

TERRITORY, SOVEREIGNTY, AND EMPIRE/STATE
IN CHINA PROPER, INNER ASIA, AND TAIWAN,
907–1949

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ABSTRACT

This dissertation aims to enrich our understandings of some, historical and current, Chinese and neighboring East and Inner Asian states/empires by discussing the related facts and issues (e.g., their formation, governance, territory, ethnic attribute, diplomacy, continuity, extinction, and succession) from the perspectives of the applicable traditional East Asian and modern European international laws. Surprisingly (to some at least), there had long existed Chinese-originated international norms that not only defined the territorial limits of Chinese empires but also largely regulated the interactions between independent states/polities in historical East Asia and beyond.

The main observations and arguments are as follows: (1) upholding the Chinese–Barbarian dichotomy, the pre-modern Chinese saw “China” or *Zhongguo* (lit. central state/states) as the world’s civilized center and regarded the neighboring non-Chinese domains as “barbarian” peripherals outside China; (2) the traditional Chinese concepts of “state” (*guo*) and “territory” (*jiangyu*) surprisingly resembled the modern Western definitions; (3) rather than asserting “universal sovereignty,” the native Chinese empires (e.g., the Han, Tang, Song, and Ming) realistically claimed quite well-defined “limited territories” within their effective control, while generally regarding the non-Chinese

populated tributary areas outside their dynastic borders; (4) the unified Chinese empires were only capable of maintaining stable territories roughly within the traditional Chinese lands or “China Proper” (i.e., the regions lying south of the Great Wall and east of the Tibetan Plateau), which, therefore, constituted the geographical sphere of “historical China”; (5) several non-Chinese Inner Asian “conquest empires” (e.g., the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing) had conquered parts or all of China, but they were not simply transformed into “Chinese” dynasties, nor did their traditional non-Chinese domains in Inner Asia and Taiwan become parts of “China”; (6) the post-1912 Chinese republics could not and cannot use the histories of those non-Chinese conquest empires to legitimate modern China’s historical territorial claims over Inner Asia (particularly, Manchuria, Mongolia, Qinghai, Xinjiang, and Tibet) and Taiwan; and (7) because Taiwan has become an independent sovereign State (arguably, since the end of 1949), any People’s Republic of China’s invasion and unilateral annexation of Taiwan will be illegal under contemporary international law.

For my father, Chen-Hsiang Huang,

my mother, Jui-Lien Lo,

and my wife, Yen-Wen Pu

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CHAPTER 1

INTRODUCTION AND OVERVIEW OF THE FOLLOWING CHAPTERS

ZHONGGUO, CHINA, AND KITAD

1.1 Introduction for Chapter 1

Since ancient times, the Chinese people had regarded “their” *Zhongguo* (lit. central state/states) as the center of the world and viewed the surrounding peoples as various “barbarians” outside the Chinese civilization. The history shows that the unified native Chinese empires such as the Qin, Han, Tang, Song, and Ming (see Tables 1.1–1.3) were only capable of maintaining stable territories roughly within what is called “China Proper” (see Maps 1.2, 1.5–1.8, and 1.12), the areas lying south of the Great Wall and east of the Tibetan Plateau (see Maps 1.1 and 1.2). Consequently, in the Chinese mind, the geographical sphere of *Zhongguo* had always been conceptually equated with the “Nine Regions” (*Jiuzhou*) or the narrowly defined *Tianxia* (lit. All under Heaven). Historically, this geographical space determined whether “China” achieved unification or underwent division.

The non-Chinese “conquest empires” or “conquest dynasties” of the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing (see Tables 1.2 and 1.3, and Maps 1.8–1.11 and 1.13) had all invaded from the north and annexed parts or all of “China” into their

empires. Similar to the Chinese concept of a transdynastic *Zhongguo* or “China,” these northern non-Chinese conquerors may also have had the notion of a transdynastic “Kitad” region (see Map 1.8) in what are known as southwestern Manchuria, southeastern Mongolia, and northeastern China Proper, including the area of present-day Beijing. Arguably, the moves of the principal capitals of the Jin, Yuan, and Qing to present-day Beijing were the moves of capitals to the “Kitad” region rather than to “China.” Moreover, like the Qin, Han, Tang, Song, and Ming are regarded as the “Chinese” empires, the Liao, Jin, Yuan, and Qing could be, at least in part, seen as the “Kitad” or “Kitad-based” empires.

Furthermore, although these non-Chinese conquest empires sometimes also called themselves *Zhongguo*, they merely asserted that they were the “central states,” rather than identifying themselves as “China.” Consequently, the term “*Zhongguo*” in historical records did not always refer to what could be historically called “China.” Even though these non-Chinese conquest empires forcibly annexed parts or all of China, they did not transform their non-Chinese domains into Chinese territories. As a result, the post-1912 modern Chinese republics are not able to justify China’s historical sovereignty over the non-Chinese domains of these non-Chinese conquest empires.

1.2 The Chinese–Barbarian Dichotomy (*Hua–Yi* Distinction)

For thousands of years (and well into China’s post-1912 Republican period), the Chinese–Barbarian dichotomy (*Hua–Yi* distinction) had been deeply rooted in the traditional Chinese culture and worldview.¹ Ever since ancient times, what could be called the “Chinese people” had claimed their cultural and racial superiority over the surrounding non-Chinese “barbarians,” as clearly shown in the “pre-imperial” (i.e., pre-221 BCE) Chinese texts.² The ancient Chinese referred to themselves as *Hua*, *Xia*, *Huaxia*, and *Zhongxia* (see Table 1.4), and these names for the Chinese people continued to be used after the first unification of *Zhongguo* or “China” under the Qin Empire (221–206 BCE).³

Although the term “*Hanren*” (lit. Han people) appeared no later than the 1st century BCE during the Han Dynasty (202 BCE–220 CE), *Hanren* originally meant, according to Mark Elliott, the “people of Han [Dynasty]” without any reference to the Chinese “ethnic identity.”⁴ In about the 6th century CE, *Hanren* started to become an alternative name for *Huaren* (lit. Hua people), *Zhongguoren* (lit. the people of the central state), and so

¹ Yuri Pines, *Beasts or Humans: Pre-Imperial Origins of the “Sino-Barbarian” Dichotomy*, in MONGOLS, TURKS, AND OTHERS: EURASIAN NOMADS AND THE SEDENTARY WORLD, 59–91 (Reuven Amitai & Michal Biran eds., 2005); FRANK DIKÖTTER, THE DISCOURSE OF RACE IN MODERN CHINA 1–20 (2d ed. 2015).

² Pines, *supra* note 1, at 61–75; DIKÖTTER, *supra* note 1, at 2–6.

³ ENDYMION PORTER WILKINSON, CHINESE HISTORY: A NEW MANUAL 195 (rev. ed. 2012).

⁴ *Id.*; Mark Elliott, *Hushuo: The Northern Other and the Naming of the Han Chinese*, in CRITICAL HAN STUDIES: THE HISTORY, REPRESENTATION, AND IDENTITY OF CHINA’S MAJORITY 173, 180 (Thomas S. Mullaney et al. eds., 2012).

forth. However, *Hanren* in the sense of “ethnic Chinese” (see Table 1.4) was increasingly popular only in Tang times (618–907) and was widely used only after the fall of the Tang in 907.⁵ According to the 2010 national census of the People’s Republic of China (PRC; 1949–present), the Han Chinese people constituted overwhelmingly about 91.5% of China’s more than 1.3 billion population.⁶

Recently, when reconstructing the geographical sphere of “historical China,” the PRC government and some leading Chinese scholars project what they regard as “the Qing territories at its height in 1759–1840” (see Maps 1.2 and 1.13) into China’s entire past.⁷ Under the PRC’s new narratives, all the non-Han peoples who had ever lived within this sphere are “retroactively” defined as the “Chinese minority groups” since antiquity.⁸ However, as we will see later, the PRC’s new position on “historical China” does not fit in with the historical facts and records.

Since ancient times, the Chinese people had long called their neighbors as *Yi, Di, Hu* “barbarians,” etc. and collectively as *Siyi* (lit. the barbarians of the four quarters), namely,

⁵ WILKINSON, *supra* note 3, at 195–96; for detail, see Elliott, *supra* note 4, at 179–90.

⁶ Gov.cn, The 2010 National Census, http://big5.gov.cn/gate/big5/www.gov.cn/test/2012-04/20/content_2118413.htm (last visited Nov. 10, 2017).

⁷ GE JIANXIONG, TONG YI YU FEN LIE: ZHONGGUO LI SHI DE QI SHI [UNIFICATION AND DIVISION: INSPIRATION FROM THE CHINESE HISTORY] 72–79 (Beijing, Sheng Huo Du Shu Xin Zhi San Lian Shu Dian 1994) (China); Liu Qingtao, *Liu Shi Nian Lai Zhong Guo Li Shi Jiang Yu Wen Ti Yan Jiu* [The Studies of China’s Historical Territories in the Past 60 Years], 19 (No. 3) ZHONG GUO BIAN JIANG SHI DI YAN JIU [CHINA’S BORDERLAND HISTORY AND GEOGRAPHY STUDIES] 64, 67–68, 70–71 (2009) (China).

⁸ Nimrod Baranovitch, *Others No More: The Changing Representation of Non-Han Peoples in Chinese History Textbooks, 1951–2003*, 69 (No. 1) THE JOURNAL OF ASIAN STUDIES 85, 97–103 (2010).

Dong Yi (Eastern Yi), *Nan Man* (Southern Man), *Xi Rong* (Western Rong), and *Bei Di* (Northern Di).⁹ In the Chinese historical records and literature, these neighboring “barbarians” were frequently described as “greedy and warlike” animals or “half-man, half-animal” creatures living outside the “civilization,” which of course meant the Chinese civilization.¹⁰ Not surprisingly, the Chinese names for these surrounding barbarians were commonly added with animal signifiers, such as dog, beast, insect, sheep, and so forth. For example, the Northern *Di* had the dog radical, and the Southern *Man* had the insect radical.¹¹ Also, from Tang times, *Fan* gradually became “the generic term” for the barbarians of the west (such as *Tufan*, i.e., Tibetans) and the south.¹²

It is clear that all those peoples who were referred to as *Yi*, *Man*, *Rong*, *Di*, *Hu*, *Fan*, and so forth were classified as “non-Chinese” barbarians outside the Chinese civilization (see Table 1.4).¹³ Apparently, the historical records and literature do not support the PRC’s recent claim that since antiquity all those non-Han peoples who ever lived within the sphere of the Qing territories at its height in 1759–1840 (largely corresponding to China’s current territories) had always been the “Chinese” minority groups. In other words, it is hypocritical/opportunistic for present-day China to retroactively claim

⁹ WILKINSON, *supra* note 3, at 195, 350–53; DIKÖTTER, *supra* note 1, at 2–5.

¹⁰ Yang Lien-Sheng, *Historical Notes on the Chinese World Order*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 20, 27–28 (John K. Fairbank ed., 1968); DIKÖTTER, *supra* note 1, at 5.

¹¹ WILKINSON, *supra* note 3, at 351–52.

¹² *Id.* at 354.

¹³ See GE JIANXIONG, *supra* note 7, at 33–34.

historical “ownership” of those non-Han groups it once deemed “non-Chinese” animalistic savages.

1.3 The Native Chinese Empires, *Zhongguo*, and “China”

Although *Zhongguo* is the standard abbreviation for the post-1912 Chinese republics, historically the term “*Zhongguo*” has had various meanings and has not always referred to what might be called “China.” As shown in the ancient texts during the Western Zhou period (c. 1046–771 BCE), *Zhongguo* at first only designated the “royal capital city” and “royal domain,” as distinguished from the lands of feudal lords.¹⁴ In 771 BCE, the *Rong* barbarians invaded the Zhou capital at Haojing (present-day Xi’an in Shaanxi Province), forcing the Zhou Dynasty’s royal house to flee eastwards and resettle in Luoyi (today’s Luoyang in Henan Province).¹⁵ The event began the so-called Eastern Zhou period (770–256 BCE), which basically corresponded to and was divided into the Spring and Autumn period (*Chunqiu*; 770–453 BCE) and the Warring States period (*Zhangguo*; 453–221 BCE) (see Table 1.1).¹⁶

¹⁴ HU AXIANG, WEI ZAI SI MING: “ZHONGGUO” GUJIN CHENGWEI YANJIU [WHAT A WONDERFUL NAME: RESEARCHES ON THE ANCIENT AND MODERN NAMES FOR CHINA] 257–58 (Wuhan Shi, Hubei Jiao Yu Chu Ban She 2000) (China); WILKINSON, *supra* note 3, at 192.

¹⁵ HAROLD M. TANNER, 1 CHINA: A HISTORY, FROM NEOLITHIC CULTURES THROUGH THE GREAT QING EMPIRE (10,000 BCE–1799 CE), 54–55, 59 (2010).

¹⁶ GU DERONG & ZHU SHUNLONG, CHUN QIU SHI [HISTORY OF THE SPRING AND AUTUMN PERIOD] 1–3 (Shanghai, Shanghai Ren Min Chu Ban She 2001) (China) (Series: *Zhongguo Duandaishi Xilie*); WILKINSON, *supra* note 3, at 688–89.

By the beginning of China's Imperial period in 221 BCE, the term "*Zhongguo*" had been used to refer to, among other things: (1) the "royal capital" and "royal domain," as earlier discussed; (2) the "Central Plains" (*Zhongyuan*), which covered the areas along the middle and lower reaches of the Yellow River, and has been long regarded as the "cradle" of the Chinese (*Huaxia*) civilization; (3) a group of the "central states" (especially those in the Central Plains area) that identified themselves as *zhu Xia* (various *Xia*), *zhu Hua* (various *Hua*), or *Huaxia*; (4) the superior Chinese "civilization" that distinguished *Huaxia* (the Chinese people in the center) from *Siyi* (the barbarians of the four corners); and (5) the "Nine Regions" (*Jiuzhou*; also translated as "Nine Provinces") or the narrowly defined "*Tianxia*" (lit. All under Heaven), that denoted to the sum of the domains of the seven major and other small states of the Warring States period (see Map 1.4), covering most of what later became the "traditional Chinese heartlands" or the so-called "China Proper."¹⁷

It has long been generally accepted that *Zhongguo* or "China" was first unified in 221 BCE under the Qin Empire (221–206 BCE) (see Tables 1.1 and 1.3). However, as will be clear, this first unified "China" only roughly covered what is known as "China Proper" (see Maps 1.2 and 1.5), thus refuting recent Chinese claim that the present-day

¹⁷ See Chishen Chang, *Zhongguo Yu Tianxia Gai Nian Tan Yuan* [*The Formation of Two Key Concepts: "Zhongguo" and "Tianxia"*], 27 (No. 3) SOOCHOW JOURNAL OF POLITICAL SCIENCE 169, 184–90, 200–06, 213–16, 218–29, 234–38, 241–42 (2009) (Taiwan); AXIANG, *supra* note 14, at 258–64.

Chinese territories, which are much larger than China Proper, have always been parts of “China” since antiquity. The origin of the Qin could trace back to around 897 BCE, but only in 770 BCE, the Qin was formally elevated to a feudal “state” (*guo*) of the Zhou Dynasty (c. 1046–256 BCE).¹⁸ In 221 BCE, after Ying Zheng, the King of the Qin State, conquered the other six major warring states and unified *Zhongguo* for the first time, he proclaimed the First Emperor of Qin (*Qin Shi Huangdi*) and became known as the First Emperor of “China.”¹⁹

When first unified under the Qin’s imperial rule, *Zhongguo* or “China” only conceptually and geographically meant the narrowly defined *Tianxia* or the so-called Nine Regions, which did not include the vast non-Chinese regions in what are later known as Manchuria, Mongolia (Inner and Outer), Xinjiang, and Tibet.²⁰ Even after further conquests in the south and north, the Qin Empire’s territory still essentially corresponded to what is known as “China Proper” and were divided into commanderies and counties linked by new roads and canals.²¹

¹⁸ 1 THE CAMBRIDGE HISTORY OF CHINA, THE CH’IN AND HAN EMPIRES, 221 BC–AD 220, at 20, 31, 33 (Denis Twitchett & Michael Loewe eds., 1986) [hereinafter 1 CAMBRIDGE].

¹⁹ TANNER, *supra* note 15, at 87–88.

²⁰ GU JIEGANG & ZHANG XUN, *ZHONGGUO LI SHI DI TU JI (GU DAI SHI BU FEN)* [THE HISTORICAL ATLAS OF CHINA] 6 map 7 (Tan Qixiang ed., Shanghai, Di Tu Chu Ban She 1955) (China); 1 CAMBRIDGE, *supra* note 18, at 41 map 2.

²¹ See TANNER, *supra* note 15, at 88 map 3.1, 89.

Besides the territorial and political unification, *Zhongguo* or “China” was also unified by the Qin’s cultural “standardization.” As Harold M. Tanner notes,

If there was a single theme to Qin policy, it was standardization. Orders were issued requiring standardization of weights and measures, currency, and even the axle-gauge of carts. Qin also simplified and standardized the written language, establishing a single official system of Chinese characters for the empire.²²

Although the Qin Empire (221–206 BCE) was short-lived and existed for only fifteen years, the subsequent Han Empire (202 BCE–220 CE) (see Tables 1.1 and 1.3) soon reunified and ruled “China” (see Map 1.6) for more than four centuries. Consequently, the “plural *Zhongguo*” or the “central states” during the Spring and Autumn period and the Warring States period became “one unified *Zhongguo*” or the only “Central State” in Qin and Han times. The long-lasting Han rule greatly shaped and reinforced the sense of shared Chinese culture and ethnic identity. As a result, the Chinese people, lands, characters, statecraft, and culture as well as Sinicization and so on have (or at least, had) been popularly known as the Han people (*Hanren*), Han lands (*Handi* or *Hantu*), Han characters (*Hanzi*), Han statecraft (*Hanfa*), Han culture (*Hanwenhua*), Hanicization (*Hanhua*), and so forth (see Table 1.4).²³

²² *Id.* at 89.

²³ See AXIANG, *supra* note 14, at 49, 58, 70–71, 373–74.

As will become clear, even after Han times, the notion of equating *Zhongguo* or “China” with the traditional Han Chinese lands long persisted and was continued at least until China’s early Republican era. For nearly four centuries following the fall of Han in 220 CE, China was often divided, and North China even experienced a long period of alien rule from 304 to 581 (see Tables 1.1–1.3).²⁴ Although the reunification of China under the Sui Dynasty (581–618) lasted only a short time, the unified Tang Dynasty (618–907) that followed it was enduring and well known as China’s second golden age (see Tables 1.2 and 1.3, and Map 1.7). Nevertheless, even before the fall of Tang in 907, the Chinese people had been facing increasing threats from the northern “barbarians” in the late Tang Dynasty. As will be discussed in more detail in Chapters 3 and 4, during the period from 936 to 1368, China was at first partially, and later entirely, conquered and annexed into various non-Chinese “conquest empires” or “conquest dynasties,” in particular, the Khitan Liao, Tangut Xia, Jurchen Jin, and Mongol Yuan (see Tables 1.2 and 1.3, and Maps 1.8–1.11).

²⁴ HAROLD M. TANNER, 2 CHINA: A HISTORY, FROM THE GREAT QING EMPIRE THROUGH THE PEOPLE’S REPUBLIC OF CHINA (1644–2009), at 135–52, 162–64 (2010).

Nevertheless, according to Peter K. Bol, the Chinese literati during what he calls the “middle period” (the 8th–15th centuries) began to conceptually construct “*Zhong guo*” or the “Central Country” as a “transdynastic” and “spatiocultural” entity.²⁵ As Bol notes,

The ideological use of the term [*Zhong guo*] seems to have been most frequent in thinking about relations with the states and peoples beyond the [Chinese] borders, an issue of particular concern during this [middle] period. The term *Zhong guo* was a vehicle for both a spatial claim—that there was spatial area that had a continuous history going back to the “central states” (the *zhong guo*) of the central plain during the Eastern Zhou—and a cultural claim—that there was a continuous culture that had emerged in that place which its inhabitant[s] ought to, but might not, continue. . . .

In brief . . . spatially and culturally literati always deployed the term *Zhong guo* in relationship to a wider world to establish an opposition between the *Zhong guo* and those outside of it, who were typically referred [to] as the *Yi di* It asserted that this [Chinese] *guo* was central relative to all others . . . thus defining all others as peripheral.²⁶

Indeed, the term “*Zhongguo*” not only could refer to those “dynastic” states or empires (e.g., the Qin, Han, Tang, Song, and Ming) that factually existed in a defined territory and a limited period of time, but also could refer to what Bol describes as a conceptually constructed “transdynastic” central entity that is historically called “China.” However,

²⁵ Bol purposely chooses “*Zhong guo*” (rather than “*Zhongguo*”) and translates it as the “Central Country” (instead of “Central State”) to refer to the ideologically “transdynastic” and “spatiocultural” entity. He reserves the term “state” for the “dynastic states” that factually existed in the history, and uses “*Zhongguo*” and “China” for the modern Chinese nation-state. However, because the common translation of the Chinese term *guo* is “state” and the term “*Zhongguo*” has long had various meanings, this study still prefers to use “*Zhongguo*” and the “Central State” to refer to “historical China.” See Peter K. Bol, *Geography and Culture: The Middle-Period Discourse on the Zhong Guo*, in KONG JIAN YU WEN HUA CHANG YU: KONG JIAN ZHI YI XIANG, SHI JIAN YU SHE HUI DE SHENG CHAN 61, 61–105 (2009) (Taiwan).

²⁶ *Id.* at 62–63.

long before what Bol calls the middle period, the Chinese had already constructed the concept of a transdynastic *Zhongguo* in the narrowly defined *Tianxia* (i.e., China Proper) and used this concept as a standard to determine whether a particular dynastic state achieved the unification or not. Without the concept of a spatial *Zhongguo*, there would be no way to observe that the Qin had unified *Zhongguo* or “China” in 221 BCE.

Furthermore, it is also clear that in the traditional Chinese historical narratives, the unification of *Zhongguo* or “China” had always meant the political and territorial unification of the Han Chinese heartlands. Thus, it has long held that *Zhongguo* or “China” was unified by the Qin (221–206 BCE), Han (202 BCE–220 CE), Western Jin (265–316), Sui (581–618), Tang (618–907), Northern Song (960–1127), and Ming (1368–1662) dynasties (see Tables 1.1–1.3), despite the fact that all these native Chinese dynasties could only maintain “stable” territories roughly within the traditional Chinese lands lying south of the Great Wall line(s) and east of the Tibetan Plateau (see Maps 1.5–1.8 and 1.12).²⁷ Besides *Jiuzhou* (Nine Regions), the narrowly defined *Tianxia* (All under Heaven), and *Zhongguo* (Central State), the geographical areas of the Chinese heartlands have also been known in Chinese as *zhongtu* (central lands), *neidi* (inner

²⁷ See GE JIANXIONG, *supra* note 7, at 79; HONGYI LAI, CHINA’S GOVERNANCE MODEL 270–76 (2016); GU JIEGANG & ZHANG XUN, *supra* note 20, at 6–10 (maps 7–11), 12 (map 13), 14–16 (maps 19–21), 18 (map 26), 22 (map 30); Joseph W. Esherick, *How the Qing Became China*, in *EMPIRE TO NATION: HISTORICAL PERSPECTIVES ON THE MAKING OF THE MODERN WORLD* 229, 229–33 (Joseph W. Esherick et al. eds., 2006).

lands), *guannei* (lands within the passes), and so forth, and popularly known in English as “China Proper” (see Table 1.4).²⁸ As Pamela Kyle Crossley explains the term “China Proper,”

China proper [see Map 1.2] could not include the [present-day] three northeastern provinces (“Manchuria,” but usually called by contemporary writers “the Northeast”), nor Inner [and Outer] Mongolia, nor Xinjiang, nor Tibet, nor Yunnan, nor Taiwan. It does, however, encompass territories that for the past two thousand years have consistently been claimed – and often governed in fact – by states based in China, using Chinese as a written medium, and using laws derived by some means or other from Chinese tradition or consensus to rule. China proper is the region historians see as more or less uniformly (at least for the past 1,500 years) dominated by a Chinese-speaking, farming population. It is the space of reference for Chinese culture and history.²⁹

Despite the PRC’s recent claims to the contrary, the historical records and maps show that the native Han Chinese empires could only maintain constant and effective control roughly within China Proper, and these native Chinese empires always regarded the surrounding non-Han domains as “non-Chinese” barbarian regions outside *Zhongguo* or “China.”³⁰ As Joseph W. Esherick points out,

The historical geography of imperial China is thus relatively clear. On the frontiers of China proper there were Mongol, Tibetan, and Muslim regions where the languages, cultures, customs, and religions of the native populations were distinct from those of the Han Chinese. Prior to the Qing dynasty, and in most

²⁸ WILKINSON, *supra* note 3, at 194–95; PAMELA KYLE CROSSLEY, *THE WOBBLING PIVOT, CHINA SINCE 1800: AN INTERPRETIVE HISTORY* 66 (2010).

²⁹ CROSSLEY, *supra* note 28, at 66.

³⁰ See GU JIEGANG & ZHANG XUN, *supra* note 20, at 6–10 (maps 7–11), 12 (map 13), 14–16 (maps 19–21), 18 (map 26), 22 (map 30); Esherick, *supra* note 27, at 229–33.

cases prior to the eighteenth century, none of these regions were incorporated into the Chinese empire, despite periodic military forays at the height of the Han and Tang dynasties.³¹

Not surprisingly, during the 2,133 years of the so-called Imperial era (221 BCE–1912 CE), the Chinese people had always seen the unification of *Zhongguo* or “China” as the unification of the traditional Chinese heartlands. In other words, from a traditional Chinese perspective, “historical *Zhongguo*” or “historical China” remained roughly the same size and was essentially equivalent to the narrowly defined *Tianxia* or what is known as “China Proper.” Therefore, whether a government possessed control over the entire (or at least, most of) traditional Chinese heartlands had long been the geographic and conceptual “standard” to determine whether “China” was unified or divided. Furthermore, contrary to popular belief, the so-called “Imperial China” was more often divided than unified. The unification of China was achieved for less than half of the Imperial era and was maintained by the native Han Chinese empires for even shorter periods of time.³²

³¹ Esherick, *supra* note 27, at 233.

³² See GE JIANXIONG, *supra* note 7, at 79; Victoria Tin-bor Hui, *How China Was Ruled*, 3 (No. 4) AMERICAN INTEREST 53, 58–60 (2008); Peter C. Perdue, *The Chinese*, in DEMYSTIFYING CHINA: NEW UNDERSTANDINGS OF CHINESE HISTORY 15, 20 (2013).

1.4 Some Names for “China”

1.4.1 *Zhongguo* (Central State)

Zhongguo is the common name for the post-1912 Chinese republics, namely, the Republic of China (*Zhonghua Minguo*; 1912–49) and the People’s Republic of China (*Zhonghua Renmin Gongheguo*; 1949–present) (see Tables 1.2 and 1.3). Nevertheless, according to Endymion Wilkinson, historically “*Zhongguo* was not a common word for China” and “the normal way of referring to China, even during the Ming and Qing, was by the name of the current dynasty.”³³ However, it should be emphasized that the dynastic names of non-Chinese conquest empires could refer to not only the, partially or entirely, conquered “China” but also the conquest empires’ non-Chinese domains outside of China.

Furthermore, in addition to the native Chinese empires, several non-Chinese Asian empires also sometimes called themselves *Zhongguo*, such as the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing empires,³⁴ as well as the Japanese and Vietnamese

³³ WILKINSON, *supra* note 3, at 193.

³⁴ Li Dalong, “*The Central Kingdom*” and “*the Realm under Heaven*” Coming to Mean the Same: The Process of the Formation of Territory in Ancient China, 3 FRONTIERS OF HISTORY IN CHINA 323, 323–52 (2008); Zhao Yongchun, *Shi Lun Liao Ren De Zhong Guo Guan* [On Liao People’s Concept of *Zhongguo*], 318 (No. 3) WEN SHI ZHE [JOURNAL OF LITERATURE, HISTORY AND PHILOSOPHY] 78, 78–90 (2010); Zhao Yongchun, *Shi Lun Jin Ren De Zhong Guo Guan* [On Jin People’s Concept of *Zhongguo*], 19 (No. 4) ZHONG GUO BIAN JIANG SHI DI YAN JIU [CHINA’S BORDERLAND HISTORY AND GEOGRAPHY STUDIES] 1, 1–12 (2009) (China); Gang Zhao, *Reinventing China: Imperial Qing Ideology and the Rise of Modern Chinese National Identity in the Early Twentieth Century*, 32 (No. 1) MODERN CHINA 3, 3–30 (2006).

empires.³⁵ However, by calling themselves *Zhongguo*, these non-Chinese empires merely asserted their “central status” in the world or in the region, rather than to identify themselves as “Chinese” empires or “China.” For example, as discussed in later chapters, after conquering parts or all of China, the Khitan, Jurchen, Mongol, and Manchu conquerors deliberately maintained their distinct ethnic identities, institutionally separated themselves from the conquered Chinese population, and generally administered and kept their non-Han territories apart from the conquered Chinese domains, thus rejecting wholesale Sinicization of their empires.

In fact, the Asian peoples had long used the word “great” more often than the word “central” to praise the empires or states of their own, or to respect those of others. As Wilkinson comments on those dynasties that ruled China,

Ever since the Han, the polite way of referring to the current dynasty was to qualify its name with Da (the Great), as in Da Han, Da Wei, Da Tang, and Da Song. Starting from the Da Yuan (Mighty Greatness) and continuing thereafter, Da was made part of the official [state] name, thus, Da Ming and Da Qing.³⁶

³⁵ RONALD P. TOBY, *STATE AND DIPLOMACY IN EARLY MODERN JAPAN: ASIA IN THE DEVELOPMENT OF THE TOKUGAWA BAKUFU* 172–74, 181, 199–201, 211–28, 244 (Stanford Univ. Press 1991) (1984); ALEXANDER BARTON WOODSIDE, *VIETNAM AND THE CHINESE MODEL: A COMPARATIVE STUDY OF VIETNAMESE AND CHINESE GOVERNMENT IN THE FIRST HALF OF THE NINETEENTH CENTURY* 18–20, 237–38, 253 (reprint 1988) (1971); *see also* GE ZHAOGUANG, *ZHAI ZI ZHONGGUO: CHONG JIAN YOU GUAN “ZHONGGUO” DE LI SHI LUN SHU* [RECONSTRUCTION OF HISTORICAL DISCOURSE ABOUT “CHINA”] 12–13, 166–67 (Beijing Shi, Zhong Hua Shu Ju 2011) (China).

³⁶ WILKINSON, *supra* note 3, at 6.

Nonetheless, before adopting the dynastic name “Da Yuan,” the Mongols had already used the Chinese names “Da Menggu Guo” (Great Mongol State) or briefly “Da Chao” (Great Dynasty) in the 1210s for their “Great Mongol Empire.” Even earlier, the Jurchens named their empire as “Da Jin” (Great Jin) in 1115; the Tanguts adopted the dynastic name “Da Xia” (Great Xia) no later than 1038 for their “Great State of White and High”; and the Khitans began to use the dynastic name “Da Liao” (Great Liao) for their “Great Central Hulzhi Khitan State” in either 938 or 947.³⁷ Similarly, the Vietnamese Empire originally adopted the state name “Dai Co Viet” (Great Great Viet) when it was established in 968; later, the Vietnamese Empire changed its name several times, but most of these state names still in part had the word “Dai” (Great) in them.³⁸ Furthermore, the Japanese in the Tokugawa period (1603–1868) also began to call their country “Dai Nihon” (Great Japan); and after the Meiji Restoration in 1868, the name “Dai Nihon Teikoku” (Great Japanese Empire, or Empire of Great Japan) was used at least until 1945 when Japan surrendered to the Allied Powers of World War II.³⁹

³⁷ See *infra* Chapters 3–4.

³⁸ The Vietnamese Empire initially adopted the state or dynastic name “Great Great Viet” (Dai Co Viet). Later, it changed to several different names, including “Great Viet” (Dai Viet), “Great Ngu” (Dai Ngu), “Viet South” (Viet Nam), and “Great South” (Dai Nam). See YUENAN TONG SHI [A HISTORY OF VIETNAM], 105–7 (Guo Zhenduo & Zhang Xiaomei eds., Beijing, Zhongguo Ren Min Da Xue Chu Ban She 2001) (China); KEITH WELLER TAYLOR, THE BIRTH OF VIETNAM 44, 280–81 (1983); SOUTHEAST ASIA: A HISTORICAL ENCYCLOPEDIA, FROM ANGKOR WAT TO TIMOR 398–99 (Ooi Keat Gin ed., 2004); BRANTLY WOMACK, CHINA AND VIETNAM: THE POLITICS OF ASYMMETRY 117–18, 135 (2006); K. W. TAYLOR, A HISTORY OF THE VIETNAMESE 169 (2013).

³⁹ BEN-AMI SHILLONY, COLLECTED WRITINGS OF BEN-AMI SHILLONY 83 (2013); RETHINKING JAPAN: SOCIAL SCIENCES, IDEOLOGY & THOUGHT 301 (1990).

Obviously, by asserting their “greatness,” those above-mentioned “great” empires or states would not consequently all become the same *Daguo* or great state. Likewise, despite claiming their “centrality,” those self-styled “central” empires or states did not necessarily identify themselves as the same *Zhongguo* or Central State. Just like *Daguo* (lit. great or big state) could refer to any “great (or big) state,” *Zhongguo* (lit. central state) could refer to any Chinese or non-Chinese “central state.” As will become clear in later chapters, while occasionally calling themselves *Zhongguo*, the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing only claimed to be “central states” and did not assert to be “Chinese” empires or “China.”

1.4.2 China

It is generally believed that the exonym “China” came from the name of the “Qin” (also translated as “Ch’in”) State because the Qin was “the first [Chinese] polity whose reputation spread far from its borders.”⁴⁰ The term “China” first appeared as “*Cīna*” in the Sanskrit language in the Indian classics that were probably produced at the end of the 4th century BCE (even before the Qin unification of *Zhongguo*). According to some scholars, the name “China” also appeared in various languages in ancient times such as “*Thin*” in Latin and “*Sinai*” in Greek during the Roman period.⁴¹ Later, the term “*Cīna*”

⁴⁰ WILKINSON, *supra* note 3, at 193.

⁴¹ For detail, see AXIANG, *supra* note 14, at 333–34, 338; WILKINSON, *supra* note 3, at 194.

entered into Chinese as “*Zhina*” and “*Zhendān*” no later than Tang times (618–907) and also entered into Japanese as “*Shina*” in about the 9th century.⁴² As discussed later, the term “China” became increasingly popular in European languages only after the 16th–17th centuries. Earlier, during the latter part of the middle ages, the Europeans used the term “Cathay” for North China and beyond, and the term “Manzi” for South China.

1.4.3 Cathay

After the Jurchen Jin’s conquest of most of North China in 1127, China was divided into two separate parts (see Tables 1.2 and 1.3, and Map 1.9). North China, which was under the Jurchen’s and later the Mongol’s alien rule, was incorporated into what the Mongols called “Kitad” (i.e., Khitan), while South China, which was still under the Song’s native Chinese rule, was referred to as “Nanggiyad” and “Manzi” by the Mongols.⁴³ Following the Mongolian practice, the Europeans (such as Marco Polo) during the latter part of the middle ages also saw “China” as two parts, referring to North China and other former Jin territories as “Cataya” or “Cathay” (derived from *Kitan* or Khitan) and calling South China “Mangi” (i.e., Manzi), “Chin” or “Sin” (derived from the name of the Qin State/Empire), and even “Upper India.”⁴⁴

⁴² WILKINSON, *supra* note 3, at 194.

⁴³ See AXIANG, *supra* note 14, at 365–70; CHO-YUN HSU, CHINA: A NEW CULTURAL HISTORY 378 (2012).

⁴⁴ AXIANG, *supra* note 14, at 368–70; WILKINSON, *supra* note 3, at 194.

Nevertheless, after the entire “China” had fallen into the Mongol Yuan’s alien rule in 1279, the geographic term “Cathay” in various languages began to associate with the entire “China” (i.e., China Proper). Even after the Ming Empire restored the Chinese rule to China in 1368, the Central Asians and Europeans in the 14th–16th centuries continued to use “Cathay” (which originally meant the “non-Chinese” Khitan) to refer to the “Chinese” Ming Empire.⁴⁵

Only in the 16th–17th centuries did the term “China” (derived from the Sanskrit “*Cīna*”) become popular in European languages. It took a while for the Europeans in the early 17th century to confirm that what Marco Polo called “Cathay” had become the place called “China” (particularly, North China).⁴⁶ Today, “Cathay” remained in English as a “poetic name” for China. Nevertheless, in those countries which were formerly ruled by the Mongol Empire, the names for China in their languages (e.g., in Uyghur, Slavonic, and Turkic) are still derived from the term “Kitad” or “Khitan” (such as “Kitay” in Russian).⁴⁷

⁴⁵ AXIANG, *supra* note 14, at 368–70.

⁴⁶ See WILKINSON, *supra* note 3, at 194; AXIANG, *supra* note 14, at 365–66, 369–70.

⁴⁷ WILKINSON, *supra* note 3, at 194; AXIANG, *supra* note 14, at 369–70.

1.5 The “Kitad-Based” Non-Chinese Conquest Empires

As discussed in some of the later chapters, the non-Chinese Khitan Liao (907–1125), Tangut Xia (c. 982–1227), Jurchen Jin (1115–1234), Mongol Yuan (1206–1635), and Manchu Qing (1616–1912) empires had incorporated parts or all of China Proper into their empires by conquest (see Tables 1.2 and 1.3, and Maps 1.8–1.11 and 1.13). All these non-Chinese “conquest empires” or “conquest dynasties” were established by non-Chinese peoples outside China. The Liao, [Western] Xia, Jin, and Yuan established a series of alien rule over parts or all of China during the period from 936 to 1368. Later, the Qing conquered and ruled China from 1644 to 1912.

After the conquests, all these empires continued to be ruled by the non-Chinese conquerors and had never been completely Sinicized into “Chinese dynasties.” They all had their own “independent histories” that began outside China. Nonetheless, as a result of their conquests of parts or all of China, the histories of these non-Chinese empires also partially overlapped with the history of China. In other words, their imperial histories were, in part, related to China but could not be simply reduced into several “dynastic histories” of China. As discussed below, except for the Tangut Xia, all the above-mentioned conquest empires had used what might be called the “Kitad” region as their imperial centers to rule their vast territories.

1.5.1 “Kitad” as the Heartlands of the Liao, Jin, and Yuan

The Khitan people had their homeland in the Liaoxi steppe in what later became the Manchurian-Mongolian borderland. They established the Liao Empire, which lasted for more than two centuries from 907 to 1125 (see Tables 1.2 and 1.3). At its height, the Khitan Liao either conquered or dominated parts of what later became Mongolia and Manchuria and the northeastern edge of China (see Map 1.8).⁴⁸ Not surprisingly, the Central and Inner Asian peoples referred to the Khitan lands (particularly, the Khitan heartlands) as “*Kitan*” or “*Kitad*” (i.e., Khitan).⁴⁹ For readability, this study uses the term “Kitad” (the plural form of *Kitan*) to refer to the region of “Khitan” heartlands.

Because the Chinese-populated “Sixteen Prefectures of Yan and Yun” (the areas stretching from present-day Beijing to Datong and beyond) (see Map 1.8) were occupied in 936 and formally annexed in 938 by the Khitan Liao Empire, “the northeastern part of China” was incorporated into the Kitad region and became “the southern part of Kitad.” However, the vast areas occupied by the Mongol and other “Turko-Mongol” tribes (who lived north and west to the Khitans) were not regarded as parts of the Kitad region.⁵⁰ In other words, from the Central and Inner Asian (especially, the Mongolian) perspectives, the Kitad region did not include most of what later became Mongolia. Most likely, they

⁴⁸ See *infra* Chapter 3.

⁴⁹ See AXIANG, *supra* note 14, at 367–68; WILKINSON, *supra* note 3, at 194.

⁵⁰ See AXIANG, *supra* note 14, at 367–68.

only regarded the Khitan Liao's heartlands (that were surrounded by and nearby the Liao's five capitals) as "Kitad." Similarly, from the Chinese perspective, the Liao's "Khitan" region included what are known as southwestern Manchuria, southeastern Mongolia, and northeastern China Proper, as clearly shown in the "Geographic Map of Khitan" (*Qidan Dili Zhi Tu*) produced in late Northern Song times.⁵¹

Even after the Jurchen Jin's conquest of the Khitan Liao in 1125, the notion of the "Kitad" region survived, as the Mongols continued to use the term "Kitad" to refer to the Jin dynasty, emperor, subjects, and domains.⁵² In other words, from the Mongolian perspective, the transition from the Liao to Jin in the region was probably seen as a "dynastic change" of a geographic and cultural entity called "Kitad" — similar to the Chinese notion of the transdynastic *Zhongguo* or "China" referring to its own geographical area.

After the Jurchen Jin's conquest and annexation of North China in 1127–41, what the Mongols saw as the "Kitad" region was further expanded to include what Chinese saw as the entire "North China" (see Map 1.9).⁵³ The Chinese Song Empire, having lost its capital at Kaifeng and most of North China in 1127, soon reestablished its imperial

⁵¹ 1 ZHONGGUO GU DAI DI TU JI [AN ATLAS OF ANCIENT MAPS IN CHINA], FROM THE WARRING STATES PERIOD TO THE YUAN DYNASTY (476 B.C.–A.D. 1368), map 113 (Cao Wanru et al. eds., Beijing, Cultural Relics Publishing House 1990) (China).

⁵² AXIANG, *supra* note 14, at 367; WILKINSON, *supra* note 3, at 194.

⁵³ See AXIANG, *supra* note 14, at 367–68; WILKINSON, *supra* note 3, at 194.

court in the south (thus, known as the “Southern Song” Dynasty) and continued to rule South China until the Mongol conquest in 1279 (see Tables 1.2 and 1.3, and Map 1.9).

As seen in the “Secret History of the Mongols” (which was written in the 13th century and originally in the Uyghur-Mongolian script), after establishing the Mongol Yuan Empire in 1206, the Mongols continued to use the Mongolian word “Kitad” for the Jin Dynasty (*kitad*), the Jin Emperor (*Altan-qan* of *Kitad*), and the Jin subjects (*Kitad irgen*).⁵⁴ Furthermore, even after the Mongol conquest of the Jurchen Jin in 1234 and the Mongol conquest of the Chinese Southern Song in 1279, the Mongols continued to see what the Chinese saw as *Zhongguo* or “China” as two separate parts: North China as part of “Kitad” and South China as “Nanggiyad” (southerners) or “Manzi” (meaning, southern barbarians).⁵⁵

Although the English words “Cathay” eventually referred to all of “China,” historians often remind us — but still not so correctly — that “Cathay” at first referred to only “North China” (as if the “Kitad” region was geographically equivalent to “North China”).⁵⁶ In fact, what the Mongols called “Kitad” not only covered what the Chinese

⁵⁴ THE SECRET HISTORY OF THE MONGOLS: THE LIFE AND TIMES OF CHINGGIS KHAN 54, 112, 233–34, 237–39, 254, 260, 264–66 (Urgunge Onon ed. & trans., 2001); David Sneath, *Mapping and the Headless State: Rethinking National Populist Concepts of Mongolia*, in MAPPING MONGOLIA: SITUATING MONGOLIA IN THE WORLD FROM GEOLOGIC TIME TO THE PRESENT 34, 41 (Paula L. W. Sabloff ed., 2011).

⁵⁵ See AXIANG, *supra* note 14, at 367–68, 371 n. 12; WILKINSON, *supra* note 3, at 194.

⁵⁶ E.g., WILKINSON, *supra* note 3, at 194; AXIANG, *supra* note 14, at 367–70.

saw as “North China” but also included those Khitan heartlands in what became southwestern Manchuria and southeastern Mongolia.

From 938 to 1368, the so-called “Sixteen Prefectures of Yan and Yun” (including the area of present-day Beijing) were sequentially ruled by the “non-Chinese” Khitan Liao, Jurchen Jin, and Mongol Yuan (see Table 1.2 and Maps 1.8–1.11). The Khitan Liao ruled its Southern Capital at present-day Beijing for nearly two centuries from 938 to 1122.⁵⁷ The Jurchen Jin captured present-day Beijing in 1125, and later the Jin moved its primary capital there from Huining (modern Acheng in Heilongjiang Province) and renamed Beijing as the Central Capital in 1153.⁵⁸ It is generally assumed that the Jin Empire moved its major capital to “China.” However, because the area of Beijing and other parts of the “Sixteen Prefectures” were formally ceded to the Khitan Liao in 938, arguably the “Sixteen Prefectures” had been detached from “China” for more than two centuries in 1153. Thus, when the Jin moved its main capital to present-day Beijing, the area probably had no longer been regarded as part of “China.” It seems to explain why the Chinese have long regarded the Northern Song as a “unified” Chinese dynasty

⁵⁷ 6 THE CAMBRIDGE HISTORY OF CHINA, ALIEN REGIMES AND BORDER STATES, 907–1368, at xxix, 150 (Herbert Franke & Denis Twitchett eds., 1994) [hereinafter 6 CAMBRIDGE].

⁵⁸ 11 ZHONGGUO TONG SHI [A HISTORY OF CHINA], WU DAI LIAO SONG XIA JIN SHI QI (SHANG CE) [THE FIVE DYNASTIES, LIAO, SONG, XIA, AND JIN PERIODS (PART 1)], 306–8 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China); FREDERICK W. MOTE, IMPERIAL CHINA 900–1800, at 196, 233 (1999).

achieving the “unification of China,” despite the fact that the Sixteen Prefectures had never been the Song territory.

After founding the Mongol Empire in 1206, Chinggis Khan captured the Jin’s Central Capital at present-day Beijing in 1215. When Khubilai Khan made Beijing his new principal capital and renamed it to the Great Capital (Dadu) in 1272, the Mongol Empire had already ruled the Beijing area for 57 years.⁵⁹ Modern historians often state that the Yuan Dynasty moved its principal capital to “China.” However, because the Mongols had long regarded the Beijing area as part of the “Kitad” region, Khubilai Khan and other Mongols most likely considered that they moved the Yuan’s major capital to “Kitad” rather than to “China.”

After Khubilai’s administrative reform, the Mongol Yuan’s two imperial capitals, Dadu (Yanjing; modern Beijing) and Shangdu (Kaiping; near present Dolon Nor in Inner Mongolia), were both in Central Province (*Fuli*) (see Map 1.11), which was essentially the “Kitad” heartlands that were formerly under the Liao and Jin rule (see Map 1.8 and 1.9).⁶⁰ The Chinese Ming captured the Yuan’s Dadu (modern Beijing) and restored native rule over China in 1368. However, subsequently, the Mongol Yuan still existed in

⁵⁹ See 6 CAMBRIDGE, *supra* note 57, at 352, 415.

⁶⁰ See 6 CAMBRIDGE, *supra* note 57, at 71 (map 3), 118–19 (map 7), 236–37 (map 17), 438 (map 32); CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 604 map, 606 (2004).

Mongolia and was known as the Northern Yuan, which was conquered by the Manchu Qing in 1635.

1.5.2 The Qing's Succession to the Jin and Yuan

In 1616, Nurhaci founded the second Jurchen Jin Empire (popularly known as the “Later” Jin) in what became Manchuria, apparently claiming the Later Jin as the legitimate successor to the earlier Jurchen Jin Empire.⁶¹ In 1635, during the reign of Hung Taiji, the Later Jin conquered the Mongol Northern Yuan and annexed Inner Mongolia, making most of the “Kitad” heartlands again under the Jurchen rule.⁶² The defeat of the Mongol Yuan and the capture of the Yuan’s imperial seal (the symbol of Mongol Khaganship) allowed Hung Taiji to style himself as the successor to the Mongol Yuan’s Great Khans.⁶³ Also in 1635 Hung Taiji renamed his Jurchen subjects to Manchus, and in 1636 he renamed the state name from “Da Jin” (Great Jin) to “Da Qing” (Great Qing).⁶⁴ Despite the change in the state name in 1636, the Later Jin and the Qing should be seen as the same dynasty/empire founded by Nurhaci in 1616. Thus, by 1635 the Jurchen Later Jin/Manchu Qing had claimed to be the successor to the earlier Jurchen

⁶¹ 9 THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE CH’ING EMPIRE TO 1800, 37 (Willard J. Peterson ed., 2002) [hereinafter 9 CAMBRIDGE].

⁶² *Id.* at 55–56; PAMELA KYLE CROSSLEY, A TRANSLUCENT MIRROR: HISTORY AND IDENTITY IN QING IMPERIAL IDEOLOGY 131 map (1999).

⁶³ 9 CAMBRIDGE, *supra* note 61, at 55–56.

⁶⁴ *Id.* at 63.

Jin and the Mongol Yuan, and, arguably, also indirectly to the Khitan Liao. After capturing Beijing from the Ming, the Manchu Qing moved its primary capital to Beijing in 1644, and that probably should be seen as the Manchu's move (if not "return") of the main capital to its Jurchen, Mongol, and Khitan predecessors' old capital. Decades later, the Manchu Qing fully conquered the Chinese Ming in 1662 and consolidated its foreign rule over entire China in 1681.⁶⁵

Because, first, the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing were essentially "non-Chinese" empires, and, second, as we will see, their multiple capitals were all (or mostly) in the Kitad region (see Maps 1.8, 1.9, 1.11, and 1.13), it is better to see them as the "Kitad-based" rather than "China-based" conquest dynasties. No wonder, near the end of the Qing, the Chinese revolutionaries took the position as follows: "Today's government, or the so-called Great Qing, is not from the Great Han, Great Tang, Great Song, and Great Ming; it continues the Great Jin, Great Liao [the correct order should be "Great Liao, Great Jin"], and Great Yuan."⁶⁶ In other words, the Chinese revolutionaries sought to establish a Chinese republic within the former Ming territories (roughly, the Eighteen Provinces in Qing times) in succession to the "Chinese" Han, Tang,

⁶⁵ See *infra* Chapter 6.

⁶⁶ *Indignant Comment on the Secret Order for Arresting Chinese Students Abroad*, in XINHAI GEMING QIAN SHINIAN JIAN SHILUN XUANJI [SELECTED COMMENTARIES DURING THE TEN YEARS PRIOR TO THE REVOLUTION OF 1911] 685, vol. 1, pt. 2, 685, 686 (Zhang Zhan & Wang Renzhi eds., Beijing, Sanlian Shudian 1960) (China); cited and translated in Xiaoyuan Liu, *From Five "Imperial Domains" to a "Chinese Nation": A Perceptual and Political Transformation in Recent History*, in ETHNIC CHINA: IDENTITY, ASSIMILATION, AND RESISTANCE 3, 14 (2015).

Song, and Ming dynasties, and not to the “non-Chinese” Liao, Jin, Yuan, and Qing dynasties.⁶⁷

1.6 Overview of the Following Chapters

1.6.1 Chapter 2: The Chinese Interstate Law, *Tianxia* Law, and Dynastic Territories

Chapter 2 shows that long before modern times, China had developed two sets of Chinese-style “international law” that largely regulated the interstate/interpolity relations in historical East Asia and beyond and also defined the relationships of the Chinese dynastic territories with their neighbors. The first set was what could be called the Chinese “interstate law” (*lieguo fa*) that treated states (usually, “civilized” Chinese states, but sometimes, also powerful non-Chinese states) as equals. The other set was the Chinese “*Tianxia* law” (*Tianxia fa*) or “world order” that treated the non-Chinese “barbarian” states/polities as inferiors.

In the Spring and Autumn period (770–453 BCE) (see Tables 1.1 and 1.3, and Map 1.3), ancient China had entered into a multistate system and developed a body of interstate law that consisted of custom and treaties to govern the interactions between

⁶⁷ See Xiaoyuan Liu, *supra* note 66, at 13–16.

various Chinese states. Increasingly centralized and bureaucratized, these ancient Chinese states were essentially “sovereign” and equal. By the Warring States period (453–221 BCE) (see Tables 1.1 and 1.3, and Map 1.4), territories and populations were generally placed under the states’ effective control through the commandery–county (*jun–xian*) and household registration (*hujia*) systems. Nevertheless, the effectiveness of the interstate law was reduced by the intense wars, which led to the Qin’s unification of China in 221 BCE. In the imperial era (221 BCE–1912 CE), the Chinese interstate law still reappeared in China during the periods of division. Moreover, the Chinese empires sometimes also had to apply the interstate rituals to, and even concluded peace and territorial treaties with, some powerful non-Chinese states that demanded to be equals.

Nevertheless, whenever possible, the Chinese empires preferred to assert Chinese superiority and apply the hierarchical Chinese *Tianxia* or world order to the non-Chinese “barbarians.” Much of the *Tianxia* order is now known as the tributary system, which provided primary norms for the “proper” interactions between the superior Chinese empires and the inferior non-Chinese states/polities. The tributary system functioned as an international legal system that was binding upon its participants, and sought to maintain regional peace and the status quo of the Chinese dynastic borders. The tributary system also revealed the scope and limits of the Chinese empire’s territorial

ambitions, and the tributary “barbarian” domains were by definition not part of the Chinese empire. In other words, the past Sino-foreign tributary relations cannot be used by modern China to justify Chinese historical sovereignty over the former tributary areas, particularly, those in Inner Asia.

Although the Chinese Emperors were styled as universal rulers, the native Chinese empires had quite well-defined boundaries and did not practically claim themselves as universal empires. The Chinese empires defined their dynastic territories as the “registered and mapped domains” (*bantu*), which were typically under the empire’s household registration, taxation, and other administrative systems. The so-called “loose-rein” (*jimi*) districts and other tributary areas were beyond the Chinese empire’s effective control and actual governance, and these tributary areas had long been regarded as foreign and barbarian lands that were mostly outside the Chinese dynastic borders.

Modern China has made historical territorial claims over some of the past tributary areas that had sent tributes to the Chinese or non-Chinese conquest empires. However, those claims are not only contrary to the historical facts and records but also against the principle of “effective control” that could be found in both the traditional East Asian and modern European international law, and, therefore, those claims should not be recognized.

1.6.2 Chapter 3: The Khitan Liao, Tangut Xia, and Jurchen Jin Empires

Chapter 3 argues that, contrary to the modern Chinese claims, the Khitan Liao Empire (907–1125), Tangut Xia State/Empire (c. 982–1227; popularly known as the “Western Xia” or “Xi Xia”), and Jurchen Jin Empire (1115–1234) were “non-Chinese” conquest dynasties (see Tables 1.2 and 1.3), and their non-Chinese domains were not parts of “China” (see Maps 1.8 and 1.9). The Liao, Western Xia, and Jin were all founded by non-Chinese peoples in the non-Chinese regions, namely, in what later became the Manchurian-Mongolian borderlands, Inner Mongolia, and Manchuria, respectively. After their foundings outside China Proper, all of them conquered parts of the traditional Chinese heartlands.

Losing wars to its northern neighbors, the Chinese Song Empire (960–1279) had to conclude peace and territorial treaties with all three of these non-Chinese conquest dynasties in turn. Although the Tangut Xia concurrently accepted its vassal status to both the Khitan Liao and Chinese Song, in reality, the Song had to give “annual gifts” to the Western Xia, hopefully, to maintain peace. Moreover, the Chinese Song was formally compelled to recognize the Khitan Liao, and later the Jurchen Jin, as equal (if not superior) adversaries. Except for a short period when the Song accepted its vassal status to the Jin, the interstate norms and rituals, which were based on state equality, were

expected to apply to the Song–Liao and the Song–Jin relations. Not surprisingly, the Song period is often characterized by historians as a period of “China among equals.”

Both the Khitan and Tangut empires had a “dual state name” system. In addition to their native state names, the Khitan and Tangut adopted the Chinese-style dynastic names “Great Liao” and “Great Xia” respectively, which should be applied to the entire periods of their hereditary dynasties. Ruling a significant number of Chinese populations in their multiethnic empires, the Khitans and Jurchens established a “dual administration” system that institutionally separated the non-Chinese conquerors and other tribal groups from the conquered Chinese subjects. When the Jurchen Jin moved its primary capital to Yanjing (modern Beijing) in 1153, the Beijing area had been incorporated into the “non-Chinese” Khitan and Jurchen empires together for more than two centuries, and, arguably, the area was no longer part of “China.” The ruling Khitans, Tanguts, and Jurchens always carefully maintained political and military domination over the Chinese populations in their empires.

Although selectively incorporating some Chinese elements into their administrations and cultures, the Khitans, Tanguts, and Jurchens all created their national written scripts (see Figure 1.1) and retained distinct ethnic and cultural identities, rather than completely assimilating themselves into Chinese peoples. Thus, even though they conquered parts

of the Chinese lands, the Khitan Liao, Tangut Xia, and Jurchen Jin did not transform into “Chinese” dynasties, nor were their non-Chinese domains (in what later became Mongolia and Manchuria) converted into parts of China.

1.6.3 Chapter 4: The Mongol Yuan Empire

Chapter 4 argues that the Great Mongol State or Mongol Yuan Empire (1206–1635) was a “non-Chinese” conquest empire (see Tables 1.2 and 1.3), and its vast non-Chinese domains were not parts of “China” (see Maps 1.10 and 1.11). In 1206, Chinggis Khan founded the Mongol Empire after he unified what became Mongolia. By 1260, the Mongol Empire had expanded into the largest land empire in history, stretching from Manchuria to Turkey (see Map 1.10). However, as a result of a civil war in 1260–64, the empire’s western colonies seceded and became three newly-established Mongolian khanates. Nevertheless, the empire under Khubilai Khan still ruled, among other territories, the entire Mongolian homeland and, therefore, should be recognized as the same Great Mongol Empire that was founded by Chinggis.

During Khubilai’s reign, the Mongol Empire adopted the new Chinese-style dynastic name “Great Yuan,” moved its primary capital to Dadu (modern Beijing), and conquered the Chinese [Southern] Song Empire. However, none of the above events could make Khubilai a dynastic founder, nor did the existing Great Mongol Empire

transform into a new “Chinese” empire. Since adopting a new Chinese state name would not change the identity and continuity of the Mongol Empire, the dynastic name “Yuan” should be applied to the entire period of the Chinggisid dynasty from 1206. In other words, the Yuan Dynasty was identical to the Mongol Empire, rather than a new “Chinese” dynasty founded by Khubilai. The Mongol Yuan’s non-Chinese domains (such as Mongolia and Manchuria) did not suddenly become parts of “China.” Moreover, the Mongol-ruled China remained a part of the Mongol Yuan Empire.

While building a Mongol-ruled multiethnic and multicultural empire, the Mongols also retained their Mongolian scripts (see Figure 1.2) and preserved their nomadic steppe traditions and ethnic identity. Moreover, like the Khitan Liao and the Jurchen Jin, the Mongol Yuan also established a “dual administration” system to safeguard the Mongol’s domination, heritage, and identity and to separate the Mongol conquerors and their allies from the vast subjugated Chinese population.

The Mongol’s alien rule over China was ended in 1368. However, contrary to popular belief, the Mongol Yuan Empire was not ended and replaced by the Chinese Ming Empire in 1368. Instead, after losing China and other colonies, the Mongol Yuan continued to exist in its Mongolian homeland and was known as the “Northern Yuan” until it was conquered by the Jurchens/Manchus in 1635 (see Table 1.2).

1.6.4 Chapter 5: The Chinese Ming Empire

Chapter 5 examines the ideological configuration, territory, boundary, and foreign relations of the Chinese Ming Empire (1368–1662) (see Tables 1.2 and 1.3). Holding the doctrines of *Hua–Yi* distinction and non-aggression, the Ming was essentially a homogeneous Han-exclusive Chinese empire that ruled the Fifteen Provinces, including the traditional Chinese heartlands (i.e., China Proper) and slightly beyond (to Liaodong, Guizhou, and Yunnan) (see Map 1.12). Except for the “soft border” in the southwest, the Ming boundaries were quite well-defined. In the northeast, the militarized Liaodong was separated from Jurchen-dominated Manchuria by the Liaodong Border Wall. In the north, the Great Wall line divided Ming China from Mongolia. In the west, the Ming border essentially adjoined what are known as Xinjiang, Qinghai, and Tibet. In the southwest, the Ming created Yunnan and Guizhou Provinces and sent in Chinese immigrants, gradually incorporating these two non-Han areas into China. In the south, the Ming was bounded by Annam (northern Vietnam).

After ending the Mongol rule in China, the Ming Empire sought to reestablish the Chinese tributary system to assert China’s centrality and superiority. In reality, the Ming offered trade privileges and imperial gifts to encourage foreign tribute missions to the Ming court. The Ming also named several tributary polities as the nominal

“loose-rein” units in the neighboring regions such as Manchuria and Tibet. However, that could not establish the Ming’s territorial “sovereignty” over those non-Chinese regions that were beyond the Ming’s effective control and actual governance. Contrary to the PRC’s historical claims, the Ming government itself considered those non-Chinese loose-rein areas to be outside the Ming borders. Nevertheless, there were, indeed, some tributary *tusi* (lit. native offices) that became “enclaves” within the Ming’s southern and southwest frontiers.

The establishment of Ming–foreign tributary relations also constituted mutual recognition between the Ming and its tributaries of their legitimacy to rule their own territories and populations, similarly to what we now call “diplomatic recognition.” In theory, their tributary relations could promote regional stability and avoid military conflicts. However, in practice, the tributary trade and imperial gifts made the Mongols and Jurchens/Manchus wealthier and stronger, and the Ming tributary system failed to effectively prevent the northern “barbarians” from raiding, looting, and conquering China. The Manchu Qing Empire captured the Ming’s primary capital at Beijing in 1644. Nevertheless, the Chinese Ming Empire continued to exist and resist in the south (thus, known as the “Southern Ming”) until 1662.

1.6.5 Chapters 6–8: The Manchu Qing Empire

Chapter 6 argues that the Manchu Qing Empire (1616–1912) (see Tables 1.2 and 1.3) was essentially a “non-Chinese” conquest empire, and the Manchu conquest of China constituted only a part of the Qing’s territorial expansions in East and Inner Asia (see Map 1.13). Contrary to conventional wisdom, the Great Qing Empire (originally, named the Great Jin Khanate) was a “Jurchen/Manchu” dynasty founded by Nurhaci in 1616 in Manchuria, rather than a “Chinese” dynasty founded by Fulin in 1644 in China.

Before the beginning of the Manchu conquest of China in 1644, the [Later] Jin/Qing Empire had formally existed outside China for 28 years, developed its own Manchu scripts (see Figure 1.2), unified most of Manchuria (in particular, Inner Manchuria), and annexed Inner Mongolia (after its conquest of the Mongol Yuan). In 1636, when Hung Taiji changed the dynastic name from “Great Jin” to “Great Qing,” he also combined the Jurchen/Manchu Khaganship and Mongol Khaganship into the Qing Emperorship. Fulin further added the Chinese Emperorship into the Qing Emperorship after the Qing capture of Beijing in 1644 (even though the native Chinese Ming still resisted in the south). In other words, the Qing’s empire-building and pre-1644 territorial expansions in Manchuria and Inner Mongolia preceded and were entirely independent of the Qing conquest of China.

After completing its lengthy conquest of China, the Qing Empire further conquered Western Taiwan, subjugated Outer Manchuria, Outer Mongolia, and Qinghai, and eventually conquered what became Xinjiang to reach its territorial height. The Manchu conquest of China was irrelevant to the founding of the Qing Empire and constituted merely a portion of the Qing expansions. Therefore, the Manchu Qing Empire should not be confused with “China,” which was only a part of the Qing’s conquered territories. Even if the Manchus had never conquered China, there would still be a Manchu Qing Empire in Inner Asia.

Chapter 7 argues that, rather than a unitary Chinese dynasty, the post-conquest Qing was essentially a Manchu-ruled “tripartite” multinational empire that incorporated the Jurchen/Manchu, Mongol, and Chinese imperial rulerships but maintained the respective three realms separately under the Qing Emperorship. Arguably, the Qing’s three imperial capitals, namely, Shengjing (Mukden) in Manchuria, Chengde in Inner Mongolia, and Beijing in China Proper (see Map 1.13), symbolized the Qing rulers’ Manchu Khaganship, Mongol Khaganship, and Chinese Emperorship, while the primary capital at Beijing also represented the Qing Emperorship as a whole.

The Qing Empire integrated Inner Asian and Chinese-style imperial traditions with Manchu innovations to build a more sophisticated, centralized, and multiethnic (rather

than merely “Sinicized”) governance. At the central level, the Manchus dominated both the Chinese and non-Chinese style institutions of the central government in Beijing. There was a unique ministry, the Lifan Yuan, staffed almost exclusively by the Manchu and Mongol “bannermen,” to administer the Mongol (and later also Uyghur) domains in Mongolia, Qinghai, and Xinjiang, and to handle the Qing relations with Tibet and Russia as well. For the Manchurian homeland, there were officially, though somewhat nominally, the Five Shengjing Ministries in the auxiliary capital at Mukden, having jurisdiction over various banner affairs of Manchuria and the civil affairs in Fengtian (i.e., southern Manchuria).

