Confronting Discrimination and Inequality in China

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Introduction

Errol P. Mendes

This book is the result of three years of research and dialogue between leading intellectuals from China and Canada, organized by the Research Centre for Human Rights of Peking University and the Faculty of Law of the University of Ottawa. The results of this research and dialogue, contained in this book, focus on the overwhelming social challenges and the discrimination against certain sectors of the population that face China, the planet's most populous country. The project was funded by the Canadian International Development Agency (CIDA).

The research that resulted in the chapters of this book focuses on the following four areas: (1) the social challenges and discrimination facing the vast number of migrant workers moving to the urban centres, including the discriminatory impact of environmental degradation on rural inhabitants by industry as well as the corrupt, improper and often illegal expropriations of rural inhabitants' land; (2) the particular challenges and discrimination facing women often left behind in rural areas, including their struggle to gain equality with their male counterparts in the cities; (3) discrimination against the tens of millions of Chinese who are disabled and until recently did not have legislative protection; and (4) the challenges and discrimination facing the growing numbers of persons afflicted with HIV/AIDS in a society that still has many taboos related to the infection.

In addition, this book contains one paper on the social challenges and discrimination facing ethnic minorities and aboriginal peoples in Taiwan. While the Chinese participants were also eager to discuss the challenges facing minorities on the mainland, the written output of the research by Chinese participants had to be limited given the immense sensitivity of the subject. Even in this context, however, the chapters from each of the targeted areas of research show a remarkable level of independence of thought and, indeed, courage, and combined offer a blistering critique of the way in which the Chinese government is attempting to deal with new social challenges and accompanying forms of discrimination.
The purpose of the chapters by Canadian researchers is that of offering international perspectives on some of major social challenges facing China today. The hope of the dialogue and its written products is that of provoking a sustainable debate, at least in academic circles, on what key issues are to be tackled if progress is to be made on the four areas of social challenge outlined above, and their accompanying forms of discrimination.

This introduction briefly describes the research in each of the four areas, and attempts to sketch some preliminary conclusions.

A. THE SOCIAL CHALLENGES AND ACCOMPANYING ISSUES OF DISCRIMINATION AGAINST RURAL AND MIGRANT WORKERS AND INHABITANTS.

The greatest migration of people in human history has gone on relatively unnoticed by the world through the second half of the 20th century and into the first decade of the 21st. It is that of the estimated 130 to 200 million migrant workers from the rural areas of China who have been moving to the industrialized urban centres in search of jobs, and, for those who bring their families with them, better education and prospects for their children. No country in the world could cope with such vast numbers flooding into cities that are unprepared for them. Other countries such as Brazil and Kenya have also faced immense challenges when tens of thousands of rural workers have flooded into the cities. The result can be burgeoning slums where the majority live in desperate poverty with little social or physical infrastructure; these slums can in turn become breeding grounds for crime and drugs.

In China, however, we are seeing a variation of the desperate situation that such migrants face. Wenran Jiang, Acting Director of the China Institute at the University of Alberta, lays out in his chapter, "Prosperity at the Expense of Equality: Migrant Workers are Falling Behind in Urban China's Rise," what he considers the fundamental reason for the social challenges facing the vast number of migrant workers moving into the Chinese cities. He argues that the price that China is paying for the first world conditions and upwardly mobile populations in its urban centres is a concomitant impoverishment of the lives of migrant workers, with low wages, long working hours, desperate conditions, little social welfare support, and often subject to discrimination and unjust treatment.

