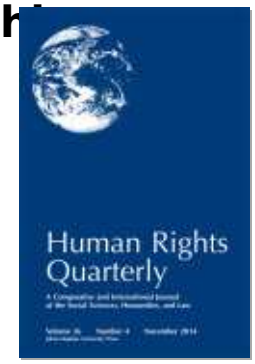
The Right to Minority Language Instruction in Schools: Negotiating Competing Claims in Multinational Ch



Guobin Zhu

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The Right to Minority Language Instruction in Schools: Negotiating Competing Claims in Multinational China

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ABSTRACT

Although the right to minority language instruction is widely recognized as a linguistic human right, it has not simultaneously been recognized and implemented in China. This article aims to analyze a Chinese dilemma: how to maintain economic growth while protecting minority rights in general and linguistic rights in particular. By examining the evolution of bilingualism as national language policy, the article shows that China's policy orientation has actually derailed from its original track and, to some extent, breached the constitutional principle of equal protection. Further, it scrutinizes and compares the claims upheld by different stakeholders and asserts that the government's GDP-driven attitude and interventionist approach to language policy is detrimental to minorities' linguistic rights and to national solidarity. It concludes that linguistic pluralism and cultural diversity should be cherished and promoted in policy and law making in multinational China.

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I. INTRODUCTION

Alexis de Tocqueville once said: "The tie of language is, perhaps, the strongest and most durable that can unite mankind."[1] This quote is directly applicable to understanding the essential role that language can actually play. In a multinational country like China, an ethnic group's traditions, culture, and sense of community are heavily intertwined with its language; in other words, the differences of nationalities and their diversities of culture are basically identified by the languages they use.[2] As rightly observed by Fernand de Varennes, language plays an economic role in addition to its ethnic, cultural, and linguistic ones; "individuals who have greater fluency in the official and majority tongue" will have advantages "in terms of access to and distribution of public resources."[3] He warns further that "as a result, any menace to, disrespect of or attack upon its use or existence may arouse strong emotions and constitutes a potential cause of conflict."[4]

Situating the analysis within the above theoretical assertion, this article first briefly introduces the Tibetan high school students' protest against the change of policy with regard to the use of Tibetan language in schools that occurred in October 2010 in Qinghai province. Second, it explores the development and establishment of the policy and law of bilingualism in education as it pertains to minority nationalities, and the major social and political consequences it entails. Third, it critically assesses the results of this policy orientation and law enforcement by examining the governmental position, the claims of the Tibetans, the views of advocates of linguistic human rights, and the complexities of the subject matter. The article acknowledges the actual difficulty in striking a balance between maintaining linguistic diversity and economic growth. In the conclusion, it stresses a pressing need to radically rethink the current framework of law and policy by learning from European and comparative experiences, and from advanced theories.

II. TIBETAN STUDENTS' PROTEST IN QINGHAI UNVEILS A CHINESE DILEMMA

On 19 October 2010, hundreds or even thousands of Tibetan secondary and high school students took to the streets to protest against the compulsory switch to Chinese language teaching in the Tibetan Autonomous Prefecture of Huangnan schools (in Tibetan: Malho), located in China's Western Qinghai

1. Fernand de Varennes, Language, Minorities and Human Rights 1 (1996), *quoting* Alexis de Tocqueville, Democracy in America 28 (Vol. I, 1841).
2. *Id.*
3. *Id.*
4. *Id.*

province.[5] The protesters adopted a slogan: "Equality of ethnicities, freedom of language."[6] The protest first began in the town of Tongren County (in Tibetan: Rebkong) and spread over the following days to nearby areas in this province, "which is home to numerous minority ethnic groups, including Tibetans and Mongolians, who retain their own languages."[7] On 25 October, the protest was extended to a Tibetan prefecture in Gansu province, where a few hundred primary school students reportedly took to the streets to support the Tibetan language as the teaching medium in schools.[8] It was further reported by China's official Xinhua News Agency on 22 October that the protest "began earlier than it had been reported in the outside world," and "middle school students in the Tibetan autonomous prefectures of Huangnan, Hainan (Tibetan: Tsolho), Haibei (Tibetan: Tsojang), and Guoluo (Tibetan: Golog) prefectures had already 'expressed their dissatisfaction'" between 17 and 20 October.[9]

Based on information available outside China (information was scarce within China), the protest in Qinghai erupted over speculation that the Qinghai provincial government planned to severely limit the teaching of Tibetan in schools and perhaps relegate it to elective or extracurricular status. As a matter of fact, in September 2010, the Qinghai Provincial government published the *Middle- and Long-term Program for Educational Reform and Development of Qinghai Province (2010–2020)* (Provincial Program),[10] which aimed at implementing the *National Middle- and Long-term Program for Educational Reform and Development (2010–2020)* (National Program).[11] Part XI of the Provincial Program on "ethnic education" [*minzu jiaoyu* in

5. The number of protesters varies depending on the sources available online. *See, e.g.*, Edward Wong, *Tibetans in China Protest Proposed Curbs on Their Language*, N.Y. Times, 22 Oct. 2010, *available at http://www.nytimes.com/2010/10/23/world/asia/23china.html?_r=1&*; Christopher Bodeen, *Tibetan Students Protest China Plan to Impose Language*, Wash. Times, 22 Oct. 2010, *available at http://www.washingtontimes.com/news/2010/oct/22/tibetan-students-protest-china-plan-impose-languag/?page=all*; *Qinghai Tibetan Student Demonstrations Against the Chinese Teaching*, BBC, 20 Oct. 2010, *available at http://www.bbc.co.uk/zhongwen/simp/china/2010/10/101020_china_rights_tibet_education.shtml*.
6. Wong, *supra* note 5.
7. Bodeen, *supra* note 5.
8. Long Qiao, *Tibetan Students Hold March*, Radio Free Asia, 28 Oct. 2010, *available at http://www.rfa.org/mandarin/yataibaodao/zangyu-10282010091116.html*.
9. Staff Reporter, *China Reasserts Language Policy as Tibetan Protest Spreads*, Tibetan Rev., 24 Oct. 2010, *available at http://www.tibetanreview.net/news.php?id=7525*.
10. *Middle- and Long-term Program for Educational Reform and Development of Qinghai Province (2010-2020)* [hereinafter Provincial Program], *available at http://news.xinhuanet.com/edu/2010-09/23/c_12598473.htm*, *http://www.qhnews.com/index/system/2010/09/17/010199743.shtml*.
11. *National Middle- and Long-term Program for Educational Reform and Development (2010-2020)* [hereinafter National Program], *available at http://www.gov.cn/jrzg/2010-07/29/content_1667143.htm*. In-text translations by author. Unofficial English translation *available at* https://www.aei.gov.au/news/newsarchive/2010/documents/china_education_reform_pdf.pdf.

Chinese] repeatedly underlines the application of "bilingual instruction," or bilingualism, as national policy. In order to implement the Provincial Program, the Qinghai provincial government published on 11 October 2010 a document named *Implementing Plan for the 2010–2020 Major Educational Projects of Qinghai Province* (Implementing Plan), in which twelve major projects were enumerated.[12] The "Project VII" relates to a "Reform Project concerning Ethnic Education and Bilingual Instruction," which aims at "improving the quality of ethnic education on the whole" and stipulates in detail the targets with corresponding timelines for compliance.[13]

Observers outside China believed that the actual motivation for the protest must have been the article published in *Renmin Ribao* (*People's Daily*) on 30 September, quoting Wei Qiang, then Secretary of the Committee of the Communist Party of China (CPC) of Qinghai province, as saying in a speech delivered at the Qinghai Education Conference "that mandating Chinese language instruction was crucial."[14] The speech was actually just a mere repetition of the relevant parts of the Provincial Program. Indeed, in both the speech and the program, the importance of the use of a "common language" (*tongyong yuyan*) (meaning the official language, Putonghua) in schools and the idea of "making national common language the language of instruction" [*jiang guojia tongyong yuyan zuowei jiaoxue yuyan*] were highlighted.[15]

The first protest was believed to have taken place in Tongren County. An online source reveals that Tongren was chosen as the test pilot for educational reform, according to which all subjects in high schools except Tibetan language and English are to be taught in Chinese (here referring to Putonghua), and students are required to answer questions in Chinese.[16] A Tibetan from India who has relatives in Tongren expressed concerns that the new language policy poses a threat both to the ethnic languages themselves

12. The Implementing Plan is no longer available online. (On file with author.)
13. *Id.*
14. Wong, *supra* note 5.
15. *See* Provincial Program, *supra* note 10, Pt. XI.
16. *Protests by Students Against Downgrading of Tibetan Language Spread to Beijing*, International Campaign for Tibet (22 Oct. 2010), *available at https://www.savetibet.org/protests-by-students-against-downgrading-of-tibetan-language-spread-to-beijing/*; Su Chen, *Tibetan Students Protest against Educational Reform Plan and Abandonment of Tibetan Instruction*, Voice of America (VOA), 20 Oct. 2010, *available at http://www.voanews.com/chinese/news/20101020-tibetan-education-105342408.html, http://blog.boxun.com/hero/201010/dongsai/15_1.shtml*. Note: "Chinese," *hanyu* or *zhongwen*, in this article means Putonghua, the official national standard spoken language, which is based on the Beijing dialect and was used during much of the Qing Dynasty as the official language of the Imperial Court. "Chinese" also means the written language referring to the writing in Chinese characters. For the purpose of this article, Chinese, Putonghua, or sometimes Mandarin may be used interchangeably to describe the written or spoken Chinese language, depending on the circumstances.

and to teachers who have low proficiency in Putonghua, many of whom "believe that they may lose [their] job."[17]

Christopher Bodeen of the Associated Press observes that in Qinghai, the "(u)se of the Tibetan language is tied to the region's political struggles" and that these new policies are viewed there as a danger to the "unique Buddhist culture" of the "traditionally self-governing" Tibetans. However, the situation is not necessarily that simple. The increasing prominence of Chinese and "the migration of China's ethnic Han majority" that have come with economic development could certainly pose a threat to minority languages and cultures, but some Tibetans believe that the acquisition of the majority language could also lead to better employment prospects for the younger generation.[18] A well-established Tibetan expert, Wei Zhou, expresses a similar understanding by stating that bilingualism on the basis of free choice provides more employment opportunities for Tibetan students.[19]

The major focus of Chinese authorities in discussing these policies is on aspects other than cultural considerations or tradition. Beijing defends the official position by stating that facilitating "the development of ethnic education" will promote "economic and social development in ethnic and national areas," as well as increase "solidarity and common prosperity and development among all nationalities."[20]

These comments illustrate a Chinese dilemma: Can the maintenance of multiculturalism and linguistic diversity go hand-in-hand with the promotion of economic opportunity and growth? How can law and policy handle these competing and sometimes conflicting goals? Furthermore, why has ostensibly well-intended law and policy led to undesirable and unexpected consequences, national conflict, and regional instability? Are there any better solutions available to the Chinese government from other parts of the world? These are questions to be studied in this article, some of which remain to be answered by the people of Tibet and the Chinese authorities.

