

19 February 2010, Central Tibetan Administration

## **Note on the Memorandum on Genuine Autonomy for the Tibetan People**

Note on the Memorandum on Genuine Autonomy for the Tibetan People was formally presented by the Envoys of His Holiness the Dalai Lama to their Chinese counterparts during the ninth round of dialogue in Beijing, PRC.

*Translated from the Tibetan original*

### **Note on the Memorandum on Genuine Autonomy for the Tibetan People**

#### ***Introduction***

This Note addresses the principal concerns and objections raised by the Chinese Central Government regarding the substance of the Memorandum on Genuine Autonomy for the Tibetan People (hereinafter ‘the Memorandum’) which was presented to the Government of the People’s Republic of China (PRC) on October 31, 2008 at the eighth round of talks in Beijing.

Having carefully studied the responses and reactions of Minister Du Qinglin and Executive Vice-Minister Zhu Weiqun conveyed during the talks, including the written Note, and in statements made by the Chinese Central Government following the talks, it seems that some issues raised in the Memorandum may have been misunderstood, while others appear to have not been understood by the Chinese Central Government.

The Chinese Central Government maintains that the Memorandum contravenes the Constitution of the PRC as well as the ‘three adherences’[1]. The Tibetan side believes that the Tibetan people’s needs, as set out in the Memorandum, can be met within the framework and spirit of the Constitution and its principles on autonomy and that these proposals do not contravene or conflict with the ‘three adherences’. We believe that the present Note will help to clarify this.

His Holiness the Dalai Lama started internal discussions, as early as in 1974, to find ways to resolve the future status of Tibet through an autonomy arrangement instead of seeking independence. In 1979 Chinese leader Deng Xiaoping expressed willingness to discuss and resolve all issues except the independence of Tibet. Since then His Holiness the Dalai Lama has taken numerous initiatives to bring about a mutually acceptable negotiated solution to the question of Tibet. In doing so His Holiness the Dalai Lama has steadfastly followed the Middle-Way approach, which means the pursuit of a mutually acceptable and mutually beneficial solution through negotiations, in the spirit of reconciliation and compromise. The Five-Point Peace Plan and the Strasbourg Proposal were presented in this spirit. With the failure to elicit any

positive response from the Chinese Central Government to these initiatives, along with the imposition of martial law in March 1989 and the deterioration of the situation in Tibet, His Holiness the Dalai Lama felt compelled to state in 1991 that his Strasbourg Proposal had become ineffectual. His Holiness the Dalai Lama nevertheless maintained his commitment to the Middle-Way approach.

The re-establishment of a dialogue process between the Chinese Central Government and representatives of His Holiness the Dalai Lama in 2002 provided the opportunity for each side to explain their positions and to gain a better understanding of the concerns, needs and interests of the other side. Moreover, taking into consideration the Chinese Central Government's real concerns, needs and interests, His Holiness the Dalai Lama has given much thought with due consideration to the reality of the situation. This reflects His Holiness the Dalai Lama's flexibility, openness and pragmatism and, above all, sincerity and determination to seek a mutually beneficial solution.

The Memorandum on Genuine Autonomy for the Tibetan People was prepared in response to the suggestion from the Chinese Central Government made at the seventh round of talks in July 2008. However, the Chinese Central Government's reactions and main criticisms of the Memorandum appear to be based not on the merits of that proposal which was officially presented to it, but on earlier proposals that were made public as well as other statements made at different times and contexts.

The Memorandum and the present Note strongly reemphasise that His Holiness the Dalai Lama is not seeking independence or separation but a solution within the framework of the Constitution and its principles on autonomy as reiterated many times in the past.

The Special General Meeting of the Tibetans in Diaspora held in November 2008 in Dharamsala reconfirmed for the time being the mandate for the continuation of the dialogue process with the PRC on the basis of the Middle-Way approach. On their part, members of the international community urged both sides to return to the talks. A number of them expressed the opinion that the Memorandum can form a good basis for discussion.

#### **1. Respecting the sovereignty and territorial integrity of the PRC**

His Holiness the Dalai Lama has repeatedly stated that he is not seeking separation of Tibet from the People's Republic of China, and that he is not seeking independence for Tibet. He seeks a sustainable solution within the PRC. This position is stated unambiguously in the Memorandum.