At the regional and local levels, the Qing Empire generally maintained various governing systems to suit the needs of diverse ethnic traditions and local conditions. For instance, the Chinese-style local administrative units, e.g., superior prefectures (*fu*), prefectures (*zhou*), and counties (*xian*), were maintained or established in China Proper, Yunnan, Western Taiwan, and some other Chinese-populated areas, but were not generally extended to the vast non-Chinese regions in Inner Asia. Moreover, for most of Qing times, Chinese immigration to Manchuria and Mongolia was forbidden. In principle and in general, the Manchu, Mongol, and Chinese realms were kept separate and were typically ruled by different administrative systems, aiming to retain the ethnic

lines and identities. This policy of separation was changed in the very late Qing only because the Manchu domination had declined dramatically.

Throughout all of Qing times, the most crucial institution for the Manchu conquest and domination was no doubt the sociopolitical-military Eight Banner system, which integrated, with some Mongols and other ethnic groups, the entire Manchu population. The hereditary and privileged bannermen provided the primary conquering and garrisoning force, and they (particularly the Manchu bannermen) occupied the key and many other official posts in the central and regional levels. The banner system segregated the Manchus and other banner populations from the conquered peoples (e.g., the mass Chinese commoners) to maintain distinct banner communities and identities. In short, the Eight Banner system was the vital institution to maintain “Manchu rule” and keep the Qing as an authentic “Manchu” empire, rather than a Chinese one.

Chapter 8 argues that in Qing times, Taiwan was not part of “China,” and Tibet was an independent State rather than a Qing (let alone Chinese) territory. First of all, it was not “China” but the “Manchu” Qing Empire that ruled Western Taiwan from 1683 to 1895. In Qing times, even the Qing-ruled Western Taiwan was not perceived as an integral part of “China.” The Qing had never established effective control and territorial sovereignty over most of central and eastern Taiwan, which, at least until the 1870s, were

still regarded as the “savage territories” of the Taiwanese “raw barbarians” beyond the Qing borders. Consequently, after the Qing cession of Taiwan to Japan in 1895, the Chinese did not view Taiwan as “China’s lost territory” for about half a century. Only in the early 1940s, during World War II, did the government of the Republic of China suddenly start to advocate the “restoration” of Taiwan to “China.”

The legal status of Tibet in Qing times has long been disputed and often misunderstood. In reality, the Qing Empire had never established effective control and territorial sovereignty over Tibet. In accord with the long-lasting *Cho–Yon* (priest–patron) relationships between the Qing Emperors and Tibet’s Dalai Lamas, the Qing militarily intervened in Tibet four times in the 18th century. Consequently, the Qing established some political domination (probably “suzerainty,” but certainly not “sovereignty”) over Tibet. However, the Qing’s interference in the Tibetan affairs lasted only temporarily and intermittently, and that did not derogate Tibet’s status as a self-governing and independent State. No later than the mid-19th century, the Qing had lost its influence over Tibet, leaving Tibet alone to defend against foreign invasions and to accept humiliating peace treaties. Eventually, the Qing invaded Tibet in 1910 but could only occupy Tibet until the end of 1911. Since the Tibetan rule was soon restored, the State of Tibet continued to formally exist during the temporary Qing occupation.

Because Qing colonial Taiwan was not part of “China” and was even legally ceded to Japan in 1895, and because Tibet remained an independent State in entire Qing times, the post-1912 Chinese republics could not make historical claims to “inherit” Taiwan and Tibet from the Qing Empire.

1.6.6 Chapters 9–10: The Republic of China

Chapter 9 argues that two new States, namely, the Mongol State (1911–present) and the Republic of China (ROC; 1912–49), seceded from the Manchu Qing in 1911–12 shortly before the fall of Qing Empire (see Tables 1.2 and 1.3). Previously under the Manchu’s alien rule, both China and Mongolia were colonies of the Qing Empire. For more than two centuries, the Chinese anti-Manchu/Qing movement had sought to drive out the Manchus and restore the Chinese state. In the late Qing, the New Policy reforms severely hurt Mongol interests and Manchu–Mongol relations, leading the Mongols also to pursue independence.

On December 1, 1911, the Mongols proclaimed the independence of the Great Mongol State in Outer Mongolia. One month later, on January 1, 1912, the Chinese revolutionaries formally established the Republic of China in the fourteen seceding provinces in China Proper, but suddenly made territorial claims over all the Qing territories. Because entire China was previously a Manchu colony (in other words,

merely a part of the Qing Empire), the Republic of China (ROC) was actually a “newly-independent State” seceding from the Manchu Qing, rather than the “continuing State” or the “identical State” to the Qing Empire.

When the ROC was formally established in January 1912, the ROC’s original territories were only the fourteen Chinese provinces that had previously proclaimed their independence from the Qing (see Map 1.14), far from what the ROC proclaimed a “Five-Race Republic” that combined the Han, Manchu, Mongol, Hui (Muslim), and Tibetan domains. Moreover, upon the founding of the ROC, the Qing Empire still formally existed and controlled Manchuria, four northern provinces of China, Inner Mongolia, Qinghai, and Xinjiang. Therefore, the so-called Five-Race Republic formula was, in reality, a blueprint for the ROC’s territorial expansion, rather than an accurate statement of its territories at its founding.

Chapter 10 shows that, although the newly-independent ROC was not legally entitled to automatically “inherit” all the territories of the Qing, the ROC, nonetheless, successfully “annexed” the Qing’s remaining territories soon after the fall of the Qing. It is often overlooked that the negotiation and agreements in 1911–12 between the Qing and the ROC were “international” in nature. After the two sides reached an abdication agreement, the Qing Emperor abdicated in February 1912, in exchange for, in part, the

ROC's favorable treatment for the Qing imperial house. Although the Qing Empire thereby ended, the former Qing's remaining territories were still controlled by the authority in Beijing under the former Qing's prime minister, Yuan Shikai.

Making a deal with the Chinese republicans, Yuan Shikai was elected as the second ROC provisional president by the ROC Provisional Senate in Nanjing. Only after his assumption of this office in March 1912 did Yuan begin to rule the former Qing's remaining territories by the authority of the new ROC provisional president. That also completed the ROC's annexation of Manchuria, Inner Mongolia, northern China, Qinghai, and Xinjiang (see Map 1.15). This situation largely achieved the ROC's Five-Race Republic formula. However, the ROC did not consequently acquire nor control Outer Mongolia (which had become a new Mongolian state) or Tibet (which had never been part of the Qing).

Because of Yuan Shikai's insistence, the ROC Provisional Government was soon relocated from Nanjing to Beijing. However, the ROC government in Beijing was not the "successor government" to the former Qing government in Beijing because they were actually the governments of two different States. In other words, contrary to popular belief, the transition from the Manchu rule to the Chinese rule in most of the Qing territories was not merely a change in the government of the same State called "China."

Because Taiwan had been legally ceded from the Qing to Japan in 1895, the newborn ROC did not even include Taiwan in its initial territorial blueprint. The newly-established ROC did claim sovereignty over Tibet and Outer Mongolia, which, however, both remained independent from the ROC's effective control, and therefore never became parts of the ROC.

1.6.7 Chapter 11: The People's Republic of China and the State of Taiwan

Chapter 11 argues that both the People's Republic of China (PRC; 1949–present) and the State of Taiwan (ROC on Taiwan; 1949–present) were new States established in late 1949 and were also the “successor States” to the pre-1949 ROC (see Table 1.2 and Maps 1.16 and 1.17).

Taiwan was ceded from the Qing to Japan by the Treaty of Shimonoseki in 1895. The ROC consistently and formally recognized the Japanese sovereignty over Taiwan for decades but suddenly changed its position in the 1940s. During World War II, the major Allied Powers issued several wartime documents expressing their non-legally binding “intention” to transfer Taiwan to the ROC. However, the ROC and other Allied Powers were bound by the 1942 UN Declaration and the 1945 UN Charter to respect the Taiwanese people's right to self-determination and to refrain from unilaterally annexing Taiwan. The ROC's military occupation of Taiwan began in 1945 (upon the Japanese

surrender in Taiwan) and, arguably, ended in 1949 (along with the fall of the ROC). Because the law of military occupation holds that the occupying power does not acquire sovereignty over the occupied territory, Taiwan remained *de jure* Japanese territory during the ROC's occupation.

After losing the Chinese Civil War, the Chinese Nationalist Party or Kuomintang and its followers fled to Taiwan and, in fact, established a new State in Taiwan around December 1949. By that time, Taiwan had already met all the four criteria of statehood (namely, a permanent population, a defined territory, a government, and the capacity to enter into relations with other States) and, therefore, according to the declarative theory of state recognition, Taiwan had effectively seceded from Japan and became a new State. Although officially also named the "Republic of China," the new State of Taiwan (1949–present) was not legally identical to the former Republic of China (1912–49) that had previously ruled China. Nevertheless, the State of Taiwan (or the ROC on Taiwan) not only ruled part of the former ROC's population and territory but also generally recognized and voluntarily inherited the former ROC's international rights and obligations, treaties and other international agreements, and the membership in international organizations, thus making Taiwan a "successor State" to the pre-1949 ROC.

The PRC was founded earlier in October 1949. Because the PRC renounced all the ROC's diplomatic relations and rejected to generally succeed "Old China's" international responsibilities and treaties, it could be argued that the PRC was not entitled to automatically succeed to the pre-1949 ROC's international rights, membership in international organizations, and overseas properties. Consequently, from the legal perspective, the PRC, which claimed itself a "New China," should be regarded as a "new State" with a new international legal personality. In other words, the PRC is also a "successor State" rather than the "continuing State" to the pre-1949 ROC.

Because, first, the UN Charter has unambiguously prohibited aggression and conquest, and, second, Taiwan is a sovereign State rather than a part of the PRC, it is clear that any PRC's invasion and unilateral annexation of Taiwan will be illegal under international law.

1.7 Summary

We should keep in mind that although "*Zhongguo*" (lit. central state) is the common name for the post-1912 modern Chinese States, the term "*Zhongguo*" could refer to different things in different times and does not always mean what might be historically called "China." Therefore, when we see the term "*Zhongguo*" in historical records and narratives, we cannot and should not always translate "*Zhongguo*" as "China."

Ever since ancient times, the Chinese people had long considered “their” *Zhongguo* as the center of the world. The Chinese people (known as *Hua*, *Xia*, *Huaxia*, *Hanren*, and so forth) claimed their cultural and racial superiority over the surrounding peoples, who were regarded as various “barbarians” (such as *Yi*, *Man*, *Rong*, *Di*, *Hu*, and *Fan*) outside the Chinese civilization.

The Chinese historical narratives on the unification of *Zhongguo* or “China” show that the Chinese had consistently equated the geographical sphere of a “transdynastic” *Zhongguo* with the so-called “Nine Regions” (*Jiuzhou*) or the narrowly defined *Tianxia* (lit. All under Heaven), which basically corresponded with what could be called the “traditional Chinese heartlands” or “China Proper.” Thus, whether actually ruling this geographical space of Chinese heartlands had always served as the conceptual standard to determine whether or not a particular “dynastic” empire or state achieved the unification of *Zhongguo* or “China.” Under this definition of unification, it is long and generally accepted that “China” was unified for the first time in 221 BCE under the short-lived Qin Empire, which was followed by the long-lasting and unified Han Empire. While the exonym “China” was derived from the name of the “Qin” State, the more than four centuries of the “Han” Empire’s rule profoundly shaped the shared Chinese culture and

ethnic identity, and that eventually made the term “Han people” (*Hanren*) a popular name for the “Chinese people.”

The non-Chinese conquest empires of the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing had annexed parts or all of “China.” Because their post-conquest imperial centers were in the Khitan heartlands, these non-Chinese conquest empires could be regarded as the “Kitad” or “Kitad-based” dynasties. In Liao times, the Kitad region covered the Khitan Liao’s heartlands in what are southwestern Manchuria, southeastern Mongolia, and northeastern China Proper, including the area of present-day Beijing. As a result of the Jin conquest of Liao and the Jin victory over the Northern Song, “Kitad” extended and incorporated what the Chinese saw as northern *Zhongguo* or “North China.” Later, much of the Kitad region became the Mongol Yuan’s Central Province. In Qing times, most of the original Kitad heartlands constituted the Zhili Province. Therefore, the moves of the primary capitals of the Jin, Yuan, and Qing to present-day Beijing were, arguably, not the moves of capitals to “China” but to “Kitad.”

Although these non-Chinese empires also occasionally (in the Qing case, more frequently) called themselves *Zhongguo*, they merely asserted their status as the “central states” rather than identifying themselves as “Chinese states.” As argued in later chapters, the conquest empires of the Liao, Jin, Yuan, and Qing had never transformed

into the “Chinese” empires, and their traditional non-Chinese domains, such as those in Manchuria, Mongolia, and Xinjiang, did not become parts of “historical China.” Therefore, there is no legal basis for the post-1912 Chinese republics to use the histories of those non-Chinese conquest empires to justify China’s historical territorial claims over the traditional non-Chinese regions.

After all, the territories of “non-Chinese” Inner Asian conquest empires should not be confused with the territories of “Chinese” empires. Moreover, as argued later in Chapter 2, the pre-modern Chinese-originated international norms and Sino-foreign interactions had already decided the scope and limits of Chinese dynastic territories, which cannot and should not be retroactively and arbitrarily altered by present-day China. Chapters 3–11 are case studies of several Chinese and neighboring non-Chinese empires/states that were established between 907 and 1949. Hopefully, these case studies can help us better understand the empire/state creation and extinction, territorial history, foreign relations, and so forth in historical and modern East and Inner Asia.

CHAPTER 2

THE CHINESE INTERSTATE LAW, TIANXIA LAW (WORLD ORDER), AND DYNASTIC TERRITORIES

2.1 Introduction

During the Spring and Autumn period (770–453 BCE) (see Table 1.1 and Map 1.3), China was transformed from a feudal system under the nominal Zhou kingship to a multistate system of independent territorial states. As interstate interactions and wars became frequent, a body of Chinese “international law” or, more precisely, “interstate law” (*lieguo fa*) was developed to govern the relations between various ancient Chinese states. These Chinese states were essentially “sovereign” and generally treated each other as equals. The ancient Chinese interstate law consisted of customary rules, treaties, and leagues of states, and undoubtedly contributed to the balance of power between the powerful states, though the weaker states were increasingly annexed.

During the subsequent Warring States period (453–221 BCE) (see Table 1.1 and Map 1.4), the Chinese states continued to be centralized and bureaucratized. Territories and populations were placed under the states’ direct and effective control through the “commandery–county” (*jun–xian*) and “household registration” (*hujia*) systems. Nevertheless, the constant and intense wars between the warring states reduced the

effectiveness of the interstate law. In 221 BCE, the Qin unified entire China and began the so-called “imperial era” (221 BCE–1912 CE). That, however, did not permanently end the Chinese interstate law, which seems to have reappeared in China during the subsequent periods of division.

A discussion of the development of the Chinese interstate law can help us understand the traditional Chinese concept of state and how the Chinese state/dynastic territories were defined. Moreover, in some cases, the Chinese empires had to use the interstate law rituals to powerful non-Chinese neighbors that demanded to be treated as equals. When Chinese empires entered into equal and treaty relations with powerful non-Chinese states (e.g., the Chinese Song’s relations with the Khitan Liao and Jurchen Jin), it is evident that the non-Chinese domains of the latter did not constitute the Chinese dynastic territories of the former.

Nonetheless, whether China was unified/powerful or not, the Chinese empires felt a need to establish relations with foreign regimes, especially those near China. Whenever possible, the Chinese empires preferred to claim Chinese superiority and apply what could be called the Chinese “*Tianxia* law” (*Tianxia fa*) or “world order” to the foreign states and other polities. Much of the *Tianxia* order is now known as the “tributary” (*cho-gong*) system, which provided primary norms for the “proper” Sino–foreign

interactions and clear information about the scope of Chinese empire's territorial ambitions. The tributary system served for various purposes, but notwithstanding China's recent claims, the system was not designed nor used for the Chinese territorial expansion into neighboring non-Chinese domains outside China Proper. As we will see, the Chinese tributary system provided mutual recognition of regime legitimacy between the tribute recipients and bearers, and sought to maintain regional stability and status quo of the Chinese dynastic borders. In other words, under the traditional Chinese Tianxia order and its tributary system, the tributary barbarian areas were clearly defined as foreign lands, rather than part of the Chinese empires.

Moreover, contrary to popular belief, the native Chinese empires did not claim infinite territories nor regard themselves as universal empires. In fact, the Chinese empires had quite well-defined boundaries and claimed their dynastic territories according to a customary rule that resembled the principle of effective control under modern international law. In the imperial era, the Chinese dynastic territories were consistently defined by the "registered and mapped domains" (*bantu*), which were typically under the empire's household registration, taxation, and other administrative systems. The so-called "loose-rein" (*jimi*) districts and other non-Chinese populated tributary areas were beyond the Chinese empire's effective control and actual governance.

In the Chinese records, these tributary areas were considered as foreign states or the barbarian lands and mostly outside the Chinese dynastic borders. The People's Republic of China's historical claims over some of the past tributary areas are contrary to the historical facts and records and therefore cannot be recognized.

2.2 The Multistate System and Interstate Law in Ancient China

2.2.1 The Formation of Ancient Chinese Territorial States

Ancient China had developed a concept of “state” (*guo*) and gone into a multistate system by the so-called Eastern Zhou (770–256 BCE) period, which is conventionally divided into two sub-periods, namely, the Spring and Autumn (*Chunqiu*) and the Warring States (*Zhanguo*) periods.¹ When the Spring and Autumn period (770–453 BCE) (see Tables 1.1 and 1.3) began, there were more than one hundred feudal states under the nominal and declining Zhou kingship. The domains of these Zhou feudal states varied from the size of modern France or Britain to that of a small walled town, and their boundaries were neither clear nor stable.² Nonetheless, before long, the situation was significantly changed as many fragmented fiefdoms were integrated into several

¹ Yang Lien-Sheng, *Historical Notes on the Chinese World Order*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA'S FOREIGN RELATIONS* 20, 21 (John K. Fairbank ed., 1968); HAROLD M. TANNER, 1 *CHINA: A HISTORY, FROM NEOLITHIC CULTURES THROUGH THE GREAT QING EMPIRE* (10,000 BCE–1799 CE), 59–64 (2010).

² TANNER, *supra* note 1, at 61; ENDYMION PORTER WILKINSON, *CHINESE HISTORY: A NEW MANUAL* 3 (rev. ed. 2012).

independent states, and the state boundaries were gradually defined and fixed (see Map

1.3).³ As Victoria Tin-bor Hui notes,

Although *guo* were originally city-states sparsely located throughout the Yellow River valley, they became larger and larger territorial units as the more powerful pacified surrounding areas and conquered weaker neighbors. In the Spring and Autumn period, buffer zones were gradually taken over and noncontiguous pieces of territory were sometimes peacefully exchanged. With more continuous territory, boundaries became increasingly hardened with checkpoints established along borders.⁴

The subsequent Warring States period (453–221 BCE) (see Tables 1.1 and 1.3) witnessed more intense and constant warfare among the seven major and several minor states (see Map 1.4).⁵ The “territoriality” of states was marked more and more by the “chains of watch stations and forts at strategic points” and even by the “large defensive walls along the boundaries of the various states.”⁶ Travelers to other states were required to carry what we now call “passports” as identification credentials.⁷ Moreover,

³ TANNER, *supra* note 1, at 61–64; VICTORIA TIN-BOR HUI, WAR AND STATE FORMATION IN ANCIENT CHINA AND EARLY MODERN EUROPE 4–6 (2005).

⁴ HUI, *supra* note 3, at 6.

⁵ For detail, see Mark E. Lewis, *Warring States Political History*, in THE CAMBRIDGE HISTORY OF ANCIENT CHINA: FROM THE ORIGINS OF CIVILIZATION TO 221 B.C. 587, 587–650 (Michael Loewe & Edward L. Shaughnessy eds., 1999).

⁶ *Id.* at 629.

⁷ HONG JUNPEI, CHUNQIU GUO JI GONG FA [INTERNATIONAL LAW IN THE SPRING AND AUTUMN PERIOD] 248–49 (Shanghai, Zhonghua Shu Ju 1939) (China); HUI, *supra* note 3, at 6.

diplomatic envoys crossing a third state to their destinations had to obtain permission; otherwise, they faced the risk of seizure and even the death penalty.⁸

The territorial consolidation was accompanied by governmental centralization and bureaucratization, which were largely achieved by establishing directly administered counties (*xian*) and commanderies (*jun*).⁹ During the early Spring and Autumn period, powerful states such as the Chu and Jin had begun to convert newly conquered states into strategic frontier districts or *xian* under central control.¹⁰ However, unlike those regular *xian* or counties that appeared later in history, these early-stage frontier *xian* were highly militarized, and their governors could be hereditary; moreover, if these frontier *xian* lost strategic value, they were often granted to nobles as heritable fiefs.¹¹ Nonetheless, by the end of the Spring and Autumn period, the Jin State had already established two forms of regular local administrative units, both governed by centrally appointed and non-hereditary officials: first, regular “counties” (*xian*), which were reorganized from previously hereditary fiefs; and second, larger districts called “commanderies” (*jun*), which were often created in newly conquered but less populated frontier areas.¹²

⁸ CHEN GUYUAN, *ZHONGGUO GUO JI FA SU YUAN* [THE ORIGIN OF INTERNATIONAL LAW IN CHINA] 67–68 (Shanghai, Shang Wu Yin Shu Guan 1933) (China); HUI, *supra* note 3, at 6.

⁹ HUI, *supra* note 3, at 97–99.

¹⁰ LI XIAOJIE, JIANG YU YU ZHENG QU [TERRITORIES AND ADMINISTRATIVE DIVISIONS] 9–10 (Ge Jianxiong ed., Hong Kong, Zhong Hua Shu Ju 2014) (Series: Di Tu Shang De Zhongguo Li Shi) (H.K.); Mark E. Lewis, *supra* note 5, at 614; HUI, *supra* note 3, at 97–98.

¹¹ LI XIAOJIE, *supra* note 10, at 9–10; Mark E. Lewis, *supra* note 5, at 614.

¹² LI XIAOJIE, *supra* note 10, at 10–13; Mark E. Lewis, *supra* note 5, at 614.

By the time of the Warring States, almost all the major states had systematically reorganized their territories into directly administered commanderies and counties, except the Qi State, which had no commandery but did have counties and five “major cities” (*du*), which were, nonetheless, similar to commanderies.¹³ As Cho-yun Hsu observes, the *jun-xian* administrative structure had “essential differences” from the previous feudal system:

First, governmental decrees were issued from a central source; second, officials on temporary postings replaced the hereditary nobility. Under the [earlier] Zhou feudal system, control by the rulers over their territory filtered down indirectly through a series of levels, and none of these levels—whether of kings, dukes, or high officials—held complete authority over an area.¹⁴

Under the new *jun-xian* or commandery–county system, the rulers of warring states could effectively control and govern their territories. Consequently, when the Qin State conquered the other six major states from 230 to 221 BCE, the Qin could readily incorporate the “preexisting” commanderies and counties of the conquered states into the Qin’s two-tiered *jun-xian* administrative system.¹⁵ For the following two thousand years and more, the commandery–county or *jun-xian* system remained the “standard

¹³ LI XIAOJIE, *supra* note 10, at 14–20; 3 ZHONGGUO TONG SHI [A HISTORY OF CHINA], SHANG GU SHI DAI (SHANG CE) [THE ANCIENT PERIOD (PART 1)], 490–92 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 3 TONG SHI].

¹⁴ CHO-YUN HSU, CHINA: A NEW CULTURAL HISTORY 104 (2012).

¹⁵ HUI, *supra* note 3, at 98–101.

organization for local administration” in the Chinese-populated heartlands or what is known as China Proper.¹⁶

Moreover, through the newly-adopted “household registration” (*hujia*) system, each warring state could effectively administer and readily mobilize its entire population.¹⁷ When *xian* and *jun* first appeared, they were created in the newly annexed frontiers not only to consolidate conquests but also to extract revenues, labor, and military service from the recently subjugated people, aiming to make conquests profitable.¹⁸ Later, as commanderies and counties became standard local administrative units, the population of each state was generally governed under the *jun-xian* system.¹⁹ Unlike the previous Zhou feudalism that maintained a substantial amount of nobility, the people under the *jun-xian* system were essentially all commoners, except for just a few royal and noble families.²⁰ All these common people, including both the original and conquered population, were organized and recorded in the household registration, allowing each state’s central government to levy tax and corvée and recruit soldiers more effectively.²¹

¹⁶ HSU, *supra* note 14, at 104.

¹⁷ Mark E. Lewis, *supra* note 5, at 611–16; HUI, *supra* note 3, at 84–86.

¹⁸ HUI, *supra* note 3, at 97–98; Mark E. Lewis, *supra* note 5, at 614.

¹⁹ 3 TONG SHI, *supra* note 13, at 490–92.

²⁰ HSU, *supra* note 14, at 104.

²¹ See Mark E. Lewis, *supra* note 5, at 613–16; 3 TONG SHI, *supra* note 13, at 497–500, 508–09.

Consequently, the previous politically diffused and fragmented Zhou feudalism became just a handful of centralized and independent “sovereign” territorial states.²² Contrary to the common presumption that the centralized bureaucracy is Western-originated and “modern,” the ancient Chinese states had already developed highly centralized governments with “bureaucratized administration, monopolized coercion, and nationalized taxation.”²³ As Hui notes,

[T]he universality and impartiality of publicly promulgated laws, the registration and enumeration of populations, the central budgeting of revenues and expenditures, the amassing of statistics and reports, the capacity for direct rule, and other administrative techniques were developed in China two thousand years ahead of Europe.²⁴

As the Zhou feudalism increasingly declined, the ancient Chinese states developed “the markers of territorial sovereignty” long before the Western practices.²⁵ During the Warring States period, each of the major states had its own registered population, consolidated territory, and centralized government. Moreover, by 323 BCE, all the major Warring States rulers had assumed the title of “king” (*wang*), which had been formerly reserved solely for the Zhou “Son of Heaven” (*Tianzi*), and had also unambiguously rejected even the nominal Zhou overlordship or “suzerainty” (*zongzhu*

²² HSU, *supra* note 14, at 101–08; HUI, *supra* note 3, at 3–7.

²³ HUI, *supra* note 3, at 6.

²⁴ *Id.* at 6–7.

²⁵ *Id.* at 5.

quan).²⁶ Arguably, if these ancient Chinese states existed today, they would also be qualified and regarded as independent “sovereign states” under the present-day definition.

Contrary to popular belief, the traditional Chinese concept of “state” (*guo*) surprisingly resembles the Western modern definition. Under the Western-originated international law, the most widely accepted (and now “classical”) four “criteria for statehood” are provided in Article 1 of the Montevideo Convention on the Rights and Duties of States (1933): a permanent population, a defined territory, a government, and the capacity to enter into relations with other States.²⁷ Quite similarly, the ancient Confucian philosopher Mencius (c. 371–c. 289 BCE) practically defined a “state” (*guo*) as an entity that consisted of a ruler and his three “treasures” (*bao*): people (*ren min*), lands (*tu di*), and governmental administration (*zheng shi*).²⁸

Moreover, during the Spring and Autumn and the Warring States periods, the ancient Chinese states not only entered into relations with each other but also developed a multistate system and even an interstate law of their own. As discussed later, ancient China in multistate era had established a concept of territory (based on what was

²⁶ Mark E. Lewis, *supra* note 5, at 602–03.

²⁷ JAMES CRAWFORD, *THE CREATION OF STATES IN INTERNATIONAL LAW* 45–46 (2d ed. 2006).

²⁸ Yang Lien-Sheng, *supra* note 1, at 21; CHUN-SHU CHANG, *1 THE RISE OF THE CHINESE EMPIRE: NATION, STATE, AND IMPERIALISM IN EARLY CHINA, CA. 1600 B.C.–A.D. 8*, at 63 (2007).

analogous to the modern principle of “effective control”) and various diplomatic techniques and practices (e.g., dispatch of embassies, tribute and gift exchanges, and royal marriage alliances) that were largely inherited and used by the subsequent Chinese empires to define their dynastic territories and to deal with their foreign relations. Furthermore, though originally developed to govern relations between ancient Chinese states, the Chinese interstate law was later sometimes applied to powerful non-Chinese states that insisted equal relations with the Chinese empires. A discussion of ancient China’s multistate system and interstate law, thus, helps us better understand the evolution of premodern China’s territorial concept and diplomatic practices.

2.2.2 The Ancient Chinese Multistate System

Historians tend to conveniently date the formation of ancient China’s multistate system in 770 BCE when the *Rong* “barbarian” invaded and forced the Zhou royal court to flee eastwards to Luoyi.²⁹ However, according to Hui, it was only after a century of “military and diplomatic contacts” had generated a “systemwide mutual awareness” that a multistate “system” indeed appeared in about 656 BCE.³⁰ Ancient China’s multistate era lasted for more than four centuries, ended only by the Qin’s unification of China in

²⁹ HUI, *supra* note 3, at 4.

³⁰ *Id.* at 5.

221 BCE.³¹ Furthermore, as Hui points out, contrary to popular assumption, ancient China in the multistate era (c. 656–221 BCE) surprisingly resembled Europe in the early modern period (1495–1815 CE) in many aspects, as both of them experienced “disintegration of feudal hierarchy, prevalence of war, conditions of international anarchy, emergence of sovereign territorial states, configuration of the balance of power, development of the centralized bureaucracy,” and so forth.³²

Undoubtedly, the Chinese states in the ancient multistate era had the capacity to enter into relations with each other. Although the Zhou royal court more or less continued to be a ritual center, it would be misleading to characterize the times of Spring and Autumn as a “feudal period.”³³ In fact, the rulers of the Spring and Autumn states rarely paid “court visits” (*chao*) and even only seldom sent tribute missions to the Zhou. Quite to the contrary, the Zhou Kings frequently sent “missions of friendly inquiries” (*pin*) to the courts of various state rulers.³⁴ Even before the main Warring States rulers officially claimed kingship, the ancient Chinese states had long become fully independent. Besides waging wars among themselves, these independent Chinese states also sent out

³¹ *Id.*

³² *Id.* at 1–7.

³³ RICHARD LOUIS WALKER, THE MULTI-STATE SYSTEM OF ANCIENT CHINA 18, 21 (1954).

³⁴ GU DERONG & ZHU SHUNLONG, CHUN QIU SHI [HISTORY OF THE SPRING AND AUTUMN PERIOD] 456–59 (Shanghai, Shanghai Ren Min Chu Ban She 2001) (China) (Series: Zhongguo Duandaishi Xilie).

diplomatic missions, set up interstate meetings, forged and broke alliances, and concluded bilateral and multilateral treaties to increase their security and interests.³⁵

In the early Spring and Autumn period, the key personages for the interstate activities were the state rulers themselves, who were usually required to attend the signing ceremonies in order to conclude any treaties.³⁶ Before long, the state rulers came to rely on their diplomatic officials, known as messengers (*xing-ren*), to administer the external affairs (e.g., the receptions of foreign embassies); they also frequently sent ambassadors or envoys (*shi*) to lead the diplomatic missions and perform their ceremonial duties abroad.³⁷ Furthermore, as the ruler's chief advisor, the prime ministers or chancellors (*shang qing*, or *xiang*) increasingly directed and even dominated foreign policies and interstate relations.³⁸

Although permanent diplomatic missions were not maintained, bilateral and multilateral interactions were frequent and comprehensive and became “regular diplomatic channels” for the interstate affairs.³⁹ The ancient Chinese multistate era already saw rich diplomatic concepts and practices, for example: (1) *chao*, court visit between rulers; (2) *pin*, mission of friendly inquiry sent by one ruler to another; (3) *gong*,

³⁵ HUI, *supra* note 3, at 4–5, 54–64; WALKER, *supra* note 33, at 24, 73–95.

³⁶ WALKER, *supra* note 33, at 76.

³⁷ *Id.*

³⁸ *Id.* at 76–77.

³⁹ Zhang Yongjin, *System, Empire and State in Chinese International Relations*, 27 (No. 5) REVIEW OF INTERNATIONAL STUDIES 43, 48–49 (2001).

tributes or gifts presented to a ruler's court; (4) *shi*, ambassador or envoy; (5) *jie*, diplomatic credential; (6) *hui*, interstate assembly or meeting of rulers or officials; (6) *meng*, treaty or covenant between states; (7) *zhi*, the taking or exchange of hostages (for instance, as a means of assuring the treaty enforcement); and (8) *lian-yin*, marriage alliance (see Table 2.2).⁴⁰ It is inconceivable that such frequent and comprehensive intercourse among ancient Chinese states could proceed for centuries without an interstate legal order.⁴¹ Indeed, as discussed below, a body of interstate law did exist in ancient China during its multistate era.

2.2.3 The Ancient Chinese Interstate Law

Although it is still popularly assumed that international law originated in early modern Europe, some scholars have persuasively argued that there was a body of “international law” (*gouji fa*), at least a rudimentary one, in ancient China.⁴² The American missionary and sinologist William A. P. Martin, who introduced the first systematic Chinese translation of modern European international law to China in the

⁴⁰ WALKER, *supra* note 33, at 75–91.

⁴¹ Zhang Yongjin, *supra* note 39, at 47.

⁴² E.g., William A.P. Martin, *Traces of International Law in Ancient China*, 14 THE INTERNATIONAL REVIEW 63, 63–77 (1883); CHEN GUYUAN, *supra* note 8; HONG JUNPEI, *supra* note 7; WALKER, *supra* note 33, at 73–95, 129–32 n.2 of ch.6; SUN YURONG, GU DAI ZHONGGUO GUO JI FA YAN JIU [A STUDY ON INTERNATIONAL LAW IN HISTORICAL CHINA] (Beijing, Zhongguo Zheng Fa Da Xue Chu Ban She 2000) (China).

1860s CE, was probably the first person to make a thoughtful argument on this topic.⁴³

Martin elaborated his theory in an inspiring paper entitled “Traces of International Law in Ancient China,” and he read it before the Fifth International Congress of Orientalists in Berlin in 1881.⁴⁴ Martin’s paper soon became popular and appeared in various languages, including French, English, Chinese, and Japanese.⁴⁵ An English version was first published in 1883, which read, in part,

[During the Spring and Autumn and Warring States periods, a] family of States . . . could hardly fail to develop, in the intercourse of peace and war, a system of usages which might be regarded as constituting for them a body of international laws.

Accordingly, if we turn to the history of the period . . . we shall find, if not the system itself, at least the evidence of its existence. We find . . . a family of States, many of them as extensive as the great States of western Europe, . . . carrying on an active intercourse, commercial and political, which, without some recognized *jus gentium* [i.e., the law of nations], would have been impracticable. We find the interchange of embassies, with forms of courtesy indicative of an elaborate civilization. We find treaties solemnly drawn up, and [some of them] deposited for safe keeping in a sacred place [of the Zhou court] called *mengfu*. We find a balance of power studied and practised, leading to combinations to check the aggressions of the strong and to protect the rights of the weak. We find the rights of neutrals to a certain extent recognized and respected. Finally, we find a class of men devoted to diplomacy as a profession.⁴⁶

⁴³ RUNE SVARVERUD, *INTERNATIONAL LAW AS WORLD ORDER IN LATE IMPERIAL CHINA: TRANSLATION, RECEPTION AND DISCOURSE, 1847–1911*, at 88–93, 98–101 (2007).

⁴⁴ *Id.* at 99–100; WALKER, *supra* note 33, at 129–30 n.2 of ch.6.

⁴⁵ SVARVERUD, *supra* note 43, at 100.

⁴⁶ William A.P. Martin, *supra* note 42, at 65–66.

Martin's initial quest for an ancient Chinese international law was well received and further elaborated in the East (particularly, in China and Japan) and, to some degree, also in the West.⁴⁷

Several Chinese intellectuals (e.g., jurists Chen Guyuan, Hong Junpei, and Sun Yurong) and non-Chinese scholars (e.g., Richard Louis Walker and Shigeki Miyazaki) have made further studies on this topic, upholding the argument that ancient Chinese states had developed a body of international law or, more precisely, "interstate law" (*lieguo fa*) by the Spring and Autumn period.⁴⁸ Although the term "sovereignty" (*zhu quan*) had not yet traveled from Europe to China, these independent ancient Chinese states were indeed "sovereign," as they consolidated and maintained plenary and exclusive authority over their internal and external affairs.⁴⁹ Moreover, except for some differences in ritual prestige, all these states were generally treated as equals before the interstate law, regardless of their size, population, strength, and so forth.⁵⁰

⁴⁷ SVARVERUD, *supra* note 43, at 155–61.

⁴⁸ CHEN GUYUAN, *supra* note 8; HONG JUNPEI, *supra* note 7; SUN YURONG, *supra* note 42; WALKER, *supra* note 33, at 74–95; Shigeki Miyazaki, *History of the Law of Nations, Regional Developments: Far East*, in 7 ENCYCLOPEDIA OF PUBLIC INTERNATIONAL LAW 215, 215–16 (Rudolph Bernhardt ed., 1984).

⁴⁹ CHEN GUYUAN, *supra* note 8, at 44–46; WALKER, *supra* note 33, at 24–26, 36–38; HUI, *supra* note 3, at 3–6.

⁵⁰ WALKER, *supra* note 33, at 25, 75, 91, 94; HONG JUNPEI, *supra* note 7, at 94–96; for more detail, see Chen Shih-Tsai, *The Equality of States in Ancient China*, 35 THE AMERICAN JOURNAL OF INTERNATIONAL LAW 641, 641–50 (1941).

2.2.3.1 Interstate Custom

The principal source of the ancient Chinese international law was “custom” (known in Chinese as *li*, as discussed later). The interstate custom, which was formed by general and consistent state practice accepted as normatively binding, governed various interstate activities such as armed conflicts, diplomatic intercourse, and treaty-making.⁵¹ As wars became frequent, customary rules related to war and neutrality were developed and observed.⁵² For example, it was generally accepted that a war without a valid cause was illegitimate; that civilians (i.e., noncombatants) should not be intentionally attacked; and that a neutral state could, without violating its neutrality, decide whether to permit or reject the passage of belligerent troops through its territory.⁵³ Similarly, proper diplomatic ceremonies and protocols (e.g., those for court visiting and multilateral conference) were also established, and the principles of diplomatic reciprocity and immunity were generally recognized.⁵⁴ For instance, after arriving in the destination state, an envoy should present his credential, behave in a formal manner, reject personal gifts, and be welcomed with appropriate ceremonies corresponding to his rank and

⁵¹ CHEN GUYUAN, *supra* note 8, at 10–12; SUN YURONG, *supra* note 42, at 47–48, 49–51.

⁵² STEPHEN C. NEFF, *JUSTICE AMONG NATIONS: A HISTORY OF INTERNATIONAL LAW* 20–21 (2014); Ch’eng Te-hsu, *International Law in Early China (1122–249 B.C.) [Part 2]*, 11 CHINESE SOCIAL AND POLITICAL SCIENCE REVIEW 251, 260–70 (1927).

⁵³ NEFF, *supra* note 52, at 20–21; HONG JUNPEI, *supra* note 7, at 255–59, 273–74, 277.

⁵⁴ Ch’eng Te-hsu, *International Law in Early China (1122–249 B.C.) [Part 1]*, 11 CHINESE SOCIAL AND POLITICAL SCIENCE REVIEW 38, 49–55 (1927); WALKER, *supra* note 33, at 75–82, 92–95.

dignity.⁵⁵ An insult to a visiting foreign ruler or envoy was considered a serious offense and sometimes would be punished by war.⁵⁶

The interstate rules and principles mentioned above were known in ancient China as part of *li*, which is often translated as ritual or rites but probably better understood as customary law for proper behavior.⁵⁷ As Fung Yu-lan, a modern Chinese philosopher, notes,

[During the Spring and Autumn and Warring States periods,] [n]ot only were there *li* governing the conduct of the individual, but also those for the state as well. Some of these were to be practiced in time of peace, but others were designed for use in war. These peacetime and wartime *li*, as observed by one state in its relations to another, were equivalent to what we now would call [customary] international law.⁵⁸

Although *li* or “ritual” as an institution predated the emergence of the ancient Chinese multistate system, part of *li* became generally accepted customary law for proper state conduct in interstate relations.⁵⁹ Consequently, a violation of interstate *li* not only could hurt “the moral authority and legitimacy of a ruler” but might even bring “collective condemnation of, or war against, the perpetrator state.”⁶⁰ In other words, offenses

⁵⁵ WALKER, *supra* note 33, at 78; Ch’eng Te-hsu, *supra* note 52, at 260–70; HONG JUNPEI, *supra* note 7, at 255–80.

⁵⁶ Ch’eng Te-hsu, *supra* note 54, at 51–52.

⁵⁷ CHEN GUYUAN, *supra* note 8, at 10–12; Zhang Yongjin, *supra* note 39, at 49–50.

⁵⁸ FUNG YU-LAN, A SHORT HISTORY OF CHINESE PHILOSOPHY 178 (Derk Bodde ed., 1948).

⁵⁹ See Zhang Yongjin, *supra* note 39, at 49.

⁶⁰ *Id.*

against interstate custom (*li*) were “unlawful” (*fei li*) and were subject to “punishment” (*xing*).⁶¹

2.2.3.2 Treaties

Besides interstate custom, another important source of the ancient Chinese interstate law was “treaties” (designated in Chinese as *meng*). Nevertheless, *meng* was primarily “a blood oath” and could be used other than for treaty-making.⁶² Moreover, in the Chinese records, *meng* usually referred to the treaty-making ritual and ceremony as a whole, rather than merely the treaty itself.⁶³ After careful negotiation, an ancient Chinese treaty was concluded by state rulers or their representatives through a formal and solemn oath ritual, which often involved animal sacrifice.⁶⁴ Typically, the left ear of the sacrificial victim (e.g., an ox) was cut off, and its blood was collected in a container; then, after the treaty texts were read aloud to notify the gods, the signers used the victim’s blood to smear their lips; and finally, one copy of the treaty was buried with the sacrificial animal, and every signatory would keep a copy.⁶⁵ Sometimes, a copy of the

⁶¹ See CHEN GUYUAN, *supra* note 8, at 10–12; SACRED MANDATES: ASIAN INTERNATIONAL RELATIONS SINCE CHINGGIS KHAN 59 (Timothy Brook et al. eds., 2018) [hereinafter SACRED MANDATES].

⁶² Roswell S. Britton, *Chinese Interstate Intercourse Before 700 B.C.*, 29 (No. 4) THE AMERICAN JOURNAL OF INTERNATIONAL LAW 616, 626 (1935); CHEN GUYUAN, *supra* note 8, at 218–20.

⁶³ WALKER, *supra* note 33, at 82.

⁶⁴ *Id.*

⁶⁵ *Id.*; GU DERONG & ZHU SHUNLONG, *supra* note 34, at 460–62; for detail of the ancient Chinese treaty ritual, see CHEN GUYUAN, *supra* note 8, at 249–56.

treaty would be deposited and kept safe in a sacred place, called *mengfu*, of the Zhou court.⁶⁶

The ancient Chinese states concluded a great deal of treaties. The Spring and Autumn Annals (*Chunqiu*), a chronicle covering the years 722 to 481 BCE, recorded more than 140 treaties, of which about half were bilateral and half multilateral.⁶⁷ The bilateral treaties were concluded for various purposes such as friendship, trade, mutual defense, and marriage alliance, whereas most of the multilateral treaties dealt with the affairs of a league of states.⁶⁸ The treaty texts were always couched in brief and solemn language and usually contained three parts: the preamble, stating the purpose of the treaty; the articles, stipulating the obligations and rights of the contracting parties; and the oath, invoking the wrath of gods to destroy any state that violated the sacred agreement.⁶⁹

Besides the solemn oaths, there were other methods to secure treaty enforcement and punish the “breach of treaty” (*bei meng*). The multilateral treaties typically had provisions calling for joint action against any treaty violator, and therefore they often carried more weight than the bilateral treaties.⁷⁰ Sometimes, there were other kinds of guarantees for treaty observance, such as the posting of a bond (e.g., the occupation of a

⁶⁶ William A.P. Martin, *supra* note 42, at 66; CHEN GUYUAN, *supra* note 8, at 256.

⁶⁷ WALKER, *supra* note 33, at 82.

⁶⁸ *Id.* at 82–85.

⁶⁹ *Id.* at 82; Wang Tieya, *International Law in China: Historical and Contemporary Perspectives*, 221 RECUEIL DES COURS 195, 212 (1990).

⁷⁰ WALKER, *supra* note 33, at 84.

piece of land of the other party to secure the enforcement of a peace treaty) or an exchange of hostages (usually, the sons of rulers).⁷¹ Furthermore, the desire to keep a good international reputation also encouraged the states to comply with the treaties, and such a good reputation was crucial for states to obtain foreign support, attract allies, and compete with powerful rivals.⁷²

2.2.3.3 Leagues of States

The most effective means for enforcing treaties and other interstate rules were the leagues of states (*meng-hui*).⁷³ Generally, a league of states was founded and upheld by multilateral treaties and, at any given time, was led by a powerful state, whose ruler would serve as the league leader (*meng zhu*) and usually obtained the status of “hegemon” (*ba*).⁷⁴ The league leaders had various powers, such as calling for league conferences, drafting treaties, and settling disputes between member states.⁷⁵ It is often overlooked that a league of states also formed the essential part of a hegemonic state’s tributary system. During the Spring and Autumn period, it was a common practice that the weaker states paid tributes to the powerful states to avoid war and obtain protection.⁷⁶

As a hegemonic power, the leading state of a league not only obtained periodic and

⁷¹ *Id.* at 86; HONG JUNPEI, *supra* note 7, at 236–37.

⁷² WALKER, *supra* note 33, at 86–87.

⁷³ *Id.* at 87.

⁷⁴ NEFF, *supra* note 52, at 19; HONG JUNPEI, *supra* note 7, at 109–29.

⁷⁵ HONG JUNPEI, *supra* note 7, at 127–33.

⁷⁶ GU DERONG & ZHU SHUNLONG, *supra* note 34, at 456–59.

compulsory tributes from other members but also received tributes from non-member states, virtually making a league into the core of its leading state's tributary web.⁷⁷

Although other small alliances sometimes emerged, there were mainly two large rival leagues, one in the north (usually led by the Jin State) and one in the south (dominated by the Chu State).⁷⁸ Although *ba* was originally a title for the hegemonic leaders (*bazhu*), it is also common in historical writings to refer to their states as the hegemons (*ba*) or hegemonic states (*bazhu guo*).⁷⁹ The interstate order dominated by the hegemonic leaders and their states was also known as the hegemonic (*ba*) system, which helped to maintain the balance of power between the powerful competing states until at least the end of the Spring and Autumn period.⁸⁰

The leagues of states provided collective security and served various other purposes for their member states, and, at the same time, the leagues also functioned as the principal means to enforce interstate rules and commitments.⁸¹ As Walker points out,

Although when one league confronted another, wars were bound to become larger in scope, yet they occurred less frequently because for the sake of security and

⁷⁷ See CHEN GUYUAN, *supra* note 8, at 200–02; GU DERONG & ZHU SHUNLONG, *supra* note 34, at 456–59; 3 TONG SHI, *supra* note 13, at 402–04.

⁷⁸ WALKER, *supra* note 33, at 49–58, 87; GU DERONG & ZHU SHUNLONG, *supra* note 34, at 161–63.

⁷⁹ E.g., GU DERONG & ZHU SHUNLONG, *supra* note 34, at 51–56, 71–163; 3 TONG SHI, *supra* note 13, at 359–82, 402–4, 417–22.

⁸⁰ See Cho-yun Hsu, *The Spring and Autumn Period*, in THE CAMBRIDGE HISTORY OF ANCIENT CHINA: FROM THE ORIGINS OF CIVILIZATION TO 221 B.C. 545, 551–65 (Michael Loewe & Edward L. Shaughnessy eds., 1999); HUI, *supra* note 3, at 55–62.

⁸¹ WALKER, *supra* note 33, at 87–92.

solidarity, the members of a league were obliged to maintain as much harmony within their area as possible. This meant that the members of a league had to conform as much as possible to the [interstate] laws, either as agreed upon mutually, laid down by the [league] leader, or handed down by custom.⁸²

Moreover, the leagues also provided mechanisms for peaceful settlement of disputes between the member states. In most cases, the league leader's court served as the tribunal for the settlements; however, in case the leading state was itself a party to a dispute with another member, a third member would usually mediate.⁸³ Sometimes the league leader would call for forceful intervention to resolve a threat to the security of the league, and any military action within a league without the prior approval from the league leader was considered as a serious offense.⁸⁴ Furthermore, the leagues facilitated interstate trade, diplomacy, and cultural exchange, and typically also provided extradition of criminals and traitors between the member states.⁸⁵

In sum, although there were wars and conquests, a system of international or interstate law did exist in ancient China's multistate era. As Shigeki Miyazaki outlines the development of international law during the Spring and Autumn period,

[In China,] statehood grew since [ancient] times from local units, and that the Chou [i.e., Zhou] rulers, who after all governed no more than their own domain, were of mainly ceremonial significance. . . . From the middle of the eighth

⁸² *Id.* at 87.

⁸³ *Id.* at 87–88.

⁸⁴ *Id.* at 89.

⁸⁵ *Id.* at 90–91.

century B.C. an unlimited sovereignty of the *circa* [100–]200 States then existing can be identified. The defence against the invasions of the northern and north-western [barbarian] tribes became the task of the most powerful of those States, the hegemons (*pa* [i.e., *ba*]). The highly intensive intercourse among these States, which conceived of themselves as equals, and the resulting rules of international law are reflected in conferences and court visits of [state rulers], . . . deputized communication (missions), treaties of alliance among Chinese States, transfer of territory, granting of asylum, rules of mediation and of war, but also war covenants with non-Chinese tribes concluded between equals.⁸⁶

During the subsequent Warring States period, the ancient Chinese international legal order became increasingly ineffective as the seven major states constantly battled for power struggle, survival, and unification of the narrowly-defined *Tianxia* (i.e., China).⁸⁷

Although several modern scholars have acknowledged the existence of international law in ancient China, it appears that most of them simply assume that international law ceased to exist in the entire region from the time of the Qin unification of China in 221 BCE to the introduction of modern European international law to China in the 19th century CE. However, even in the so-called imperial era (221 BCE–1912 CE), China was still periodically divided by several independent empires/states.⁸⁸ As Sun Yurong rightly observes, a Chinese international or interstate law, which could trace its origin to the Spring and Autumn period and generally treated states as equals, also existed “in China” during the subsequent periods of division, such as the Three Kingdoms (220–80

⁸⁶ Shigeki Miyazaki, *supra* note 48, at 215.

⁸⁷ *Id.*

⁸⁸ Victoria Tin-bor Hui, *How China Was Ruled*, 3 (No. 4) AMERICAN INTEREST 53, 58–59 (2008).

CE), the Eastern Jin (317–420) and the Sixteen Kingdoms (304–439), the Southern and Northern Dynasties (420–589), and the Five Dynasties and Ten Kingdoms (907–960) periods.⁸⁹ Moreover, as will become clear in later chapters, there were also occasions when the Chinese empires were demanded and compelled to use the interstate law to treat several rivalry non-Chinese empires/states on an equal footing.

Furthermore, as discussed below, the Chinese empires also sought to establish foreign relations under what might be called the “Chinese *Tianxia* law” or the “Chinese world order,” which could function as a Sino-centric regional legal order when the Chinese empires more or less established hegemony in East Asia.

2.3 The Chinese *Tianxia* Law and the Foreign Relations of Imperial China

2.3.1 The Chinese *Tianxia* Law or World Order

The “Chinese world order” was, in fact, a mid-20th-century western-invented theory, aiming to provide a systematic framework for understanding the traditional Chinese foreign relations.⁹⁰ Nevertheless, it does not mean that the “normative” Chinese world order or *Tianxia* law had never existed in the past. As John K. Fairbank explains in

⁸⁹ SUN YURONG, *supra* note 42, at 41–43, 45–46, 65–67, 193–95.

⁹⁰ John K. Fairbank, *A Preliminary Framework*, in THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS 1, 1–2 (John K. Fairbank ed., 1968); Zhang Feng, *Rethinking the “Tribute System”*: Broadening the Conceptual Horizon of Historical East Asian Politics, 2 THE CHINESE JOURNAL OF INTERNATIONAL POLITICS 545, 545–48, 574 (2009).

“The Chinese World Order: Traditional China’s Foreign Relations,” a book that he edited in 1968:

In short, the Chinese world order was a unified concept only at the Chinese end and only on the normative level, as an ideal pattern. Because the concept dominates the Chinese record, our researches have been addressed in large part to testing how far it influenced events in fact. What was the actual efficacy of the Chinese grand design?⁹¹

Although having drawn criticisms on its assumptions of Sino-centrism and culturalism since the 1980s, the theory of traditional Chinese world order remains a highly influential approach and a good starting point for understanding the pre-modern Chinese external relations.⁹²

Not surprisingly, the ideological foundation of the traditional Chinese world order was the Chinese–Barbarian (*Hua–Yi*) dichotomy, which claimed the Chinese superiority and the non-Chinese inferiority in culture and even in race.⁹³ The belief in Chinese cultural superiority led to a Sino-centric worldview that claimed China as the very center

⁹¹ Fairbank, *supra* note 90, at 12.

⁹² For some examples of these criticisms, see Zhang Feng, *supra* note 90, at 546, 554–67.

⁹³ LEONARD SERGEEVIČ PERELOMOV & ALEKSANDR STEPANOVIČ MARTYNOV, IMPERIAL CHINA: FOREIGN POLICY: CONCEPTIONS AND METHODS 101 (Vic Schneerson trans., 1983); John K. Fairbank, *Tributary Trade and China’s Relations with the West*, 1 (No. 2) THE FAR EASTERN QUARTERLY 129, 129–30 (1942); Yuri Pines, *Beasts or Humans: Pre-Imperial Origins of the “Sino-Barbarian” Dichotomy*, in MONGOLS, TURKS, AND OTHERS: EURASIAN NOMADS AND THE SEDENTARY WORLD, 59–60 (Reuven Amitai & Michal Biran eds., 2005); FRANK DIKÖTTER, THE DISCOURSE OF RACE IN MODERN CHINA 1–20 (2d ed. 2015).

of the civilization in the broadly-defined *Tianxia* (All under Heaven) or what the Chinese saw as the “whole world.”⁹⁴

In theory (but not necessarily in reality), the Chinese world order was a hierarchical, universal, peaceful, and benign system that regulated the “proper” relations between *Zhongguo* (i.e., China) at the center and the non-Chinese barbarians on the outside.⁹⁵ Briefly, the Chinese *Tianxia* or world order assumed that: (1) the Sino-centric order was “hierarchical” with China being “internal, large, and high” and the barbarians being “external, small, and low”;⁹⁶ (2) the Chinese Emperor or *Tianzi* (lit. Son of Heaven) possessed “universal rulership” over both the Chinese people and non-Chinese barbarians, maintaining the harmony between all mankind and the unseen forces of the universe through ceremonial acts and moral conducts;⁹⁷ (3) the Chinese *Tianxia* order was supposed to be “peaceful” because the Chinese culture and the emperor’s “virtue” (*de*) were believed to be so great and irresistible that all the barbarians would eventually and voluntarily submit themselves to the Chinese Emperor and naturally seek to “come and be transformed” (*lai-hua*), i.e., to come to the Chinese court and be Sinicized, for their

⁹⁴ Fairbank, *supra* note 90, at 2; Li Zhaojie, *Traditional Chinese World Order*, 1 (No. 1) CHINESE JOURNAL OF INTERNATIONAL LAW 20, 25–26 (2002).

⁹⁵ Wang Yuan-kang, *The Chinese World Order and War in Asian History*, at 2–5 ((American Political Science Association (APSA) Toronto Meeting Paper, 2009)), available at SSRN: <https://papers.ssrn.com/abstract=1451551> (last visited Feb. 2, 2018); Li Zhaojie, *supra* note 94, at 25–35.

⁹⁶ Yang Lien-Sheng, *supra* note 1, at 20.

⁹⁷ Fairbank, *supra* note 93, at 131–32; Li Zhaojie, *supra* note 94, at 27.

own good;⁹⁸ and (4) therefore, like father and sons, the relations between China and barbarians would be “unequal” but “benign.”⁹⁹

As for the relations within the state and family in China, central to the Chinese empire’s foreign relations was *li* (lit. ritual or rites), which provided norms and expectations of how non-Chinese states and other polities should behave.¹⁰⁰ As noted earlier, in the Chinese legal tradition, *li* was not merely ceremony but the custom for proper behavior. Thus, “[b]ehavior that offended against the ritual corpus was just as ‘unlawful’ as offenses against the law code.”¹⁰¹ When the Chinese empire was powerful enough to establish regional hegemony in East Asia and beyond, the Chinese *Tianxia* order could virtually function as a Sino-centric hierarchical “interpolity legal order” or “law of nations” in the regions.¹⁰² A severe violation of the *Tianxia* “ritual” (*li*) by a foreign polity would be regarded as a “crime” (*zui*) and subjected to “punishment” (*xing*), in particular, a punitive expedition (i.e., war).¹⁰³ The large part of the Chinese world

⁹⁸ Fairbank, *supra* note 93, at 130, 132; Wang Yuan-kang, *supra* note 95, at 5.

⁹⁹ Qin Yaqing, *Why Is There No Chinese International Relations Theory?*, 7 (No. 3) INTERNATIONAL RELATIONS OF THE ASIA-PACIFIC 313, 330 (2007); Wang Yuan-kang, *supra* note 95, at 14.

¹⁰⁰ SACRED MANDATES, *supra* note 61, at 60.

¹⁰¹ *Id.* at 59.

¹⁰² *See Id.* at 60.

¹⁰³ *See* FENG ZHANG, CHINESE HEGEMONY: GRAND STRATEGY AND INTERNATIONAL INSTITUTIONS IN EAST ASIAN HISTORY 41, 165 (2015); GAO MINGSHI, TIAN XIA ZHI XU YU WEN HUA QUAN DE TAN SUO: YI DONG YA GU DAI DE ZHENG ZHI YU JIAO YU WEI ZHONG XIN [THE TIANXIA ORDER AND CULTURAL SPHERE: WITH A FOCUS ON THE POLITICS AND EDUCATION IN HISTORICAL EAST ASIA] 11–12 (Shanghai, Shanghai Gu Ji Chu Ban She 2008) (China).

order was what is known as the “tributary system,” which provided primary norms for the proper Sino–foreign interactions.

2.3.2 The Normative Tributary System

Asserting Chinese centrality and superiority in the world, the Chinese Emperor projected China’s hierarchical internal order outward and sought to establish tributary relations with non-Chinese foreign rulers.¹⁰⁴ The foreign rulers who participated in the Chinese tributary system were required to send periodic embassies to the Chinese court to present their native products as “tributes” (*gong*) that symbolized their “sincerity” (*cheng*) to “conform” (*shun*) with the universal order represented by the Chinese Emperor.¹⁰⁵ However, as we will see in later chapters, the Chinese Emperor and the non-Chinese rulers might have different understandings and motivations regarding their “tributary” relations.

When the tributary missions arrived at the Chinese court, they needed to show their humbleness by the prescribed rituals.¹⁰⁶ For example, during the imperial audience, the tributary rulers or envoys had to perform “kowtow” (an act of submission, consisting of kneeling and knocking the forehead upon the ground several times) to signify their

¹⁰⁴ Li Zhaojie, *supra* note 94, at 47–50.

¹⁰⁵ Fairbank, *supra* note 93, at 135; PERELOMOV & MARTYNOV, *supra* note 93, at 116–18.

¹⁰⁶ Fairbank, *supra* note 93, at 133–35.

recognition of the Chinese Emperor's superiority.¹⁰⁷ In principle, the non-Chinese tributary rulers were allowed to use the titles no higher than "king" (*wang*), because only the Chinese monarch, the sole universal ruler in the world, could adopt the title of "emperor" (*huangdi*).¹⁰⁸

In return, the tributary rulers would receive imperial gifts, trade privileges, security protections, and so on from the Chinese Emperor. To demonstrate the generosity of the Chinese Emperor, the imperial gifts and trade privileges were typically (if not always) more valuable and profitable than what the tribute missions brought to China.¹⁰⁹ Furthermore, some tributary rulers would be conferred official titles, patents of appointment, official seals, and noble ranks to become the invested "outer vassals" (*wai chen*) of the emperor under what might be called the "vassal-suzerain" relationships.¹¹⁰ These invested outer vassals were required to use the granted official seals to sign the

¹⁰⁷ The full kowtow, as required by the Qing court, consisted of three kneelings, each of which followed by a full prostration with the forehead knocking the ground three times. The ritual was performed at the shrill commands of a lowly usher – "Kneel! Fall prostrate! Rise to your knees!" and so on. See JIANG YONGLIN, *THE MANDATE OF HEAVEN AND THE GREAT MING CODE* 105 (2011); Fairbank, *supra* note 93, at 134; Wang Yuan-kang, *supra* note 95, at 5; Li Zhaojie, *supra* note 94, at 49–50.

¹⁰⁸ Wang Yuan-kang, *supra* note 95, at 5.

¹⁰⁹ See J. K. Fairbank & S. Y. Têng, *On the Ch'ing Tributary System*, 6 (No. 2) *HARVARD JOURNAL OF ASIATIC STUDIES* 135, 140–41 (1941); Fairbank, *supra* note 93, at 135; Wang Yuan-kang, *supra* note 95, at 6; GE JIANXIONG, *TONG YI YU FEN LIE: ZHONGGUO LI SHI DE QI SHI* [UNIFICATION AND DIVISION: INSPIRATION FROM THE CHINESE HISTORY] 87–88.

¹¹⁰ See PERELOMOV & MARTYNOV, *supra* note 93, at 132; Fairbank, *supra* note 93, at 133; GAO MINGSHI, *supra* note 103, at 20–22; Fuma Susumu, *Ming-Qing China's Policy towards Vietnam as a Mirror of Its Policy towards Korea: With a Focus on the Question of Investiture and "Punitive Expeditions,"* 65 *MEMOIRS OF THE RESEARCH DEPARTMENT OF THE TOYO BUNKO* 1, 1–2 (2007) (Japan).

tributary memorials and date them by the Chinese calendar to symbolize their submission to the emperor.¹¹¹

Nevertheless, as discussed below, the Chinese presumption of a Sino-centric *Tianxia* or world order did not correspond well to actual practice. The common belief of long-lasting “Chinese” domination in Asia was a myth rather than a reality.¹¹²

2.4 Foreign Relations in Historical East, Inner, and Part of Southeast Asia

2.4.1 The Chinese *Tianxia* Order Was Not “Universal”

Needless to say, in reality, the Chinese Emperor or *Tianzi* had no “universal” rulership over the whole world. What the pre-modern Chinese regarded as the broadly-defined *Tianxia* was not the whole world but rather roughly corresponded to East, Inner, and part of Southeast Asia.¹¹³ For much of history, the Chinese empires had little knowledge and influence beyond these broadly *Tianxia* regions, mainly because of geographical barriers.¹¹⁴

It is generally agreed that the core of “Inner Asia” comprises the regions known as Manchuria, Mongolia (Inner and Outer), Xinjiang (i.e., East Turkestan), and Tibet (which

¹¹¹ See Fairbank, *supra* note 93, at 133.

¹¹² Fairbank, *supra* note 90, at 2–4; Wang Yuan-kang, *supra* note 95, at 7–18, 39–41.

¹¹³ See Zhang Feng, *supra* note 90, at 554; Fairbank, *supra* note 90, at 2.

¹¹⁴ See Fairbank, *supra* note 90, at 2; Li Zhaojie, *supra* note 94, at 25.

historically also included present-day Qinghai and portion of Sichuan) (see Map 1.2).¹¹⁵

In other words, Inner Asia covered the vast traditional non-Chinese areas on the northeast, north, northwest, and west of the Chinese heartlands or the so-called China Proper (see Map 1.2). Moreover, according to James A. Millward, Xinjiang is also regarded as part of Islamic “Central Asia” and thus “falls within a zone of overlap between Inner and Central Asia.”¹¹⁶ Historically, the Chinese people had long and often unpleasant relations with various non-Chinese Inner Asian peoples, who frequently raided Chinese frontiers and even conquered and incorporated parts or all of China into their non-Han conquest empires, as will be discussed in later chapters.

The definition and scope of historical “East Asia” might be problematic and varied significantly. Charles Holcombe suggests to define East Asia as a more or less “culturally and historically coherent region” and notes that:

In historical terms . . . and especially in consideration of shared premodern culture, East Asia is most usefully defined as that region of the world that came to extensively use the Chinese writing system, and absorbed through those written words many of the ideas and values of what we call Confucianism, much of the associated legal and political structure of government, and certain specifically East Asian forms of Buddhism.¹¹⁷

¹¹⁵ E.g., JAMES A. MILLWARD, *BEYOND THE PASS: ECONOMY, ETHNICITY, AND EMPIRE IN QING CENTRAL ASIA, 1759–1864*, at xx, 2 (1998); FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, 25 (1999).