He claims that the potential for social crisis and unrest is significant if the plight of migrant workers is not addressed. Professor Jiang also claims that that, with the ongoing modernization of China, migrant workers will play a crucial role in determining how socially stable China will be in the coming decades. He points out that there is a growing mountain of evidence that migrant workers are being exploited, mistreated, discriminated against and marginalized despite numerous proposals and government policies established on paper to improve their conditions and to combat discrimination against them. According to this leading China expert in Canada, none of these has so far made any qualitative change in the position of migrant workers in the Chinese
economy and social life. Professor Jiang argues that in order to successfully confront this enormous social challenge, China must go through a paradigm shift in its overall development strategies. This must include moving from the traditional development model of capital-intensive, resource-intensive, labour-intensive, pollution-intensive and low value-added manufacturing-intensive industrialization based on China's abundant cheap labour. For China to narrow the social and economic gaps between the majority of its population that still live in the rural areas and the urban populations strategic adjustments will have to be made. This includes moving to a more value-added economic development model that is less concentrated on heavy industries in favour of more environmentally friendly sectors, as well as closing the income gap between migrant workers and their urban peers. He concludes with an ominous warning: "China cannot fundamentally change the status of its 200 million migrant and farm workers, therefore, unless it makes a paradigm shift in its strategic thinking. [...] And if China fails to do so, China will remain an unequal society, an unjust society and potentially an explosive society."

Professor Gong Renten, one of China's most independent intellectuals and a member of the Faculty of Law of Peking University, substantially agrees with the general diagnosis of Professor Jiang in his chapter, "The Historical Causes of China's Dual Social Structure"; however, he offers a further analysis of what is really at the root of the social challenges and accompanying discrimination facing migrant and rural workers. Professor Gong argues that it is the legacy of the Soviet model of governance in the industrial and agricultural sectors. According to Professor Gong, this legacy still today hangs like a noose around China even though it appears from the outside to have cast off the Soviet style of governance in favour of the free market and capitalism, particularly in the industrial sector. The Soviet model involves a dual social structure, with a privileged emphasis on heavy industries that characterized the Soviet economy to the detriment of the social, political and economic standing of agricultural workers. According to Professor Gong, this model remains the backbone of the current Chinese dual social structure of governance between rural and migrant workers and their urban counterparts. It is also the institutional foundation for the longstanding discrimination against farmers, and the key reason behind the widening gap between the urban and rural areas and the rich and poor. Professor Gong gives a unique historical account of how the incorporation of the Soviet model became an immense obstacle to China's modernization process and remains the cause of discrimination against agricultural and migrant workers in China today. In a shining example of intellectual courage, Professor Gong suggests that the only way to finally shake off the legacy of the Soviet model is for China to walk the talk on its more recent accession to international human rights treaties, and to insert human rights provisions in its own Constitution and legislation. This, however, would require China to move from the "rule by law" by Party officials to a rule of law overseen by an independent judiciary and ultimately a move to a democratic form of governance. Such intellectual courage is much to be treasured and nurtured.
One of China's leading social activists and one of its most independent journalists, Wang Keqin offers a very western solution to the protection of farmers' and other rural inhabitants' rights to land in his chapter, "Restoring Private Ownership of Rural Land to Protect the Basic Rights of Farmers." The author has traveled to many parts of China to record the countless number of improper and often illegal or corrupt land requisitioning or land enclosures driven by developers and village and government officials and often involving corrupt activities. After seeing first hand the size of the problem, the author suggests there is an urgency to restoring private ownership of land at the village level. The author suggests that such restoration of private ownership could have spin-off effects in terms of less land disputes, greater social stability, and more environmental and sustainable development. These benefits would in turn facilitate the establishment of modern agricultural systems and development.

Two leading Chinese researchers at the Chinese Government's State Council, Cui Chuanyi and Cui Xiaoli, offer interesting suggestions for confronting the major social crisis facing China in their article "Changing the Policy Paradigm for Migrant Workers." This article is particularly interesting as it shows how those around official circles are aiming to confront the issues related to migrant labourers. Like Professors Gong and Wenran, they also highlight the dual social structure between rural and urban Chinese as a major part of the problems associated with the migration of rural labour. But they also emphasize that at the highest levels of the governing Communist Party there has been a focus on a scientific approach to development and that this approach has led to the implementation of migrant worker-related policies that have the interests of the workers themselves at their core and that promote fair treatment. The authors suggest forcefully that policies alone do not result in effective solutions; they urge rather that it is the whole "social management system," including policy adjustment and improvement, that must be engaged in order to create an institutional environment that both protects the legitimate rights of migrant workers and also offers them a stable urban citizenship with full participation in the social administration of their urban communities.