The Memorandum calls for the exercise of genuine autonomy, not for independence, 'semi-independence' or 'independence in disguised form'. The substance of the Memorandum, which explains what is meant by genuine autonomy, makes this unambiguously clear. The form and degree of autonomy proposed in the

Memorandum is consistent with the principles on autonomy in the Constitution of the PRC. Autonomous regions in different parts of the world exercise the kind of self-governance that is proposed in the Memorandum, without thereby challenging or threatening the sovereignty and unity of the state of which they are a part. This is true of autonomous regions within unitary states as well as those with federal characteristics. Observers of the situation, including unbiased political leaders and scholars in the international community, have also acknowledged that the Memorandum is a call for autonomy within the PRC and not for independence or separation from the PRC.

The Chinese government's viewpoint on the history of Tibet is different from that held by Tibetans and His Holiness the Dalai Lama is fully aware that Tibetans cannot agree to it. History is a past event and it cannot be altered. However, His Holiness the Dalai Lama's position is forward-looking, not backward grasping. He does not wish to make this difference on history to be an obstacle in seeking a mutually beneficial common future within the PRC.

The Chinese Central Government's responses to the Memorandum reveal a persistent suspicion on its part that His Holiness' proposals are tactical initiatives to advance the hidden agenda of independence. His Holiness the Dalai Lama is aware of the PRC's concerns and sensitivities with regard to the legitimacy of the present situation in Tibet. For this reason His Holiness the Dalai Lama has conveyed through his Envoys and publicly stated that he stands ready to lend his moral authority to endow an autonomy agreement, once reached, with the legitimacy it will need to gain the support of the people and to be properly implemented.

## **2. Respecting the Constitution of the PRC**

The Memorandum explicitly states that the genuine autonomy sought by His Holiness the Dalai Lama for the Tibetan people is to be accommodated within the framework of the Constitution and its principles on autonomy, not outside of it.

The fundamental principle underlying the concept of national regional autonomy is to preserve and protect a minority nationality's identity, language, custom, tradition and culture in a multi-national state based on equality and cooperation. The Constitution provides for the establishment of organs of self-government where the national minorities live in concentrated communities in order for them to exercise the power of autonomy. In conformity with this principle, the White Paper on Regional Ethnic Autonomy in Tibet (May 2004), states that minority nationalities are "arbiters of their own destiny and masters of their own affairs".

Within the parameters of its underlying principles, a Constitution needs to be responsive to the needs of the times and adapt to new or changed circumstances. The leaders of the PRC have demonstrated the flexibility of the Constitution of the PRC in their interpretation and implementation of it, and have also enacted modifications and

amendments in response to changing circumstances. If applied to the Tibetan situation, such flexibility would, as is stated in the Memorandum, indeed permit the accommodation of the Tibetan needs within the framework of the Constitution and its principles on autonomy.

### **3. Respecting the ‘three adherences’**

The position of His Holiness the Dalai Lama, as presented in the Memorandum, in no way challenges or brings into question the leadership of the Chinese Communist Party in the PRC. At the same time, it is reasonable to expect that, in order to promote unity, stability and a harmonious society, the Party would change its attitude of treating Tibetan culture, religion and identity as a threat.

The Memorandum also does not challenge the socialist system of the PRC. Nothing in it suggests a demand for a change to this system or for its exclusion from Tibetan areas. As for His Holiness the Dalai Lama’s views on socialism, it is well known that he has always favoured a socialist economy and ideology that promotes equality and benefits to uplift the poorer sections of society.

His Holiness the Dalai Lama’s call for genuine autonomy within the PRC recognises the principles on autonomy for minority nationalities contained in the Constitution of the PRC and is in line with the declared intent of those principles. As pointed out in the Memorandum, the current implementation of the provisions on autonomy, however, effectively results in the denial of genuine autonomy to the Tibetan and fails to provide for the exercise of the right of Tibetans to govern themselves and to be “masters of their own affairs.” Today, important decisions pertaining to the welfare of Tibetans are not being made by Tibetans. Implementing the proposed genuine autonomy explained in the Memorandum would ensure for the Tibetans the ability to exercise the right to true autonomy and therefore to become masters of their own affairs, in line with the Constitutional principles on autonomy.

Thus, the Memorandum for genuine autonomy does not oppose the ‘three adherences’.

### **4. Respecting the hierarchy and authority of the Chinese Central Government**

The proposals contained in the Memorandum in no way imply a denial of the authority of the National People’s Congress (NPC) and other organs of the Chinese Central Government. As stated in the Memorandum, the proposal fully respects the hierarchical differences between the Central Government and its organs, including the NPC, and the autonomous government of Tibet.

Any form of genuine autonomy entails a division and allocation of powers and responsibilities, including that of making laws and regulations, between the central and the autonomous local government. Of course, the power to adopt laws and

regulations is limited to the areas of competency of the autonomous region. This is true in unitary states as well as in federal systems.