¹¹⁶ MILLWARD, *supra* note 115, at xx, 2.

¹¹⁷ CHARLES HOLCOMBE, *A HISTORY OF EAST ASIA: FROM THE ORIGINS OF CIVILIZATION TO THE TWENTY-FIRST CENTURY* 3 (2nd ed. 2017).

However, the present largest East Asian country, China, i.e., the People's Republic of China (PRC), also rules much of Inner Asia (see Map 1.16) and that makes some regard Inner Asia as part of East Asia. Consequently, now the term East Asia usually refers to the region that constitutes the present-day PRC, Japan, Korea, Taiwan, and sometimes also the modern state of Mongolia (see Map 2.1), covering areas that are much larger than the traditional Chinese cultural sphere.

Because Inner Asia had long been culturally and territorially distinct from China, it is better to use the term East Asia exclusively for the past Chinese cultural zone in the historical context. Accordingly, East Asia is used in this study to cover the areas of historical China (i.e., China Proper), Korea, Japan, Ryukyu (present-day Okinawa), and, additionally, Annam (northern Vietnam) (see Map 2.1). Although modern Vietnam is geographically classified as a Southeast Asian country, Annam had been part of several Chinese empires for nearly a millennium until around 939 (see Maps 1.5–1.7). Even after its independence, Annam continued to be highly influenced by the Chinese culture. It is, therefore, better to regard historical Annam as an overlap between East and Southeast Asia.

Pre-modern China also had long political, cultural, and economic ties with other Southeast Asian polities. Nonetheless, imperial China had never established hegemony

in Southeast Asia, despite that the Chinese Ming Empire once extended its tributary diplomacy to the region.¹¹⁸ After conquering China, the Manchu Qing Empire also established tributary relations with various Southeast Asian states. As R. James Ferguson observes, “[tributary] trade networks linked China into the wider Indo-Asian maritime trading system” before the networks were “gradually displaced by European naval powers.”¹¹⁹ These European powers (often narrated as “imperialist” countries) brought Asia the Western-originated international law and diplomatic frameworks, which had by the late 19th and early 20th centuries ended and replaced the Chinese-style *Tianxia* order and tributary systems in Asia.

2.4.2 The East and Inner Asian Order Was Less Often “Hierarchical”

The international politics in what the Chinese perceived as *Tianxia* was rarely in practice “hierarchical” with Chinese empires at the center.¹²⁰ In fact, even China itself was more often divided and weak than unified and strong during the so-called imperial era.¹²¹ Consequently, the regional order in *Tianxia* was less often unipolar (even

¹¹⁸ R. James Ferguson, *China’s Long-Term Relations with Southeast Asia: Beyond the Pivot*, 10 (No. 1) CULTURE MANDALA: THE BULLETIN OF THE CENTRE FOR EAST-WEST CULTURAL AND ECONOMIC STUDIES 5, 5–8 (2012).

¹¹⁹ *Id.* at 8–9.

¹²⁰ Alexander L. Vuving, *Operated by World Views and Interfaced by World Orders: Traditional and Modern Sino-Vietnamese Relations*, in NEGOTIATING ASYMMETRY: CHINA’S PLACE IN ASIA 73, 76 (2009); Hui, *supra* note 88, at 58–59.

¹²¹ Hui, *supra* note 88, at 58–59.

counting in the periods of the “non-Chinese” Mongol and Manchu dominations in the regions) and more often had two or more major powers competing for hegemony.¹²²

In reality, even the unified Han Chinese empires were not always powerful enough to dominate all the surrounding non-Han regions, not to mention when China was divided and weak. Though unwillingly, several unified Chinese empires sometimes had to treat their powerful northern or western neighbors as equal adversaries, as seen in, for example, the relations of the Han Dynasty with the Xiongnu Empire, the Tang Dynasty with the Turkic (Tujue) Empire and the Tibetan (Tufan) Empire, and the Northern Song Dynasty with the Khitan Liao Empire and the Jurchen Jin Empire (see Tables 1.1–1.3). After losing North China, the first Southern Song emperor was even compelled to accept his inferior status as a tributary “vassal” (*chen*) of the Jin emperor in order to make peace with the Jurchens.¹²³ Nevertheless, fairly speaking, when imperial China was united and powerful, the tributary diplomacy and the vassal-suzerain relationships could largely secure China’s regional hegemony and exclude formal equality with the surrounding non-Chinese weaker polities, which would have to accept Chinese terms in order to develop relations with China.¹²⁴

¹²² Wang Yuan-kang, *supra* note 95, at 8–9; Vuving, *supra* note 120, at 76.

¹²³ Yang Lien-Sheng, *supra* note 1, at 20–21.

¹²⁴ See Fairbank, *supra* note 93, at 137; Zhang Feng, *supra* note 90, at 550.

Thus, as Wang Gungwu points out, the “old rhetoric of [non-Chinese] submissions and tribute” must be “based on [China’s actual] strength” and “was meaningless during periods of weakness and disorder.”¹²⁵ Wang further notes that “at times [the idea of Chinese superiority] was clearly myth, a sustaining and comforting myth, but equally clearly at other times it was reality, a reality that nurtured cultural pride but also called for moral restraint.”¹²⁶ In short, as similarly observed by Zhang Feng, “[t]he effect of the sinocentric assumption on actual [Chinese] policymaking was thus conditioned by power realities.”¹²⁷

Nonetheless, the popular belief of long-lasting “Chinese” domination in East and Inner Asia is quite a historical myth that is largely and mistakenly based on the “non-Chinese” Mongol and Manchu hegemony in the regions. Moreover, not only Chinese empires had adopted the tributary system, but several non-Chinese Asian empires and states also imitated the Chinese practice and created their own “Chinese-style regional orders” in various parts of Asia. As Ren Xia notes,

In fact, paying tribute used to be a widespread practice in Asian inter-state relations, not only between China and other Asian countries, but also among other Asian states, to promote trade and manage ties with stronger states. . . . The

¹²⁵ Wang Gungwu, *The Rhetoric of a Lesser Empire: Early Sung Relations with Its Neighbors*, in *CHINA AMONG EQUALS: THE MIDDLE KINGDOM AND ITS NEIGHBORS, 10TH–14TH CENTURIES* 47, 57 (Morris Rossabi ed., 1983).

¹²⁶ Wang Gungwu, *Early Ming Relations with Southeast Asia: A Background Essay*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 34, 36 (John K. Fairbank ed., 1968).

¹²⁷ Zhang Feng, *supra* note 90, at 555.

various tributary connections in Asia formed different webs, both big and small. The real picture was not just one big web as was often mistakenly described or understood, but rather a network of multiple webs. Another good example is that, while the Vietnamese ruler claimed himself a subject vis-à-vis the Chinese emperor, he also proclaimed himself to be an emperor vis-à-vis the rulers of several smaller kingdoms in the region.¹²⁸

However, when non-Chinese empires or states formed their tributary webs, their tributary systems might function differently from the Chinese ones in some respects. For example, the imperial gifts received from the Chinese Emperor were typically more valuable than the tributary goods brought to the Chinese court. Moreover, as discussed later, the tributary trade with the Chinese empires was also extremely profitable for the non-Chinese tributary rulers. In contrast, the imperial gifts granted by the Manchu Emperor were much less in value than the Korean tributary goods submitted to the early Qing court, and, moreover, the tributary trade with the early Qing Empire caused a huge economic loss to the Korean government.¹²⁹ In other words, as will be clear later, while the Chinese empires often offered economic benefits to lure tributes and sometimes even buy peace with so-called “tributaries,” the non-Chinese conquest empires and states tended to use their military might to gain economic profits from their tributary systems.

¹²⁸ Ren Xiao, *Traditional Chinese Theory and Practice of Foreign Relations: A Reassessment*, in CHINA AND INTERNATIONAL RELATIONS: THE CHINESE VIEW AND THE CONTRIBUTION OF WANG GUNGU 102, 105–06 (Zheng Yongnian ed., 2010).

¹²⁹ Chun Hae-Jong, *Sino-Korean Tributary Relations in the Ch'ing Period*, in THE CHINESE WORLD ORDER: TRADITIONAL CHINA'S FOREIGN RELATIONS 90, 102–10 (John K. Fairbank ed., 1968).

2.4.3 The Motivations to Maintain the Sino–Foreign Tributary Relations

Although imperial China indeed preferred tributary relations, the Chinese external relations were not always based on the tributary framework. There must be constant and concrete motivations for both the Chinese and the non-Chinese sides to establish and maintain any Sino–foreign relations.¹³⁰ Non-Chinese rulers sent diplomatic missions to the Chinese court for various reasons such as seeking economic profits, diplomatic recognition, and security protection, as well as establishing regional domination. Likewise, besides the affirmation of Chinese centrality and superiority, the Chinese rulers also desired foreign tributes for purposes of increasing imperial legitimacy, strengthening frontier defense, gaining strategic resources, and so forth.¹³¹ Some of the motivations mentioned above will be further examined in later chapters. The following discussion will focus on the economic, recognition, and security motivations.

2.4.3.1 Economic Motivation: Tributary Trade and Imperial Gifts

It is well observed that the Chinese empires deliberately used trade privileges and imperial gifts to encourage foreign tributes, and indeed, non-Chinese rulers sent diplomatic missions to China primarily for the substantial and guaranteed economic profits made from trade and gifts. Traditionally, although China also needed some

¹³⁰ See Fairbank, *supra* note 93, at 135–39; Ren Xiao, *supra* note 128, at 106–09.

¹³¹ Zhang Feng, *supra* note 90, at 563–72; Ren Xiao, *supra* note 128, at 107–09.

strategic resources from abroad (e.g., horses from Inner Asia), the Chinese empires tended to regard foreign trade as unnecessary and unworthy due to China's highly self-sufficient economy and their desire to safeguard Chinese culture from "barbarian pollution."¹³² Nonetheless, while often restraining external trade, the Chinese empires were still willing to use trade as "imperial bounty" to attract foreign tributes.¹³³ That is why the tribute missions to China normally included merchants. These non-Chinese merchants were allowed to exchange goods in designated markets at the Chinese frontiers or in the capital, and they often monopolized the foreign trade with China.¹³⁴ As Fairbank and S. Y. Têng (Têng Ssu-yü) observe,

Thus we might conclude that trade and tribute were cognate aspects of a single system of foreign relations, the moral value of tribute [e.g., the foreign recognition of the Chinese emperor's supremacy] being the more important in the minds of the rulers of China, and the material value of trade in the minds of the [non-Chinese] barbarians From this it might be concluded further that the tributary system really worked in reverse, the submission of the barbarians being actually bought and paid for by the trade conceded to them by China.¹³⁵

Besides trade privileges, the Chinese Emperor also granted imperial gifts (such as precious and rare items) to the tributary rulers and some members of the tribute missions.

¹³² See Wang Yuan-kang, *supra* note 95, at 6–7; Fairbank, *supra* note 93, at 139; JIANG YONGLIN, *supra* note 107, at 112, 119–22, 140.

¹³³ Fairbank & Têng, *supra* note 109, at 140–41.

¹³⁴ Fairbank, *supra* note 93, at 138.

¹³⁵ Fairbank & Têng, *supra* note 109, at 140–41.

These imperial gifts were much more valuable than the tributary goods, making tribute missions to the Chinese court very profitable for the foreign rulers.¹³⁶

Unsurprisingly, many foreign merchants pretended to be tribute envoys in order to make fortunes. However, what might surprise us is that although the Chinese officials well acknowledged the real situation, they often did not bother to expose it.¹³⁷ For example, as Joseph F. Fletcher comments on the “phony” tribute missions in Ming times,

The Chinese authorities were happy to be deceived. The emperor’s prestige was not enhanced if his ministers exposed the real nature of his “vassals” As a result, counterfeit embassies bearing counterfeit credentials rode back and forth regularly to the Chinese court. Merchants and ministers alike were parties to what could only have been an open secret, and indeed the trade motives of these embassies could have been no secret at all, since the very “tribute” memorials often specified the gifts wanted in exchange.¹³⁸

Regardless of their actual motives, all the foreign embassies to China were generally labeled as “tribute missions” in the Chinese records to suit the court’s Sino-centric worldview. Nevertheless, as Zhang Feng points out, “[t]ribute embassies did not always imply submissions to the Chinese emperor and neither can they all be explained by the trade motive.”¹³⁹ Economic motivation, though important, was not the only incentive

¹³⁶ *Id.*; Fairbank, *supra* note 93, at 135; Wang Yuan-kang, *supra* note 95, at 6; GE JIANXIONG, *supra* note 109, at 87–88.

¹³⁷ Fairbank, *supra* note 93, at 138; Joseph F. Fletcher, *China and Central Asia, 1368–1844*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 206, 208–09 (John K. Fairbank ed., 1968).

¹³⁸ Fletcher, *supra* note 137, at 208.

¹³⁹ Zhang Feng, *supra* note 90, at 566.

for the non-Chinese polities to join the Chinese tributary orbit, nor could the economic motivation well explain the Chinese eagerness for foreign tributes. As shown below, the recognition and security motivations also played crucial roles for both the Chinese and non-Chinese rulers to establish and maintain tributary relations.

2.4.3.2 Recognition and Security Motivations: Regime Legitimacy, Frontier Defense, and Regional Stability

Like the state and government in modern times, the state/polity and ruler in historical Asia also had motivations, if not needs, to obtain diplomatic recognition of their regime legitimacy (or using modern terminology, “sovereignty”) to rule their respective territories.¹⁴⁰ When those big and small regional tributary systems took shape during various periods of Asian history, they could serve as the workable vehicles for mutual recognition among the Asian polities and rulers. Apparently, this practice was quite analogous to the “recognition of State” and the “recognition of government” in modern international relations.¹⁴¹ Considering that aggression and conquest have only recently been universally outlawed, it could be assumed that the incentives to gain diplomatic recognition were stronger for the historical Asian polities than for the present states.

¹⁴⁰ See DAVID CHAN-OONG KANG, *EAST ASIA BEFORE THE WEST: FIVE CENTURIES OF TRADE AND TRIBUTE* 26 (2010).

¹⁴¹ See SUN YURONG, *supra* note 42, at 72–75.

According to Zhang Feng, “the need for legitimation compelled Chinese rulers to seek tributes from foreign rulers to demonstrate their status as the Son of Heaven.”¹⁴² As might be expected, such a need was particularly high when a new Chinese empire was established, or a new Chinese emperor seized the throne by usurpation.¹⁴³ For example, for the Ming founding emperor, Ming Taizu (r. 1368–98), his initial concern on external relations was to gain foreign recognition of his newly-established Ming Empire and Emperorship following his ending of the Mongol rule in China.¹⁴⁴ The eagerness to obtain foreign recognition well explains why Ming Taizu was willing to confer the title of “King of Annam” to the Vietnamese ruler in 1370, while the Ming court was fully aware that the Vietnamese rulers had long styled themselves as the “Emperor of Dai Viet” and used their own “era names” in Annam. Ming Taizu and the subsequent Ming Emperors could turn a blind eye to that, as long as Ming era names (*nian hao*) were used in the Vietnamese diplomatic communications to Ming China, showing how flexible and symbolic a Chinese “investiture” to a non-Chinese ruler could be.¹⁴⁵ As another example, Ming Chengzu (r. 1402–24), as a usurper, was also eager for tributary missions to enhance his legitimacy, since his bureaucrats and subjects believed that a good

¹⁴² Zhang Feng, *supra* note 90, at 571.

¹⁴³ 8 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 2, at 222, 303–04 (Denis Twitchett & Frederick W. Mote eds., 1998) [hereinafter 8 CAMBRIDGE]; Zhang Feng, *supra* note 90, at 563.

¹⁴⁴ 8 CAMBRIDGE, *supra* note 143, at 303–04; Zhang Feng, *supra* note 90, at 563.

¹⁴⁵ Fuma Susumu, *supra* note 110, at 3–4, 15–16.

emperor would naturally attract barbarians to come and offer tributes.¹⁴⁶ Consequently, besides asking the Ministry of Rites, which handled foreign relations, to dispatch envoys to various states and polities, Chengzu sent the palace eunuch Zheng He to command the maritime expeditions to the “Western Ocean” (i.e., Indian Ocean) region to announce his enthronement, seeking more foreign rulers to recognize his usurpation of the Chinese throne.¹⁴⁷

Furthermore, the Chinese Emperor also had a security-related motivation to maintain the tributary and investiture relations with the neighboring non-Chinese rulers. The Chinese notion of “defense through *Siyi*” (*shou zai Siyi*), i.e., “defense through the barbarians of the four quarters,” appeared as early as in 519 BCE during the Spring and Autumn period. It became an established security doctrine in Han times (202 BCE–220 CE) and was generally (though not always) observed by the subsequent Chinese empires and emperors.¹⁴⁸ As Gui Yanliang (a senior official in early Ming times) summarized this security doctrine:

A great Son of Heaven would defend [*Zhongguo* (i.e., China)] through *Siyi* [i.e., the barbarians of the four quarters]. Conciliating the barbarians with virtue, subduing them with strength, and making the barbarians defend their own territories are the best strategy [for China]. Han Wudi [r. 141–87 BCE] waged

¹⁴⁶ 8 CAMBRIDGE, *supra* note 143, at 222.

¹⁴⁷ SACRED MANDATES, *supra* note 61, at 67–69.

¹⁴⁸ Fang Tie, *Gu Dai “Shou Zhong Zhi Bian” [and] “Shou Zai Si Yi” Zhi Bian Si Xiang Chu Tan [A Study on the Thoughts of Borderland Administration in Ancient China]*, 16 (No. 4) ZHONG GUO BIAN JIANG SHI DI YAN JIU [CHINA’S BORDERLAND HISTORY AND GEOGRAPHY STUDIES] 1, 1–8 (2006) (China).

external wars frequently and that only exhausted *Zhongguo* without really bringing any benefit. Sui Yangdi [r. 604–18 CE] invaded Korea but that in turn resulted in uprisings back at home in *Zhongguo*. Even an emperor as wise as Tang Taizong [r. 626–49] regretted invading Korea. Those were all enlightening lessons; the key was achieving defense through *Siyi*.¹⁴⁹

In other words, the doctrine of “defense through *Siyi*” also incorporated the principle of *Hua–Yi* distinction (which urged to keep China in the center and the barbarians in the outer) and a policy of non-aggression (which held that China should not waste Chinese lives and resources to conquer the neighboring barbarians and their useless lands). Accordingly, the best way to defend China and to maintain *Tianxia* order was not to conquer the surrounding barbarians but to keep “proper” (e.g., tributary and investiture) relations with them, making them defend their own lands, and so defend indirectly China’s security and regional stability.¹⁵⁰ A good example of the application of the non-aggression principle would be the Ming founding emperor’s proclamation of the policy of “the barbarians not to be invaded” (*bu zheng zhu yi*; commonly known as *bu zheng zhi guo*), that explicitly prohibited his successors from invading several neighboring countries and areas.¹⁵¹ According to Ren Xiao, the traditional Chinese

¹⁴⁹ Translated in Ren Xiao, *supra* note 128, at 107 (with my modifications); cited in Fang Tie, *supra* note 148, at 3.

¹⁵⁰ Ren Xiao, *supra* note 128, at 107–08; Fang Tie, *supra* note 148, at 1–8.

¹⁵¹ 8 CAMBRIDGE, *supra* note 143, at 311–12; EDWARD L. FARMER, ZHU YUANZHANG AND EARLY MING LEGISLATION: THE REORDERING OF CHINESE SOCIETY FOLLOWING THE ERA OF MONGOL RULE 119–21 (1995).

doctrine of “defense through *Siyi*” shared similarities with the notion of maintaining “buffer states” in modern international relations.¹⁵²

There were also recognition and security motivations for China’s neighbors to participate in the Chinese tributary orbit, especially when they were small and weak and when China was unified and powerful. By establishing tributary relations with the Chinese Emperor, the non-Chinese rulers received Chinese recognition of their legitimacy to rule their territories. They could continue to govern their domestic affairs (and generally, also their foreign affairs) independently without any Chinese intervention and taxation, and moreover, they also obtained explicit or implicit assurance that China would not conquer or invade their domains arbitrarily.¹⁵³ The above mutual understandings and norms between the pre-modern Asian tributaries and tribute recipients highly resembled what we now call the principles of non-intervention and non-aggression. Thus, for example, in Ming times the “[t]ributary status was in practice an agreement by the Ming not to invade and by the [tributary] ruler not to launch a military attack [against China].”¹⁵⁴ Furthermore, in principle (but not necessarily in practice), as the Chinese Emperor’s nominal “outer vassals” (*wai chen*), tributary rulers (particularly those who were invested by and had closer relations with the Chinese Emperor) could acquire

¹⁵² Ren Xiao, *supra* note 128, at 108.

¹⁵³ *See Id.* at 106–08; Fuma Susumu, *supra* note 110, at 2.

¹⁵⁴ SACRED MANDATES, *supra* note 61, at 62.

Chinese protection and assistance against domestic revolt, foreign invasion, natural disaster, and so on.¹⁵⁵

The tributary system provided norms for “maintaining [proper] distance as well as contact” between the Chinese (*Hua*) empires and the non-Chinese (*Yi*) states/polities, and “the rules of the system could fairly be called the [essential] body of Confucian law of nations.”¹⁵⁶ The tributary system served various purposes but did not function as a means for Chinese territorial expansion.¹⁵⁷ The system promoted mutual regime recognition and thus sought to maintain the regional stability and the status quo of the Sino–foreign borders. Now, we turn to the question of how the Chinese empires defined their dynastic territories and boundaries.

2.5 The Dynastic Territories of Chinese Empires

2.5.1 “Including China (*Nei Zhongguo*) and Excluding Barbarians (*Wai Yi Di*)”

Although the Chinese imperial ideology held that the Chinese Emperor as the Son of Heaven (*Tianzi*) was presumably the “universal ruler” of the world, every Chinese empire saw itself as a territorially “limited dynasty” rather than, as some scholars suggest, a

¹⁵⁵ Li Zhaojie, *supra* note 94, at 56; Fuma Susumu, *supra* note 110, at 2; Ren Xiao, *supra* note 128, at 108.

¹⁵⁶ SACRED MANDATES, *supra* note 61, at 62–64.

¹⁵⁷ GUNGWU WANG, CHINA AND SOUTHEAST ASIA: MYTHS, THREATS AND CULTURE 65 (1999).

“universal empire.”¹⁵⁸ When dealing with the *Hua–Yi* relations, the Chinese Emperors usually adopted what might be called a formula of “reigning but not governing” (*tong er bu zhi*), which only sought nominally to “reign” over the barbarian lands through the non-Chinese tributary rulers, rather than actually “govern” them by the Chinese imperial government.¹⁵⁹

Consequently, the Chinese empires generally had no interest to annex the neighboring barbarian domains nor claimed them as part of the dynastic territories. The *Hua–Yi* distinction unambiguously called for, as an old Confucian saying goes, “including China (*nei Zhongguo*, or *nei zhu Xia*) and excluding barbarians (*wai Yi Di*).”¹⁶⁰ According to Lien-Sheng Yang, although the Chinese terms *nei* (internal or inner) and *wai* (external or outer) could be used “in a relative sense” (e.g., “the inner-inner, the outer-outer, and so forth”), it “does not mean that there were no boundaries between China as a state (*Chung-kuo* [i.e., *Zhongguo*]) and its neighbors or satellites.”¹⁶¹ As Yang further points out,

The histories record numerous cases of dispute and settlement concerning boundaries. As the Han emperor once reminded the Hsiung-nu [i.e., Xiongnu] ruler, frontier boundaries (*sai*) were maintained not only to defend against

¹⁵⁸ But see Zhang Feng, *supra* note 90, at 571 (noting that there was a “[Chinese] historical tradition of perceiving China as the universal empire encompassing this [broadly-defined] tianxia”).

¹⁵⁹ See Ren Xiao, *supra* note 128, at 105.

¹⁶⁰ CHEN WUTONG, *GU DAI MIN ZU GUAN XI LUN GAO* 143–44 (Beijing, Zhong Yang Min Zu Da Xue Chu Ban She 2006) (China).

¹⁶¹ Yang Lien-Sheng, *supra* note 1, at 21–22.

invaders but also to prevent Chinese rascals from going out. Of course, the boundary need not always be a line. It might be a belt of land in which both sides refrained from occupancy and cultivation . . . or a buffer state. It was also possible for the Chinese emperor to declare a boundary unilaterally. For instance, Sung T'ai-tsu [i.e., Song Taizu (r. 960–976)] is said to have used a jade ax to draw a line on the map along the Ta-tu [i.e., *da-du*] river in Yunnan and to have announced, “The territory beyond the line shall not be ours.”¹⁶²

In some cases, the Chinese empires (such as the Tang, Song, and Ming) even had to sign treaties or agreements to make peace and delimit the borders with their powerful or rising non-Chinese neighbors.¹⁶³ Nevertheless, the most famous pre-modern Chinese territorial boundary was, of course, the Great Wall(s) built and rebuilt by various Chinese dynasties to defend China from the northern “barbarians” (for the Ming Great Wall, see Map 1.12).

In practice, the native Chinese empires generally sought to maintain dynastic boundaries that could keep the Chinese in the center and the barbarians in the outer.¹⁶⁴ As Xiaoyuan Liu observes,

Nowadays digitization of information enables us to research Chinese classics more easily than before. In the classical “twenty-four [standard] histories,” the [Chinese] character [*jiang*], which represents boundaries of various types, appears in total 1,746 times. *Song Shi* (history of the Song Dynasty) uses it most frequently (446 times), and *Ming Shi* (history of the Ming Dynasty) ranks the second (321 times). It is interesting that [*Zhongguo* or Central Kingdom] shows

¹⁶² *Id.* at 22.

¹⁶³ Shigeki Miyazaki, *supra* note 48, at 216; WANG YUAN-KANG, HARMONY AND WAR: CONFUCIAN CULTURE AND CHINESE POWER POLITICS 86, 89 (2011); PAMELA KYLE CROSSLEY, A TRANSLUCENT MIRROR: HISTORY AND IDENTITY IN QING IMPERIAL IDEOLOGY 169 (1999).

¹⁶⁴ See Yang Lien-Sheng, *supra* note 1, at 21–22.

the same situation, appearing in *Song Shi* most frequently (343 times) and then in *Ming Shi* (276 times). In most of these occasions, [*Zhongguo*] appears vis-a-vis [*siyi* or four barbarians] and occupies a central and lofty position. . . . During the Song Dynasty, the dynastic domain rarely went beyond the Han-Chinese ethnographic zone. Founders of the Ming Dynasty started their dynasty[-]making with an oath of “restoring China,” but eventually the Great Wall delimited the political domain of the Ming The fact that [*jiang*] and [*Zhongguo*] appear frequently in the formal histories of the Song and Ming Dynasties may just reflect these dynasties’ strong Chinese, ethnic mindset and their predicament in facing constant challenges from the north.¹⁶⁵

Indeed, the native Chinese empires often tied themselves to a Han Chinese geographical core, known as China Proper. When they were powerful, the Chinese empires might expand their frontiers slightly for some strategic reason. However, they did not generally pursue permanent conquests of the neighboring enormous “barbarian” domains, in particular, the Inner Asian steppe, desert, and plateau regions that were not suitable for agriculture. In short, holding the *Hua–Yi* distinction, the Chinese empires sought to keep the Han Chinese traditional lands at the center and the barbarian realms on the outside. Otherwise, without the boundary that separated the center from the outer, there would be no Chinese “central state” or *Zhongguo* at all.

¹⁶⁵ Xiaoyuan Liu, *From Five “Imperial Domains” to a “Chinese Nation”: A Perceptual and Political Transformation in Recent History*, in *ETHNIC CHINA: IDENTITY, ASSIMILATION, AND RESISTANCE* 3, 5 (2015).

2.5.2 The Chinese Dynastic Territories Were Defined by the “Registered and Mapped Domains” Under Effective Imperial Control and Governance

The Chinese historical maps and records, e.g., the officially recognized “standard histories” (*zheng shi*), provided detailed information on the Chinese dynastic “territory” (*jiangyu*), showing clearly that every Chinese dynasty’s territory was not infinite but limited to the areas under the effective imperial control and governance. For example, the “treatises on geography” (*dili zhi*) of the *Old History of the Tang* (*Jiu Tang Shu*; presented in 945), *New History of the Tang* (*Xin Tang Shu*; presented in 1060), *History of the Song* (*Song Shi*; presented in 1345), and *History of the Ming* (*Ming Shi*; presented in 1739) unambiguously provided the easternmost, westernmost, southernmost, and northernmost points of the dynastic territories of the Tang, Song, and Ming during their heights or stable periods, and even compared them with those of some earlier dynasties such as the Han and Sui.¹⁶⁶ Rather than arbitrarily claiming the Chinese dynastic territories, the above-mentioned standard histories showed that the territories of the native Chinese empires were consistently defined by the “registered and mapped domains”

¹⁶⁶ LIU XU ET AL., *JIU TANG SHU* [OLD HISTORY OF THE TANG], vol. 2, juan 38, at 1131–39 (Huang Yongnian et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (945) (China) [hereinafter *JIU TANG SHU*]; OUYANG XIU ET AL., *XIN TANG SHU* [NEW HISTORY OF THE TANG], vol. 2, juan 37, at 757–58 (Huang Yongnian et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1060) (China) [hereinafter *XIN TANG SHU*]; TUOTUO ET AL., *SONG SHI* [HISTORY OF THE SONG], vol. 3, juan 85, at 1671–74 (Ni Qixin et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1345) (China) [hereinafter *SONG SHI*]; ZHANG TINGYU ET AL., *MING SHI* [HISTORY OF THE MING], vol. 2, juan 40, at 635–37 (Zhang Peiheng et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1739) (China) [hereinafter *MING SHI*].

(*bantu*), which were generally administered by the household registration (*huji*) system and organized into “regular” (*zheng*) administrative units, e.g., superior prefectures (*fu*), prefectures (*zhou*), and counties (*xian*), under the commandery–county (*jun–xian*) system.¹⁶⁷

The populations and lands of these registered and mapped domains were subject to the empire’s household registration and landholding systems respectively, which served as the bases for tax, corvée, and military service assessments, as well as the means for social control and security.¹⁶⁸ As Yongtao Du notes,

Imperial China’s household registration system usually recorded such household information as the number of adult males, landholdings, and other properties in the state books. It was the primary means of state control over population – a most precious resource in an agrarian society. Since the household was subject to the two main categories of taxation – labor conscription and land-tax – the household registration system was crucial for fixing the tax base and laying the foundation of the imperial state’s fiscal soundness. The importance of the household can be illustrated by the fact that, for the greater part of imperial history, law codes regulating such important issues as land-holding, property, and taxation were all put under the rubric ‘household laws’ [*hulu*].¹⁶⁹

Moreover, as discussed in later chapters, there were also some “frontier garrisons” (e.g., the “Protectorate to Pacify the West” or *Anxi Duhufu* in Tang times) and “frontier

¹⁶⁷ See JIU TANG SHU, *supra* note 166, vol. 2, juan 38–41, at 1131–1386; XIN TANG SHU, *supra* note 166, vol. 2, juan 37–43, at 757–901; SONG SHI, *supra* note 166, vol. 3, juan 85–90, at 1671–1822; MING SHI, *supra* note 166, vol. 2, juan 40–46, at 635–905.

¹⁶⁸ WILKINSON, *supra* note 2, at 262, 285–88.

¹⁶⁹ YONGTAO DU, THE ORDER OF PLACES: TRANSLOCAL PRACTICES OF THE HUIZHOU MERCHANTS IN LATE IMPERIAL CHINA 165 (2015).

garrison regions” (e.g., the “Liaodong Regional Military Commission” or *Liaodong Dusi* in Ming times), which were under Chinese military rule but nonetheless formed parts of the Chinese dynastic territories. However, sometimes there were also what could be called “overseas military posts” (such as the “Protectorate to Pacify the Western Regions” or *Xiyu Duhufu* in Han times) that were surrounded by foreign lands and far beyond the Chinese borders, functioning virtually as “militarized embassies” to keep an eye on the neighboring barbarian regions.¹⁷⁰

Arguably, the Chinese dynastic territories were defined, not arbitrarily, but consistently by a customary rule that closely resembled the principle of effective control under modern European international law. The origin of this Chinese counterpart of the principle of effective control can be traced back to the ancient Chinese interstate law of the “pre-imperial” multistate era, during which the states’ governments were centralized, boundaries became hardened, territories were converted into directly administered units, and populations were placed under the household registration. Other pre-modern, sedentary Asian states in the traditional Chinese cultural zone (such as Vietnam and Korea) most likely also had a similar territorial concept and defined their territories according to the geographic limits of their effective control and administration.

¹⁷⁰ See BAN GU ET AL., *HAN SHU* [HISTORY OF THE HAN], vol. 3, juan 96, at 1937–38 (An Pingqiu et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (96) (China) (Series: *Er Shi Si Shi Quan Yi* [The Complete Translation of the Twenty-Four Histories]).

2.5.3 The Nominal “Loose-Rein” (*Jimi*) Districts and Other Tributary Areas Were Not Parts of the Chinese Dynastic Territories

Although the domains of the nearby tributaries might fall into the Chinese empire’s sphere of influence, they neither became nor were claimed as Chinese dynastic territories. While providing various (e.g., ideological, diplomatic, trade, and defensive) functions, the Chinese tributary system was not a means for territorial expansion. As Wang Gungwu summarizes the designs and purposes of the tributary system,

The system was primarily based on rhetoric and a set of rules governing relationships between the Chinese Emperor as Son of Heaven and all those who sought a connection with him. It was designed to meet an ancient cosmological ideal; it was relatively useful for purposes of defence, and it served as a control mechanism for the regulation of foreign trade. Despite the grandiose language, the tributary system has never represented any territorial ambitions beyond the frontiers of China.¹⁷¹

In addition to granting official titles to some tributary non-Chinese rulers, various Chinese empires such as the Tang, Song, and Ming also nominally named the territories of some tributary states and tribes as the *jimi* (lit. bridle and halter) or “loose-rein” districts, which, however, neither became nor were claimed as the Chinese dynastic territories.¹⁷² Though varied in size and location, these loose-rein areas were all

¹⁷¹ WANG, *supra* note 157, at 65.

¹⁷² See Yang Lien-Sheng, *supra* note 1, at 31–33; Ren Xiao, *supra* note 128, at 105, 107; GE JIANXIONG, *supra* note 109, at 89–91.

populated by non-Chinese people, remained independent in domestic affairs, and continued to be governed by their own native and hereditary kings or chieftains. Moreover, unlike the Chinese regular administrative units, the loose-rein districts were typically not required to enter into the empire's household registers nor pay tax and other levies to the Chinese government.¹⁷³

The Chinese empires unambiguously classified the domains of the tributaries, including the loose-rein districts, as “foreign states” (*wai guo*) or the lands of “barbarians” (*Man*, *Yi*, *Rong*, *Di*, and so on) and did not claim them as parts of the Chinese dynastic territories.¹⁷⁴ Some of the loose-rein units (particularly, those *tusi* or “native offices” in China's southern and southwestern frontiers) were encompassed by the Chinese regular administrative units and became “enclaves” inside the Chinese boundaries.¹⁷⁵ However, according to the Chinese records, most of the loose-rein areas (especially, those in Inner Asia and far-away regions) were beyond the four extreme points of the Chinese dynastic territories and therefore outside the Chinese borders.¹⁷⁶

¹⁷³ GE JIANXIONG, *supra* note 109, at 89–91; Ren Xiao, *supra* note 128, at 107.

¹⁷⁴ JIU TANG SHU, *supra* note 166, vol. 6, juan 194–199, at 4429–4616; XIN TANG SHU, *supra* note 166, vol. 2, juan 43, at 903–927, vol. 8, juan 215–222, at 4583–4864; SONG SHI, *supra* note 166, vol. 16, juan 485–496, at 10367–10584; MING SHI, *supra* note 166, vol. 10, juan 310–332, at 6415–6974.

¹⁷⁵ See JOHN W. DARDESS, *MING CHINA, 1368–1644: A CONCISE HISTORY OF A RESILIENT EMPIRE* 6 (2012).

¹⁷⁶ See *supra* note 174.

In recent decades, the PRC has used the past tributary systems of the Chinese native and non-Chinese conquest empires to build the PRC's historical territorial claims over the traditional non-Han lands in Inner Asia. As discussed in more detail in later chapters, these PRC's "retroactive" territorial claims bear no historical and legal validation because they contradict the relevant past empires' official positions and their geographical limits of effective control.

2.6 Summary and Conclusion

During the Spring and Autumn (770–453 BCE) and the subsequent Warring States (453–221 BCE) periods, ancient China was transformed from a feudal system under the declining Zhou kingship to a multistate system of centralized and independent territorial states. In this transition, as more powerful states annexed the buffer zones and weaker neighbors, the remaining states became larger and larger. Their boundaries were increasingly clear and hardened with the checkpoints, forts, and defensive walls established along the borders. At the same time, the governance of the states underwent significant centralization and bureaucratization. By the Warring States period, the commandery–county (*jun-xian*) system had reorganized the domains of major powers into regular administrative units, which were governed by appointed and non-hereditary officials under the central control. Moreover, the population of each state was recorded

in the household registration (*huji*), allowing the central government to levy tax and corvée and recruit soldiers more effectively.

Contrary to popular assumption, the traditional Chinese concept of state (*guo*) surprisingly resembled the Western modern definition. The state ruler's three "treasures" or *bao* (namely, people, lands, and governmental administration) noted by the ancient Confucian philosopher Mencius (c. 371–c. 289 BCE) were highly similar to the four criteria for statehood (namely, a permanent population, a defined territory, a government, and the capacity to enter into relations with other States) provided by the Montevideo Convention on the Rights and Duties of States (1933). Even before the major Warring State rulers officially claimed kingship in the 4th century BCE, the ancient Chinese states had long since become independent. They had their own population, territory, and central government, and conducted foreign relations with each other, effectively turning China into a multistate system.

In ancient China's multistate era (c. 656–221 BCE; conveniently, 770–221 BCE), in addition to diplomatic communications, ancient Chinese states frequently waged wars, forged alliances, concluded treaties, and traded with each other. The centuries of active interactions naturally developed a body of international or interstate law (at least, a rudimentary one) in ancient China. Although the term "sovereignty" (*zhu quan*) had not

yet traveled from Europe to China, these ancient Chinese states, which possessed plenary and exclusive authority over their internal and external affairs, were indeed “sovereign.” With a few exceptions, they were treated and recognized as equals.

The two primary sources of the ancient Chinese interstate law were custom (*li*) and treaties (*meng*). The custom governed various interstate activities such as diplomatic intercourse, treaty-making, and armed conflicts. These customary rules and principles were formed by general and consistent state practice and accepted by states as normatively binding. Offenses against interstate custom were unlawful and were subject to condemnation and even war. In ancient China, treaties were concluded by state rulers or their representatives through solemn oath rituals, which often involved animal sacrifices and always invoked the wrath of gods to destroy any treaty violator. There were plenty of bilateral treaties (concluded for friendship, trade, mutual defense, marriage alliance, and so forth) and multilateral treaties (often dealing with the affairs of a league of states).

The most effective means for enforcing interstate custom and treaties were the leagues of states (*meng-hui*), which were themselves founded by multilateral treaties. A league of states was led by a powerful state, which was often regarded as a hegemonic (*ba*) power. During the multistate era, it was common for weaker states to pay tributes

to the powerful states to avoid war and obtain protection. Thus, in addition to the compulsory tributes from other members, the leading state of a league usually also received tributes from non-member states, virtually making a league of states into the core of the leading state's tributary network. The leagues of states not only facilitated interstate trade, diplomacy, and cultural exchange, but also provided collective security, peaceful settlement of disputes, and extradition of criminals and traitors for the members.

Undoubtedly, the ancient Chinese interstate law and the leagues of states contributed to the balance of power between the powerful Spring and Autumn states for centuries. However, the intense and constant wars during the Warring States period significantly reduced the effectiveness of the interstate legal order. The Qin's unification of China ended the ancient Chinese multistate system and began the so-called "imperial" era (221 BCE–1912 CE). Nevertheless, an interstate law that treated the Chinese states as equals very likely reappeared in China during the subsequent periods of division. Moreover, sometimes the Chinese empires had to use the interstate rituals to treat powerful non-Chinese states as equals.

Whenever possible, the Chinese empires sought to establish the Sino-centric *Tianxia* law or world order that claimed the Chinese superiority and treated non-Chinese "barbarian" states or other polities as cultural (and even racial) inferiors. The Chinese–

Barbarian (*Hua–Yi*) dichotomy formed the ideological core of the traditional Chinese world order, asserting China as the very center of civilization. At the apex of the hierarchical Chinese *Tianxia* order was *Tianzi* (lit. Son of Heaven) or the Chinese Emperor, who was presumably the “universal ruler” over both the Chinese people and non-Chinese barbarians. It was believed that the Chinese Emperor’s virtue (*de*) power was so great that the non-Chinese barbarians would voluntarily and regularly come to the Chinese imperial court to “be transformed” (i.e., Sinicized) for their own good. Like father and sons, the *Hua–Yi* relations would be unequal but benign. Central to their Sino–foreign relations was *li* (lit. ritual or rites), which, in part, provided norms for proper behavior in their interactions. A foreign violation of the Chinese *Tianxia* ritual was unlawful and even a crime subject to a punitive expedition.

The non-Chinese barbarian rulers were expected regularly, either in person or by envoys, to pay “court visits” (*cho*) and offer their native products as “tributes” (*gong*) to the Chinese Emperor. The relevant rituals, protocols, and applications are now collectively known as the “tributary” (*cho-gong*) system. The submitted tributes and prescribed rituals symbolized the sincerity of the non-Chinese tributary rulers to conform with the hierarchical order represented by the superior Chinese Emperor. In return, the tributary rulers would receive imperial gifts, trade privileges, and, theoretically, also

security protections from the Chinese Emperor. Some tributary rulers would also be conferred with official titles, official seals, and so forth and became the invested outer vassals of the emperor.

In practice, the establishment of a Sino-centric world order was conditioned by power realities. The common belief of long-lasting “Chinese” domination in East and Inner Asia is quite a historical myth. During the imperial era, China itself was more often divided and weak than unified and strong, and the regional order in East and Inner Asia was seldom unipolar with Chinese empires on the top. The Yuan’s and Qing’s centuries-long hegemony was respectively Mongol and Manchu (rather than “Chinese”) domination. More often, two or more powers competed for hegemony, and multiple tributary systems coexisted in the regions. Nevertheless, when sometimes a Chinese empire did establish hegemony in East Asia and beyond, the Chinese *Tianxia* law could exclude formal equality with the tributaries and function as a Sino-centric regional legal order, especially in the Chinese cultural zone.

To maintain Sino–foreign tributary relations, there must be constant and concrete motivations for the two sides. Non-Chinese rulers sent tribute missions to the Chinese court often for trade profits and imperial gifts, but also for diplomatic recognition, security protection, and so on. Likewise, in addition to the affirmation of Chinese

superiority, the Chinese Emperors desired foreign tributes for recognition of their imperial legitimacy, frontier security, acquisition of strategic resources, and so forth. It is worth noting that under the long-held Chinese security doctrine of “defense through *Siyi*,” the best way to defend China was not to conquer the neighboring barbarians but to make them defend their own lands, hence China’s frontier security. In short, through the tributary system, the Chinese empires could maintain proper distance as well as relations with the barbarian states and other political entities.

It would be wrong to assume that the Chinese empire was a universal empire with infinite territory without boundary. Although the Son of Heaven was presumably the universal ruler, the Chinese Emperor actually only governed the Chinese (*Hua*) population and lands by his own dynasty/empire, while nominally reigning over (but not actually governing) the barbarian (*Yi*) domains and peoples. The native Chinese empires generally sought to include the Han Chinese traditional heartlands (known as China Proper) but exclude the barbarian realms (especially, those Inner Asian steppe, desert, and plateau regions not suitable for agriculture) from their dynastic boundaries.

Although their territories (especially the frontiers) sometimes expanded or shrank, at any given time the native Chinese empires, bearing a principle of effective control in mind, knew quite well the geographical limits of their dynastic territories and maintained

fairly well-defined boundaries. As the historical maps and records show, the Chinese dynastic “territories” (*jiangyu*) were not arbitrarily, but rather consistently, defined by the “registered and mapped domains” (*bantu*), which were generally under the empire’s household registration (*huji*), taxation, landholding, and other administrative systems. Except for some military-ruled frontier garrisons and garrison regions, the dynastic territories were typically organized into the “regular” (*zheng*) administrative units (e.g., regular prefectures and counties) of the commandery–county (*jun–xian*) system.

However, the nominal “loose-rein” (*jimi*) districts and other tributary areas did not constitute, nor were claimed by the Chinese empires as, parts of the dynastic territories. These tributary areas, populated by non-Chinese people, remained independent in their affairs, and were governed by their own native and hereditary kings or chieftains. They were beyond the Chinese empires’ actual governance and were classified as foreign states or barbarian lands in the historical records. Although there were some tributary “enclaves” inside China’s southern and southwestern frontiers, it is clear that most of the loose-rein and other tributary areas were outside the Chinese dynastic borders.

To conclude, before the introduction of modern European international law to Asia in the 19th century, there had long been two sets of Chinese-originated “international law” in East Asia and beyond. The first set was the “Chinese interstate law” that originated

from ancient China's multistate era and generally treated the various Chinese states as equals. The Chinese interstate law ceased to exist (or went dormant) in China during the periods of unification but could reappear during the periods of division. Moreover, in some cases, the Chinese empires were demanded and compelled to use the interstate rituals to treat their powerful non-Chinese neighbors as equal adversaries. The other set of international law was the hierarchical "Chinese *Tianxia* law" (more popularly known as the "Chinese world order"), which claimed the Chinese centrality and superiority and treated the non-Chinese tributary states and other polities as inferiors. The actual effectiveness of the Chinese *Tianxia* law was, of course, varied in time, and conditioned by power realities. Some other Asian states in the Chinese cultural zone learned the Chinese practice and sometimes also built their own *Tianxia* orders and tributary webs. Though serving various purposes, the Chinese tributary system did not pursue Chinese territorial expansion into the non-Chinese domains outside China Proper, but promoted mutual recognition of regime legitimacy between Chinese empires and their tributaries, and sought to maintain regional stability and territorial status quo.

The fundamental difference between the two sets of Chinese-originated international law was that the "Chinese interstate law" was meant to regulate the "equal relations" between various Chinese states (but was sometimes extended to powerful non-Chinese

adversaries), whereas the “Chinese *Tianxia* law” was developed to govern the “unequal relations” between the Chinese empires and the non-Chinese barbarian states/polities. Therefore, the non-Chinese populated tributary areas to which the Chinese empires applied *Tianxia* law should by definition not be considered territorially part of the Chinese empires, notwithstanding some of China’s current claims.

Regardless of the rhetoric of the “universal” rulership of the Chinese *Tianzi*, both in theory and practice every Chinese empire was not territorially a universal empire, but a limited dynasty with quite clear boundaries. Throughout China’s imperial era, the Chinese dynastic territories were consistently defined by a customary rule of effective control. The Chinese empires only claimed the effectively controlled and governed “registered and mapped domains” as their dynastic territories. Except for some tributary enclaves inside the Chinese frontiers, the Chinese empires classified the loose-rein and other tributary areas as foreign barbarian domains and outside the Chinese dynastic borders (see Table 2.1). The PRC’s historical territorial claims over some of the past loose-rein and other tributary areas are contrary to the historical facts and the relevant empires’ own official positions and therefore cannot be sustained.

CHAPTER 3

THE KHITAN LIAO EMPIRE (907–1125), TANGUT XIA STATE (C. 982–1227), AND JURCHEN JIN EMPIRE (1115–1234) SONG CHINA AMONG “EQUAL RIVALS”

3.1 Introduction

This chapter exams the period that the Chinese Song Empire (960–1279) entered into treaty relations and had well-defined international boundaries with its northern “non-Chinese” neighbors, namely, the Khitan Liao Empire (907–1125), Tangut Xia State/Empire (c. 982–1227), and Jurchen Jin Empire (1115–1234) (see Tables 1.2 and 1.3). Although they all conquered some Chinese-populated regions, the Liao, Xia, and Jin were all Inner Asian dynasties which were founded outside China Proper (see Maps 1.8 and 1.9).

The Khitan Empire and Tangut State both developed a “dual state name” system. Besides their native state names, the Khitan and the Tangut adopted, respectively, the Chinese-style dynastic names “Great Liao” and “Great Xia,” which should be applied to the entire periods of their hereditary dynasties. Although the Xia rulers usually maintained dual tributary–investiture relation with the Liao and Song emperors, the Tangut Xia remained an independent state, and the Xia territory would not become a part

of the Liao or Song Empire. The possibility of “dual tribute” or even “multiple tribute” well explains why the nominal tributary and investiture relations would not be sufficient for the suzerain states to establish sovereignty over their nominal vassals. Under various bilateral treaties, the Song had obligations to make annual payments (typically, certain amounts of silver and silk) to the Liao, Xia, and Jin. For several decades, the Song’s payments to the Jin were referred to as “tributes,” which, however, were not “taxes” paid to the Jin court.

After their conquests, the Liao, Xia, and Jin became multiethnic states or empires. Both the Liao and Jin had huge Chinese populations, but it would be mistaken to assume that the Khitans and Jurchens faced unavoidable Sinicization. The Liao Khitans and Jin Jurchens continued to be organized into tribal organizations, and they created dual administrative systems to separate themselves and other tribal groups from their Chinese subjects in the Chinese-style local administrative units. Moreover, the ruling Khitans, Tanguts, and Jurchens all created their own native writing systems (see Figure 1.1), and carefully maintained their distinct cultural and ethnic identities, as well as their political and military domination within their territories. The Khitan Liao, Tangut Xia, and Jurchen Jin were never Sinicized into “Chinese” dynasties, nor did their traditional non-Chinese domains in Mongolia and Manchuria become parts of “China.”

3.2 The Khitan Liao Empire (907–1125)

3.2.1 The Creation of the Khitan Liao Empire

The Khitans were a nomadic “Turko-Mongol” people. The Khitan homeland was the Liaoxi steppe (particularly, the upper basin of Xilamulun River) or what later became the Chengde (Rehe) region in the Manchurian-Mongolian borderland (see Maps 1.8 and 1.13).¹ Between the 6th and the mid-9th centuries, the Khitans were either ruled or dominated by the Turks, Chinese, and Uyghurs. After the collapse of the Uyghur Empire in 840, the Khitans were free from their overlord and soon became a substantial regional power.²

In 907 (the same year when the Chinese Tang Empire ended), the Yelü clan’s powerful chieftain, Yelü Abaoji or Liao Taizu (r. 907–26), was elected the new Khitan Khagan (Great Khan) and consequently consolidated a new Khitan Dynasty, known in history as the Liao Empire (907–1125) (see Tables 1.2 and 1.3, and Map 1.8).³ It appears that the standard *History of the Liao* (*Liao Shi*; compiled in 1343–44 by the Mongol Yuan court) translated Abaoji’s Khitan imperial title “Heavenly Khagan” into

¹ FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, at 32–35 (1999); 6 *THE CAMBRIDGE HISTORY OF CHINA, ALIEN REGIMES AND BORDER STATES, 907–1368*, at 44–46 (Herbert Franke & Denis Twitchett eds., 1994) [hereinafter 6 CAMBRIDGE].

² MOTE, *supra* note 1, at 36–37; 6 CAMBRIDGE, *supra* note 1, at 47–53.

³ 6 CAMBRIDGE, *supra* note 1, at 56–60; MOTE, *supra* note 1, at 37–40; KARL A. WITTFOGEL & FÈNG CHIA-SHÈNG, *HISTORY OF CHINESE SOCIETY: LIAO (907–1125)*, at 24–25, 38 (1949).

Chinese as “Heavenly Emperor” (*Tian Huangdi*) and provided that: Abaoji “ascended to the throne of emperor” (*ji huangdi wei*) in 907, and his officials submitted to him the “honorific title” (*zun hao*) of “Heavenly Emperor.”⁴

However, according to the old Khitan custom, a Khitan Khagan should be reelected every three years by the council of Khitan chieftains, though the reelection had become sort of a symbolic ritual. In practice, the leadership of the reigning Khitan Khagan was rarely challenged and almost always reconfirmed every three years. However, the reelection remained a legally required customary procedure.⁵ Moreover, upon the death of a khagan, the succession to khaganship had been commonly passed to the deceased khagan’s brother or cousin, rather than always to his son.⁶

Nevertheless, in 910 and again in 913, Abaoji refused to go through the reelection procedure, apparently, with an intention to build his hereditary Khitan Dynasty. That led to serious rebellions and bloody suppressions, but resulted in Abaoji’s undisputable ruling power and the consolidation of his new empire.⁷

⁴ See TUOTUO ET AL., *LIAO SHI* [HISTORY OF THE LIAO], vol. 1, at 2 (Zeng Zaozhuang et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1344) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]) [hereinafter *LIAO SHI*]; 6 CAMBRIDGE, *supra* note 1, at 60.

⁵ 6 CAMBRIDGE, *supra* note 1, at 61; MOTE, *supra* note 1, at 37; ZHANG ZHENGMING, *QIDAN SHI LUE* [A BRIEF HISTORY OF KHITAN] 19 (Beijing, Zhonghua Shu Ju 1979) (China).

⁶ 6 CAMBRIDGE, *supra* note 1, at 61.

⁷ *Id.* at 62.

3.2.2 Abaoji's Adoptions of the Chinese-style Imperial Title *Huangdi* and Era Name

Abaoji formally adopted the Chinese-style imperial title *huangdi* (August Emperor) and his era name in 916. At the same time, he also proclaimed his eldest son as heir apparent, aiming to legitimize his new dynasty on a more permanent basis.⁸ The standard *History of the Liao* recorded the event and provided that: Abaoji accepted the imperial “honorific title” (*zun hao*) of “Great Saint and Great Bright Heavenly Emperor” (*Da Sheng Da Ming Tian Huangdi*) and adopted his own era name, Shence.⁹ Consequently, some historians date the founding of the Liao Dynasty in 916,¹⁰ but such a view, as discussed below, is not only problematic but also Chinese-biased.

Historically, several Inner Asian imperial titles such as *chanyu* (used by the Xiongnu) and *khagan* (Great Khan; adopted by the Rourans, Turks, Khitans, Mongols, Jurchens/Manchus, and so forth) had long been considered equivalent to the Chinese imperial title *huangdi*.¹¹ Accordingly, Abaoji's Khitan title *khagan* (Great Khan) was regarded as equal to the Chinese title *huangdi*, and that is why the *History of the Liao*

⁸ *Id.* at 62–63; MOTE, *supra* note 1, at 41.

⁹ LIAO SHI, *supra* note 4, vol. 1, at 8.

¹⁰ E.g., ENDYMION PORTER WILKINSON, CHINESE HISTORY: A NEW MANUAL 768 (rev. ed. 2012); 11 ZHONGGUO TONG SHI [A HISTORY OF CHINA], WU DAI LIAO SONG XIA JIN SHI QI (SHANG CE) [THE FIVE DYNASTIES, LIAO, SONG, XIA, AND JIN PERIODS (PART 1)], 222 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 11 TONG SHI].

¹¹ RENÉ GROUSSET, THE EMPIRE OF THE STEPPES: A HISTORY OF CENTRAL ASIA 20, 61, 82, 128, 216 (Naomi Walford trans., 1970); MARK C. ELLIOTT, THE MANCHU WAY: THE EIGHT BANNERS AND ETHNIC IDENTITY IN LATE IMPERIAL CHINA 56 (2001).

translated Abaoji's Khitan title of "Heavenly Khagan" into Chinese as "Heavenly Emperor" (*Tian Huangdi*) and dated the founding of the Liao Dynasty in 907. Had Abaoji and his successors never adopted the Chinese title of *huangdi*, the Khitan Liao Dynasty would be still established by Abaoji and should be properly dated in 907. In other words, though certainly indicating a claim or reassertion of emperorship, the adoption of Chinese title *huangdi* was not a criterion for dynasty- or empire-building in East and Inner Asia.

Even in Chinese practice, it is not unusual for the reigning Chinese monarchs or emperors to adopt additional "honorific titles." As Endymion Wilkinson points out,

The practice of accepting an honorific title pressed upon the ruler during his lifetime by courtiers and senior officials may have already begun in the Shang [ca. 1600–1046]. . . .

It was from the Tang [618–907] that rulers began the regular practice of adopting fine-sounding honorifics (*zunhao*) during their lifetimes. . . . [Wu Zetian, the only female emperor in Chinese history,] graciously accepted six honorifics in the course of her 15 years on the throne (690–705). Other Tang emperors [also] acceded to the entreaties and added honorifics during their reigns. . . .¹²

The "adoption of honorific title" does not always mean, and should not be confused with, the "accession to the throne or emperorship," since reigning kings/emperors might also adopt new honorific titles. As in the case of Abaoji, when he imitated Chinese imperial

¹² WILKINSON, *supra* note 10, at 269.

practice and took a Chinese-style honorific imperial title in 916, it had been about nine years since his accession to the Khitan throne and his founding of the Liao dynasty in 907.

Moreover, it should be noted that the Chinese-style “era name” or *nianhao* (lit. year name or year designation) has been earlier misleadingly translated as “reign name” or “reign title.”¹³ In fact, the “era name” or *nianhao* was not the same as the “reigning period” of an emperor. As Wilkinson explains,

Not only did most emperors have more than one *nianhao* during the course of their reign, but from the Song [960–1279] onward, most era names did not start on [the] accession of an emperor, but on the first day of the first month of the succeeding lunisolar year. Even when they acceded to the throne early in the year, the *nianhao* of emperor’s predecessor continued in use until the first day of the following year.¹⁴

Although adopting an era name certainly signified the claim of emperorship in the Chinese manner, it is also clear that using an era name was not a precondition for emperorship in historical Asia. For example, Chinggis Khan never adopted any Chinese-style era name, but there is no doubt that he became the Mongol Empire’s first Great Khan or Emperor in 1206. Similarly, Abaoji became the Khitan Empire’s first Khagan or Emperor in about 907, whether he adopted his era name in 916 or not.

¹³ For explanation of the era names, see *Id.* at 510–15.

¹⁴ *Id.* at 513.

3.2.3 The Khitan Empire's "Dual State Name" System, and Deguang's Adoption of the Chinese-Style Dynastic Name "Da Liao"

The historical evidence (e.g., the stone inscriptions) showed that the Khitan Empire maintained what might be called a "dual state name" system by officially adopting both Khitan and Chinese state names.¹⁵ According to Aisin Gioro Ulhicun, the Khitan Empire's native state name was the "Great Central Hulzhi Khitan State," or shortly, the "Great Khitan State" or "Great Hulzhi State." The Khitan term "hulzhi" has a common etymology with the Mongolian term "ulus" (meaning, people or nation).¹⁶ As we will see in the next chapter, the Mongolian term "ulus" also appears in the Mongol Empire's native state name, the "Yeke Mongghol Ulus" (Great Mongol Nation).

In addition to its Khitan state name, the Khitan Empire had two Chinese state names, originally "Da Qidan Guo" (Great Khitan State) and later "Da Liao Guo" (Great Liao State).¹⁷ Obviously, the original Chinese name "Da Qidan Guo" was translated from the shortened Khitan state name "Great Khitan State."¹⁸ After the Khitan annexed the Chinese-populated "Sixteen Prefectures of Yan and Yun" in the northeastern edge of

¹⁵ See Liu Pujiang, *Liao Chao Guo Hao Kao Shi* [An Investigation of the Evolution of the Title of the Liao Dynasty], 2001 (No. 6) LI SHI YAN JIU [HISTORICAL RESEARCH] 30, 30–40, 42–44 (China); AISIN GIORO ULHICUN, AIXINJUELUE WULAXICHUN NUZHEN QIDAN XUE YAN JIU [AISIN GIORO ULHICUN'S STUDIES ON THE JURCHEN AND KHITAN] 191–96, 199–200 (2009) (Japan).

¹⁶ AISIN GIORO ULHICUN, *supra* note 15, at 191–96.

¹⁷ Liu Pujiang, *supra* note 15, at 30–40, 43.

¹⁸ See *Id.* at 31–32; AISIN GIORO ULHICUN, *supra* note 15, at 191–93, 197.

China Proper (see Map 1.8), a new Chinese state name or dynastic name, “Da Liao,” was introduced by Yelü Deguang or Liao Taizong (r. 927–47), most likely, in 938,¹⁹ rather than, as commonly believed, in 947.²⁰ Moreover, it appears that the new Chinese name “Da Liao” was, at first, used mainly (if not exclusively) in the Chinese-populated Sixteen Prefectures in the south, while the existing Chinese name “Da Qidan” continued in use in the north.²¹ In 983, the name “Da Qidan” was officially extended to the south, and the name “Da Liao” was formally abolished but still informally used.²² It was only in 1066 that “Da Liao” became the official Chinese name for the Khitan Empire, and after that, it was continuously used until the end of the dynasty in 1125.²³

¹⁹ According to various Chinese Song records, the Khitan’s initial use of the dynastic name “Liao” was either in 937 or 938 and was accompanied with the change of the era name to “Huitong,” which was unquestionably adopted in 938, as recorded in the stone inscriptions. Therefore, the introduction of the new Chinese state name “Great Liao,” most likely, corresponded to the formal cession of the Chinese-populated Sixteen Prefectures from the Shatuo [Later] Jin to the Khitan Empire in 938. Moreover, according to Song records, after destroying the [Later] Jin in 947, the Khitan changed the name of the [Later] Jin State to the Great Liao State. In other words, the Khitan tried to extend the use of the name “Liao” to the former territories of the [Later] Jin. It appears that the *History of the Liao* mistakenly recorded the event in 947 as the Khitan’s “initial” use of the name “Liao.” See Liu Pujiang, *supra* note 15, at 32–36; XUE JUZHENG ET AL., *JIU WU DAI SHI* [OLD HISTORY OF THE FIVE DYNASTIES], vol. 2, at 1304 (Zeng Zaozhuang et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (974) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]); OUYANG XIU ET AL., *XIN WU DAI SHI* [NEW HISTORY OF THE FIVE DYNASTIES] 715, 718 (Zeng Zaozhuang et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1053) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]).

²⁰ This view is based on the standard *History of Liao*. According to this view, after destroying the Shatuo [Later] Jin in North China and capturing its capital at Kaifeng, the Khitan Emperor Deguang officially adopted the new state name “Great Liao” and also a new era name “Datong” (Great Unity) in 947. However, due to the intense Chinese resistance, the Khitans could not consolidate their control over the newly occupied territory in North China. While returning to the Khitan steppe homeland, the Emperor Deguang became ill and died unexpectedly in the Khitan’s Southern Capital Circuit. See LIAO SHI, *supra* note 4, vol. 1, at 44; MOTE, *supra* note 1, at 40, 66–67; see also 6 CAMBRIDGE, *supra* note 1, at 73–74; 11 TONG SHI, *supra* note 10, at 199.

²¹ Liu Pujiang, *supra* note 15, at 35–36.

²² *Id.* at 36–39.

²³ *Id.* at 39–40.

Despite all these changes in the Khitan Empire's Chinese state name, historians consistently and generally apply the Chinese-style dynastic name "Liao" to the entire period of the Khitan Dynasty starting from Abaoji's reign, as had been done in the *History of the Liao* and other historical records.²⁴ Abaoji never, in his lifetime, used the state name "Da Liao," which was later introduced by his son, Deguang. Nevertheless, Abaoji was posthumously given the Chinese-style temple title (*miao hao*) of Liao "Taizu" (Grand Progenitor) to recognize his status as the Liao founding emperor, while his son and successor, Deguang, was given the temple title of "Taizong" (Grand Ancestor).²⁵ As Wilkinson points out, "unless there were special reasons, the temple title of the dynastic founder was [typically] either Gaozu or Taizu," which had the word *zu* (progenitor) in them, and "[t]he temple title of the second ruler of a dynasty was normally Taizong (Grand ancestor) and subsequent emperors all normally had *zong* (ancestor) in their temple titles."²⁶

It is clear that the Khitan's official position and other historical records all agree that Deguang's adoption of the new Chinese dynastic name "Da Liao" did not create a new Khitan state or dynasty, nor made him the founding emperor of the Liao. The Chinese names "Da Qidan" and "Da Liao" both referred to the same "Great Khitan State" founded

²⁴ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 38; MOTE, *supra* note 1, at 40; LIAO SHI, *supra* note 4, vol. 1, at 2.

²⁵ LIAO SHI, *supra* note 4, vol. 1, at 17–18, 45.