Wang Xinan, a prominent Chinese lawyer, reinforces the powerful message of Professor Gong in his chapter, "Chinese Farmers' Right of Access to Judicial Relief." In it, he argues that combating discrimination and unlawful activities towards rural inhabitants and migrant workers will depend on the rule of law with an independent judiciary overseeing the adjudication of disputes over land and other rights. Mr. Wang offers the reader a troubling case study on the coercive expropriation of farmer's land in Bazhou, Hebei Province; in this case, the farmer was left without a properly qualified and independent judiciary to whom to appeal, local political influences trumped justice and corruption was rampant. Finally, he also points out that appropriate legal services, even with all the defects in the system, are still beyond the reach of rural inhabitants. The author focused on the land expropriation case study because, while land is the most important source of livelihood for generations of Chinese rural inhabitants, the frequent
infringement of farmers’ rights over land and the corrupt nature of land expropriations constitute the most serious infringement of the rights of rural inhabitants and threaten social stability.

Professor Zhang Yulin of Nanjing University presents a disturbing chapter titled “China’s War on its Environment and Farmers’ Rights,” describing how the environmental degradation caused by the rapid industrialization of China, not only in the cities but also increasingly in the rural areas, has given rise to a new form of discrimination – environmental discrimination. The author goes on to describe how industrialization-induced environmental discrimination is proving disastrous for rural communities and farmers, especially following the widespread contamination of the food and water supplies of entire communities. Such environmental discrimination arises because factories and mines are becoming concentrated in rural areas while urban centres demand more environmental protections. The result is that ecological destruction and pollution is moving from larger urban centres to small towns and rural villages. The differential impact of environmental degradation on rural communities is far more significant as livelihoods from land are more vulnerable to the effects of environmental degradation. The author states that the condition of the environment in parts of China demonstrates nothing less than a generalized war against nature and that environmental degradation has reached crisis proportions. His chapter focuses on research conducted in Shanxi Province, a region of intense environmental degradation home of the now infamous “cancer villages” and “strange disease villages” mine disasters, severe water scarcity and collapsing villages due to coal excavation practices. The war against nature in this part of China – caused by extensive coal-mining, coking and related industries – has resulted in a crisis of governance in which local residents cannot rely on late and limited relief provided by the government, but must instead cope with their own resources with what is an ecological disaster area. Local residents are in some danger of becoming China’s “environmental refugees.” The most vulnerable of China’s population at the bottom of the social strata are so affected by this war against nature that their very right to life has been compromised. The author suggests that nothing less than a profound social revolution that takes the environment as its central priority is needed to turn back the war against nature. These are warnings and research that should reach the highest levels of the Chinese government.

B. THE SOCIAL CHALLENGES AND ACCOMPANYING DISCRIMINATION FACING RURAL WOMEN AND MIGRANT WOMEN WORKERS

Chen Lanyan, a Chinese feminist scholar and professor at the Tianjin Normal University, aims in her chapter, “The Gendered Reality of Migrant Workers in Globalizing China,” to broaden the context of the social challenges and accompanying discrimination facing rural and migrant women workers. Her chapter adopts a feminist political economy
framework by integrating internationally agreed human rights treaties and rights-based advocacy with a gender relational perspective to discuss the changing faces of the working class in China during the recent industrialization drive beginning in the early 1980s. The author claims that, unlike the situation in the 1950s, the current industrialization is propelled by international capital drawn in by Chinese government policies and also fuelled by the mass migration of rural labourers who are incorporated into the changing faces of the urban working class, many of whom are women. According to Professor Chen, these workers do not have job security or enjoy the Labour Insurance Scheme that was extended to all workers, including those who came from the countryside in the 1950s. The chapter claims that migrant workers, especially women, are employed by international capital and are producing manufactured goods for international markets. The author claims that such women migrants work under harsh conditions and have no more rights than forced and bonded labourers. The chapter also claims that many other women migrant workers work in the growing service sector as clerks, waitresses, cleaners, nannies, maids and sex workers. The quality of life of those employed in service industries is no better than their sisters in manufacturing. However, the author goes on to claim that even these migrant women workers’ awareness of their rights is growing as they increasingly organize locally and regionally to defend and assert their rights. Professor Chen continues to develop a gender sensitive and rights-based framework to examine the gender impacts of Chinese government policies that can promote economic growth with the proper labour market involvement of women migrant workers. Her examination of such gender impacts in a historical context reveals critical tensions and contradictions that pervade existing policies. She concludes by suggesting how such tensions and contradictions can be resolved including the identification of priority areas for future policy research and initiatives.

