for their ideas through a book edited by Emory University political philosopher Donald Livingston, *Rethinking the American Union for the 21<sup>st</sup> Century* (Gretna: Pelican Pub, 2011).

<sup>212</sup> *Perry’s Hint of Secession May be Aimed at Primary*, SAN ANTONIO EXPRESS-NEWS, April 19, 2009, at 3B.

<sup>213</sup> *Texas v. White*, 74 U.S. 700 (1869). Justice Antonin Scalia, the U.S. Supreme Court’s most conservative member, wrote in 2006 that, “If there was any constitutional issue resolved by the Civil War, it is that there is no right to secede.” Abby Rogers, *Sorry Secessionists, Justice Scalia Won’t Help You Out*, BUSINESS INSIDER (Nov. 15, 2012), [www.businessinsider.com/justice-scalias-views-on-secession-2012-11](http://www.businessinsider.com/justice-scalias-views-on-secession-2012-11).

<sup>214</sup> Alex Koppelman, *Half of Texas Republicans Favor Secession*, SALON.COM (Apr. 23, 2009), [http://www.salon.com/2009/04/23/texas\\_secession/](http://www.salon.com/2009/04/23/texas_secession/). In Canada, besides Quebecois, many westerners are separatists: 36% of Western Canadians (Alberta 42%, Saskatchewan 32%, British Columbia 31% Manitoba 27%) have said they are willing to consider Western Canada becoming independent. Kevin Steel, *A Nation Torn Apart*, WESTERN STANDARD (Aug. 22, 2005), <http://www.westernstandard.ca/website/article.php?id=928>.

<sup>215</sup> Manny Fernandez, *With Stickers, a Petition and Even a Middle Name, Secession Fever Hits Texas*, THE NEW YORK TIMES (Nov. 23, 2012), [http://www.nytimes.com/2012/11/24/us/politics/with-stickers-a-petition-and-even-a-middle-name-secession-fever-hits-texas.html?\\_r=0](http://www.nytimes.com/2012/11/24/us/politics/with-stickers-a-petition-and-even-a-middle-name-secession-fever-hits-texas.html?_r=0).

<sup>216</sup> *Clinton Could Win Texas in 2016*, PUBLIC POLICY POLLING (Jan. 31, 2013), [www.publicpolicypolling.com/pdf/2011/PPP\\_Release\\_TX\\_013113.pdf](http://www.publicpolicypolling.com/pdf/2011/PPP_Release_TX_013113.pdf).

<sup>217</sup> *A Quarter of Republicans Want to Secede, Half Think Election Stolen*, PUBLIC POLICY POLLING (Dec. 4, 2012), [www.publicpolicypolling.com/main/2012/12/a-quarter-of-republicans-want-to-secede-half-think-election-stolen.html](http://www.publicpolicypolling.com/main/2012/12/a-quarter-of-republicans-want-to-secede-half-think-election-stolen.html). Support for secession was higher in certain regions. For example, 42% of Republicans in the U.S. state of Georgia indicated support for it. Jim Galloway, *PPP survey: 42% of Ga. Republicans Would Secede...*, POLITICAL INSIDER (Dec. 7, 2012), <http://blogs.ajc.com/political-insider-jim-galloway/2012/12/07/ppp-survey-42-of-ga-republicans-would-secede-nathan-deal-job-approval-at-37/>.

A 2007 survey question on secession by Vermont drew support from 13% of respondents.<sup>218</sup> The Alaska Independence Party has about 15,000 registered voters, while the two major parties have a combined total of 200,000.<sup>219</sup> Secessionist ideas that have been advanced by some minority organizations since the 1960s<sup>220</sup> are not necessarily anathematized by mainstream black and Latino leaders.<sup>221</sup>

Greater minority than white support for secession accords with a lower level of patriotism, a proxy for national identity in the hyper-nationalistic U.S..<sup>222</sup> A 2005 Gallup poll reported that 80% of white people termed themselves “extremely patriotic” or “very patriotic,” but only 46% of non-white people did so; conversely, 20% of white people said they are “somewhat patriotic” or “not especially patriotic,” while 53% of non-white people did so.<sup>223</sup> In a 2009 Pew survey, 61% of white people, but 35% of black people agreed they were “very patriotic.”<sup>224</sup>

While it seems unlikely U.S. secessionists will gain power, few expected a secessionist party to take power in part of Britain, as did the Scottish National Party in 2011, despite Scots and English

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<sup>218</sup> Michele Schmidt, *Awareness and Support for the Arts Thriving in Vermont*, 1 CENTER FOR RURAL STUD., U. OF VT., 4 (2007).

<sup>219</sup> Malia Litman, *Civil War in Alaska*, MALIA LITMAN’S BLOG (Jun. 6 2012), <http://malialitman.wordpress.com/2012/06/06/civil-war-in-alaska/>.

<sup>220</sup> The Nation of Islam (“Black Muslims”) had sought an independent country out of five U.S. states. Peter Kihss, *In Return for Years of Slavery, Four or Five States*, THE NEW YORK TIMES, April 23, 1961, at 406. Mecha, the largest Latino student organization, asserted that the U.S. Southwest is “Occupied Mexico,” an idea still advanced by the Mexica Movement, *La Voz de Aztlan* and others. *An Absolut Outrage*, INVESTORS BUSINESS DAILY (Apr. 9, 2008), <http://news.investors.com/040908-444918-an-absolut-outrage.htm?ntt=absolut>; Bridget Johnson, *No Place in Debate for Separatist Voice*, DAILY NEWS (LOS ANGELES) (Jun. 12, 2007), <http://www.dailynews.com/opinion/20070612/no-place-in-debate-for-separatist-voice>.

<sup>221</sup> Alton Maddox, Jr., *No Blacks in the U.S. Senate in 2009?*, AMSTERDAM NEWS (NEW YORK) (Dec. 24, 2009), <http://amsterdamnews.com/news/2011/apr/12/no-blacks-in-the-us-senate-in-2009/>.

<sup>222</sup> A measure of nationalism, in 35 countries in 2003 and China in 2008, with a scale of 1-100, found China had the highest score (80) and the U.S. second highest (76). Tang Wenfang and Benjamin Darr, *Chinese Nationalism and its Political and Social Origin*, 21 J. OF CONTEMP. CHINA, 811, 816 (2012). In studies among U.S. university students in 2002 and 2004, “blacks expressed lower levels of all forms of national attachment,” including national identity. Leonie Huddy and Nadia Khatib, *American Patriotism, National Identity and Political Involvement*, 51 AM. J. OF POL. SCI. 63, 71 (2007).

<sup>223</sup> Joseph Carroll, *Post 9/11 Patriotism Remains Steadfast: Nonwhites Least Likely to Feel Patriotic*, 266-267, THE GALLUP POLL: PUBLIC OPINION 2005, July 19, 2005.

<sup>224</sup> *Polls on Patriotism and Military Service*, AMERICAN ENTERPRISE INSTITUTE, 2011, [www.aei.org/publicopinion9](http://www.aei.org/publicopinion9) (last visited Feb. 6, 2014).

being joined in a United Kingdom for over three centuries and sharing language and religion. Still less was it expected that Catalonia, a part of Spain for three centuries where in 2006 only 13% of those polled favored independence, would see a two-thirds pro-independence majority in the local parliament in 2012.<sup>225</sup> Although hugely advantaged economically, developed countries with substantial national minorities tend to have secessionist movements, as in Scotland, Catalonia and the Basque country in Spain, Flanders in Belgium, and Quebec in Canada, movements that may gain power.<sup>226</sup> In short, liberal democracy, in India, the U.S. or elsewhere, does not guarantee national solidarity.

### ETHNIC INEQUALITY AND NATIONAL IDENTITY IN CHINA

#### *Disparities and Location*

Ethnic inequalities in China may be culture-related,<sup>227</sup> but most mainly derive from socio-economic factors. The gaps often discussed include employment, income and wealth, with it asked whether they result from discrimination. There are substantial income differences:

Table 3: Minorities' Average Monthly Incomes as % of Han Incomes in 2005<sup>228</sup>

Rural	Urban
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<sup>225</sup> Miles Johnson and Julius Purcell, *Catalans Consider Road to Independence*, FINANCIAL TIMES (Nov. 22, 2012); Agence France-Presse, *Catalonia Grows in Distance from Spain*, SCMP (Nov. 27, 2012), <http://www.scmp.com/news/world/article/1091391/catalonia-grows-distance-spain>.

<sup>226</sup> John Coakley, *PATHWAYS FROM ETHNIC CONFLICT: INSTITUTIONAL REDESIGN IN DIVIDED SOCIETIES 2-3* (London: Routledge, 2010).

<sup>227</sup> Cai Le, et al., *Multilevel Analysis of the Determinants of Pre-Hypertension and Hypertension in Rural Southwest China*, 126 PUB. HEALTH REP. 420 (2011). (discussing higher blood pressure and hypertension among some minorities). Juliet Elu and Gregory Price, *Does Ethnicity Matter for Access to Childhood and Adolescent Health Capital: Evidence from the Wage-Height Relationship in the 2006 China Health and Nutrition Survey*, 4<sup>TH</sup> WORLD CONGRESS ON REMEDIES TO ETHNIC AND RACIAL INEQUALITIES, UNIV. OF MINNESOTA (Oct. 11-3, 2012), [www.hhh.umn.edu/centers/rwc/conferences/fourth/pdf/GregoryPrice4thWorldCongressPaper.pdf](http://www.hhh.umn.edu/centers/rwc/conferences/fourth/pdf/GregoryPrice4thWorldCongressPaper.pdf).

<sup>228</sup> Emily Hannum and Wang Meiyuan, *China: A Case Study in Rapid Poverty Reduction, in INDIGENOUS PEOPLES, POVERTY AND DEVELOPMENT 165* (Cambridge University Press, 2012).