²⁶ WILKINSON, *supra* note 10, at 270.

by Abaoji. In other words, according to the East and Inner Asian tradition, the changes in Chinese state name would not affect the continuity of the Khitan Empire. This traditional Asian understanding is also consistent with the modern international law, under which, “a State is free . . . to change [its name] at will, and no such changes can possibly affect its identity,” as pointed out by Krystyna Marek.²⁷

3.2.4 The Khitan Liao’s Populations, Territories, and Governance

The Liao populations were hard to estimate. According to different scholars, the Liao populations were estimated variously from 2.3 to 10.5 million people.²⁸ A relatively recent research (published in 2000) suggests that, at its height, the Liao had a population of about 10.5 million, of which 5.7 million were Han Chinese, 2.3 million were Khitans, 1 million were Jurchens, 0.5 million were Balhae, and 1 million were other groups of people. Accordingly, the ratio of Chinese subjects to Khitans was around 2.5:1 in the Liao Empire.²⁹ Similarly, according to Thomas J. Barfield, the Chinese outnumbered the Khitans 3:1 in the Liao state.³⁰

²⁷ KRYSZYNA MAREK, *IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW* 127 (2d ed. 1968).

²⁸ The estimated Liao population was ranged variously from about three to ten million people. See WU SONGDI, 3 *ZHONGGUO REN KOU SHI* [A HISTORY OF CHINESE POPULATION], LIAO SONG JIN YUAN SHI QI [THE LIAO, SONG, JIN, AND YUAN PERIODS], 184–97 (2000) (Ge Jianxiong ed., Shanghai, Fu Dan Da Xue Chu Ban She 2000) (China); LU YU & TENG ZE ZHI, *ZHONGGUO REN KOU TONG SHI* [A COMPREHENSIVE HISTORY OF CHINESE POPULATION] 459 (2000) (Jinan, Shandong Ren Min Chu Ban She 2000) (China).

²⁹ LU YU & TENG ZE ZHI, *supra* note 28, at 454, 459.

³⁰ THOMAS J. BARFIELD, *THE PERILOUS FRONTIER: NOMADIC EMPIRES AND CHINA* 180 (1989).

Nevertheless, the Khitans generally maintained their traditional way of life in Liao times. The Liao rulers selectively borrowed some Chinese imperial institutions and practice without sacrificing the Khitan people's distinct identity. As will be clear, the Liao's developments of Khitan written scripts, multiple regional capitals, and dual central government, as well as the maintenance of imperial court's nomadic mobility, not only strengthened the Khitan's political and military domination, but also effectively maintained the ethnic line between Khitans and Chinese, and preserved the Khitan identity.

3.2.4.1 Regional and Local Governance: The Five Capitals System and the Dual Local Administration

When the Khitans occupied the "Sixteen Prefectures of Yan and Yun" in the northeastern edge of China Proper in 936, the Khitan Empire had existed outside China for about three decades and had expanded their rule or influence over large parts of what later became Mongolia and Manchuria. The Chinese-populated Sixteen Prefectures, though strategically and economically important, only constituted a small portion of the enormous Liao Empire (see Map 1.8).

By 925, the Khitans had either conquered or subjugated most of Mongolia.³¹ In the Khitan homeland, an imperial capital was constructed at Linhuang (present-day Baarin Left Banner in Inner Mongolia) beginning in 918. It was renamed the “Supreme Capital” (Shangjing) (see Map 1.8) in 938.³² The Supreme Capital Circuit covered the Khitan homeland and most of what is now Outer Mongolia.³³

After destroying the Balhae Kingdom (692–926) in southern and eastern Manchuria, the Khitan Empire established the Southern Capital (Nanjing) in 928 at Liaoyang (in present-day Liaoning Province). In 938, Liaoyang was renamed to the “Eastern Capital” (Dongjing) (see Map 1.8). Although some Balhae groups remained autonomous, the Liao’s Eastern Capital Circuit controlled most of the former Balhae territories. Moreover, the Khitans also established suzerainty or influence over the rest of Manchuria.³⁴

In 936, the Khitan Empire occupied the strategic Sixteen Prefectures of Yan and Yun in the northeastern edge of China Proper. Consequently, China lost its entire northern defense line from present-day Datong to Beijing and beyond. In 938, the northern

³¹ See 6 CAMBRIDGE, *supra* note 1, at 60, 61, 65, 66; MOTE, *supra* note 1, at 57–60.

³² 6 CAMBRIDGE, *supra* note 1, at 63; MOTE, *supra* note 1, at 41; 11 TONG SHI, *supra* note 10, at 195–96; ZHANG ZHENGMING, *supra* note 5, at 43.

³³ 6 CAMBRIDGE, *supra* note 1, at 118–19 map 7; see also JIAN MING ZHONGGUO LI SHI DI TU JI [CONCISE HISTORICAL ATLAS OF CHINA], map 51–52 (Tan Qixiang ed., Beijing, Zhongguo Di Tu Chu Ban She 1991) (China) [hereinafter TAN, CONCISE HISTORICAL ATLAS].

³⁴ 6 CAMBRIDGE, *supra* note 1, at 66–67, 79, 102, 118–19 map 7, 141; MOTE, *supra* note 1, at 58 map 4, 59–60.

China-based Shatuo [Later] Jin Dynasty (936–47) formally ceded the “Sixteen Prefectures” to the Khitan Empire.³⁵ Also in 938, the Khitan made Yanjing (modern Beijing) the new “Southern Capital” (Nanjing) (see Map 1.8) to govern the large Chinese population in the newly acquired Sixteen Prefectures.³⁶

At first, the Khitan Empire collected no tax but merely tributes from the neighboring Xi people in eastern Inner Mongolia. Nevertheless, having established direct rule over the Xi territory, in 1007 the Khitan renamed the former Xi’s capital at Dading (present-day Ningcheng County in Inner Mongolia) to the Liao’s “Central Capital” (Zhongjing) (see Map 1.8).³⁷ Furthermore, in 1044, Datong (in present-day Shanxi Province) was named the “Western Capital” (Xijing) (see Map 1.8) to rule the western part of Sixteen Prefectures and some part of Inner Mongolia. At the same time, the Khitan Liao completed its “five capitals system,” following the Balhae precedent.³⁸

The Khitan Liao’s five capitals served as the regional centers of their five corresponding “capital circuits.” Each of these circuits was typically governed by the local administrative systems that were appropriate to its steppe or sedentary populations.

³⁵ MOTE, *supra* note 1, at 64–65; 6 CAMBRIDGE, *supra* note 1, at 70–71.

³⁶ 6 CAMBRIDGE, *supra* note 1, at 70, 71 & map 3, 79; MOTE, *supra* note 1, at 65; ZHANG ZHENGMING, *supra* note 5, at 44; *see also* TAN, CONCISE HISTORICAL ATLAS, *supra* note 33, at map 51–52.

³⁷ 6 CAMBRIDGE, *supra* note 1, at 79, 118 & 119 map 7; ZHANG ZHENGMING, *supra* note 5, at 43.

³⁸ MOTE, *supra* note 1, at 41, 58 map 4, 65; *see also* 6 CAMBRIDGE, *supra* note 1, at 79, 118 & 119 map 7; PAMELA KYLE CROSSLEY, THE MANCHUS 21 (1997); TAN, CONCISE HISTORICAL ATLAS, *supra* note 33, maps 47–48, 51–52.

The Khitan and other nomadic peoples continued to be organized into the tribal organizations, whereas the Chinese and Balhae peoples were ruled by the Chinese-style prefectures (*zhou*) and counties (*xian*).³⁹ In other words, there was a principle of “dual administration” at the local level of governance.

3.2.4.2 Central Governance: The Dual Administration System

As early as Abaoji's times (r. 907–26), the Khitan's central governance had been divided into the “north” and “south” divisions, both of which, however, dealt with the tribal affairs of Khitans and other nomadic peoples. Moreover, Abaoji also established the “Chinese Bureau” (*Han-er Si*; lit. Han-People Office) to handle the affairs of the increasing Chinese population.⁴⁰ Although Abaoji introduced several Chinese imperial institutions and cultural elements into his empire, he also protected the Khitan tradition and identity. He ordered the creation of native Khitan writing system. The Khitan large script (adapted from the Chinese characters) was invented in 920, and the Khitan small script (based on the alphabetic Uyghur script) was created soon later in 925 (see Figure 1.1).⁴¹ Thus, as Denis Twitchett and Klaus-Peter Tietze note, by the end of Abaoji's reign, “it was possible to operate a dual system of government in which the northern tribal section conducted its business and kept documents in Khitan and the

³⁹ 6 CAMBRIDGE, *supra* note 1, at 79; 11 TONG SHI, *supra* note 10, at 845–48.

⁴⁰ 6 CAMBRIDGE, *supra* note 1, at 77; LIAO SHI, *supra* note 4, vol. 1, at 403, 440.

⁴¹ 6 CAMBRIDGE, *supra* note 1, at 67.

southern (Chinese) section used both Chinese and Khitan,” and that dual administrative system was crucial for the Khitans to “preserve their authority and cultural identity.”⁴²

Furthermore, in 918 Abaoji also ordered the building of a new capital city at Linhuang in the Khitan homeland. The city was constructed mainly based on Chinese model but retained Khitan characteristics.⁴³ Initially, the city was simply named Imperial Capital (Huangdu) and later renamed the Supreme Capital (Shangjing). It was, in fact, a “dual city” that consisted of the northern “Imperial City” (*Huang Cheng*) or “Khitan City” with the palace tents, governmental institutions, and other Khitan residences, and also a separate southern “Chinese City” (*Han Cheng*) with markets and dense housing for Chinese subjects and other ethnic groups.⁴⁴ As we will see in Chapter 7, similarly, the Manchu Qing also imposed ethnic residential segregation in its primary capital at Beijing and other garrisoned cities to separate the ruling Manchus from the conquered Chinese population. Nevertheless, rather than imposing the steppe hairstyle on the Chinese subjects (as both the Jurchens and the Manchus later would), the Khitans

⁴² *Id.*

⁴³ *Id.* at 63; ZHANG XIAOHONG, GU DU YU CHENG SHI [HISTORICAL CAPITALS AND CITIES] 70 (2014) (Ge Jianxiong ed., Hong Kong, Zhong Hua Shu Ju 2014) (Series: Di Tu Shang De Zhongguo Li Shi) (H.K.).

⁴⁴ 6 CAMBRIDGE, *supra* note 1, at 63; ZHANG XIAOHONG, *supra* note 43, at 70.

used their nomadic hairstyle as “an ethnic marker” to distinguish themselves from their Chinese population.⁴⁵

During Emperor Deguang’s reign (927–47), the Khitans occupied in 936 and formally annexed in 938 the Sixteen Prefectures of Yan and Yun. After that, there was a compelling need to establish appropriate institutions to govern the newly incorporated millions of Chinese sedentary people. The Khitan’s traditional north-south dichotomy was consequently further developed into a more sophisticated “dual administration system” for central governance.⁴⁶ However, it was only at the very beginning of Emperor Yelü Ruan’s reign (947–51) that the Khitan Empire was formally divided into two primary administrative regions, namely, the Northern and the Southern Regions.⁴⁷ In principle, the Northern Region (*Bei Mian*), which comprised the Khitan homeland and the domains other tribal peoples, was ruled by a Khitan-style tribal government set up on the “national” (i.e., Khitan) system and law. In contrast, the Southern Region (*Nan Mian*), which covered the predominantly Chinese and Balhae areas of the south and east,

⁴⁵ NICOLAS TACKETT, *THE ORIGINS OF THE CHINESE NATION: SONG CHINA AND THE FORGING OF AN EAST ASIAN WORLD ORDER* 241 (2017).

⁴⁶ 6 CAMBRIDGE, *supra* note 1, at 76–77.

⁴⁷ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 435; 6 CAMBRIDGE, *supra* note 1, at 77.

was administered by a Chinese-style bureaucratic government based on the Chinese system and law.⁴⁸

It should be noted that the Khitan Liao's two central governments — namely, the “Northern Administration” or “Government of the Northern Region” (*Bei Mian Guan*), and the “Southern Administration” or “Government of the Southern Region” (*Nan Mian Guan*) — were both located in the Supreme Capital, the sole imperial capital of the Khitan Empire.⁴⁹ Moreover, in practice, the Northern Administration had jurisdiction over all the Khitans and other tribal populations, wherever they lived. Similarly, the Southern Administration had jurisdiction over all the Chinese and Balhae subjects, including those in the North as well.⁵⁰ As Karl A. Wittfogel and Feng Jiasheng observe, although “the terms ‘north’ and ‘south’ lost, to some degree, their geographical significance,” they “acquired, instead, an ethnical and cultural emphasis,” because the geographical designations of the two main regions were “in general correspondence with the cultural and ethnical divisions within the empire.”⁵¹

Furthermore, to add even more confusion, continuing the tribal government's north-south dichotomy that had been developed in Abaoji's times, the Khitan-style

⁴⁸ 6 CAMBRIDGE, *supra* note 1, at 77–78; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 434–35, 473; LIAO SHI, *supra* note 4, vol. 1, at 403, vol. 2, at 551; BARFIELD, *supra* note 30, at 172–73.

⁴⁹ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 435–36.

⁵⁰ *Id.* at 435; 6 CAMBRIDGE, *supra* note 1, at 76–78; LIAO SHI, *supra* note 4, at 403.

⁵¹ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 435.

“Government of the Northern Region” itself also had the “northern” and “southern” subdivisions. For example, the Northern Administration had two subordinate chancelleries: the “Khitan Northern Chancellery” (*Qidan Bei Shumi Yuan*), which administered the Khitan tribes’ military affairs; and the “Khitan Southern Chancellery” (*Qidan Nan Shumi Yuan*), which governed the Khitan tribes’ civil affairs.⁵² In contrast, the Chinese-style “Government of the Southern Region” had the “Han Chancellery” (*Hanren Shumi Yuan*).⁵³ The Han Chancellery should not and cannot be referred to simply as the “Southern Chancellery” because there was a Khitan Southern Chancellery, which, actually, was a part of the Northern Administration.⁵⁴

The Northern Administration was overwhelmingly constituted by the Khitan officials, many of whom were the members of the royal and consort clans or the hereditary officials (*shi guan*).⁵⁵ On the other hand, the Southern Administration was mainly staffed by the Chinese officials, many of whom held inferior ranks and were sometimes conferred only honorable titles without real authority.⁵⁶

⁵² LIAO SHI, *supra* note 4, vol. 1, 404–07; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 435; 6 CAMBRIDGE, *supra* note 1, at 77–78.

⁵³ LIAO SHI, *supra* note 4, vol. 1, at 440; 6 CAMBRIDGE, *supra* note 1, at 77.

⁵⁴ *But see* LI XIHOU & BAI BIN, LIAO JIN XI XIA SHI [HISTORY OF THE LIAO, JIN, AND WESTERN XIA] 70 (Shanghai, Shanghai Ren Min Chu Ban She 2003) (China) (Series: Zhongguo Duandaishi Xilie); 11 TONG SHI, *supra* note 10, at 837–38, 840.

⁵⁵ 6 CAMBRIDGE, *supra* note 1, at 77–78.

⁵⁶ *Id.* at 78–79; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 437.

Maintaining the nomadic tradition of annual traveling routine, the Khitan Liao's imperial court was, practically speaking, constantly on the move. The Khitan emperor's *ordo* (from which the English word "horde" is derived) moved everywhere with the emperor. Each emperor created a separate and highly personalized *ordo*, consisting of the emperor's household (which included dignitaries, retainers, servants, and so forth) and imperial bodyguards (which formed the "backbone" of his military power).⁵⁷ After an emperor's death, the deceased emperor's *ordo* would guard and maintained his tomb, and the new emperor had to create his new *ordo* and recruit his imperial bodyguards.⁵⁸ Moreover, not only the emperors but also the empresses and princes had their own *ordos*.⁵⁹

The Khitan Emperors only shortly stayed in the Supreme Capital for each year, and they periodically moved from one "seasonal camp" (*nabo*) to another in the Northern Region.⁶⁰ During their stay in the seasonal camps, the emperors and the accompanying high officials (mainly, the Khitan officials from the Northern Administration) spent their time hunting and fishing, meeting local tribal leaders, and managing all sorts of important

⁵⁷ 6 CAMBRIDGE, *supra* note 1, at 22; CHARLES O. HUCKER, A DICTIONARY OF OFFICIAL TITLES IN IMPERIAL CHINA 54 (1985).

⁵⁸ CHRISTOPHER P. ATWOOD, ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE 297 (2004); HUCKER, *supra* note 57, at 54.

⁵⁹ 6 CAMBRIDGE, *supra* note 1, at 22.

⁶⁰ *Id.* at 79–80; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 436; *see also* MOTE, *supra* note 1, at 89.

state affairs.⁶¹ Unsurprisingly, the Khitan officials were personally and institutionally closer to the emperor, and they enjoyed much greater powers in high political and sensitive military decisions than their Chinese colleagues, who were generally excluded from military affairs.⁶²

As Nicolas Tackett observes, unlike the Chinese Song, the Khitan Liao did not see itself as “a monoethnic nation-state,” but rather “a multinational empire.”⁶³ Adopting the dual administration system, the Khitans divided their realms into the Northern and the Southern Regions, with multiple (eventually, five) Capital Circuits. By doing so, the Khitans successfully preserved their own tradition and identity, and maintained, for two centuries, a multiethnic empire that governed its tribal and sedentary populations along the existing ethnic and cultural lines and according to their distinct customs and laws.⁶⁴ According to Tackett, “[i]t was these ethnic policies that helped both to preserve the cultural distinctiveness of Chinese and Khitan cultures and to maintain the geographic segregation of the two cultures.”⁶⁵ There is no doubt that, by the fall of Liao in 1125, “the great majority of [Khitan] people did not become Chinese.”⁶⁶

⁶¹ 6 CAMBRIDGE, *supra* note 1, at 79–80; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 436; MOTE, *supra* note 1, at 89; BARFIELD, *supra* note 30, at 173.

⁶² 6 CAMBRIDGE, *supra* note 1, at 77, 80; WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 436.

⁶³ TACKETT, *supra* note 45, at 244.

⁶⁴ *See Id.* at 244–45.

⁶⁵ *Id.* at 245.

⁶⁶ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 7.

3.2.5 The Khitan Liao Relations with China, and the Liao–Song Treaty of Chanyuan (1005)

During China’s Five Dynasties (907–960)⁶⁷ and Northern Song (960–1127) periods (see Tables 1.2–1.3), the mighty Khitan Empire established equal, or even superior, relations with various China-based dynasties and states.⁶⁸ For example, the short-lived Shatuo [Later] Jin Empire (936–47), the third of the northern China-based Five Dynasties, was often seen as a Khitan Liao’s “puppet.” The founder of the Shatuo Jin, Shi Jingtang, was well known as the so-called “Son Emperor” (*Er Huangdi*), not only because he was invested as the first Shatuo Jin Emperor in 936 by the Liao Emperor Deguang, but also because he agreed to provide annual tributes to the Liao and call Deguang as his “Father Emperor” (*Fu Huangdi*), despite the fact that he was even ten years older than Deguang. The tributary and son-to-father relationship symbolically placed the Shatuo [Later] Jin on an inferior footing to the Khitan Liao.⁶⁹ In 938, the [Later] Jin formally ceded to the Khitan Liao the Chinese-populated Sixteen Prefectures of Yan and Yun, which had already been occupied by the Khitans since 936. The fact that Shi Jingtang was not a

⁶⁷ The Five Dynasties in North China were the Chinese Later Liang (907–23), Shatuo Later Tang (923–36), Shatuo Later Jin (936–47), Shatuo Later Han (947–51), and Chinese Later Zhou (951–60).

⁶⁸ See MOTE, *supra* note 1, at 44–47, 64–71.

⁶⁹ 6 CAMBRIDGE, *supra* note 1, at 70; MOTE, *supra* note 1, at 65; LI XIHOU & BAI BIN, *supra* note 54, at 25–26.

Chinese, but a Shatuo Turk, seems to explain why he did not hesitate to recognize the Khitan suzerainty and to cede the strategic Sixteen Prefectures to the Liao.⁷⁰

In contrast, after essentially reunifying China or *Zhongguo* in 979, the indigenous Chinese Song Empire (960–1279) immediately sought to “recover” the Sixteen Prefectures, but, as we will see, that only led to the Song’s formal recognition of Liao as an imperial power on an equal footing. The Song launched two major military campaigns, first in 979 and second in 986, into the Sixteen Prefectures, but twice the Song suffered complete defeats. Before long, the Liao also began a series of campaigns against the Song, first in 999 and later a full-scale invasion in 1004, leading to the conclusion of a peace treaty in 1005.⁷¹

Known as the “Treaty of Chanyuan,” the Liao–Song peace treaty of 1005 mainly stipulated that: (1) the Song would provide the Liao annual payments of 100,000 *liang* or taels (about 130,000 ounces) of silver and 200,000 bolts of silk; (2) the existing borders between the two sides would be recognized and respected; (3) both sides would take measures against unauthorized infringements of the borders; (4) neither side would provide refuge to fugitive criminals; (5) existing border fortifications might be maintained, but no new fortifications would be built along the border; (6) both sides

⁷⁰ 6 CAMBRIDGE, *supra* note 1, at 70–71.

⁷¹ *Id.* at 84–86, 99, 104–8.

would observe the sacred treaty and respect each other's territorial integrity; (7) the two emperors would swear a solemn oath in front of the gods and spirits and notify their imperial ancestors in the ancestral temples, vowing that their future generations would abide by the treaty forever, and invoke the wrath of gods to destroy any treaty violator and his state.⁷²

The terminology used in the treaty's oath-letters (*meng shu*) also conveyed the symbolic and formal equality between the Liao and the Song. In the oath-letters, the rulers of the "Great Song" and "Great Khitan" addressed each other as "emperor" (*huangdi*) with equal status, and the two empires would speak of each other as the "Southern Dynasty" (*Nan Chao*; the Song) and the "Northern Dynasty" (*Bei Chao*; the Liao). The Song's annual payments to the Liao would be called the "contribution to [the Liao's] military expenses" (*zhu junlu zhi fei*), to avoid the humiliating and unequal term of "tribute" (*gong*).⁷³ Moreover, though not specified in the treaty, the two imperial households would enter into a "fictive kinship relationship," under which the two emperors would address each other as "brothers" and the kinship terms would be

⁷² *Id.* at 108–9; FEI-LING WANG, *THE CHINA ORDER: CENTRALIA, WORLD EMPIRE, AND THE NATURE OF CHINESE POWER* 83–84 (2017).

⁷³ 6 CAMBRIDGE, *supra* note 1, at 109; WANG, *supra* note 72, at 84.

extended to close household members. For example, the Song Emperor would call the Liao Empress Dowager as his “aunt.”⁷⁴

The Treaty of Chanyuan of 1005 brought enduring peace, reciprocal trade, dynamic diplomacy, and stable borders between the Liao and Song for more than a century.⁷⁵ The annual payments to the Liao amounted merely a tiny fraction (0.3 to 0.5 percent) of the Song’s massive annual expenditures.⁷⁶ Although a new treaty of 1042 increased the Song annual payments to the Liao from 100,000 taels of silver and 200,000 bolts of silk to 200,000 taels (about 260,000 ounces) of silver and 300,000 bolts of silk, they were still very cost-effective to secure peace and reduce military spending. However, the Song payments to the Liao would be referred to as “submitting an offering” (*na*), a term that more or less implied “tribute” and therefore symbolized the Liao superiority.⁷⁷ Furthermore, the Song enjoyed a considerable trade surplus from the Liao, and a large portion (estimated, about 60 percent) of the annual silver subsidy to the Liao was eventually returned to the Song as payments for the Chinese goods.⁷⁸

⁷⁴ MOTE, *supra* note 1, at 70–71; 6 CAMBRIDGE, *supra* note 1, at 109.

⁷⁵ WANG, *supra* note 72, at 84–85.

⁷⁶ 5 THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE SUNG DYNASTY AND ITS PRECURSORS, 907–1279, at 268 (Denis Twitchett & Paul Jakov Smith eds., 2009); WANG, *supra* note 72, at 87.

⁷⁷ 5 CAMBRIDGE, *supra* note 76, at 310–11; WANG YUAN-KANG, HARMONY AND WAR: CONFUCIAN CULTURE AND CHINESE POWER POLITICS 62 (2011).

⁷⁸ 6 CAMBRIDGE, *supra* note 1.

Following well-defined and mutually-agreed protocols and precedents, the frequent diplomatic embassies provided opportunities for large numbers of Song and Liao officials to interact with and know each other at a personal level, which helped maintain peace between the two empires.⁷⁹ Furthermore, in the 11th century, especially the 1070s, the Song–Liao borders were systematically negotiated and affirmed by the representatives of both sides, demarcated by the physical markers such as mounds and ditches, and delimited on the maps preserved in the imperial archives.⁸⁰ The Song’s unprecedented border demarcation projects also reflected the notion of the Chinese state’s “bounded sovereignty,” limited by the territories under the effective administrative control.⁸¹

More importantly, as we will see, the Chanyuan treaty was later “mimicked” by several interstate agreements to govern the Song–Xia and the Song–Jin relationships, creating a lasting “Westphalia-like” international legal order that was basically, though not fully, based on the principle of “sovereign equality.”⁸² As Fei-Ling Wang observes,

The Chanyuan Treaty turned out to be [East and Inner Asia’s] [Wang originally wrote “China’s”] Westphalia Treaty, only 643 years earlier. The [Chanyuan] Treaty mutually recognized the equal status of the coexisting sovereign states of

⁷⁹ TACKETT, *supra* note 45, at 31–33.

⁸⁰ *Id.* at 106–8, 110–12.

⁸¹ *Id.* at 117.

⁸² WANG, *supra* note 72, at 85–87; *see also* TACKETT, *supra* note 45, at 21 (“The Chanyuan Oath seems to have spurred further developments in this East Asian inter-state system. The oath letters exchanged between the Song and Liao emperors provided the language used in subsequent interstate agreements, notably between the Song and the Jin, and between the Song and the Xia. There is also evidence that, in the century after Chanyuan, agreements between states were increasingly seen both as contractual in nature and as built upon an accumulation of precedents”).

the Liao and the Song, legalized diplomacy including annual and occasional exchanges of visits and letters as well as gifts or indemnification from the much richer Song and trade as the foundation for enduring peace of international relations, and demilitarized the border regions. The basic principles of the Chanyuan Treaty were later duplicated into more bilateral treaties, functioning similarly like the multilateral Peace of Westphalia treaties in Europe, to govern the international relations in the [East and Inner Asian] World.⁸³

In other words, as will be clear, a *lieguo* (interstate) legal order or what Feng Zhang refers to as a “*diquo*” (equally rival states) international society formally existed in East and Inner Asia in the 11th–13th centuries, in particular, among the Khitan Liao, Chinese Song, Tangut Xia, and Jurchen Jin. In fact, a decentralized East and Inner Asian international order, practically speaking, had already emerged at least since the fall of Tang (i.e., the beginning of the Five Dynasties and Ten Kingdoms period) in 907.⁸⁴ However, as we shall see, the Xia–Song and the Xia–Liao relations were at best “practically” (but not “ritually”) equal, as the Tangut Xia usually maintained tributary relations with the Chinese Song and Khitan Liao.

⁸³ WANG, *supra* note 72, at 86.

⁸⁴ Feng Zhang, *International Societies in Pre-Modern East Asia: A Preliminary Framework*, in *CONTESTING INTERNATIONAL SOCIETY IN EAST ASIA* 29, 35, 37, 39 (Barry Buzan & Yongjin Zhang eds., 2014).

3.3 The Tangut Xia State/Empire (c. 982–1227)

3.3.1 The Early Tangut History

It is believed that the Tibetan-speaking Tanguts were a group of Qiang people. Originally, the Tanguts lived in the historical region known as Amdo, which included Kokonor (Qinghai Province) and its adjacent areas in modern southern Gansu Province and northwestern Sichuan Provinces.⁸⁵ The Tanguts called themselves *Mi* or *Mi-ñiah* (*Mi-ñag*) in their native language, and they were known as *Dangxiang* or *Dangxiang Qiang* in the Chinese records.⁸⁶

In the late 620s and 630s, various Tangut tribes established tributary relations with the Chinese Tang Dynasty (618–907). The Tang “created,” purely on paper, several *jimi* or loose-rein prefectures in the Tangut Tuoba clan’s domains, which were nominally placed under the overall “jurisdiction” of the area command (*dudu fu*) of Songzhou (present-day Songpan in Sichuan Province).⁸⁷ Furthermore, the Tang court “appointed” Tuoba Chici, the chieftain of the Tuoba clan, as the area commander (*dudu*) of Xi-Rong Prefecture and bestowed him the Tang imperial surname Li, which the Tuoba leaders

⁸⁵ 6 CAMBRIDGE, *supra* note 1, at 155–56; MOTE, *supra* note 1, at 169; LI XIHOUE & BAI BIN, *supra* note 54, at 449–50.

⁸⁶ 6 CAMBRIDGE, *supra* note 1, at 155–56; LI XIHOUE & BAI BIN, *supra* note 54, at 449–50.

⁸⁷ 6 CAMBRIDGE, *supra* note 1, at 158; LI XIHOUE & BAI BIN, *supra* note 54, at 454–56.

adopted only centuries later, near the end of Tang.⁸⁸ In reality, the Tangut domains remained self-governing and independent from the Chinese Tang's administration and taxation.⁸⁹

The Tangut's tributary relations with the Tang, however, completely failed to prevent the Tangut homeland from falling into Tibetan hands. The increasingly powerful Tibetan Empire (7th–mid-9th centuries) began to invade the Tangut tribes in the 630s and had conquered most, if not all, of the Tangut homeland by 680.⁹⁰ Some Tangut tribes, led by the Tuoba clan, petitioned to the Tang court and were permitted to move into the Tang's northwestern frontiers.⁹¹ There were two major waves of Tangut migration, and a significant part of them were eventually resettled in the southern Ordos region (see Map 3.1).⁹² The most important prefecture in the southern Ordos was Xiazhou (lit. Xia Prefecture) (see Maps 3.1 and 3.2).⁹³ Xiazhou had been the capital of the Xiongnu Kingdom of Da Xia (407–31).⁹⁴ As we will see, “Da Xia” later became the Chinese name of the Tangut State/Empire.

⁸⁸ See 6 CAMBRIDGE, *supra* note 1, at 158.

⁸⁹ See MOTE, *supra* note 1, at 170–71; LI XIHOU & BAI BIN, *supra* note 54, at 454–56.

⁹⁰ LI XIHOU & BAI BIN, *supra* note 54, at 456; 6 CAMBRIDGE, *supra* note 1, at 158–59.

⁹¹ 6 CAMBRIDGE, *supra* note 1, at 159.

⁹² *Id.* at 158–59; LI XIHOU & BAI BIN, *supra* note 54, at 457–59.

⁹³ MOTE, *supra* note 1, at 170.

⁹⁴ WILKINSON, *supra* note 10, at 773.

No later than the 750s, the Tanguts had become the dominant people in the Ordos region south of Hetao (the Great Bend of the Yellow River).⁹⁵ The Chinese Tang court nominally named the Tangut tribes in the Ordos as several loose-rein units, which, of course, continued to be ruled by the hereditary Tangut tribal leaders and were beyond the Tang's actual governance.⁹⁶ Moreover, many of these Tangut tribes were far from "loyal" vassals to the Tang. During the An Lushan Rebellion (755–63) and the subsequent Tibetan invasions of Tang China, many Tanguts seized the opportunity to raid Chinese frontier settlements. Some Tanguts even collaborated with the invading Tibetan army, which conquered all of Longyou (modern Gansu Province) and in 763 even shortly captured the Tang capital at Chang'an (modern Xi'an).⁹⁷ The Tibetans invaded the southern Ordos in 786 and continued to raid the Tangut tribes in the following years.⁹⁸ As the Tang control over its frontiers declined, the Tanguts also frequently raided Chinese border settlements throughout the 9th century.⁹⁹

Taking advantage of Tang China's internal disorders at the end of the 9th century, the Tuoba clan of the Xiazhou-based Tanguts (known as the Ping-Xia tribe or group) expanded their territories and dominated the southern Ordos.¹⁰⁰ Continuing to recognize

⁹⁵ 6 CAMBRIDGE, *supra* note 1, at 159; MOTE, *supra* note 1, at 170.

⁹⁶ See LI XIHOU & BAI BIN, *supra* note 54, at 459–63.

⁹⁷ 6 CAMBRIDGE, *supra* note 1, at 159–60; LI XIHOU & BAI BIN, *supra* note 54, at 457–58.

⁹⁸ 6 CAMBRIDGE, *supra* note 1, at 160–61; LI XIHOU & BAI BIN, *supra* note 54, at 458–59.

⁹⁹ 6 CAMBRIDGE, *supra* note 1, at 161; LI XIHOU & BAI BIN, *supra* note 54, at 462–63.

¹⁰⁰ 6 CAMBRIDGE, *supra* note 1, at 162–63; LI XIHOU & BAI BIN, *supra* note 54, at 463–66.

the Tang's nominal suzerainty, the chieftain of the Ping-Xia Tanguts, Tuoba Sigong, assisted the Tang loyalist forces to suppress the Huang Chao Rebellion (875–84). In return for his assistance, the Tang court awarded Tuoba Sigong the title of “Military Governor (*Jiedushi*) of the Dingnan Army” in 882 and recognized his rule over four prefectures (namely, Xiazhou, Suizhou, Yinzhou and Youzhou) in the southern Ordos. In 884, the Tang court further conferred upon him the Tang imperial surname Li and granted him the title of “Duke of Xia State” (*Xia Guo Gong*).¹⁰¹ When Tuoba Sigong died in about 895, his brother, Tuoba Sijian, inherited his rulership and titles.¹⁰² Thus, by late Tang times, the Ping-Xia Tanguts had gained actual independence and dominance in the southern Ordos, though retaining their nominal vassal status to the Chinese Tang, which ended in 907.

During the subsequent Five Dynasties period (907–960), the Xiazhou-based Tangut rulers from the Tuoba (Li) clan continued to govern their existing four prefectures (and after 949, five prefectures, including the newly-added Jingzhou) in the southern Ordos by the title of Military Governor of the Dingnan Army (also known as Military Governor of Xiazhou). Moreover, the Tangut chieftain Li Renfu (r. 910–33) was conferred the honorary title of “Prince of Longxi” by the Chinese Later Liang (907–23), and the title of

¹⁰¹ 6 CAMBRIDGE, *supra* note 1, at 162–63; LI XIHOU & BAI BIN, *supra* note 54, at 463–66.

¹⁰² 6 CAMBRIDGE, *supra* note 1, at 163; LI XIHOU & BAI BIN, *supra* note 54, at 465–66.

“Prince of Shuofang” by the Shatuo Later Tang (923–36). Furthermore, Li Yiyin (r. 935–67) was granted the title of “Prince of Xiping” by the Chinese Later Zhou (951–60).¹⁰³ However, the Ping-Xia Tangut’s domains had never been actually ruled by, nor been effectively annexed into, any of the short-lived Five Dynasties in North China. In other words, during this period, the territory of the Xiazhou-based Tanguts in the southern Ordos functioned as an independent polity, if not a state, outside China, while still recognizing the nominal suzerainty of the Five Dynasties.¹⁰⁴

3.3.2 The Creation of the Tangut Xia State

When the Tangut chieftain Li Yiyin (i.e., Li Yixing) died in 967, he was given the posthumous title of “Prince of Xia” (*Xia Wang*) by the Chinese Song Empire (960–1279).¹⁰⁵ In 982, taking advantage of the Ping-Xia Tangut’s succession crisis, the Chinese Song intervened and annexed the Tangut prefectures in the southern Ordos, where had been the Ping-Xia Tangut’s “homeland” for about three centuries.¹⁰⁶

Resisting the Chinese annexation of their homeland, some Ping-Xia Tanguts, led by Li Jiqian (r. 982–1004), fled north and began to establish an independent Tangut State,¹⁰⁷

¹⁰³ 6 CAMBRIDGE, *supra* note 1, at 164–67; LI XIHOUE & BAI BIN, *supra* note 54, at 466–70.

¹⁰⁴ See MOTE, *supra* note 1, at 171.

¹⁰⁵ See 6 CAMBRIDGE, *supra* note 1, at 167.

¹⁰⁶ *Id.* at 168; MOTE, *supra* note 1, at 172.

¹⁰⁷ See 6 CAMBRIDGE, *supra* note 1, at 168; MOTE, *supra* note 1, at 172, 177; LI XIHOUE & BAI BIN, *supra* note 54, at 471–72.

known in history as the Western Xia or Xi Xia, or the Tangut Xia State/Empire (arguably, c. 982–1227;¹⁰⁸ popularly and mistakenly, 1038–1227) (see Tables 1.2 and 1.3, and Maps 1.8 and 1.9).¹⁰⁹ By his death in 1004, Li Jiqian not only had recovered all the Ping-Xia Tangut’s traditional domains but had also conquered almost all the Ordos region and the Yinchuan (Ningxia) Plain.¹¹⁰ He, therefore, laid the territorial foundation for the new Tangut State in what later became the western part of Inner Mongolia beyond the Great Wall (see Maps 3.1 and 3.2).¹¹¹

This Tangut State’s native name was *Phiow bjij lhjij tha*, translated into English as the “Great State of White and High” or into Chinese as “Bai Gao Da [Xia] Guo.”¹¹² The Tanguts also used the formal Chinese state name “Da Xia” (Great Xia) for their country, but the Song Chinese writers often simply called it “Xia” or “Xia Guo” (Xia State).¹¹³ Since Yuan and Ming times, the Chinese sources have popularly referred to the Tangut State as “Xi Xia” (Western Xia) not only because it was west of the Chinese Song but

¹⁰⁸ E.g., 6 CAMBRIDGE, *supra* note 1, at 155; ELLIOTT, *supra* note 11, at 21.

¹⁰⁹ E.g., 11 TONG SHI, *supra* note 10, at 428; WILKINSON, *supra* note 10, at 4, 772; Gov.cn A Brief Chinese Chronology, http://english1.english.gov.cn/2005-08/06/content_20951.htm (last visited Jan. 24, 2018).

¹¹⁰ 6 CAMBRIDGE, *supra* note 1, at 168–72; LI XIHOU & BAI BIN, *supra* note 54, at 472–77; *see also* 11 TONG SHI, *supra* note 10, at 399–403.

¹¹¹ 6 CAMBRIDGE, *supra* note 1, at 171 map 10; 1 ZHONGGUO GU DAI DI TU JI [AN ATLAS OF ANCIENT MAPS IN CHINA], FROM THE WARRING STATES PERIOD TO THE YUAN DYNASTY (476 B.C.–A.D. 1368), maps 61–62, 72, 90, 94–102 (Cao Wanru et al. eds., Beijing, Cultural Relics Publishing House 1990) (China) [hereinafter CAO, 1 ANCIENT MAPS]; TAN, CONCISE HISTORICAL ATLAS, *supra* note 33, at map 51–52.

¹¹² IMRE GALAMBOS, TRANSLATING CHINESE TRADITION AND TEACHING TANGUT CULTURE: MANUSCRIPTS AND PRINTED BOOKS FROM KHARA-KHOTO 11 (2015); RUTH W. DUNNELL, THE GREAT STATE OF WHITE AND HIGH: BUDDHISM AND STATE FORMATION IN ELEVENTH-CENTURY XIA, at xiv (1996).

¹¹³ DUNNELL, *supra* note 112, at xiv; WILKINSON, *supra* note 10, at 772.

also to distinguish it from the ancient Chinese Xia Dynasty (c. 2070–c. 1600 BCE).¹¹⁴

Some modern (especially, western) scholars prefer to call it “Tangut Xia,” which is also used throughout this study.

3.3.3 The Xia’s “Dual Tribute” to the Liao and Song, and the Xia–Song Treaty of Jingde (1006)

As discussed below, the recognition of the Tangut Xia as a “state” (*guo*) was accorded by the Khitan Liao and the Chinese Song no later than 990 and 1006, respectively.

In 986, the Tangut Xia founder, Li Jiqian, nominally “submitted” (i.e., offered tributes) to the Khitan Liao and requested an imperial bride. The Liao court immediately “appointed” him as the Military Governor of the Dingnan Army.¹¹⁵ Soon later, he received a Liao princess in 989, and he was further invested as the “King of Xia State” (*Xia Guo Wang*) by the Liao court in 990.¹¹⁶ The Xia–Liao tributary–investiture relationship, however, would not (and did not) make the Tangut Xia’s territory part of the Khitan Liao. Quite contrarily, the events mentioned above established the marriage alliance and the diplomatic (albeit ritually unequal) relation between the two states.

¹¹⁴ WILKINSON, *supra* note 10, at 773; *see also* DUNNELL, *supra* note 112, at xiv.

¹¹⁵ LIAO SHI, *supra* note 4, vol. 1, at 85; MOTE, *supra* note 1, at 177; 6 CAMBRIDGE, *supra* note 1, at 169.

¹¹⁶ LIAO SHI, *supra* note 4, vol. 2, at 904; 6 CAMBRIDGE, *supra* note 1, at 169.

Moreover, the Liao investiture of “King of Xia State” to Jiqian constituted the Liao’s recognition of the Tangut Xia’s statehood in 990 if such recognition had not been conferred earlier.¹¹⁷

In 997, despite the existing Xia–Liao tributary–investiture relation, Li Jiqian also tactically “submitted” to the Chinese Song. The Song court did not hesitate to also “appoint” him as the Military Governor of the Dingnan Army, apparently, to recognize his rule over the Ping-Xia Tangut’s traditional five prefectures.¹¹⁸ In 1003, the Chinese Song announced to “cede” (*ge*) those five prefectures to Jiqian and began to negotiate peace with him, although, in reality, the Song court merely “recognized” the *fait accompli* in the southern Ordos region.¹¹⁹

When Li Jiqian died in 1004, his eldest son, Li Deming (r. 1004–32), succeeded the Xia throne. Like his father, Deming also maintained tributary relation with the Khitan Liao, which invested him the titles of “Prince of Xiping” (*Xiping Wang*) in 1004 and “King of Xia State” (*Xia Guo Wang*) in 1010.¹²⁰ Moreover, the new Tangut ruler also maintained the tributary–investiture relationship with the Chinese Song. In 1006, the

¹¹⁷ See BARFIELD, *supra* note 30, at 174.

¹¹⁸ See TUOTUO ET AL., SONG SHI [HISTORY OF THE SONG], vol.16, at 10373 (Ni Qixin et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1345) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]) [hereinafter SONG SHI]; LI XIHOU & BAI BIN, *supra* note 54, at 475.

¹¹⁹ See SONG SHI, *supra* note 118, vol. 16, at 10373; 6 CAMBRIDGE, *supra* note 1, at 172.

¹²⁰ LIAO SHI, *supra* note 4, vol. 2, at 904–05; 6 CAMBRIDGE, *supra* note 1, at 176.

Song court “appointed” Li Deming as the Military Governor of the Dingnan Army and conferred him the title of “Prince of Xiping” (*Xiping Wang*).¹²¹ At the same time, the Song also concluded a peace treaty with the Xia, which was similar to the Song–Liao Peace Treaty of Chanyuan of 1005.

According to the Song–Xia peace treaty of 1006, known as the “Treaty of Jingde,” the Tangut ruler could receive valuable “annual gifts” (*sui ci*), e.g., silver, silk, cash, and tea, from the Song court, and his tribute missions were allowed to trade along their way to the Song capital.¹²² Moreover, by concluding the Peace Treaty of Jingde with the Xia, the Chinese Song also officially recognized the Tangut Xia’s statehood in 1006, if such recognition had not yet been accorded earlier.¹²³ During the rest of his reign, Li Deming continued to pressure the Song court for greater economic concessions, and, consequently, several governmental and private border markets were opened to facilitate the Xia–Song trade.¹²⁴

As discussed above, taking advantage of the Liao–Song tension and conflict, the first two Tangut Xia rulers, Li Jiqian and Li Deming, skillfully used their “dual tribute” to

¹²¹ SONG SHI, *supra* note 118, vol. 16, at 10374; 6 CAMBRIDGE, *supra* note 1, at 177; LI XIHOUE & BAI BIN, *supra* note 54, at 477.

¹²² SONG SHI, *supra* note 118, vol. 16, at 10374; 6 CAMBRIDGE, *supra* note 1, at 177–78; LI XIHOUE & BAI BIN, *supra* note 54, at 477–78, 622.

¹²³ GALAMBOS, *supra* note 112, at 104.

¹²⁴ 6 CAMBRIDGE, *supra* note 1, at 177–78.

the Liao and the Song to advance the Tangut interests.¹²⁵ Nevertheless, as we will see, this “double submissions” policy was dramatically changed, for a while, by the third Tangut Xia ruler, Weiming (Li) Yuanhao, who openly claimed his emperorship and sought for the Xia’s equal relations with the Song and Liao.¹²⁶

Moreover, even from the perspective of the traditional Chinese-style *Tianxia* order, the Tangut Xia, though simultaneously maintaining dual tributary–investiture relationships to the Liao and Song, was still regarded as an independent state, rather than territorially a part of the Khitan or Chinese empire. The possibility of “dual tribute” or even “multiple tribute” also explains why the tributary–investiture relation alone would not (and should not) be sufficient for a suzerain state to establish territorial sovereignty over its vassals. Otherwise, in case of dual or multiple tribute, a tributary vassal would be unreasonably regarded as, concurrently, a territory of two or more suzerain states, even when none of these suzerains actually governed and effectively controlled that particular tributary vassal.

3.3.4 Yuanhao’s Reforms and Adoption of Chinese-Style Imperial Title

During his early reign, Li (Weiming) Yuanhao (r. 1032–48) introduced a series of cultural, political, and military reforms, designed to strengthen the distinct Tangut

¹²⁵ MOTE, *supra* note 1, at 178–79; LI XIHOU & BAI BIN, *supra* note 54, at 472–79.

¹²⁶ MOTE, *supra* note 1, at 172, 178–79; 6 CAMBRIDGE, *supra* note 1, at 176–77.

identity and to centralize his imperial power. In 1038, he adopted the Chinese-style imperial title *huangdi* and his new era name, seeking to be recognized as an equal monarch to the Chinese and Khitan emperors. However, his five-year war with the Song only achieved a peace treaty with a partial victory for the Xia, at the expense of his alliance with the Liao.¹²⁷ Although the Song and Liao never recognized Yuanhao's emperorship, it is popularly (but, as discussed later, mistakenly) held that the Tangut Xia State was formally established in 1038 by Yuanhao when he took the Chinese title *huangdi*.¹²⁸

Soon after his succession to the Xia throne in 1032, Yuanhao changed the Xia's royal surname from Li (the former Chinese Tang's imperial surname, previously bestowed to his clan) to Weiming (a native Tangut surname).¹²⁹ Yuanhao also adopted the Tangut imperial title *wuzu*, which is regarded as equivalent to the Chinese and Khitan imperial titles, *huangdi* and *khagan*, respectively. According to Chinese historical records, Yuanhao's Tangut title *wuzu* meant the "Son of Blue Heaven" (*Qing Tian Zi*), which expressed the Tangut ruler's equal status to the Chinese emperor, the "Son of Yellow Heaven" (*Huang Tian Zi*).¹³⁰ Moreover, the Xia dress code, with Tibetan and

¹²⁷ 6 CAMBRIDGE, *supra* note 1, at 180–87.

¹²⁸ E.g., MOTE, *supra* note 1, at 179, 182; DUNNELL, *supra* note 112, at xiii, xiv, 3, 27; 11 TONG SHI, *supra* note 10, at 407.

¹²⁹ 6 CAMBRIDGE, *supra* note 1, at 181; LI XIHOUE & BAI BIN, *supra* note 54, at 480.

¹³⁰ 6 CAMBRIDGE, *supra* note 1, at 181; 11 TONG SHI, *supra* note 10, at 405–06.

Uyghur influences, was issued for both officials and commoners. Yuanhao also issued a “head-shaving decree” in around 1034, ordering all his male subjects to adopt a “national” nomadic hairstyle within three days, or otherwise, they could be killed by the crowd.¹³¹ More importantly, a Tangut script (modeled on, but more complicated than, the Chinese characters) was introduced in about 1036, and subsequently, it was commonly used in government offices and schools.¹³² As Ruth W. Dunnell notes, the invention of Tangut script “was a politically charged event that asserted cultural claims, met strategic needs, and advanced dynastic legitimacy.”¹³³ Moreover, the Tangut script was an “enormously complex and dense graphic system,” making it virtually a “secret code” that was “impenetrable to outsiders” (see Figure 1.1).¹³⁴

To centralize the imperial power, Yuanhao also launched political and military reforms.¹³⁵ The bureaucracy was seemingly restructured and expanded along the Song institutional lines, though how these Xia institutions actually worked remain unclear.¹³⁶ New military regulations were issued with an intent to strengthen central control over the chieftains-general, and the entire state was divided into twelve military districts.

¹³¹ As Ruth Dunnell describes the Tangut Xia “national” hairstyle: “The top part of the skull was shaved, leaving a fringe across the forehead and down the sides, framing the face. Variations of this style have been observed among other [Inner] Asian peoples [e.g., Xianbei, Khitan, and Balhae].” See 6 CAMBRIDGE, *supra* note 1, at 181.

¹³² *Id.* at 182.

¹³³ DUNNELL, *supra* note 112, at 37.

¹³⁴ *Id.* at 37–38.

¹³⁵ 6 CAMBRIDGE, *supra* note 1, at 182.

¹³⁶ *Id.* at 183, 186.

Nevertheless, the Xia military was still reorganized by Inner Asian structures, and the tribal customs and chieftains remained militarily significant.¹³⁷ While talented Chinese subjects could be appointed to civilian offices, the military positions were typically reserved for ruling Tanguts.¹³⁸

After the cultural and governmental reforms mentioned above, Yuanhao held a formal ceremony in 1038 and adopted the Chinese-style imperial title *huangdi*, in particular, the honorific title of “Originator of Literature, Rooted in Might, Giver of Law, Founder of Ritual, Humane and Filial Emperor” (*Shi Wen Ben Wu Xing Fa Jian Li Ren Xiao Huangdi*). He also adopted a new era name, “Heaven-Conferred Rites, Law, and Protracted Blessings” (*Tianshou Li Fa Yanzuo*), and probably at the same time, he formally proclaimed the Chinese-style dynastic name “Great Xia” (*Da Xia*) for the Tangut empire.¹³⁹

Some historians mistake Yuanhao’s adoption of Chinese-style imperial honorific in 1038 for the first Tangut ruler to claim emperorship. In fact, no later than 1012 or 1016, Yuanhao’s father, Li Deming, must have already adopted an imperial title for himself

¹³⁷ *Id.* at 183.

¹³⁸ *Id.* at 182.

¹³⁹ DUNNELL, *supra* note 112, at 38–41; SONG SHI, *supra* note 118, vol. 16, at 10379–80; *see also* MOTE, *supra* note 1, at 182–83; LI XIHOU & BAI BIN, *supra* note 54, at 480–82, 623.

when he posthumously gave the Xia founder, Li Jiqian, an imperial title.¹⁴⁰ Moreover, as noted earlier, Yuanhao adopted the Tangut native imperial title *wuzu* soon after he succeeded the Xia throne in 1032. It is, therefore, clear that Yuanhao's adoptions of a new Chinese-style imperial honorific title and new era name in 1038 did not constitute his accession to imperial status, but his "reaffirmation" of existing emperorship.

By using the Chinese imperial terminology and symbols (whose meanings were widely understood in historical East and Inner Asia), Yuanhao sought to be recognized as an equal monarch to the Chinese and Khitan emperors. In reality, within their Tangut territories, Yuanhao and other Xia rulers were not enthusiastic about using Chinese imperial ideology (in particular, Confucianism) to legitimate their emperorship and incorporate themselves into the lineage of Chinese sage rulers. Instead, they were more willing to portray themselves as great patrons of Buddhism and defenders of the Buddhist Law (Dharma) and to identify themselves as Cakravartin, the Buddhist universal "wheel-turning king."¹⁴¹

Furthermore, it would be mistaken, as some historians have done, to date the founding of the Tangut Xia in 1038. Assuming that Yuanhao formally introduced the

¹⁴⁰ SONG SHI, *supra* note 118, vol. 16, at 10374, 10376 (providing that Li Deming posthumously bestowed upon his father Li Jiqian the imperial title in 1012); *but see* LI XIHOUE & BAI BIN, *supra* note 54, at 479; 11 TONG SHI, *supra* note 10, at 405, 850 (indicating that Li Deming "illegitimately" acted like an emperor, and he posthumously gave Li Jiqian the imperial title in 1016).

¹⁴¹ *See* DUNNELL, *supra* note 112, at 23–26, 38–40, 43–47.

Chinese state name “Great Xia” in 1038, the dynastic name “Xia” should be still applied to the entire period of the Tangut Dynasty (c. 982–1227), just like the name “Liao” has been consistently and retroactively applied to the entire period of the Khitan Dynasty. Moreover, the Tangut Xia’s own official position was that the Xia Dynasty was founded by Li Jiqian (r. 982–1004), as evidenced by the fact that Li Jiqian was posthumously given the temple title of “Taizu” (Grand Progenitor), while Li Deming and Weiming (Li Yuanhao) were given the temple titles of “Taizong” and “Jingzong” respectively.¹⁴² As noted earlier, in the Chinese imperial terminology, a dynastic founder was typically given the temple title of “Gaozu” or “Taizu” (e.g., Li Jiqian became Xia Taizu), the second emperor was normally “Taizong” (e.g., Li Deming became Xia Taizong); and all the subsequent emperors typically had the Chinese character “*zong*” (ancestor) in their temple titles (e.g., Weiming Yuanhao became Xia Jingzong).¹⁴³ Later, the standard *History of the Jin* (*Jin Shi*; compiled between 1343 and 1344 by the Mongol Yuan court) also provided that “the [Xia] State was founded by [Li] Jiqian, and made powerful by Yuanhao,” and it “lasted for more than two hundred years.”¹⁴⁴ Furthermore, as late as 1924 in the Republic of China era (1912–49), a Ministry of Education-approved

¹⁴² SONG SHI, *supra* note 118, vol. 16, 10374; *see also* MOTE, *supra* note 1, at 183.

¹⁴³ *See* WILKINSON, *supra* note 10, at 270.

¹⁴⁴ TUOTUO ET AL., JIN SHI [HISTORY OF THE JIN], vol. 3, at 2243–44 (Zeng Zaozhuang et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1344) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]) [hereinafter JIN SHI].

“Teacher’s Manual for Chinese History for Higher Elementary Schools” still maintained that the Xia was established by Li Jiqian and lasted for “246 years” (meaning, from 982 to 1227).¹⁴⁵ It appears that the present-day popular misunderstanding that the Tangut Xia or Xi Xia Dynasty was founded by Yuanhao in 1038 was formulated and “reimagined” not long ago.

3.3.5 The Xia–Song Relations Since the Treaty of Qingli (1044)

In 1039, a special Tangut embassy arrived at the Chinese Song court to request the Song recognition of Yuanhao’s status as the Emperor of the Great Xia. However, the Chinese Song Empire, having been forced to recognize the Khitan Liao Empire as an “equal rival state” (*diguo*), saw the Tangut Xia as merely a small “western barbarian state” and immediately declined to recognize Yuanhao’s claim of emperorship.¹⁴⁶ The Song court “stripped” Yuanhao of all titles conferred earlier, and closed the border markets with the Xia. In response, Yuanhao stopped sending tributes to the Song court. Instead, he sent an insulting letter to provoke the Song into wars.¹⁴⁷ Yuanhao’s “impudent” letter reads,

¹⁴⁵ 6 XIN SHI GAO DENG XIAO XUE LI SHI JIAO SHOU SHU [TEACHER’S MANUAL FOR CHUNG HWA HISTORY FOR HIGHER PRIMARY SCHOOLS (NEW EDITION)] 9b (Zhuang Qichuan & Lu Simian eds., Chung Hwa Book Company 14th ed. 1924) (China).

¹⁴⁶ SONG SHI, *supra* note 118, vol. 16, at 10379–80; LI XIHOU & BAI BIN, *supra* note 54, at 482–83; MOTE, *supra* note 1, at 182.

¹⁴⁷ GALAMBOS, *supra* note 112, at 108; 11 TONG SHI, *supra* note 10, at 408.

The Fan [i.e., Tangut] and the Han [i.e., Chinese] are each different countries, and their lands are vastly dissimilar. This [i.e., Yuanhao's claim of emperorship] is not a case of usurpation. Why is your [i.e., the Song emperor's] resentment so deep? Moreover, I (Yuanhao) was elevated by the throng and became emperor in accordance with ancient Tuoba tradition. What is wrong with that?¹⁴⁸

This began a period of Song–Xia wars, resulted in the Tangut's three major military victories. However, the Tangut Xia's economy was hurt badly, not only because the wars were costly, but also because the Song cut off its annual gifts to, and trade tie with, the Xia. Moreover, in the meantime, there were also increasing Liao–Xia tension and conflict, perhaps caused by the Tangut Xia's pursuit of diplomatic parity with the Khitan Liao. Under these pressures, Yuanhao began to negotiate with the Chinese Song and eventually reached a peace treaty in 1044.¹⁴⁹

The Song–Xia peace treaty of 1044, known as the “Treaty of Qingli,” provided, among other things, as follows: (1) the Song court would “invest” Yuanhao as the “Ruler of Xia State” (*Xia Guo Zhu*); (2) the Xia ruler would be addressed as a “servant” or “vassal” (*chen*) of the Song Emperor; (3) the Xia would use the Song calendar in diplomatic correspondence; (4) the Song would provide the Xia “annual gifts,” including 72,000 taels (about 93,600 ounces) of silver, 153,000 bolts of silk, and 30,000 *jin* or catty

¹⁴⁸ The English text is based on Ruth Dannel's translation, with some modifications of mine. For Dannel's original translation, see 6 CAMBRIDGE, *supra* note 1, at 187; for the Chinese text, see LI XIHOUE & BAI BIN, *supra* note 54, at 623; 11 TONG SHI, *supra* note 10, at 408.

¹⁴⁹ LI XIHOUE & BAI BIN, *supra* note 54, at 483–84, 624–26; 6 CAMBRIDGE, *supra* note 1, at 187–89.

(about 39,000 pounds) of tea; and (5) the Xia envoys could enjoy greater trading privileges, and frontier markets would be reopened.¹⁵⁰

In other words, the Xia–Song tributary–investiture relation was formally restored in 1044. The Tangut Xia retained its independence and became practically (but not ritually) equal to the Chinese Song. What made the Tangut Xia different from ordinary Chinese tributary was that the Chinese empire typically would not enter formal treaty relation with, nor provide legally binding annual payments to, the Chinese tributary state/polity. The Song court recognized Yuanhao as the Xia “ruler” (*zhu*), a title that was considered greater than “king” (*wang*), but humbler than “emperor” (*huangdi*).¹⁵¹ Nevertheless, as well observed by the Song court, Yuanhao and all his successors continued to rule within their Tangut domains as the Xia “Emperors.”¹⁵²

Unlike the Song–Liao Treaty of Chanyuan (1005), the Song–Xia Treaty of Qingli (1044) did not provide long-lasting and stable peace. A series of wars occurred between the Xia and Song from the 1060s to the 1090s.¹⁵³ That led to substantial territorial adjustments and border negotiations, and eventually resulted in “a demarcated border that

¹⁵⁰ SONG SHI, *supra* note 118, vol. 16, at 10383; 6 CAMBRIDGE, *supra* note 1, at 187–89; LI XIHOUE & BAI BIN, *supra* note 54, at 626; 11 TONG SHI, *supra* note 10, at 409–10.

¹⁵¹ 6 CAMBRIDGE, *supra* note 1, at 188.

¹⁵² See SONG SHI, *supra* note 118, vol.16, at 10383; LI XIHOUE & BAI BIN, *supra* note 54, at 626.

¹⁵³ LI XIHOUE & BAI BIN, *supra* note 54, at 486–91.

ran the full length of the Song–Xia frontier.”¹⁵⁴ Since the 1070s, the Song court had consistently employed “a standard combination of mounds and ditches” to mark the Song borders with the Xia and Liao, making the common use of mounds and ditches become a sort of transcultural and international “language of demarcation.”¹⁵⁵ As Tackett explains,

The consistency of Song China’s foreign policy on multiple frontiers would have helped ensure that multiple neighboring states, even those of very different cultural backgrounds, came to accept certain common frameworks and sets of rules. . . . [T]he Song oath letters with the Xia and with the Jin were both modeled on the Chanyuan accord, suggesting a common blueprint for inter-state relations. The implementation of a coherent border policy, involving a consistent “language of demarcation,” meant that borderland populations in far corners of East [and Inner] Asia, from Yunnan in the south to Tibet in the west and Manchuria in the northeast, had necessarily to acquire a common understanding of a line of mounds across the landscape. Moreover, it appears that Song China had managed to establish the prestige of state archives. Diplomats from neighboring states accepted the authority of archived [maps and other] documents when determining long forgotten details from inter-state agreements of past generations.¹⁵⁶

Apparently, the Song–Liao and the Song–Xia bilateral borders (as well as other demarcated Song borders with China’s neighbors) were genuine “international” boundaries, not only from the historical Asian interstate relations perspective (see Maps 3.3 and 3.4), but also in the modern legal sense.¹⁵⁷

¹⁵⁴ TACKETT, *supra* note 45, at 109.

¹⁵⁵ *Id.* at 111–12.

¹⁵⁶ *Id.* at 113.

¹⁵⁷ See *Id.* at 106, 110–13, 116–18.

In 1124, the Tangut Xia established tributary relations with the rising Jurchen Jin (1115–1234), which demolished the Khitan Liao in 1125 and conquered North China from the Chinese Song in 1126. After that, the Xia no longer shared a border with the Song (see Map 1.9). In 1127, the Jin redefined the former Xia–Liao and Xia–Song boundaries, “granting the Xia some lands recently seized from the Liao and the Song.”¹⁵⁸

3.3.6 The Tangut Xia’s Territories and Populations

From its original territory in the southern Ordos, the Tangut Xia at its height expanded into all the Ordos Plateau, Alxa (Alashan) Plateau, Yinchuan (Ningxia) Plain, Hexi (Gansu) Corridor, and beyond (see Map 3.1).¹⁵⁹ Constituting most parts of the Tangut Xia’s territories, the Ordos and Alxa regions were obviously outside China Proper, as they are still today almost entirely within the Inner Mongolia Autonomous Region.¹⁶⁰ The Yinchuan Plain (northern part of the present-day Ningxia Hui Autonomous Region) was a small but significant area, in where the Tangut Xia remained its capital, Xingqing Fu, for more than two hundred years.¹⁶¹ The Hexi Corridor (northwestern part of

¹⁵⁸ MOTE, *supra* note 1, at 249–51.

¹⁵⁹ *See Id.* at 171 map 7, 186; 6 CAMBRIDGE, *supra* note 1, at 154, 171 map 10.

¹⁶⁰ MOTE, *supra* note 1, at 171 map 7; 6 CAMBRIDGE, *supra* note 1, at 171 map 10.

¹⁶¹ MOTE, *supra* note 1, at 186; 6 CAMBRIDGE, *supra* note 1, at 178.

modern Gansu Province) was a long and narrow strategic region that constituted part of the historical Silk Road.¹⁶²

Although today the Yinchuan and Hexi areas would probably be considered at the margins of China Proper, they were most likely not perceived as parts of the Chinese heartlands or *Zhongguo* by the Song Chinese. In spite of the fact that the Tang and Song empires did not rebuild the so-called Great Walls, “a historical memory” of “a unitary Wall spanning China’s entire northern frontier” remained “very alive” in the Song Chinese mind, as clearly shown in the maps produced in Song times.¹⁶³ On those maps, the Yinchuan and Hexi areas, as well as other Tangut Xia’s territories, were almost entirely north of the main Great Wall line (see Map 3.2).¹⁶⁴

It is therefore clear that the Tangut Xia had its original and conquered territories mostly outside the Chinese heartlands. Moreover, unlike the Khitan Liao, which had a large and dense Chinese population in the Sixteen Prefectures, the Tangut Xia had about 3 million people, of which half were Han Chinese, and the rest were Tanguts, Tibetans, Uyghurs, etc.¹⁶⁵ According to Dunnell, because the Tangut Xia did not conquer “any core areas of the Chinese heartland” and because the Tanguts were “not a tiny minority in

¹⁶² MOTE, *supra* note 1, at 171 map 7, 179, 408.

¹⁶³ CARLOS ROJAS, *THE GREAT WALL: A CULTURAL HISTORY* 97–100 (2010).

¹⁶⁴ See CAO, 1 *ANCIENT MAPS*, *supra* note 111, maps 62, 72, 90–92, 94–101, 152, 174, 178.