Xu Weihua, a lawyer and legal aid clinic leader at the Peking University, and Liang Jianguo, of the powerful All-China Women’s Federation, provide a case study of the social challenges facing rural women in their chapter, “An Analysis on Rural Women’s Entitlements to Land and Other Property.” In their research, the authors focus on how to use gender perspectives and legal frameworks to analyze rural women’s entitlement to land and related property in Hebei Province and Zhejiang Province. The authors sent detailed questionnaires to women in these provinces and organized panel discussions to follow up on research findings. Through the research they were able to uncover how the Chinese Law on Rural Land Contracting and other laws, regulations and policies are implemented, including in what ways rural women’s right to land is impacted and an analysis of the reasons behind infringements of such rights and entitlements. The authors also focus on how village committees handle relevant conflicts and the attitude of relevant government officials. The findings from the case study were not encouraging. Violations of women’s right to land have increased steadily in recent years. Growing numbers of women are being forced to sign agreements that on their face show they are
willingly giving up rights to land and other benefits upon marriage. Married, divorced and widowed women are being forcibly deprived of their rights to land. Inadequate judicial and administrative remedies exacerbate the situation as do loopholes in relevant legislation and regulation. These findings are very serious in part because international experience has demonstrated that women's access to land is critical to sustainable development of rural communities, and that chronic infringements can impact heavily on entire families. This is especially true in the case of China where, according to some estimates, women comprise 60 percent of the agricultural workforce and are critical to the economic growth of rural communities.

Colleen Sheppard, Professor of Law at McGill University and one of Canada's most distinguished feminist legal scholars, in her chapter, "Systemic Discrimination and Gender Inequality: A Life Cycle Approach to Girl's and Women's Rights," offers a unique perspective to both China and Canada regarding the proper approach to combating discrimination on the basis of gender (and indeed discrimination on other bases as well). Professor Sheppard urges an examination of the connections between the various spheres of diverse women's activities across different periods in their lives, from girlhood to old age. She argues that focusing only on specific acts of inequality in time ignores the broad array of historical, social and economic sources of inequality and exclusion that are often systemic and embedded in societal structures. She argues that all societies should instead connect individual instances of exclusion and discrimination to a larger systemic pattern of inequality over time and across both the public and private spheres of citizens' lives. This approach, which Professor Sheppard calls a "life cycle" approach, would necessitate connecting how treatment of the girl child impacts upon her life chances as a woman, and how the reproduction of the human family operates as an ever-present source of joy and constraint in women's lives. The foundation of such an approach is the focus on systemic discrimination. Professor Sheppard points out how many countries have moved from focusing on instances of overt and intentional discrimination to a greater focus on examining the systems, structures, institutional policies and practices contributing towards such systemic discrimination; further, these forms of systemic discrimination may well be found not only in the public sphere but also in the private spheres of the family and the household. While Professor Sheppard focuses her life cycle and systemic discrimination analysis on the evolution of Canadian law in this area, her thesis has enormous significance for China. The girl child faces huge systemic inequalities in both the public and private spheres in Chinese society, and these impact on the entire range of social challenges and accompanying discrimination against adult women in the workplace and in the home. As the Chinese writers in this part of the book have pointed out, the systemic discrimination against women agricultural workers and farmers and urban women migrant workers is deeply embedded in Chinese economic, social and political systems. In a society that has deeply rooted cultural preferences for sons, such systemic discrimination may well begin with the prejudice
against the girl child right from and even before birth. The social dysfunctions that arises from this cultural preference, located in the private sphere but from there transferred into the public sphere, include discrimination against the girl child in education, health and access to land rights. Increasing gender imbalances in the population, if unreversed, could potentially culminate in a serious national economic and social crisis.

