

Update to *The Case Concerning Tibet: Centenary of the 1913 Independence Proclamation by His Holiness the XIIIth Dalai Lama*

Tibet Was Independent Prior to 1950



Figure 1. Treaty Pillar at the base of the Potala Palace, Lhasa, Tibet's capital. The pillar documents a treaty agreed to between Tibet and China in A.D. 822.

that Tibet has always been an independent state, despite periods during which it was influenced to varying degrees by foreign powers.

Historical Independence of Tibet

Tibet indisputably was an independent state before the 13th century. Tibet was the most powerful sovereign nation in Asia in the 8th century and entered into a treaty with China in 822 (Figure 1). For the next 300 years, there was no official contact between Tibet and China.

In the 13th century, Tibet came under Mongol dominance

Tibet was an independent, sovereign nation when the armies of the People's Republic of China ("PRC") entered Tibet in 1950. Tibet at that time practiced all the attributes that define statehood under international law. Even the PRC does not dispute that the Tibetans are a distinct people who in 1950 occupied a distinct territory.

Tibet also had a fully functioning government, headed by the Dalai Lama. That government, free from outside interference, administered the welfare of the Tibetan people through a civil service, judicial and taxation systems, as well as through a postal and telegraph service, and a separate currency (Figure 5).

The Tibetan government controlled the borders and issued passports to its people, documents that were recognized internationally (Figure 3).

Sovereign Tibet entered into treaties with other states, including Great Britain, Ladakh, Nepal and Mongolia (Figure 2). Tibet also entered into a treaty with China in 822, and negotiated as an equal sovereign with China and Great Britain at the Simla Conference of 1913-14.

The Seventeen Point Agreement of 1951, which the PRC claims resolved Tibet's status, is not a legally binding agreement. The Agreement was signed when armies of the PRC occupied large parts of Tibet, the Tibetan representatives did not have authority to sign the Agreement on behalf of Tibet, and it was signed under threat of further military action in Tibet. A treaty concluded under such circumstances is legally void under international law and thus of no effect.

Under international law, once a state exists, it is legally presumed to continue as an independent state unless proved otherwise. The historical evidence not only fails to prove otherwise, but affirmatively demonstrates



Figure 2. Detail of Tibet-Mongolia treaty, signed in 1913 shortly after the XIII Dalai Lama declared Tibet a sovereign, independent state. The original Tibetan-language treaty was found in Mongolia in 2007.



Figure 3. Detail from the Tibetan passport, 1947. It reads in part:

"The bearer of this letter – Tsepon Shakabpa, Chief of the Finance Department of the Government of Tibet, is hereby sent to China, the United States of America, the United Kingdom and other countries to explore and review trade possibilities between these countries and Tibet. We shall, therefore, be grateful if all the Governments concerned on his route would kindly give due recognition as such, grant necessary passport, visa, etc. without any hindrance and render assistance in all possible ways to him."

then again beginning in 1931, but failed. In 1949, Tibet expelled the last remaining Chinese representatives.

Tibet was an independent country at the time of the Chinese invasion in 1950 with a government headed by the political and religious institution of the Dalai Lama. The State of Tibet continues, despite China's illegal occupation, through the work of the legislative, judicial, and executive branches of the Tibetan Government, now in exile in India. The Dalai Lama served as Head of State with executive functions organized under the cabinet, or Kashag, until 2011, when political authority devolved to the Sikyong, or Political Leader of the Kashag. Under the current constitution, legislative authority rests in an elected parliament, and an independent judiciary has been established.

several decades before the Mongols conquered China militarily and established the Yuan Dynasty. Tibet was not part of China before the Mongol conquest and during the Yuan Dynasty was administered separately by the Mongols through local Tibetan rulers. Nor did Tibet lose its sovereignty during this period. The relationship between Tibet and the Mongols was a unique priest-patron relationship known as *cho-yon*. The relationship involves a reciprocal legitimation of complementary forms of authority.

During Tibet's "Second Kingdom," from 1349 to 1642, Tibet was a secular kingdom free of both Mongol and Chinese control. Emperors of the Chinese Ming Dynasty nominally granted titles to certain Tibetan officials but exercised neither *de jure* nor *de facto* control over Tibetan affairs, nor over the successive changes in the Tibetan government. Successive Ming Emperors exercised no control over the Dalai Lamas, who later took control of Tibet.

During the Qing Dynasty, the Dalai Lamas and the Manchu Emperors reestablished the *cho-yon* relationship. The Emperors' representatives in Lhasa, the *Ambans*, initially served only as liaisons to the Emperor. In 1793, the Emperor purported to grant the Ambans power to exercise control over Tibet's external affairs, but this was presented to the Eighth Dalai Lama as a suggestion, not an exercise of Imperial power. Within a few decades, the Ambans exerted virtually no influence in Tibet and the Qing Emperors stopped providing the protection that was their side of the *cho-yon* relationship, effectively ending it.

Tibet formally expelled the last garrisoned troops of the Qing Emperor in 1911, an unmistakable act of sovereignty, and repatriated them to China in 1912. China's Kuomintang Government invited Tibet to join the Nationalist Republic, but Tibet declined. The Nationalist Government attempted unilaterally to assert control over Tibet until 1918 and



Figure 4. Official government seal of the XIIIth Dalai Lama.

The Tibetan People and the Human Right to Self-Determination

Even if Tibet had not been an independent nation in 1950, the Tibetan people are nonetheless entitled to exercise their right of self-determination. International law recognizes the right of peoples to self-determination; that is, ***“the right freely to determine, without external interference, their political status and to pursue their economic, social and cultural development.”*** The Tibetans are unquestionably a “people” to whom the right of self-determination adheres. They are entitled to choose independence from the PRC, autonomy within the PRC, or any other political status.

The Tibetan people are entitled to exercise their right of self-determination as against the PRC’s claim of territorial integrity because the PRC has not acted as the legitimate government of the Tibetan people. A government’s legitimacy derives from a people’s exercise of the right of self-determination and from its conduct in accordance with its obligation to protect and promote the fundamental human rights of all of its peoples, without discrimination. The PRC’s government in Tibet was imposed on the Tibetans by force, not by an exercise of self-determination. Moreover, the PRC has persistently and systematically abused the human rights of Tibetans through repression of religion, population transfer, birth control policies, discrimination, destruction of the environment, involuntary disappearances, arbitrary arrest, arbitrary torture, and arbitrary executions.



Figure 5. Coins and stamps issued by the Tibetan Government during independence.

The People’s Republic of China is therefore not the legitimate government of the Tibetan people and has no claim of territorial integrity to assert against the Tibetans’ right of self-determination.

Tibetan Self-Determination and Humanity’s Commitment to Human Rights

A consideration of the fundamental values of the international community also weighs heavily in favor of enforcing the Tibetans’ right to self-determination. A non-militarized independent Tibet would enhance peace and security in Asia by serving as a buffer zone between the two most populous nations in the world – India and China – who have gone to war only after the PRC stationed troops in Tibet along the Indian border. The Tibetans’ exercise of self-determination will also promote the international values of respect for human rights and fundamental freedoms. The PRC has openly and officially abused Tibetan human rights in an apparent effort to marginalize the Tibetans as a people. Only the exercise of self-determination by the Tibetans will restore respect for the Tibetans’ human rights and fundamental freedoms.