III. BILINGUALISM, EQUALITY OF LANGUAGES, AND CONSTITUTIONAL LAW

Bilingualism normally signifies the ability to speak two languages or the use of two languages in a community. For the purpose of this article, bilingualism is used to mean the use of two languages (for example, Tibetan and Chinese) in teaching and learning in ethnic schools or in minority nationality areas.

17. *See* Chen, *supra* note 16.
18. *See* Bodeen, *supra* note 5.
19. *See* Shuling Liu & Yuqing Hu, *Tibetanologists: Bilingual Instruction Will Provide for Tibetan Students More Opportunities for Jobs* (23 Mar. 2011), *available at http://www.jyb.cn/china/gnxw/201103/t20110323_421481.html*.
20. *See* National Program, *supra* note 11, Ch. IX, "Ethnic Education."

In recent years in international academia, there has been a burgeoning body of literature on the topics of bilingualism, linguistic human rights, and multicultural education. As observed by Stephen May, the advocates of linguistic human rights hold that "minority languages, and their speakers, should be accorded at least some of the protections and institutional support that majority languages already enjoy."[21] Scholars like Tove Skutnabb-Kangas and Robert Phillipson also note that "the notion of linguistic human rights is reflected at the level of linguistic communities by the *collective* rights of peoples to maintain their ethnolinguistic identity and difference from the dominant society and its language."[22] In this sense, any claim to a group–based minority language right is legitimate and should be upheld by the constitution and law of all countries.

A. Principle of Equality and Constitutional Status of Minority Languages

At the outset, the Constitution of the People's Republic of China (the PRC) calls the country a "multi-national state" characterized by "[s]ocialist relations of equality, unity and mutual assistance" that "will continue to be strengthened."[23] Article 4 of the Constitution affirms the equality of all ethnic groups, establishes minority rights, obliges the state to enforce these rights and foster constitutional rights, and defines the principle of equality as involving a "relationship of equality, unity and mutual assistance among all of China's nationalities."[24]

To guarantee the effective exercise of minority and group rights, the Constitution grants a degree of "regional autonomy" to "areas where people of minority nationalities live in concentrated communities" through the establishment of "organs of self-government."[25] Regarding the development of the areas of minority nationalities, the Constitution imposes on the state a positive obligation to or, "assist[] areas inhabited by minority nationalities [in] accelerating their economic and cultural development according to the characteristics and needs of the various minority nationalities."[26]

These cultural and linguistic rights and freedoms were first formulated in the *Common Program of Chinese People's Political Consultation Conference* in September 1949 and have been highlighted and guaranteed by the consecutive Constitutions (1954, 1975, 1978, and 1982). The current

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21. Stephen May, Language and Minority Rights: Ethnicity, Nationalism and the Politics of Language 8 (2001).
22. *Id. See also* Tove Skutnabb-Kangas, Bilingualism Or Not: The Education of Minorities (1981); Robert Phillipson, Linguistic Imperialism (1992).
23. Const., P.R.C., pmbl.
24. *Id.* art. 4, §1.
25. *Id.* art. 4, §3.
26. *Id.* art. 4, §2.

Constitution (1982) crystallizes it in this way: "All nationalities have the *freedom* to use and develop their own spoken and written languages and to preserve or reform their own folkways and customs."[27]

Qingxia Dai, a leading expert in minority language and policy-making, believes that this clause embodies "the basic idea on ethnic languages in China" and reflects the general opinion of the Chinese government on the issue.[28] In order to implement this constitutional clause, the Law on Regional National Autonomy (LRNA) was adopted as a constitutional law by the National People's Congress (NPC) and revised by the NPC Standing Committee (NPCSC); it incorporates this provision in its text.[29] Reading through the Constitution and the LRNA, the legislative intent can be understood as establishing the freedom to use and develop minority languages as a constitutional right. Dai understands this "freedom" as meaning that "all nationalities, regardless of the size of population, have the right to decide how to use and develop their own languages" without discrimination or interference, and that the government is obliged to protect this right.[30]

Minority languages actually enjoy the status of an official language in the areas where the system of regional national autonomy is practiced, and equality of languages as a constitutional principle is also applied as a matter of fact. As a matter of law, all languages enjoy the same status, as stated in the Constitution: "In performing their functions, the organs of self-government of the national autonomous areas shall, in accordance with the autonomy regulations of the respective areas, employ the spoken and written language or languages in common use in the locality."[31] The principle of equality of languages has been implemented in local regulations such as Regulations of Tibetan Autonomous Region on the Study, Use, and Development of Tibetan Language (adopted by the Region's People's Congress in 1987 and revised in 2002), Regulations of Xinjiang Uighur Autonomous Region on the Work of Languages (adopted by the Regional People's Congress in 1993 and revised in 2002), and Regulations of Inner Mongolian Autonomous Region on the Work of Mongolian Language (adopted by the Region's People's Congress in 2004 and revised in 2005).

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27. *Id.* art. 4, §4 (emphasis added).
28. Qingxia Dai, *A Brief Description of the Chinese Policy of Ethnic Languages, in* Zhongguo Minzu Yuwen Zhengce yu Falu Shuping [Review of Policy and Law on Linguistic Minorities in China] 1 (Yali Ma (Maria Lundberg) & Sun Hongkai et al. eds., 2007). (On file with author.)
29. Law on Regional National Autonomy (LRNA), adopted by National People's Congress (NPC) 31 May 1984, revised by NPC Standing Committee (NPCSC) 28 Feb. 2001. LRNA, art. 10, states:

    > The organs of self-government of national autonomous areas shall guarantee the freedom of the nationalities in these areas to use and develop their own spoken and written languages and their freedom to preserve or reform their own folkways and customs.

30. Dai, *supra* note 28, at 2.
31. Const. P.R.C., *supra* note 23, art. 121.

The above-mentioned constitutional provisions have also been reiterated in the LRNA. However, the LRNA has added a new limb to distinguish one major nationality language from other languages used in a given area.[32] In other places in the Constitution and the LRNA, the right and privilege to use minority languages in judicial proceedings has been equally affirmed.[33]

In short, the constitutional clauses of minority rights establish the right to learn, use, and disseminate minority languages by minority nationalities and groups in the political, judicial, and social life of the state. All the national laws and regional and local regulations are consistent with the constitution in this respect.[34]

Thus, it is generally accepted that in China the state has a positive duty to enforce this established right. The legal framework has been consolidated by the adoption and implementation of other national laws, in addition to the LRNA. They mainly include: the 1995 Law on Education (Article 12), the 1986 Law on Compulsory Education (Article 6), the 1992 Organic Law of the National People's Congress (Article 18) and of the Local People's Congress at Various Levels (Article 9), the 2000 Law on the National Standard Spoken and Written Language (Article 8), the 1990 Law on Copyright (Article 22; revised in 2001, 2010), the 1979 Organic Law of the People's Courts (Article 6; revised in 1983), and civil and criminal procedural laws. Viewing them as a whole, as witnessed by Wulannarisu, they provide regulations regarding the use and dissemination of minority languages in all fields of social life and offer adequate protection for the maintenance and development of minority languages.[35]

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32. LRNA, *supra* note 29, art. 21, defines:

> In performing its functions, the organs of self-government of a national autonomous area shall, in accordance with the autonomous regulations of the respective areas, employ the spoken and written language or languages in common use in the locality; where several commonly used languages are used for the performance of such functions, the language of the nationality exercising regional autonomy may be used as the main language.

33. *See, e.g.,* Const., P.R.C., *supra* note 23, art. 134 states:

> Citizens of all nationalities have the right to use the spoken and written languages of their own nationalities in court proceedings. The people's courts and people's procuratorates should provide translation for any party to the court proceedings who is not familiar with the spoken or written languages in common use in the locality.
>
> In an area where people of a minority nationality live in a compact community or where a number of nationalities live together, hearings should be conducted in the language or languages in common use in the locality; indictments, judgments, notices and other documents should be written, according to actual needs, in the language or languages in common use in the locality.

Similar provisions can be found in LRNA, *supra* note 29, art. 47.

34. A table listing all the regional and local regulations on languages in China is provided in Qingsheng Zhou, *The Working Conference and [the Birth of] the Document No 32 of the State Council, in* Review of Policy and Law on Linguistic Minorities in China, *supra* note 28, at 202-04. Based on the information, three regulations were adopted by autonomous regions, thirteen regulations by autonomous prefectures or municipalities, and nine regulations by autonomous counties from 1987 to 2005. (On file with author.)