C. THE SOCIAL CHALLENGES AND ACCOMPANYING DISCRIMINATION FACING DISABLED PERSONS IN CHINA

The chapter by Professor Sheppard connecting the life cycle to systemic discrimination on the grounds of gender can be equally applicable to any effective legal, social and economic framework regarding the rights of disabled persons in any society. In the chapter, "A Study on the Legislative Inhibition of Discrimination against the Disabled," Wang Zhiqiang, the Head of the Legal Section of China's Disabled Persons' Federation, reinforces the need for such a life cycle and systemic approach to combat the enormous social challenges and discrimination facing disabled persons in China today. Much of the focus of his chapter is on the international, comparative and Chinese legislative frameworks and on the definition and categories of discrimination facing an estimated 60 to 83 million disabled persons in China today. The author, like Professor Sheppard in her analysis of gender discrimination, points out the need to tackle the systemic foundations of such discrimination in both the public and private spheres of the family, workplaces, schools, health care facilities, government, recreational facilities and in sports, as well as in many other societal contexts. Mr. Wang provides a sketch of national and international legal regimes on protection of the disabled to stress the necessity and importance of establishing comprehensive and efficient legal institutions to respond to the social challenges and discrimination. The author examines the various definitions of discrimination against disabled persons and proceeds to analyze causes and characters of such discrimination in various national contexts including those of the U.S., China and Hong Kong. The author concludes that further reforms are still needed in China, and perhaps other national contexts, including the development of a more inclusive concept of discrimination and a special agency for the legal protection of, and elimination of discrimination against the disabled.

D. THE SOCIAL CHALLENGES AND ACCOMPANYING DISCRIMINATION AGAINST THOSE LIVING WITH OR AFFECTED BY HIV/AIDS

There is a morass of conflicting statistics on HIV/AIDS in China. The government claims that there is an estimated one million Chinese citizens who may be infected with HIV/AIDS. Many independent experts, however, discount these official figures and claim that they do not accurately reflect the actual number. The disagreement about
the numbers of affected persons is in part due to the lack of extensive resources for information gathering, especially in the vast rural regions of China. Furthermore, some surveillance and measuring protocols by the Chinese government may focus primarily on high risk groups. As a result of these deficiencies in resources and methodologies, it may be that only five percent of HIV/AIDS cases are counted. UN and WHO experts estimate that the real figure may well be up to two million, while the UNAIDS agency has estimated that there could well be between ten and fifteen million HIV/AIDS affected persons by 2010 in China. While this still represents a small percentage of China's population of 1.2 billion people, the figures in comparative terms make the situation deadly serious not only for China, but, given the increased mobility of China's population both within and outside the country, a cause for grave concern for the rest of the world as well.

Two Canadian researchers start the international and comparative discussion in this part of the book.

David Patterson, an HIV/AIDS researcher and legal consultant, in his chapter, "The Application of International and Regional Instruments to HIV-related Discrimination in China and Southeast Asia," focuses on selected international and regional instruments endorsed by China and ASEAN member countries relating to HIV/AIDS related discrimination in order to determine how effective they are and how to strengthen them to effectively combat such discrimination. The author claims that HIV-related discrimination is a central obstacle to the success of prevention, treatment, care and support programs. For that reason Mr. Patterson argues that international scrutiny and the sharing of experiences and best practices is essential; he further argues that by encouraging compliance with relevant instruments, scrutiny and experience sharing contribute to national and global responses to this global pandemic. His chapter therefore addresses two questions: (1) what has been the contribution of international and regional instruments to national responses to HIV-related discrimination, as evidenced by law and policy reform?; and (2) how can the role of international and regional instruments be strengthened in support of national responses to HIV-related discrimination? His answers to these questions indicate that an adequate monitoring and reporting process along with financial and technical assistance is critical for effective implementation of these relevant international and regional instruments, as opposed to the creation of a new commitment or declaration. China, like the member countries of the ASEAN group, needs to take the results of such research in order to help it fulfill its commitments under the relevant international and regional instruments. In addition, as with the suggestions in the Chinese chapters on land rights, environmental and gender discrimination, there is a critical need for both law and policy reform at the national, provincial and local levels as well as education and training of legislators, policy makers, the judiciary, police, legal service providers and paralegals at all levels in the purpose and application of the law. The author suggests that there is a critical role
for Chinese NGOs and youth to play in combating discrimination in the context of HIV/AIDS, as discrimination against those suffering from the condition discourages the most vulnerable from accessing prevention education and care, treatment and support services. Finally, the author suggests that China should use international and regional forums to share its initiatives with other countries as examples of best practices in order to help others consider, adapt and apply.