¹⁶⁵ JOHN W. DARDESS, *GOVERNING CHINA, 150–1850*, at 36 (2010).

a sea of Han Chinese [subjects],” the Chinese terminology of legitimate emperorship was less relevant to the Xia rulers and could be freely combined with the Buddhist ideas of universal rulership, without concern for the Chinese notion of *zhengtong* (the orthodox line of legitimate succession of rulers of China).¹⁶⁶ That also explains, at least partially, why there is no dedicated Chinese “standard history” or “orthodox history” (*zheng shi*) compiled for the Tangut Xia. In 1227, the Tangut Xia State was conquered by the Mongol Yuan Empire (1206–1635).

3.4 The Jurchen Jin Empire (1115–1234)

3.4.1 The Creation of the Jurchen Jin Empire

It is believed that the most direct ancestors of the Jurchen people were the Heishui Mohe, who, in Tang times (618–907), dominated what later became northern Manchuria around the middle and lower Amur River (*Heilong Jiang*).¹⁶⁷ The Jurchen way of life could not be described merely as pastoral nomadism or sedentary agricultural lifestyle.¹⁶⁸ The Khitan Liao (907–1125) distinguished the Jurchen people into two main groups: first, the “tame” or “civilized” (*shu*; lit. “cooked”) Jurchens, and second, the “wild” or “savage”

¹⁶⁶ DUNNELL, *supra* note 112, at 25–26.

¹⁶⁷ 6 CAMBRIDGE, *supra* note 1, at 218; *see also* CROSSLEY, *supra* note 38, at 18, 20.

¹⁶⁸ 6 CAMBRIDGE, *supra* note 1, at 217.

(*sheng*; lit. “raw”) Jurchens.¹⁶⁹ In Liao times, the Tame Jurchens were direct Liao subjects, and they settled in the plains of central “Manchuria,” practicing farming and stock-raising. In contrast, the Wild Jurchens were nominal Liao vassals, and they inhabited in the valleys and forested mountains in northern and southeastern Manchuria, living on hunting, fishing, and gathering.¹⁷⁰

During the 11th century, under the leadership of Wugunai (1021–74), the Wanyan clan of the Wild Jurchens gradually built their dominance in Manchuria and integrated various Jurchen tribes into a “statelike” tribal federation.¹⁷¹ The Khitan Liao conferred Wugunai and his successors the nominal title of “Military Governor (*Jiedushi*) of the Wild Jurchens,” but that by no means diminished the actual independence of the Wild Jurchen federation.¹⁷² Nonetheless, by maintaining the tributary–investiture relations with the Liao, the Wanyan chieftains could still benefit from the Khitan “recognition” of their legitimacy to rule the Wild Jurchen domains, as well as the access to the knowledge of Liao statecraft.¹⁷³

¹⁶⁹ *Id.* at 218–19; MOTE, *supra* note 1, at at 211.

¹⁷⁰ 6 CAMBRIDGE, *supra* note 1, at 141, 217–19; MOTE, *supra* note 1, at 211–12.

¹⁷¹ 6 CAMBRIDGE, *supra* note 1, at 141, 219; MOTE, *supra* note 1, at 212–13; *see also* 11 TONG SHI, *supra* note 10, at 293–96.

¹⁷² 6 CAMBRIDGE, *supra* note 1, at 219–20; MOTE, *supra* note 1, at 213–14.

¹⁷³ MOTE, *supra* note 1, at 214; Hoyt Cleveland Tillman, *An Overview of Chin History and Institutions, in CHINA UNDER JURCHEN RULE: ESSAYS ON CHIN INTELLECTUAL AND CULTURAL HISTORY*, 25 (Hoyt Cleveland Tillman & Stephen H. West eds., 1995); *see also* LI XIHOUE & BAI BIN, *supra* note 54, at 104–5.

In 1113, the Wanyan chieftain Aguda (1068–1123) was elected as the new ruler of the Wild Jurchens by the tribal leaders. The Liao court immediately conferred Aguda the title of military governor, but failed to prevent him from launching a war against the Liao in 1114.¹⁷⁴ Following his military success over the Liao and his unification of large part of Manchuria, in 1115, Wanyan Aguda or Jin Taizu (r. 1115–23), adopted his era name *Shouguo* (lit. Receiving Statehood) and proclaimed the founding of the Da Jin State or Great Jin Empire (1115–1234) (see Tables 1.2 and 1.3, and Map 1.9).¹⁷⁵ The Chinese-style dynastic name “Da Jin” (lit. Great Golden) was derived from the Wanyan clan’s homeland, the valley of the “Anchuhu” River, whose name means “golden” in Jurchen language.¹⁷⁶

However, the time of Aguda’s accession to the throne was recorded inconsistently, leading a disagreement on when the Jin Dynasty was actually founded.¹⁷⁷ The standard *History of the Jin* (*Jin Shi*), which was written in Chinese, provided that Aguda “ascended to the throne of emperor” (*ji huangdi wei*) in 1115, and it also noted that the officials

¹⁷⁴ 6 CAMBRIDGE, *supra* note 1, at 142, 220–21; MOTE, *supra* note 1, at 195.

¹⁷⁵ 6 CAMBRIDGE, *supra* note 1, at 142, 215, 221; JIN SHI, *supra* note 144, vol. 1, at 24; 11 TONG SHI, *supra* note 10, at 298.

¹⁷⁶ JIN SHI, *supra* note 144, vol. 1, at 410; 6 CAMBRIDGE, *supra* note 1, at 221; MOTE, *supra* note 1, at 213.

¹⁷⁷ For example, Liu Pujiang and Hok-lam Chan argue that the founding of the Jurchen Jin State was not in 1115, but in 1117 or 1118, and the formal adoption of the dynastic name “Da Jin” was in 1122. However, their argument has been persuasively and strongly rejected by Aisin Gioro Ulhicun. See Liu Pujiang, *Guan Yu Jin Chao Kai Guo Shi De Zhen Shi Xing Zhi Yi* [On the Authenticity of the Historical Records of the Founding of the Jin Dynasty], 1998 (No. 6) LI SHI YAN JIU [HISTORICAL RESEARCH] 59, 59–72 (China); Hok-lam Chan, *The Dating of the Founding of the Jurchen-Jin State: Historical Revisions and Political Expediencies*, in TUMEN JALAFUN JECEN AKŪ: MANCHU STUDIES IN HONOUR OF GIOVANNI STARY, 55, 60–72 (Alessandra Pozzi et al. eds., 2006); AISIN GIORO ULHICUN, *supra* note 15, at 13–24 (Japan).

submitted the “honorific title” (*zun hao*) of “Great Holy Emperor (*Dasheng Huangdi*)” to Aguda in 1117.¹⁷⁸ Nevertheless, the standard *History of the Liao* (*Liao Shi*) provided the year of 1117, and some other Song and Yuan sources dated either 1117 or 1118, for Aguda’s accession to the throne.¹⁷⁹ As discussed earlier, before using the Chinese-style imperial title *huangdi*, Abaoji and Yuanhao had already claimed their emperorship by adopting the Khitan imperial title *khagan* and the Tangut imperial title *wuzu* respectively. Similarly, after Aguda defeated the Liao and unified most of Manchuria, he ascended the throne of emperor in 1115 by adopting (or, creating) the Jurchen imperial title *dubojilie* (meaning, Supreme Chief) and established the Great Jin Empire.¹⁸⁰ Just like the *History of the Liao* rendered Abaoji’s Khitan imperial title *khagan* into Chinese as *huangdi*, it appears that the *History of the Jin* also translated Aguda’s Jurchen imperial title *dubojilie* into Chinese as *huangdi*, and, therefore, recorded that Aguda ascended the throne of emperor (*huangdi*) in 1115.¹⁸¹ Later, following his conquest of the Liao’s Eastern

¹⁷⁸ JIN SHI, *supra* note 144, vol. 1, at 24, 27; Hok-lam Chan, *supra* note 177, at 57.

¹⁷⁹ LIAO SHI, *supra* note 4, vol. 1, at 235; Liu Pujiang, *supra* note 177, at 63–65; Hok-lam Chan, *supra* note 177, at 64–66.

¹⁸⁰ The Jurchen title *dubojilie* (“Supreme Chief”) first appeared in the standard *History of the Jin*, which provided that in 1113 Aguda succeeded the Jurchen rulership and became *dubojilie*. However, historians generally believe that Aguda was the first Jurchen ruler to adopt the title *dubojilie*. Therefore, though Aguda became the ruler of the Jurchen federation in 1113, he did not “succeed” the title *dubojilie* nor had any motivation to create a Jurchen imperial title at that time. Instead, it is most likely that after he unified most of Manchuria in 1113–15, Aguda “created” the Jurchen imperial title *dubojilie* and proclaimed the founding of the Great Jin Empire in 1115. See Li Xiu-lian, *A Gu Da Cheng Du Bo Ji Lie Yu Jin Chao Kai Guo Shi Zhi Zhen Wei Yan Jiu* [On the Problem of Aguda Acted as Dubojilie], 2008 (No. 6) SHI XUE YUE KAN [JOURNAL OF HISTORICAL SCIENCE] 43, 47–49 (China) (arguing that in 1115 Aguda claimed the Jurchen title *dubojilie*, which was equivalent to Chinese title *huangdi*); 11 TONG SHI, *supra* note 10, at 862–63 (indicating that the Jurchen rulers were called *dubojilie* since Aguda times).

¹⁸¹ Li Xiu-lian, *supra* note 180, at 47.

Capital Circuit in 1116, Aguda accepted the Chinese-style honorific of “Great Holy Emperor” (*Dasheng Huangdi*) in 1117, which was about two years after his founding of the Great Jin Empire.

3.4.2 The “Recognition” of the Jin Empire, and the First Song–Jin Treaty (1123)

As discussed below, the newly established Jurchen Jin Empire was soon recognized not merely as an independent state, but also as an imperial power, by various neighboring states including the Khitan Liao, Chinese Song, Tangut Xia, and Korean Koryŏ (Koryeo or Goryeo).

Despite the continuing military conflict between the Khitan Liao and the Jurchen Jin, the diplomatic communications between the two states were established.¹⁸² In 1119, the Liao Emperor sent an embassy to the Jin to “invest” Aguda as the “Great Holy and Great Enlightened Emperor of the Eastern Sea State” (*Donghuai Guo Zhisheng Zhiming Huangdi*). However, Aguda rejected the Liao’s “investiture” for the reason that the Liao disrespectfully called his empire as the “Eastern Sea State” (*Donghuai Guo*), rather than by its official name “Great Jin.”¹⁸³ Nevertheless, the Liao did recognize Aguda’s emperorship, and, apparently, also the statehood or “sovereignty” of Aguda’s empire.

¹⁸² See LIAO SHI, *supra* note 4, vol. 1, at 235–36; 6 CAMBRIDGE, *supra* note 1, at 222.

¹⁸³ LIAO SHI, *supra* note 4, vol. 1, at 236–37; Hok-lam Chan, *supra* note 177, at 69; 11 TONG SHI, *supra* note 10, at 302.

Earlier in 1117, the Chinese Song began to negotiate with the Jurchen Jin to form a military alliance, known as the “alliance conducted at sea” (*hai shang zhi meng*), against the declining Khitan Liao, hoping to seize the opportunity to “recover” the Sixteen Prefectures of Yan and Yun.¹⁸⁴ Arguably, the Song–Jin diplomatic and military alliance would be sufficient to constitute the Song’s recognition of the Jin as an independent state. Nevertheless, by the end of 1122, the Song had failed to uphold its part of the bargain to capture the Liao’s Southern Capital at Yanjing (modern Beijing), whereas the Jin had seized all the Liao’s five capitals and forced the Liao Emperor Tianzuo to flee to the frontier near the Liao-Xia border.¹⁸⁵ Having occupied an “unassailable position,” Aguda could now dictate the Song–Jin negotiation. In 1123, the Song and the Jin formally concluded a treaty, which was “decidedly disadvantageous” to the Song.¹⁸⁶

As was usual in the traditional Chinese-style interstate diplomacy, the text of the Song–Jin Treaty of 1123 was “couched in the form of two parallel and identical oath-letters.”¹⁸⁷ According to the treaty, the Jin would hand over Yanjing and six surrounding prefectures to the Song, and in return, the Song would provide annual payments (*sui bi*) of 200,000 taels (about 260,000 ounces) of silver and 300,000 bolts of

¹⁸⁴ 6 CAMBRIDGE, *supra* note 1, at 224–25; MOTE, *supra* note 1, at 208–10.

¹⁸⁵ 6 CAMBRIDGE, *supra* note 1, at 225; MOTE, *supra* note 1, at 195.

¹⁸⁶ 5 CAMBRIDGE, *supra* note 76, at 632.

¹⁸⁷ 6 CAMBRIDGE, *supra* note 1, at 225.

silk, plus one million strings of cash to cover the taxes yielded by the Yanjing area.¹⁸⁸ Moreover, in the oath-letters, Aguda was formally addressed as the “August Emperor of the Great Jin” (*Da Jin Dasheng Huangdi*), and that undoubtedly constituted the Chinese Song’s recognition of the Jurchen Jin as an equal imperial power.¹⁸⁹ Aguda died only a few months later in 1123, and he was succeeded by his younger brother, Wanyan Wuqimai, later known as Jin Taizong (r. 1123–35).¹⁹⁰ The death of Aguda, however, did not stop the Jurchen Jin’s territorial expansion and regional hegemony in East and Inner Asia.

In 1124, the Tangut Xia and Jurchen Jin concluded a treaty, by which the Xia accepted its vassal status to the Jin, and, at the same time, terminated its tributary relations to the Chinese Song and the Khitan Liao.¹⁹¹ After the Jin ended the Liao in 1125, Korean Koryŏ also formally became a tributary state of the Jin in 1126.¹⁹² By 1126, having destroyed the Liao and secured suzerainty over the Xia and Koryŏ, the Jin could now focus on its war against the Song that had begun in late 1125.¹⁹³

¹⁸⁸ WANG YUAN-KANG, *supra* note 77, at 72; 5 CAMBRIDGE, *supra* note 76, at 632.

¹⁸⁹ See 6 CAMBRIDGE, *supra* note 1, at 225.

¹⁹⁰ MOTE, *supra* note 1, at 195.

¹⁹¹ 6 CAMBRIDGE, *supra* note 1, at 226; MOTE, *supra* note 1, at 382.

¹⁹² 6 CAMBRIDGE, *supra* note 1, at 229; MOTE, *supra* note 1, at 382.

¹⁹³ 6 CAMBRIDGE, *supra* note 1, at 226–27.

3.4.3 The Jurchen Jin's Territories

The original territory of the Jin Empire was mainly the Wild Jurchen's homeland in Manchuria, including the areas between the Amur River or Heilong Jiang (Black Dragon River) and the Changbai Mountain Range (Ever-White Mountains).¹⁹⁴ Also, upon its founding in 1115, the Jurchen Jin had seized a small amount of territory from the Khitan Liao.¹⁹⁵

The newly-established Jin Empire expanded rapidly. As noted already, by the end of 1122, the Jin had captured all the Liao's five capitals and forced the last Liao Emperor, Tianzuo, to flee west. Tianzuo hid in the Yin Mountains near the Liao–Xia border for about three years. In 1125, the Jin army captured Tianzuo, formally ending the Liao Empire.¹⁹⁶ The Jin, however, did not occupy all the former Liao territories. Except for the eastern margin of Mongolia, the vast Mongolian steppe was left outside the Jin's territorial ambition.¹⁹⁷ On the other hand, the Jurchens did not hesitate to annex the former Liao's five capitals and their surrounding areas, or what might be called the “Kitad” region, into the Jin Empire (see Maps 1.8 and 1.9).

¹⁹⁴ MOTE, *supra* note 1, at 211–12; 6 CAMBRIDGE, *supra* note 1, at 220–21.

¹⁹⁵ 6 CAMBRIDGE, *supra* note 1, at 142; 11 TONG SHI, *supra* note 10, at 298.

¹⁹⁶ The Jurchen Jin captured the Liao Eastern Capital in 1116, the Supreme Capital in 1120, and the Central, Western, and Southern Capitals in 1122. For more detail of the Jin conquest of the Liao, see 6 CAMBRIDGE, *supra* note 1, at 144–51; *see also* MOTE, *supra* note 1, at 194–96.

¹⁹⁷ MOTE, *supra* note 1, at 223, 230 map 8.

Right after the formal fall of Liao in 1125, the Jurchens used the Chinese violations of the Song–Jin Treaty of 1123 as a pretext to launch a full-scale invasion of Song.¹⁹⁸ By 1127, the Jin had occupied almost all of North China and had captured the Song capital, Kaifeng, as well as two Song emperors, namely, Qinzong and his abdicated father, Huizong.¹⁹⁹ That did not destroy the Chinese Song Empire (960–1279) but only ended the “Northern Song” period (960–1127). The Song Prince Kang, Zhao Gou, later known as Song Gaozong (r. 1127–62), was soon enthroned as the new Song Emperor and effectively rebuilt the Song court in South China.²⁰⁰ Song Gaozong and his successors continued the formal existence of the Chinese Song Empire in South China for another 152 years, a period known as the “Southern Song” (1127–1279) (see Tables 1.2 and 1.3).

At first, the Jurchen Jin did not want to directly govern the former Song territory in North China. The Jurchens adopted the policy of “using Chinese to control the Chinese” and created two “puppet” Chinese regimes, first, the short-lived “Great Chu” (*Da Chu*; 1127–27), and second, the “Great Qi” (*Da Qi*; 1130–37).²⁰¹ Nevertheless, in 1137, the Jin Empire decided to abolish the puppet Qi State, which had been proved of little military and political value for the Jurchens. After that, the Jin formally annexed and

¹⁹⁸ 5 CAMBRIDGE, *supra* note 76, at 633–34; *see also* 6 CAMBRIDGE, *supra* note 1, at 226–27.

¹⁹⁹ 6 CAMBRIDGE, *supra* note 1, at 226–29; MOTE, *supra* note 1, at 210.

²⁰⁰ 6 CAMBRIDGE, *supra* note 1, at 229; *see also* MOTE, *supra* note 1, at 289.

²⁰¹ 5 CAMBRIDGE, *supra* note 76, at 646–47, 657, 677; *see also* 6 CAMBRIDGE, *supra* note 1, at 229–32.

directly ruled most of North China.²⁰² Furthermore, as discussed later, by a new treaty of 1141, the Jin acquired more territories from the Song and brought entire North China under its alien rule. That also completed the Jin territorial expansion (see Map 1.9).

3.4.4 The Jin Relations with the Southern Song

3.4.4.1 The Second Jin–Song Treaty (1138)

In 1138, the Jin and Song concluded a peace treaty, which was a humiliating deal for the Song. The Song Emperor Gaozong accepted his inferior status as a “servant” or “vassal” (*chen*) of the Jin Emperor, and agreed to make annual payments of 250,000 taels (about 325,000 ounces) of silver and 250,000 bolts of silk to the Jin. In return, the Song would receive the lands in Shaanxi and Henan, and the new Song–Jin border would be the latest course of the Yellow River.²⁰³ However, some Pro-war Jurchen generals and officials continued to argue that the cession of lands to the Song was completely unnecessary. Consequently, the Jin abrogated the peace treaty, launched a large-scale invasion in 1140, and quickly defeated the Song.²⁰⁴

²⁰² 6 CAMBRIDGE, *supra* note 1, at 232.

²⁰³ WANG YUAN-KANG, *supra* note 77, at 86; 5 CAMBRIDGE, *supra* note 76, at 682.

²⁰⁴ WANG YUAN-KANG, *supra* note 77, at 86.

3.4.4.2 The Treaty of Shaoxing (1141)

The Song and Jin concluded a new peace treaty in 1141, known as the “Treaty of Shaoxing,” whose terms were even worse and more humiliating for the Song than the previous agreement.²⁰⁵ The Song agreed to cede the strategic Tang and Deng prefectures, along with other lands, to the Jin. The new Song–Jin border would be to follow the middle course of the Huai River in the east to the Dasan Pass in the west, bringing all of North China into Jurchen hands.²⁰⁶ The Song would make “annual tributes” (*sui gong*) of 250,000 taels of silver and 250,000 bolts of silk.²⁰⁷ As were the non-Chinese tributes to the Chinese court, the Song annual tributes to the Jin court were not “taxes.” However, while those tributes to the Chinese court were often, if not always, highly profitable for the non-Chinese tributaries, the Song tributes to the Jin were indeed Chinese indemnities to “buy peace” from the powerful Jurchen Empire.

In the Song oath-letter to the Jin, the Song Emperor Gaozong once again addressed himself as a “servant” or “vassal” (*chen*) of the Jin Emperor, and further referred to the Jin as “superior state” (*shang guo*) and his Song as “insignificant fiefdom” (*bi yi*). The Song’s annual payments to the Jin were unambiguously labeled as “tributes” (*gong*).

²⁰⁵ *Id.* at 89; MOTE, *supra* note 1, at 307–8; *see also* 6 CAMBRIDGE, *supra* note 1, at 233–35.

²⁰⁶ JIN SHI, *supra* note 144, vol. 2, at 1279; WANG YUAN-KANG, *supra* note 77, at 89; 5 CAMBRIDGE, *supra* note 76, at 684, 685 map 25.

²⁰⁷ WANG YUAN-KANG, *supra* note 77, at 89.

Moreover, the Song Emperor even vowed that all his future generations would solemnly obey the rituals of vassal.²⁰⁸ All of the above clearly reaffirmed the Chinese Song's inferior and vassal status to the Jurchen Jin. Furthermore, in late 1142, the Jin Emperor sent an embassy to formally invest the Song's "King Kang, Zhao Gou" as the "Song Emperor" (*Song Di*).²⁰⁹ In reality, the Song Emperor's power and legitimacy to rule the Southern Song territories were, of course, not derived from the Jin Emperor's purely nominal "investiture." As discussed earlier, nominal suzerainty without effective control and governance would not be sufficient to establish the suzerain's territorial sovereignty over its vassal. In other words, although the Song was formally degraded to a Jin vassal and recognized the Jin suzerainty, the Southern Song's territories did not become parts of the Jin Empire. Even so, the Song's tributary–investiture relationship with the Jin was extremely "humiliating" for the Song Chinese, as it confirmed the "barbarian" Jurchen empire's political and ritual superiority over the Chinese empire.

The Treaty of Shaoxing brought peaceful coexistence between the two empires for about two decades. During the reign of Wanyan Liang or Prince Hailing (r. 1122–61; posthumously denied the imperial status due to his tyranny), the Jin launched an all-out invasion of the Song in 1161, aiming to conquer entire South China. However, after a

²⁰⁸ JIN SHI, *supra* note 144, vol. 2, at 1279; 6 CAMBRIDGE, *supra* note 1, at 234; WANG YUAN-KANG, *supra* note 77, at 89.

²⁰⁹ JIN SHI, *supra* note 144, vol. 2, at 1279; 6 CAMBRIDGE, *supra* note 1, at 234.

coup d'état that erected a new emperor, Jin Shizong (r. 1161–89), and the murder of Hailing in late 1161, the Jin army was withdrawn in early 1162. A new series of military conflicts between the two sides began in 1163, eventually leading to the conclusion of a new peace treaty in 1165.²¹⁰

3.4.4.3 The Treaty of Longxing (1165)

Known as the “Treaty of Longxing,” the Song–Jin Peace Treaty of 1165 upgraded the Song’s status from that of a Jin vassal, but, as we will see, the Song still had to recognize the ritual superiority of Jin.²¹¹ The humiliating term “annual tributes” (*sui gong*) was replaced by “annual payments” (*sui bi*), and the annual payments were reduced from 250,000 to 200,000 taels of silver and bolts of silk.²¹² The Song was no longer required to address itself as a Jin vassal, but the new Jin–Song relationship would become a fictitious “uncle-nephew” kinship, which still gave the Jin a “ritual and ceremonial advantage” over the Song.²¹³ Moreover, under the Treaty of Longxing, the Song Emperor would still have to descend from his elevated throne to receive the “state letters” (*guo shu*) from the Jin envoys, and this diplomatic protocol obviously indicated the Song’s ritual inferior status to the Jin. The Song Emperor Xiaozong (r. 1162–89)

²¹⁰ WANG YUAN-KANG, *supra* note 77, at 90–93.

²¹¹ 5 CAMBRIDGE, *supra* note 76, at 719.

²¹² *Id.*

²¹³ 6 CAMBRIDGE, *supra* note 1, at 244.

^{ma}de several attempts to alter the rite about the receipt of Jin state letters, but the Jin Emperor firmly rejected all his requests.²¹⁴

3.4.4.4 The Treaty of Jiading (1208)

After four decades of peace between the two sides, the Song breached the Treaty of Longxing of 1165 and launched a large-scale war against the Jin in 1206, hoping to recover the Chinese “lost” territories, but only resulted in a miserable defeat.²¹⁵ In 1208, the two empires signed a new peace treaty, known as the “Treaty of Jiading,” which raised the annual payments to the Jin from 200,000 to 300,000 taels of silver and bolts of silk, and required the Song to pay three million strings of cash as war reparations.²¹⁶ In 1214, the Song stopped making annual payments to the declining Jin, which was eventually conquered by the Mongol Empire (1206–1635) in 1234.²¹⁷

²¹⁴ 5 CAMBRIDGE, *supra* note 76, at 735–36, 738–39.

²¹⁵ WANG YUAN-KANG, *supra* note 77, at 95.

²¹⁶ *Id.*; CHEN ZHEN, SONG SHI [HISTORY OF THE SONG] 496 (Shanghai, Shanghai Ren Min Chu Ban She 2003) (China) (Series: Zhongguo Duandaishi Xilie).

²¹⁷ WANG YUAN-KANG, *supra* note 77, at 95–96.

3.4.5 The Jurchen Jin's Governance

3.4.5.1 The Dual Local Administration: The Jurchen *Meng'an-Mouke* System and the Chinese *Zhou-Xian* System

The *meng'an-mouke* system was a sociopolitical-military organization that was developed from the Jurchen's traditional tribal divisions and formally established by Aguda about 1114. The *meng'an-mouke* organization was typically for the Jurchens, and its administrative units usually had hereditary leaders.²¹⁸ The entire Jurchen population was organized into the basic units, *mouke* (meaning, village community), each of which, in theory, consisted of (but, in reality, usually had less than) 300 households. In wartime, every *mouke* should provide 100 regular soldiers and 100 auxiliary slaves. Normally, seven to ten *mouke* formed a *meng'an* (meaning, one thousand), which, however, often had less than 1000 households.²¹⁹ The *meng'an-mouke* system provided various functions. Socially and politically, the system maintained the tribal organizations and provided the administration for the Jurchens.²²⁰ Militarily, the *meng'an-mouke* units remained the core of the "Jurchen military machine" throughout the Jin period.²²¹ They not only fought on the battlefield in wartime but also garrisoned

²¹⁸ 6 CAMBRIDGE, *supra* note 1, at 273–77; MOTE, *supra* note 1, at 217–19, 224, 239–42.

²¹⁹ 6 CAMBRIDGE, *supra* note 1, at 273–74; MOTE, *supra* note 1, at 217.

²²⁰ See TAO JING-SHEN, THE JURCHEN IN TWELFTH-CENTURY CHINA: A STUDY OF SINICIZATION 27 (1976).

²²¹ 6 CAMBRIDGE, *supra* note 1, at 276.

at strategic posts after the conquest.²²² Economically, for those units garrisoning in the sedentary areas, their population were granted farmlands for agriculture and expected to be self-sufficient.²²³ As we will see in Chapter 7, the Jurchen Jin's *meng'an-mouke* organization was the forerunner of the Manchu Qing's Eight Banners (*baqi*) system, which provided the main conquering and occupying force for the empire.

When conquering the Liao, the Jin also used the *meng'an-mouke* system to reorganize and absorb the Balhae, Chinese, Khitan, and Xi peoples in southwestern Manchuria and the eastern margin of Mongolia. These non-Jurchen *meng'an-mouke* units were allowed to be administered by the non-Jurchen chieftains or officials who surrendered to, or collaborated with, the Jurchens.²²⁴ As Thomas J. Barfield notes,

Jurchen [*meng'an-mouke*] tribal organization served as its military framework. Conquered tribes were easily absorbed as new military units under the command of their own leaders. . . . Even Chinese who surrendered could expect to receive tribal titles and be incorporated into this structure whose leaders provided the elite core within the Jurchen state. Thus, for many Khitan tribal leaders and Chinese officials[,] the invading Jurchens offered a far better prospect than remaining with the declining Liao dynasty, which could no longer reward them.²²⁵

²²² *Id.* at 273–74; TAO JING-SHEN, *supra* note 220, at 27.

²²³ 6 CAMBRIDGE, *supra* note 1, at 275.

²²⁴ *Id.* at 274; MOTE, *supra* note 1, at 218; BARFIELD, *supra* note 30, at 179.

²²⁵ BARFIELD, *supra* note 30, at 179.

Nevertheless, as a way to control these “untrustworthy” non-Jurchen units, the Jin would keep some of their leaders’ relatives as hostages.²²⁶ Moreover, some other non-Jurchen tribal groups (e.g., Tangut and Tiele tribes) were also allowed to retain their semi-military tribal organizations that were similar to the *meng’an-mouke* units.²²⁷

However, when the Jurchen conquest went further south of the Great Wall, the Jin found it challenging to apply the *meng’an-mouke* system to the Chinese-populated regions, due to the local Chinese resistance to such a change.²²⁸ Thus, following the Khitan precedent of dual administration, the Jin generally remained the existing Chinese prefectures and counties in the Chinese regions intact and placed them under the Jurchen supervision.²²⁹

As discussed later, the Jin moved its principal capital to Yanjing (modern Beijing) in 1153 and transformed its central governance into a more Chinese-like imperial model. The adoption of more Chinese-style central institutions, however, did not end the fundamental dual administration structure along the ethnic lines, at least, not at the level of local governance. In fact, in the 1140s, all the Chinese and Balhae *meng’an-mouke* units (typically, in southwestern Manchuria) were abolished, and their population was

²²⁶ TAO JING-SHEN, *supra* note 220, at 28.

²²⁷ THE CAMBRIDGE HISTORY OF EARLY INNER ASIA 420 (Denis Sinor ed., 1990) [hereinafter EARLY INNER ASIA].

²²⁸ 11 TONG SHI, *supra* note 10, at 930.

²²⁹ See MOTE, *supra* note 1, at 218, 223, 228, 231; 11 TONG SHI, *supra* note 10, at 860, 867–69; TAO JING-SHEN, *supra* note 220, at 27–28, 32–33.

reorganized into the Chinese-style counties and prefectures.²³⁰ Moreover, in the 1160s, having suppressed the Khitan and Xi rebellion, the Jin disbanded most of the Khitan and Xi *meng'an-mouke* units and distributed their households among the Jurchen *meng'an-mouke*.²³¹

After the conquest of North China, the Jin moved many *meng'an-mouke* units to the Chinese regions south of the Great Wall to perform garrison duties.²³² The *meng'an-mouke* population included not only Jurchens but also a substantial amount of non-Jurchen groups and slaves. By the 1180s, some one million Jurchens resettled and garrisoned in northern China Proper, and the other more than one million Jurchens remained in Manchuria.²³³ Like those Jurchens in the homeland, the Jurchens in the Chinese regions were continuously organized in the *meng'an-mouke* units. Moreover, as discussed in more detail later, these *meng'an-mouke* units formed their own communities, which were separated from the enormous Chinese populations in the regular prefectures and counties.²³⁴

²³⁰ 11 TONG SHI, *supra* note 10, at 937; MOTE, *supra* note 1, at 240; see also Julia Schneider, *The Jin Revisited: New Assessment of Jurchen Emperors*, 41 JOURNAL OF SONG–YUAN STUDIES 343, 369–70 (2011).

²³¹ 6 CAMBRIDGE, *supra* note 1, at 275; see also MOTE, *supra* note 1, at 240.

²³² LI XIHOU & BAI BIN, *supra* note 54, at 326–28.

²³³ See LU YU & TENG ZEZH, *supra* note 28, at 548.

²³⁴ Tillman, *supra* note 173, at 24, 28; 11 TONG SHI, *supra* note 10, at 861, 870.

Thus, even after the so-called Jurchen's "Great Migration" to the Chinese regions, a mixed and dual system of local administration continued to exist and function until the end of the Jin dynasty.²³⁵ Both in principle and practice, eventually, all the Chinese and Balhae populations (who were typically lived in northern China Proper and southwestern Manchuria) were subjected to the Chinese-style local administration system and administered by the regular prefectures and counties. On the other hand, all the Jurchens and other non-Chinese populations (except the Balhae people) were organized in the *meng'an-mouke* tribal units and alike, wherever they lived.

3.4.5.2 The Jin Court's Centralization and the Move of Principal Capital to Yanjing (Modern Beijing)

In the early years of the dynasty, the Jin central governance was based on the Jurchen's tribal tradition, in particular, the *bojilie* (great chieftains) system. Under the Jin Emperor/Supreme Chief (*dubojilie*), the Council of Great Chieftains (*guolun bojilie*) served as the principal decision-making body.²³⁶ During its conquest of Liao, the Jin basically inherited the Liao administrative model, in particular, the dual administration system, the northern-southern regional division, and the multiple capital system. Nevertheless, the Jurchens also made some modifications to the Liao model to better suit

²³⁵ Tillman, *supra* note 173, at 28.

²³⁶ MOTE, *supra* note 1, at 225–27; 6 CAMBRIDGE, *supra* note 1, at 265–67; 11 TONG SHI, *supra* note 10, at 863–64.

their needs. For example, the Khitan's tribal institutions were replaced by the Jurchen's *bojilie* system (at the central level) and, as discussed already, *meng'an-mouke* organization (at the local level).²³⁷

After ending the Northern Song, the Jin central government incorporated more Chinese imperial institutions and rituals to centralize the imperial power and to better govern the newly conquered Chinese regions and vast Chinese subjects.²³⁸ In 1134–35, the Jurchen-style Council of Great Chieftains and the entire *bojilie* system were “formally” abolished, but the old tribal council customs did not suddenly disappear and lasted for a long time in actual practice.²³⁹ After the governmental reforms, the Chinese-style Department of State Affairs (*Shangshu Sheng*) and its subordinate Six Ministries (*Liu Bu*) eventually became the major central institutions for high-level policy-making and implementation.²⁴⁰ The Jurchen rulers moved the Jin central governance closer to a Chinese-style system mainly because the Chinese imperial model could help them centralize imperial control and contain aristocratic power and tribal autonomy, not because they gave up Jurchen culture and identity.²⁴¹ Nevertheless, the top positions in the Chinese-style bureaucracy still largely remained “a prerogative of Jurchen dignitaries.”

²³⁷ 11 TONG SHI, *supra* note 10, at 859–60; MOTE, *supra* note 1, at 225–26; 6 CAMBRIDGE, *supra* note 1, at 266–67.

²³⁸ 6 CAMBRIDGE, *supra* note 1, at 266–70; 11 TONG SHI, *supra* note 10, at 864–66.

²³⁹ 6 CAMBRIDGE, *supra* note 1, at 266–67.

²⁴⁰ *Id.* at 268–70; HUCKER, *supra* note 57, at 56; 11 TONG SHI, *supra* note 10, at 865–66.

²⁴¹ See MOTE, *supra* note 1, at 228, 231, 234; BARFIELD, *supra* note 30, at 181.

After all, Jurchen clan affiliation was “a far more powerful guarantee of loyalty than was the abstract behavioral code of Confucian state ethics.”²⁴²

The Jin Empire’s original imperial capital was Huining (modern Acheng in Heilongjiang Province), the Wanyan clan’s old tribal base, in the Jurchen homeland. For almost four decades from 1115 to 1153, the Jin maintained its imperial seat at Huining, better known as the Supreme Capital (Shangjing) (see map 1.9).²⁴³ In 1153, the Jin moved its principal capital from Huining to Yanjing (modern Beijing) and renamed Yanjing from the Southern Capital (*Nanjing*) to the Central Capital (Zhongdou). Huining was removed its capital status in 1153 but was elevated again to the Supreme Capital in 1173.²⁴⁴ In earlier times, the native Chinese empires had never placed their imperial seats at the Yanjing (Beijing) area, which was merely the northeastern corner of what might be called China Proper. The Khitan Liao made Yanjing its Southern Capital, however, as a regional, albeit important, administrative center. The Jurchen Jin was the first empire to use present-day Beijing as its principal and imperial capital.²⁴⁵

The move of the Jin’s imperial seat to Yanjing or modern Beijing is popularly regarded as a move of Jin main capital to “China,” and that has been further misleadingly

²⁴² 6 CAMBRIDGE, *supra* note 1, at 268–69.

²⁴³ MOTE, *supra* note 1, at 225, 233; 11 TONG SHI, *supra* note 10, at 711, 869.

²⁴⁴ 11 TONG SHI, *supra* note 10, at 869; LI XIHOU & BAI BIN, *supra* note 54, at 203–4.

²⁴⁵ 6 CAMBRIDGE, *supra* note 1, at 16; CROSSLEY, *supra* note 38, at 21.

used as evidence of the Jurchen's "Sinicization" and a reason why the Jin was transformed into a "Chinese" empire.²⁴⁶ However, the move of the Jin imperial capital to Yanjing in 1153 was not for "Sinicization" but mainly to improve the Jin central government's control over the empire's entire territories (especially, the conquered Chinese regions) by placing the imperial seat to the central location of the empire.²⁴⁷ That is why Yanjing was renamed the Central Capital in 1153 (see Map 1.9).

Moreover, what is "now" historically considered the northeastern edge of China Proper was, arguably, not part of "China" in Jin times. As noted earlier, the Sixteen Prefectures of Yan and Yun, including the area of present-day Beijing, was legally ceded to the Khitan Liao and detached from "China" in 938. After seizing the Liao's Southern Capital at Yanjing in 1122, the Jin handed over the city to the Song in 1123 but soon recaptured it in early 1126.²⁴⁸ When the Jin moved its principal capital to Yanjing in 1153, the area of modern Beijing had been under non-Chinese rule for more than two centuries, and arguably had ceased to remain part of "China." Since the Jin was essentially a successor dynasty to the Liao (and that is why the Mongols referred to the Jin as "Kitad"), it is better to see the move of Jin principal capital to Yanjing not as a

²⁴⁶ E.g., Liu Pujiang, *Nü Zhen De Han Hua Dao Lu Yu Da Jin Di Guo De Fu Wang [Sinicization of Jurchen and the Fall of Great Jin Empire]*, in SONG MO ZHI JIAN: LIAO JIN QIDAN NÜZHEN SHI YAN JIU [STUDIES ON THE JURCHEN JIN AND KHITAN LIAO] 235, 244–46, 273 (Beijing, Zhonghua Shu Ju 2008) (China).

²⁴⁷ See MOTE, *supra* note 1, at 234.

²⁴⁸ STEPHEN G. HAW, BEIJING – A CONCISE HISTORY 40, 136 (2006).

move to the northern part of “China,” but as a move to the southern part of the former Liao’s heartlands or what might be called the “Kitad” region (see Map 1.9).

3.4.5.3 Regional Governance: Routes and Multiple Capitals

At its height, the Jin Empire was divided into nineteen routes (*lu*), some of which were administered by multiple capitals. Following the Balhae and Liao precedents, the Jin also established a system of multiple capitals, which sometimes had five but usually had six capitals. Some of these capitals had different names in different periods (for example, Yanjing was at first named the Southern Capital but was later renamed the Central Capital). For better readability, only their most commonly known names will be given. After the conquest, the Jin Empire typically maintained (see Map 1.9): a capital at Huining (Supreme Capital) in the Jurchen Jin homeland; four capitals, namely, Liaoyang (Eastern Capital), Dading (Northern Capital), Yanjing (Central Capital), and Datong (Western Capital) in the former Liao territory; and a capital at Kaifeng (Southern Capital) in the former Northern Song territory.²⁴⁹ At first, the former Liao’s imperial capital at Linhuang also became a Jin capital, but it later lost capital status.²⁵⁰

²⁴⁹ 6 CAMBRIDGE, *supra* note 1, at xxix tbl. 5, 270; LIAO SONG XI XIA JIN DAI TONG SHI [GENERAL HISTORY OF LIAO, SONG, XI XIA, AND JIN DYNASTIES], vol. 2, at 392–93 (Qi Xia et al. eds., Beijing, Ren Min Chu Ban She, 2010) (China); 11 TONG SHI, *supra* note 10, at 869.

²⁵⁰ 11 TONG SHI, *supra* note 10, at 869; 6 CAMBRIDGE, *supra* note 1, at xxix tbl. 5.

Moreover, a “proto-provincial” administrative institution, the Branch Department of State Affairs (*Xing Shangshu Sheng*), was introduced in 1137 and established in the Chinese regions to govern, more closely and effectively, the conquered Chinese subjects and lands. Although this new proto-provincial institution did not last long in Jin times, the Mongol Yuan later revived it and developed it into a full “provincial” (*sheng*) system, which is still used in China today.²⁵¹

3.4.6 Preservation of Jurchen Identity in the Multiethnic Jin Empire

For most Jin times, the Jurchen, Khitan, and Chinese writing systems coexisted officially in the multiethnic Jin Empire.²⁵² Soon after his founding of Jin in 1115, the first Jin Emperor, Aguda, ordered the creation of Jurchen writing system. The Jurchen large script (based on the Khitan large script) was introduced in 1119. Before long, the Jurchen small script (simplified from the Jurchen large script) was created in 1138 (see Figure 1.1).²⁵³ The Jurchen scripts were used in governmental documents and institutions and were taught and learned by Jurchens in schools.²⁵⁴ Nevertheless, after the creation of Jurchen scripts, the Jurchens did not immediately abandon the Khitan

²⁵¹ 6 CAMBRIDGE, *supra* note 1, at 267–68; 11 TONG SHI, *supra* note 10, at 867–69; Tillman, *supra* note 173, at 28.

²⁵² 6 CAMBRIDGE, *supra* note 1, at 282.

²⁵³ *Id.*; ZHONGGUO DONG BEI SHI [HISTORY OF NORTHEAST CHINA], vol. 2, at 809 (Tong Dong et al. eds., Changchun Shi, Jilin Wen Shi Chu Ban She 2006) (China).

²⁵⁴ Tong Dong et al. eds., *supra* note 253, vol. 2, at 809–12.

scripts, which they “had obviously learned to use with ease” since the previous Liao period.²⁵⁵ As expected, the Jin Empire’s court language was Jurchen. Therefore, the “Chinese petitions had to be translated into Jurchen during the court proceedings.”²⁵⁶ However, at least in early Jin times, even the educated Jurchens were not familiar with the Chinese writing system and literature. Therefore, until the middle of Jin, the Jurchens needed other people (probably, educated Khitans) first to translate the Chinese documents and works into Khitan, and then, they could translate Khitan into Jurchen.²⁵⁷ After the fall Jin, the Jurchen small script continued to be used by the Jurchens in Manchuria at least until the 16th century.²⁵⁸

Until recently, it had been assumed that, in Jin times, most of the Jurchens had been rapidly “Sinicized” and forgotten their own language. However, as Julia Schneider convincingly points out, “no substantial evidence” shows that the Jurchens in Jin times “ever lost their native speaking ability,” and, quite contrarily, “the Jurchen language existed well after the fall of the Jin dynasty and was the forerunner of the Manchu language.”²⁵⁹ In fact, long after the fall of Jin, “the Jurchen language continued to be

²⁵⁵ WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 253.

²⁵⁶ 6 CAMBRIDGE, *supra* note 1, at 282.

²⁵⁷ See WITTFOGEL & FÈNG CHIA-SHÈNG, *supra* note 3, at 253; 6 CAMBRIDGE, *supra* note 1, at 282–83.

²⁵⁸ 6 CAMBRIDGE, *supra* note 1, at 282; Tong Dong et al. eds., *supra* note 253, vol. 2, at 809, 812–13.

²⁵⁹ Schneider, *supra* note 230, at 385–86.

taught and learned” by some Koreans, apparently, to communicate with the Jurchens in Manchuria.²⁶⁰

The Jin populations were around 44.7 million in 1187 (about the middle of Jin times) and grew to 53.5 million in 1207. The total non-Chinese populations were estimated 7 million, of which 2.5–3 million were Jurchens, who ruled over some 40 million Chinese subjects. Roughly speaking, half of the Jurchen population remained in what later became Manchuria, and the other half settled in the conquered Chinese-populated lands south of the old Great Wall.²⁶¹

Under the dual administrative system, those one million more Jurchens who settled in the Chinese-populated regions were institutionally segregated from the tens of millions of Chinese subjects, helping the Jurchens to maintain their ethnic identity. In the conquered Chinese areas, the primary mission of most Jurchens was to perform hereditary garrison duties. They typically did not reside in walled towns but settled in their own *meng'an-mouke* villages, which might be described as “military colonies.”²⁶² Administratively, the Jurchens in the *meng'an-mouke* units were kept apart from the large Chinese population in the Chinese-style prefectures and counties. During most of Jin

²⁶⁰ 6 CAMBRIDGE, *supra* note 1, at 283.

²⁶¹ See LU YU & TENG ZEZH, *supra* note 28, at 546–50.

²⁶² 6 CAMBRIDGE, *supra* note 1, at 274–75, 279; EARLY INNER ASIA, *supra* note 227, at 418.

times, intermarriage between Jurchens and Chinese was forbidden by law.²⁶³ The intermarriage ban was formally lifted only in the very late Jin, most likely, in 1206.²⁶⁴ As Hoyt Cleveland Tillman observes, although the Jin “adopted [some] traditional Chinese political institutions,” “elements of Jurchen tribal organization and lifestyle persisted through the century of their dominance in North China.”²⁶⁵

Like other non-Chinese Inner Asian conquest dynasties, the Jin also had a dual system of law.²⁶⁶ As Tillman notes, much of the Jin history “follows the general pattern of other polyethnic states wherein ethnicity was a factor in determining sociopolitical status and legal administration.”²⁶⁷ There were provisions of the Jin law that reflected the “multinational character of the state” and that the “ethnicity principle was expressly given priority.”²⁶⁸ Even after the introduction of the Chinese-style Taihe Code in 1202, some special Jurchen tribal customs in family law were preserved, and inheritance law continued to differ among different ethnic groups.²⁶⁹ Moreover, offenses committed

²⁶³ 6 CAMBRIDGE, *supra* note 1, at 40, 281.

²⁶⁴ The standard *History of the Jin* provided that the ban on intermarriage between the Jurchens and Chinese was lifted twice — first in 1191 and second in 1206. According to Liu Pujiang, the first time was only an expedient measure to ease the tension between the garrisoned Jurchens and surrounding Chinese, and the second time was the formal decree to lift the ban. At any rate, it appears that the first edict issued in 1191 had no substantial impact or simply was not implemented. See Liu Pujiang, *supra* note 246, at 261; JIN SHI, *supra* note 144 vol. 1, at 174, 223.

²⁶⁵ Tillman, *supra* note 173, at 24.

²⁶⁶ Herbert Franke, *Jurchen Customary Law and the Chinese Law of the Chin Dynasty*, in STATE AND LAW IN EAST-ASIA 215, 215 (Dieter Eikemeier & Herbert Franke eds., 1981).

²⁶⁷ Tillman, *supra* note 173, at 24.

²⁶⁸ 6 CAMBRIDGE, *supra* note 1, at 290.

²⁶⁹ For example, according to Tillman, Jurchens “could continue to practice both elopement (‘free stealing’ of brides) and levirate (marrying widows of paternal relatives, with the exception of one’s own mother),” and a Jurchen son was allowed “to inherit property and set up a separate household while his

between persons of the same ethnicity (*tong lei*) would be adjudicated according to the customs of that ethnicity.²⁷⁰ Therefore, as Herbert Franke states, the Jin legal system remained “a mixture of Chinese traditional law based on the T’ang codification, and customary law of the non-Chinese ethnic elements.”²⁷¹

Moreover, the *meng’an-mouke* population, typically Jurchens, also enjoyed various privileges. They were not required to do corvée and paid fewer taxes than the normal Chinese subjects.²⁷² The Jurchens, especially those of the imperial lineage and other nobles, enjoyed various political and military privileges. They occupied most high-ranking and influential governmental positions, enjoyed much faster promotion in the government than any other ethnic groups, and essentially monopolized military power.²⁷³ The *meng’an-mouke* organization was “essentially of and for Jurchens,” and the reforms “in the early 1180s granted them more generous and greater privilege than ever before.”²⁷⁴ All these economic, political, and military privileges became closely

father was still alive.” However, the above behaviors were banned and punishable for the Chinese subjects. See Tillman, *supra* note 173, at 32; 6 CAMBRIDGE, *supra* note 1, at 289–90; *see also* Franke, *supra* note 266, at 233.

²⁷⁰ 6 CAMBRIDGE, *supra* note 1, at 290.

²⁷¹ Franke, *supra* note 266, at 233; *see also* Tillman, *supra* note 173, at 32.

²⁷² Schneider, *supra* note 230, at 369; *see also* TAO JING-SHEN, *supra* note 220, at 49–50.

²⁷³ Tillman, *supra* note 173, at 28; TAO JING-SHEN, *supra* note 220, at 48–50, 53–55, 61–62, 65–66; 6 CAMBRIDGE, *supra* note 1, at 268, 279; MOTE, *supra* note 1, at 271–72 (“Few Chinese were admitted into highest ranks of policy making, even on the civil side of government” and that “the higher ranks in those non-Jurchen military units were dominated by Jurchen appointees.”).

²⁷⁴ MOTE, *supra* note 1, at 240.

connected to the Jurchen ethnicity and helped Jurchens to maintain their domination in the Jin Empire.²⁷⁵

Living in the *meng'an-mouke* units and segregated from the Chinese population, the Jurchens in the Chinese regions could still retain their unique cultural and ethnic identity. Moreover, those one million more Jurchens who stayed in Manchuria continued their traditional way of life and certainly were not Sinicized. After the Mongol conquest of the Jin in 1234, some Jurchens in the Chinese regions returned to their homeland.²⁷⁶ As discussed in later chapters, centuries later, the Jurchens in Manchuria established the Jurchen [Later] Jin/Manchu Qing Empire in 1616 and once again dominated East and Inner Asia.

3.5 Summary and Conclusion

Founded in the Khitan homeland of the Liaoxi steppe in the Manchurian-Mongolian borderland, the Khitan Liao Empire (907–1125) was established by Yelü Abaoji or Liao Taizu (r. 907–26) when he took the Khitan imperial title and became the “Heavenly Khagan” in 907. Abaoji adopted the Chinese-style imperial title *huangdi* and his own era name in 916, but that should not be mistaken as his founding of the Khitan Dynasty.

²⁷⁵ Schneider, *supra* note 230, at 369–70, 387–90.

²⁷⁶ See CROSSLEY, *supra* note 38, at 23–24; 8 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 2, 258 (Denis Twitchett & Frederick W. Mote eds., 1998).

The Khitan Empire maintained a “dual state name” system, having both the Khitan and Chinese official state names. The native Khitan state name remained the “Great Central Hulzhi Khitan State” (shortly, the “Great Khitan State” or “Great Hulzhi State”). The initial Chinese state name “Da Qidan” was officially used until 1066. The new Chinese name “Da Liao” was introduced by Yelü Deguang or Liao Taizong (r. 927–47) in either 938 or 947, but that would not make Deguang the founding emperor of the Liao Dynasty. The name “Da Liao” was abolished in 983, but was readopted in 1066 and continued to be used until the dynasty’s fall in 1125. Regardless of all these changes in its Chinese state name, the Khitan Empire remained the same state, and, therefore, the dynastic name “Liao” should be (and, indeed, has been consistently and generally) applied to the entire period of the Khitan Dynasty (907–1125).

Before annexing the “Sixteen Prefectures of Yan and Yun” in the northeastern corner of China Proper, the Khitan Empire had conquered or dominated most of what later became Mongolia and Manchuria. Though being strategically and economically important, the Sixteen Prefectures constituted only a small portion of the Liao territories. Nevertheless, the Sixteen Prefectures had millions of Chinese subjects, which constituted slightly more than half the total Liao populations.

As a result of its territorial expansion, the Khitan Liao was developed into a multiethnic empire, having a system of dual administration and five capitals. Regarding the central governance, the Liao Empire was divided into the Northern Region and the Southern Region. The tribal-style “Government of the Northern Region,” which was set up by the Khitan tradition and law, administered the Khitans and other steppe peoples. The bureaucratic “Government of the Southern Region,” which was based on the Chinese-type institutions and law, governed the Chinese and other sedentary subjects. Both central governments, however, remained in the Supreme Capital in the Khitan homeland. At the regional level, the five capitals served as the regional centers for the five corresponding “capital circuits.” Moreover, there was also a system of dual administration at the local level. The Khitan and other nomadic peoples were continuously organized into the tribal organizations, while the Chinese and Balhae peoples were governed by the Chinese-style prefectures and counties.

Although borrowing some Chinese imperial institutions and practice, the Khitans generally maintained their traditional way of life and distinct ethnic identity. The Liao founder, Abaoji, ordered the creation of the Khitan writing system, which made it possible for the northern tribal region to operate and keep official documents in Khitan. The Supreme Capital had a “dual city design” that separated the northern “Imperial City”

or “Khitan City” from the southern “Chinese City.” Moreover, maintaining the nomadic tradition, the Liao court stayed in the Supreme Capital only shortly for each year, and periodically moved between the seasonal camps (*nabo*) in the Northern Region. The Khitan emperor’s *ordo*, which consisted of the emperor’s household and imperial bodyguards, moved everywhere with the emperor. While traveling, the Liao court frequently held imperial audiences with the local tribal leaders, and the court always brought Khitan high officials with it to continue managing state affairs and making important decisions. The Khitan officials were personally and institutionally closer to the Liao Emperor, and they enjoyed much greater political and military powers than the Chinese officials, demonstrating the Khitan domination over the Liao Empire.

In the case of Tangut Xia State (c. 982–1227), the Xiazhou-based or Ping-Xia Tanguts established their own state around 982, after Li Jiqian or Xia Taizu (r. 982–1004) recovered the Ping-Xia Tangut’s centuries-old homeland in the southern Ordos (outside China Proper). By his death in 1004, Li Jiqian had conquered almost all the Ordos region and the Yinchuan (Ningxia) Plain, laying the territorial foundation for the Tangut Xia in what later became the western part of Inner Mongolia. At its height, the Tangut Xia expanded westward into the Alxa (Alashan) Plateau and Hexi (Gansu) Corridor, but the Tanguts had never conquered any significant portion of the Chinese heartlands.

Although the Tangut Xia rulers usually maintained “dual” tributary–investiture relationships with the Khitan Liao and the Chinese Liao, the Tangut Xia was still regarded as a state even under the traditional Chinese-style *Tianxia* order. The nominal “submission” to the Liao and Song would not make the Xia territory a part of the Liao or Song Empire. Quite contrarily, the calculated “dual tribute” demonstrated the Tangut Xia’s capacity to conduct its external affairs independently to maximize the Tangut interests. Moreover, the possibility of “dual tribute” or even “multiple tribute” also explains why the nominal tributary–investiture relation alone would not (and should not) be sufficient for a suzerain state to establish sovereignty over its nominal vassal.

The third Tangut Xia ruler, Weiming (Li) Yuanhao (r. 1032–48), introduced a series of cultural, political, and military reforms in order to strengthen the Tangut identity and centralize the imperial power. He changed the Xia’s royal surname from Li (previously bestowed to his clan by the Chinese Tang court) to Weiming (a native Tangut surname). A complicated Tangut script was introduced and commonly used in government offices and schools. The Xia dress code was issued for both officials and commoners, and a “national” nomadic hairstyle was strictly imposed on all the male subjects. The government was seemingly restructured on the Song model, while the military was reorganized by the Inner Asian structures.

After these extensive reforms, Yuanhao held a formal ceremony in 1038, adopting the Chinese-style imperial title *huangdi* and his new era name, and probably, at the same time, formally introducing the dynastic name “Da Xia” (Great Xia). However, these political gestures were intended to gain the Song and Liao recognition of the Xia’s equal imperial status, and should not be mistaken as Yuanhao’s founding of the Xia Dynasty in 1038. In fact, previously, Yuanhao’s father, Li Deming, had already adopted an imperial title, and Yuanhao himself had also adopted the Tangut imperial title *wuzu* (Son of Blue Heaven). The adoption of a new Chinese-style imperial honorific title in 1038 merely “reaffirmed” his existing claim of the Tangut Emperorship. Moreover, rather than styling themselves as Confucian sage rulers, the Tangut Xia rulers were more enthusiastic to represent themselves as patrons of Buddhism and defenders of the Buddhist Law (Dharma) and even to identify themselves as Cakravartin, the Buddhist universal “wheel-turning king.”

Similar to the Khitan Empire, the Tangut State also had a “dual state name” system. The Tangut State’s official Tangut name was the “Great State of White and High,” and its Chinese name was “Great Xia.” Just like the case of Khitan “Liao,” the dynastic name “Xia” should also be applied to the entire period of the Tangut Dynasty (c. 982–1227). Until recently, it had been long accepted that Li Jiqian or Xia “Taizu” was the founder of

the Tangut Xia or Western Xia Dynasty. The current popular misunderstanding that the Western Xia was founded by Yuanhao in 1038 (when he adopted the Chinese-style imperial title *huangdi*) appears a recent and Chinese-biased “reimagination” of history.

In the early 12th century, the Jurchens built their Jin Empire (1115–1234), which soon became a dominant imperial power in Inner and East Asia. In 1115, after he adopted the native Jurchen imperial title *dubojilie* (Supreme Chief) and his era name, Wanyan Aguda or Jin Taizu (r. 1115–23) founded the Da Jin (Great Golden) Empire in the Wild Jurchen homeland (i.e., the large part of Manchuria). After his conquest of the Liao’s Eastern Capital Circuit in 1116, Aguda adopted the Chinese-style imperial title *huangdi* in 1117. Nevertheless, historians generally (and correctly) recognize the founding of the Jin Dynasty by Aguda in Manchuria in 1115, even before the Jin conquered any part of the Chinese heartlands. In sharp contrast, as discussed in Chapter 6, most modern historians, unfortunately, fail to observe the actual founding of the Qing Dynasty by Nurhaci in Manchuria in 1616.

After its conquest of the Liao in 1125, the Jin annexed the former Liao’s five capitals and their surrounding areas (or what might be called the “Kitad” region), but not the former Liao’s vast territory in most of the Mongolian steppe. By 1127, the Jin had invaded the Chinese Song (960–1279) and conquered almost all of North China

(including the Song capital at Kaifeng). After that, the Song Empire continued to exist in South China for another 152 years, a period known as the “Southern Song” (1127–1279).

Corresponding to the Jin Empire’s territorial and ethnical composition, the Jin administration was a mixture of the Jurchen tradition, Khitan statecraft, and Chinese influence. The Jin Empire generally followed the Liao’s precedent and transformed itself into a multiethnic empire with a dual administration system and multiple capitals. At the central level, the Jin rulers incorporated more Chinese-style institutions and rituals to centralize their imperial power and to better govern the conquered Chinese regions and the vast Chinese subjects. Nevertheless, the old Jurchen tribal council customs still lasted for a long time in actual practice.

Since Yanjing (Beijing) was located in the central area of the empire, the Jin moved its principal capital from Huining to the Central Capital at Yanjing in 1153 in order to increase the central government’s control over the entire empire (instead of transforming itself into a “Chinese” dynasty). Moreover, because the Yanjing area had been detached from “China” for more than two centuries since 938, it is better to view the Jin’s Central Capital as a part of the former Liao’s heartlands or the “Kitad” region, rather than a part of “China.”

At its height, the Jin territories were divided into nineteen routes (*lu*), some of which were administered by several (sometimes five, but usually six) capitals. At the local level, the Jin maintained a dual system of local administration. Typically, the Chinese and Balhae populations were governed by the Chinese-style local administrative units (such as prefectures and counties), while all the Jurchens and other non-Chinese tribal groups were organized into the *meng'an-mouke* units and alike.

The Jin Empire's entire Jurchen population was organized into the sociopolitical-military *meng'an-mouke* units, which not only preserved the Jurchen tribal organization and ethnic identity, but also provided the conquering and garrison forces. After conquering North China, the Jin moved many *meng'an-mouke* units to the Chinese regions south of the Great Wall to perform garrison duties. In the Chinese regions, the Jurchens and other *meng'an-mouke* populations formed their own communities and were institutionally segregated from the large Chinese subjects.

There were also other means to promote and preserve the Jurchen identity and domination. In early Jin times, the Jurchen scripts were created, and they were used in the governmental institutions and taught in schools. Even after the fall of Jin in 1234, the Jurchens in Manchuria continued to use the Jurchen small script at least until the 16th century. The Jin Empire's court language was Jurchen, which not only existed well in

Jin times but later became the forerunner of the Manchu language. The Jurchen customs in family law and inheritance law were also preserved, and during most of Jin times, intermarriage between Jurchens and Chinese was banned. Although the Jin central government was restructured into a Chinese-style bureaucracy, the top positions still filled mainly by the Jurchens, especially the dignitaries. Moreover, various economic, political, and military privileges were closely connected to the Jurchen ethnicity, and that helped the Jurchens to maintain their domination and rule over the Jin Empire.

In the 11th–13th centuries, major Inner and East Asian powers (in particular, the Khitan Liao, Chinese Song, Tangut Xia, and Jurchen Jin) formally entered into treaty relations, forming a “Westphalia-like” interstate order that was “practically” operated on the principle of “sovereign equality,” although interstate relations were not always “ritually” equal. After its military defeats by and its failures to “recover” the Sixteen Prefectures from the Khitans, the Chinese Song soon realized that it had to deal with the powerful Khitan Liao on an equal footing. In 1005, the two sides concluded the Treaty of Chanyuan, which, among other things, provided the Song’s annual payments to the Liao, and called for respecting the existing Song–Liao borders and each other’s territories. The terminology used in the treaty’s oath-letters formally recognized the Song and the

Liao as equal imperial powers. This treaty turned out to be a diplomatic success, and brought enduring peace, reciprocal trade, vigorous diplomacy, and stable borders between the Liao and Song for more than a century.

Moreover, the main contents of the Treaty of Chanyuan were later imitated by several bilateral treaties to regulate the Song–Xia and the Song–Jin relationships. In these treaties, the Chinese Song would provide either “annual gifts” (*sui ci*) to the Tangut Xia, or “annual payments” (*sui bi*) or “annual tributes” (*sui gong*) to the Jurchen Jin with the goal of maintaining peace with the Song’s non-Chinese neighbors. The second Xia ruler, Li Deming, and all his successors styled themselves as “emperors” in the Xia territories, but their imperial claims were not generally recognized by the Song and other states. Nevertheless, although the Xia rulers had to address themselves as Song “vassals” (*chen*) in the diplomatic communications, the Song–Xia treaty relation was practically (though not ritually) equal. Similarly, the Song–Jin relation was basically, though not fully, equal. For several decades, the Song Emperor Gaozong (r. 1127–62) even had to address himself as a Jin “vassal,” and his Song Emperorship was nominally “invested” by the Jin Emperor. Despite their formal tributary–investiture relationship, neither the Song Emperor nor the Jin Emperor regarded the Song territories as parts of the Jin Empire. In other words, even in the traditional understandings in Asia, nominal

suzerainty would not be sufficient for a suzerain state to claim territorial sovereignty over its vassal. Furthermore, the “annual tributes” of silver and silk paid from the Song to the Jin were “international” payments, rather than “taxes” paid to the Jin court.

Since the 1070s, the Song had consistently used mounds and ditches to mark the Song borders with the Liao, Xia, and other neighbors, making the frequent use of mounds and ditches become a “transcultural” and “international” method of territorial demarcation. The Song also concluded territorial agreements with its neighbors. For example, the Treaty of Shaoxing of 1141, which provided that the Song–Jin border would be to follow the middle course of the Huai River in the east to the Dasan Pass in the west, was, in part, a territorial treaty. All the Song’s borders with neighbors were genuine “international boundaries” not only from the historical Asian perspective but also in the modern legal sense. It would be simply mistaken to regard the Chinese Song as a “universal empire.” In fact, the Song’s border demarcation projects reflected the Chinese empire’s traditional self-image as a territorially “limited empire” which had dynastic territories only within the areas under its effective control.

In conclusion, the Khitan Liao, Tangut Xia, and Jurchen Jin always remained “non-Chinese” dynasties, and their traditional non-Chinese domains in Inner Asia were not parts of “China.” All three dynasties were founded by non-Chinese Inner Asian

peoples outside of China Proper, and they all conquered some parts (ranging from a tiny portion to a half) of the traditional Chinese heartlands. They all became multiethnic states or empires, ruling both non-Chinese and, Chinese, populations and regions. The Liao, Xia, and Jin rulers selectively borrowed some Chinese imperial institutions and practice to centralize governmental power. Nevertheless, throughout the entire of Liao, Xia, and Jin times, the Khitans, Tanguts, and Jurchens all maintained their distinct cultural and ethnic identities. They preserved their culture and tradition, created their own native writing systems, and rejected wholesale Sinicization. Both the Liao Khitans and the Jin Jurchens organized themselves into the tribal units and created dual administrative systems to separate themselves from the conquered Chinese subjects. More importantly, the ruling Khitans, Tanguts, and Jurchens always carefully maintained political and military domination over their empires.