35. *See* Wulannarisu, *Legislative Protection of Minority Language Right in Our Country*, 3 Guangbo Dianshi Daxue Xuebao [J. Radio and Television Univ.] 22 (2008).

B. Bilingualism in the Constitution and Simultaneous Use of a Common Language and Minority Language

In September 2009, the Information Office of the State Council, i.e., the Central People's Government, published a white paper reviewing the country's basic ethnic situations, the government policies over the past six decades (since the founding of the PRC in 1949), and the economic, social, and cultural progress in ethnic minority regions. It is the third in the series of white papers on China's ethnic policy following the two previous papers issued in 1999 and 2005. According to the 2009 white paper:

> [O]f all the fifty-five minority nationalities in China, fifty-three have their own spoken languages, except the Hui and Manchu that use the Han language [Chinese]. Among them, twenty-two use twenty-eight scripts, and twelve ethnic groups, including the Zhuang, Bouyei and Miao, use sixteen scripts which have been created or improved with the help of the government. Now, there are approximately 60 million minority people in China who regularly use their own spoken languages, accounting for over 60 percent of the total population of the minority nationalities, and about 30 million minority people who regularly use their own scripts. There are 154 radio and television stations using the languages of the minorities in national autonomous areas, and the Central People's Broadcasting Station and local broadcasting stations broadcast in twenty-one minority languages daily.[36]

For the purpose of this article, the term "minority languages" excludes the dialects of Chinese (*Hanyu*), such as Cantonese and Shanghainese.

Legally speaking, the employment of the spoken and written language or languages in common use in each locality is protected by the Constitution and law and has been implemented in regional and local regulations.[37] In the areas where minority nationalities live in a compact, one minority language can be identified as the "principal language" (*zhuyao yuyan*).[38]

In parallel, the Constitution provides that "the State promotes the nationwide use of Putonghua."[39] In 2000, the NPCSC enacted the Law on the National Standard Spoken and Written Language (LNSSWL)

> in accordance with the constitution and for the purpose of promoting the normalization and standardization of the standard spoken and written language and its sound development, making this language play a better role in public

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36. The Information Office of the State Council, China's Ethnic Policy and Common Prosperity and Development of All Ethnic Groups (2009), *available at http://news.xinhuanet.com/english/2009-09/27/content_12117708.htm.*
37. *See* Zhou, *supra* note 34, at 202-04.
38. *See* Review of Policy and Law on Linguistic Minorities in China, *supra* note 28, at 145 (for Tibetan language), 174 (for Korean language), 229 (for Mongolian language).
39. Const., P.R.C., *supra* note 23, art. 19.

activities, and promoting economic and cultural exchange among all the Chinese nationalities and regions.[40]

This law further defines "the national standard spoken and written language" as "Putonghua and the standardized Chinese characters"[41] and holds forth that "the State promotes Putonghua and implements the standardized Chinese characters."[42]

It is generally perceived in China that having a common language and "popularizing it is not only essential to developing education, but also conducive to the protection of national sovereignty and dignity, to the national unity and solidarity, to the economic and cultural exchange among all nationalities, and to the construction of Socialist material and spiritual civilization."[43] It was noted that during the drafting process of the current Constitution, which was adopted in 1982, "a consensus to promote a commonly used language was reached among a majority of the drafters."[44] Wulannarisu, a Mongolian researcher from Inner Mongolia, believes that a common language was pursued in order "to overcome language barrier and dialect obstacles," but that the intent was to enable minorities "to command one nationally commonly used language *in addition to* their own languages and dialects." Such a policy would be "favorable to social exchange and stability," but would "not hinder . . . nor . . . replace minority languages."[45] This observation is right in the sense that the constitutional provision and the law do not seek to substitute minority languages for Putonghua.

C. Evolution of Bilingualism as National Policy in Zigzag

The establishment of bilingualism as a national policy in China has been an incremental process. The words "bilingualism," "bilingual instruction," and "bilingual education" started to emerge in policy papers and normative documents in 1980.[46] At the beginning, Putonghua was treated as an associate language and had a secondary place in schools with a dominant presence of minority students. On 9 October 1980, the State Council approved a policy paper titled *Opinion on Strengthening the Work of Ethnic Education*. This

40. Law on the National Standard Spoken and Written Language (LNSSWL) (2000), art. 1.
41. *Id.* art. 2.
42. *Id.* art. 3.
43. Anbiao Xu & Songshan Liu, Zhonghua Renmin Gongheguo Xianfa Tongshi [General Understanding of the PRC Constitution] 83 (2004).
44. Weiyun Xiao, Woguo Xianxing Xianfa de Dansheng [The Birth of the Current Constitution of Our Country] 84-85 (1986). (On file with author.)
45. *See* Wulannarisu, *supra* note 35, at 24 (emphasis added).
46. *See* Qingxia Dai, *Establishment and Implementation of the System of Bilingual Instruction for Minority Nationalities in China*, *in* Review of Policy and Law on Linguistic Minorities in China, *supra* note 28, at 124. (On file with author.)

paper, jointly submitted by the Ministry of Education and the State Commission of the Nationalities, allowed ethnic minorities to "use their own languages in teaching and learning" while also "learn[ing] Han Chinese."[47] In this light, the Yanbian Korean Prefecture of Jilin province and the Tibetan and Qiang Prefecture of Sichuan province adopted the autonomous regulations accordingly to implement the policy of bilingualism while taking their respective ethnic languages for "a principal language."[48] This policy line was incorporated in Article 37 §3 of the 1984 version of LRNA, which states that in "(s)chools where most of the students come from minority nationalities," both the instruction and, "whenever possible," the textbooks used should be in the minority language, while "(c)lasses for the teaching of Chinese . . . shall be opened for senior grades of primary schools or middle schools to popularize the nationally commonly-used Putonghua."[49] The above provision represents the embryonic state of bilingualism in China, with ethnic languages as principal or major languages of instruction and with Chinese as a subject. The principle of bilingualism was first systematically formulated in the well-known document "Report on Further Strengthening the Work of Ethnic Minority Languages," colloquially called Document No. 32, adopted by the State Council on 19 June 1991.[50] "This Document is regarded as the major document concerning ethnic work."[51] Looking back over the history of policy making, Document No. 32 has played a role connecting the past, the present, and the future. In the end, the document proposed a series of "Major Measures" to implement the principles and to accomplish the tasks defined therein.

Qingsheng Zhou thinks that Document No. 32 has responded to the new questions raised after the state's transformation from a planned economy to a Socialist market economy and provided for a new direction for the development of ethnic languages in the new era.[52] Zhou summarized six

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47. *Opinion on Strengthening the Work of Ethnic Education* (9 Oct. 1980), *available at* http://www.seac.gov.cn/gjmw/mzjykj/2004-06-29/1170217314361252.htm.
48. *See* Dai, *A Brief Description of the Chinese Policy of Ethnic Languages*, *supra* note 28, at 11–12.
49. Article 37, §3 of the 1984 LRNA was revised in 2001 to embody the policy shift in respect of language use in schools. LRNA, *supra* note 29, art. 37, §3 (of the 2001 LRNA) reads:

    > Schools (including classes and grades) and other institutions of education where most of the students come from minority nationalities shall, whenever possible, use textbooks in their own languages and use their languages as the media of instruction. Classes for the teaching of Chinese (the Han language) shall, where possible, be opened for junior or senior grades of primary schools to popularize Putonghua and the standard Chinese characters.

50. *Report on Further Strengthening the Work of Ethnic Minority Languages*, (Document No. 32), adopted by the State Council, 19 June 1991, *available at http://www.edu.cn/20011114/3009796.shtml*.
51. *See* Dai, *A Brief Description of the Chinese Policy of Ethnic Languages*, *supra* note 28, at 14.
52. *See* Zhou, *supra* note 34, at 188–189.

principles spelled out by Document No. 32 that should be continued in the process of policy and law making: (i) equality of languages; (ii) "directing the work according to the different types of situations" (*fenlei zhidao*); (iii) voluntariness; (iv) caution and steadiness; (v) learning from each other; and (vi) trans-provincial and regional collaboration.[53]

The above-mentioned principle of "directing the work according to the different types of situations" suggested that the government distinguish between different situations among nationalities in terms of language use, differentiate policies corresponding to the different situations, and establish different systems of bilingual instruction. Dai distinguishes two situations of language learning and instruction for minority nationalities based on the specific and actual conditions: (1) teaching and learning in Chinese from primary to higher education, and (2) teaching and learning in the mother tongue of a nationality and in Chinese. The first case applies to the nationalities who have no written languages of their own or who have written languages that are not commonly used and to the areas where several nationalities live together but no given language is chosen. Strictly speaking, this does not satisfy the definitional requirements of bilingualism.[54]

The second case corresponds to bilingualism *per se*, and its precondition is that there exists a commonly-used spoken and written ethnic language. Nationalities falling within this category include Mongolian, Tibetan, Uighur, Kazakhstan, Korean, Yi, Dai, Jingpo, and others. Dai thinks that ethnic people sharing a common language "should learn the language of their own first, and then Chinese." Against this backdrop, bilingualism can be developed in the following ways: (1) teaching and learning in an ethnic language from primary to higher education and simultaneously learning Chinese as a language subject (this is basically suitable for Uighur, Mongolian, and Korean; Tibetan was not mentioned in his article); or (2) vice versa, that is, teaching and learning in Chinese from primary to higher education and simultaneously learning an ethnic language in primary school (this mainly applies to the nationalities in Yunnan province and Guizhou province).[55]

The policy of equal use of Putonghua and other ethnic languages in education was first adopted in the Law on Education, enacted on 18 March 1995, which serves as a driving force for implementing bilingualism in education and applies "to all types of education at all levels within the territory of the PRC," as stated in Article 2. However, this law starts to position Putonghua as the principal medium of instruction. Article 12 of the law stipulates that Putonghua "*shall* be the basic oral and written language for education,"

53. *Id.* at 209–10.
54. *See* Dai *Establishment and Implementation of the System of Bilingual Instruction, supra* note 46, at 132–33.
55. *Id.* at 134–36.

while "[s]chools or other educational institutions which mainly consist of students from minority nationalities *may* use in education the language of the respective nationality or the native language commonly adopted in that region."[56] By comparing the texts of the 1984 LRNA and the Law on Education, one can easily find a delicate shift in the role of languages in education: namely, from minority language as the principal medium of instruction and Chinese language as a subject to Chinese as the principal medium of instruction and the minority language as an associate language. This tendency was reinforced in the later LNSSWL (2000), which makes the learning and use of Putonghua an entitlement to all citizens. The law declares that "all citizens shall have the *right* to learn and use the standard spoken and written Chinese language" and that the state shall "provide citizens with the conditions for learning and using the standard spoken and written Chinese language."[57] Thus, the original meaning of bilingualism has been redefined.