This principle is also recognised in the Constitution. The spirit of the Constitutional provisions on autonomy is to give autonomous regions broader decision-making authority over and above that enjoyed by ordinary provinces. But today, the requirement for prior approval by the Standing Committee of the NPC for all laws and regulations of the autonomous regions (Art. 116 of the Constitution) is exercised in a way that in fact leaves the autonomous regions with much less authority to make decisions that suit local conditions than that of the ordinary (not autonomous) provinces of China.

Whenever there is a division and allocation of decision-making power between different levels of government (between the Central Government and the autonomous government), it is important to have processes in place for consultation and cooperation. This helps to improve mutual understanding and to ensure that contradictions and possible inconsistencies in policies, laws and regulations are minimised. It also reduces the chances of disputes arising regarding the exercise of the powers allocated to these different organs of government. Such processes and mechanisms do not put the Central and autonomous governments on equal footing, nor do they imply the rejection of the leadership of the Central Government.

The important feature of entrenchment of autonomy arrangements in the Constitution or in other appropriate ways also does not imply equality of status between the central and local government nor does it restrict or weaken the authority of the former. The measure is intended to provide (legal) security to both the autonomous and the central authorities that neither can unilaterally change the basic features of the autonomy they have set up, and that a process of consultation must take place at least for fundamental changes to be enacted.

## **5. Concerns raised by the Chinese Central Government on specific competencies referred to in the Memorandum**

### **a) Public security**

Concern was raised over the inclusion of public security aspects in the package of competencies allocated to the autonomous region in the Memorandum because the government apparently interpreted this to mean defence matters. National defence and public security are two different matters. His Holiness the Dalai Lama is clear on the point that the responsibility for national defence of the PRC is and should remain with the Central Government. This is not a competency to be exercised by the autonomous region. This is indeed the case in most autonomy arrangements. The Memorandum in fact refers specifically to “internal public order and security,” and makes the important point that the majority of the security personnel should be Tibetans, because they understand the local customs and traditions. It also helps to

curb local incidents leading to disharmony among the nationalities. The Memorandum in this respect is consistent with the principle enunciated in Article 120 of the Constitution (reflected also in Article 24 of the LRNA), which states:

“The organs of self-government of the national autonomous areas may, in accordance with the military system of the state and practical local needs and with approval of the State Council, organise local public security forces for the maintenance of public order.

It should also be emphasised in this context that the Memorandum at no point proposes the withdrawal of People’s Liberation Army (PLA) from Tibetan areas.

## **b) Language**

The protection, use, and development of the Tibetan language are one of the crucial issues for the exercise of genuine autonomy by Tibetans. The emphasis on the need to respect Tibetan as the main or principal language in the Tibetan areas is not controversial, since a similar position is expressed in the Chinese Central Government’s White Paper on Regional Ethnic Autonomy in Tibet, where it is stated that regulations adopted by the Tibet regional government prescribe that “equal attention be given to Tibetan and Han-Chinese languages in the Tibetan Autonomous region, with the Tibetan language as the major one...” (emphasis added). Moreover, the very usage of “main language” in the Memorandum clearly implies the use of other languages, too.

The absence of a demand in the Memorandum that Chinese should also be used and taught should not be interpreted as an “exclusion” of this language, which is the principal and common language in the PRC as a whole. It should also be noted in this context that the leadership in exile has taken steps to encourage Tibetans in exile to learn Chinese. Tibetan proposal which emphasises the study of the Tibetan people’s own language should therefore not be interpreted as being a “separatist view”.

## **c) Regulation of population migration**

The Memorandum proposes that the local government of the autonomous region should have the competency to regulate the residence, settlement and employment or economic activities of persons who wish to move to Tibetan areas from elsewhere. This is a common feature of autonomy and is certainly not without precedent in the PRC. A number of countries have instituted systems or adopted laws to protect vulnerable regions or indigenous and minority peoples from excessive immigration from other parts of the country. The Memorandum explicitly states that it is not suggesting the expulsion of non-Tibetans who have lived in Tibetan areas for years. His Holiness the Dalai Lama and the Kashag also made this clear in earlier statements, as did the Envoys in their discussions with their Chinese counterparts. In an address to the European Parliament on December 4, 2008, His Holiness the Dalai Lama reiterated that “our intention is not to expel non-Tibetans. Our concern is the induced mass

movement of primarily Han, but also some other nationalities, into many Tibetan areas, which in turn marginalises the native Tibetan population and threatens Tibet's fragile environment." From this it is clear that His Holiness is not at all suggesting that Tibet be inhabited by only Tibetans, with other nationalities not being able to do so. The issue concerns the appropriate division of powers regarding the regulation of transient, seasonal workers and new settlers so as to protect the vulnerable population indigenous to Tibetan areas.