Losing wars to its northern neighbors, the Chinese Song had to conclude peace treaties and make annual payments to the Khitan Liao, Tangut Xia, and Jurchen Jin. Not only the Liao, Xia, and Jin never saw themselves as Chinese dynasties, but the Song regarded them as non-Chinese and even “barbarian” states. Any claim that the Liao, Xia, and Jin were “Chinese” dynasties and all their territories belonged to “China” is contrary to history and unjustified. Eventually, the period of Song China among “equal

rivals” was ended by the Mongol Yuan Empire, which, as discussed in the next chapter, conquered all the Tangut Xia, Jurchen Jin, and Chinese Song.

CHAPTER 4

THE MONGOL YUAN EMPIRE (1206–1635)

FROM A “EURASIAN” TO AN “INNER AND EAST ASIAN” MULTICULTURAL CONQUEST EMPIRE

4.1 Introduction

It is clear that after unifying what would become Mongolia, Temujin, also known as Chinggis Khan and Yuan Taizu, established the “Yeke Mongghol Ulus” (Great Mongol Empire) in 1206. However, there is still no agreement about when the Mongol Empire ended. This chapter argues that the Mongol Empire and the Yuan Dynasty were the same Mongolian state which lasted from 1206 to 1635.

After its founding, the Mongol Empire rapidly conquered large parts of Eurasia. By 1260 when Khubilai claimed the fifth Mongol Great Khan, the Mongol Empire had become the largest land empire in history, stretching from Manchuria in the east to Turkey in the west. However, after the succession crisis and civil war in 1260–64, the empire’s vast western colonies seceded and formed three new Mongol-ruled khanates. Nevertheless, as the Mongol Great Khans, Khubilai and his successors still ruled, among other territories, the Mongolian homeland (i.e., the original territory of Chinggis’ empire),

and, therefore, their empire remained the same Mongol Empire that was founded by Chinggis in 1206.

In 1271, Khubilai adopted the new Chinese state name “Da Yuan” for the Mongol Empire, whose Mongolian state name, however, had never changed and always remained the “Yeke Mongghol Ulus.” In 1272, Khubilai moved the empire’s primary capital to Dadu (modern Beijing). Moreover, in 1279, he conquered the Song Empire and eventually completed the Mongol conquest of “China.” However, none of the above events would affect the identity and continuity of the Mongol Empire, nor would they make Khubilai the founding emperor of the Yuan Dynasty of “China.” Instead, the dynastic name “Yuan,” as the Mongol Empire’s new Chinese state name, should be applied to the entire period of the Chinggisid Mongol Dynasty. Furthermore, under the Mongol rule, “China” formed only part of the Mongol Yuan Empire, rather than that all the Mongol Yuan’s non-Chinese domains became parts of “China.”

After the newly established Chinese Ming Empire overthrew the Mongol rule in China, the Mongol Yuan Empire further lost all its colonies but continued to exist in the homeland of Mongolia. Therefore, contrary to popular belief, the Mongol Yuan was not ended and replaced by the Chinese Ming in 1368, but, as discussed in the later chapters,

was conquered in 1635 by the Jurchen [Later] Jin/ Manchu Qing Empire (see Tables 1.2 and 1.3).

4.2 The Creation of the Mongol Yuan Empire

As David Morgan notes, “we know very little [about the Mongols] prior to the twelfth century.”¹ Nonetheless, it is believed that the name “Mongghol” (i.e., Mongol) first appeared as “Mengwu” in the standard *Old History of the Tang*.² The Chinese in Tang times (618–907) identified the Mengwu (who lived in what was later known as the “Manchurian” forest) as part of the Shiwei people.³ Furthermore, the Chinese records also provided that the Shiwei, Khitan, and Xi peoples shared common ancestors and all originated from the Yuwen Xianbei.⁴

Although historical records preserved little information about the Mongols during the Khitan Liao period (907–1125), it is believed that the Mongols began to leave their forested “Manchurian” homeland in the 9th or 10th century. They first moved

¹ DAVID MORGAN, *THE MONGOLS* 50 (2d ed. 2007).

² 6 *THE CAMBRIDGE HISTORY OF CHINA, ALIEN REGIMES AND BORDER STATES, 907–1368*, at 329 (Herbert Franke & Denis Twitchett eds., 1994) [hereinafter 6 CAMBRIDGE]; see also FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, at 404 (1999).

³ 13 *ZHONGGUO TONG SHI* [A HISTORY OF CHINA], YUAN SHI QI (SHANG CE) [THE YUAN PERIOD (PART 1)], 332 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 13 TONG SHI]; MOTE, *supra* note 2, at 404.

⁴ WONTACK HONG, *EAST ASIAN HISTORY: A TRIPOLAR APPROACH* 330 (rev. & exp. ed. 2012) (S. Korea), available at <http://www.wontackhong.com/>; see also ZHOU LIANGXIAO & GU JUYING, YUAN SHI [HISTORY OF THE YUAN] 9 (Shanghai, Shanghai Ren Min Chu Ban She 2003) (China) (Series: Zhongguo Duandaishi Xilie).

southwestward, and during the 11th century, they finally settled in the steppe area between the Kherlen (Kerulen) and Onan rivers in what later became eastern “Mongolia” and converted fully to nomadism.⁵

According to Frederick W. Mote, in Jurchen Jin times (1115–1234), the “Mongols are clearly and repeatedly identified as a tribal people who figured in Jin border wars in the northern steppe, importantly from the 1140s onward.”⁶ At that time, the Mongols were merely one of the many tribal confederations — such as the Tatar (Zubu), Merkit, Kerait (Kereyid), Ongüt, Ongirat, and Naiman — which rivaled one another in what became known as the “Mongolian” steppe.⁷ Some of these steppe peoples were linguistically and culturally more like the Turks, and others were more like the Mongols.⁸ Therefore, before their integration into the Mongol Empire, these tribal populations living in what later became Mongolia could and should be better referred to as the “Turko-Mongol” or “proto-Mongol” people, as noted by many historians.⁹

⁵ MOTE, *supra* note 2, at 404; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 16–18, 22; 6 CAMBRIDGE, *supra* note 2, at 329–30; 13 TONG SHI, *supra* note 3, at 333.

⁶ MOTE, *supra* note 2, at 404.

⁷ *Id.* at 405; THOMAS J. BARFIELD, *THE PERILOUS FRONTIER: NOMADIC EMPIRES AND CHINA* 183 (1989).

⁸ MOTE, *supra* note 2, at 405; for more detail of these tribal peoples, see 6 CAMBRIDGE, *supra* note 2, at 323–24.

⁹ MORGAN, *supra* note 1, at 50 (“The tribes of Mongolia in the twelfth century have to be described as ‘Turko-Mongol’, since it is by no means clear in all cases which were Turkish and which Mongol”); MOTE, *supra* note 2, at 30, 405, 426; WONTACK HONG, *supra* note 4, at 330 (“Grousset suggests that the proto-Mongol peoples included not only the Xianbei, but also the Rouran, the Yetai, and the Avars”).

After his unification of all these Turko-Mongol tribes in what became Mongolia, Temujin (r. 1206–27), the leader of the Borjigin clan, received the title of Chinggis Khan (often interpreted as the “Oceanic Ruler” or “Universal Ruler”) during the momentous *khuriltai* (great assembly of tribal leaders and nobles) in 1206. At the same time, Chinggis also proclaimed the founding of the “Yeke Mongghol Ulus” or the Great Mongol Empire (arguably, 1206–1635).¹⁰ As Mote explains the functions of the *khuriltai*, “[s]uch gatherings of chieftains to consult on leadership and policy were . . . central to the pattern of the [steppe] tribal governing traditions.”¹¹ Nevertheless, unlike the previous Khitan Empire, Chinggis’ new empire was not merely “an assemblage of dozens of distinct tribes” but “a unitary and vastly expanded Mongol nation” that forcibly absorbed, disbanded, and reorganized the conquered Turko-Mongol tribes.¹² Thus, as Mote points out, only after the *khuriltai* of 1206, “we can speak of the existence of Mongolia, a new creation that included all the absorbed Turco-Mongol tribal nations, and occupied a much larger core homeland than had previously been established by any people in Inner Asia.”¹³

¹⁰ CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 365 (2004); 6 CAMBRIDGE, *supra* note 2, at 342–43; MOTE, *supra* note 2, at 425–26; MORGAN, *supra* note 1, at 55; BANBUERHAN, ZUI HOU DE KE HAN: MENG GU DI GUO YU HUI [THE LAST KHANS: TWILIGHT OF THE MONGOL EMPIRE] 103 (Beijing, Zhongguo She Hui Chu Ban She 2009) (China).

¹¹ MOTE, *supra* note 2, at 426; *see also* 6 CAMBRIDGE, *supra* note 2, at 325 (“For elevation to the rulership of a tribe or confederation, a more formal procedure was adopted — the convocation of a diet, or *khuriltai*, composed of nobles and worthies”).

¹² MOTE, *supra* note 2, at 422.

¹³ *Id.* at 426.

4.3 Territorial Changes and Regional Dominance

4.3.1 The Heavenly-mandated Mongol Conquests in Eurasia, 1206–1260

No later than the 1240s, the Mongols had developed an ideological system to legitimize the Chinggisid Great Khans' universal sovereignty and their heavenly-mandated conquests.¹⁴ According to Thomas Allsen, the Mongols believed that the “Eternal Heaven (Möngke Tenggeri), the sky god and chief deity of the steppe nomads” bestowed the “universal sovereignty” on Chinggis and his successors, and the “Mandate of Heaven” conferred them “the right, if not the duty, to bring all the world under their domain.”¹⁵ That is why the title of “Chinggis Khan” (the Oceanic or Universal Ruler) was publicly conferred on Temujin during the *khuriltai* of 1206 by his step-brother Teb Tenggeri, the powerful chief shaman.¹⁶

However, as noted by Joseph Fletcher, “in the long run, neither victory in a war of succession . . . nor Tenggeri's mandate . . . could preserve the steppe autocrat's power and the integrity of his realm unless he used his power and his people to seize the wealth

¹⁴ 6 CAMBRIDGE, *supra* note 2, at 347.

¹⁵ Thomas Allsen further notes that: “The claim of a Mandate of Heaven and universal sovereignty echo well-known Chinese political doctrines, but exact Turkic parallels can also be found for all elements of Mongolian ideology. Although direct Chinese influence cannot be ruled out, it seems more probable that the Mongols were introduced to these ideas . . . through the mediation of the Turks, especially the Uighurs, whose influence on the Mongolian state in its formative years was extensive.” *Id.* at 347–48.

¹⁶ *Id.* at 343; BARFIELD, *supra* note 7, at 194 (“[Teb Tenggeri] was feared by the Mongols for his powers as a shaman, a seer who could communicate with the spirits of heaven to cure illness, curse an enemy, or predict the future. His earlier pronouncements that Chinggis Khan had been chosen by heaven as the supreme ruler had done much to legitimate the new empire”).

of the settled agrarian world.”¹⁷ To maintain itself as a steppe “supra-tribal polity,” the Mongol Empire needed to continue to raid, invade, conquer and exploit the sedentary areas and peoples, which largely explains the Mongol’s continuous “world conquest” in the 13th century.¹⁸ Nevertheless, as Thomas J. Barfield points out, Chinggis Khan himself “was inclined to extort rather than conquer his sedentary neighbors, and he welcomed alliances with them.”¹⁹ In Chinggis’ lifetime, “wars of destruction” were aimed to those states (e.g., the Jurchen Jin, Khwarezm, and Tangut Xia) that rejected the Mongol peace terms or later violated the peace agreements. However, those areas (e.g., Manchuria, Korea, and Uyghur oases) that agreed to submit and make payments to the Mongols were basically allowed to retain their leaders.²⁰

After the half-century and three generations of conquests, by 1259 (upon the death of the fourth Great Khan, Möngke), the Mongol Empire had become the largest land empire in history.²¹ According to Christopher P. Atwood, the Mongol Empire’s domains as of 1259 included “all of present-day Mongolia, [Manchuria,] Central Asia, Tibet, Afghanistan, Iran, Iraq, Armenia, Georgia, Azerbaijan and Ukraine, most of Siberia, European Russia, and Turkey, and the northern and western parts of China” (see Map

¹⁷ Joseph Fletcher, *The Mongols: Ecological and Social Perspectives*, 46 (No. 1) HARVARD JOURNAL OF ASIATIC STUDIES 11, 32 (1986).

¹⁸ *Id.* at 32–33; 13 TONG SHI, *supra* note 3, at 364.

¹⁹ BARFIELD, *supra* note 7, at 199.

²⁰ *Id.* at 199–202; 6 CAMBRIDGE, *supra* note 2, at 348–60, 370.

²¹ ATWOOD, *supra* note 10, at 365.

1.10).²² However, Tibet was actually not part of the Mongol Empire in 1259 because the Mongols began to establish their influence (or loose rule) over part of Tibet only later during the period of Khubilai Khan (r. 1260–94).²³ Moreover, as discussed later, in 1259 the Dali Kingdom (roughly, present-day Yunnan Province of China) was merely a Mongol vassal, rather than a Mongol territory.²⁴ At any rate, for most modern Chinese historians, the Mongol Empire at its height was simply too large to be claimed as merely a “Chinese” dynasty.

4.3.2 The Mongol Rule and Domination in Inner and East Asia, 1260–1368

4.3.2.1 The Loss of the Western Colonies

As discussed in more detail later, after the succession crisis and the civil war in 1260–64, Khubilai became the fifth Mongol Great Khan, but he could only retain control over Mongolia, Manchuria, northern China Proper, and some other eastern territories. Consequently, the Mongol Empire lost its vast western colonies to the three newly independent Chinggisid khanates.²⁵

²² *Id.* at 365, 366 map; see also National Geographic Society, *Great Peoples of the Past: Mongol Khans and Their Legacy [Map]* (1996).

²³ See THOMAS LAIRD, *THE STORY OF TIBET: CONVERSATIONS WITH THE DALAI LAMA* 111–16, 118–20 (2006); ATWOOD, *supra* note 10, at 538–40.

²⁴ See 6 CAMBRIDGE, *supra* note 2, at 406–07.

²⁵ David Morgan, *The Decline and Fall of the Mongol Empire*, 19 (No. 4) *JOURNAL OF THE ROYAL ASIATIC SOCIETY OF GREAT BRITAIN & IRELAND* 427, 429 (2009) (U.K.); TIMOTHY MAY, *THE MONGOL CONQUESTS IN WORLD HISTORY* 59 (2012).

4.3.2.2 The Mongol Conquest of South China

Earlier in 1258 during Möngke's reign, Khubilai was assigned an essential role in the campaign against the Chinese [Southern] Song Empire.²⁶ As observed by Morris Rossabi, the ideology of universal sovereignty and the controversy of his legitimacy to the throne led Khubilai to continue the Mongol expansion, considering that "additional conquests would bolster his reputation among the Mongols."²⁷ Moreover, the wealth of South China and the traditional Chinese praise of unification of "China" also provided extra motivations for Khubilai to resume the Mongol conquest of the Southern Song.²⁸

Nevertheless, Khubilai's initial policy toward the Southern Song was not completely belligerent.²⁹ He sent embassies in 1260 and again in 1261 to the Chinese Song to propose a peaceful resolution, under which the Song needed to renounce its sovereignty and recognize Khubilai as the sole "Son of Heaven" (*Tianzi*), and in return, the southern Chinese would be granted limited autonomy.³⁰ However, because the Chinese Song immediately rejected Khubilai's proposal and even detained the Mongol envoy, a war between the two sides became inevitable.³¹

²⁶ MOTE, *supra* note 2, at 455; 6 CAMBRIDGE, *supra* note 2, at 421.

²⁷ 6 CAMBRIDGE, *supra* note 2, at 429.

²⁸ MORRIS ROSSABI, KHUBILAI KHAN: HIS LIFE AND TIMES 56, 76–77 (1988); 6 CAMBRIDGE, *supra* note 2, at 429.

²⁹ 6 CAMBRIDGE, *supra* note 2, at 431.

³⁰ *Id.*; see also ROSSABI, *supra* note 28, at 81.

³¹ 6 CAMBRIDGE, *supra* note 2, at 431.

Khubilai initiated the full-scale Mongol invasion of South China in 1268 and forced the Chinese Song court to surrender in 1276. Nevertheless, the Song loyalists enthroned two more child emperors, who were fully crushed by the Mongol army in 1279, marking the formal end of the Song Empire.³² However, as Atwood points out, “[a]lthough Chinese writers hailed the unification of South and North China as one of the great achievements of the [Yuan] dynasty, the Mongols maintained a separation between the [two] areas.”³³ Moreover, as we will see, the Mongol Yuan also regarded and ruled the northern and southern Chinese as two different groups of people.

4.3.2.3 The Loose Rule or Domination over Yunnan and Tibet

Before Khubilai became the Great Khan, the Mongol Empire had already defeated the non-Chinese Dali Kingdom in 1253.³⁴ As stated by Allsen, the Mongols at first “left the native dynasty in place under the supervision of Mongolian officials.”³⁵ Only later in 1276 (during Khubilai’s reign), Dali was formally converted from a vassal state into Yunnan Province.³⁶ However, the Mongol conquest and annexation of Dali did not

³² *Id.* at 431, 434–35; MOTE, *supra* note 2, at 464.

³³ ATWOOD, *supra* note 10, at 605.

³⁴ *Id.* at 613.

³⁵ 6 CAMBRIDGE, *supra* note 2, at 405–07.

³⁶ SONG LIAN ET AL., YUAN SHI [HISTORY OF THE YUAN], vol. 2, at 1145 (Li Xiusheng et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1370) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]) [hereinafter YUAN SHI]; ATWOOD, *supra* note 10, at 613.

begin the integration of Yunnan into China Proper.³⁷ Like the Mongol Yuan's other non-Han territories, Dali was seized by the Mongols and was incorporated into the Yuan Empire separately from the Mongol conquests of northern and southern China Proper. Moreover, although nominally a Yuan province, Yunnan was still ruled by the tribal organizations of the Tibeto-Burman indigenous people under the Mongol's loose supervision.³⁸

Regarding Tibet, some modern historians assert that the Yuan Dynasty established "regular rule" over Tibet.³⁹ Not surprisingly, the government of the People's Republic of China (PRC) claims that Tibet had been part of "China's Yuan Dynasty," apparently aiming to justify the PRC's so-called "peaceful liberation" of Tibet.⁴⁰ On the contrary, some other scholars argue that the Mongol Yuan did not establish effective control but only "domination" or "profound influence" over Tibet.⁴¹ Furthermore, there is also a

³⁷ *But see* ATWOOD, *supra* note 10, at 613 ("The Mongol conquest of the Dali kingdom began the integration of Yunnan into China proper").

³⁸ 7 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 1, at 143–44 (Frederick W. Mote & Denis Twitchett eds., 1988) [hereinafter 7 CAMBRIDGE].

³⁹ *E.g.*, 13 TONG SHI, *supra* note 3, at 292–98; MENG GU ZU TONG SHI, vol. 1, at 318–28 (Nei Menggu She Hui Ke Xue Yuan [Inner Mongolia Academy of Social Science] ed., rev. ed., Beijing, Min Zu Chu Ban She 2001) (China); ATWOOD, *supra* note 10, at 538–40 ("From 1267 to 1269 Mongol troops crushed the revolt and implemented regular Mongol rule in Tibet"); LAIRD, *supra* note 23, at 114–16, 118–20.

⁴⁰ INFORMATION OFFICE OF THE STATE COUNCIL OF THE PEOPLE'S REPUBLIC OF CHINA, WHITE PAPER: TIBET — ITS OWNERSHIP AND HUMAN RIGHTS SITUATION (1992) (China), *available at* <http://www.china.org.cn/e-white/tibet/index.htm> (last visited Jan. 24, 2018) ("In the mid-13th century, Tibet was officially incorporated into the territory of China's Yuan Dynasty. Since then, although China experienced several dynastic changes, Tibet has remained under the jurisdiction of the central government of China.").

⁴¹ *E.g.*, Elliot Sperling, *Tibet*, in DEMYSTIFYING CHINA: NEW UNDERSTANDINGS OF CHINESE HISTORY 145, 147 (Naomi Standen ed., 2013) ("[D]ifferent articles from the PRC have given different dates for this incorporation [of Tibet into China in Yuan times], as they struggles to describe something that did not

middle-ground position maintaining that while a small part of Tibet was under the Yuan rule, most of Tibet was, at best, under the Mongol influence. For example, Herbert Franke holds that “[i]t seems to be a fact that most of Tibet proper remained outside the direct control of the [Yuan’s] Sino-Mongol bureaucracy and that even the borderlands were throughout the Yüan dynasty an unruly and troubled region.”⁴²

At any rate, even assuming that entire Tibet had been incorporated into the Mongol Yuan Empire, this territorial annexation, as argued by Elliot Sperling, would still be “in a manner distinct from the Mongol conquest of China” and therefore would not make Tibet part of “China.”⁴³ Moreover, the Mongol domination over Tibet started to decline in the 1330s.⁴⁴ By 1350, Tibet had fully restored its independence, even earlier than the Chinese Ming’s “secession” from the Mongol Yuan in 1368.⁴⁵ As Michael C. van Walt van Praag comments,

happen. The Mongols dominated Tibet but never attached it to China”); MOTE, *supra* note 2, at 483 (“Those measures, however, clearly did not bring Tibet under Beijing’s [Mongol] rule”); DAVID M. ROBINSON, *EMPIRE’S TWILIGHT: NORTHEAST ASIA UNDER THE MONGOLS* 3 (2009) (“The Great Yuan ulus controlled territory corresponding to today’s People’s Republic of China, Mongolia, and southern Siberia and exercised profound influence over Tibet and Korea”).

⁴² Herbert Franke, *Tibetans in Yüan China*, in *CHINA UNDER MONGOL RULE* 296, 301 (John D. Langlois, Jr. ed., 1981).

⁴³ AUTHENTICATING TIBET: ANSWERS TO CHINA’S 100 QUESTIONS 12–13, 17–18 (Anne-Marie Blondeau & Katia Buffetrille eds., 2008).

⁴⁴ ATWOOD, *supra* note 10, at 539–40.

⁴⁵ See MICHAEL C. VAN WALT VAN PRAAG, *THE STATUS OF TIBET: HISTORY, RIGHTS AND PROSPECTS IN INTERNATIONAL LAW* 6–7 (1987).

Tibet had come under Kubilai Khagan's domination before his conquest of [Song] China; it had also regained its actual independence before China did. The Mongol subjugations of Tibet and China were therefore unrelated.⁴⁶

Thus, even though there is a controversy about the status of Tibet in Yuan times, it is still clear that the Mongol-dominated or Mongol-ruled Tibet was by no means incorporated into "China."

4.3.2.4 Suzerainty over Korea and Invasions of Japan

After decades of sporadic Mongol invasions, Korea became a Mongol vassal state in 1260 at the very beginning of Khubilai's reign.⁴⁷ However, some modern sources mistakenly indicate that Korea had become a Mongol territory before 1259.⁴⁸ It is true that the Mongols had once established profound influence, military bases, and even the "Zhengdong Province" (apparently, as a nominal "loose-rein" or *jimi* region) in Korea.⁴⁹ Nevertheless, it is generally accepted that the Yuan Empire had never directly ruled nor effectively annexed Korea.⁵⁰

In fact, even modern Chinese scholars admit that the so-called Zhengdong Province, which continued to be ruled by the King of Korea, was merely a vassal state rather than a

⁴⁶ *Id.* at 7.

⁴⁷ ATWOOD, *supra* note 10, at 319; ROSSABI, *supra* note 28, at 95–97.

⁴⁸ *E.g.*, ATLAS OF WORLD HISTORY, 98 (Patrick O'Brien ed., rev. ed. 2010); National Geographic Society, *supra* note 22.

⁴⁹ ATWOOD, *supra* note 10, at 320; ROSSABI, *supra* note 28, at 96–99; 13 TONG SHI, *supra* note 3, at 646–50.

⁵⁰ ATWOOD, *supra* note 10, at 319–20; ROSSABI, *supra* note 28, at 95–99; 13 TONG SHI, *supra* note 3, at 646–50.

real territory of the Yuan Dynasty.⁵¹ However, the above position, though correct, is inconsistent with their general view on the historical status of the so-called “loose-rein” districts. Had modern Chinese scholars applied the standard of “effective control” not just to the case of Zhengdong Province but also to all other similar cases, they would have also admitted that most (if not all) of the so-called “loose-rein” districts were, in fact, foreign tributaries or “outer vassals” (*wai chen*), rather than territories of the relevant empires.

As for the Mongol–Japanese relations, because Japan refused to accept the tributary status, the Mongol Yuan Empire under Khubilai invaded Japan first in 1274, and again in 1281 with a much larger force. Both Mongol invasions of Japan resulted in disastrous failures, partially, if not mainly, because of typhoons.⁵² According to Rossabi, the second defeat was a “devastating shock” for the Mongols, because “[t]heir failure shattered their mantle of invincibility, as Khubilai’s subjects now realized that the Mongols were vulnerable.”⁵³ Interestingly, since present-day Chinese assert that all the territories of Khubilai’s Yuan Dynasty were parts of “China,” had Khubilai successfully

⁵¹ E.g., 13 TONG SHI, *supra* note 3, at 644, 648–49; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 381; JIAN MING ZHONGGUO LI SHI DI TU JI [CONCISE HISTORICAL ATLAS OF CHINA], the explanation of map 59–60 (Tan Qixiang ed., Beijing, Zhongguo Di Tu Chu Ban She 1991) (China) [hereinafter TAN, CONCISE HISTORICAL ATLAS].

⁵² In 1274, the invading force composed of Yuan’s 15,000 soldiers, and Korea’s 6000 to 8000 soldiers and 7,000 sailors. In 1281, the invading force increased to Yuan’s 100,000 troops, and Korea’s 10,000 troops and 15,000 sailors. For detail of the Mongol invasions of Japan, see ROSSABI, *supra* note 28, at 99–103, 207–13; *see also* 6 CAMBRIDGE, *supra* note 2, at 437, 442, 482–84.

⁵³ 6 CAMBRIDGE, *supra* note 2, at 484.

conquered and ruled Japan, modern Chinese would have probably also claimed that Japan had become part of “China” in Yuan times.

4.3.3 The Mongol Retreat to Mongolia, 1368–1635

After losing the Yuan winter capital at Dadu (present-day Beijing) in 1368 to the newly established Chinese Ming Empire (1368–1662), the reigning Mongol Great Khan, Toghon Temür or Yuan Huizong (r. 1333–70), and his court retreated to Mongolia. That marked the end of the Mongol rule over China and the beginning of the Mongol’s “Northern Yuan” period (1368–1635) (Table 1.2).⁵⁴ Nonetheless, as discussed later, the so-called Northern Yuan was not a new Mongolian dynasty established in 1368, but a period of the same Mongol Empire that was founded by Chinggis in 1206.

After losing most of China Proper in 1368, the Mongol Yuan still controlled some Chinese frontiers and non-Chinese colonies for at least a short period.⁵⁵ The Mongol Yuan further lost Shanxi, Shaanxi, and part of Gansu to the Chinese Ming in 1368–70, but it successfully defended and secured Outer Mongolia and most of Inner Mongolia from Chinese invasion in 1370–72.⁵⁶ Moreover, the Mongols continued to hold Yunnan until 1382 and southern Manchuria until 1387.⁵⁷ After all these territorial changes, the

⁵⁴ See ATWOOD, *supra* note 10, at 407, 411; MOTE, *supra* note 2, at 563.

⁵⁵ 7 CAMBRIDGE, *supra* note 38, at 98.

⁵⁶ *Id.* at 98–100, 102–03.

⁵⁷ ATWOOD, *supra* note 10, at 342, 613; 7 CAMBRIDGE, *supra* note 38, at 143–46.

Yuan had by the late 14th century lost most, if not all, of its colonies. Nonetheless, the Mongol Empire continued to exist in its original territory and homeland of Mongolia until 1635.⁵⁸

4.4 The “Secessions” of Three New Mongolian Khanates from the Mongol Empire in the 1260s

In 1260, Khubilai was declared as Möngke Khan’s successor and the new Mongol Great Khan by a small and unrepresentative *khuriltai* held at Kaiping (near present-day Dolon Nor in Inner Mongolia), which was far away from the Mongol’s traditional heartland.⁵⁹ Within a month, Khubilai’s younger brother, Arigh Böke, was proclaimed the rival Great Khan by a more substantial *khuriltai* held at Karakorum (Kharkhorin), the then capital of the Mongol Empire.⁶⁰ The civil war between the two sides did not last long and ended in Khubilai’s victory in 1264. That, however, did not fully resolve Khubilai’s doubtful legitimacy.⁶¹

Eventually, the succession crisis and the civil war in the 1260s, together with the earlier decades-long personal competitions among the regional Mongol princes, resulted

⁵⁸ See ATWOOD, *supra* note 10, at 390 map, 409 map.

⁵⁹ 6 CAMBRIDGE, *supra* note 2, at 418–19, 423; MOTE, *supra* note 2, at 455.

⁶⁰ 6 CAMBRIDGE, *supra* note 2, at 423; MOTE, *supra* note 2, at 455.

⁶¹ MOTE, *supra* note 2, at 455; ROSSABI, *supra* note 28, at 51–52, 62.

in the coexistence of four independent Chinggisid khanates.⁶² These four Mongolian khanates were: (1) the so-called “Great Khanate” or “Empire of the Great Khan,” which at that time ruled Mongolia, Manchuria, and northern China Proper; (2) the Chaghatai Khanate in Central Asia; (3) the Golden Horde Khanate in the Pontic-Caspian steppe; (4) the Il-Khanate in Persia (Iran), Iraq and much of Anatolia.⁶³ When Khubilai Khan tried to solve his legitimacy controversy and called for a second and more substantial *khuriltai*, the khans of other independent khanates demurred with excuses.⁶⁴ Nonetheless, according to Rossabi, “they continued to pay homage to Khubilai as the Great Khan, and each of the regional khanates sought his confirmation when a new khan was to be appointed.”⁶⁵

Strictly speaking, the existence of these four Mongolian khanates did not lead to the so-called “dissolution of the Mongol Empire” in the 1260s.⁶⁶ Under Khubilai, the Empire of the Great Khan continued to rule not only all the original territory of Chinggis’ empire in Mongolia but also some conquered lands in East Asia. It is therefore clear

⁶² 6 CAMBRIDGE, *supra* note 2, at 412; Fletcher, *supra* note 17, at 48 (“But at Ogodei’s death [in 1241], or perhaps even before, control of the settled populations and component ‘tribes’ began gradually to pass to the possessors of the four fraternal ‘nations.’ At about the same time the original tribal entities also began to disappear, and new tribes came into being as constituents of the ‘nations,’ each of which eventually formed a supratribal polity in its own right.”).

⁶³ Morgan, *supra* note 25, at 429; MAY, *supra* note 25, at 59; ENDYMION PORTER WILKINSON, CHINESE HISTORY: A NEW MANUAL 775 (rev. ed. 2012).

⁶⁴ ROSSABI, *supra* note 28, at 62.

⁶⁵ *Id.*

⁶⁶ *But see*, Peter Jackson, *The Dissolution of the Mongol Empire*, 22 CENTRAL ASIATIC JOURNAL 186, 186 (1978); Morgan, *supra* note 25, at 429; MAY, *supra* note 25, at 59.

that Khubilai's empire was the "continuing state" (i.e., the same state) of the Mongol Empire, which was originally founded by Chinggis in 1206. On the contrary, the other three Mongolian khanates, which did not rule the Mongolian homeland and were outside the Great Khan's effective control, should be regarded as the new "seceding states" from the Mongol Empire. In other words, the events in the 1260s did not affect the continuity of the Mongol Empire. Khubilai's succession to Möngke was merely a change in government rather than a creation of a new dynasty. Nonetheless, the succession crisis led to the loss of the empire's vast western territories and the creation of three new Mongolian khanates outside Mongolia. In short, though its territories "shrank" by multiple secessions, the Mongol Empire was not "dissolved." The notion of the "dissolution of the Mongol Empire" in the 1260s is, therefore, misleading.

4.5 Khubilai Had Never Established the "Chinese" Yuan Dynasty

Khubilai Khan adopted the new Chinese-style dynastic name "Da Yuan" (Great Yuan) in 1271, moved the Yuan principle capital to Dadu (present-day Beijing) in 1272, and conquered the Southern Song in 1279 (or 1276). These events led to the "modern" debates on the creation and nature of the Yuan Dynasty, in particular, the questions of by whom and when the Yuan Dynasty was founded, and whether the Yuan was merely a Chinese dynasty.

Present-day Chinese historians tend to view the Yuan Dynasty as merely a “Chinese” dynasty founded by Khubilai and consider that all the Yuan’s non-Han territories (e.g., Mongolia, Manchuria, and Tibet, as they view it) were part of Yuan China.⁶⁷ Although a few Chinese scholars still recognize that the Yuan Dynasty was the same Mongol Empire founded by Chinggis, it is only because they regard the Mongol Empire at its height as the largest “Chinese” dynasty in the history.⁶⁸ Criticizing the Chinese assumption “that the Mongols extended the Chinese empire,” T. H. Barrett notes that “one of the most remarkable features of Chinese writing on the Mongol empire” is “its total failure to comprehend that China had been absorbed into a larger political unit.”⁶⁹

In contrast, it appears that Western scholars incline to regard Khubilai and his successors as both the Mongol Great Khans and the Chinese Emperors until the expulsion of the Mongols from China in 1368. Moreover, many of these Western scholars seem also to agree that Khubilai established a new “Mongol” or even “Chinese” dynasty in

⁶⁷ E.g., Hu Zhongda, *Ming Yu Bei Yuan—Meng Gu Guan Xi Zhi Tan Tao* [On Relation between the Ming and the Northern Yuan—Mongol], 1984 (No. 5) NEI MENG GU SHE HUI KE XUE [INNER MONGOLIA SOCIAL SCIENCES] 44, 45 (China); GE JIANXIONG, TONG YI YU FEN LIE: ZHONGGUO LI SHI DE QI SHI [UNIFICATION AND DIVISION: INSPIRATION FROM THE CHINESE HISTORY] 65–68, 97–98 (Beijing, Sheng Huo Du Shu Xin Zhi San Lian Shu Dian 1994) (China); ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 255–56, 267–68, 317; TAN, CONCISE HISTORICAL ATLAS, *supra* note 51, the discussion of map 57–58.

⁶⁸ E.g., Chen De-zhi, *Guan Yu Yuan Chao De Guo Hao Nian Dai Yu Jiang Yu Wen Ti* [On The Title, Year and Domain of the Yuan Dynasty], 2009 (No. 3) BEI FANG MIN ZU DA XUE XUE BAO (ZHE XUE SHE HUI KE XUE BAN) [JOURNAL OF BEIFANG UNIVERSITY OF NATIONALITIES (PHILOSOPHY AND SOCIAL SCIENCE)] 5, 5–9 (China); 13 TONG SHI, *supra* note 3, at 245–52.

⁶⁹ T.H. Barrett, *Qubilai Qa'an and the Historians: Some Remarks on the Position of the Great Khan in Premodern Chinese Historiography*, in THE MONGOL EMPIRE AND ITS LEGACY 250, 252 (Reuven Amitai-Preiss & David O. Morgan eds., 1999).

China.⁷⁰ For example, Atwood notes that “[o]fficially proclaimed in 1271, the Yuan dynasty represented both the continuation of the Mongol Empire and a new Mongol dynasty in China,” and Alan J. K Sanders states that Khubilai proclaimed himself “not only the fifth Great Khan of Mongolia but also the Emperor of a new Chinese dynasty, the Yuan.”⁷¹ Furthermore, a few Western scholars sometimes even mistakenly suggest that all the Yuan territories belonged to the “Chinese” Yuan Dynasty. For example, commenting on Khubilai’s “Yuan Dynasty in China,” Morgan states that “Mongolia itself . . . in the course of time became a rather privileged and special province of the Chinese Empire.”⁷² Rossabi has also in his book provided a map of the “Yuan Khanate of China” that includes all the Yuan’s non-Chinese territories such as Mongolia, Manchuria, and Yunnan.⁷³

Although modern historians popularly hold that Khubilai was the Yuan founder, they date the founding of the Yuan Dynasty variously in 1260,⁷⁴ 1271,⁷⁵ 1272,⁷⁶ 1276,⁷⁷

⁷⁰ E.g., ROSSABI, *supra* note 28, at 115 (“Khubilai wished to be perceived both as the legitimate Khan of Khans of the Mongols and as the Emperor of China”); MAY, *supra* note 25, at 235 (“The Yuan leader had to be both Mongol khan and Chinese emperor”); MOTE, *supra* note 2, at 444, 455, 459–60, 468 (noting that Khubilai succeeded to the Khanate of Mongolia in 1260 and proclaimed the new Yuan Dynasty of China in 1272); ATWOOD, *supra* note 10, at 603; ALAN J. K SANDERS, *HISTORICAL DICTIONARY OF MONGOLIA* 11 (2010).

⁷¹ ATWOOD, *supra* note 10, at 603; SANDERS, *supra* note 70, at 11.

⁷² MORGAN, *supra* note 1, at 105–06.

⁷³ MORRIS ROSSABI, *THE MONGOLS: A VERY SHORT INTRODUCTION* 63 (2012).

⁷⁴ E.g., WILKINSON, *supra* note 63, at 775; PAUL D. BUELL, *HISTORICAL DICTIONARY OF THE MONGOL WORLD EMPIRE* 290 (2003); *DEMYSTIFYING CHINA: NEW UNDERSTANDINGS OF CHINESE HISTORY* (Naomi Standen ed., 2012), at xiv; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 849–50.

⁷⁵ E.g., 5 *THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE SUNG DYNASTY AND ITS PRECURSORS*, 907–1279, at 17 (Denis Twitchett & Paul Jakov Smith eds., 2009); Gov.cn, *A Brief Chinese Chronology*, http://english1.english.gov.cn/2005-08/06/content_20951.htm (last visited Jan. 24, 2018); ZHONG GUO LI

1279,⁷⁸ and 1280,⁷⁹ as they struggle to describe something that did not happen during Khubilai's reign. As discussed later, historical records and traditional narratives had long held that the Yuan Dynasty was the same Mongol Empire that was founded by Chinggis in 1206.

4.5.1 Khubilai's Succession to the Mongol Khaganship in 1260

It is popularly (but mistakenly) held that Khubilai ascended to the throne in "China" in 1260.⁸⁰ In fact, Khubilai was declared to be the fifth Mongol Great Khan in succession to Möngke during the *khuriltai* held at Kaiping (near present-day Dolon Nor

SHI, QI NIAN JI (XIA CE) [CHINESE HISTORY TEXTBOOK, SEVENTH GRADE (PART 2)] 67, 138 (Ke Cheng Jiao Cai Yan Jiu Suo ed., Beijing, Ren Min Jiao Yu Chu Ban She 2001) (China).

⁷⁶ Apparently, these scholars also date the beginning of the Yuan Dynasty by Khubilai's adoption of the dynastic name "Yuan," that, however, took place in December 1271, rather than in January 1272. *E.g.*, MOTE, *supra* note 2, at 459–60, 468; EVELYN S. RAWSKI, *LAST EMPERORS: A SOCIAL HISTORY OF QING IMPERIAL INSTITUTIONS* 18 (2001).

⁷⁷ *E.g.*, PATRICIA BUCKLEY EBREY, *THE CAMBRIDGE ILLUSTRATED HISTORY OF CHINA* 164 (2d ed. 2010); RUTH MOSTERN, "DIVIDING THE REALM IN ORDER TO GOVERN": THE SPATIAL ORGANIZATION OF THE SONG STATE (960–1276 CE) 13, 33, 225 (2011).

⁷⁸ *E.g.*, DAVID CURTIS WRIGHT, *THE HISTORY OF CHINA* 84, 298 (2d ed. 2011); JOHN KING FAIRBANK & MERLE GOLDMAN, *CHINA: A NEW HISTORY* 119 (2d enl. ed. 2006); Wang Gungwu, *Early Ming Relations with Southeast Asia: A Background Essay*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA'S FOREIGN RELATIONS* 34, 34 (John K. Fairbank ed., 1968).

⁷⁹ These scholars obviously date the beginning of the Yuan Dynasty by Khubilai's conquest of the Chinese [Southern] Song, that was already completed in 1279, instead of 1280. *E.g.*, PAMELA KYLE CROSSLEY, *A TRANSLUCENT MIRROR: HISTORY AND IDENTITY IN QING IMPERIAL IDEOLOGY* 66 (1999); WILLIAM SCOTT MORTON & CHARLTON M. LEWIS, *CHINA: ITS HISTORY AND CULTURE* 115 (4th ed. 2004).

⁸⁰ *E.g.*, MAY, *supra* note 25, at 59 (wrongly noting that "[b]oth received the crown in separate *quriltai*s; Ariq Böke's held in Mongolia, and Khubilai's in China"); SANDERS, *supra* note 70, at 11 (mistakenly stating that "in 1260, two new Great Khans were proclaimed: Kublai, at Kaiping in northern China, and his brother Ariq-Böke, at Karakorum in Mongolia"); 6 CAMBRIDGE, *supra* note 2, at 424 (incorrectly noting that "Khubilai ascended to the throne in China in 1260").

and about 125 miles north of Beijing) in what is known as “Inner Mongolia” rather than “China” (see Map 1.11; Kaiping was later renamed “Shangdu”).⁸¹

Moreover, Khubilai’s ascension to the throne is often mistakenly portrayed as a rise of a typical “Chinese” emperor. For example, Rossabi wrongly states that in Khubilai’s edict of ascension, he sought to “associate himself with the Chinese emperors of old” and pledged to “govern in accordance with the [Chinese] traditions of the ancestors,” expressing “a view that was surely meant to ingratiate him with his Chinese subjects.”⁸² In his edict of ascension in 1260, Khubilai did emphasize to follow the “ancestral instructions and state regulations” (*zu xun chuan guo da dian*), which however did not refer to the “Chinese” traditions but the “Mongol” *Jasaq* (or *Yasa*).⁸³ Decreed by Chinggis and his successors, the Mongol *Jasaq* was essentially an enlarged version of Mongolian customary law.⁸⁴ Obviously, when Khubilai pledged to follow the Mongol *Jasaq*, he did not intend to use it to impress his Chinese subjects.

Furthermore, although Khubilai also adopted his era name, *Zhongtong* (lit. Central Rule) in 1260, it does not mean that he claimed to be a “Chinese” emperor. In fact, not

⁸¹ ROSSABI, *supra* note 28, at 31, 51; 6 CAMBRIDGE, *supra* note 2, at 418–19.

⁸² ROSSABI, *supra* note 28, at 55.

⁸³ Chai Rong, *Lun Gu Dai Meng Gu Xi Guan Fa Dui Yuan Chao Fa Lü De Ying Xiang [The Influence of Ancient Mongolian Customary Law on the Law of Yuan Dynasty]*, 32 (No. 6) NEI MENG GU DA XUE XUE BAO (REN WEN SHE HUI KE XUE BAN) [JOURNAL OF INNER MONGOLIA UNIVERSITY (HUMANITIES AND SOCIAL SCIENCES)] 55, 56–57 (2000) (China); for the Chinese text of Khubilai’s edict of ascension in 1260, see YUAN SHI, *supra* note 36, vol. 1, at 44–45.

⁸⁴ MOTE, *supra* note 2, at 424; ATWOOD, *supra* note 10, at 264–65.

only Chinese Emperors but also some non-Chinese rulers proclaimed their era names (*nian hao*). For example, the Japanese Emperors have adopted their era names since 645, but that certainly would not make them “Chinese” Emperors.⁸⁵ In fact, in the diplomatic letter to the Chinese Emperor of Song in 1260 and also those to the King of Japan in 1266 and 1271, Khubilai consistently and unambiguously referred to himself as the “Emperor of the Great Mongol State” (*Da Menggu Guo Huangdi*).⁸⁶ Therefore, it is clear that Khubilai himself considered that he succeeded the Mongol Khaganship of the existing Great Mongol Empire that was founded by his grandfather, Chinggis. Khubilai did not claim that he ascended to the Chinese throne nor did he proclaim a new Chinese dynasty in 1260.

4.5.2 The Adoption of the New Chinese State Name “Da Yuan” in 1271

Earlier, Chinese scholars had assumed that the Mongols did not use any state name until Khubilai adopted the dynastic name “Da Yuan” (Great Yuan) in 1271.⁸⁷ However, as Hsiao Ch’i-Ch’ing points out, Chinggis Khan had already adopted the Mongolian state name “Yeke Mongghol Ulus” (lit. Great Mongol State or Great Mongol Nation) for his

⁸⁵ WILKINSON, *supra* note 63, at 508.

⁸⁶ See Hsiao Ch’i-Ch’ing, *Shuo “Da Chao”: Yuan Chao Jian Hao Qian Meng Gu De Han Wen Guo Hao* [On “Ta-Ch’ao”: The Early Chinese Name of the Mongol State], 3 (No. 1) HAN XUE YAN JIU [CHINESE STUDIES] 23, 33–34 (1985) (Taiwan); YUAN SHI, *supra* note 36, vol. 6, at 3747.

⁸⁷ Hsiao Ch’i-Ch’ing, *supra* note 86, at 24; Hok-Lam Chan, “Ta Chin” (*Great Golden*): The Origin and Changing Interpretations of the Jurchen State Name, 77 T’OUNG PAO 253, 255 (1991).

new empire in about 1206, and this native Mongolian state name was translated into two Chinese state names in the 1210s.⁸⁸ The Mongol Empire's formal Chinese state name "Da Menggu Guo" (lit. Great Mongol State) appeared no later than 1216 and was mainly used in the diplomatic documents, as the common diplomatic language at that time in East Asia was Chinese. The shortened Chinese state name "Da Chao" (lit. Great Dynasty) was adopted around 1217 and was used in non-diplomatic official documents, coins, stone inscriptions, and private writings.⁸⁹ According to Hsiao, the abbreviated state name "Da Chao" or "Great Dynasty," which intentionally omitted the ethnic designation of the Great "Mongol" Empire, "was adopted for domestic use in North China in order not to offend Chinese racial sensibility."⁹⁰

More than a half-century later, in 1271 Khubilai Khan adopted the new Chinese-style state name "Da Yuan" (Great Yuan), which was chosen from the Chinese classic *Book of Changes* (*Yi Jing*), aiming to increase Khubilai's image as the legitimate ruler over his Chinese subjects.⁹¹ Modern historians tend to use the formal adoption of the name "Yuan" in 1271 (or mistakenly, in 1272) to date the beginning of the "Chinese

⁸⁸ Hsiao Ch'i-Ch'ing, *supra* note 86, at 23–24, 31, 39–40; *see also* Hok-Lam Chan, *supra* note 87, at 255; WILKINSON, *supra* note 63, at 776.

⁸⁹ Hsiao Ch'i-Ch'ing, *supra* note 86, at 25–30, 32–34, 39–40; 6 CAMBRIDGE, *supra* note 2, at 20.

⁹⁰ Hsiao Ch'i-Ch'ing, *supra* note 86, at 31, 39–40.

⁹¹ YUAN SHI, *supra* note 36, vol. 1, at 105–06; Hsiao Ch'i-Ch'ing, *supra* note 86, at 34–35; for the English translation of this edict, *see* John D. Langlois, Jr., *Introduction*, in *CHINA UNDER MONGOL RULE* 3, 3–4 (John D. Langlois, Jr. ed., 1981).

Yuan Dynasty.”⁹² However, as discussed below, the adoption of the new name “Da Yuan” was not a dramatic change nor was it intended to create a new dynasty.

As Hsiao observes, in 1271 the Mongol Empire’s two existing Chinese state names, “Da Menggu Guo” and “Da Chao,” were replaced with the new Chinese name “Da Yuan” (meaning, Great Greatness). The dynastic name “Yuan” had been long mistakenly interpreted as “origin” or “first beginning,” but, as Hsiao points out, the name “Yuan” actually meant “great.” Because “Da” and “Yuan” both meant “great,” the old name “Da Chao” (Da Dynasty) and the new name “Yuan Chao” (Yuan Dynasty) actually had the same meaning, the “Great Dynasty.”⁹³ The new Chinese dynastic name “Yuan” was adopted merely because it contained “a classical allusion” and hence was more suitable as a state name from a Chinese perspective.⁹⁴ Moreover, according to Hsiao, the Mongol Empire’s three Chinese names, “Da Menggu Guo” (Great Mongol State) and the shortened “Da Chao” and “Yuan Chao” (both meaning, Great Dynasty), were actually all derived from the Mongolian name “Yeke Mongghol Ulus” (“Great” Mongol State).⁹⁵

⁹² See *supra* note, 75, 76.

⁹³ As Hsiao Ch’i-Ch’ing notes, according to *General Preface (xulu)* of the Yuan’s *Great Statutes of Statecraft (Jingshi dadian)*, the primary meaning of the word “Yuan” in the *Book of Changes (I-ching)* was “great,” and therefore, “Yuan Dynasty” and “Da Dynasty” were “synonymous with each other insofar as their semantic values were concerned.” Agreeing with Hsiao, Hok-Lam Chan argues that “Da Yuan” should be translated as “Great Greatness.” See Hsiao Ch’i-Ch’ing, *supra* note 86, at 34–35, 40; Hok-Lam Chan, *supra* note 87, at 255.

⁹⁴ Hsiao Ch’i-Ch’ing, *supra* note 86, at 40.

⁹⁵ *Id.* at 33–35.

The new Chinese state name “Da Yuan” (Great Greatness) also echoed with Khubilai’s existing era name “Zhiyuan” (Greatest Greatness), which was used from 1264 to 1294.⁹⁶ In the Chinese imperial tradition, it is inconceivable that the existing era name would remain unchanged when a new dynasty was founded. The fact that Khubilai did not even change his era name showed clearly that Khubilai himself did not claim the founding of a new dynasty in 1271. Consequently, the years of 1270, 1271, 1272, and so forth roughly corresponded to the 7th, 8th, 9th years of Zhiyuan, and so on. It showed clearly that the adoption of the new dynastic name “Yuan” in 1271 did not even begin a “new era,” let alone created a “new Chinese dynasty.”

Moreover, the Mongol Empire’s new Chinese state name “Da Yuan” did not replace the Mongolian name “Yeke Mongghol Ulus,” which continued to be used by Khubilai and his successors until the end of the empire in 1635.⁹⁷ According to Francis Woodman Cleaves, while the Mongolian state name “Yeke Mongghol Ulus” remained in use, it was sometimes combined with the Chinese name “Da Yuan” and became “Dai Ön Yeke Mongghol Ulus” (Great Yuan Great Mongol State) or “Dai Ön Kemeku Yeke Mongghol Ulus” (Great Mongol State which calls Great Yuan), as seen on the

⁹⁶ *Id.* at 35; WILKINSON, *supra* note 63, at 777.

⁹⁷ Hsiao Ch’i-Ch’ing, *supra* note 86, at 35–36; 13 TONG SHI, *supra* note 3, at 247.

contemporary stone inscriptions.⁹⁸ Moreover, because the Mongol Empire's all three Chinese state names were derived from its Mongolian state name, Hsiao concludes that the "real state name" of the Mongol Dynasty was "Yeke Mongghol Ulus," which was always in use in the Mongolian language throughout the entire period of the dynasty.⁹⁹ Hsiao's conclusion is hardly surprising. After all, the Great Mongol Empire was an empire of the Mongols.

Therefore, just like the Khitan "Liao" case, the dynastic name "Yuan" should be applied to the entire period of the Mongol Dynasty from its beginning in 1206, and Chinggis (rather than Khubilai) should be recognized as the founding emperor of the Yuan Dynasty.¹⁰⁰ As discussed earlier in Chapter 3, Abaoji founded the Khitan Empire in 907 (or 916, as some historians suggest). While always maintaining its native Khitan state name "Great Khitan State," the Khitan Empire changed its Chinese state name from "Da Qidan" to "Da Liao" in 938 (or 947) during Deguang's reign, and subsequently changed between these two Chinese names. Nevertheless, all historians apply the dynastic name "Liao" to the whole period of the Khitan Dynasty and agree that Abaoji

⁹⁸ Francis Woodman Cleaves, *The Sino-Mongolian Inscription of 1362 in Memory of Prince Hindu*, 12 HARVARD JOURNAL OF ASIATIC STUDIES 1, 5, 8–9, 16–17, 62, 83 (1949); Francis Woodman Cleaves, *The Sino-Mongolian Inscription of 1335 in Memory of Chang Ying-Jui*, 13 HARVARD JOURNAL OF ASIATIC STUDIES 1, 71 (1950); Francis Woodman Cleaves, *The Sino-Mongolian Inscription of 1338 in Memory of Jigünte*, 14 HARVARD JOURNAL OF ASIATIC STUDIES 1, 53, 67 (1951); Francis Woodman Cleaves, *The Sino-Mongolian Inscription of 1346*, 15 HARVARD JOURNAL OF ASIATIC STUDIES 1, 71, 84 (1952); see also Hsiao Ch'i-Ch'ing, *supra* note 86, at 35; 13 TONG SHI, *supra* note 3, at 247.

⁹⁹ Hsiao Ch'i-Ch'ing, *supra* note 86, at 35.

¹⁰⁰ Chen De-zhi, *supra* note 68, at 6.

(rather than Deguang) was the Liao founder. Therefore, dating the creation of the Yuan Dynasty in 1271 and regarding Khubilai as the Yuan founding emperor is arbitrary and inconsistent with the unanimous judgment in the Khitan Liao case that the change in the state name would not create a new dynasty. A similar rule could also be found in the modern international law, as it holds that a change in state name will not affect the legal identity and continuity of a State.¹⁰¹

4.5.3 The Establishment of the Dual Capital System in 1264, and the Move of the Principal Capital to Beijing in 1272

Earlier in 1263, Khubilai renamed the imperial capital at Kaiping to Shangdu (Supreme Capital). One year later in 1264, he proclaimed his new era name Zhiyuan and announced a new capital Zhongdu (Central Capital) at Yanjing (modern Beijing) to establish a dual capital system.¹⁰² The construction of the new imperial city at Beijing began in 1267 and was basically completed in 1276.¹⁰³ Nevertheless, earlier in 1272, Khubilai had renamed Zhongdu to Dadu (Great Capital) and officially elevated Dadu to

¹⁰¹ KRISTYNA MAREK, *IDENTITY AND CONTINUITY OF STATES IN PUBLIC INTERNATIONAL LAW* 127 (2d ed. 1968).

¹⁰² YUAN SHI, *supra* note 36, vol. 2, 1072–73; MOTE, *supra* note 2, at 457–58; 13 TONG SHI, *supra* note 3, at 254–55; LI ZHI'AN, *HUBILIE ZHUAN* 108, 375 (Beijing, Ren Min Chu Ban She 2004) (China).

¹⁰³ MOTE, *supra* note 2, at 458; 13 TONG SHI, *supra* note 3, at 255.

the primary capital (see Map 1.11).¹⁰⁴ The Yuan's Dadu was also known as Khanbaliq or Cambaluc (i.e., the City of the Khan) to the Turks and the European traveler Marco Polo.¹⁰⁵

Though questionable, conventional wisdom holds that the move of the primary capital to Dadu (present-day Beijing) is a shift of the Yuan Dynasty's principal capital from Mongolia to "China."¹⁰⁶ As discussed earlier in Chapter 3, when the Jin Empire moved its main capital to Yanjing (modern Beijing) and renamed it to Zhongdu (Central Capital) in 1153, it was, arguably, not a move of capital to "China." More than a century later, when Khubilai announced Dadu as his new principal capital, the Beijing area was even more unlikely to be seen as part of "China." It is interesting to note that Khubilai was born in 1215, the same year that his grandfather, Chinggis, seized the Jin's Zhongdu from the Jurchens. Consequently, when Dadu became the Yuan primary capital in 1272, the Mongol Empire had already ruled Beijing for 57 years.¹⁰⁷

In fact, as of 1272, the Beijing area had formed part of the "non-Chinese" empires of Khitan, Jurchen, and Mongol for more than three centuries since the Khitan's formal

¹⁰⁴ MENGGU ZU JIAN SHI [A BRIEF HISTORY OF MONGOLIAN NATIONALITY] 62 ("Menggu Zu Jian Shi" Xiu Ding Ben Bian Xie Zu ed., Beijing, Min Zu Chu Ban She rev. ed. 2009) (China); Langlois, *supra* note 91, at 6; MOTE, *supra* note 2, at 458–60.

¹⁰⁵ MORGAN, *supra* note 1, at 108; ROSSABI, *supra* note 28, at 131.

¹⁰⁶ E.g., 6 CAMBRIDGE, *supra* note 2, at 454 ("Khubilai's clearest signal to his Chinese subjects was his shift of the capital from Mongolia to north China"); MORGAN, *supra* note 1, at 109 ("The Mongol Empire now had a capital that was a fixed city, built to a Chinese plan, and situated on Chinese soil"); ROSSABI, *supra* note 28, at 131; MOTE, *supra* note 2, at 457–58.

¹⁰⁷ 6 CAMBRIDGE, *supra* note 2, at 352, 415.

annexation of the Sixteen Prefectures in 938.¹⁰⁸ The more than three centuries of the Chinese “loss” of Beijing was long enough to argue that when Dadu became the Yuan’s main capital in 1272, the Beijing area was no longer part of “China.” As of 2018, the United States of America (US) has annexed California, among other territories, from the Mexican Republic for 170 years since the Treaty of Guadalupe Hidalgo of 1848.¹⁰⁹ Had the US moved its national capital to Los Angeles in 2018, we certainly would not say that the US moved its capital to “Mexico” and was transformed into a “Mexican” state. Similarly, it is very doubtful that the Mongols in Yuan times would consider that they moved their main capital to “China” in 1272. As discussed in Chapter 1, the Mongols at that time regarded the Jurchen’s Zhongdu and their Yuan’s Dadu at Beijing as part of “Kitad” (Khitan), rather than “Chinese,” land.

Moreover, the loss of its vast western colonies in the 1260s transformed the Mongol Empire from a “pan-Eurasian” to an “Inner and East Asian-centric” empire.¹¹⁰ Even from the Chinese perspective, Beijing could be at best described as a city located at the northern edge (rather than the center) of China Proper. More importantly, Khubilai Khan chose Beijing as his empire’s new principal capital because he wanted to more effectively control and rule not only what came to be known as China Proper but also

¹⁰⁸ *Id.* at 70–71.

¹⁰⁹ Treaty of Peace, Friendship, Limits, and Settlement, U.S.-Mex., Feb. 2, 1848, 9 Stat. 922, T.S. No. 207.

¹¹⁰ See ROBINSON, *supra* note 41, at 15–16.

Mongolia and Manchuria.¹¹¹ Therefore, it would be misleading to describe the Mongol Empire in 1260–1368 merely as a “Chinese-centric” or “China-based” dynasty. Since the Yuan’s two capitals, Shangdu and Dadu, were both within the former Liao’s heartlands and the Mongols saw this region as part of Kitad, it is probably better to describe the Mongol Yuan in 1260–1368 as a Kitad-based empire (see Maps 1.8 and 1.11).

The Mongol Yuan actively maintained its dual capital system. Even when Dadu (Great Capital) served as the Mongol Yuan’s primary capital from 1272 to 1368, Shangdu (Supreme Capital) remained an important political and religious center for the Mongolian tribal politics and shamanist rituals.¹¹² The Mongol Yuan court also continued the nomadic custom of the annual traveling routine. The court stayed in Zhongdu/Dadu at present-day Beijing during the winter and spring and moved to Shangdu in the Inner Mongolia steppe during summer and fall (initially for six months, and later still for four months).¹¹³

Even during the period from 1260 to 1368, more Mongol Great Khans were enthroned in Kaiping/Shangdu, instead of Dadu. During this period, a total of six Great

¹¹¹ See ROSSABI, *supra* note 28, at 132.

¹¹² 13 TONG SHI, *supra* note 3, at 255–56; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 275–76, 279–80.

¹¹³ 13 TONG SHI, *supra* note 3, at 255–56; MOTE, *supra* note 2, at 457.

Khans — namely, Khubilai (r. 1260–94), Temür Öljeitü (r. 1294–1307), Khaishan (r. 1307–11), Aragibag (r. 1328–28), Tügh Temür (2nd r. 1329–32), and Toghon Temür (r. 1333–70) — ascended to the throne in Kaiping/Shangdu in Inner Mongolia.¹¹⁴ It showed that Shangdu remained an important political center for the Mongol Empire in 1260–1368. Also, two more Great Khans — Yesün Temür (r. 1323–28) and Khoshila (r. 1329) — were enthroned in the Mongolian steppe.¹¹⁵ Throughout the entire Mongol history, only three Great Khans — Ayurbarwada (r. 1311–20), Shidebala (r. 1321–23), and Tügh Temür (1st r. 1328–29) — had ascended to the throne in Dada.¹¹⁶ This suggests that Dada at present-day Beijing was not so much a “principal” capital as conventional wisdom holds.

4.5.4 Khubilai’s Conquest of the Chinese Song Empire in 1276 or 1279

As noted earlier, Khubilai formally accepted the Chinese Song’s unconditional surrender in 1276, but he fully crushed the remnants of Song loyalists only later in 1279.¹¹⁷ After his conquest of Southern Song, Khubilai became the first non-Chinese monarch who ruled both the Inner Asian steppes and entire China Proper.¹¹⁸ Some historians use the fall of the Song Dynasty in either 1276 or 1279 (mistakenly, 1280) to

¹¹⁴ 6 CAMBRIDGE, *supra* note 2, at 423, 495–96, 507, 541, 545, 561; MOTE, *supra* note 2, at 468.

¹¹⁵ 6 CAMBRIDGE, *supra* note 2, at 536, 545.

¹¹⁶ YUAN SHI, *supra* note 36, at 449, 499, 588–89; MOTE, *supra* note 2, at 468.

¹¹⁷ ROSSABI, *supra* note 28, at 90, 95.

¹¹⁸ 6 CAMBRIDGE, *supra* note 2, at 490.

date the beginning of the Yuan Dynasty of “China.”¹¹⁹ However, as discussed below, this view is highly problematic and contrary to historical facts.

The notion that the Yuan Dynasty was established in 1276 or 1279 is based on the Chinese theory of legitimate succession and disregards the actual formation of the Mongol Empire.¹²⁰ Moreover, as Endymion Porter Wilkinson points out, such a notion completely ignores the fact that “the Mongols had ruled North China since their defeat of the [Jurchen] Jin in 1234,” and only after the long efforts of “[three] generations” of Chinggisids, “a divided China” was eventually “absorbed into the larger political unit of the Mongol empire.”¹²¹ The Mongol Yuan Empire had conquered many states, but there is no reason to say that the Mongol Empire became a dynasty of its conquered state. For example, the Mongol Empire conquered the Tangut Xia and the Jurchen Jin, but the Mongol Empire by no means became a Tangut or Jurchen dynasty. Likewise, when the Mongol Yuan conquered the Chinese Song and made South China part of the Yuan, that would not suddenly convert the Mongol Yuan into a new Chinese dynasty.

¹¹⁹ See *supra* note, 77, 78, 79.

¹²⁰ See WILKINSON, *supra* note 63, at 777.

¹²¹ *Id.*

4.5.5 The Official Positions on the Founding of the Yuan Dynasty

Both the Mongol Yuan and the Chinese Ming officially held that the Yuan Dynasty was founded by Chinggis Khan in the year of 1206 in what was later known as Mongolia.¹²² Khubilai himself had never claimed that he was the founder of the Yuan Dynasty. On the contrary, in 1265 Khubilai posthumously gave his grandfather, Chinggis Khan, the Chinese-style temple title of “Taizu” (Grand Progenitor), a standard title for a dynastic founder.¹²³ Thus, after the adoption of the dynastic name “Yuan” in 1271, Temujin or Chinggis Khan became known as “Yuan Taizu” (i.e., the founding emperor of the Yuan Dynasty) in the historical writings. In Ming times, the standard *History of the Yuan* (*Yuan Shi*, completed by the Chinese Ming court in 1370) referred to Temujin as “Chinggis Emperor” (*Chengjisi Huangdi*) and “Yuan Taizu,” thus also officially recognizing Chinggis’ status as the founder of the Yuan Dynasty.¹²⁴ As Atwood observes, the editors of the *History of the Yuan* apparently “treated the Yuan dynasty as synonymous with the Mongol Empire and naturally saw it beginning with the coronation in 1206 of Chinggis Khan (Genghis) in Mongolia.”¹²⁵

¹²² 13 TONG SHI, *supra* note 3, at 245–46; ATWOOD, *supra* note 10, at 603.

¹²³ YUAN SHI, *supra* note 36, vol. 3, at 1427–28; WILKINSON, *supra* note 63, at 270.

¹²⁴ YUAN SHI, *supra* note 36, vol. 1, at 1, 11–12.

¹²⁵ ATWOOD, *supra* note 10, at 603.