D. Shift of Policy and Law: Putonghua from Associate to Principal Language

The adoption of LNSSWL symbolizes the shift of policy and law in regard to bilingualism. According to its text, this law was made "for the purpose of promoting the normalization and standardization of the standard spoken and written Chinese language and its sound development, making it play a better role in public activities, and promoting economic and cultural exchange among all the Chinese nationalities and regions."[58] The law continues to define "the standard spoken and written Chinese language" as "Putonghua and the standardized Chinese characters" and notes that "the state popularizes Putonghua and the standardized Chinese characters.[59]

Presently, the promotion of bilingualism aims at popularizing Putonghua to the extent that all schools will have to teach Chinese. As provided for in the LNSSWL, "[t]he State provides citizens with the conditions for learning and using the standard spoken and written Chinese language." The law imposes on local governments the obligation to "take measures to popularize Putonghua and the standardized Chinese characters."[60] This provision has made the promotion of Putonghua a responsibility of the government. The LNSSWL goes further to declare that written and spoken Chinese shall be used by state organs as the *official language* and shall be used in schools, public services, broadcasting and TV stations, and the service trade.[61] The

56. LNSSWL, *supra* note 40, art. 4 (emphasis added).
57. *Id.* art. 4, §§ 1–2.
58. *Id.* art. 1.
59. *Id.* arts. 2–3.
60. *Id.* art. 4, §§ 2–3.
61. *See id.*:

first question to be asked here is not whether this provision may impact the implementation of bilingualism, but how much impact it is going to have.

In the Chinese context, "bilingualism" normally involves the Chinese language and a minority language, which may be Tibetan, Korean, Mongolian, Uighur, Zhuang, or another, depending on the geographical area concerned.[62] When discussing bilingualism, we assume it means that multiple languages co-exist and each plays its proper role.[63]

The deviation from this understanding first appeared in the above cited Law on Education (1995), and particularly in the LNSSWL (2000), which drastically shifted the state's well-established basic policy of language. Jiamiao Wang, the General Rapporteur on the Law on the National Standard Spoken and Written Language (Draft), explained on 3 July 2000 to the NPCSC what should constitute the basic policy. According to his report:

> [L]anguages of all nationalities co-exist on an equal footing; linguistic discrimination of any form shall be prohibited; all ethnic nationalities have the freedom to learn, use and develop their own national languages; the State encourages all nationalities to learn each other's languages; the State promotes Putonghua and implements the standardized Chinese characters.[64]

Ironically, the adopted LNSSWL provisions have placed all importance on the use of Putonghua and made Putonghua omnipresent.[65] The adoption and

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> Art. 9 Putonghua and the standardized Chinese characters shall be used by State organs as the official language, except where otherwise provided for in laws.
>
> Art. 10 Putonghua and the standardized Chinese characters shall be used as the basic language in education and teaching in schools and other institutions of education, except where otherwise provided for in laws.
>
> Putonghua and the standardized Chinese characters shall be taught in schools and other institutions of education by means of the Chinese course. The Chinese textbooks used shall be in conformity with the norms of the standard spoken and written Chinese language.
>
> Art. 12 Putonghua shall be used by the broadcasting and TV stations as the basic broadcasting language.
>
> Art. 13 The standardized Chinese characters shall be used as the basic characters in the service trade.
>
> People working in the service trade are encouraged to use Putonghua when providing services.
>
> Art. 14 The standard spoken and written Chinese language shall be used as the basic spoken and written language in the following circumstances:
>
> (i) spoken and written language for broadcasting, films and TV programs;
> (ii) written language for the facilities in public places;
> (iii) written language in signboards and advertisements;
> (iv) names of enterprises and other institutions; and
> (v) packaging and specifications of commodities marketed in the country.

62. Jingzhi Su, *Bilingual and Bi-dialect Problems Discovered in the Investigation of the Use of Chinese Languages*, 2 Yuyan Wenzi yu Yingyong [Languages and Application] 50–51 (2001). (On file with author.)
63. Huibang Yu, *On Bilingualism in China*, 5 Xinan Minzu Xueyuan Xuebao [J. Southwestern Univ. Nationalities] 57 (1997). (On file with author.)
64. Jiamiao Wang, *Explanation on the Law on the Standard Spoken and Written Language (Draft)* (3 July 2000), *available at http://www.zsjy.gov.cn/yywz/faguiwenjian/11.htm.*
65. *See* LNSSWL, *supra* note 40, art. 3.

wide use of Putonghua in all public sectors and public spheres as "the official language" and "the basic language" does make it a predominant language in practice. It can be anticipated that the shift will certainly reduce the extent to which other languages are used, and thus may hamper the maintenance and development of languages of other nationalities.

The LNSSWL, whose untold purpose seems to be the further institutionalization of spoken and written Chinese as the national "common" or "standard" language, has actually departed from the original constitutional provisions and the previously well-established national policy of bilingualism. The French government has made similar attempts to solidify the wide use of its national language; although, in the case of France, this reflects a continuation of past policies, rather than a departure. The current French Constitution, for example, makes it clear that "[t]he language of the Republic shall be French."[66] The LNSSWL, which has been assigned some historical mission,[67] reflects a long and deep tradition of maintaining a uniform language that dates back to the harsh measures taken by China's first emperor, Qin Shihuang, for the purpose of national unification: "the same track for carriage, the same language for writing, and the same ethic code of behavior" [*che tong gui, shu tong wen, xing tong lun*], a formula still cherished by many in China.[68] In comparison with the previous practice, the LNSSWL represents retrogression from the original concept of bilingualism.

In line with this legislative background, on 29 July 2010 the State Council published the National Plan as a guiding document to further regulate the revised bilingualism.[69] As a matter of practice, every province, municipality, and region under the central authorities will have to comply with this directive by adopting its own program in light of its specific local conditions. This explains the direct source from which Qinghai province produced its provincial program in September 2010, which later triggered the massive protests of Tibetan high school students in October 2010.

The above review of policymaking in China shows that minority language policy has walked a zigzag path and experienced several changes since

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66. According to the *Toubon Act*, passed in 1994, the French National Assembly "made the use of French obligatory in five domains: education, employment, the media, commerce and public meetings." (May, *supra* note 21, at 156–57). The Speaker of the National Assembly was quoted as saying that "'[i]t is time for us all to be French through that language'"(May, *supra* note 21, at 156). "The five domains" in French law are comparable to LNSSWL, *supra* note 40, arts. 9-14. Fr. Const., art. 2; French National Assembly, Law No. 94-665 Relative to the Use of the French Language (Toubon Act), 4 Aug. 1994.
67. LNSSWL, *supra* note 40, art. 5, states that:

    > The standard spoken and written Chinese language shall be used in such a way as to be conducive to the upholding of state sovereignty and national dignity, to unification of the country and unity of the nationalities, and to the construction of Socialist material civilization and spiritual civilization.

68. Quoted from Li Ji: Zhong Yong (礼记：中庸), Chapter 28. Li Ji is one of the four Chinese classics.
69. *See* National Program, *supra* note 11.

the founding of the PRC. Three stages can be identified out of the whole process: Stage I (1949 to 1984), during which the minority language was used as the principle language in education and public life and Chinese (Putonghua) as secondary or an associate one; Stage II (1984 to 1995), when the policy-making aimed at promoting bilingualism in education and public life; and Stage III (1995 to present), which is focused on implementing a revised language policy, with Chinese as the principal and official language to be used in all areas of public life and the minority language as a secondary language, practically limiting minority languages to the private sphere.

IV. DYNAMICS OF POLICY, LAW, AND POLITICS IN THE COURSE OF NEGOTIATING COMPETING CLAIMS

A. Scholars' Assessment of Bilingualism Examined

Wulannarisu has voiced his concern over the policy change regarding the learning of Putonghua and instruction in minority languages. First of all, he expresses his disagreement with Article 2 of the LNSSWL, which states that Chinese is "the national standard spoken and written language (*Guojia Tongyong Yuyan Wenzi*)." He then claims that the expression of "the national standard spoken and written language" "would put other minority languages in a 'non-standard'" and "unequal" position.[70] Wulannarisu also stresses that this might contradict the constitutional provision of equality of all nationalities and the principle of "equality of all minority languages practiced in the country" and writes that "this would jeopardize national solidarity and social stability." In the end, he states that Mongolian, Tibetan, Uygur, Kazak, Korean, Zhuang, and Yi languages[71] should be treated like Chinese [*Hanyu*] as official languages, and their use should also be regarded

70. Wulannarisu, *Current Situations of Protection of Minority Languages and its Legislation*, in 3 Minzu Lilun yu Zhengce [Theory and Policy on Nationality] 58 (2007). (On file with author.)