In responding to the Memorandum the Chinese Central Government rejected the proposition that the autonomous authorities would regulate the entrance and economic activities of persons from other parts of the PRC in part because "in the Constitution and the Law on Regional National Autonomy there are no provisions to restrict transient population." In fact, the Law on Regional National Autonomy, in its Article 43, explicitly mandates such a regulation:

"In accordance with legal stipulations, the organs of self-government of national autonomous areas shall work out measures for control of the transient population."

Thus, the Tibetan proposal contained in the Memorandum in this regard is not incompatible with the Constitution.

#### **d) Religion**

The point made in the Memorandum, that Tibetans be free to practice their religion according to their own beliefs, is entirely consistent with the principles of religious freedom contained in the Constitution of the PRC. It is also consistent with the principle of separation of religion and polity adopted in many countries of the world.

Article 36 of the Constitution guarantees that no one can "compel citizens to believe in, or not to believe in any religion." We endorse this principle but observe that today the government authorities do interfere in important ways in the ability of Tibetans to practice their religion.

The spiritual relationship between master and student and the giving of religious teachings, etc. are essential components of the Dharma practice. Restricting these is a violation of religious freedom. Similarly, the interference and direct involvement by the state and its institutions in matters of recognition of reincarnated lamas, as provided in the regulation on the management of reincarnated lamas adopted by the State on July 18, 2007 is a grave violation of the freedom of religious belief enshrined in the Constitution.

The practice of religion is widespread and fundamental to the Tibetan people. Rather than seeing Buddhist practice as a threat, concerned authorities should respect it. Traditionally or historically Buddhism has always been a major unifying and positive factor between the Tibetan and Chinese peoples.

### e) Single administration

The desire of Tibetans to be governed within one autonomous region is fully in keeping with the principles on autonomy of the Constitution. The rationale for the need to respect the integrity of the Tibetan nationality is clearly stated in the Memorandum and does not mean “Greater or Smaller Tibet”. In fact, as pointed out in the Memorandum, the Law on Regional National Autonomy itself allows for this kind of modification of administrative boundaries if proper procedures are followed. Thus the proposal in no way violates the Constitution.

As the Envoys pointed out in earlier rounds of talks, many Chinese leaders, including Premier Zhou Enlai, Vice Premier Chen Yi and Party Secretary Hu Yaobang, supported the consideration of bringing all Tibetan areas under a single administration. Some of the most senior Tibetan leaders in the PRC, including the 10th Panchen Lama, Ngapo Ngawang Jigme and Bapa Phuntsok Wangyal have also called for this and affirming that doing so would be in accordance with the PRC’s Constitution and its laws. In 1956 a special committee, which included senior Communist Party member Sangye Yeshe (Tian Bao), was appointed by the Chinese Central Government to make a detailed plan for the integration of the Tibetan areas into a single autonomous region, but the work was later stopped on account of ultra-leftist elements.

The fundamental reason for the need to integrate the Tibetan areas under one administrative region is to address the deeply-felt desire of Tibetans to exercise their autonomy as a people and to protect and develop their culture and spiritual values in this context. This is also the fundamental premise and purpose of the Constitutional principles on regional national autonomy as reflected in Article 4 of the Constitution. Tibetans are concerned about the integrity of the Tibetan nationality, which the proposal respects and which the continuation of the present system does not. Their common historical heritage, spiritual and cultural identity, language and even their particular affinity to the unique Tibetan plateau environment is what binds Tibetans as one nationality. Within the PRC, Tibetans are recognized as one nationality and not several nationalities. Those Tibetans presently living in Tibet autonomous prefectures and counties incorporated into other provinces also belong to the same Tibetan nationality. Tibetans, including His Holiness the Dalai Lama, are primarily concerned about the protection and development of Tibetan culture, spiritual values, national identity and the environment. Tibetans are not asking for the expansion of Tibetan autonomous areas. They are only demanding that those areas already recognised as Tibetan autonomous areas come under a single administration, as is the case in the other autonomous regions of the PRC. So long as Tibetans do not have the opportunity to govern themselves under a single administration, preservation of Tibetan culture and way of life cannot be done effectively. Today more than half of the Tibetan population is subjected to the priorities and interests first and foremost of different provincial governments in which they have no significant role.