Man	101	Man	94
Hui	83	Hui	96
Zhuang	69	Zhuang	72
Miao	66	Miao	76
Uygur	61	Uygur	82
Other minorities	73	Other minorities	85

A 2009 State Ethnic Affairs Commission (*guojia minwei*) study reportedly concluded that “minority farmers and herders now earn only 72% of the national average, versus 88% in 1980. Urban city dwellers earn about 84% of the national average, versus 87% in 1980.”<sup>229</sup> Other scholars noted that among rural households, the ratio of minority to Han per capita household income stagnated at 66.3% in 1988, 67.14% in 1995, and 65.73% in 2002. But among urban households, the ratio increased from 92% in 1988 to over 100% in 2002. For urban dwellers, minority returns to education were higher than for Han in 1995, but almost identical in 2007, while the premium for SOE employment was higher for minorities than for Han. From 1995 and 2007, the gap widened as to males and narrowed as to females, but almost none of the inter-temporal changes in earnings disparities can be attributed to difference in treatment of minorities in one period versus treatment of minorities in another period or to differences in the treatment of Han in one period versus treatment of Han in another period. Instead, most of the changes can be attributed to changes in endowments.

The widened gap for urban males by 2007, despite minority educational attainment almost equaling that of Han, might be explained by decreased availability of SOE employment. The narrowed gaps for urban females likely results from preferential policies.<sup>230</sup>

<sup>229</sup> Ian Johnson, *Beijing's Ethnic Policy Faces Data Challenge*, WALL STREET JOURNAL (Jul. 22, 2009), [online.wsj.com/news/articles/SB124816735513967749](http://online.wsj.com/news/articles/SB124816735513967749). The 2008 percentages are not for minorities *per se*, but the ratios of the five ethnic autonomous areas (Tibet, Xinjiang, Inner Mongolia, Ningxia, Guangxi) and three provinces with high minority concentration (Yunnan, Guizhou and Qinghai). *China Spends 5 Billion USD on Poverty Relief for Ethnic Minorities over Five Years*, XH (Dec. 22, 2010), [news.xinhuanet.com/english2010/china/2010-12/22/c\\_13660255.htm](http://news.xinhuanet.com/english2010/china/2010-12/22/c_13660255.htm).

<sup>230</sup> Ding Sai, et al., *Inter-Temporal Changes in Ethnic Urban Earnings Disparities in China*, 653-696, Li Shi, et al (eds), *RISING INEQUALITY IN CHINA: CHALLENGE TO A HARMONIOUS SOCIETY* (Cambridge University Press, 2013). Differences in treatment are “measured by the differential returns to education, job opportunities, household structures,

The origins and dimensions of ethnic disparities in China may however be determined more by location (regions, urbanity and topography)<sup>231</sup> and minority customs and less by discrimination than is the case in, for example, in the U.S. There, a prominent study found that human capital and region accounted for 55% of the black-white wage gap, occupation distribution accounted for 20%, and the 25% unaccounted for was at least in part likely to be attributable to discrimination.<sup>232</sup> A scholar of ethnic disparities in China has remarked that

Geography is important in patterns of ethnic advantage and disadvantage. More urbanized ethnic minority groups and groups not concentrated in poor regions tend to experience smaller or no disadvantage compared with the Han population. More rural ethnic minority groups have less access to education and social safety nets – unemployment and pension insurance – than do the more urbanized Han, Hui, and Manchu. School enrollment gaps are smaller in urban areas. Health insurance quality is also tied to location . . . . Overall, Han-minority disparities across social welfare outcomes diminish sharply when geographic differences are taken into account, suggesting that many gaps that appear as cross-ethnic differences are due to differences in regional development.<sup>233</sup>

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firm types, or provincial labor markets. The economic interpretation of these differential returns is that they can produce unequal treatment of otherwise identically situated workers." *Id.* at 660.

<sup>231</sup> Hannum and Wang, *supra* 228 at 163.

<sup>232</sup> Eric Grodsky and Devah Pager, *The Structure of Disadvantage: Individual and Occupational Determinants of the Black-White Wage Gap*, 66 AM. SOC. REV. 542 (2001). For an overview of more recent studies, see Devah Pager and Hana Shepherd, *The Sociology of Discrimination: Racial Discrimination in Employment, Housing, Credit and Consumer Markets*, 34 ANN. REV. OF SOCIOLOG. 181-209 (2008). Studies may substantially underestimate the effects of racial discrimination in the U.S. because of more recent findings concerning the over-reporting of earnings by African Americans males in surveys. Kim Chang Hwan and Christopher Tamobini, *Do Survey Data Estimate Earnings Inequality Correctly? Measurement Errors Among Black and White Male Workers*, 90 SOC. FORCES, 1157 (2012).

<sup>233</sup> Emily Hannum, *Ethnic Disparities in China: Geography, Rurality and Socioeconomic Welfare*, WORLD BANK, INDIGENOUS PEOPLES COUNTRY BRIEF NUMBER 3, 2011-2, [siteresources.worldbank.org/.../Resources/.../China-brief-0928.pdf](http://siteresources.worldbank.org/.../Resources/.../China-brief-0928.pdf). See also Emily C. Hannum & Meiyang Wang, *Ethnicity, Socioeconomic Status and Social Welfare in China* 23 (Asia-Pacific Education, Language Minorities and Migration (ELMM) Network Working Paper Series 2010), available at <http://repository.upenn.edu/elmm/2>.

China's ethnic minorities are highly concentrated regionally:

Table 4: % Ethnic Minorities and Autonomous Counties by Region:

<sup>234</sup>

Population	Counties
Western 71.6	Western 91.6
Central 16	Central 5.1
Eastern 12.4	Eastern 3.2

In the large-scale 2002 Chinese Household Income Project survey, in which 11% of the sample was ethnic minorities, 85% of “disadvantaged minorities” were found in the western region, while Han were even spread throughout the country.<sup>235</sup>

China's ethnic minorities are disproportionately rural: a few, such as Man and Hui, are at least as urban as Han, but in 2005, 45% of Han, but only 20% of Uygurs, 17% of Miao, 29% of Zhuang, and 23% of other minorities were urban.<sup>236</sup> In Xinjiang in 2000, Han were 54% urban, minorities were 24% and Uygurs 19%.<sup>237</sup> A study found that in China in 2011, urban earned incomes were 5.2 times higher and urban disposable incomes 3.3 times higher than rural earned and disposable incomes. The urban/rural wealth divide grew 26% from 1997 to 2011 and 68% from 1985 to 2011.<sup>238</sup> Also, “minorities are more likely to live in more isolated, remote villages with difficult topography and poor infrastructure”: a 2002 survey found that 38-44% of minority villages were in mountainous areas.<sup>239</sup> China's minorities are highly concentrated geographically. As of 2005,

[T]he degree of ethnic clustering (density) is still remarkable. In all, 73% of Mongols in China find

<sup>234</sup> Cheng et al., *supra* note 12, at 3.

<sup>235</sup> CARLOS GRADIN, RURAL POVERTY AND ETHNICITY IN CHINA, 3, 8, 9 (2013), [www.ecineq.org/ecineq\\_bari13/FILESxBari13/CR2/p156.pdf](http://www.ecineq.org/ecineq_bari13/FILESxBari13/CR2/p156.pdf).

<sup>236</sup> Hannum & Wang, *supra* note 228, at 165.

<sup>237</sup> Cao Huhua, *Urban-Rural Income Disparity and Urbanization: What is the Role of Spatial Distribution of Ethnic Groups? A Case Study of Xinjiang Uyghur Autonomous Region in Western China*, 44:8 REGIONAL STUDIES, 965, 977 (2010).

<sup>238</sup> China Daily, *Urban/Rural Income Gap Gets Bigger: Report*, XINHUA (Aug. 14, 2012), [http://news.xinhuanet.com/english/china/2012-08/14/c\\_131785215.html](http://news.xinhuanet.com/english/china/2012-08/14/c_131785215.html).

<sup>239</sup> Hannum & Wang, *supra* note 228, at 166.



their home in Inner Mongolia, and over 70% of Tibetans in China reside in Tibet and [a] neighboring prefecture in western Sichuan province. About 99% of Uyghurs populate Xinjiang Uyghur Autonomous Region and 92% of the Zhuang population lives in the Guangxi Zhuang Autonomous Region.<sup>240</sup>

In contrast, such geographical distinctions scarcely apply to U.S. minorities. They are significantly less regionally concentrated than Chinese minorities:

Table 5: % of African American and Latino Populations in U.S. Regions, 2010<sup>241</sup>

African American		Latino	
South	55	South	36
West	10	West	41
Midwest	18	Midwest	9
Northeast	17	Northeast	14

Regions of concentration for black people (the South) and Latinos (the West), are also much less behind the rest of the U.S. than China's west is behind the rest of China.<sup>242</sup> A 2012 study has found that in the U.S., the "differences in personal income are actually quite small between regions. If we account for . . . education and age, the differences shrink further. We also find little

<sup>240</sup> Jia Wenshan, *Ethno-Political Conflicts in China: Toward Building Interethnic Harmony*, in *HANDBOOK OF ETHNIC CONFLICT* 177, 184 (Dan Landis & Rosita Albert eds., 2012).

<sup>241</sup> U.S. Census Bureau, 2010 CENSUS SHOWS BLACK POPULATION HAS HIGHEST CONCENTRATION IN THE SOUTH (Sept. 29, 2011), <http://2010.census.gov/news/releases/operations/cb11-cn185.html>. See also, Sharon R. Ennis et al., U.S. Census Bureau, *THE LATINO POPULATION: 2010*, in 2010 CENSUS BRIEFS 4 (May 2011).