71. These languages are simultaneously used at the annual sessions of the NPC. In accordance with a governmental white paper, "when important meetings, such as the CPC National Congress, the NPC and the Chinese People's Political Consultation Conference sessions, are held, the documents of the meetings are available in Mongolian, Tibetan, Uygur, Kazak, Korean, Yi, and Zhuang, and simultaneous interpretation in those languages are also provided." *See* Information Office of the State Council, Regional Autonomy for Ethnic Minorities in China (28 Feb. 2005), *available at http://news.xinhuanet.com/english/2005-02/28/content_2628156.htm*. An interesting and comparable example is the definition of official languages in India. The principal official language of the Republic of India is Standard Hindi, while English is the secondary official language. "Hindi is the official language and the most commonly spoken, but not all dialects are mutually comprehensible. English also has official status and is widely used in business and politics. The teaching of Hindi and English is compulsory in most states and union territories." *See* United States Library of Congress, Federal Research Division, *Country*

as "being generally applied."[72] Manifestly, he imputes an official language status in the full sense of the term to these minority languages and avows that they shall be equal to the Chinese language.

In reality, the implementation of bilingualism in schools has encountered a number of serious difficulties that, in turn, have made bilingual teaching and learning less successful than people would expect. As observed by Xiaoping Xu and Xin Jin, due to a number of problems with the current bilingual education system, some "parents of minority nationalities [mostly in Xinjiang and Tibet, among other regions] decide to opt for sending their children to the schools using Putonghua" out of concern that these problems could negatively impact their children's prospects for "further studies and employment." Firstly, the fact that, in some cases, primary education is conducted in a minority language while higher stages of education are conducted in Putonghua is thought by some to be problematic for students. "Secondly, there is a lack of teachers who can conduct bilingual teaching." "Thirdly, there is a lack of systematic and high quality textbooks in the language of the respective nationality." The withdrawal of students from these bilingual schools is a "major concern of the local nationalities." Out of a desire to "preserve[] their national culture," some parents send boys to Putonghua schools "while choosing schools using respective minority languages for their girls."[73]

Baden Nima, a Tibetan scholar, has explained that Tibetans are divided in regard to the choice of teaching language and that four different opinions exist. The first opinion insists that the medium of instruction should be Chinese, and children may or may not learn some Tibetan. The second advocates that Tibetan should be taught as a major language in schools and Chinese as a second language. The third, represented generally by elderly people who are dissatisfied with the bilingualism movement, stresses the importance of strengthening instruction in Tibetan. And the fourth, basically represented by the youth, attaches great importance to the learning of Chinese because it leads to good job prospects and an attractive income.[74] In this regard,

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Profile: India, *available at http://lcweb2.loc.gov/frd/cs/profiles/India.pdf*. Neither the Constitution of India nor Indian law specifies a national language, a position supported by a High Court ruling. However, Hindu and English may be practically regarded as national languages. On the other hand, the Eighth Schedule to the Indian Constitution contains a list of twenty-two scheduled languages. Languages listed in the Eighth Schedule are sometimes referred to, without legal standing, as the official languages of India, and states and union territories can choose a language or languages from the list for their own official language. *See* http://www.constitution.org/cons/india/shed08.htm.

72. *See* Wulannarisu, *Current Situations of Protection of Minority Languages, supra* note 70, at 58.

73. Xiaoping Xu & Xin Jin, Zhongguo Minzu Wenti Baogao [Report on China's Questions of Nationality] 118 (2008). (On file with author.)

74. Baden Nima, *A Further Discussion on the Choice of Instruction Medium in Tibetan School Education*, in 1 Minzu Jiaoyu Yanjiu [J. of Research on Education for Ethnic Minorities] 92–93 (2009). (再论藏族学校教育中的语言选择问题) at pp 92-3. (On file with author.)

there are two types of schools now in the Tibetan region. The first type uses Chinese as the major medium of instruction and offers Tibetan as a language subject. These schools are generally located in cities and areas where the Han nationality represents a dominant population, or where there already exists a suitable environment for Chinese learning and teaching. The second type of school uses Tibetan as the major medium of instruction. They are normally situated in remote agricultural and pastoral areas where students do not understand Chinese at all. For example, there are four schools in Ganzi Prefecture and three in Aba Prefecture of Sichuan province that only teach in Tibetan.[75] The above description shows that bilingualism has not been, or cannot be, fully implemented due to specific geographic conditions. On the contrary, isolation of one language from another and separate teaching and learning not only exist, but are widespread. The question to be asked here is: what are the right steps to take in the context of bilingualism?

Indeed, genuinely advancing bilingual teaching and learning in schools and further promoting the use of bilingualism in other spheres, such as public services and judicial proceedings, still remain practical as well as academic issues. Wulannarisu firmly believes that guaranteeing the use and development of minority languages should be the precondition for the promotion and improvement of bilingualism. He is critical of efforts that use this concept to force ethnic minorities to learn Putonghua without reciprocal promotion of minority languages. Although he does not oppose the learning of Putonghua, Wulannarisu believes that language policy should also "advocate learning and using minority languages by Han compatriots."[76] Many have expressed a similar idea and called on the cadres of Han nationality working in minority areas to learn and use local languages. This concern has, in fact, been taken into account in the revised LRNA (2001).[77] However, among the very limited literature about the learning and use of minority languages by other nationalities including Han Chinese, we find no general assessment of the effectiveness of the relevant provisions of the LRNA.

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75. *Id.* at 92.
76. Wulannarisu, *Legislative Protection of Minority Language Right in Our Country*, *supra* note 35, at 24.
77. LRNA, *supra* note 29, art. 49 reads as follows:

> The organ of self-government of a national autonomous area shall persuade and encourage cadres of the various nationalities to learn each other's spoken and written languages. Cadres of Han nationality should learn the spoken and written languages of the local minority nationalities. While learning and using the spoken and written languages of their own nationalities, cadres of minority nationalities should also learn Putonghua and the standard written Chinese (Han) language commonly used throughout the country.
>
> Awards should be given to State functionaries in national autonomous areas who can use skillfully two or more spoken or written languages that are commonly used in the locality.

B. Language, Minority Rights, and Education: Theoretical Considerations Examined

Minority language is an important issue, especially when it is associated with identity, culture, and minority rights. Indeed, language carries many functions with it. To Andrée Tabouret-Keller, "[l]anguage, as a communally shared good, serves an important boundary-marking function."[78] To advocates of linguistic human rights, among many others, language has much actual significance to, or bearing on, questions of ethnic and national identity. The protest over the change of language policy in Qinghai province in 2010, and particularly the slogan adopted by the protesters ("Equality of ethnicities, freedom of languages"), actually reflects the political implications of language policy. This also explains why Wulannarisu claimed an official status for minority languages.[79] In sum, the link between language and identity clearly encompasses significant cultural, political, and public policy dimensions.

In modern society, the realization of language rights is closely associated with education systems and policies; thus, law and policy play a crucial role. May's remarkable work shows the role that education actually plays in language maintenance and shift.[80] However, the educational policy of the contemporary world may not always be capable of achieving the objectives of language maintenance and development. As Stacy Churchill, a leading scholar from Canada specializing in the education of linguistic and cultural minorities, observes:

> Policy-making about the education of minorities must cope with an overriding fact: almost every jurisdiction in the industrialized world is failing adequately to meet the educational needs of a significant number of members of linguistic and cultural minorities. . . . Measured against the criterion of ensuring linguistic and/or cultural survival in the long term, the shortfall is much more serious.[81]

National policies regarding education of ethnic languages vary from one country to another. Drawing on the seminal works of Heinz Kloss,[82] May argues that there are two approaches to policy making or law making taken by national authorities: *tolerance-oriented* rights and *promotion-oriented* rights.[83]

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78. May, *supra* note 21, at 131.
79. *See* Wulannarisu, *Current Situations of Protection of Minority Languages, supra* note 70, at 58.
80. *See* May, *supra* note 21, at 128, 139, 152-53, 160-64, 167-97.
81. May, *supra* note 21, at 169, *quoting* Stacy Churchill, The Education of Linguistic and Cultural Minorities in the OECD Countries (1986), emphasis in original.
82. The "seminal works" mentioned here refer to Heinz Kloss, *The Language Rights of Immigrant Groups*, in 5 Int'l Mig. Rev., 250 (1971), Heinz Kloss, The American Bilingual Tradition (1977).
83. *See* May, *supra* note 21, at 185, emphasis in original:

> Tolerance-oriented rights ensure the right to preserve one's language in the private, nongovernmental sphere of national life. These rights may be narrowly or broadly defined. They include the

The paradigm developed by Kloss is actually very enlightening in understanding minority nationalities' language rights and related policy in China (and maybe elsewhere). *Tolerance-oriented* rights represent a *minimalist* approach, a state of "leave me alone" or laissez-faire, and impose little or limited obligation on the state, while *promotion-oriented* rights signify a *progressive* or *interventionist* approach, inviting the state to be directly involved in the use, maintenance, and dissemination of minority languages. It creates a positive right to minority languages and imposes a corresponding obligation on the state.