Two other Canadian researchers from the Atlantic Centre of Excellence for Women’s Health in Halifax – Barbara Clow, the Executive Director, and Linda Snyder, the Knowledge Exchange Manager – focus on what is perhaps the most vulnerable HIV/AIDS affected group in the world in their chapter, “Gender and HIV/AIDS: Understanding and Addressing Stigma and Discrimination Among Women and Girls.” The authors start with an overview of the ways in which sex and gender work together to put women and girls at risk of HIV/AIDS infection in many countries around the world. The authors assert that gender inequity throughout the world is deepening the suffering of women and girls afflicted with the virus as well as contributing to the spread of HIV/AIDS. Supporting the analysis of Professor Sheppard on the life cycle and systemic gender discrimination in both the public and private sphere, the authors demonstrate how gender roles and expectations contribute to the stigmatization of women and girls, particularly those from marginalized populations. The second part of their chapter provides a gender-based analysis of the epidemic in Canada and a comparative look at the South African experience. They discover that despite vast differences in infrastructure, culture and history, the trajectory of the pandemic is disturbingly similar – at least with respect to the vulnerability of women and girls and especially disadvantaged groups of women and girls – in both Canada and South Africa. Finally, the authors address specific international recommendations for responding to the pandemic; this includes an analysis of the gender based deficiencies of UN and WHO guidelines which may contribute to the spread of HIV/AIDS and deepen the stigma associated with it, and thus may encourage discrimination and marginalization of women and girls infected and affected by HIV/AIDS. The authors hope that low incidence countries, including Canada and China, may be in a position to learn from their analysis and to fashion more effective responses to the pandemic.

The two Chinese contributions in this part of the book reinforce the conclusions of the Canadian authors in the context of Chinese law and society.

Ma Yinghua, Professor at the School of Public Health at the Peking University, and a co-authoring research team focus on the plight of children and HIV/AIDS orphans in their chapter, “Promoting the Right to Education for AIDS Orphans and Vulnerable Children (OVC): A Study on Anti-Discrimination.” Their study focuses on three categories of AIDS-afflicted children: HIV-infected children, children orphaned by AIDS (children under the age of 18 who have lost one or both parents due to AIDS), and children made vulnerable by AIDS (children with one or both parents infected with
AIDS, and living in a household with one or more chronically ill adult). The research and study was conducted between March 2006 and March 2008 to determine if these most vulnerable children are denied access to education due to discrimination, as well as the causes of such discrimination. Not unsurprisingly, they find that these categories of some of the most vulnerable in China have experienced discrimination in education. Sadly, again supporting the thesis of Professor Sheppard that discrimination is as much rampant in the private sphere as in the public, the researchers found that discrimination against these children has its origins not only in institutional discrimination originating in laws and governmental policies, but also in social and cultural factors resulting in public discrimination (some might term this private discrimination), including by parents and existing students. Finally, the authors suggest solutions to ensure non-discriminatory access to education. To address what they term public discrimination, the authors also suggest steps to create a caring and non-discriminatory education environment, and to promote anti-discrimination in China for these most vulnerable members of Chinese society.