<sup>242</sup> See Anthony P. Carnevale & Nicole Smith, *A Decade Behind: Breaking Out of the Low-Skill Trap in the Southern Economy* (Georgetown Public Policy Institute ed. 2012), <http://www9.georgetown.edu/grad/gppi/hpi/cew/pdfs/DecadeBehind.ExecutiveSummary.073112.pdf>; See also Marc Parry, *The Neighborhood Effect*, THE CHRONICLE OF HIGHER EDUCATION, Nov. 5, 2012, <http://www.chronicle.com/article/The-Neighborhood-Effect/135492/> (stating that Black people and Latinos are disproportionately concentrated in poor neighborhoods, but location is not determinative of lower earnings or education because this factor has not changed where residents of such neighborhoods were given vouchers to move to low poverty neighborhoods).

evidence that gaps have increased over the past decade.”<sup>243</sup> There is also a “low range of variation of poverty across regions in the United States” and “the effect of the higher concentration of Black people in the poorest states was statistically insignificant” in determining the poverty gap between black people and white people.<sup>244</sup> The same was true of the geographical concentrations of Latinos, so that “The state or region where minorities live play no role in explaining their higher poverty rates.”<sup>245</sup>

Greater minority rurality in China is moreover the opposite of the U.S., where minorities were 37% of the population in 2012, but only 21% of the rural population in 2010.<sup>246</sup> Moreover “minorities are more likely to live in the largest metropolitan areas (more than 2.5 million inhabitants) than in non-metropolitan areas, which actually had the highest poverty rates.”<sup>247</sup> The U.S. rural population is located differently from in China: most is in exurbias, just outside urban areas. Just 1.3% of U.S. farmers in 2007 were black and 2.5% were Latinos; only 45% of these minority farmers had farming as primary occupation.<sup>248</sup> Among Chinese minorities in 2005, 54% of Hui, 61% of Man, 76% of Zhuang, 82% of Miao and Uygurs and 79% of other minorities reported agriculture as their occupation.<sup>249</sup> In contrast to China, U.S. mountain areas are not necessarily poor and they generally have few ethnic minorities.<sup>250</sup>

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<sup>243</sup> See Nelson Oliver & Steven Whitaker, *Regional Differences in Household Incomes*, FEDERAL RESERVE BANK OF CLEVELAND, (2012), [www.clevelandfed.org/research/trends/2012/0512/01regeco.cfm](http://www.clevelandfed.org/research/trends/2012/0512/01regeco.cfm).

<sup>244</sup> Gradin, *supra* note 235, at 3795.

<sup>245</sup> *Id.*

<sup>246</sup> Kenneth M. Johnson, *Rural Demographic Change in the New Century: Slower Growth, Increased Diversity*, CARSEY INSTITUTE (No. 44 5, 2012).

<sup>247</sup> Gradin, *supra* note 235, at 3795.

<sup>248</sup> *Black Farmers*, NAT'L AGRIC. STAT. SERV. (NASS), U.S. DEP'T. OF AGRIC., 2007 CENSUS OF AGRIC. (2007), [www.texas-smallfarmersandranchersco.com/.../blackfactsheet.pdf](http://www.texas-smallfarmersandranchersco.com/.../blackfactsheet.pdf); *Latino Farmers* NAT'L AGRIC. STAT. SERV. (NASS), U.S. DEP'T OF AGRIC., 2007 CENSUS OF AGRIC. (2007), [www.agcensus.usda.gov/Publications/2007/Online.../Latino.pdf](http://www.agcensus.usda.gov/Publications/2007/Online.../Latino.pdf) (stating that Black, Latino and Native American farmers have sued the U.S. Department of Agricultural for discrimination in the provision of loans and received significant settlements). See also *Latino Farmers Facing Financial Hardship Offered Lawsuit Financing by RD Legal Funding*, LEGALFUNDING (Apr. 10, 2012), <http://www.legalfunding.com/news/hispanic-farmers-facing-financial-hardship-offered-lawsuit-financing-by-rd-legal-funding/>.

<sup>249</sup> Hannum & Wang, *supra* note 228, at 175.

<sup>250</sup> Shelton Johnson, *Why Do So Few African Americans Visit National Parks*, ALTERNET, (Sept. 11, 2012), <http://altnet.org/environment/why-do-so-few-african-americans-visit-national-parks> (describing how an African American Park Ranger in the mountainous Yosemite National Park has explained that the low visitation rates in U.S. national parks by black people are because “There are very few African Americans who have a childhood

Locational differences are central to ethnic disparities in poverty levels in China.<sup>251</sup> As much as 35% of ethnic minority households are asserted to have incomes below the official poverty line.<sup>252</sup> Yet, a study of rural poverty that “control[ed] for a number of household and location factors, [showed] no strong signs of household ethnicity having an independent effect on poverty status.”<sup>253</sup> While 6.2% of minorities, but only 3.3% of Han had experienced one three-year spell of poverty, the difference disappeared as to shares of *long-term* poor among all poor households (20% for minority households; 23% for Han).<sup>254</sup> A econometric study of rural poverty and ethnicity in China concluded that

The incidence of poverty is larger among minorities because they tend to live in the least developed and mountainous areas that are being more slowly benefit[ed] from the strong country's [sic] economic growth. Poverty is higher among minorities also because they, especially in the western region, generally have more children, and less economic opportunities in a scenario where market forces increasingly determine incomes given their lower education and engagement in off-farm activities.<sup>255</sup>

A study of the urban/rural income gap and urbanization in Xinjiang found that

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wilderness experience, an experience of mountains, deserts, forests, or grasslands.” This factor contrasts with Chinese minorities).

<sup>251</sup> Hannum & Wang, *supra* note 228, at 198 (regarding not only to Han/minority disparities, but also those among and within minority groups).

<sup>252</sup> See Xing Le, et al., 2012 CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF INTERNATIONAL ECONOMISTS, *Introduction and Impact of Preferential policies on Minority groups in China* 9-10, 10-11 (Aug. 18-24, 2012), <http://econpapers.repec.org/paper/agsiaae12/126633.htm> (discussing how, in late 2011, the poverty line was raised from Y1,274 to Y2,300 a year per capita, in purchasing power parity terms at or above the U.S.\$1.25 United Nations standard. The new figure per day increased the number of Chinese in poverty from 27 million to 128m). See also *Reality Check that Helps Nation's Poor*, SCMP, Dec. 10, 2011, <http://www.scmp.com/article/987374/reality-check-helps-nations-poor>. It is not clear from what year the 35% figure derives. The 35% of ethnic minorities figure would amount to about 40 million people).

<sup>253</sup> Bjorn Gustafsson & Ding Sai, *Temporary and Persistent Poverty among Ethnic Minorities and the Majority in Rural China*, 55:1 REVIEW OF INCOME AND WEALTH 588, 604 (2009).

<sup>254</sup> *Id.*

<sup>255</sup> Gradin, *supra* note 235, at 14.

Geographical location plays an important role in defining the context of minority areas. Minority communities, particularly rural minority communities, are usually situated in relatively cohesive, distinctive and isolated locations . . . [M]inorities inhabit mainly rural areas located in remote border regions, particularly in the south of the province. This disadvantaged location creates a considerable obstacle for socioeconomic development.

The study noted that “in 2000, nearly 80% of minority employment opportunities in Xinjiang were concentrated in the agricultural sector associated with a low income.”<sup>256</sup> Low-income Uygurs mainly live and farm in southern Xinjiang; 12% of Uygurs live in northern Xinjiang. Minorities in the north, such as Kazakhs, earned much higher incomes “owing to favorable geographical conditions and to activity primarily in the animal husbandry sector.” Moreover, “[a]ccess to education is . . . always problematic in the minority countries of Xinjiang. In general, the geographical features of the isolated, frontier regions where minority populations generally live create insurmountable difficulties with respect to access to education. Increased distance from schools increases both the opportunity cost of acquiring education and gender disparities in the attendance rate. In addition to geographical constraints, many teachers in remote areas do not have the necessary qualifications and lack opportunities for in-service training.”<sup>257</sup>

Because urban bias in Xinjiang’s development favors locales where Han are more concentrated, urbanization has not mitigated urban-rural disparities.

Location may also combine with customs in explaining gaps.<sup>258</sup> For example, the widened Han/minority rural income gap cited

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<sup>256</sup> Cao, *supra* note 237, at 976-7

<sup>257</sup> Cao, *supra* note 237, at 976-7, 979.

<sup>258</sup> The same seems to hold for differences in educational attainment for Han and minority students. See Hannum & Wang, *supra* note 228, at 191 (finding that the same seems to hold for differences in educational attainment for Han and minority students).

above is a result of privatization and commercialization of China's countryside, which created a need for peasants to seek off-farm employment.<sup>259</sup> Out-migration from minority villages may be lower than from Han villages due to lower education levels and the "closed" nature of the village socioeconomic setting.<sup>260</sup> Thus, "ethnic minorities in rural areas are less likely to work outside the home village and such differences in the propensity for labor migration can negatively affect the income of minority households."<sup>261</sup> In Ningxia, Hui farmers go out more than Han farmers to work and as a result have closed the gap between their income and poverty levels and those of nearby Han. In contrast, one of the main reasons contributing to urban Hui females' 21% earnings gap with the Han are shorter educations and larger number of children. There are "no signs of an ethnic disadvantage in earnings determinations."<sup>262</sup>

### *Discrimination, Preferences and Autonomy*

Ethnicity does affect hiring and some part of Han/minority income gaps. It was found to decrease the probability of minorities (Hui in Lanzhou, Gansu; Uygurs in Urumqi, Xinjiang) being hired by state-owned enterprises (SOEs).<sup>263</sup> It impinges on the job-matching process for Hui and Man in Beijing, who were "more likely to be sorted into jobs with lower bonus awards and are more likely to be under and unemployed."<sup>264</sup> Survey data for minorities

<sup>259</sup> See A.S. Bhalla and Qiu Shufang, *Poverty and Inequality among Chinese Minorities* (Cambridge: Cambridge University Press, 2006).

<sup>260</sup> Ding Sai, *Nongcun hanzu he shaoshu minzu laodonglu zhuan yi de bijiao* [Comparison of labor migration of Han and ethnic minorities], *MINZU YANJIU*, 2006: 5: 31-40.