Applying the above paradigm to investigate Chinese law and policy on minority language and its philosophical and political foundation, we can conclude that since the founding of the PRC in 1949, a promotion-oriented rights approach has been generally adopted by the Chinese state. Examining all relevant national and local laws and regulations, this approach has obviously been employed in its narrowest as well as broadest senses. For example, all official documents are published in major (widely used) minority languages, and the LRNA establishes the organs of self-government in national autonomous areas and requires the organs and civil servants to use local languages. Mongolian, Tibetan, Uygur, Kazak, Korean, Yi, and Zhuang languages are used at important national meetings such as the CPC National Congress, the NPC, and the Chinese People's Political Consultation Conference.[84]

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right of individuals to use their first language at home and in public, freedom of assembly and organization, the right to establish private cultural, economic and social institutions wherein the first language may be used, and the right to foster one's first language in private schools. The key principle of such rights is that the state does "not interfere with efforts on the parts of the minority to make use of [their language] in the private domain" (Kloss, 1977:2).

Promotion-oriented rights regulate the extent to which minority rights are recognised within the *public* domain, or civil realm, of the nation-state. As such, they involve "public authorities [in] trying to promote a minority [language] by having it used in public institutions – legislative, administrative and educational, including the public schools" (1977:2). Again, such rights may be narrowly or widely applied. At their narrowest, promotion-oriented rights might simply involve the publishing of public documents in minority languages. At their broadest, promotion-oriented rights could involve recognition of a minority language in all formal domains within the nation-state, thus allowing the minority-language group to "care for its internal affairs through its own public organs, which amount to the [state] allowing self-government for the minority group" (1977:24). The latter position would also necessarily require the provision of state-funded minority-language education *as of right*.

84. Minority Language Use and Cultural Development: International Comparison of Policy and Law 51, 69 (Hongjie Li & Yali Ma eds., 2008). *See also* Beijing Ethnic Affairs Commission, *How to Protect National Minorities to Use and Develop their wn Spoken and Written Languages of Freedom? available at http://www.bjethnic.gov.cn/zcfg/PolicyDetail.asp?id=444&pos=3*. Under the State Commission of Ethnic Affairs, China Ethnic Languages Translation Bureau (Center), established in 1955, is the institution specifically charged with the translation and interpretation of seven major ethnic languages. It provides services to all important events of national significance. S*ee* Zenglin Liu, *Hutchison China Ethnic Languages Translation Center*, 56-China.com, *available at http://www.56-china.com.cn/mzf/MZF-whmb27.htm*.

However, the Chinese policy relating to minority language may not have achieved the same success when compared with multilingualism or bilingualism as practiced in other jurisdictions such as Northern European countries, Catalonia, India, and Canada, since the high degree of bilingualism in these places is based on an equal level of linguistic knowledge and proficiency among peoples and on active measures taken by the government.[85] The Chinese reality is that, particularly since the enactment of the LNSSWL, a dominant language (Chinese) is being promoted while other languages, in the worst cases, have been marginalized through relegation to associate or secondary status. In this light, China's practice does not satisfy all requirements of bilingualism, nor does it comply with a promotion-oriented rights approach in its broad sense. In this regard, China may not be suitable for comparison with other jurisdictions such as Norway, Spain, and others.[86]

C. Qinghai's Aggressive Initiatives and their Implications Examined

Before making a critical and effective assessment, we need to understand what has actually been planned in the Qinghai Provincial Program and where the problems arise. "Ethnic Education" [*minzu jiaoyu*] is introduced in detail in Paragraph 11, Part III, of the Provincial Program.[87] It is generally

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85. These countries are good examples of bilingualism or multilingualism in education and practiced in public life. The official languages of Canada are English and French. *See* Const. Canada, § 16(1). It states:

> English and French are the official languages of Canada and have equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada.

Official Languages Act (1985) implemented the constitution in order to:

> (a) ensure respect for English and French as the official languages of Canada and ensure equality of status and equal rights and privileges as to their use in all federal institutions, in particular with respect to their use in parliamentary proceedings, in legislative and other instruments, in the administration of justice, in communicating with or providing services to the public and in carrying out the work of federal institutions;
>
> (b) support the development of English and French linguistic minority communities and generally advance the equality of status and use of the English and French languages within Canadian society.

Interestingly, only Quebec has declared itself officially unilingual (French only). This can be understood from historical, cultural, and political perspectives.

For information on other countries, *see* the following: on Catalonia, Spain, *see* May, *supra* note 21, at 239-51; on Northern Europe, *see* de Varennes, *supra* note 1, at 256–59, 270, 272; Castern Smith, *Evolution of the Protection of Sami Rights: The Norwegian Experience*, in Minority Language Use and Cultural Development, *supra* note 84, at 11; on Canada, *see* de Varennes *supra* note 1, at 254–55, 260–61; on India, *see supra* note 71.

86. See supra note 85.

87. Provincial Program, *supra* note 10, Pt. III, ¶ 11 reads:

> [The government shall] vigorously promote the reform and development of bilingual instruction. It is resolved to focus on the national standard spoken and written language [guojia tongyong yuyan wenzi], and in the meanwhile, to learn ethnic languages well; to take the national standard spoken and written language for language of instruction [jiang guojia tongyong yuyan wenzi zuowei jiaoxue yuyan], in order to enable students of minority nationalities to basically and skillfully command

in line with the National Program,[88] except that it demarcates 2015 as the specific year for the realization of its goals (see the Provincial Program).

However, as the Western saying goes, the devil lies in the details. The problems with bilingual policy actually arise from the Provincial Implementing Plan, which includes several benchmark dates:

> [It is resolved] to vigorously speed up the pace of integration of ethnic schools and ordinary schools . . . [and] to strengthen the instruction in the standard spoken and written language . . . in order to improve the quality of ethnic education on the whole. *By 2015*, one-year preschool bilingual instruction shall be basically generalized; *by 2020*, two-year preschool bilingual instruction shall be basically realized. . . . *By 2012*, 40 per cent of the subjects shall be taught in Chinese, except ethnic languages, during the compulsory education period in primary and secondary schools; *by 2015*, all subjects shall be taught in Chinese, except ethnic languages, during the compulsory education period in primary and secondary schools. . . . [We shall] energetically develop high school education, increase the schooling in cities other than students' native places, and optimize the pattern of education and training. *By 2015*, 50 per cent of the subjects shall be taught in Chinese in ethnic high schools; *by 2020*, all subjects, except ethnic language courses, shall be taught in Chinese.[89]

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and use the standard spoken and written language and their respective ethnic languages. [The government] supports the building up of preschool bilingual kindergartens in areas of minority nationalities, promotes mixed kindergartens of ethnic and Han children and mixed classes of ethnic and Han children. . . . It is encouraged to integrate ethnic primary school and secondary schools with ordinary schools, and implement combined schools of ethnic and Han students. . . . By 2015, all primary schools will have realized the bilingual instruction with the standard spoken and written language as major language of instruction, and ethnic language as associate language, and have speeded up the reform of bilingual instruction in secondary schools to implement the teaching in the standard spoken and written language, which will be supplemented by respective ethnic languages.

88. National Program, *supra* note 11, Ch. IX, "Ethnic Education" defines ethnic education as follows:

> [It is resolved] to vigorously promote bilingual instruction; to offer Chinese language course at large, to popularize the standard spoken and written language; to respect and protect the right of minority nationalities to receive education in their own ethnic languages; to strengthen preschool bilingual instruction at full scale. The state provides support to the training of bilingual teachers, the research of bilingual instruction, and the development and publications of bilingual textbooks.

89. Provincial Implementing Plan, *supra* note 12, emphasis added. *See* Law on Compulsory Education (14 Jan. 2005). School-age children and adolescents have the right to compulsory education. The system operates as follows:

> Art. 5 All children who have reached the age of six shall enroll in school and receive compulsory education for the prescribed number of years, regardless of sex, nationality or race. In areas where that is not possible, the beginning of schooling may be postponed to the age of seven.
>
> Art. 7 Compulsory education shall be divided into two stages: primary school education and junior middle school education. Once primary education has been made universal, junior middle school education shall follow. The department in charge of education under the State Council shall decide on the duration of each stage.

In China, primary school's duration is six years while junior middle school is three years; the two stages represent a nine-year compulsory education system.

By examining the texts of these official documents, one can clearly observe that bilingualism as a national policy has been derailed. Applying the Kloss paradigm to this change, one can assert that the original promotion-oriented rights approach is being replaced by an alienated promotion-oriented approach with Chinese characteristics, by which Chinese—namely, the standard spoken and written language—is gaining ground in an all-encompassing way. This prediction need not be alarming if we assess the policy's effect in the long run.

Having said that, however, applying a minimalist or "laissez faire" approach may also lead to a language decline, or even worse, to the extinction of some ethnic languages. In addition to language decline, May discusses the possibility that language is shifting, which "appears to be an increasing feature of the modern world."[90] In May's opinion, "there is a noticeably greater tendency for members of ethno linguistic minorities to bring up their children in a language other than their native one, a process that often leads to the eventual displacement of the former language(s)."[91]

Language shift and language displacement in China equally deserve our close attention, because the movement from shift to displacement may finally cause the disappearance of a minority language—even a once-dominant language, as is the case with Manchu. Matthias Brenzinger has identified a common pattern in the process of language displacement. He believes this "process . . . usually takes at least three generations."[92] Brenzinger has painted a terrible picture and his theory should serve as an alarm bell to many stakeholders, including, particularly, policy makers. Taking into consideration the uneasy policy-making process of bilingualism and the eventual consequences of today's derailed bilingualism, should we take Brenzinger's theory seriously to prevent gradual or complete language displacement in China? The answer is clearly in the affirmative. However, how can we move forward to prevent this from happening? This is a rather big issue awaiting a thoughtful answer.