Turning to another of the most vulnerable sectors of Chinese society affected by HIV/AIDS, Qin Mingru and Lai Xiaole, professors in the Department of Sociology at the Peking University, focus on a case study of HIV/AIDS affected rural women in their chapter, “The State of Life and Survival Strategies of AIDS-infected Rural Women: An Analysis Based on Field Investigations in Selected Areas of Henan.” The tragedy of the people in this study became known globally when news filtered out of China that desperately poor farmers and their families in Henan Province had contracted AIDS by selling blood, often with the complicity of corrupt local officials. Within this group, the authors found that females who contracted the virus were in an even more desperate situation than their male counterparts, spouses and relatives. The authors focused on the basic survival tactics of these women, living in what became essentially an HIV/AIDS village, and, once again, how both the public and private spheres affected their choices of methods of survival. In this unique case study the researchers found that even the motives for selling blood differed between male and female afflicted persons. The lesson of this sad case study is that gender discrimination is pervasive in even the most tragic of human conditions.

E. THE SOCIAL CHALLENGES AND ACCOMPANYING DISCRIMINATION AGAINST ABORIGINAL AND ETHNIC MINORITIES

Given the recent unrest by China's national minorities in Tibet and in Xingjian Province in the lead-up to the 2008 Olympics in Beijing, this part of the dialogue between Chinese and Canadian partners was the most sensitive. In oral discussions, there was an unfettered and rich discussion of the relevant issues demonstrating intellectual depth and freedom of thought and expression. The written format, however, is a different matter
and resulted in only Canadian contributions to this section of the book, including one by the project director and the author of this introduction, Professor Errol P. Mendes of the Faculty of Law, University of Ottawa.

In my contribution, “The Canadian Constitution and Charter of Rights and Freedoms: A Global Template for Minority Rights?”, I aim to open up a possible new approach to dealing with national minorities, even in China. The article argues that multi-ethnic societies, whether federations like Canada or unitary states like China, can only ensure social stability if the governance model offers substantive equality within the notion of collective rights to its minorities. This is especially important where historically settled national minorities not only form the majority in a part of the territory of a federal state, but also where their communities are dispersed across the geographic boundaries of the multi-ethnic state. Canada could provide an emerging global template for states with multinational and multi-ethnic populations; the Canadian minority rights model can help in developing substantive equality frameworks in order to help prevent social and ethnic conflict and the breakdown of multi-ethnic states. Canada’s judicial and socio-political experience under the Constitution and Charter of Rights and Freedoms provides the principles and frameworks of distributive justice to balance the collective rights of minorities and individual rights, while protecting and enhancing the multicultural heritage of Canada. Principled parameters for dealing with unilateral secessionist attempts by a minority group are also being set down by the Supreme Court of Canada.

The article then offers a few thoughts on how Canada’s experience with national minorities could offer some new approaches to China’s relatively small (in percentage terms), but growing, national minorities and asserts that China’s territorial integrity will in large measure depend on how the PRC government enhances ethnic relations and minority rights. The author points out three critical weaknesses in the provisions for limited autonomy and self-rule in China’s Constitution as a key source of the continuing discontent of China’s national minorities. I suggest that offering genuine autonomy and substantive equality to national minorities can become a unifying force and a competitive advantage in a globalized economy, pointing to the example of Canada. Finally I suggest that with globalization making non-minority areas of China, such as the Special Economic Zones (SEZs), more autonomous than the official Autonomous Regions, it may be time to contemplate offering the minority Autonomous Regions the status of Special Cultural Zones (SCZs), in which there could be permissible divergence from the unified leadership of the Party. This could, in time, be the solution not only to the problem of separatist movements, but could also generate a competitive advantage to China in the global economy.