<sup>261</sup> Hiroshi Sato and Ding Sai, *Ethnicity and Income in China: the Case of Ningxia*, CENTER FOR RESEARCH ON CONTEMPORARY ECONOMIC SYSTEMS DISCUSSION PAPER SERIES, no. 46, at 3 (Sept. 2012).

<sup>262</sup> Bjorn Gustafsson and Ding Sai, *Assessing Ethnic Disparities in Income and Poverty in China: The Case of Han and Hui in Ningxia*, Paper Prepared for the 32nd General Conference of The International Association for Research in Income and Wealth, (Aug. 10, 2012) at 2-3, [www.iariw.org/papers/2012/GustafssonPaper.pdf](http://www.iariw.org/papers/2012/GustafssonPaper.pdf).

<sup>263</sup> See Xiaowei Zang *Market Reform and Han-Muslim Variation in Employment in the Chinese State Sector in a Chinese City*, 36 *WORLD DEVELOPMENT* 2341, 2350 (2008) (showing a discrepancy between Hui and Han job attainment); see also Xiaowei Zang, *Affirmative Action, Economic Reforms and Han-Uygur Variation in Job Attainment in the State Sector in Urumchi*, 202 *CHINA QUARTERLY* 344, 357-58 (2010) (finding that Uyghur workers are less likely than Han to find work in a state firm).

<sup>264</sup> Reza Hasmath et al., *Ethnic Minority Disadvantages in China's Labor Market?* CHINA GROWTH CENTRE DISCUSSION PAPER SERIES, no. 16, Oct. 2012 at 15, [www.seh.ox.ac.uk/sites/default/files/DP16.pdf](http://www.seh.ox.ac.uk/sites/default/files/DP16.pdf).

and Han in eastern China cities in 2004-2006 found little systematic wage bias between both groups, determining that

“[t]he difference in wage outcomes between the Han majority and ethnic minorities can be explained by differences in education and job type. Once these factors are controlled for, the wage differential disappears. However, the quantitative data cannot explain why minorities are sorted into jobs that provide lower compensation than Hans.”<sup>265</sup>

Thus, not much of earnings differentials may result from discrimination. A study found that different socio-economic statuses (education, employment by SOEs, etc.) and family responsibilities (many more children, more housework for women, etc.) explain earnings differentials between Uygurs and Han in Urumqi,<sup>266</sup> rather than discrimination by private employers.<sup>267</sup> It may be the case that it is only for some minorities in some locales that there is likely to be significant job bias.

To the extent discrimination in minority hiring exists, it may be more widespread in Han areas than in ethnic, autonomous areas. Direct evidence of hiring discrimination exists from a resume audit study in which researchers submitted 10,796 pairs of similar resumes to internet job boards in six cities for three kinds of jobs.<sup>268</sup> The resumes were randomly assigned names indicating applicants were Han, Mongol, Uygur, or Tibetan. The pairs for Hohhot, Inner Mongolia were Mongols and Han; for Xinjiang, they were Uygur and Han. Discrimination was measured by differences in callback rates. Han/minority callback ratios were Mongolian 1.36, Uygur 1.83, and Tibetan 2.21 to 1.<sup>269</sup> In Chengdu and Shenzhen, minority

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<sup>265</sup> Reza Hasmath et al., *Ethnic Minority Disadvantages in China's Labor Market?* CHINA GROWTH CENTRE DISCUSSION PAPER SERIES, no. 16, Oct. 2012 at 4, 16, [www.seh.ox.ac.uk/sites/default/files/DP16.pdf](http://www.seh.ox.ac.uk/sites/default/files/DP16.pdf).

<sup>266</sup> Xiaowei Zang, *Gender Roles and Ethnic Income Inequality in Urumqi*, 35 ETHNIC & RACIAL STUDIES 238 (2012).

<sup>267</sup> Xiaowei Zang, *Uyghur-Han Earnings Differentials in Urumqi*, 65 CHINA JOURNAL 141 (2011).

<sup>268</sup> Margaret Maurer-Fazio, *Ethnic Discrimination in China's Internet Job Board Labor Market*, 12 IZA JOURNAL OF MIGRATION 1, 2 (2012), <http://www.izajom.com/content/1/1/12>. (showing how similar studies have found significant levels of discrimination against ethnic minorities in the U.S., Sweden, Australia and Canada.)

<sup>269</sup> *Id.* at 10.

callback rates were much lower than Han rates.<sup>270</sup> In Kunming, the callback rate for Mongolians differed little from Han, and in Nanjing, only the callback rate for Tibetans was significantly lower than for Han. In Hohhot, callback rates for Mongolians and Han were very similar and in Urumqi, the callback rate for Uyghurs was higher than for Han. Some 47% of all firms, but 61% of SOEs called back both Han and minority candidates; 46% (32% of SOEs) called back only Han and 7% (6.8% of SOEs) called back only minorities.<sup>271</sup> About 61% of firms in minority areas called back Han and minorities, 16% called back only Han, and 23% called back only minorities.<sup>272</sup> Thus, “[f]irms in minority areas appear to treat minority candidates equitably,” even though the firms were in cities with huge Han majorities (Hohhot, 87%; Urumqi, 75%).<sup>273</sup>

In Urumqi, there is nevertheless a widespread perception of discrimination,<sup>274</sup> even if evidence of it is mixed and outcomes largely depend on the category of employer.<sup>275</sup>

Such studies point to a key difference in hiring discrimination in China compared to the U.S. In China, 75% of minority people live in ethnic autonomous areas and in such areas hiring discrimination appears to be less prevalent than in Han areas. The U.S., however, has no officially designated minority areas except reservations, where about one million Native Americans (less than 1% of the minority population) live.<sup>276</sup> Ethnic regional autonomy in China, but not in the U.S., thus may help mitigate discrimination.

A study of factors influencing income gaps in seven provinces where minorities were more than 9% of the population concluded that the “income disparity between the Han and minority

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<sup>270</sup> *Id.* at 12.

<sup>271</sup> *Id.* at 15.

<sup>272</sup> *Id.* at 16.

<sup>273</sup> Margaret Maurer-Fazio, *Ethnic Discrimination in China's Internet Job Board Labor Market*, 12 IZA JOURNAL OF MIGRATION 1, 16 (2012), <http://www.izajom.com/content/1/1/12>. (showing how similar studies have found significant levels of discrimination against ethnic minorities in the US, Sweden, Australia and Canada.); *Id.* at 11.

<sup>274</sup> See Xiaowei Zang, *Scaling the Socioeconomic Ladder: Uyghur Perceptions of Class Status*, 21 J. CONTEMPORARY CHINA 1029 (2012) (showing a 2007 survey of discrimination perception).

<sup>275</sup> See, e.g., Xiaowei Zang, *Affirmative Action, Economic Reforms, and Han-Uyghur Variation in Job Attainment in the State Sector in Urumchi*, 202 THE CHINA QUARTERLY 334, 357 (2010) (showing the Uyghur-Han job variation).

<sup>276</sup> Tina Norris et al., *The American Indian and Alaska Native Populations*, U.S. BUREAU OF THE CENSUS at 13 (2012), [www.census.gov/prod/cen2010/briefs/c2010br-10.pdf](http://www.census.gov/prod/cen2010/briefs/c2010br-10.pdf).

population is not that large . . . instead, [it is] inequalities within the Han population and among the minority populations [that] contribute significantly to the overall Gini coefficient.<sup>277</sup> The main factor determining income differences in rural areas is that ethnic minorities generally do not live in the same places as rural Han. Thus, the smaller the area analyzed, the smaller the Han-minorities income gap. In some rural areas in Guizhou and Yunnan, minorities are better off than their Han neighbors.<sup>278</sup> Another study concluded that,

“[i]f there is income gap between ethnic groups within a larger region, [it] stems mainly from the geographical distribution of different ethnic groups in different areas, and not from ethnic factors. Moreover, long-standing government policies of giving various preferences to minorities have created a situation where Hui status not only does not give rise to discrimination in income but even confers higher income on these people.”<sup>279</sup>

Preliminary results of a study of employee recruitment in Yunnan agriculture in 2005 found that “ethnic minority status has a significantly positive effect on the probability of employment . . . even after controlling for gender, education, age and spatial distribution . . . .”<sup>280</sup> Preferential policies may thus affect being hired to work in agriculture. A statistical study in Gansu and Guizhou has shown that preferential policies have “played a remarkably significant role in the promotion of economic growth in the ethnic minority areas. These policies have helped in effectively accelerating the economic development of the ethnic minority

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<sup>277</sup> A.S. Bhalla and Luo Dan, *Poverty and Exclusion of Minorities in China and India* (Houndsmill: Palgrave Macmillan, 2013) at 105 (describing how the Gini coefficient measures the degree of inequality with a population, with zero as completely equal income distribution and one as a single person having all the income.).

<sup>278</sup> Bjorn Gustafsson and Li Shi, *The Ethnic Minority-Majority Income Gap in Rural China during Transition*, 51 ECONOMIC DEVELOPMENT AND CULTURAL CHANGE, 805-822 (2003).

<sup>279</sup> Li Shi and Ding Sai, *An Empirical Analysis of Income Inequality Between a Minority and a Majority in Urban China: the Case of Ningxia Hui Autonomous Region*, GLOBAL COE HI-STAT DISCUSSION PAPER SERIES, no. 022, Jan. 2009, at 17, <http://hermes-ir.lib.hit-u.ac.jp/rs/bitstream/10086/16463/1/gd08-022.pdf>.