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90. *See* May, *supra* note 21, at 145.
91. *Id.*
92. See Matthias Brenzinger, *Language Contact and Language Displacement*, *in* The Handbook of Sociolinguistics 273, 282 (Florian Coulmas ed., 1997). He described the process as follows: (i) initial language contact leading to minority status of the historically associated language; (ii) bilingualism where the original language is retained but the new language is also required; (iii) "recessive use of the old language," limited largely to intraethnic communication; (iv) increasingly unstable bilingualism, eventually leading to "monolingualism in the new language." (282)

D. Assessing the Competing Claims and the Politics over Policymaking

As summarized in the above section, Chinese minority language policy has walked a zigzag path and roughly gone through three stages, *e.g.*, 1949 to 1984, 1984 to 1995, and 1995 to present. All of these changes, made mainly out of consideration for national political and economic situations, have been consecutively crystallized and reflected in the following official or normative documents: *Report on the First National Conference on Ethnic Education* (1951), *Implementing Program on Regional National Autonomy of the PRC* (1952), *Opinions of the Ministry of Education and State Commission of the Nationalities on Strengthening Ethnic Education* (1980), the LRNA (1984), *Report on Further Strengthening the Work of Ethnic Minority Languages* (1991), the LNSSWL (2000), and the National Program (2010). However, the division may not be accurate considering the fact that there are actually many ethnic schools where teaching and learning is still practiced in a minority language, as demonstrated by Xu and Jin[93] and by Nima.[94]

The controversial Qinghai Provincial Program does not actually represent a brand new policy but rather the implementation of an existing national policy in the name of bilingualism. Why, then, has the implementation of a national guiding document—the National Program—in Qinghai provoked such a high-profile event?

Examining the rationale behind the new policy of this educational reform helps us to understand the conflict of competing claims from different stakeholders. In accordance with the text of the Provincial Program, the educational reform within the context of bilingual instruction in minority areas aims at "properly resolving those special difficulties and outstanding problems that ethnic education in the regions of minority nationalities and ethnic groups in Qinghai is facing."[95] As the Implementing Plan states, its purpose is to "improve the quality of ethnic education on the whole."[96] Indeed, immediately after the protest, a news briefing session was held by the Department of Education of Qinghai province, at which Yubo Wang, then director of the department, answered the questions raised by the press.[97] His address is worthy of being deconstructed.

First, the reasons seem to be directly education-related on the surface. In order to demonstrate the difficulties and problems of bilingual instruction in Qinghai, Wang made the following arguments, which deserve serious

93. *See* Xu & Jin, *supra* note 73.
94. *See* Nima, *supra* note 74.
95. *See* Provincial Program, *supra* note 10, Pt. III, ¶ 11.
96. *See* Provincial Implementing Plan, *supra* note 12, Pt. III, ¶ 7.
97. *See* Press Release, Qinghai Province Education Dept, Middle and Long-term Program for Educational Reform and Development of Qinghai Province (2010–2020) (22 Oct. 2010), *available at http://www.qhnews.com/index/system/2010/10/22/010218482.shtml.*

consideration and effective resolution. He referred to "the general quality of bilingual instruction" as "poor on the whole" and emphasized the importance of Chinese proficiency in improving individuals' access to tertiary education and employment, as well as in promoting the "economic and social development" of Qinghai province. Wang thinks that stressing the importance of Chinese language and bilingual instruction is basically associated with the fact that teaching and learning Chinese is actually a weak part of the current education system, and it is thus time to consolidate it; "it certainly does not mean weakening one language by another," and it should be understood as "strengthening both" languages, i.e., Tibetan and Chinese.[98]

Second, pragmatism, or economic rationality, conditions the policy-making process. Wang rebuts the challenge that strengthening bilingual instruction would weaken ethnic languages. He argues that knowledge of Chinese will help students to become involved in the country at large, and states that "in today's world of globalized economy, highly developed sciences and technology, and accelerated renewal of knowledge," proficiency in foreign languages would also be advantageous.[99] It is a positive response to the view of some parents who believe that an absence of knowledge of Chinese would reduce economic and employment opportunities for their children.

Third, education should serve current politics in the current party-state structure. At the outset, Wang writes that Qinghai's people have seen drastic improvements due to "the development of education," which has been a boon to "economic growth, social progress, improvement of livelihood, and national solidarity." A policy of bilingualism, he believes, "plays an important and irreplaceable role" in improving these aspects of social life "in the regions where minority nationalities live."[100]

Finally, to justify the legitimacy of "strengthening the teaching and learning of the standard spoken and written language," Wang puts forward a thesis of "three conformities," which are spelled out as follows: first, this policy conforms to international common practice; second, it conforms to the Constitution and law including the LRNA, the LNSSWL, and the *Law on Education*; third, it conforms to the essential interests of people of all nationalities and to the need for growth and development of the next generations of minority nationalities.[101] To conclude on Wang's address, ethnic education policy should embody at least these dimensions: educational, economic and social, and political and legal, each of which represents a different claim.

Needless to say, the Qinghai Provincial Government derives the motivation of policy making and all its plans from the LNSSWL, and particularly from

98. *Id.*
99. *Id.*
100. *Id.*
101. *Id.*

the National Program. However, should the government take into account pedagogical theory when devising and implementing bilingual education policy? The answer is certainly in the affirmative. Dai thinks that, according to educational theory, ethnic people with a common language "should learn the language of their own first, and then Chinese."[102] Even though Wang declares that "bilingual instruction is not to replace one language [the mother tongue, which means Tibetan in the context] by another [Chinese]," the targets as set out in the Provincial Implementing Plan tell us a different story. For example, according to this plan, by 2012, 40 percent of the subjects other than ethnic languages shall be taught in Chinese during the nine-year compulsory education period in primary and secondary schools; by 2015, *all subjects* other than ethnic languages shall be taught in Chinese during the compulsory education period in primary and secondary schools. If this is accomplished as scheduled, Tibetan will become a marginalized language, a language to be used only among Tibetans in private and family life.

The revised version of "bilingualism" has demonstrated the application of instrumental rationality ("focusing on the most efficient or cost-effective means to achieve a specific end, but not in itself reflecting on the value of that end")[103] in policy making, which can be translated into percentage of GDP growth in modern-day China. The pursuit of economic growth has pushed the government to adopt progressive or aggressive plans in education. Qinghai is just an example of this kind. The new policy actually reflects a long-standing orientation that prioritizes national economic and social development, a legacy left by the former paramount leader Deng Xiaoping, who has always been regarded as "the general designer of China's reform and opening up and modernization of socialist nature."[104] Considering the fact that today the majority of, if not all, local governments are driven by the desire for growth in GDP, a widespread phenomenon called "the worship of GDP,"[105] we may thus understand the economic rationale behind Qinghai's official position, though we may not agree with it. Against this backdrop, the desire for economic growth in provinces and regions where minority nationalities constitute an important portion of the population lies in promoting Chinese language drastically and across the board. An interesting

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102. *See* Dai, *Establishment and Implementation of the System of Bilingual Instruction, supra* note 46, at 134.
103. The Free Dictionary, *Instrumental Rationality, available at http://encyclopedia.thefreedictionary.com/instrumental+rationality*.
104. *See* Jiang Zeming (then Secretary General of the Communist Party of China and President of the PRC), *Eulogy at the Memorial Ceremony of Comrade Deng Xiaoping* (26 Feb. 1997), *available at http://www.people.com.cn/GB/shizheng/252/7443/7446/20020209/667248.html*.
105. On "the Worship of GDP," see Andrew Browne, *Beijing Should Scrap GDP Target*, Wall St. J., 7 Jan. 2014, *available at http://online.wsj.com/news/articles/SB10001424052702303933104579306191351206818*.

example is that the Kashi Prefecture of Xinjiang Uighur Autonomous Region fervently popularizes Putonghua among the youth in order to dispatch them to the prosperous Guangdong province to work in factories, believing this will help relieve the problem of unemployment and improve the livelihood of local people with the money the youth would send back home.[106]

Further to the above critical observations, the opinions of the Tibetan youth on the new policy shift are worth noting here. On 20 October 2010, the day following the student protests in Western Qinghai, the Department of Tibetan Language of Qinghai Normal University convened a meeting of Tibetan student representatives, the purpose of which was to collect the student representatives' views and comments on the Provincial Program, particularly relating to the part regarding ethnic education and bilingual instruction. The student representatives voiced ten points of opinion that can be summarized as follows:[107]

> (1) The Provincial Program has neglected the great progress in bilingual education in the Tibetan areas in Qinghai, achieved in the last thirty years;
>
> (2) The Program has violated the right to use minority languages by respective people, as defined in the LRNA;
>
> (3) Monolingualism seriously violates the rules of ethnic education and does not conform to the "idea of scientific development" (a guiding ideology formulated by Hu Jingtao, then Secretary General of the CPC);
>
> (4) It negatively impacts national unity and is harmful to the harmony and common prosperity of the Chinese nation;
>
> (5) Inequality of languages signifies inequality of nationalities, which may damage the peaceful coexistence of all nationalities;

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106. Unfortunately, those young people cannot integrate themselves into local "factory" culture, and conflict between Uighur youth and youth from other provinces take place from time to time. The occurrence of a bloody accident in Shaoguan, Guangdong province, led to the well-known riot in Urumqi (and later on, in Southern part of Xinjiang) on 5 July 2009. For more information on the Urumqi riots, *see, e.g.,* Austin Ramzy, *A Year After Xinjiang Riots, Ethnic Tensions Remain*, in Time Mag., 5 Jul. 2010, *available at http://content.time.com/time/world/article/0,8599,2001311,00.html;* Human Rights Watch, *China: Country Report*, Jan. 2010, *available at http://www.hrw.org/world-report-2010/china;* Editors, *What Should China Do About the Uighurs?*, N.Y. Times, 8 July 2009, *available at http://roomfordebate.blogs.nytimes.com/2009/07/08/what-should-china-do-about-the-uighurs/.*

    For information on the Shaoguan incident that helped spark these riots, *see* Nan Hait, *Shaoguan, One Year On*, Radio Free Asia, 29 July 2010, *available at http://www.rfa.org/english/news/uyghur/shaoguan-06292010110913.html;* James Pomfret, *Ethnic Tensions Spark Brawl at China Factory – Report*, Reuters, 26 June 2009, *available at http://www.reuters.com/article/2009/06/27/idUSHKG364598.*

107. The official minutes of the meeting are unavailable. The information quoted here derives from a Tibetan student's blog: (12 Mar. 2012), *available at http://blog.sina.com.cn/s/blog_4fdb4a970100lqzm.html*. The official minutes are on file with author.