Moreover, in China's Republican-era, the *New History of the Yuan* (*Xin Yuan Shi*, finished in 1920 and given the status of standard history by the government of the Republic of China in 1921) still officially recognized that the Yuan Dynasty was founded by Chinggis in 1206.¹²⁶ It seems clear that the notion that Khubilai was the founding emperor of the “Chinese” Yuan Dynasty was constructed only recently, and it has been used by the PRC government and some scholars to argue that all the Yuan's territories were part of “China” in Yuan times. However, their view and argument are entirely contrary to the historical facts and the long-held understanding shared from Yuan times to the ROC era.

4.6 The Pre-1368 Mongol Yuan's Governmental Structure

The early Mongol Empire expanded rapidly, and its policy toward conquered territories was typically based on an ad hoc basis. During Khubilai's reign, the Mongol Yuan lost its vast western colonies and became a Kitad-based empire. Following the dual administration model of the Liao and the Jin, the Yuan governance between 1260 and 1368 combined the Inner Asian and Chinese traditions with the Yuan's innovations, rather than entirely depending on the Chinese imperial institutions.

¹²⁶ WILKINSON, *supra* note 63, at 780; 13 TONG SHI, *supra* note 3, at 105–06.

4.6.1 Central Governance

As Thomas Allsen notes, “the ‘central government’ of the early Mongolian state, in essence the imperial guard, was located wherever its sovereign chose to alight.”¹²⁷ Developed from the Khitan’s *ordo* system, the Mongol Great Khan’s *keshig* (imperial guard) consisted of trusted followers and elite soldiers and provided personal services and protection wherever the Great Khan went.¹²⁸ As his power, territories, and possessions continued to grow, Temujin or Chinggis expanded his *keshig* from 1,150 men in 1203 to 10,000 men in 1206 and transformed it into the central administrative body for his new empire.¹²⁹ Nevertheless, Chinggis Khan had never established any imperial capital for his new empire. The Mongol Empire’s first capital city was built by the second Great Khan, Ögödei (r. 1229–41), in 1235 at Karakorum in the Orkhon Valley, which had been the political center of the old “Turko-Mongol empires” from the Xiongnu Empire, to Kok Turkic (Gokturk or Tujue) Khaganate, to the Uyghur Khaganate.¹³⁰ Nevertheless, the Great Khan’s *keshig* continued to function as the sole central administration of the Mongol Empire until Khubilai’s reign.¹³¹

¹²⁷ 6 CAMBRIDGE, *supra* note 2, at 344.

¹²⁸ ATWOOD, *supra* note 10, at 297; 6 CAMBRIDGE, *supra* note 2, at 23, 343–44.

¹²⁹ 6 CAMBRIDGE, *supra* note 2, at 344.

¹³⁰ RENÉ GROUSSET, *THE EMPIRE OF THE STEPPES: A HISTORY OF CENTRAL ASIA* 256 (Naomi Walford trans., 1970).

¹³¹ 6 CAMBRIDGE, *supra* note 2, at 23.

The Mongol's new governmental structure under Khubilai mixed various political and cultural traditions and largely followed the Jurchen's dual administrative model.¹³² As Hsiao Ch'i-Ch'ing notes, Khubilai established "a workable institutional framework by synthesizing Chinese and Inner Asian systems and adorning it with the symbols of legitimacy drawn from Mongolian, Chinese, and Buddhist sources."¹³³ Consequently, at the central level, the Mongol Yuan's governmental dualism combined the Mongolian *keshig* (as the inner court) and the Chinese-style central institutions (as the outer court).¹³⁴

Following the Jurchen Jin's precedent of tripartite separation of central power among civil, military, and censorial branches, the Mongol Yuan established the Central Secretariat, the Bureau of Military Affairs, and the Censorate.¹³⁵ However, as Elizabeth Endicott-West observes, the actual functions of the governmental branches revealed "a great deal of overlap between civil and military jurisdictions" and such overlap "derived from the Mongols' traditional reliance on military institutions and offices as the core of governance."¹³⁶

Created to administer most civil affairs, the Central Secretariat (*Zhongshu Sheng*) was responsible for making recommendations, formulating policies, and drafting laws for

¹³² *Id.* at 587; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 267–68, 360.

¹³³ 6 CAMBRIDGE, *supra* note 2, at 490.

¹³⁴ *Id.* at 23; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 269, 368.

¹³⁵ 6 CAMBRIDGE, *supra* note 2, at 587; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 375–76; CHARLES O. HUCKER, A DICTIONARY OF OFFICIAL TITLES IN IMPERIAL CHINA 60–61 (1985).

¹³⁶ 6 CAMBRIDGE, *supra* note 2, at 587–88.

the emperor, and also for supervising its subordinate Six Ministries (*Liu Bu*).¹³⁷ As the traditional Chinese-style executive agencies, the Six Ministries were the Ministries of Personnel, Revenue, Rites, War, Justice (Punishments), and Public Works.¹³⁸ However, in Yuan times, the Ministry of War was the least significant among the Six Ministries because the real military authority, as discussed later, belonged to the Bureau of Military Affairs.¹³⁹ Moreover, the Ministry of Punishments essentially only had jurisdiction over the Chinese subjects, and not over the Mongols and other non-Chinese population.¹⁴⁰ Therefore, though the Yuan's new central civil bureaucracy was seemingly "sinicized," according to Endicott-West, "[t]he actual functioning of these ministries . . . reflects how Mongolian priorities and policies could reshape and redirect those [Chinese-style] institutions."¹⁴¹

The Bureau of Military Affairs (*Shumi Yuan*; also translated Privy Council) took overall charge of the military chain of command. It also had direct control over the military units in the Central Province (i.e., the Yuan's new imperial heartland, centered in the two capitals), with an exception that the *keshig* remained under the direct command

¹³⁷ *Id.* at 427, 588.

¹³⁸ MOTE, *supra* note 2, at 478, 591.

¹³⁹ 6 CAMBRIDGE, *supra* note 2, at 590.

¹⁴⁰ *Id.* at 591; 13 TONG SHI, *supra* note 3, at 1015.

¹⁴¹ 6 CAMBRIDGE, *supra* note 2, at 591.

of the Great Khan.¹⁴² The Bureau of Military Affairs was established in 1263 as a response to the Chinese rebellion of 1262.¹⁴³ The revolt raised great doubts about the loyalty of Chinese officials and showed a need to create a separate military bureau to keep military secrets from the Chinese-style civilian agencies and to guarantee Mongolian dominance over the troops and military affairs.¹⁴⁴

The Censorate (*Yushi Tai*) conducted disciplinary surveillance over central and local officials to ensure their loyalty, honesty, and incorruption, and also provided reports to the emperor.¹⁴⁵ According to Charles Hucker, for the first time, the “Censors were empowered to take direct punitive action against certain categories of offenders.”¹⁴⁶ The main reason that the censorial system was given unprecedented and pervasive power was that the ruling Mongols had a compelling need to control the non-Mongolian, particularly Chinese, officials.¹⁴⁷

¹⁴² YUAN SHI, *supra* note 36, vol. 3, at 1699, vol. 4, at 1986–87; ATWOOD, *supra* note 10, at 606; 13 TONG SHI, *supra* note 3, at 960; 6 CAMBRIDGE, *supra* note 2, at 590, 601.

¹⁴³ MOTE, *supra* note 2, at 479; 6 CAMBRIDGE, *supra* note 2, at 426.

¹⁴⁴ MOTE, *supra* note 2, at 479; 6 CAMBRIDGE, *supra* note 2, at 452–53, 590.

¹⁴⁵ 6 CAMBRIDGE, *supra* note 2, at 427–28, 602–04; HUCKER, *supra* note 135, at 61.

¹⁴⁶ HUCKER, *supra* note 135, at 61.

¹⁴⁷ ROSSABI, *supra* note 28, at 74–75; 6 CAMBRIDGE, *supra* note 2, at 428.

4.6.2 Regional and Local Governance

4.6.2.1 The Mongol's Decimal Socio-Military Organizations

Following the Inner Asian tradition from the decimal system of the Xiongnu Empire (209 BCE–155 CE) to the *meng'an-mouke* system of the Jurchen Jin Empire (1115–1234), Chinggis also used the decimal system to organize the entire Mongolian armies and population.¹⁴⁸ The Mongol's basic socio-military organizations were *mingghans* (units of 1,000 households), and each of them was headed by a chiliarch (Mo. *mingghan noyan*; Ch. *qianhu*). In principle, every *mingghan* was made up of ten *ja'uns* (units of 100 households), and a *ja'un* was comprised of ten *harbans* (units of 10 households), though the actual numbers varied.¹⁴⁹

As Atwood notes, although the heads of the *ja'uns* and *harbans* had no political roles, the heads of *mingghans* (i.e., the chiliarches) could participate in the election of new Great Khans at the great assemblies or *khuriltai*, and their offices were usually hereditary.¹⁵⁰ Moreover, some but not all *mingghans* were further grouped into *tumens* (lit. units of 10,000 households), but the actual sizes of *tumens* differed significantly.

¹⁴⁸ ATWOOD, *supra* note 10, at 139; 6 CAMBRIDGE, *supra* note 2, at 273, 345; BARFIELD, *supra* note 7, at 13, 38, 197.

¹⁴⁹ 6 CAMBRIDGE, *supra* note 2, at 345–47; ATWOOD, *supra* note 10, at 139.

¹⁵⁰ ATWOOD, *supra* note 10, at 139.

The Mongol Yuan's decimal socio-military system helped the Mongols to preserve their ethnic and cultural identity as well as their political and military domination. The system was well maintained at least until the Mongols' loss of China in 1368. During the subsequent Northern Yuan period, only the name *tumen* survived in Mongolia but completely lost any numerical meaning.¹⁵¹

4.6.2.2 The Provincial and Dual Staffing Systems

Following the Jurchen Jin's precedent of the Branch Department of State Affairs (*Xing Shangshu Sheng*), Chinggis Khan (r. 1206–27) established a series of the Branch Secretariats (*Xing Sheng*) as ad hoc and paramount occupying institutions (mostly headed by military men) to coordinate the military and civil affairs in the newly conquered territories.¹⁵² Later, Ögödei Khan (r. 1229–41) transformed the Branch Secretariats into a more permanent system of regional governance. For fiscal and administrative purposes, the empire's wealthier colonies were divided into three zones: (1) the Yanjing Branch Secretariat, which governed mainly North China, or more correctly, Kitad; (2) the Besh-Baligh Branch Secretariat, which covered what became known as West Turkestan (Russian Turkestan) and East Turkestan (Chinese Turkestan, or Xinjiang); (3) the Amu

¹⁵¹ *Id.* at 139–40.

¹⁵² 6 CAMBRIDGE, *supra* note 2, at 361; ATWOOD, *supra* note 10, at 442.

Darya Branch Secretariat, which administered Afghanistan and Iran.¹⁵³ These three Branch Secretariats remained in place during the time of Möngke Khan (r. 1251–59).¹⁵⁴

Khubilai Khan (r. 1260–94), having lost the empire's western colonies, transformed the Branch Secretariats into a permanent administrative system for provinces (*sheng*), each of which was much larger than any Chinese traditional regional and local unit. Below the provinces, there were four levels of local administration (in descending order): routes (*lu*), superior prefectures (*fu*), prefectures (*zhou*), and counties (*xian*).¹⁵⁵ The Mongol Yuan's provincial system was later succeeded and further developed by the Chinese Ming and the Manchu Qing, and permanently changed the regional governance in China.¹⁵⁶

After 1260, the Mongol Yuan eventually established twelve provinces (see Map 1.11), counting the Central or Metropolitan Province (*Fuli*). The Central Province (which comprised the two capitals, Dadu and Shangdu, along with the adjacent areas) was directly governed by the Central Secretariat.¹⁵⁷ The other eleven provinces were: Henan, Shaanxi, Sichuan, Jiangzhe, Jiangxi, and Huguang Provinces (in China Proper); Lingbei Province (in Mongolia and part of Siberia); Liaoyang Province (in Manchuria);

¹⁵³ 6 CAMBRIDGE, *supra* note 2, at 374, 397–98; ATWOOD, *supra* note 10, at 366–67, 442.

¹⁵⁴ 6 CAMBRIDGE, *supra* note 2, at 397–98.

¹⁵⁵ MOTE, *supra* note 2, at 487; YUAN SHI, *supra* note 36, vol. 2, at 1071–72.

¹⁵⁶ MOTE, *supra* note 2, at 485; HUCKER, *supra* note 135, at 62–63; 6 CAMBRIDGE, *supra* note 2, at 592–93.

¹⁵⁷ HUCKER, *supra* note 135, at 63; MOTE, *supra* note 2, at 485–86; ATWOOD, *supra* note 10, at 606.

Zhengdong Province (in Korea); Yunnan Province (in Dali); and Gansu Provinces (in former Tangut Xia territory).¹⁵⁸ Nevertheless, just like the creation of provinces in the Chinese lands would not make “China” part of “Mongolia,” the establishment of several provinces in the non-Chinese lands (such as Mongolia, Manchuria, and Yunnan) would not incorporate these non-Chinese regions into “China.” Moreover, as noted earlier, the so-called “Zhengdong Province” in Korea was not a real province but more like a nominal “loose-rein” region. Furthermore, although the status of Tibet was ambiguous in Yuan times, it is clear that Tibet had never become a Yuan province.¹⁵⁹

In general, the Branch Secretariats (*Xing Sheng*) had both civilian and military jurisdictions over the provinces, unless the Branch Bureaus of Military Affairs (*Xing Shumi Yuan*) were established for military necessity (e.g., in dire emergencies).¹⁶⁰ Nevertheless, some other central agencies, such as the Censorate and *Xuanzheng Yuan* (often translated as the Commission for Buddhist and Tibetan Affairs), also established regional branches with functional jurisdiction over one or several provinces.¹⁶¹ Consequently, at the provincial level, there were various regional branches of different central agencies, and they were not integrated into unified provincial governments.¹⁶²

¹⁵⁸ See HUCKER, *supra* note 135, at 63; YUAN SHI, *supra* note 36, vol. 2, at 1071.

¹⁵⁹ ATWOOD, *supra* note 10, at 606.

¹⁶⁰ 6 CAMBRIDGE, *supra* note 2, at 593.

¹⁶¹ MOTE, *supra* note 2, at 485; HUCKER, *supra* note 135, at 64.

¹⁶² MOTE, *supra* note 2, at 485.

Under the Mongol Yuan's dual staffing system, *darughachi* (meaning, overseers) were appointed alongside all levels of principal officeholders to supervise and authorize local governmental actions.¹⁶³ As Atwood notes, "[t]he term *darughachi* did not refer to a specific function but simply meant an official representing the Mongol rulers to a particular non-Mongol population."¹⁶⁴ Not surprisingly, in Mongol-ruled Chinese regions, while the principal local officials were usually Chinese, *darughachis* were typically Mongols or *Semuren* (e.g., Western and Central Asians) and they controlled the seals that made official documents valid.¹⁶⁵

4.7 The Economic and Ethnic Policies in the Mongol-ruled China

4.7.1 The Mongol Exploitation over China

The Mongol Empire established alien rule over part or all of "China" (or more correctly, what could be historically called "China Proper") for about one and half centuries from 1215 to 1368.¹⁶⁶ During this period, the Mongols did not hesitate to alter

¹⁶³ ATWOOD, *supra* note 10, at 134; MOTE, *supra* note 2, at 493; *see also* 6 CAMBRIDGE, *supra* note 2, at 595.

¹⁶⁴ ATWOOD, *supra* note 10, at 134.

¹⁶⁵ *Id.*; MOTE, *supra* note 2, at 493.

¹⁶⁶ *See* 6 CAMBRIDGE, *supra* note 2, at 616; BARFIELD, *supra* note 7, at 201.

their approach as needed to maintain the Mongol's political and military supremacy and economic exploitation in China.¹⁶⁷

As the Mongols conquered northern China in 1215–34, they created a system to keep the distinction between the conquerors and the conquered, and to use the resources there to support their further conquest in Eurasia.¹⁶⁸ According to Allsen, before Khubilai's reign, the early Mongol rule in northern China Proper was already “composed of a complex blend of Chinese, Jurchen, Khitan, Uighur, and Mongolian administrative techniques and social usages” that helped the Mongols to “administer and exploit the agricultural and urban populations.”¹⁶⁹ Consequently, after the destructive conquest, those northern Chinese who survived had to meet the irregular and harsh demands from their new Mongolian overlord for tax, goods, corvée, and military service.¹⁷⁰

Moreover, enslavement was a common Mongolian practice during their conquests. Not surprisingly, during the Mongol conquest of the Jurchen Jin, many people, mostly Chinese, in northern China Proper were removed from the ordinary population registers and became captive slaves (*qukou*). Later, as the Mongol conquered the Southern Song in the 1270s, slavery was also extended into southern China. These captive slaves were

¹⁶⁷ 6 CAMBRIDGE, *supra* note 2, at 616.

¹⁶⁸ *Id.* at 629.

¹⁶⁹ *Id.* at 360, 362.

¹⁷⁰ *Id.* at 363–64, 445.

regarded as war booty and could be granted to the imperial relatives, military commanders, and Mongolian soldiers.¹⁷¹ Furthermore, according to Endicott-West, even after the conquest in the 13th century, there was “evidence of continuing enslavement, as well as the buying and selling, of slaves” in the Mongol-ruled China.¹⁷²

During Khubilai’s reign, the Mongol Yuan introduced many reforms that sought to rule and also exploit China more effectively. For example, Khubilai established a fixed and regular taxation system (for head taxes, annual grain taxes, etc.) and frequently granted tax exemption in economically difficult and natural disaster areas.¹⁷³ He also promoted agriculture, cherished artisans, improved the transportation system, and facilitated trade.¹⁷⁴ Apparently, these measures were intended to relieve the misery of Chinese subjects and to promote economy. However, as Rossabi notes, at the same time, Khubilai also “built roads and a capital city, extended the Grand Canal, and organized a postal relay system, all of which required vast investments of labor.”¹⁷⁵ Although he tried to limit excessive demands on the ordinary population, in reality, he could not prevent his officials from imposing unreasonable corvée on the Chinese peasants.¹⁷⁶ At

¹⁷¹ *Id.* at 614, 629, 661; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 551–53.

¹⁷² 6 CAMBRIDGE, *supra* note 2, at 614.

¹⁷³ *Id.* at 446–48.

¹⁷⁴ *Id.* at 447–50.

¹⁷⁵ *Id.* at 448.

¹⁷⁶ *Id.*

any rate, after Khubilai's reforms, the Mongols increased their ability to govern and at the same time to exploit China more effectively and sustainably.

4.7.2 Ethnic Relations in the “Four-Status” System

Contrary to the modern Chinese claim that the Mongol Yuan was a “Chinese” dynasty, the so-called Yuan's four-status system showed clearly that the ruling Mongols institutionally maintained themselves as superior conquering people, and treated the Chinese population as inferior conquered subjects. It is commonly accepted that for administrative purposes, Khubilai divided the empire's entire population into a “four-class” or more correctly “four-status” system according to their ethnic and geographic origins.¹⁷⁷ In terms of associated privileges and restrictions in law and practice, the four population classifications from highest to lowest ranked were: (1) the Mongols; (2) *Semuren* (mostly, Western and Central Asians); (3) *Hanren* (essentially, northern Chinese); (4) *Nanren* (mainly, southern Chinese).¹⁷⁸ Although the “four-status system” was formulated by historians, the four-tiered population classifications are still

¹⁷⁷ E.g., MOTE, *supra* note 2, at 489–90; ROSSABI, *supra* note 28, at 71, 117; 6 CAMBRIDGE, *supra* note 2, at 629–31; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 396–97; HSIAO CH'I-CH'ING, *NEI BEI GUO ER WAI ZHONGGUO: MENG YUAN SHI YAN JIU* 464–66 (Beijing, Zhonghua Shu Ju 2007) (China).

¹⁷⁸ ROSSABI, *supra* note 28, at 71; MOTE, *supra* note 2, at 489–90; 6 CAMBRIDGE, *supra* note 2, at 629–31.

very useful for understanding the ethnic relations in Yuan time, particularly in the Mongol-ruled China.¹⁷⁹

The Mongols and *Semuren* were the two privileged groups in the Yuan society. As the ruling group, the Mongols were given various rights and privileges, such as the exclusive reservations for prominent positions, the preference in appointment to office, lighter punishments for the same offenses, the reduction or exemption of taxes and corvée, and the permission to bear arms.¹⁸⁰ *Semuren* (lit. various categories of people) were regarded as trusted allies and experts in trade, finance, and civil governance. They were often Western and Central Asians (in particular, the Uyghurs and Turkestan Muslims) and enjoyed the second tier of a privileged status similar to that of the Mongols.¹⁸¹

The “untrustworthy” conquered *Hanren* and *Nanren* were the two oppressed groups under the Mongol rule.¹⁸² *Hanren* (lit. Han people) referred essentially to the northern Chinese living in the former Jin territory and also those Chinese inhabiting Sichuan and Yunnan.¹⁸³ *Nanren* (lit. southern people) included all the conquered peoples, mainly, the

¹⁷⁹ 6 CAMBRIDGE, *supra* note 2, at 631; MOTE, *supra* note 2, at 489.

¹⁸⁰ MOTE, *supra* note 2, at 489–90; ATWOOD, *supra* note 10, at 494; ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 288–89, 372–75.

¹⁸¹ 6 CAMBRIDGE, *supra* note 2, at 630; MOTE, *supra* note 2, at 490; ATWOOD, *supra* note 10, at 494.

¹⁸² For detail, see ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 372–75.

¹⁸³ 6 CAMBRIDGE, *supra* note 2, at 610, 631; WILKINSON, *supra* note 63, at 777.

southern Chinese, of the former Southern Song territory.¹⁸⁴ Both *Hanren* and *Nanren*, especially the most “disloyal” southern Chinese, suffered from various restrictions and disadvantages, such as the exclusion from high governmental (particularly, military) posts and local overseer offices, discriminations in the Chinese-style civil service examination (which was not reestablished until 1313), harsher punishments, higher economic obligations, and the ban to bear arms.¹⁸⁵

As Rossabi notes, partially because “the Chinese vastly outnumber the Mongols in China,” Khubilai had to adopt the so-called four-status system “to retain [the Mongols’] power and to preserve their unique cultural heritage.”¹⁸⁶ In fact, even after the Yuan moved the main capital to Dadu, most Mongols remained in Mongolia, which had an estimated population of 2 million.¹⁸⁷ However, in China Proper, the ruling Mongols and their allied *Semuren* were each only about 0.3 to 0.4 million people, while the conquered *Hanren* (essentially, northern Chinese) and *Nanren* (mainly, southern Chinese) were around 10 and 50 million population respectively.¹⁸⁸ Arguably, the fact that most Mongols remained in their Mongolian homeland and only a small portion of them moved

¹⁸⁴ 6 CAMBRIDGE, *supra* note 2, at 610, 631; Mark Elliott, *Hushuo: The Northern Other and the Naming of the Han Chinese*, in CRITICAL HAN STUDIES: THE HISTORY, REPRESENTATION, AND IDENTITY OF CHINA’S MAJORITY 173, 187 (Thomas S. Mullaney et al. eds., 2012).

¹⁸⁵ MOTE, *supra* note 2, at 490; ATWOOD, *supra* note 10, at 606; MENG GU ZU TONG SHI, *supra* note 39, vol. 1, at 352–56; 13 TONG SHI, *supra* note 3, at 968.

¹⁸⁶ ROSSABI, *supra* note 28, at 71–72.

¹⁸⁷ YUAN CHAO SHI [HISTORY OF THE YUAN DYNASTY], vol. 2, at 181–83 (Han Rulin et al. eds., Beijing, Ren Min Chu Ban She 1986) (China); MENG GU ZU TONG SHI, *supra* note 39, vol. 1, at 195, 243; *see also* 13 TONG SHI, *supra* note 3, at 779.

¹⁸⁸ HSIAO CH’I-CH’ING, *supra* note 177, at 465–66; ROSSABI, *supra* note 28, at 71–72.

to China Proper shows that even the Mongol Yuan Empire in 1260–1368 was not as “Chinese-centric” a dynasty as has been popularly believed.

Moreover, it is generally (but, very likely mistakenly) assumed that the Yuan’s *Hanren* included not only northern Chinese but also other groups (such as the Jurchens, Khitans, and Koreans) of the former Jin territories in North China and even Manchuria.¹⁸⁹ This confusion is further distorted as an “evidence” that the Jurchens and Khitans in Yuan times were highly sinicized and even became the Han Chinese people.¹⁹⁰ Nevertheless, while the Yuan’s *Hanren* included the northern Chinese in the former Jin territories and also those Chinese in Sichuan and Yunnan, the *Hanren* under Yuan rule, as argued below, did not include the former Jin’s “non-Chinese” population and their descendants.

It appears that the notion that the Yuan’s *Hanren* also included the former Jin’s non-Chinese (such as Jurchen, Khitan, and Korean) populations and their descendants mainly relies on private work, *Nan Cun Chuo Geng Lu*, written by Tao Zongyi.¹⁹¹ However, Tao was a *Nanren* or southern Chinese living under the late Yuan and early Ming rule and did not know the Mongolian language. That led to the numerous errors

¹⁸⁹ E.g., 6 CAMBRIDGE, *supra* note 2, at 610, 631; MOTE, *supra* note 2, at 490; ATWOOD, *supra* note 10, at 319, 494, 507; Elliott, *supra* note 184, at 187.

¹⁹⁰ E.g., ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 397.

¹⁹¹ *Id.* at 396–97; 6 CAMBRIDGE, *supra* note 2, at 631; CHEN YINKE, JIN MING GUAN CONG GAO ER BIAN 99–100 (Beijing, Sheng Huo Du Shu Xin Zhi San Lian Shu Dian 2001) (China).

and duplications in his listing of seventy-two subtypes of Mongols, thirty-one subcategories of *Semuren*, and eight subgroups of *Hanren* in his book.¹⁹²

On the contrary, as seen in the standard *History of the Yuan*, the people under Yuan rule consistently used the terms *Nuzhi* (Jurchen), *Qidan* (Khitan), and *Gaoli* (Goryeo or Korea) to designate the Jurchen, Khitan, and Korean peoples, lands, and armies, and the terms *Nuzhi*, *Qidan*, and *Gaoli* also frequently appeared in the sentences that also contained the terms *Hanren* and *Hanjun* (Han army).¹⁹³ Here, *Hanren* and *Hanjun* apparently referred to the northern Chinese people and army, while the Jurchens, Khitans, and Koreans were identified as distinct ethnic groups different from *Hanren*. In fact, according to the regulation for the appointment of military officers in Khubilai's times, while the Jurchens and Khitans who grew up in the Han lands were treated the same as *Hanren*, those Jurchens and Khitans growing up in Northwest (i.e., outside the Han lands) and knowing no Chinese language were treated the same as the Mongols.¹⁹⁴ It is therefore clear that under the Yuan rule, the Jurchens, Khitans, and Koreans were themselves neither *Hanren* nor Mongols, although they were sometimes treated the same as *Hanren* or Mongols.

¹⁹² ZHOU LIANGXIAO & GU JUYING, *supra* note 4, at 396–97.

¹⁹³ YUAN SHI, *supra* note 36, vol. 1, at 88, 218, 297, 381, vol. 3, at 1609, vol. 4, at 1990, 2005, 2077, 2325, vol. 5, at 2593, 2811, 2853–54, 2856, 2866.

¹⁹⁴ *Id.*, vol. 1, at 218.

Furthermore, similar to the previous non-Chinese Inner Asian conquest empires, the Mongol Yuan also had a multiethnic legal system at least until 1368.¹⁹⁵ According to Endicott-West, “[m]embers of different ethnic groups were to be tried and punished” by “their own laws and customs” and different judicial institutions.¹⁹⁶ For example, the Mongols were tried by Mongolian *jarghuchi* (judges) according to the Mongol *Jasaq*, the body of laws that was based upon Mongolian customary law and decreed by Chinggis and his successors.¹⁹⁷ The Muslims were allowed to form highly self-governing communities, which permitted their Muslim *qadi* (judges) to rule by the Islamic religious law.¹⁹⁸ The Chinese subjects were adjudicated by the former Jin’s Chinese-style Taihe Code until 1271, and subsequently by the judicial precedents made in Yuan times with obvious influences of Mongol laws, customs, and practices.¹⁹⁹

4.8 The Mongol Yuan’s Multiculturalism and Ethnic Identities

The early Mongol Great Khans before 1260 welcomed traders and craftsmen, patronized various religions, and employed diverse assistants to govern their multiethnic

¹⁹⁵ MENGGU ZU TONG SHI, *supra* note 39, vol. 1, at 219–30; for detail, see 13 TONG SHI, *supra* note 3, at 1002–17.

¹⁹⁶ 6 CAMBRIDGE, *supra* note 2, at 591.

¹⁹⁷ MENGGU ZU TONG SHI, *supra* note 39, vol. 1, at 229–30; MOTE, *supra* note 2, at 424; ATWOOD, *supra* note 10, at 264.

¹⁹⁸ ROSSABI, *supra* note 28, at 142.

¹⁹⁹ *Id.* at 129.

Eurasian empire.²⁰⁰ After becoming the Great Khan in 1260, Khubilai, though losing the empire's vast western colonies, also held a cultural policy that respected the multiethnic nature of the empire and reflected the imperial claim to universal sovereignty.²⁰¹ While preserving the Mongol's steppe tradition and ethnic identity, Khubilai and his successors also promoted multiculturalism that held a multi-language policy and patronized various religions and ideologies.²⁰² As Endicott-West points out, the ruling Mongols "apparently saw no conflict of interest in deriving legitimacy from more than one ideological–religious tradition."²⁰³

4.8.1 Multiple Languages

Although various ethnic groups in the empire used a wide range of Altaic and Sino-Tibetan languages, as expected, Mongolian (and not Chinese) remained the official language in the imperial court throughout the entire Mongol Yuan period.²⁰⁴ Nevertheless, the empire's entire governmental functions and public education were performed in at least four written languages: Mongolian; classical literary Chinese; a "strange" colloquialized Chinese; and Persian.²⁰⁵

²⁰⁰ 6 CAMBRIDGE, *supra* note 2, at 643.

²⁰¹ For detail, see *id.* at 454–73.

²⁰² ROSSABI, *supra* note 28, at 172–76; HSIAO CH'I-CH'ING, *supra* note 177, at 30–31, 466.

²⁰³ 6 CAMBRIDGE, *supra* note 2, at 609.

²⁰⁴ *Id.* at 397, 465–66, 563, 606, 644; HSIAO CH'I-CH'ING, *supra* note 177, at 25.

²⁰⁵ 6 CAMBRIDGE, *supra* note 2, at 563; HSIAO CH'I-CH'ING, *supra* note 177, at 25, 466.

In 1204 on the eve of his empire's founding, Temujin, the future Chinggis Khan, ordered the creation of a Mongolian script (see Figure 1.2), based on the Turkic Uyghur alphabet. However, the new Mongolian script (known as the Uyghur-Mongolian script) failed to represent some Mongolian sounds precisely and to translate Chinese words accurately.²⁰⁶ Partly because of the adoption of Uyghur-based Mongolian script, the Uyghurs and other Turks increasingly served as the imperial advisers, princes' tutors, civil administrators, military officers, secretaries, and translators in the Mongol Empire.²⁰⁷ In China Proper, polylinguality remained rare among both the Mongols and Chinese but were very common among *Semuren* (especially, Uyghurs and Turkestan Muslims). Consequently, in Mongol-ruled China, *Semuren* became the "true middlemen" who bridged the language and cultural gap between the ruling Mongols and the conquered Chinese.²⁰⁸

In 1269, Khubilai ordered the Tibetan 'Phags-pa Lama to create a Tibetan-based Mongolian script, popularly known as 'Phags-pa script or square script (see Figure 1.2).²⁰⁹ Proudly referred to as the "Mongolian script" or "national script" (*guo zi*; lit. state script), the 'Phags-pa script was designed as a "universal script" to better represent

²⁰⁶ 6 CAMBRIDGE, *supra* note 2, at 345, 465; ATWOOD, *supra* note 10, at 519, 562.

²⁰⁷ 6 CAMBRIDGE, *supra* note 2, at 611.

²⁰⁸ *Id.* at 611, 646.

²⁰⁹ ATWOOD, *supra* note 10, at 519.

the sounds of the empire's major languages, notably, Mongolian and Chinese.²¹⁰ However, despite Khubilai's promotion, the 'Phags-pa script received limited acceptance and never really replaced the Uyghur-Mongolian script and Chinese characters.²¹¹ After retreating to the Mongolian homeland in 1368, the Mongols again wrote solely in the Uyghur-based Mongolian script until the early 20th century.²¹² Today, the Mongols in the modern State of Mongolia use the Mongolian Cyrillic alphabet.

4.8.2 Patronage of Various Religions and Ideologies

Despite his personal faith in the Tibetan Buddhism (Lamaism), Khubilai also supported various religions and ideologies, including the Mongolian Shamanism, Chinese Confucianism and Daoism, Islam, and even Christianity, seeking to legitimize the empire's universal rule.²¹³ What particularly interests us and will be discussed below is Khubilai's patronage of Tibetan Buddhism, Chinese Confucianism, and Mongolian Shamanism.

4.8.2.1 Patronage of Tibetan Buddhism and the *Cho-Yon* Relationship

Khubilai bestowed the Tibetan lama 'Phags-pa the title of "State Preceptor" (*Guoshi*) in early 1261. Subsequently, 'Phags-pa served as both the spiritual mentor of Khubilai

²¹⁰ ROSSABI, *supra* note 28, at 157; ATWOOD, *supra* note 10, at 519.

²¹¹ 6 CAMBRIDGE, *supra* note 2, at 466.

²¹² ATWOOD, *supra* note 10, at 376.

²¹³ For detail, see ROSSABI, *supra* note 28, at 131–52; ATWOOD, *supra* note 10, at 469–70.

and the head of all Buddhist monks in the empire.²¹⁴ In 1270, Khubilai further elevated 'Phags-pa to the “Imperial Preceptor” (*Dishi*), a title later also borne by 'Phags-pa's successors.²¹⁵ The relationship between Khubilai and 'Phags-pa became even closer through the marriage alliance between their two families.²¹⁶ Even after Khubilai's reign, the Tibetan Buddhism continuously received the “bulk of imperial patronage and favor” from the Mongol Yuan Khans.²¹⁷ The Tibetan Buddhist rituals were introduced to and frequently held in the Yuan court.²¹⁸ Furthermore, the Buddhist temples and Tibetan monks were granted governmental support, subsidies, high status, tax and obligation exemptions, and even inviolable protection.²¹⁹

In return for Khubilai's patronage, 'Phags-pa Lama incorporated the Mongol Khans, particularly, Chinggis and Khubilai, into the line of succession of the Buddhist universal rulers, Cakravartin or Cakravartiraja (wheel-turning king), to legitimize the Chinggisid (particularly, Khubilaid) claim to universal sovereignty.²²⁰ Khubilai was also identified

²¹⁴ ATWOOD, *supra* note 10, at 49, 437.

²¹⁵ *Id.* at 49; VAN PRAAG, *supra* note 45, at 6.

²¹⁶ ROSSABI, *supra* note 28, at 143.

²¹⁷ MOTE, *supra* note 2, at 504.

²¹⁸ ROSSABI, *supra* note 28, at 145–46; MOTE, *supra* note 2, at 501.

²¹⁹ ROSSABI, *supra* note 28, at 145.

²²⁰ HERBERT FRANKE, FROM TRIBAL CHIEFTAIN TO UNIVERSAL EMPEROR AND GOD: THE LEGITIMATION OF THE YÜAN DYNASTY 59, 61 (1978); CROSSLEY, *supra* note 79, at 234, 238.

as an incarnation of Manjusri (the Bodhisattva of Wisdom), a protector of “China” (*Cīna*) in some Buddhist traditions.²²¹

’Phags-pa Lama developed a theory of the proper relationship between the “throne and altar” (or “state and religion”) that functioned as the interdependent dual order.²²² Under this theory, as Michael C. van Walt van Praag explains, “the Emperor was the supreme temporal sovereign, ruling for the benefit of all sentient beings, whereas the Tibetan Lama was the supreme spiritual ruler and sovereign in all religious matters.”²²³ Consequently, from Khubilai’s times, the Tibetan Sakya lamas (as religious tutors) and the Mongol Great Khans (as temporal patrons) had established a *sui generis Cho–Yon* (priest–patron) relationship.²²⁴

Like the Chinese-style tributary relation, the Buddhist *Cho–Yon* relationship was also highly personal and ritualized and was not sufficient to define the territorial relationship between Tibet and the Mongol Yuan. As argued earlier, the territorial limit of an empire or state should be determined mainly by the extension of effective control. In other words, the question of territorial boundary was and is a temporal, rather than religious or ideological, issue.

²²¹ ROSSABI, *supra* note 28, at 144–45; ROBINSON, *supra* note 41, at 20–21.

²²² ROSSABI, *supra* note 28, at 144; VAN PRAAG, *supra* note 45, at 6; LAIRD, *supra* note 23, at 115.

²²³ VAN PRAAG, *supra* note 45, at 6.

²²⁴ *Id.* at 5.

Nonetheless, besides the religious *Cho–Yon* relationship, the Mongol Yuan Empire also maintained some political relationship with prominent Tibetan lamas, and also established effective control over small parts of Tibet. In 1264, 'Phags-pa was named the director of the newly-established *Zongzhi Yuan* (Supreme Control Commission), which was based in Dadu and designed to supervise all Buddhists in the empire and to (at that time, purely on paper) administer Tibet.²²⁵ However, it was only after 1268 that the Mongol Yuan Empire began to establish effective control (hence, sovereignty) over small parts of Tibet by setting up local administration under hereditary leaders and exercising real governance (e.g., conducting a census, collecting taxes, and creating postal relay and militia systems) there.²²⁶ In 1288, *Zongzhi Yuan* was renamed *Xuanzheng Yuan* (Commission for Buddhist and Tibetan Affairs).²²⁷ However, as discussed earlier, most of Tibet was beyond the Yuan's control and governance, and therefore did not become the territory of the Mongol Yuan Empire.

4.8.2.2 Patronage of Chinese Confucianism

To win over the Chinese support, Khubilai also incorporated some Chinese elements, especially the Chinese-style imperial institutions and Confucian court rituals, into the

²²⁵ ATWOOD, *supra* note 10, at 49; ROSSABI, *supra* note 28, at 143.

²²⁶ ROSSABI, *supra* note 28, at 144; LAIRD, *supra* note 23, at 120; Franke, *supra* note 42, at 301.

²²⁷ ATWOOD, *supra* note 10, at 49.

Mongol Yuan governance.²²⁸ In terms of its ideological conception and architectural form, the primary capital at Dadu was basically constructed as a Chinese-style city that was rectangular and enclosed by walls.²²⁹ Recognizing the practical value of Confucian rites and ceremonies, Khubilai also built the Chinese-style Imperial Ancestral Temple (*Taimiao*) and the Altars of the Soil and Grain (*Sheji*) in Dadu, and also the Confucian Temples (*Kongmiao*) throughout the Chinese-populated regions.²³⁰

As Mote observes, the “Chinese record covers all these things in detail, with intent to show Chinese successes in sinicizing the [Mongol] rulers and their government.”²³¹ Nonetheless, as Mote further comments, the Mongols “adapted fluidly to various civilizations in all the realms they conquered” and “[w]hat the Chinese have observed as obeisance to their universal culture was in fact pragmatic decision about how best to serve Mongolian interests in all places and times.”²³² In reality, Khubilai and his successors seldom participated in the Confucian rites and ceremonies in person and often delegated Chinese officials to represent them,²³³ although the Yuan imperial family comfortably attended the Buddhist rituals introduced by 'Phags-pa Lama.²³⁴

²²⁸ For detail, see ROSSABI, *supra* note 28, at 70–75, 131–41.

²²⁹ *Id.* at 131–32.

²³⁰ *Id.* at 133–34; MOTE, *supra* note 2, at 459.

²³¹ MOTE, *supra* note 2, at 459.

²³² 6 CAMBRIDGE, *supra* note 2, at 626.

²³³ ROSSABI, *supra* note 28, at 133–34; FRANKE, *supra* note 220, at 32–34.

²³⁴ 6 CAMBRIDGE, *supra* note 2, at 609.

4.8.2.3 Preservation of Mongol Heritage and Identity

While patronizing various religions and ideologies, Khubilai also preserved the Mongolian tradition and identity.²³⁵ At Shangdu in Inner Mongolia, the Mongol's Shamanist court rituals were carefully and continuously maintained by Khubilai and his successors to honor their ancestors and to pray for blessings.²³⁶ They also continued to perform Mongolian sacrifices to mountains, rivers, and trees and retained the Mongolian tradition of annual traveling, seasonal hunting, heavy drinking, and so forth.²³⁷

When the Mongols ruled China Proper, they also carefully maintained their way of life, culture, and ethnic identity.²³⁸ As Mote observes, "Mongolian cultural self-confidence and a deep attachment to the values of steppe life . . . kept them apart from the seductions of China's civilization."²³⁹ In the eyes of conquered Chinese, the Mongols remained a steppe and barbarian people and should be expelled from China.²⁴⁰ As we will see in the next chapter, the notion that the savage Mongols were not entitled to reside in and rule China was the primary justification used by the Chinese Ming

²³⁵ For more detail, see ROSSABI, *supra* note 28, at 172–75.

²³⁶ MOTE, *supra* note 2, at 459; ROSSABI, *supra* note 28, at 173–74.

²³⁷ ROSSABI, *supra* note 28, at 173–75.

²³⁸ 6 CAMBRIDGE, *supra* note 2, at 626, 646; KARL A. WITTFOGEL & FÈNG CHIA-SHÈNG, HISTORY OF CHINESE SOCIETY: LIAO (907–1125), 16 (1949).

²³⁹ 6 CAMBRIDGE, *supra* note 2, at 646.

²⁴⁰ *Id.* at 626.

founding emperor, Zhu Yuanzhang, to call for driving out the Mongols and restoring China.

4.8.3 Mongol Khaganship with Multi-images

As stated by Rossabi, Khubilai's cultural and religious policies successfully "affirmed the Mongol heritage, accepted certain Chinese practices, and strove for universalism," and pragmatically "presented himself in different guises to the different audiences he faced."²⁴¹ To the Mongols, Khubilai was a Tenggeri-blessed conqueror expanding the Mongol rule and protecting the Mongolian Shamanism and traditions.²⁴² To the Chinese, he was the Son of Heaven (*Tianzi*) supporting the Chinese Confucianism and arts.²⁴³ To the Tibetans and other Buddhists, he was a Cakravartin (Buddhist universal emperor) and an incarnation of Manjusri (Bodhisattva of Wisdom) spreading and defending Buddhism.²⁴⁴ In short, Khubilai sought to patronize and derive legitimacy from various cultural and religious traditions of the empire's populations.

The subsequent Mongol Great Khans continued Khubilai's cultural and religious policies at least until 1368, and, as we will see in the later chapter, the Manchu Qing Emperors also imitated these policies, albeit in a more sophisticated way. However,

²⁴¹ ROSSABI, *supra* note 28, at 175.

²⁴² *Id.* at 76–77, 172–76.

²⁴³ *Id.* at 131–41.

²⁴⁴ *Id.* at 142–46.

while the Mongol Yuan rulers in 1260–1368 intentionally showed different faces to their diverse subjects, it appears that they had never created or claimed any separate “rulership” for a particular territory (e.g., a separate Chinese Emperorship for “China”). Therefore, despite their various images, it seems that the Yuan monarchs ruled the empire’s entire domains solely as the Mongol Great Khans (*Khagans*).

4.9 The So-called “Northern Yuan” Was Not a New Dynasty, but the Continuation of the Mongol Yuan Empire

There is no controversy that the so-called “Northern Yuan” began in 1368 when the Mongols lost Dadu and retreated to Mongolia, but historians have different views on what the nature of the Northern Yuan was and when it ended. Some recent Chinese scholars assert that the Northern Yuan was a Chinese “local authority” or a “northern dynasty” within “China.”²⁴⁵ On the other hand, it appears that Western historians tend to view the Northern Yuan as a new Mongolian dynasty or empire in Mongolia but not within “China.”²⁴⁶ This study joins the opinion that the Northern Yuan period began in 1368 and lasted until sometime between 1634 and 1636, particularly 1635 when the son

²⁴⁵ E.g., 13 TONG SHI, *supra* note 3, pmb1. 1; Hu Zhongda, *supra* note 67, at 45, 52; Tang Yuping, *Ming Chao Dui Meng Zheng Ce Shu Lun [On the Ming’s Policy toward the Mongol]*, 16 (No. 3) ZHAO WU DA MENG ZU SHI ZHUAN XUE BAO (HAN WEN ZHE XUE SHE HUI KE XUE BAN) [JOURNAL OF ZHAOWUDA MONGOLIAN TEACHERS COLLEGE (SOC. SCI.)] 19, 20 (1995) (China).

²⁴⁶ ATWOOD, *supra* note 10, at 407; Klaus Sagaster, *The History of Buddhism among the Mongols, in THE SPREAD OF BUDDHISM* 379, 395 (Ann Heirman & Stephan Peter Bumbacher, 2007).

of the last Mongol Great Khan surrendered to the Jurchen [Later] Jin/Manchu Qing Empire.²⁴⁷ Moreover, as argued below, the so-called Northern Yuan was not a new Mongolian dynasty established in 1368, but the last and long period of the same Mongol Empire that was originally founded by Chinggis in 1206. In other words, the Mongol Yuan Empire lasted for about 429 years, from 1206 to around 1635 (see Table 1.2).²⁴⁸

Historical evidence shows that the post-1368 Mongol Dynasty continued to use both the Mongolian state name “Yeke Mongghol Ulus” and the Chinese dynastic name “Great Yuan” until its fall in 1635.²⁴⁹ Moreover, even after 1368, the vast region of Mongolia, as Mote notes, continued to share “a common language (with some dialect variations) and, more important, a common sense of nationhood dominated by the image of Chinggis Khan.”²⁵⁰ In fact, in the diplomatic letters in early Ming times, the Chinese Ming founding emperor, Zhu Yuanzhang, still officially referred to the post-1368 Mongol Great Khans as the rulers of “Yuan” or “Great Yuan.”²⁵¹ In other words, the newly established

²⁴⁷ E.g., Bao Yin, *Yuan Chuan Guo Xi Chuan Cheng Shi Mo: Jian Lun Bei Yuan Mie Wang Nian Dai* [*A Story of the Imperial Seal of the Yuan: Concurrently Discuss the End of the Yuan*], 2006 (No. 4) SHE HUI KE XUE ZHAN XIAN [SOCIAL SCIENCE FRONT] 125, 125, 128–29 (China) (stating that the Northern Yuan was ended in 1635); ATWOOD, *supra* note 10, at 407 (“Established with the flight of the Mongol great khans from China, the Northern Yuan emperors from 1368 to 1634 maintained their claim to Chinggisid legitimacy, yet were only sporadically able to make that claim effective”); CROSSLEY, *supra* note 79, at 212–13 (indicating that the Northern Yuan was ended sometime between 1634 and 1636).

²⁴⁸ BANBUERHAN, *supra* note 10, at 103.

²⁴⁹ Dalizhabu, *Bei Yuan Shi Yan Jiu San Ti* [*Three Issues of the Historical Research on the Northern Yuan*], 1991 (No. 2) HEILONGJIANG MINZU CONG KAN [HEILONGJIANG NATIONAL SERIES] 67, 69–70; Bao Yin, *supra* note 247, at 128–29; Okada Hidehiro, *Dayan Khan as a Yuan Emperor: The Political Legitimacy in 15th Century Mongolia*, 81 BULLETIN DE L’ECOLE FRANÇAISE D’EXTRÊME-ORIENT 51, 51–53, 56–58 (1994) (Fr.).

²⁵⁰ MOTE, *supra* note 2, at 687.

²⁵¹ Dalizhabu, *supra* note 249, at 68; Hu Zhongda, *supra* note 67, at 48.

Chinese Ming Empire at first also recognized the continuing existence of the Mongol Yuan Dynasty in Mongolia.²⁵² However, the Ming court later changed its position and “de-recognized” the Yuan Dynasty, referring to the Mongol Dynasty not as “Yuan” and even not as “Mongol,” but as “Tatar” (Ch. *Dada*).²⁵³

In terms of changes in territory and successions of khaganship, the post-1368 Mongol Yuan eventually lost most (if not all) of its colonies, but the empire still maintained, at least nominally, all of Mongolia under the rule of Chinggisid (and mostly, Khubilaid) Great Khans until 1635, except for the one-year reign of Esen (r. 1453–54).²⁵⁴ Esen, the powerful leader of the Oirat (Ch. *Wala*) Mongols, was the *taishi* (grand preceptor, or regent) of the Taisung Khan (Togtoo-Bukha; r. 1433–52). In 1453, though not being a Chinggisid, Esen claimed the Mongol Khaganship and took the title of the “Heavenly Holy Great Khan of the Great Yuan” (Ch. *Da Yuan Tiansheng Da Kehan*), but he was soon killed in 1454 during the rebellion.²⁵⁵ Later, the Great Dayan Khan (lit. Great Khan of the Great Yuan; r. 1480–1517) and the subordinate Altan Khan (meaning, Golden Khan; 1507–82) both came close to reunify all the Mongols.²⁵⁶

²⁵² See Hu Zhongda, *supra* note 67, at 48.

²⁵³ Dalizhabu, *supra* note 249, at 68; WILKINSON, *supra* note 63, at 778.

²⁵⁴ ATWOOD, *supra* note 10, at 407–11, 627; Bao Yin, *supra* note 247, at 127–29; Hu Zhongda, *supra* note 67, at 46–47.

²⁵⁵ ATWOOD, *supra* note 10, at 170–71; Okada Hidehiro, *supra* note 249, at 52.

²⁵⁶ ATWOOD, *supra* note 10, at 9–10, 138; Okada Hidehiro, *supra* note 249, at 52, 56–57; MOTE, *supra* note 2, at 689.

In fact, not only the post-1368 Mongol Yuan Empire but also many other Asian empires and states had experienced some periods of division. For example, it is generally accepted that during their “warlord” periods, the Chinese Tang Empire and the Republic of China continued their formal or *de jure* existence, regardless of the factual or *de facto* division. Similarly, in the Northern Yuan case, since the khaganship of the Chinggisid Great Khans remained formally recognized by the Mongols, the periodical regional fragment would not diminish the *de jure* existence of the Mongol Yuan Empire.²⁵⁷ As discussed in more detail in the next chapter, the Northern Yuan Mongols were sometimes strong enough to force the Chinese Ming to accept their “tributes” (in reality, to gain subsidies from China) and open the border markets. They also occasionally attacked the area around the Ming capital at Beijing, and even in 1449 captured the Ming Emperor Yingzong.²⁵⁸

Furthermore, as we have seen in the Southern Song case, it is widely accepted that after losing the Song capital at Kaifeng and North China to the Jurchen Jin, the new Song court in South China could continue the Chinese Song Empire for another 152 years from 1127 to 1279. Similarly, in the Northern Yuan case, after abandoning the Yuan capital at Dadu and losing China Proper to the Chinese Ming, the existing Yuan court retreated to

²⁵⁷ See DALIZHABU, MING QING MENG GU SHI LUN GAO [COLLECTED PAPERS ON THE MONGOLS IN MING AND QING TIMES] 82–101 (Beijing, Min Zu Chu Ban She 2003) (China).

²⁵⁸ See BARFIELD, *supra* note 7, at 238–50.

Mongolia in 1368 and should also be able to extend the Mongol Yuan Empire for another 267 years until 1635.²⁵⁹ If the Southern Song, which retained only the southern half of China, could preserve the Chinese Song Empire, the Northern Yuan, which maintained entire Mongolia, should undoubtedly continue the Mongol Yuan Empire.

The general belief that the Yuan Dynasty ended in 1368 and was succeeded by the Ming Dynasty could only explain the change of ruler in China but fails to acknowledge the fact that China was only a part and not the homeland of the Mongol Empire. As Okada Hidehiro points out,

One of the basic assumptions of the traditional Chinese historiography is that the Mongol Yüan Dynasty came to an end upon its loss of China in 1368, when its Heavenly Mandate supposedly passed to the Chinese Ming Dynasty. Nothing could be more wrong, for the Qubilaid [i.e., Khubilaid] Mongols never gave up their dynastic style Dai öñ [i.e., Da Yuan], along with their claim of political legitimacy inherent in it, for the next two centuries and a half before they became subjects of the Manchu Ch'ing [i.e., Qing] emperors.²⁶⁰

The Jurchen/Manchu conquest of the Mongol Yuan Empire in 1635 and the annexation of Mongolia will be discussed in Chapter 6.

²⁵⁹ See ATWOOD, *supra* note 10, at 407; BANBUERHAN, *supra* note 10, at 103.

²⁶⁰ Okada Hidehiro, *supra* note 249, at 51.

4.10 Summary and Conclusion

After his unification of all Turko-Mongol tribes in Mongolia, Temujin or Chinggis Khan (r. 1206–27) founded the Yeke Mongghol Ulus or the Great Mongol Empire (arguably, 1206–1635). Based on the changes in its territories and the locations of its palace-tents (*ordo*) or capital(s), the history of the 429 years of Mongol Yuan Empire could be roughly divided into three periods. First, from 1206 to 1260: the Mongol Empire conquered large parts of Eurasia, while its palace-tents often traveled within Mongolia, and after 1235 its imperial capital was established at Karakorum. Second, from 1260 to 1368: after the vast western colonies seceded from the empire, the Mongol Yuan remained and even expanded its rule and domination in Inner and East Asia, while maintaining dual capitals at Shangdu and Dadu. Third, from 1368 to 1635: after losing China Proper and other colonies, the retreating Mongol Yuan continued to exist in Mongolia until its fall.

During the first period from 1206 to 1260, the Mongol Empire's central government was, in fact, the *keshig* (imperial guard), which consisted of trusted followers and elite soldiers, and moved wherever the Great Khans went. Following the Inner Asian tradition of the decimal system, the entire Mongolian army and population were

organized into the decimal socio-military system with *mingghan* (unit of 1,000 soldiers) as the base units and local administrative organs.

At least since the 1210s, the Mongol Empire had maintained dual (i.e., Mongolian and Chinese) states names. The native Mongolian state name, “Yeke Mongghol Ulus” (Great Mongol Nation or State), was adopted probably in 1206 and continued to be used until the fall of the empire in 1635. The Chinese state names, formally “Da Menggu Guo” (lit. Great Mongol State) and shortly “Da Chao” (lit. Great Dynasty), were introduced probably in 1216 and 1217 respectively, after Chinggis captured the Jurchen Jin’s Zhongdu (Central Capital) at present-day Beijing in 1215.

The Mongol Empire’s conquest in Eurasia was mainly driven by first, the Mongolian ideology of Great Khan’s “universal sovereignty” granted by the Eternal Heaven (Möngke Tenggeri), and second, the need to exploit the sedentary areas to maintain a steppe “supra-tribal polity.” As a result of their conquest, the Mongols essentially destroyed the multistate system in Inner and East Asia. By 1259, the Mongol Empire had become the largest land empire in history, extending from Manchuria and northern China Proper, through Mongolia, Central Asia, and Iran, to European Russia and Turkey. The Mongol Empire at its height was obviously too large to be claimed simply as a “Chinese” empire or dynasty, leading current Chinese historians to reimagine

Khubilai as the founder of the “Chinese” Yuan Dynasty in order to assert the entire Yuan territories as parts of “China.”

During its second period from 1260 to 1368, the Mongol Empire transformed from a “pan-Eurasian” to an “Inner and East Asian-centric” empire. Some historians talk about “the dissolution of the Mongol Empire” in the 1260s, but this narrative is quite misleading. As a result of the succession crisis and civil war from 1260 to 1264, the new Great Khan, Khubilai (r. 1260–94), lost control over the empire’s western colonies, which seceded and became three Mongol-ruled new states. These three new Mongolian states were the Chaghatai Khanate in Central Asia, the Golden Horde Khanate in Russia and Eastern Europe, and the Il-Khanate in the Middle East. Besides his expansion of Mongol rule and domination in East and Inner Asia, Khubilai Khan maintained the Mongol Empire’s original territory, the homeland of Mongolia. Therefore, it is clear that Khubilai’s succession as the fifth Mongol Great Khan did not create a new Mongolian dynasty, and the secessions of the empire’s vast western colonies would not affect the continuity of the Mongol Empire. In other words, unlike those three seceding Mongolian Khanates, the empire ruled by Khubilai and his successors or the so-called “Empire of the Great Khan” was not a “new state” but the “continuing state” of the Mongol Empire.

Moreover, contrary to popular belief, Khubilai was not the founder of the “Chinese” Yuan Dynasty. At the *khuriltai* of 1260 at Kaiping (or future Shangdu) in Inner Mongolia, Khubilai claimed to be the new and succeeding Great Khan of the Mongol Empire. Khubilai’s victory over Arigh Böke in 1264 was neither a “Chinese” civil war nor a “Chinese” conquest of Mongol Empire. Furthermore, the adoption of the new Chinese-style dynastic name “Da Yuan” in 1271 only replaced the empire’s old Chinese state names, “Da Menggu Guo” and “Da Chao,” but did not substitute the native Mongolian state name “Yeke Mongghol Ulus.” Khubilai himself had never claimed to be the founding emperor of the Yuan Dynasty of “China.” Contrarily, he recognized his grandfather, Chinggis Khan, as the dynastic founder of the Mongol Yuan. After all, from the historical and legal perspective, a change in the Chinese-style state name would not affect the identity and continuity of the Mongol Empire. Therefore, the dynastic name “Yuan” should be applied from Chinggis’ founding of the Mongol Empire in 1206, as Yuan Mongols, Ming Chinese, and Republican-era Chinese had officially done. Furthermore, the Yuan’s move of the primary capital to Dadu in 1272 and its conquest of the Southern Song in 1279 would not transform the entire Mongol Yuan Empire into a “Chinese” dynasty.

The Mongol Yuan's governance during the period of 1260–1368 followed the Jurchen Jin's dual administration system, while also maintaining various Mongolian steppe and feudal traditions with some practical innovations. Khubilai Khan established the dual capitals at Shangdu (Kaiping) and Dadu (Yanjing/Beijing) in what the Mongols saw as the Kitad region. These two imperial cities together with their adjacent areas formed the Central Province or Metropolitan Province (Ch. *Fuli*), which functioned as the empire's new political heartland to more effectively control and rule Mongolia, Manchuria, and China Proper. Nonetheless, it is often overlooked that even after Dadu became the Yuan's main capital in 1272, Shangdu remained an important political and religious center of the empire.

At the central level, the governmental dualism could also be found in the coexistence of the Mongolian *keshig* (as the inner court) and the Chinese-style Central Secretariat (as the outer court). Moreover, at the local level, the dual staffing system placed *darughachi* (meaning, overseers; who were often the Mongols or *Semuren*) to supervise local affairs and principal local officials (who were usually native local people). At the regional level, the Mongol Yuan transformed the Branch Secretariats (*Xing Sheng*) from the temporary institutions in occupied and emergency areas to the permanent administration for provinces (*sheng*). However, people tend to forget that the provincial

system in China was originally a “non-Chinese” Mongolian invention that was used by the Mongol Empire in both the non-Chinese and Chinese regions.

As regards the Yuan’s cultural and religious policies, Khubilai and his successors did not pursue forced assimilation but sought to preserve the Mongol way of life (e.g., Mongolian language and script, shamanism, annual traveling, and seasonal hunting) and to patronize the cultural and religious traditions of various ethnic groups. For example, the Yuan court tried to derive legitimacy not only from Mongolian Shamanism but also from Chinese Confucianism and Tibetan Buddhism. Consequently, Khubilai and the succeeding khans used multiple “images” (e.g., the Tenggeri-blessed Mongol Great Khan, the Chinese-style Son of Heaven, and the Buddhist universal emperor and Bodhisattva of Wisdom) to increase their legitimacy in the eyes of different peoples. The Mongol Yuan Emperors also established the special *Cho-Yon* (priest–patron) religious relationships with the Tibetan lamas of the Sakya sect. Nevertheless, it appears that the Mongol Yuan Emperors did not create any “separate rulership” for any of their conquered territories, including China. Therefore, the Mongol Yuan rulers governed their entire realms solely based on their Mongol Khaganship (Great Khanship).

Under the Mongol’s alien rule, China was an exploited colony of the Mongol Empire. Politically, militarily, and economically, both *Hanren* (essentially, northern

Chinese) and *Nanren* (mainly, southern Chinese) were oppressed and disadvantaged ethnic groups in the so-called four-status system. In contrast, the ruling Mongols and the allied *Semuren* (mostly, Western and Central Asians) enjoyed various exclusive rights and privileges, especially in the appointments to the central and provincial high posts and local *darughachi* (overseer) offices.

During its third and final period, known as the Northern Yuan, from 1368 to 1635, the Mongol Yuan Empire lost control over China Proper and all other colonies, but remained its formal existence in the homeland of Mongolia, regardless of periodic division. After retreating to Mongolia, the Mongol's imperial court continued to use both its Mongolian state name “Yeke Mongghol Ulus” and Chinese dynastic name “Great Yuan.” Except for the one-year reign of Esen Khan (r. 1453–54), the empire was continuously and formally under the rule of the Chinggisid (and mostly Khubilaid) Great Khans. Therefore, contrary to the conventional wisdom, the Mongol Yuan Empire did not end in 1368 by the newly created Chinese Ming Empire but was conquered in about 1635 by the Jurchen [Later] Jin/Manchu Qing Empire.

In conclusion, the history shows that the Mongol Empire or the Yuan Dynasty was a “Mongolian” (rather than “Chinese”) state that existed for 429 years from 1206 to 1635. The empire's native Mongolian state name always remained the “Yeke Mongghol Ulus”

or “Great Mongol State.” Although Khubilai Khan adopted the new Chinese state name “Great Yuan” in 1271, that would not affect the identity and continuity of the Mongol Empire. Therefore, the Chinese-style dynastic name “Yuan” should be applied to the entire period of the Chinggisid Mongol Dynasty from its founding in 1206. The recent Chinese claim that the Yuan Dynasty was a “Chinese dynasty” founded by Khubilai and all the Yuan’s non-Chinese domains (such as Mongolia, Manchuria, and Yunnan) were also parts of “China” is a reimagination and a distortion of history. The Mongol conquests in Inner and East Asia did not expand the territories of “China.” On the contrary, “China” was at first partially and later entirely conquered by the Mongols and became part of the Mongol Yuan Empire. Furthermore, the notion that the Yuan Dynasty was ended and replaced by the Ming Dynasty in 1368 is apparently Chinese-biased. As discussed in more detail in later chapters, the Chinese Ming Empire ended the Mongols’ alien rule in China but did not destroy the Mongol Yuan Empire, which retreated to Mongolia and lasted until 1635.

CHAPTER 5

THE CHINESE MING EMPIRE (1368–1662)

A HAN-CHINESE-CENTRIC LESSER EMPIRE

5.1 Introduction

This chapter examines several issues regarding the creation, nature, foreign relations, territories, and extinction of the Chinese Ming Empire (1368–1662) (see Tables 1.2 and 1.3, and Map 1.12). Contrary to conventional wisdom, the Chinese Ming was not the “successor dynasty” to the Mongol Yuan, but a newly independent Chinese state that seceded from the Mongol Empire in 1368. Moreover, the Ming Empire did not end in 1644 when it lost Beijing. Instead, the Ming ceased to exist in 1662 when the Qing army captured the last Ming emperor, Ming Zhaozong or the Yongli Emperor, and formally destroyed the last Ming court.

Making a clear distinction between *Hua* (i.e., Chinese) and *Yi* (i.e., barbarians), the Ming was essentially a Han-exclusive Chinese empire consisting of China Proper and slightly beyond. The Ming Emperors sought to establish peaceful and tributary relations with non-Han rulers, who were expected to recognize Ming China’s political and cultural “centrality” and “superiority.”

The Ming's territories were the so-called "Fifteen Provinces," including no more than China Proper, plus Liaodong, Guizhou, and Yunnan. Recently, some Chinese scholars distortedly and retroactively assert the Ming sovereignty over Nurgan (i.e., "traditional Manchuria" beyond Liaodong), Qinghai, Tibet, and some other non-Chinese lands. As we will see, these recent Chinese claims on the Ming territories beyond the Fifteen Provinces are contrary to the historical facts and the long-lasting understandings that were widely shared for nearly six hundred years.