<sup>280</sup> Bente Castro Campos, *Ethnic Minorities, Occupational Attainment and Employer Recruitment Choices in Rural China*, available at [www.iamo.de/uploads/media/Project\\_Castro\\_Campos\\_02.pdf](http://www.iamo.de/uploads/media/Project_Castro_Campos_02.pdf).



areas.”<sup>281</sup> Being a minority does not however much impact the growth of peasant incomes, except in pastoral and semi-pastoral areas, in part because inequality is created by the increasingly uneven distribution of land, which is mainly a function of higher minority birth rates.<sup>282</sup>

A study of whether ethnic status in rural Guizhou and Hunan influences the probability of dropping out of school before nine years of education found no significant disparity between minorities and Han once community-specific effects are taken into account.<sup>283</sup> A study of Han/minority health inequality in nine Chinese provinces found it was significant and growing in 1989-2006, but that “the overall minority-Han difference in health and nutrition status is explained largely by the difference in endowments, particularly the difference in provincial economic development level.”<sup>284</sup> A paper using panel data from 1989-2006 concluded that Han/minority inequality in household income is best explained by regional inequalities.<sup>285</sup> Another 1989-2006 panel data study showed that, after controlling for gender, education, experience, and work unit type,

the hourly wage of ethnic minorities in urban areas was 12.8 percent higher than their Han counterparts in 1989. By 1991, this wage differential has dissipated – the wage difference between Han and ethnic minorities was mostly negative, but not significantly different in the remaining years of the sample. Similarly, there is no evidence of wage differentials in rural areas.<sup>286</sup>

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<sup>281</sup> Xing Li, *Introduction and Impact of Preferential Policies on Minority Groups in China*, Working Paper, CONFERENCE OF THE INTERNATIONAL ASSOCIATION OF AGRICULTURAL ECONOMISTS (2012).

<sup>282</sup> *Id.*

<sup>283</sup> Kelly Labar & Bente Castro Campos, *Are Children Dropping Out During Compulsory Schooling, and Are There Differences Between Ethnic Groups? The Cases of Rural Areas in Guizhou and Hunan Provinces, China*, 7 INT'L ECON. AND FIN. J., no. 1, 2012, at 99, 123-4.

<sup>284</sup> Ouyang Yusi & Per Pinstруп-Andersen, *Health Inequality between Ethnic Minority and Han Populations in China*, 40 WORLD DEVELOPMENT, no. 7, 1452, 1465 (2012).

<sup>285</sup> Christopher Sullivan, *Ethnicity & Income Inequality in Rural China*, Working Paper, for POPULATION ASSOCIATION OF AMERICA ANNUAL CONFERENCE (2011), available at <http://paa2011.princeton.edu/papers/111243>.

<sup>286</sup> Reza Hasmath, *The Ethnic Penalty: Immigration, Education and the Labor Market* 104 (Ashgate 2012).

It is often assumed that Han migrants to minority areas have higher incomes than host area ethnic minorities, but a study of service sector employment found Uyghur internal migrants to Urumqi, Xinjiang are better educated, more formally employed, and often higher-earning than self-initiated, mainly interprovincial Han migrants to the city.<sup>287</sup> A study of income attainment for Han locals, Han migrants and Uyghurs in Xinjiang, based on the 2005 mini-census, found that the overall income disadvantages of Uyghurs came mainly from within-sector difference, not sector segregation.<sup>288</sup> Within the non-agricultural sector, Uyghurs were more likely than Han to be in government and other institutions.<sup>289</sup> They earned about the same as Han locals, reflecting preferential policies.<sup>290</sup> In sectors with less state influence and more marketization, ethnic inequality exists, as Han locals are more likely to enter SOEs, Han migrants are more present in private enterprises, and more Uyghurs are self-employed.<sup>291</sup> It is posited that Uyghur frustration arises from competition with Han in these sectors.<sup>292</sup>

Ethnic disparities in China have grown partly for the same reason as in the US: deepened neoliberalism, i.e. privatization and a retreat of the state in key areas. The widened gap in China may however largely result from a general increase in urban/rural disparities. Overall, it may not be as sharp as in the U.S., where comparison is feasible, such as with urban incomes.

### *Ethnic and National Identity of Minorities*

China, like most states with national minorities, also has ethnic secessionists, whose level of national identity is obviously low.<sup>293</sup> There do seem however to be smaller differences in degrees of national identity between Han and China's minorities than exists between U.S. white people and minorities. In a 2008 Asian

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<sup>287</sup> Anthony Howell & C. Cindy Fan, *Migration and Inequality in Xinjiang: a Survey of Han and Uyghur Migrants in Urumqi*, 52 EURASIAN GEOGRAPHY AND ECON., no. 1, 2011, at 119.

<sup>288</sup> WU XIAOGANG & XI SONG, *Ethnic Stratification amid China's Economic Transition: Evidence from the Xinjiang Uyghur Autonomous Region*, SOC. SCI. RES. 44, 158-72 (2014).

<sup>289</sup> *Id.*

<sup>290</sup> *Id.*

<sup>291</sup> *Id.*

<sup>292</sup> *Id.*

<sup>293</sup> In the past, China has had Han secessionists as well. See Edward McCord, *The Power of the Gun: the Emergence of Modern Chinese Warlordism* 219-20 (University of California Press, 1993).

Barometer poll, Chinese responded to the question “Are you proud to be a Chinese?”<sup>294</sup> Using a 1-4 scale (4 very proud, 3 proud, 2 not quite proud and 1 not proud at all), in eastern China, Han and minorities both had a 3.3 average; in central China, Han had 3.4 and minorities 3.2; in western China, Han had 3.2 and minorities 2.8.<sup>295</sup>

The 2006-2007 Chinese Ethnicity Survey of high school students asked “How close do you feel to your country?” and “How close do you feel to your ethnic group?” with choices being “not close at all,” “not very close,” “close,” and “very close.”<sup>296</sup> The results were coded to convert them into a “feeling thermometer” on a scale of 0-100 and showed higher ethnic identity among minorities than Han, but uniformly high national identity:

Table 5: National and Ethnic Identity in China<sup>297</sup>

Ethnicity	Country ID	Ethnic ID
Han	89	80
Hui	90	89
Mongol	90	91
Tibetan	89	91
Kazak	89	95
Uyghur	90	96

Among 1,600 high school students polled as part of the same survey in seven Xinjiang locations (74% Uyghur, Hui, Kazakh and Mongolian; 26% Han), 78% felt “extremely close” to their ethnic group, while 74% felt extremely close to China. The two identities were highly correlated. Asked to choose between Xinjiang, Chinese or both identities, twice as many Uyghur respondents chose Chinese over Xinjiang identity, while 44% chose both. The study determined that the high degree of national identity found among Xinjiang minority students was partially created by affirmative action programs.<sup>298</sup>

<sup>294</sup> Shan Wei, *Comparing Ethnic Minorities and Han Chinese in China: Life Satisfaction, Economic Well Being and Political Attitudes*, 2 EAST ASIAN POL’Y, no. 2, 2010, at 13, 21.

<sup>295</sup> *Id.*

<sup>296</sup> Wenfang Tang & Gaochao He, *Separate but Loyal: Ethnicity and Nationalism in China*, 36, EAST-WEST CENTER (2010).

<sup>297</sup> *Id.*

<sup>298</sup> Benjamin Joseph Darr, *Nationalism and State Legitimation in Contemporary China*, 137-51 (2011) (unpublished Ph.D. dissertation, University of Iowa). See also Tang, *supra* note 296, at 43 (“the Chinese state has so far managed to keep ethnic tension under control by using affirmative action to promote Chinese identity among minorities.”). Education

Question from a random sample 2008 China Survey, going to levels of Chinese nationalism, found Han had a high “feeling thermometer” level of 84, with the levels for Hui (89) and Uyghurs (87) even higher.<sup>299</sup> Moreover, “linguistic and religious minorities such as the Huis, the Manchus, the Uyghurs, and the Mongols show just as high levels of nationalism as the Han majority.”<sup>300</sup> The levels of nationalism of these ethnic groups all exceeded the very high U.S. level of nationalism.<sup>301</sup> It also found that “[c]ontrary to what one might expect, Han Chinese are significantly less supportive of the state than minority groups. This effect is not substantively large, but it holds true despite controlling for confounding factors such as family income, religiosity, education, and rural community type . . . .”<sup>302</sup> In contrast, in a 2004 poll in the U.S., 39% of white people, but only 22% of black people, indicated that they trust the U.S. federal government most of the time.<sup>303</sup> The racialization of trust in the U.S. government reversed after Obama’s election<sup>304</sup> and the misplaced expectation that Obama would advance the interests of ethnic minorities, especially African Americans, may explain why there have not been “riots” despite the continued decline in the position of black people under his tenure.

A survey among more than three hundred ethnic minority “no-fee pre-service” students -- i.e. those training at government expense to become teachers -- at Southwest University (Xinan daxue) in Chongqing produced findings in accord with those of the 2008 China Survey discussed above.<sup>305</sup> These students hailed from 25 ethnic groups (most prominently Miao, Tujia and Uygur) and on the whole had a strong sense of identity with their ethnic groups,

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may be another factor: the more education students had using Hanyu (Mandarin), the less attachment they had to ethnic identity, but the effect of such study on national identity was unclear. Darr, at 150.

<sup>299</sup> Tang, *supra* note 296, at 38-9. Minorities displayed no fear in giving answers not supportive of the government in response to the survey’s other politically-sensitive questions. *Id.* at 39-41.

<sup>300</sup> Tang & Darr, *supra* note 222, at 818-19.

<sup>301</sup> *Id.*

<sup>302</sup> Darr, *supra* note 298, at 171.

<sup>303</sup> Public Broadcasting Service, *Election 2004*, PBS (Feb. 27, 2004), <http://www.pbs.org/now/politics/hispanicvote.html>.

<sup>304</sup> Dorian T. Warren, *What Race Tells Us About Anti-Government Attitudes*, THE NATION (Mar. 21, 2012) <http://www.thenation.com/article/166972/what-race-tells-us-about-anti-government-attitudes>.