(6) The contents regarding bilingual instruction in the program are unacceptable. Students are panicked and will worry about the prospect and fate of their national identity;

(7) The program itself is not favorable to the stability of Tibetan regions in Qinghai as well as nationwide;

(8) It would affect their employment after graduation;

(9) It is not favorable to the development of the university as a national base for the teaching of Tibetan-Chinese languages; and

(10) It cannot serve the people of all nationalities, and it is not favorable to the progression of economic development of the Tibetan regions in Qinghai.

Although these opinions are rather abstract and are, except Point 5, not linguistic human rights-based, the Tibetan students' claims are not ungrounded, taking into account the national features of their culture and tradition. As far as language is concerned, Points 5 and 6 deserve particular and serious consideration by the policy makers and researchers.

Obviously, there exists a severe clash between the claims respectively made by the authorities and Tibetans. The governmental claims are, in the first place, based on a developmental approach, or on economic rationality, taking economic and social development for granted as a priority, and, further, on one-nation ideology.[108] In addition, the sense of the Chinese Empire can still be perceived when the authorities deal with minority-related issues.

V. LOOKING BEYOND QINGHAI AND CHINA

Much has been written to establish that language serves purposes other than the dissemination of knowledge. However, this assertion is not without criticism. After the burst of protest over the language of instruction in Qinghai province and then Gansu province, Raymond Li, a commentator from *South China Morning Post*, called the new policy a "[t]ongue-tied by push for one nation."[109] Surya Deva views "the policy of the central government to push

108. Comparatively speaking, big countries such as China, United States, and Indonesia all face the problem of multilingualism. This explains the emergence of the conservative English-only movement in the US for information on the US English-only movement, *see, e.g.,* Teresa Pac, *The English-Only Movement in the US and the World in the Twenty-First Century*, 11 Perspectives on Global Development and Technology 192, 192-210 (2012); for information on Indonesia's language policy, *see, e.g.,* Scott Paauw, *One Land, One Nation, One Language: An Analysis of Indonesia's National Language Policy*, *in* University of Rochester Working Papers in the Language Sciences 5(1), at 2-16 (H. Lehnert-LeHouillier & A.B. Fine eds., 2009).

109. Raymond Li, *Tongue-tied by Push for One Nation*, South China Morning Post, 10 Nov. 2010, *available at* http://www.scmp.com/article/729999/tongue-tied-push-one-nation.

for the use of Putonghua (the main language spoken by the majority) in all provinces and autonomous regions as part of the national unity agenda" as "[a]nother instance of a wide gap between constitutional promises and actual practice."[110] These comments show that the language issue can be viewed from multiple perspectives.

Minority language protection is an international issue and concern, and Chinese experience provides evidence demonstrating how important it can be in terms of minority rights protection in general and linguistic human rights in particular.

Now we can go beyond China to seek intellectual inspiration in regards to minority language protection. In the international human rights arena, diversity has been recognized as a value that needs to be cherished by the international community, and particularly by national governments when devising relevant policies. In this respect, Europe has set a good example for China's reference.[111] In accordance with Article 1 of European Charter for Regional or Minority Languages (ECRML),

> regional or minority languages means languages that are: (i) traditionally used within a given territory of a state by nationals of that State who form a group numerically smaller than the rest of the state's population; and (ii) different from the official language(s) of that state; it does not include either dialects of the official language(s) of the State or the languages of migrants.

The Charter also states the "objectives and principles" for the parties to follow that are particularly relevant to China.[112]

Reading through the text, one can see that the ECRML is based on a general understanding of preservation, "promotion and protection of regional or minority languages."[113] It has set a high standard as to the use of regional or minority languages in seven domains: education, judicial authorities, administrative authorities and public services, media, cultural activities and facilities, economic and social life, and trans-frontier exchange.[114] Comparing the ECRML with the Chinese LNSSWL, the conclusion can be easily drawn that China fails to meet these standards. Take education for example: the ECRML requires the parties to make available pre-school education, primary education, secondary education, technical and vocational education, and

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110. Surya Deva, *The Constitution of China: What Purpose does It (not) Serve?,* 2 Jindal Global L. Rev. 73 (2011).
111. *See* The European Charter for Regional or Minority Languages, *opened for signature* 5 Nov. 1992, Council of Europe, Eur. T.S. No. 148 (*entered into force* 1 Mar. 1998) [hereinafter ECRML]; Framework Convention for the Protection of National Minorities, *opened for signature* 1 Feb. 1995, Council of Europe Parliamentary Assembly, 2152 U.N.T.S. 243, Europ. T.S. 157 (*entered into force* 1 Feb. 1998).
112. *See* ECRML, *supra* note 111, art. 7.
113. *Id.* pmbl.
114. *Id.* arts. 8, 9, 10, 11, 12, 13, 14.

university education "in the relevant regional or minority languages"; or "to make available a substantial part of" pre-school education, primary education, secondary education, technical and vocational education, and university education in those languages.[115] However, the Charter also recognizes the existence of official language(s) and requires the education in regional or minority languages to be conducted without prejudice to the teaching of the official language(s) of the state.[116]

When Li writes of a "[t]ongue-tied by push for one nation," he also expresses a dilemma that many minority nationalities are facing: "minorities are torn between the threat to their languages of education in Putonghua, and the need for fluency in it to better their opportunities."[117] These two claims, both legitimate, are intertwined, and people of ethnic minorities, including the Tibetan youth, are now caught in between. Might this situation finally be the attributing cause for the death of some minority languages in China? Would the proactive attitude adopted by the Chinese government toward instruction in Chinese be the language murderer? We may have to wait and see. In the meantime, we should look outward and learn from our own past, and from others, to seek appropriate solutions.

Scholars have greatly contributed to the solution to this Chinese (and maybe general) dilemma. As Zhijie Li rightly opines, "should emphasis be placed only on the practical utility [of language] but not on its national features, it would lead to erroneous policy making."[118] Wulannarisu insists on the importance of enacting a Law on Languages of Minority Nationalities.[119] Nima also offers his practical suggestions as follows: (1) the choice of languages in Tibetan areas shall be based on the convenience, facility, and effectiveness of the language(s) concerned. In this light, the language to be chosen shall be Tibetan; (2) some academic subjects and subject contents need to be adjusted by deleting unnecessary and repetitive material (this refers to the subject of politics) and adding topics favorable to the social development of Tibetan areas and beneficial to physical and mental development of Tibetan children.[120] He concludes that:

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115. *Id.* art. 8
116. *Id.* art. 8.
117. Li, *supra* note 109.
118. Zhijie Li, *Cultural Diversity and the Protection of Languages of Minority Nationalities: An Investigation into the Use of Mongolian Language in Liaoning Province*, 1 Manzu Yanjiu [Manchu Studies] 25 (2007). In his article (at 23), Li gives five reasons to explain this phenomenon: (i) large mobility of people in the context of a market economy; (ii) strong media mobilization in Chinese; (iii) people moving out due to university education, joining army, doing business and marriage, etc.; (iv) dilution of minority by other people's moving in and living together; and (v) under the pressure of competitive employment. (On file with author.)
119. *See* Wulannarisu, *Legislative Protection of Minority Language Right in Our Country*, *supra* note 35, at 23.
120. *See* Nima, *supra* note 74, at 94-95.

> [W]ithout a high quality team of teachers, without participation of local people, without considering that education should be based on students' need, without bearing in mind the idea of longevity of the PRC, without love of diversified culture of Chinese nation, the education in Tibetan regions would face one dilemma after another.[121]

VI. CONCLUSION

The protest of the Tibetan students in Qinghai in 2010 has brought the Chinese government and its policy of ethnic education under the spotlight. It does reveal the existence of a series of actual difficulties and problems both the government and the students are facing. It also reminds the Chinese government that ethnic language and its use, instruction, development, and protection bear political, cultural, economic and social, and sentimental implications.

Having examined the evolution of policy and law regarding bilingualism in China, it can be concluded that the rather interventionist promotion-oriented rights approach the Chinese government recently adopted has obviously departed from the original promotion-oriented one in the name of bilingualism. This "across the board" policy, which ignores the diversity, functions, and value of languages, has actually marginalized minority languages in practice and overlooked the sentiment and love of ethnic people towards their mother tongues, their ways of life, and their life conditions. An instrumentalist understanding of language is certainly not only biased, but also discriminatory, and thus harmful to the harmony of the community. As a matter of fact, the GDP-driven educational policy does not always work effectively in the areas where minority nationalities live in close quarters. In this regard, law and policy makers should be advised to take a balanced approach to promote and protect minority linguistic rights, and to maintain economic growth and social progress. Therefore, policy making must resolutely take into consideration all concerned factors.

Last, but not least, the right to receive minority language instruction in schools is an important linguistic human right. In order to make better policy in respect to bilingualism, international experiences should be used to serve the Chinese cause, in addition to the input of people of minority nationalities. European human rights instruments and the practices of other countries, such as Canada, deserve China's close attention and scrutiny. In the course of policy and law making, Chinese authorities indeed have much to learn.

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121. *Id.* at 95.