As explained in the Memorandum, the Tibetan people can only genuinely exercise regional national autonomy if they can have their own autonomous government, people's congress and other organs of self-government with jurisdiction over the Tibetan nationality as a whole. This principle is reflected in the Constitution, which recognises the right of minority nationalities to practice regional autonomy "in areas where they live in concentrated communities" and to "set up organs of self-government for the exercise of the power of autonomy," (Article 4). If the "state's full respect for and guarantee of the right of the minority nationalities to administer their internal affairs" solemnly declared in the preamble of the Law on Regional National Autonomy is interpreted not to include the right to choose to form an autonomous region that encompasses the whole people in the contiguous areas where its members live in concentrated communities, the Constitutional principles on autonomy are themselves undermined.

Keeping Tibetans divided and subject to different laws and regulations denies the people the exercise of genuine autonomy and makes it difficult for them to maintain their distinct cultural identity. It is not impossible for the Central Government to make the necessary administrative adjustment when elsewhere in the PRC, notably in the case of Inner Mongolia, Ningxia and Guangxi Autonomous Regions, it has done just that.

#### **f) Political, social and economic system**

His Holiness the Dalai Lama has repeatedly and consistently stated that no one, least of all he, has any intention to restore the old political, social and economic system that existed in Tibet prior to 1959. It would be the intention of a future autonomous Tibet to further improve the social, economic and political situation of Tibetans, not to return to the past. It is disturbing and puzzling that the Chinese government persists, despite all evidence to the contrary, to accuse His Holiness the Dalai Lama and his Administration of the intention to restore the old system.

All countries and societies in the world, including China, have had political systems in the past that would be entirely unacceptable today. The old Tibetan system is no exception. The world has evolved socially and politically and has made enormous strides in terms of the recognition of human rights and standards of living. Tibetans in exile have developed their own modern democratic system as well as education and health systems and institutions. In this way, Tibetans have become citizens of the world at par with those of other countries. It is obvious that Tibetans in the PRC have also advanced under Chinese rule and improved their social, education, health and economic situation. However, the standard of living of the Tibetan people remains the most backward in the PRC and Tibetan human rights are not being respected.

## **6. Recognising the core issue**

His Holiness the Dalai Lama and other members of the exiled leadership have no personal demands to make. His Holiness the Dalai Lama's concern is with the rights and welfare of the Tibetan people. Therefore, the fundamental issue that needs to be resolved is the faithful implementation of genuine autonomy that will enable the Tibetan people to govern themselves in accordance with their own genius and needs.

His Holiness the Dalai Lama speaks on behalf of the Tibetan people, with whom he has a deep and historical relationship and one based on full trust. In fact, on no issue are Tibetans as completely in agreement as on their demand for the return of His Holiness the Dalai Lama to Tibet. It cannot be disputed that His Holiness the Dalai Lama legitimately represents the Tibetan people, and he is certainly viewed as their true representative and spokesperson by them. It is indeed only by means of dialogue with His Holiness the Dalai Lama that the Tibetan issue can be resolved. The recognition of this reality is important.

This emphasises the point, often made by His Holiness the Dalai Lama, that his engagement for the cause of Tibet is not for the purpose of claiming certain personal rights or political position for him, nor attempting to stake claims for the Tibetan administration in exile. Once an agreement is reached, the Tibetan Government-in-Exile will be dissolved and the Tibetans working in Tibet should carry on the main responsibility of administering Tibet. His Holiness the Dalai Lama made it clear on numerous occasions that he will not hold any political position in Tibet.

## **7. His Holiness the Dalai Lama's co-operation**

His Holiness the Dalai Lama has offered, and remains prepared, to formally issue a statement that would serve to allay the Chinese Central Government's doubts and concerns as to his position and intentions on matters that have been identified above.

The formulation of the statement should be done after ample consultations between representatives of His Holiness the Dalai Lama and the Chinese Central Government, respectively, to ensure that such a statement would satisfy the fundamental needs of the Chinese Central Government as well as those of the Tibetan people.

It is important that both parties address any concern directly with their counterparts, and not use those issues as ways to block the dialogue process as has occurred in the past.

His Holiness the Dalai Lama is taking this initiative in the belief that it is possible to find common ground with the People's Republic of China consistent with the principles on autonomy contained in PRC's Constitution and with the interests of the Tibetan people. In that spirit, it is the expectation and hope of His Holiness the Dalai Lama that the representatives of the PRC will use the opportunity presented by the

Memorandum and this Note to deepen discussion and make substantive progress in order to develop mutual understanding. \*\*\*\*\*

[1] The 'three adherences' as stipulated by the Central Government are: (1) the leadership of the Chinese Communist Party; (2) the socialism with Chinese characteristics; and (3) the Regional National Autonomy system.