<sup>305</sup> Yang Shuhan et al., *Ethnic Identity of Minority No-Fee Pre-service Students*, 46 CHINESE EDUC. AND SOC’Y, 76, 86 (2013).

even higher than their identity with the Chinese nation.<sup>306</sup> The two identities however were positively correlated; that is, in general the higher the sense of ethnic identity, the higher the sense of Chinese national identity.<sup>307</sup> Their identification with the Chinese nation's society and culture was moreover found to be significantly higher than their identification with their own ethnic group's society and culture, and more advanced undergraduates had less ethnic identity than younger ones, was explained as resulting from greater contact with Han students.<sup>308</sup>

There is substantial ethnic inequality in China and reasons for it are both the same and different from those in India and the U.S. Neo-liberalist shrinking of the state's role vis-à-vis minority interests, everywhere arrests efforts to achieve ethnic equality. Indians STs' rurality plays a continuing role, but accelerated plundering of *adivasi* in the last couple decades by government, in the service of industry and particularly through dispossession, is also highly relevant. In the U.S., racialization remains pervasive and many gains made by the mid-20<sup>th</sup> Century Civil Rights Movement have been eroded by the shriveling of the few extant ethnic policies, such as affirmative action, and by a huge increase in minority imprisonment.

Every inequality in China has been widened by more than three decades of reform. Expanded private enterprise has particularly widened the scope for ethnic discrimination in hiring.<sup>309</sup> Meanwhile "Chinese anti-discrimination laws have not developed to tackle the kinds of discriminatory behavior that have appeared with the establishment of the market economy."<sup>310</sup> Employment and services discrimination is not covered by the criminal law or detailed in civil law.<sup>311</sup> There are no "concrete remedies for a victim of discrimination . . . . This is why there are no cases in minority regions about employment discrimination despite the fact that the ethnicity requirement in civil servant examinations and other discriminatory behavior are main topics of private conversation among people in these regions."<sup>312</sup>

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<sup>306</sup> *Id.* at 85.

<sup>307</sup> *Id.*

<sup>308</sup> *Id.* at 86.

<sup>309</sup> Gulzazat Tursun, *Integrating Minorities through Legislation: a Perspective on China*, 15 (2011), [http://works.bepress.com/gulzazat\\_tursun/1](http://works.bepress.com/gulzazat_tursun/1) (click "Download" link).

<sup>310</sup> *Id.*

<sup>311</sup> *Id.*

<sup>312</sup> *Id.* at 15-6.

Yet discrimination, while present for some minorities in some spheres, appears to play a lesser role in ethnic inequalities than in India and the U.S. The studies discussed above indicate that one reason for that is countervailing effects of ethnic regional autonomy and preferential policies.<sup>313</sup> Despite dis-equalization inherent in the reforms, these policies still play a role, at least as to the ranks of government and parts of the state-owned economy.

Although India is not at all depoliticized in the sense that proponents of depoliticization of ethnic minorities in China conceive it,<sup>314</sup> India's many policies to address collective interests of its minorities are offset by other policies that allow officials to divert funds for social services and encourage predatory corporations to dispossess *adivasi*. It is the pervasively racialized U.S. however that epitomizes depoliticization, by seeming to hardly have ethnic policies.<sup>315</sup> Yet, that has *not* made U.S. minorities adopt the same attitudes as white people toward the state: disproportionately, minorities mistrust the state or even reject it. Within the context of existing political arrangements, minorities are more dissatisfied with the level of support it provides: 60% of white people exit-pollled in the 2012 elections thought the government should do less, while 58% of Latinos and 73% of black people thought it should do more.<sup>316</sup> Asked in a 2011 poll how much of a role government should play in trying to improve the social and economic position of minority groups, 19% of white people said a major role, 50% said a minor role, and 30% said no role at all.<sup>317</sup> Among African Americans, it was 59%, 32% and 8%.<sup>318</sup> Asked

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<sup>313</sup> While preferential policies are not nearly as potent now as they were in the Mao era, due to privatization, they remain sufficiently desired that quite a few Han seek to change to a minority status, legally or illegally. See Lin Meilian, *Joining the Majority*, GLOBAL TIMES (Nov. 11, 2012).

<sup>314</sup> See generally Niraja Gopal Jayal, *Representing India: Ethnic Diversity and the Governance of Public Institutions* (Palgrave Macmillan, 2006) (for an overview of the many political institutions that serve Indian government ethnic policies).

<sup>315</sup> The absence of ethnic policies itself amounts to an ethnic policy, which may equate to what sociologist and U.S. Senator Daniel Patrick Moynihan euphemistically termed "benign neglect." See generally Richard Marcus, *Benign Neglect Reconsidered*, 148 U. PA. L. REV. (2009).

<sup>316</sup> Nancy Benac and Connie Cass, *Face of U.S. Changing; Elections to Look Different*, ASSOCIATED PRESS (Nov. 12, 2012, 3:55 AM), <http://bigstory.ap.org/article/face-us-changing-elections-look-different-0>.

<sup>317</sup> Frank Newport, *Blacks, Whites Differ on Government's Role in Civil Rights*, GALLUP, 1 (Aug. 19, 2011), <http://www.gallup.com/poll/149087/blacks-whites-differ-government-role-civil-rights.aspx>.

<sup>318</sup> *Id.*

whether new civil rights law are needed to reduce discrimination against black people, 15% of white people agreed; 83% did not.<sup>319</sup> Among black people, 52% said such laws are needed, 48% said they are not.<sup>320</sup> Not surprisingly, “in a 2009 Pew poll, 58[%] of African-Americans and 53[%] of Hispanics said they favor preferential treatment to improve the position of black people and other minorities. Only 22[%] of white people agreed.”<sup>321</sup>

*Intermarriage: More Prevalent in the U.S. than China?*

If U.S. minorities are not highly supportive of the state, they also are not necessarily more connected to the majority population than China's minorities. Some scholars<sup>322</sup> in addition to Ma Rong have asserted that a prime indication the U.S. has more stable ethnic relations than China is a higher rate of ethnic intermarriage. Yet, intermarriage rates are higher in China than in the U.S., when the U.S.' much higher minority proportion is taken into account, as having a larger percentage of minorities creates more intermarriage opportunities. In fact, China's interethnic marriage rate was higher than the U.S.' in 2000, the base year of the main study of intermarriage in China. In the U.S. in 2000, 2.6% of families were ethnically inter-married;<sup>323</sup> in China in 2000, 3.23% of Chinese were in bi-ethnic households. Rates among China's ethnic groups varied due to geographical concentration, group size, customs, etc.; for examples, 1.05% of Uygurs, but 7.71% of Tibetans were intermarried. The highest rate was near 90%. The average for China's 55 minority groups was about 25%.<sup>324</sup>

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<sup>319</sup> *Id.*

<sup>320</sup> *Id.*

<sup>321</sup> Dorian Warren, *What Race Tells us about Anti-Government Attitudes*, THE NATION (Apr. 9, 2012), <http://www.thenation.com/article/166972/what-race-tells-us-about-anti-government-attitudes> (internal quotation marks omitted).

<sup>322</sup> James Leibold, *When Will China have its First Minority President?*, THE ATLANTIC (Nov. 8, 2012), [www.theatlantic.com/international/archive/2012/11/when-will-china-have-its-first-minority-president/264961/](http://www.theatlantic.com/international/archive/2012/11/when-will-china-have-its-first-minority-president/264961/).

<sup>323</sup> *Statistical Abstract of the United States*, 54, U.S. CENSUS BUREAU (2011).

<sup>324</sup> Li Xiaoxia, *Zhongguo ge minzu jian zu ji hunyin xianzhuang de fenxi (Analysis of the current situation of each Chinese ethnic group's inter-ethnic inter-marriage*, ZHONGGUO RENKOU 28:3 (2004): 69- et seq. The 1990 census indicated that 99.4% of bi-ethnic households, the proxy for intermarriage, had a Han and minority person. Rachel Butera, *Chinese Interethnic Marriage: Passion or Rational Choice* 41 (May 7, 2010) (Unpublished B.A. thesis, Middlebury College) (available at <http://middlab.middlebury.edu/category/themes/family/>). See also Rachel Butera and

That the availability of other ethnic groups with which to intermarry is a key determinant of intermarriage, can be seen as to Tibetans. In 2000, 7.7% of all Tibetans were intermarried, but the rate for Tibetans in the Tibet Autonomous Region (TAR), where non-Tibetans were only about 6% of the population, was only 0.7%. More than half of China's Tibetans live outside the TAR, in areas where non-Tibetans are generally a much higher proportion than in the TAR. Thus, more non-TAR Tibetans are likely to intermarry. Even in the TAR, the rate of intermarriage appears to have increased rapidly. In 1990, there were 2,369 Tibetan/Han intermarried households. The number increased to 7,343 by 2000 and was geographically more dispersed.<sup>325</sup> Reportedly, by 2008 “[m]ore than 20% of all marriages in Tibet each year were inter-ethnic marriages, and the rate in Lhasa has an annual double-digit growth.”<sup>326</sup>

The proportion of the intermarried U.S. couples also increased significantly in the 2000s, reaching 8% in 2008 and 8.4% in 2010, with 4% of all married couples in the U.S. then of “different races”<sup>327</sup> and the rest presumably marriages between Latinos (not counted as a “race” by the U.S. Census Bureau) and other groups. From 1980-2008 however, “different groups experienced different trends. Rates more than doubled among white people and nearly tripled among black people. But for both Hispanics and Asians, rates were nearly identical. . . .”<sup>328</sup> Moreover, “despite the large immigrant influx, there has been little evidence to

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Thierry Warin, *Chinese Interethnic Marriage: Passion or Rational Choice*, 4 INT'L J. OF ECON. AND BUS. RESEARCH, no. 6, 2012, at 738.

<sup>325</sup> Ma Rong, POPULATION AND SOCIETY IN CONTEMPORARY TIBET, 263 (Hong Kong University Press, eds., 2011).