In the final paper of the book, a spotlight is thrown on one part of what the PRC claims as its own — namely Taiwan — where indigenous rights are recognized, even as mainland China refuses to accept that there are any indigenous peoples within its own boundaries. Professor Scott Simon of the Department of Sociology at the University of
Ottawa in his chapter, "Indigenous Peoples and Hunting Rights," focuses on the hunting rights of Taiwanese indigenous groups within an international and comparative context. His research is the product of three years of field research in Taiwan on the issue of the rights of indigenous peoples, in particular their hunting rights. His discussion focuses on four themes: (1) hunting as a specifically indigenous right; (2) environmental aspects of indigenous hunting practices; (3) struggles for hunting rights in Quebec and Taiwan; and (4) the relationship between hunting rights and other indigenous rights. While it may seem strange to some to have such a focused chapter in a book on overwhelming social challenges and accompanying discrimination, the chapter outlines an important example of a predominantly Chinese society attempting to reconcile its own traditions and civilization with a minority that is particularly vulnerable to the dominant society and that faces major social challenges and discrimination. How such a small indigenous society fares could well portent the outcome of the larger struggles of the much larger national minorities in mainland China.

**CONCLUSION**

There are consistent threads that run through most of the chapters by both Chinese and Canadian authors. Wenran Jiang, Gong Renren and Lanyan Chen point to the priority given to the rapid economic rise and industrialization over the social, economic and political rights of rural inhabitants and migrant workers of both genders, and indicate how this lopsided priority has resulted in the overwhelming social challenges and accompanying discrimination issues facing China today. Professor Gong lays the blame on the legacy of the agricultural and industrial framework of the Soviet model that still is in play in China. Even the chapter from researchers from the Chinese State Council – Cui Chuanyi and Cui Xiaoli – seems to urge that any government policies and other attempts to alleviate the situation of these Chinese citizens, who constitute the majority of the population, need a much more effective social management system and institutional environment in order to offer equal and stable citizenship to the migrant workers. One assumes that this would require a rebalancing of economic and industrial priorities in favour of social development of the poorer parts of the Chinese population.

As the chapters by Wang Xinan, Wang Keqin, Zhang Yulin and Xu Weihua make clear, what is needed in China today is a move from the rule by law controlled by the Party to the rule of law overseen by both central and local governments and a much more independent judiciary that are not corrupt; only a separation of the legal apparatus and judiciary in this way would put in place the conditions needed to prevent the unlawful expropriation of agricultural land, protect the land rights of women in rural areas and protect the environment against the "war against nature" waged by industry and mining at the peril of the health and safety of local communities.
Professor Sheppard presents the thesis that what is needed to effectively fight gender and other forms of discrimination is an extensive life cycle and systemic discrimination framework that goes beyond laws and a reactive, complaints-driven process. Wang Zhijiang confirms the correctness of this thesis as far as the treaty, legislative and other frameworks needed to alleviate the condition of the estimated 60 to 83 million disabled in China. Canadian researchers David Patterson, Barbara Clow and Linda Snyder concur as well with respect to the growing numbers of HIV/AIDS affected persons in China and around the world. This thesis is of particular importance in regard to women and girls affected by the pandemic.

The case study of the plight of children and HIV/AIDS orphans by Ma Yingua and her team of researchers, together with the case study by Qin Mingrui and Lai Xiaole of the Henan women who contracted HIV/AIDS through donating blood, show that discrimination against the most vulnerable is pervasive even in the most tragic of human conditions, and that this follows from systemic discrimination in both the public and private sectors.

The final section focusing on social challenges and accompanying discrimination of national and indigenous minorities in China demonstrates which of the targeted areas has the greatest degree of political sensitivity by the absence of acceptable written contributions by the Chinese partners. In my chapter I attempt to make up for this lack by proposing that the offer of genuine autonomy and substantive equality to national minorities can become an asset not a danger to the unity of China, as it emerges into a global superpower and takes its rightful place as a leader of the global community. My colleague Scott Simon aims to suggest that there are both benefits and challenges accompanying the acceptance by a majority Chinese society that indigenous cultures and traditions, with their own ancient and modern traditions and values, can exist and thrive along with the dominant society.

It is to be hoped that this unique dialogue between scholars, practitioners and activists from opposite ends of the planet can demonstrate that bridges can be built across global divides; and that inter-cultural dialogue can help us all confront overwhelming challenges and accompanying forms of discrimination.