<sup>326</sup> *Rate of Inter-Ethnic Marriages Rises Annually in Lhasa*, ALL-CHINA FEDERATION OF WOMEN (Mar. 28, 2008), <http://www.womenofchina.cn/html/womenofchina/report/91835-1.htm>. See also Xu Zhenming, *Xiahe xian Labuleng zhen zu ji tonghun zhuangkuang diaocha* (Survey on Interethnic Marriage in Labrang Township, Xiahe County), 6 GANSU SHEHUI KEXUE 192, 192-195 (2005) (discussing a study finding that the number of Han-Tibetan marriages almost tripled between 1978 and 2000 in a township in Gansu Province known for its Tibetan Buddhist monasteries).

<sup>327</sup> Emily Alpert, *Interracial Couples on Rise in U.S., Census Data Show*, L.A. TIMES, Sept. 1, 2013.

<sup>328</sup> Jeffrey S. Passel et al., *Marrying Out*, PEW RESEARCH CENTER (PRC), 2010, [www.pewsocialtrends.org/files/2010/10/755-marrying-out.pdf](http://www.pewsocialtrends.org/files/2010/10/755-marrying-out.pdf); *The Rise of Intermarriage: Rates, Characteristics Vary by Race and Gender*, PRC (Feb. 16, 2012), [www.pewsocialtrends.org/2012/02/16/the-rise-of-intermarriage/](http://www.pewsocialtrends.org/2012/02/16/the-rise-of-intermarriage/).



date of an emerging multi-ethnic American identity or of a new American “melting pot” stirred by intermarriage.”<sup>329</sup>

Data on intermarried households in China in 2010 is not yet available. Hong Kong sociologist Raymond SK Wong, extracting intermarriage data for the 791,946 married couples in the 2005 mini-census, found that 87,155 (11%) were in bi-ethnic households.<sup>330</sup>

Minorities were 8.5% of Chinese in 2010,<sup>331</sup> but more than 28% of Americans.<sup>332</sup> The U.S. minority proportion was thus 3.3 times that of China. The percentage of China's intermarried households likely increased in the 2000s, due to greater interethnic contact as minorities urbanize, a shortage of Han women because of China's skewed sex ratio, and increased utility for Han in marrying a minority as the urban one-child policy tightened.<sup>333</sup> Yet, even if the proportion of intermarried Chinese was unchanged in the 2000s, the U.S. proportion of intermarried in 2010 would only be 260% that of China, while the proportion of minorities in the U.S. is 330% that of China. Intermarriage is even more pronounced in China than in the U.S. given China's high geographical concentration of minorities, which contrasts with the much more even geographical spread of U.S. minorities. China's minorities are also disproportionately rural; U.S. minorities are disproportionately urban, while workplaces and neighborhoods in urban areas tend to be ethnically much more mixed than in rural areas. In fact, ethnic

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<sup>329</sup> Since the 1990s there has been a “retreat from intermarriage” in the form of *declining* rates of out-marriage among some rapidly growing immigrant groups . . . . [So that] additional increases in interracial marriage are no longer guaranteed, nor do they lend themselves to unambiguous interpretations among changing race relations or group boundaries.” Qian Zhenchao and Daniel Lichter, *Changing Patterns of Interracial Marriage in a Multiracial Society*, 73 J. OF MARRIAGE AND THE FAMILY 1063, 1065-7 (2011).

<sup>330</sup> Raymond Sin-Kwok Wong, *Educational Homogamy and Inter-ethnic Marriages in China*, Address at the International Sociological Association, Research Committee on Social Stratification and Mobility (May 14-16, 2009).

<sup>331</sup> Press Release, NATIONAL BUREAU OF STATISTICS OF CHINA, Press Release on Major Figures of the 2010 National Population Census (Apr. 28, 2011) (on file with author).

<sup>332</sup> Press Release, U.S. Census Bureau, 2010 Census Shows America's Diversity (Mar. 24, 2011) (on file with author). See also Butera, *supra* note 324 (indicating that the rate of intermarriage had increased over time using 1990, 2000 and 2005 census

<sup>333</sup> Wang Jun, *The Migration of Ethnic Minorities in the Urbanization Process in China*, 9 CANADIAN DIVERSITY 5-7 (2011); Ai Deng, et al., *Urbanization Processes among Ethnic Groups in Western China*, in ETHNIC MINORITIES AND REGIONAL DEVELOPMENTS IN ASIA: REALITIES AND CHALLENGES (Cao Huhua ed., 2009). See also Butera, *supra* note 324 at 91, 95.

intermarriage in China is now common enough that it is several times more prevalent than interprovincial marriage.<sup>334</sup>

Many sub-national studies confirm that, *mutatis mutandis*, intermarriage in China is at least as common as in the U.S. In Beijing at the 1990 census, when 3% of people there were minorities, 2.2% of Han, 16.7% of Hui, 87.3% of Manzu, 90.5% of Mongolians, and 14.3% of Koreans were intermarried.<sup>335</sup> In Inner Mongolia in 1990, when 15% of inhabitants were Mongols, Han-Mongol couples were 40% of all marriages.<sup>336</sup> In 1994-1995 in Hohhot, where 13% were minorities, 23% of Han, 78% of Mongols, 99% of Man and 33% of Huis married inter-ethnically.<sup>337</sup> In comparison, U.S. 1990 census data shows the rate of intermarried white people as 1.5%, black people 4.1%, Asians 17.7% and “some other race” (almost all Latinos), 15.7%.<sup>338</sup>

For Yunnan province, where 33% of people were minorities, 1990 data showed 7.3% of households had Han/minority couples -- 5% in Han areas and 11% in minority areas.<sup>339</sup> For Yunnan’s capital Kunming in 1990 “intermarriage was prevalent among all minorities . . . . The highly positive market conditions for intermarriage were created by the institutions and policies, among them preferential policies for ethnic minorities and . . . highly ethnically mixed workplaces and neighborhoods.”<sup>340</sup> In 1991-1996,

<sup>334</sup> Li Tao et al., *How Status Inheritance Affects Marriage Segregation* (2012) (unpublished manuscript) (on file with author). See generally Tang & He, *supra* note 14 at 43-44 (giving a general overview of intermarriage).

<sup>335</sup> Rizvan Mahmet, et al., *Ethnic Intermarriage in Beijing and Xinjiang, China, 1990* 36 *J. OF COMPARATIVE FAMILY STUDIES* 187, 187-208 (2005) (showing that the U.S. and Beijing had comparable rural proportions of their populations: U.S. 24.8% and Beijing 26.6%). But see Urban and Rural Population (Table), U.S. BUREAU OF THE CENSUS, and “Beijing” (Table), UNITED NATIONS ECONOMIC AND SOCIAL COMMISSION FOR ASIA AND THE PACIFIC (showing that minorities were 4.3% of Beijing’s population in 2000); Reza Hasmath, *Dealing with Urban Ethnic Differences: a Comparative Analysis of Chinese and Canadian Strategies*, in *ETHNIC MINORITIES AND REGIONAL DEVELOPMENT IN ASIA: REALITIES AND CHALLENGES* (Cao Huhua ed., 2009).

<sup>336</sup> Robin Iredale et al., *CHINA’S MINORITIES ON THE MOVE* 56-61 (Armonk: ME Sharpe, eds., 2003).

<sup>337</sup> Wang Junmin, *Meng, Man, Hui, Han, si zu tonghun yanjiu: Huhehaote de shiqu de ge’an* (Mongolian, Manchu, Hui, Han, Research on Four Ethnic Groups’ Intermarriage: Cases from Hohhot City), 24 *XIBEI MINZU YANJIU* 158, 158-159 (1999).

<sup>338</sup> Sharon Lee and Barry Edmonston, *New Marriages, New Families: U.S. Racial and Latino Intermarriage*, 60:2 *POPULATION BULLETIN* 3-38 (2005).

<sup>339</sup> Lu Zhaohe, *Yunnan minzu jian tonghun de jiating leixing yu renkou jigou yanjiu*, “(Research on family type composition of ethnic intermarriage and population), 26 *YUNNAN DAXUE RENWEN SHEHUI KEXUE XUEBAO* 6, 63 (2000).

<sup>340</sup> Wei Xing, *Patterns, Mechanisms and Nature of Ethnic Intermarriage in China, Kunming Case, 1950-1996* (2008) (unpublished Ph.D. dissertation, University of Toronto)

for the three largest ethnic minority groups in the city, among Yi, only 15.7% were in-married (75% were married to Han, the remainder married other minorities); for Bai, only 8.6% were in-married (81.8% married Han); and for Hui, 27.1% were in-married (67.2% married Han). Status homogamy moreover was highly prevalent: "there was no exchange between Han ethnic status and minority socioeconomic status, which has often been found in the North American context"; that is, in contrast to findings from the U.S., Chinese ethnic minorities of higher socioeconomic status do not marry ethnic majority people of lower economic status, but rather minority/Han couples tend to have the same socio-economic statuses.<sup>341</sup>

A 2002-2003 intermarriage survey was carried out in Tacheng, Xinjiang, a city of 150,000, with a minority percentage close to that of the U.S.'s ethnic minority/"mixed race" proportion of 37% in 2011. Some 15% of new U.S. marriages then were interracial/interethnic. In Tacheng, 40% of new marriages were bi-ethnic.<sup>342</sup> It appears then that where ethnic groups interact in China, the intermarriage rate is at least as high as in the U.S. The main exceptions are Ningxia and much of Xinjiang, where there is a fairly low degree of minority/Han interaction and less-educated Muslims religiously eschew exogamy.<sup>343</sup>

#### CONCLUSION: NO MODELS, NO VIABLE CASE FOR "DEPOLITICIZATION"

Just as there is no reason to conclude that intermarriage has diminished the U.S.' pervasive racial/ethnic divisions, there is no compelling evidence that the U.S. or India has generally lower levels of ethnic minority disaffection than China. That is so despite both countries being less proven targets of external forces seeking to

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<sup>341</sup> Wei Xing, *Prevalence of Ethnic Intermarriage in Kunming: Social Exchange or Insignificance of Ethnicity?* 8 *ASIAN ETHNICITY* 2 165-179 (2007).

<sup>342</sup> Li Xiaoxia, *Xinjiang Tacheng shi diaocha ji hunxin diaocha (Survey of interethnic marriage in Tacheng city)*, 3, *XINJIANG SHEHUI KEXUE* 1, 67-75 (2006); <http://china-trade-research.hktdc.com/business-news/article/Fast-Facts/Tacheng-Xinjiang-City-Information/ff/en/1/1X000000/1X07327N.htm> (showing how in a 2011 poll, 43% of American adults agreed that "more people of different races marrying each other has been a change for the better"; 11% for the worse; 44% offered no opinion).

<sup>343</sup> See, e.g., Zang Xiaowei, *Hui Muslim-Han Chinese Differences in Perceptions in Endogamy in Urban China*, 6 *ASIAN ETHNICITY*, 51-68 (2005).

promote minority disaffection than China.<sup>344</sup> While complex arrays of those and other factors continue to produce conflict involving parts of China's Uygur and Tibetan populations, survey results indicate that "officially designed assimilation policies, such as improvement of socioeconomic status, Chinese-language learning, and political recruitment into the Communist Youth League, did lead to greater acceptance of the Han people among minorities [and] also led to greater ethnic tolerance of all groups, not only the Han people."<sup>345</sup>

Many changes can be made to China's ethnic policies that may reduce ethnic inequality and strengthen national coherence.<sup>346</sup> There is however no indication that anything is to be gained by diminishing existing minority rights in order to apply ineffective Indian and U.S. models. Given that these models allow for demonstrably pervasive invidious discrimination or ethnic plundering, their application in China, would likely result in both greater inter-ethnic socio-economic disparities and increased minority mistrust of Han and the state.<sup>347</sup> It is quite possible that the perspicacious proponents of depoliticizing China's ethnic relations realize that and chose the U.S., India and Brazil as models, not because they vindicate their proposals, but rather because they are large and influential countries and states of the sort that liberals prefer. Russia, another large, influential semi-authoritarian state, cannot serve as a model because it retains some features of the pre-existing Soviet model of ethnic relations, from which proponents of depoliticization (erroneously) claim China's system was copied.<sup>348</sup> Other globally significant states either still have small numbers of

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<sup>344</sup> Shan Wei, *Explaining Ethnic Protests and Ethnic Policy in China*, 1 INT'L J. OF CHINA STUDIES, 509, 517-518, 524 (2010) (showing Dr. Shan Wei of National University of Singapore, a strong critic of Chinese government policies in minority areas, who observed that "We do not have enough information about how much the Dalai Lama's exile government or the World Uygur Congress played a role in the [2008 and 2009] protests, but there is no doubt that they had influence on their ethnic fellows. Their political programs and blueprints certainly facilitated collective protests against Han Chinese and the government." He also notes U.S. support for "major Uyghur organizations in the Western world.")

<sup>345</sup> Wenfang Tang and Gaochao He, *Separate But Loyal* 34-35 (2010).

<sup>346</sup> See Barry Sautman, *Scaling Back Minority Rights?: The Debate about China's Ethnic Policies*, 46 STAN. J. INT'L LAW: 52, 112-120 (2010).

<sup>347</sup> Zhang Shen, et. al., *Implicit Trust Between the Uyghur and the Han in Xinjiang, China*, PLOS ONE 8, 8 (2013).

<sup>348</sup> *Id.* at 62-66; Hao Shiyuan, *Zhongguo minzu zhengce de hexin yuanze bu rong gaibian (The core principles of China's ethnic policies should not be allowed to change)*, MZB (Feb. 10, 2010), [www.mzb.com.cn/html/Home/report/276292-1.htm](http://www.mzb.com.cn/html/Home/report/276292-1.htm).

minority peoples (e.g. South Korea, Argentina) or have been moving their ethnic policies in the opposite direction from that proposed by the advocates of a second generation of ethnic policies (e.g. Canada, Australia). Most other states are too globally insignificant, too small or too generally problematic to be candidates for model status, even if, rather exceptionally, they may have a low degree of ethnic conflict.

Because proponents of depoliticizing China's ethnic relations contrast a U.S. model with China's policies and have not studied, but have overestimated the position of U.S. minorities, they may also underestimate the position of China's minorities. The relationship between international knowledge, with reference to the U.S., and domestic knowledge in China has been analyzed using a survey and field experiment that found that empirical overestimates of Western socioeconomic conditions drive negative opinions by Chinese about China. Chinese who have a too "rosy" a view of conditions in the U.S. and other Western states thus strongly tend to have across-the-board lower evaluations of China and the Chinese government, driven by these overestimations.<sup>349</sup> If, as has long been understood, many Chinese intellectuals view the U.S. government as successfully promoting the "diversity and inclusiveness" of U.S. society,<sup>350</sup> that view tends to make them more negative about the Chinese state and society and seek to replace China's approach to ethnic relations with perceived U.S.-style policies.

In the absence of models, proposals to depoliticize ethnic relations in China amount to liberalist utopianism. Though these proposals aim to benefit both minorities and Han by preserving China's territorial integrity, in other respects their implementation would likely set back efforts to narrow ethnic disparities and thus imperil prospects for ethnic peace over the long term. Rather than diminishing collective rights for minorities, non-separatist proposals to add to rights, attack ethnic socio-economic disparities, and increase minority political participation and leadership might be given serious consideration, with the aim of achieving the

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<sup>349</sup> Huang Haifeng, *International Knowledge and Domestic Attitudes in a Changing Society*, paper presented at Fudan/UC Center, CHINA'S DOMESTIC CHALLENGES CONF., UC SAN DIEGO, Mar. 25, 2013, available at [fudan-uc.ucsd.edu/\\_files/03252013\\_paper\\_huang.pdf](http://fudan-uc.ucsd.edu/_files/03252013_paper_huang.pdf).

<sup>350</sup> See, e.g. Wang Jianwei, *Ltd. Adversaries: Post-Cold War Sino-American Mut. Images* (Oxford Univ. Press 2000).

longstanding state goal of ethnic equality in fact (*shishishangde pingdeng*).<sup>351</sup>

Contrary to a conception common among Chinese intellectuals that such a course is not possible because Han would oppose it, there may be a popular base for just such an effort in China and apparently a wider base than exists in either the U.S. or India. A 2008 random sample poll in 16 countries<sup>352</sup> by WorldPublicOpinion.org, the publication of the University of Maryland's Program on International Policy Attitudes, asked whether governments should make an effort to prevent discrimination based on a person's race or ethnicity. The 16-country average was 79% agreement, while 46% of Indians, 83% of Americans and 90% of Chinese agreed. Asked how important it is for people of different races and ethnicities to be treated equally, the 16 country-average was that 69% said it is very important and 21% said it is somewhat important, while 44% of Indians said it is very important and 15% said it is somewhat important. The corresponding figures for the Americans were 79% and 17% and for Chinese 90% and 8%. Queried whether government should do more to prevent discrimination based on a person's race or ethnicity, the 16 country-average was 54% saying it should, while 28% of Indians, 45% of Americans and 70% of Chinese agreed it should. Asked whether employers should or should not be allowed to refuse to hire a qualified person because of the person's race or ethnicity, the 16-country average of "shoulds" was 19% and the average of "should nots" was 75%, while for India the "shoulds" were 30% and "should nots" were 43%. The figures for Americans were 13% and 86% and for Chinese 10% and 88%. Queried whether government has the responsibility to try to prevent employers from refusing to hire someone because of the person's race or ethnicity, the 16-country average who said it does was 60%, while for India it was 27%, for the U.S. 69% and for China 77%.<sup>353</sup>

The report's analysts concluded about Indians, Americans and Chinese in the context of the nations surveyed that

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<sup>351</sup> Hu Qili, *Speech at the Tibet Cadres Meeting Marking the 20<sup>th</sup> Anniversary of the Tibet Autonomous Region*, XH, (Aug. 31, 1985).

<sup>352</sup> Mexico, USA, UK, France, Russia, Ukraine, Turkey, Iran, Egypt, Azerbaijan, Palestinian territories, Nigeria, S. Korea, China, Indonesia, and India.

<sup>353</sup> *Publics Around the World Say Governments Should Act to Prevent Racial Discrimination*, WORLDPUBLICOPINION.ORG, (2008), [http://www.worldpublicopinion.org/pipa/articles/btjusticehuman\\_rightsra/460.php](http://www.worldpublicopinion.org/pipa/articles/btjusticehuman_rightsra/460.php).

Indians stand out as the public with the weakest levels of support for racial equality . . . Indians have the largest number who do not support the government taking more action to protect people from ethnic or racial discrimination. They also have the second-lowest number saying that their government has the responsibility to prevent racially or ethnically discriminatory hiring practices . . . modest majorities of Indians say that equal treatment of different races and ethnicities is important . . . .

Americans widely believe that the government should make an effort to prevent racial and ethnic discrimination, but a majority says that the government is already doing enough in that regard or should not be involved in such efforts.

The Chinese are among the publics with the greatest support for importance of equal treatment for different races and ethnicities, second only to Mexicans among the publics polled. China also has the second-largest majority rejecting employers having the right to discriminate based on race or ethnicity, and are among the largest majorities that favor their government making efforts to prevent racial and ethnic discrimination.<sup>354</sup>

The data and analysis of the report consistently show that negative attitudes toward ethnic discrimination and positive attitudes toward taking action against it are stronger or much stronger in China than in the U.S. and India respectively. The prime policy question that confronts analysts of the ethnic policies in China then is whether the Chinese government can be made to alter its policies in ways that diminishes, rather than increase ethnic inequality and antagonism. A significant reduction of ethnic disparities and ethnic peace might be realized, but not through a U.S./India model, a “cure” that is likely to kill the patient.

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<sup>354</sup> *Id.* at 6, 12.