5.2 The Creation of the Chinese Ming Empire

In 1367, in his official denunciation of the Mongol Yuan's rule over China, Zhu Yuanzhang, the future Ming founder, urged the Chinese people to expel the Mongols and restore China, declaring that China should be ruled only by the Chinese and not by the barbarians. The proclamation reads in part:

Ever since our rulers in antiquity assumed the governance over All under Heaven [*Tianxia*], China [*Zhongguo*] has occupied the center to control the *Yi* and *Di* [barbarians] while the *Yi* and *Di* have resided on the *outside* [emphasis added] to serve China. Never has it been heard that the *Yi* and *Di* resided *in* [emphasis added] China and governed All under Heaven. However, when the Mandate of Heaven shifted away from the Song, the Yuan as northern *Di* [barbarians] entered and has ruled over China. . . . The ancient saying that "the *Hu* [barbarian] caitiffs' fortunes can never last out a hundred years" is today again proved true The time has come . . . to drive out the *Hu* caitiffs [Mongols] and restore China [*Zhonghua*] Because the Heaven demands that only Chinese persons [*Zhongguo zhi ren*] can

rule Chinese people [*Zhongguo zhi min*], the *Yi* and *Di* [barbarians] are definitely not entitled to rule [Chinese]. . . .¹

Although calling the Mongols as *Hu* “barbarians” might be criticized as racism from the modern point of view, Zhu Yuanzhang’s goal to restore the Chinese state and Chinese rule was certainly legitimate and quite analogous to the concepts of “self-determination” and “decolonization” in modern international law.

In January 1368, Zhu Yuanzhang, known as Ming Taizu or the Hongwu Emperor (r. 1368–98), was enthroned as the first Ming Emperor in Yingtian (lit. Responsive to Heaven; present-day Nanjing),² formally establishing the Great Ming Empire (arguably, 1368–1662;³ but generally, 1368–1644)⁴ (see Table 1.2 and Map 1.12). A few months later in September 1368, the Chinese Ming seized the Mongol Yuan’s principal capital, Dadu (present-day Beijing), and renamed it Beiping (lit. the North Pacified). The Yuan

¹ The English text is based on Mote’s translation, with some modifications of mine. For Mote’s English translation, see FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, at 559–60 (1999); for the original Chinese text, see Wang Chongwu, *Lun Ming Taizu Qibing Ji Qi Zhengce Zhi Zhuanbian* [*The Up-Rising of Ming Tai-Tzu and the Change of His Political Tactics*], 10 *ZHONG YANG YAN JIU YUAN LI SHI YU YAN YAN JIU SUO JI KAN* [BULLETIN OF THE INSTITUTE OF HISTORY AND PHILOLOGY, ACADEMIA SINICA] 57, 67–68 (1948) (China).

² 7 *THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 1*, at 108–11, 238 (Frederick W. Mote & Denis Twitchett eds., 1988) [hereinafter 7 *CAMBRIDGE*].

³ E.g., HAJIME NAKAMURA, *WAYS OF THINKING OF EASTERN PEOPLES: INDIA, CHINA, TIBET, JAPAN* 237 (1991); WANG LIANGBI, *HISTORICAL OUTLINE OF CHINA* 59, 61 (2001); CARTER VAUGHN FINDLEY, *THE TURKS IN WORLD HISTORY* 94 (2004); ANDREW SKILTON, *A CONCISE HISTORY OF BUDDHISM* 173 (1997).

⁴ E.g., 15 *ZHONGGUO TONG SHI* [A HISTORY OF CHINA], *MING SHI QI* (SHANG CE) [THE MING PERIOD (PART 1)], 112 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 15 *TONG SHI*]; *THE PEOPLE’S REPUBLIC OF CHINA YEARBOOK* 2010, at 6 (Beijing, China Yearbook 30th ed. 2010) (China); JOHN W. DARDESS, *MING CHINA, 1368–1644: A CONCISE HISTORY OF A RESILIENT EMPIRE* 1 (2012); ENDYMION PORTER WILKINSON, *CHINESE HISTORY: A NEW MANUAL* 788 (rev. ed. 2012); MOTE, *supra* note 1, at 563, 624, 776; 7 *CAMBRIDGE*, *supra* note 2, at 1.

court was forced to retreat back to Mongolia.⁵ In 1403, Ming Chengzu or the Yongle Emperor (r. 1402–24) renamed Beiping as Shuntian (lit. Obedient to Heaven) and made it the Northern Capital (Beijing). In 1421, Shuntian or Beijing was elevated to the Ming's primary capital (*Jingshi*). At the same time, Yingtian, after serving as the Ming principal capital for more than five decades from 1368 to 1421, became the auxiliary Southern Capital (Nanjing) (see Map 1.12).⁶

Because the Mongol-ruled China constituted only a part of the Yuan Empire, it is clear that the Ming Empire was not a “successor dynasty” to the Yuan Empire, but a newly independent Chinese empire which seceded from the Yuan in 1368. Moreover, contrary to popular belief, the Yuan Dynasty did not cease to exist by its loss of Dadu in 1368. Instead, after 1368, the Yuan Empire continuously and formally existed as the Northern Yuan in Mongolia until 1635. The Chinese Ming Empire (1368–1662) and the Mongol Yuan Empire (1206–1635) were actually two different states, which co-existed for 267 years from 1368 to 1635 and, as we will see, were both conquered by the Manchu Qing Empire (see Table 1.2).

⁵ 7 CAMBRIDGE, *supra* note 2, at 113.

⁶ WILKINSON, *supra* note 4, at 802; 8 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 2, at 10–11 (Denis Twitchett & Frederick W. Mote eds., 1998) [hereinafter 8 CAMBRIDGE].

5.3 The Ming's Chinese–Barbarian Dichotomy and Foreign Relations

5.3.1 The Restoration of Tributary Relations between *Hua* and *Yi*

Soon after establishing the Ming Empire and seizing the Yuan's primary capital Dadu, Ming Taizu was eager to notify the neighboring foreign rulers that he had restored the “Han people's old country” (*Hanren gu guo*), expelled the northern “barbarians” (*Yi*), i.e., Mongols, and now ruled a unified “China” (*Zhongguo* or *Zhong Xia*)⁷ As John W. Dardess notes, Ming Taizu also told the foreign rulers that the Ming “would expect periodic tribute embassies from foreign states, and would in return grant legitimacy and also a measure of protection to foreign rulers and their families, recognizing formally each orderly succession as it occurred.”⁸ As Truong Buu Lam further explains, strictly speaking, “tributary status” was granted “not to a country but to a ruler,” and “the

⁷ For example, in Ming Taizu's letter to the King of Champa (known in Chinese as Zhang Cheng, meaning “Cham city”) in 1369, Ming Taizu noted: “In the past, our *Zhongguo* [i.e., China] was unjustly occupied by the Hu [barbarians] for hundred years, and they then had the *Yi Di* [barbarians] spread across the four quarters, abolishing the moral norms of our *Zhongguo*. . . . Now, I am the ruler of *Zhongguo*, and *Tianxia* [literally, all under heaven] are at peace. I am afraid that the four *Yi* do not yet know of this, therefore I am sending ambassadors to inform all countries”; in his letter to the King of Japan in 1369, he said: “Since last year I have cut off the northern *Yi* [barbarians] and ruled *Zhongguo* [i.e., China], but I have not yet informed to the four *Yi*”; and in his letter to Dali in 1374, he stated: “Over seven years I have restored our Han people's old country [*Hanren gu guo*] and united the Central Xia [*Zhong Xia*; i.e., China]. All the states of the four *Yi* have been informed, and they all have announced themselves as subjects and come with tributes.”

The above English texts are based on Peter K. Bol's translations, with very minor modifications of mine. For Bol's original translations, see Peter K. Bol, *Geography and Culture: The Middle-Period Discourse on the Zhong Guo*, in KONG JIAN YU WEN HUA CHANG YU: KONG JIAN ZHI YI XIANG, SHI JIAN YU SHE HUI DE SHENG CHAN 61, 96–98 (Huang Yinggui ed., 2009) (Taiwan); for the original Chinese texts, see QUAN MING WEN, vol. 1, at 18, 339–40 (Qian Bocheng et al. eds., Shanghai, Shanghai Gu Ji Chu Ban She 1992) (China).

⁸ DARDESS, *supra* note 4, at 1.

granting of tributary status was a personal matter.”⁹ Therefore, “[u]pon the death of a tributary ruler, his heir, even if he was the legal and undisputed successor, had to go through the same process of acquiring [the emperor’s] recognition” of his tributary status.¹⁰

Moreover, in the traditional Chinese *Tianxia* order, the Chinese emperor’s legitimacy to rule China was also recognized by the foreign tributes, which were especially important for a founding emperor (e.g., Ming Taizu) or a usurping emperor (e.g., Ming Chengzu).¹¹ Nonetheless, the Ming court tended to record all the foreign embassies as “tribute missions,” which were often sent by foreign rulers for trade profits and imperial gifts, and included even “fake embassies” only consisting of merchants.¹² As Joseph F. Fletcher points out, the Ming authorities were even “happy to be deceived” by these “counterfeit embassies,” which pretended to be the emperor’s “vassals.”¹³

⁹ Truong Buu Lam, *Intervention versus Tribute in Sino-Vietnamese Relations, 1788–1790*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 165, 179 (John K. Fairbank ed., 1968).

¹⁰ *Id.*

¹¹ See 8 CAMBRIDGE, *supra* note 6, at 222, 243, 303, 307, 314, 320.

¹² Wang Gungwu, *Early Ming Relations with Southeast Asia: A Background Essay*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 34, 41 (John K. Fairbank ed., 1968); Joseph F. Fletcher, *China and Central Asia, 1368–1844*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 206, 207–8 (John K. Fairbank ed., 1968).

¹³ Fletcher, *supra* note 12, at 207–8.

5.3.2 The Ming's Non-Aggression Policy

In 1371, the first Ming Emperor, Ming Taizu, explicitly declared his policy to refrain from aggression against foreign countries.¹⁴ He announced that:

The foreign barbarian countries which bring calamity to *Zhongguo* [China] must not be spared from military punishment, but those countries that do no harm to *Zhongguo* must not be hastily invaded. The ancients had a saying that extending the territories is not a way to achieve lasting peace; belaboring the people [to support the war of aggression] provides a ready cause of disorder.¹⁵

This “non-aggression” policy was later embodied and reaffirmed in all versions of Ming Taizu’s *Ancestral Instructions [of the August Ming]* (*Zu Xun Lu* and *Huang Ming Zu Xun*).¹⁶ As in the original version of the *Ancestral Instructions* of 1373, the Ming founder instructed his descendants:

The foreign *Yi* [barbarian] countries . . . are separated from us by mountains and seas and far away in the corners [of the world]. If incorporated [into the empire], their lands would not produce enough for us to maintain them, and their peoples would be difficult to control and thus not usefully serve us. If they were so unrealistic as to disturb our borders, it would be unfortunate for them; if they gave *Zhongguo* [i.e., China] no trouble and we invaded them unnecessarily, it would be unfortunate for us.

I worry that future generations might abuse the wealth and power of *Zhongguo*, and covet the momentary military glories to send armies [into foreign lands]

¹⁴ 8 CAMBRIDGE, *supra* note 6, at 311; *see also* MOTE, *supra* note 1, at 685–86.

¹⁵ The English text is based on Wang Gungwu’s and Mote’s translations, with some modifications of mine. For their original translations, see Wang Gungwu, *supra* note 12, at 52–53; MOTE, *supra* note 1, at 685–86; for the original Chinese text, see MING TAIZU SHI LU [THE VERITABLE RECORDS OF MING TAIZU] 1277 (68: 4a) (Huang Zhangjian et al. eds, 1962) (Taiwan) [hereinafter MING TAIZU SHI LU].

¹⁶ 8 CAMBRIDGE, *supra* note 6, at 311.

without legitimate reason and cause a loss of life. May they be always reminded that this is forbidden. As for the *Hu* and *Rong* barbarians who threaten China in the north and west, they are always a danger along our frontiers. Good generals must be picked and soldiers trained to prepare carefully against them.¹⁷

As Wang Gungwu observes, this non-aggression principle “was one of the few basic policies from which the first Ming emperor never deviated,” and became “an important doctrine of Ming foreign policy.”¹⁸

Besides the general prohibition of aggression, several countries were explicitly designated by Ming Taizu as “the barbarians not to be invaded” (*bu zheng zhu yi*; commonly known as *bu zheng zhi guo*). As in the version of the *Ancestral Instructions of the August Ming* of 1395, there were fifteen such countries, including Korea, Japan, Da Liuqiu (the Ryukyu Islands; present-day Okinawa), Xiao Liuqiu (northern Taiwan), Annam (northern Vietnam), and some other countries in Southeast Asia.¹⁹

The Ming founder explicitly prohibited his successors from what might be called an “imperialist expansion policy.”²⁰ Later, the third Ming Emperor, Ming Chengzu,

¹⁷ The English text is essentially based on Wang Gungwu’s translation, with some modifications of mine. For Wang’s original translation, see *Id.* at 311–12; for the original Chinese text, see MING TAIZU, ZU XUN LU [ANCESTRAL INSTRUCTIONS] (1373), reprinted in Ming Chao Kai Guo Wen Xian [The Founding Documents of the Ming Dynasty], 1673, 1686–87 (1966) (Taiwan).

¹⁸ 8 CAMBRIDGE, *supra* note 6, at 311.

¹⁹ *Id.* at 312; EDWARD L. FARMER, ZHU YUANZHANG AND EARLY MING LEGISLATION: THE REORDERING OF CHINESE SOCIETY FOLLOWING THE ERA OF MONGOL RULE 120–21 (1995); according to Chen Zongren, Xiao Liuqiu referred to the areas of modern Keelung and Tamsui in northern Taiwan, see CHEN ZONGREN, JILONG SHAN YU DANSHUI YANG: DONG YA HAI YU YU TAIWAN ZAO QI YAN JIU, 1400–1700, at 57–62 (2005) (Taiwan).

²⁰ MOTE, *supra* note 1, at 686.

ignored this injunction when he invaded Annam. Nevertheless, the non-aggression policy was “generally speaking, respected for most of the Ming period.”²¹

5.4 Ming China’s Ideological Configuration: A Han-Exclusive Chinese Empire

By formulating the proper *Hua–Yi* relations and establishing the non-aggression doctrine, the Ming founder laid the ideological foundation for the Chinese Ming as an inward-looking and Han-exclusive “lesser empire,” in contrast to the Mongol Yuan as an outward-minded and multiethnic “universal empire.”²² As Jiang Yonglin observes, “[b]ased on his [Han] ethnocentric worldview, [Ming Taizu] regarded expansion beyond the border of Chinese civilization as worthless,” and therefore, “[f]or him, the best policy was to train troops and to take precautions against outsiders.”²³

The configuration of Ming as a Han-exclusive *Zhongguo* (China) surrounded by barbarians was not only promoted by the Ming court but also shared by Ming scholars. For example, as Peter K. Bol notes, when “Qiu Jun presented to the throne his monumental study of statecraft” in 1487, “he drew at length on Song literati writings and the [Ming] founder’s views in arguing for necessity of keeping the *Zhong guo* [China]

²¹ DARDESS, *supra* note 4, at 2.

²² See JIANG YONGLIN, *THE MANDATE OF HEAVEN AND THE GREAT MING CODE* 116 (2011); FARMER, *supra* note 19, at 81–82.

²³ JIANG YONGLIN, *supra* note 22, at 116.

and foreign states separate rather than trying to include them in an effort to ‘make all under heaven one family’ [i.e., unify the whole world].”²⁴

As argued by Mark Elliott, it was only in Ming times that the very ethnic term “Han” “had begun to acquire something like its modern meaning, in that it had become a single referent for southern and northern Chinese alike,” a process that Elliott calls “the unification of the Han.”²⁵ As noted in the previous chapter, under the Mongol Yuan’s rule, the northern and southern Chinese were classified into two different groups, *Hanren* and *Nanren*, respectively. As Elliott further explains, because the Ming founding emperor, Zhu Yuanzhang, was a former *Nanren*, using the name “Han” would “potentially make it easier for him” to gain legitimacy in the north, “which to him was essentially alien territory” and “had not been part of ‘China’ for at least two hundred and in some cases three [and even four] hundred years.”²⁶

The reunited “Han” Chinese people shared common cultural elements (e.g., the Chinese characters or *Hanzi*, historical consciousness, sedentary and agricultural lifestyle, and Confucian ideology and norms), which were further promoted and reinforced by the

²⁴ Bol, *supra* note 7, at 98.

²⁵ Mark Elliott, *Hushuo: The Northern Other and the Naming of the Han Chinese*, in *CRITICAL HAN STUDIES: THE HISTORY, REPRESENTATION, AND IDENTITY OF CHINA’S MAJORITY* 173, 179, 188 (Thomas S. Mullaney et al. eds., 2012).

²⁶ *Id.* at 188.

Ming governmental efforts.²⁷ According to Edward L. Farmer, Ming China manifested some “proto-nationalistic elements” by configuring itself as a “boundary-oriented,” “culturally homogeneous,” “[economically] self-sufficient,” and “ethnically uniform” Han society, which defended itself “against the outside world.”²⁸ The “awareness” of Han Chinese “common history, territory, language, and culture” provided “ample fuel for patriotic appeals.”²⁹ As discussed in the later chapter, this kind of Han-exclusive Chinese “proto-nationalism” (if not “nationalism”) would be vigorously mobilized in late Qing to overthrow the Manchu’s “barbarian” rule over China.

5.5 The Territories of the Ming: The Fifteen Provinces

As reminded by Frederick W. Mote, “[t]he history of the Ming state’s borders is important, because myths about China’s [historical] claims to territories lying far beyond the boundaries of Chinese administration appear regularly in [modern] writings on China’s past relations with its neighbors.”³⁰ Some modern Chinese historians distortedly assert that Ming China ruled vast non-Han territories, including entire “traditional Manchuria” and Tibet, and parts of Mongolia, Xinjiang, and upper Burma.³¹

²⁷ See FARMER, *supra* note 19, at 13, 33, 35–37, 82–83, 95, 99, 104.

²⁸ *Id.* at 82.

²⁹ *Id.*

³⁰ MOTE, *supra* note 1, at 607.

³¹ E.g., 15 TONG SHI, *supra* note 4, at 354–57, 369, 377, 379–80; NAN BINGWEN & TANG GANG, MING SHI [HISTORY OF THE MING] 169–85 (Shanghai, Shanghai Ren Min Chu Ban She 2003) (China) (Series: Zhongguo Duandaishi Xilie); JIAN MING ZHONGGUO LI SHI DI TU JI [CONCISE HISTORICAL ATLAS OF

These recent Chinese claims on Ming territories are contrary to the historical facts and records. As Mote further notes,

In fact, all such territories beyond China Proper [typically] remained autonomous, and the Ming government was able to exert essentially no influence over them, even when it granted leaders of non-Chinese peoples titles and honors. . . . In some situations, having the empty Ming titles enhanced a [non-Chinese] chieftain's prestige among his people and aided him to fight off rivals. On both sides the maneuverings were intricate, but on neither side was there any sense that sovereignty was at stake.³²

The Ming Empire achieved some, though limited, success in expanding its dynastic territories beyond the traditional Chinese heartlands or China Proper.³³ In the northeast, by 1387 the Ming Empire had established military rule over the entire Liaodong (southern Manchuria). The area was governed by the “regular” (in contrast to “loose-rein” or *jimi*) Liaodong Regional Military Commission (*Liaodong Dusi*), which was created in 1375 and was administratively made part of Shandong Province.³⁴ In the southwest, the Ming Empire created Yunnan Province in 1382 and Guizhou Province in 1413, gradually incorporating them into China Proper by expanding Chinese settlements and local administrations and, as discussed later, suppressing the powers of “native

CHINA], maps 61–62, 63–64 (Tan Qixiang ed., Beijing, Zhongguo Di Tu Chu Ban She 1991) (China) [hereinafter TAN, CONCISE HISTORICAL ATLAS].

³² MOTE, *supra* note 1, at 607–8.

³³ For discussion of Ming China's frontiers, see *Id.* at 607–12, 685–722; DARDESS, *supra* note 4, at 1–24; 8 CAMBRIDGE, *supra* note 6, at 221–72.

³⁴ DARDESS, *supra* note 4, at 17–18; MOTE, *supra* note 1, at 607–8, 789; NAN BINGWEN & TANG GANG, *supra* note 31, at 75–76.

offices” (*tusi*).³⁵ Ming China’s territorial expansions were always accompanied by Chinese immigration, just like modern China’s expansions into Manchuria, Inner Mongolia, and Xinjiang.

As Charles O. Hucker notes, “[t]he Ming dynasty brought to maturity the province-building efforts of Yüan times and stabilized most of China Proper’s provinces in their modern forms.”³⁶ For most of the Ming period, the Ming territories were divided into thirteen provinces and two “province-size” metropolitan regions, which were collectively and commonly known as the Ming’s “Fifteen Provinces” (see Map 1.12).³⁷ These thirteen Ming provinces were Shandong, Shanxi, Shaanxi (including a large part of modern Gansu), Henan, Sichuan, Huguang (comprising modern Hubei and Hunan), Jiangxi, Zhejiang, Fujian, Guangdong, Guangxi, Yunnan, and Guizhou.³⁸ The two metropolitan regions were: first, Bei Zhili (Northern Metropolitan Region; roughly, modern Hebei Province) centered on Beijing; and, second, Nan Zhili (Southern Metropolitan Region; most of modern Anhui and Jiangsu Provinces) centered on Nanjing.³⁹

³⁵ DARDESS, *supra* note 4, at 5–8; MOTE, *supra* note 1, at 607, 702–7.

³⁶ CHARLES O. HUCKER, A DICTIONARY OF OFFICIAL TITLES IN IMPERIAL CHINA 76 (1985).

³⁷ MOTE, *supra* note 1, at 639–40.

³⁸ HUCKER, *supra* note 36, at 76.

³⁹ *Id.*

The Ming Empire restored the Chinese state and governed its Fifteen Provinces for more than two hundred years, and that reinforced the notion of China's geographic limits among the Chinese themselves and also for the neighboring non-Chinese peoples. After the fall of Ming, that notion of China's geographic shape was strong enough to continue to identify the Qing's "Eighteen Provinces" (essentially adjusted from the Ming's Fifteen Provinces) as "inner land" (*neidi*) or "China Proper" (*Zhongguo benbu*).⁴⁰

5.6 Ming China's Northeastern and Northern Borders

5.6.1 The Ming Had No Sovereignty over the "Nurgan" Region (Roughly, Traditional Manchuria Beyond Liaodong)

The region known as "Manchuria" in the West is roughly what the modern Chinese call the "Northeast" (*Dongbei*), consisting of the modern provinces of Liaoning, Jilin, and Heilongjiang.⁴¹ However, the old Jurchen homelands were much larger than what is usually called "Manchuria." As Pamela Kyle Crossley points out, historically, "traditional Manchuria" as a region also included part of northern Korea (about as far south as Hamhŭng) and the Russian "Maritime Province" (Primorsky Krai).⁴² The vast

⁴⁰ Elliott, *supra* note 25, at 173; see also 9 THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE CH'ING EMPIRE TO 1800, 7 (Willard J. Peterson ed., 2002) [hereinafter 9 CAMBRIDGE].

⁴¹ PAMELA KYLE CROSSLEY, THE MANCHUS 14 (1997).

⁴² *Id.*

lands of “traditional Manchuria” roughly corresponds to what Chinese historians call the “Nurgan” region.⁴³

From 1409 to 1435, the early Ming “maintained” purely on paper the “loose-rein” (*jimi*) Nurgan Regional Military Commission (*Nuergan Dousi*) at Telin (modern Tyr in Russia; near the mouth of the Amur River), hoping to expand the Ming influence to the vast Jurchen regions.⁴⁴ Despite some recent Chinese historians’ claim to the contrary,⁴⁵ the Ming Empire did not have effective control over the so-called “Nurgan” but only established tributary relations with some Jurchen groups in the region. Isiha, a Ming’s Jurchen eunuch, was sent as imperial envoy to lead several expeditions by boat to the mouth of the Amur to establish tributary relations with some Wild Jurchen chieftains in Nurgan.⁴⁶ In Telin, Isiha built and rebuilt a Buddhist temple, *Yongningsi*, and erected two inscribed steles that recorded Isiha’s missions. The texts of the steles made clear that the Ming emperors (Chengzu and Xuanzong) sent Isiha as “envoy” (*shi*) to the “Nurgan state” (*nuergan guo*) to “pacify” (*an* and *fu*) the far-away “barbarians” (*man yi*), granted their chieftains titles and gifts, asked them to “pay tributes” (*chao gong*) to the

⁴³ E.g., Yang Yang ed., *MING DAI DONGBEI JIANG YU YAN JIU* [A STUDY ON THE MING DYNASTY’S NORTHEAST TERRITORY], 57–76 (2008); 15 TONG SHI, *supra* note 4, at 355–57; NAN BINGWEN & TANG GANG, *supra* note 31, at 171–72, 178–85; GE JIANXIONG, *ZHONGGUO LI DAI JIANG YU DI BIAN QIAN* [THE EVOLUTION OF HISTORICAL CHINA’S TERRITORY] 130–33 (Beijing, Shang Wu Yin Shu Guan 1997) (China); TAN, *CONCISE HISTORICAL ATLAS*, *supra* note 31, at map 61–62.

⁴⁴ See 9 CAMBRIDGE, *supra* note 40, at at 14; Yang Yang ed., *supra* note 43, at 69–70.

⁴⁵ E.g., Yang Yang ed., *supra* note 43, at 68–69, 73–76; NAN BINGWEN & TANG GANG, *supra* note 31, at 181–85; for Mote’s criticism of the modern Chinese position on this issue, see MOTE, *supra* note 1, at 607–8.

⁴⁶ 8 CAMBRIDGE, *supra* note 6, at 263–64; see also MOTE, *supra* note 1, at 608.

Ming court, and let them “rule themselves” (*zi xiang tong shu*).⁴⁷ In fact, the so-called Nurgan Regional Military Commission had never been established and maintained at Telin, because the place was too remote for the Ming to set up a permanent military commission there.⁴⁸ In 1435, the Ming formally “abolished” even the nominal existence of the Nurgan Regional Military Commission.⁴⁹

Nevertheless, the Ming court continued to “create” and “maintain” on paper even more Jurchen loose-rein guards (*wei*) and posts (*suo*) and intended to draw more Jurchen tribes and clans into the Ming’s tributary system.⁵⁰ The Ming emperors granted hereditary Jurchen chieftains nominal military titles and ranks, as well as seals and gifts. However, the Ming did not establish effective control over these tributary Jurchen domains. As Morris Rossabi notes,

The Jurchen leaders were not truly incorporated into the Ming empire, for they collected taxes and raised armies for themselves, not for the [Ming] court. Nor did the creation of the Ming [loose-rein] guards indicate that the Jurchen leaders were moving toward a more sinicized society. The guards were simply convenient vehicles for the Ming’s reaffirmation of traditional Chinese foreign relations. They offered the comforting yet misleading view that the Jurchens accepted the Chinese world [i.e., *Tianxia*] order, recognized their positions as “vassals” of the Ming court, and perceived of Chinese civilization as superior. With such an

⁴⁷ For the original texts of the two steles of *Yongningsi*, see the LI JIANCAI, MING DAI DONGBEI [MING DYNASTY’S NORTHEAST] 261–69 (Shenyang Shi, Liaoning Ren Min Chu Ban 1986) (China).

⁴⁸ ZHONGGUO DONG BEI SHI [HISTORY OF NORTHEAST CHINA], vol. 3, at 601–03 (Tong Dong et al. eds., Changchun Shi, Jilin Wen Shi Chu Ban She 2006) (China).

⁴⁹ 9 CAMBRIDGE, *supra* note 40, at 14.

⁵⁰ *Id.*; 8 CAMBRIDGE, *supra* note 6, at 261; LI JIANCAI, *supra* note 47, at 65.

“understanding,” the court could approve commercial and so-called tributary relations with the Jurchens.⁵¹

Moreover, some Jurchen loose-rein guards and posts might be listed several times under different names, or even completely fabricated by the frontier officials in order to fake their successes in pacifying the “barbarians.”⁵² Since all these Jurchen loose-rein units in Nurgan or traditional Manchuria were not subject to the Ming’s governance and taxation, they remained beyond the Ming’s northeastern borders. As Mote observes, “any claim that [Nurgan] was then part of [Ming] China is wholly groundless.”⁵³

5.6.2 The Northern and Northeastern Defense Systems

5.6.2.1 The Decline of Early Northern Defense Lines, and the Tumu Incident

The Ming’s founding emperor, Ming Taizu, especially warned his successors to always prepare carefully against the threat from the northern “barbarians” (especially, the Mongols), and he built two northern defense lines.⁵⁴ The inner defense line was along the future Ming Great Wall.⁵⁵ The outer defensive line consisted of several Chinese garrisons (known as “eight outer garrisons”) in strategic sites such as Daning, Kaiping,

⁵¹ 8 CAMBRIDGE, *supra* note 6, at 260.

⁵² See GE JIANXIONG, TONG YI YU FEN LIE: ZHONGGUO LI SHI DE QI SHI [UNIFICATION AND DIVISION: INSPIRATION FROM THE CHINESE HISTORY] 90–91 (Beijing, Sheng Huo Du Shu Xin Zhi San Lian Shu Dian 1994) (China); LI ZHITING ET AL., QING SHI [HISTORY OF THE QING] 46–47 (Li Zhiting ed., Shanghai, Shanghai Ren Min Chu Ban She 2003) (China) (Series: Zhongguo Duandaishi Xilie).

⁵³ MOTE, *supra* note 1, at 608.

⁵⁴ For details, see ARTHUR WALDRON, THE GREAT WALL OF CHINA: FROM HISTORY TO MYTH 76–79 (1990).

⁵⁵ *Id.* at 76.

and Dongsheng in the southern margin of Mongolia near China Proper.⁵⁶ These outer garrisons could “hold off enemy attacks until relief forces arrived from the inner regions, thus creating crucial strategic depth for defense.”⁵⁷

Later, Ming Chengzu (r. 1402–24) led several military expeditions into Mongolia, but he did not achieve any territorial gain in the north.⁵⁸ Contrarily, Chengzu pulled back almost all the outlying garrisons in the southern edge of Mongolia,⁵⁹ most likely to cut the military expenses on these difficultly maintained outer garrisons, which were remote, isolated, and resourceless.⁶⁰ After Chengzu’s reign, the Ming’s military power declined quickly and substantially. It became clear that the abandonment of outer garrisons had grave and permanent consequences on Ming China’s national security and foreign relations, as it made the capital area around Beijing exposed to the direct “barbarian” attacks and greatly decreased the Ming influence in Mongolia and Manchuria.⁶¹ The abandonment of outer defense line partially contributed to the Tumu Incident of 1449, during which the Oirat Mongols (i.e., Western Mongols) captured the

⁵⁶ *Id.* at 76–79 (indicating that the “eight outer garrisons” were established at Kaiping in 1369, Dongsheng in 1371, Daning in 1387, Kaiyuan in 1388, Quanning in 1389, Guangning in 1392, Yingchang in 1392, and Xinghe in 1397); *see also* WANG YUAN-KANG, HARMONY AND WAR: CONFUCIAN CULTURE AND CHINESE POWER POLITICS 116 (2011).

⁵⁷ WANG YUAN-KANG, *supra* note 56, at 116.

⁵⁸ *See* 8 CAMBRIDGE, *supra* note 6, at 229–31; MOTE, *supra* note 1, at 608–11.

⁵⁹ WALDRON, *supra* note 54, at 80; *see also* WANG YUAN-KANG, *supra* note 56, at 116.

⁶⁰ 7 CAMBRIDGE, *supra* note 2, at 248; WALDRON, *supra* note 54, at 80.

⁶¹ 7 CAMBRIDGE, *supra* note 2, at 320–22; WALDRON, *supra* note 54, at 80; WANG YUAN-KANG, *supra* note 56, at 116; DARDESS, *supra* note 4, at 18.

Ming Emperor Yingzong at Tumu, only about sixty miles northwest of Beijing.⁶² A brother of Yingzong was soon installed in Beijing as the new emperor and became Ming Daizong.⁶³

Moreover, the Tumu Incident also showed clearly why the “tributes” from the non-Chinese rulers to the Chinese court were not “taxes” at all. Esen Taishi, the leader of Oirat Mongols, led an invasion of Ming China in 1449, mainly because the Ming court rejected his requests to increase trade access and enlarge their “tribute missions” (in reality, to get more “subsidies” from the Ming).⁶⁴ Receiving large tribute missions was actually very costly for the Ming. As Rossabi notes,

The Chinese [Ming] court was even more concerned about what it perceived to be Esen’s abuse of the tribute system. The number of tribute missions from the [Oirat Mongols] grew dramatically in the 1440s, as did the number of men on each embassy. Instead of a few hundred men arriving with each mission, several thousand reached China, increasing the Ming’s costs in transporting, feeding, housing, and offering gifts to the emissaries and their rulers. Such rising expenditures caused Chinese officials to limit the number of Esen’s missions and to reduce the presents and products granted them in trade.”⁶⁵

The non-Chinese “tributes” to the Chinese Emperor were very profitable for the tributary rulers and therefore should not be treated as “taxes” paid to the Chinese court.

⁶² For detail, see 7 CAMBRIDGE, *supra* note 2, at 322–25; WALDRON, *supra* note 54, at 87–90.

⁶³ WANG YUAN-KANG, *supra* note 56, at 120.

⁶⁴ WALDRON, *supra* note 54, at 88–89; THOMAS J. BARFIELD, *THE PERILOUS FRONTIER: NOMADIC EMPIRES AND CHINA* 239–40 (1989); CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 170 (2004).

⁶⁵ See 8 CAMBRIDGE, *supra* note 6, at 232.

Moreover, as Henry Serruys notes, the Mongol chronicles “clearly reflect a tradition among the Mongols that return gifts for their tribute were a tribute to them, non-payment of which was apt to trigger instant retaliation.”⁶⁶

5.6.2.2 The Nine Border Garrisons, the Great Wall, and the Liaodong Border Wall

The Ming eventually dealt with the northern and northeastern threats from the Mongols and the Jurchens by establishing the Nine Border Garrisons and building the so-called Great Wall and the Liaodong Border Wall.⁶⁷ The Nine Border Garrisons (*Jiu Bian Zhen*) were the nine main garrison towns stretching about 1500 miles from Liaodong Town westward to Gansu Town.⁶⁸ These garrison towns together with the wall systems (which consisted of defensive walls, strategic passes, garrison forts, signal towers, and so forth) constituted the Ming’s northern and northeastern border defense systems.⁶⁹

The “Great Wall” (*Chang Cheng*; lit. “Long Wall”) marked the Chinese Ming’s northern boundary with the Mongols, in particular, the Northern Yuan (see Map 1.12).

⁶⁶ HENRY SERRUYS, 2 SINO-MONGOL RELATIONS DURING THE MING, THE TRIBUTE SYSTEM AND DIPLOMATIC MISSIONS (1400–1600), at 25 (1967); *cited in* WALDRON, *supra* note 54, at 85.

⁶⁷ MOTE, *supra* note 1, at 693–96; WALDRON, *supra* note 54, at 91–92, 98; ZHANG SHIZUN, MING DAI LIAO DONG BIAN JIANG YAN JIU [ON THE MING’S LIAODONG FRONTIER] 63–77 (Chang Chun, Ji Lin Ren Min Chu Ban She, 2002) (China).

⁶⁸ From east to west, the Nine Border Garrisons were Liaodong, Jizhou, Xuanfu, Datong, Shanxi, Yulin, Ningxia, Guyuan, and Gansu Towns, see WANG YUAN-KANG, *supra* note 56, at 117 map 5.1, 127–28.

⁶⁹ MOTE, *supra* note 1, at 693–96; DARDESS, *supra* note 4, at 16; WILKINSON, *supra* note 4, at 330.

It was a system of defensive walls stretching from the Shanhai Pass (on the shores of the Bohai Bay) westward to the Jiayu Pass (near the end of the Gansu Corridor). These Ming walls were built mainly between the 1470s and 1570s and after that continued to be expanded and repaired until the fall of Beijing.⁷⁰

The Liaodong Border Wall (*Liaodong Bian Qiang*) formed Ming China's northeastern boundary (see Map 1.12). It was constructed in southern Manchuria in the 1440s–70s and continuously repaired to protect the Liaodong region against the Mongol attacks from the northwest and the Jurchen/Manchu invasions from the northeast.⁷¹ Compared to the Ming Great Wall, the Liaodong Wall was built earlier, but with a much simpler design (mostly, just two parallel rows of stakes filled in with dirt).⁷² The Liaodong Border Wall certainly marked the Ming's northeastern border, although some recent Chinese historians deny that.⁷³ The Liaodong Wall separated the Ming's Liaodong from the Jurchen territories in farther Manchuria and also the Mongol lands in eastern Inner Mongolia.⁷⁴

⁷⁰ WALDRON, *supra* note 54, at 105, 142, 146–47, 160, 164; 7 CAMBRIDGE, *supra* note 2, at 390.

⁷¹ For the construction of Liaodong Border Wall, see RICHARD L. EDMONDS, NORTHERN FRONTIERS OF QING CHINA AND TOKUGAWA JAPAN: A COMPARATIVE STUDY OF FRONTIER POLICY 38–40 (1985); ZHANG SHIZUN, *supra* note 67, at 67–73; Tong Dong et al. eds., *supra* note 48, vol. 3, at 607–13.

⁷² EDMONDS, *supra* note 71, at 38, 40; Richard L. Edmonds, *The Willow Palisade*, 69 (No. 4) ANNALS OF THE ASSOCIATION OF AMERICAN GEOGRAPHERS 599, 610 (1979); Tong Dong et al. eds., *supra* note 48, vol. 3, at 616–17, 621.

⁷³ E.g., GE JIANXIONG, *supra* note 43, at 133; Tong Dong et al. eds., *supra* note 48, vol. 3, at 607, 630.

⁷⁴ For maps showing the Liaodong Border Wall, see 2 ZHONGGUO GU DAI DI TU JI [AN ATLAS OF ANCIENT MAPS IN CHINA], THE MING DYNASTY (1368–1644), map 18, map 23 (Cao Wanru et al. eds.,

5.7 Ming China's Northwestern and Western Borders

5.7.1 The Ming Had No Sovereignty over Xinjiang, Qinghai, and Tibet

Contrary to some modern Chinese assertions,⁷⁵ the Ming Empire did not govern or hold sovereignty over what became known as Xinjiang, Qinghai, and Tibet (see Map 1.12). Ming China's westernmost point was the Jiayu Pass, which was at the west end of the Ming Great Wall and near the end of the Gansu Corridor. The Ming's northwestern and western frontiers extended from the Gansu Corridor southward along the eastern edges of the Tibetan Plateau to Yunnan Province. In other words, what are known as Xinjiang, Qinghai, and Tibet were not part of the Ming territories.⁷⁶

The early Ming shortly "maintained" on paper some loose-rein guards in what are now western edge of Gansu, eastern Xinjiang, and northern Qinghai, all of which, however, were outside the Ming's regular administration and real borders.⁷⁷ These loose-rein guards were also purely nominal. For example, as Rossabi notes, "[t]hough the emperor established a Ming guard (*wei*) in Hami [in eastern margin of modern

Beijing, Cultural Relics Publishing House 1994) (China); EDMONDS, *supra* note 71, at 39; Edmonds, *supra* note 72, at 605.

⁷⁵ Some modern Chinese historians distortedly assert that the eastern edge of modern Xinjiang and northern Qinghai had been parts of early Ming, and southern Qinghai and all of Tibet remained parts of China in Ming times. *E.g.*, TAN, CONCISE HISTORICAL ATLAS, *supra* note 31, at maps 61-62, 63-64; GE JIANXIONG, *supra* note 43, at 135-36, 138-40; NAN BINGWEN & TANG GANG, *supra* note 31, at 172-77.

⁷⁶ MOTE, *supra* note 1, at 607, 640 map 15, 698-702; DARDESS, *supra* note 4, at viii map 2, 3, 12-13.

⁷⁷ NAN BINGWEN & TANG GANG, *supra* note 31, at 171-76; TAN, CONCISE HISTORICAL ATLAS, *supra* note 31, at map 61-62 and its explanation.

Xinjiang], it seems clear that the [Ming] court did not govern the region nor could it count on receiving taxes or military support,” and therefore, the “[c]reation of a so-called [loose-rein] guard was simply *pro forma* and did not translate into political control.”⁷⁸

In Ming times, Tibet had only some insignificant religious and tributary relationships with the Ming.⁷⁹ When the early Ming tried to establish some relations with the Tibetan Buddhist leaders, Tibet was already highly divided, “with no single sect or monastery having dominance.”⁸⁰ Following Khubilai Khan’s precedent, the Ming emperors, e.g., Ming Chengzu, sought to establish the *Cho-Yon* (priest-patron) relationships with some Tibetan Buddhist leaders (especially, those in eastern Tibet).⁸¹ However, these Tibetan Buddhist dignitaries seldom or never visited China in person, and usually only sent their disciples as their envoys to the Ming court to perform primarily religious activities. In return, these Tibetan lamas were granted honorary titles, imperial gifts (e.g., gold, silver, silk, and tea), and trade accesses by the Ming emperors.⁸² As Elliot Sperling notes,

⁷⁸ 8 CAMBRIDGE, *supra* note 6, at 248.

⁷⁹ ATWOOD, *supra* note 64, at 49, 437, 539; MOTE, *supra* note 1, at 701.

⁸⁰ 8 CAMBRIDGE, *supra* note 6, at 243.

⁸¹ *Id.* at 243–45; THOMAS LAIRD, THE STORY OF TIBET : CONVERSATIONS WITH THE DALAI LAMA 137 (2006); ZHANG TINGYU ET AL., MING SHI [HISTORY OF THE MING], vol. 10, at 6927–48 (Zhang Peiheng et al. eds., Shanghai, Han Yu Da Ci Dian Chu Ban She 2004) (1739) (China) (Series: Er Shi Si Shi Quan Yi [The Complete Translation of the Twenty-Four Histories]) [hereinafter MING SHI].

⁸² 8 CAMBRIDGE, *supra* note 6, at 244–45 (Rossabi notes: “The activities the monk-envoys engaged in were primarily spiritual or ceremonial. Little of political note transpired, though the arrival of these Tibetan monks contributed to the emperor’s political legitimacy. The Tibetan clerics clearly did not perceive themselves to be vassals of the Ming court. Their arrival may have facilitated trade but had little political

The presentation of these titles and communication with their [Tibetan] recipients were clearly treated as diplomatic affairs by the Ming and were handled by the same diplomatic bureaucracy that dealt with Ming China's relations with the lands of the South Seas. . . . An examination of the events surrounding the presentation of these titles shows clearly that the recipients held power and/or influence in Tibet prior to their being granted. As such, the titles did not bestow power, but rather acknowledged it, and their granting must be seen as something akin to the not uncommon presentation of honors, titles, or awards by one country to nationals of another.⁸³

Although the relations between the Ming Emperors and Tibetan lamas were religious and diplomatic in nature, the Ming court recorded all these Tibetan missions to China as "tribute" missions, and fictitiously designated their lands in Tibet as "loose-rein" units.⁸⁴ These so-called Ming loose-rein units for Tibet existed "solely on paper."⁸⁵ "Neither in the economic nor in the political realms did the Tibetans perceive themselves to be subjects of the Ming court."⁸⁶ Furthermore, it is also clear that the Ming was unable to influence the external affairs of Tibetans. The Tibetan leaders independently maintained extensive religious, trade, and diplomatic relations with their neighbors (e.g.,

significance."); AUTHENTICATING TIBET: ANSWERS TO CHINA'S 100 QUESTIONS 20–21 (Anne-Marie Blondeau & Katia Buffetrille eds., 2008) [hereinafter AUTHENTICATING TIBET]; MOTE, *supra* note 1, at 700; MING SHI, *supra* note 81, vol. 10, at 6927–48.

⁸³ AUTHENTICATING TIBET, *supra* note 82, at 20.

⁸⁴ MING SHI, *supra* note 81, vol. 10, at 6927–48; MICHAEL C. VAN WALT VAN PRAAG, THE STATUS OF TIBET: HISTORY, RIGHTS AND PROSPECTS IN INTERNATIONAL LAW 8 (1987); LAIRD, *supra* note 81, at 130–31; AUTHENTICATING TIBET, *supra* note 82, at 19–20.

⁸⁵ As Sperling notes: "The [highest] unit established by the Ming for Tibet was the Xi'an Branch Regional [Military Commission] based at Hezhou, a frontier town in Gansu, well away from the Tibetan heartland. At its establishment, a Chinese official named Wei Zheng was placed at its head. . . . However, Wei Zheng, whom one would therefore have to assume was the highest official in the region is unknown in any Tibetan historical sources and barely mentioned by traditional Chinese sources. Obviously, this supposed administrative unit was intended only to exercise ceremonial authority anywhere beyond the frontier region." AUTHENTICATING TIBET, *supra* note 82, at 19–20.

⁸⁶ 8 CAMBRIDGE, *supra* note 6, at 245.

the Mongol, Nepali, and Kashmiri states and peoples) without any intercession by the Ming court.⁸⁷ In short, Ming China had neither “sovereignty” nor “suzerainty” over Tibet.

5.7.2 The Tibetan–Mongol Relations and the Rise of Dalai Lamas

In Ming times, although the Tibetan–Ming relations were “distant and cool,” the Tibetan–Mongol relations were “very close.”⁸⁸ The Ming emperors often failed to invite the most famous contemporary lamas to visit China in person. In contrast, the Mongol khans and princes established close religious and even political relationships with the increasingly popular Gelug Sect (also known as Gelugpa or the Yellow Hat Sect).⁸⁹ The heads of the Gelug Sect were later known as the Dalai Lamas.⁹⁰ Sonam Gyatso (known as the Third Dalai Lama) was believed to be the third incarnation (or second reincarnation) of the great monk Gendun Drup (known as the First Dalai Lama), who was a disciple of the Gelug Sect founder Tsongkhapa.⁹¹

⁸⁷ VAN PRAAG, *supra* note 84, at 8; 8 CAMBRIDGE, *supra* note 6, at 245.

⁸⁸ MOTE, *supra* note 1, at 701; *see also* XU ZHUOYUN, WO ZHE YU TA ZHE: ZHONGGUO LI SHI SHANG DE NEI WAI FEN JI [WHO AM I? WHO ARE THE OTHERS?: THE INTERNAL–EXTERNAL DISTINCTION IN THE CHINESE HISTORY] 134–35 (2009) (Taiwan).

⁸⁹ MOTE, *supra* note 1, at 700–702.

⁹⁰ *Id.*

⁹¹ ALAN J. K. SANDERS, HISTORICAL DICTIONARY OF MONGOLIA 177–78 (2010); Donald S. Lopez, Jr, *Tibetan Buddhism*, in NEW QING IMPERIAL HISTORY 22, 26 (2004).

In 1577, Sonam Gyatso accepted the invitation of Altan Khan, the *de facto* principal ruler of the Mongols at that time, to visit Mongolia.⁹² When the two met in 1578 at Koko Khotan (modern Hohhot in Inner Mongolia), Altan Khan banned the Mongolian Shamanism and declared Tibetan Buddhism (in particular, the Gelug Sect) the official religion of all his subjects.⁹³ They also exchanged honorary titles. Sonam Gyatso gave Altan Khan the illustrious title “Brahma, the Great Mighty Cakravartin” (meaning, the Buddhist universal wheel-turning king or emperor).⁹⁴ In return, Altan Khan gave Sonam Gyatso the Mongolian title Dalai Lama (*Dalai*, a Mongol word meaning “ocean”). The title of Dalai Lama also posthumously applying to Sonam Gyatso’s two predecessors and subsequently carried by all his successors to the present day.⁹⁵

The meeting of the Third Dalai Lama and Altan Khan created a political and religious alliance between them. As Thomas Laird notes,

Both Altan Khan and the Third Dalai Lama were rising powers in their own countries. The Gelugpa were fighting the Kagyupa, and Altan wanted to unite the Mongol tribes and become their [Great Khan]. The Third Dalai Lama publicly proclaimed that he was a reincarnation of [‘Phags-pa Lama] and that Altan was a reincarnation of [Khubilai] Khan. This interpretation was extremely useful for Altan as he struggled to become [the Great Khan], especially since . . . the Great

⁹² LAIRD, *supra* note 81, at 142; MOTE, *supra* note 1, at 701.

⁹³ LAIRD, *supra* note 81, at 142–44; MOTE, *supra* note 1, at 701.

⁹⁴ Johan Elverskog, *An Early Seventeenth-Century Tibeto-Mongolian Ceremonial Staff*, 3 JOURNAL OF THE INTERNATIONAL ASSOCIATION OF TIBETAN STUDIES 1, 7 (2007), <http://www.thlib.org?tid=T3127> (last visited Sept. 15, 2013); *see also* BANBUERHAN, ZUI HOU DE KE HAN: MENG GU DI GUO YU HUI [THE LAST KHANS: TWILIGHT OF THE MONGOL EMPIRE] 77 (Beijing, Zhongguo She Hui Chu Ban She 2009) (China).

⁹⁵ MOTE, *supra* note 1, at 701; LAIRD, *supra* note 81, at 142.

Khan happened to be another prince. The Dalai Lama, whose Gelug order was being harassed by Kagyupa and the princes in Tibet who supported them, could now claim the backing of the greatest military power in Mongolia.⁹⁶

In other words, they tried to reestablish the interdependent dual order between the “throne and altar,” the proper relation between temporal patrons and religious tutors, formulated about three centuries ago by 'Phags-pa Lama.⁹⁷

Nonetheless, Altan never became the Mongol Great Khan and died in 1582, only four years after he met the Third Dalai Lama.⁹⁸ Many Mongol princes emulated Altan and sought to be recognized as legitimate Buddhist rulers of their fiefdoms by the Third Dalai Lama. In return they patronized the Gelug Sect and promoted it among their subjects, facilitating the rise of power and prestige of the Dalai Lama, and the mass conversion of the Mongols to Tibetan Buddhism.⁹⁹

The Third Dalai Lama died in 1588, and in 1589 his reincarnation was found to be Altan Khan's great-grandson, Yonten Gyatso, the only non-Tibetan Dalai Lama.¹⁰⁰ This event further strengthened the Tibetan–Mongol relationships but also opened the door to the Mongolian intervention in Tibet's internal affairs. In 1642 (which was seven years

⁹⁶ LAIRD, *supra* note 81, at 145.

⁹⁷ See *supra* chapter 7.

⁹⁸ ATWOOD, *supra* note 64, at 10.

⁹⁹ Elverskog, *supra* note 94, at 6–7; LAIRD, *supra* note 81, at 143–46 (“The Mongols” loyalty to their princes, and the military structures of Mongol society, made mass conversion possible” and therefore “[w]hen the princes converted, the people followed.”)

¹⁰⁰ LAIRD, *supra* note 81, at 147; MOTE, *supra* note 1, at 701–2.

after the [Northern] Yuan's fall, and two years before the Ming's loss of Beijing), Tibet was unified under the Fifth Dalai Lama, Ngawang Lobsang Gyatso (r. 1642–82), with the help of his patron, Gushri Khan of the Khoshut Mongols (a tribe of the Oirat Mongols).¹⁰¹ As Michael C. van Walt van Praag notes, “[t]he Great Fifth ruled both as the sole sovereign of a unified and independent State of Tibet and as the spiritual head of the dominant State religion.”¹⁰² The Fifth Dalai Lama built the Potala Palace in Lhasa, the new capital of Tibet, and created the Office of Regent or Desi (*sDe-pa*) to perform administrative authority in Dalai's name. He also let Gushri Khan and the succeeding khans retain military power as the Dalai's patrons and protectors.¹⁰³ As Mote notes, later “the early Manchu [Qing] emperors . . . were successful in taking over the Mongols' special relationship with Tibet,” on which “[t]heir security in Inner Asia depended.”¹⁰⁴

5.8 Ming China's Southern and Southwestern Borders

5.8.1 The Tusi (Native Chieftain) System

Contrary to recent Chinese claim, in Ming times the territories of the so-called “native offices” (*tusi*) were not parts of the Ming Empire. As we will see, these

¹⁰¹ LAIRD, *supra* note 81, at 147, 158–61; VAN PRAAG, *supra* note 84, at 10.

¹⁰² VAN PRAAG, *supra* note 84, at 10.

¹⁰³ LAIRD, *supra* note 81, at 152, 161; VAN PRAAG, *supra* note 84, at 10–11.

¹⁰⁴ MOTE, *supra* note 1, at 702.

non-Chinese domains in or near the Ming's southern frontiers were independent polities, existing as either "enclaves" within the Ming provinces or "foreign tributaries" outside the Ming borders.

As Mote points out, in the Ming times, "the entire tier of southern provinces from parts of Guangdong in the east to all of Guangxi, Guizhou, and westward into Yunnan and [parts of] Sichuan was still largely non-Chinese in population" (see Map 1.12).¹⁰⁵ The Ming's southern and southwestern frontiers were therefore essentially what Mote calls a "soft border" with "vague and changing" boundary lines, resulting from the constant interaction between the Chinese settlers and non-Chinese natives.¹⁰⁶

In the south and southwest, the Chinese Ming established regular local administrative offices — e.g., superior prefectures (*fu*), prefectures (*zhou*), and counties (*xian*) — only in the places that had substantial Chinese farmers and taxpayers to support them.¹⁰⁷ The large parts of the southern and southwestern frontiers were still occupied by the non-Chinese, known as "native peoples" (*tu ren*).¹⁰⁸ They were ruled in their traditional ways under their own native chieftains, who were "appointed" (i.e.,

¹⁰⁵ *Id.* at 702–3.

¹⁰⁶ *Id.* at 706.

¹⁰⁷ *Id.* at 703; HUCKER, *supra* note 36, at 77–78.

¹⁰⁸ MOTE, *supra* note 1, at 703.

“recognized”) as “native officials” (*tu guan*) by the Ming.¹⁰⁹ Their offices were called “native offices” (*tusi*), which were normally hereditary and sometimes even headed by female chieftains.¹¹⁰

In Ming times, there were total about 1,608 “native offices,” including 648 “civilian” and 960 “military” *tusi*.¹¹¹ Mirroring the ranks of Chinese regular local administration, the civilian *tusi* were designated as “native superior prefectures” (*tu fu*), “native prefectures” (*tu zhou*), and “native counties” (*tu xian*). The civilian *tusi* tended to be established in those southern non-Chinese areas that were socially and economically more advanced, and frequently (if not usually), there were some Chinese settlements alongside the majority non-Chinese population.¹¹² By contrast, the military *tusi* were given the names ranging from the high-sounding “pacification commissions” (*xuan wei shi si*, *xuan fu shi si*, *zhao tao shi si*, and so forth) to the lowly “squad leaders” (*zhang guan si*). The military *tusi* were usually created in those non-Chinese areas that were either less developed and more remote within the southern provinces or even completely

¹⁰⁹ *Id.*; LEO K. SHIN, *THE MAKING OF THE CHINESE STATE: ETHNICITY AND EXPANSION ON THE MING BORDERLANDS* 12, 61 (2006).

¹¹⁰ MOTE, *supra* note 1, at 703.

¹¹¹ John E. Herman, *The Cant of Conquest: Tusi Offices and China's Political Incorporation of the Southwest Frontier*, in *EMPIRE AT THE MARGINS: CULTURE, ETHNICITY, AND FRONTIER IN EARLY MODERN CHINA* 135, 136–37 (Pamela Kyle Crossley et al. eds., 2005).

¹¹² GONG YIN, *ZHONGGUO TU SI ZHI DU* [CHINA'S NATIVE CHIEFTAIN SYSTEM] 61–62 (Kunming Shi, Yunnan Min Zu Chu Ban She 1992) (China); MOTE, *supra* note 1, at 703; SHIN, *supra* note 109, at 61; Herman, *supra* note 111, at 136.

outside the Ming boundaries.¹¹³ In reality, Ming China had little control and influence over either the military or civilian *tusi*, which all had their own native soldiers and were highly, if not fully, self-ruling.¹¹⁴ Therefore, in practice, the Ming's distinction between "military" and "civilian" *tusi* was, more or less, arbitrary.¹¹⁵

Strictly speaking, the Ming court did not "create" but merely "recognized" *tusi*, which had already existed as highly autonomous or fully independent non-Chinese polities before the Ming recognition.¹¹⁶ As Gong Yin points out, the powers of native chieftains actually came from their own troops. Had they controlled no native soldier, their domains would not have become *tusi* in the first place.¹¹⁷ Therefore, although receiving a nominal Ming title provided "additional" legitimacy to their chieftainship, the governing power and real legitimacy of the native chieftains were not from the Ming court.¹¹⁸

¹¹³ Herman, *supra* note 111, at 136–37; SHIN, *supra* note 109, at 61; MOTE, *supra* note 1, at 703; GONG YIN, *supra* note 112, at 58–60, 67.

¹¹⁴ GONG YIN, MING QING YUNNAN TU SI TONG ZUAN [GENERAL TREATISE ON THE NATIVE CHIEFTAIN SYSTEM IN YUNNAN DURING THE MING AND QING PERIODS] 16 (Kunming Shi, Yunnan Min Zu Chu Ban She 1985) (China); DARDESS, *supra* note 4, at 6; MOTE, *supra* note 1, at 703.

¹¹⁵ SHIN, *supra* note 109, at 61; GONG YIN, *supra* note 114, at 16.

¹¹⁶ See Geoff Wade, *Engaging the South: Ming China and Southeast Asia in the Fifteenth Century*, 51 (No. 4) JOURNAL OF THE ECONOMIC AND SOCIAL HISTORY OF THE ORIENT 578, 585 (2008).

¹¹⁷ GONG YIN, *supra* note 114, at 16.

¹¹⁸ See SHIN, *supra* note 109, at 104.

5.8.2 The Ming–Tusi Tributary Relationships and “Fragile Alliances”

Under the *tusi* system, the native chieftains or native officials usually, but not always, kept quite mutually beneficial tributary relations with the Chinese Ming emperors.¹¹⁹ The native chieftains were required to submit periodic (usually, once every three years) tributes, which were, typically, local products (such as horses, elephants, herbs, and incenses) to the Ming court. In return, native chieftains would receive generous and valuable imperial gifts (e.g., silver and silk) and recognitions of their political legitimacy.¹²⁰ As Leo K. Shin notes,

The so-called tributary system functioned, no doubt, because both the imperial court and native chieftains found it beneficial. From the perspective of Ming-dynasty rulers, even though the costs of maintaining the system clearly far outweighed any potential financial gains . . . the arrangement did allow them to reaffirm from time to time their [nominal] authority over native chieftains. For the *tu guan* [i.e., native officials] . . . the financial benefits of such missions must have been substantial. . . . [Nevertheless,] native officials who took time to submit “tributes” were seeking not only material gains but also a periodic affirmation by the Ming court of their legitimacy.¹²¹

Unlike the Chinese regular local officials, the non-Chinese native chieftains did not receive any regular stipend from the Ming. Instead, the native chieftains “had to derive their incomes from the taxes and fees they levied on the people under their rule as well as

¹¹⁹ *Id.* at 62–63.

¹²⁰ *Id.*; GONG YIN, *supra* note 112, at 88–91.

¹²¹ SHIN, *supra* note 109, at 63.

from the [imperial] gifts and occasional military campaign payments they received from the Ming court.”¹²²

Moreover, although earlier in Yuan times, the Mongol Yuan could partially enforce the censuses and taxations on native peoples in its southern provinces,¹²³ the Chinese Ming was unable to impose the periodic censuses and standard taxations on native individuals and households of the *tusi*.¹²⁴ Nonetheless, some historians misleadingly suggested that *tusi* or native offices were subject to the Ming’s “levies” of goods, labor, and soldiers.¹²⁵ As discussed below, the natures of the so-called Ming’s “levies” on *tusi* should be understood in the context of the formal tributary relationships and what Shin calls the “fragile alliances” between the Ming emperors and native chieftains.¹²⁶

It is quite obvious that the so-called Ming’s “levies” of “goods” from *tusi* were largely (if not entirely) the “local products” which were sent as “tributes” to the Ming court, and that actually were the major duty of all tribute bearers. Yet, what should be discussed in more detail here was the nature of the “annual grain quotas” (described by

¹²² *Id.* at 62.

¹²³ GONG YIN, *supra* note 112, at 43–46.

¹²⁴ MOTE, *supra* note 1, at 703; SHIN, *supra* note 109, at 72.

¹²⁵ *E.g.*, GONG YIN, *supra* note 112, at 91–100; MOTE, *supra* note 1, at 703; SHIN, *supra* note 109, at 72–73.

¹²⁶ The so-called *tusi* system or native chieftain system, as argued by Shin, actually “was not so much a system — as the myriad official rules and regulations implied — as it was a form of alliance.” SHIN, *supra* note 109, at 73–74.

some historians as “tax quotas”) that applied to the native offices.¹²⁷ It appears that the grain quotas applied to merely some but not all *tusi*.¹²⁸ Moreover, the so-called “revenues” from a *tusi* were generally “less than the taxes . . . from a comparable Chinese unit of [regular] local administration.”¹²⁹ According to one early Qing scholar-official, Tian Wen (1635–1704), during the Ming period, the so-called “grain tax” (*fu*) collected from entire Guizhou Province were “even less than that from a small prefecture in the southeast.”¹³⁰ In early Ming times, extracting grains from *tusi* appeared merely ad-hoc affairs, aiming to support the Ming’s military operations and guards in the south, and therefore, they should be better viewed as part of the military cooperation under the Ming–*tusi* strategic alliances. Furthermore, in later times, the Ming court had lots of difficulties actually to enforce the annual grain quotas on *tusi*.¹³¹

The grain quotas on *tusi* could also be understood in the context of the Ming–*tusi* tributary relations. As noted in the earlier chapter, the Chinese Song agreed to pay a significant amount of silver and silks every year to the Khitan Liao and Jurchen Jin in the

¹²⁷ GONG YIN, *supra* note 112, at 91–94; SHIN, *supra* note 109, at 72–73.

¹²⁸ GONG YIN, *supra* note 112, at 92.

¹²⁹ MOTE, *supra* note 1, at 703, 705.

¹³⁰ Cited in GONG YIN, *supra* note 112, at 93.

¹³¹ See SHIN, *supra* note 109, at 72–73 (“Despite the allotment of tax quotas [i.e., grain quotas] (however they were derived), Ming emperors had learned over time that tax collection in native domains could only be loosely enforced. Not only did the imperial court have to routinely grant tax exemptions to areas . . . where nature-induced disasters had struck, it also had to periodically adjust the tax quotas for individual *tu si* . . . after local warfare had led to changes in territorial boundaries. But perhaps the more fundamental reason the Ming court had difficulties collecting taxes from native domains had to do with the increased dependence by the centralizing state on native soldiers. ”)).

name of “annual payments” (*sui bi*) or “annual tributes” (*sui gong*), but no historian has ever considered them as “taxes.”¹³² Similarly, in Ming times, these small amounts of “annual grains” offered by the self-governing *tusi* were not “taxes” but “products” paid to the Ming court as “annual tributes.”

The Ming’s “levies” of native “labor” and “soldiers” from *tusi* were, arguably, also based on their tributary relations or strategic alliances. Although Chinese immigrants increased in the south and southwest frontiers in Ming times, it appears that the Ming still needed native offices to provide labor service due to the lack of sufficient Chinese settlers there. Regarding the native soldiers (*tu bing*), as noted by Shin, “evidence suggests that such [native] soldiers were recruited by chieftains (and their headmen) primarily on an ad hoc basis” to support the Ming’s military operations.¹³³ Nonetheless, “such [Chinese] military operations were almost always just as beneficial to the [native] chieftains in charge.”¹³⁴

Therefore, the supplying of native soldiers from *tusi* to the Ming should be better understood as Ming–*tusi* “military cooperation” under their strategic alliances. For the Ming, it demanded and needed the non-Chinese troops from *tusi* for various reasons, including the adoption of a traditional policy of “using barbarians to fight barbarians,” the

¹³² See *supra* chapter 6.

¹³³ SHIN, *supra* note 109, at 90.

¹³⁴ *Id.* at 104.

decline of regular Chinese soldiers in strength, and the reduction of military expenses by using lower-cost non-Chinese soldiers.¹³⁵ Whereas, for native chieftains, they agreed to supply their soldiers, essentially because that was in line with their own economic benefits and strategic interests. By participating in the Ming's military campaigns, native chieftains not only received "campaign payments" from the Ming but could also increase their military powers. That could help them expand their domains and encroach into the territories of other *tusi* and even the Ming's regular local offices.¹³⁶

The Ming court could not and did not unilaterally impose "levies" of goods, labor, and soldiers on *tusi* but more like "exchanged" or "purchased" these goods and services from the native chieftains. The overall costs for a native chieftain to offer goods (including grains), labor, and soldiers were certainly less than the total benefits of what he received (e.g., imperial gifts, and campaign payments) from the Ming, not to mention that they also achieved their own strategic interests by joining the Ming campaigns. Otherwise, the native chieftains would not maintain the tributary relationship and strategic alliance with the Ming emperor, and might even "revolt" against the Ming.

Nonetheless, the Ming–*tusi* relations were only temporarily mutually beneficial, but ultimately led to conflict. Not only native chieftains frequently sought to expand their

¹³⁵ GONG YIN, *supra* note 112, at 94–100; SHIN, *supra* note 109, at 90–93.

¹³⁶ SHIN, *supra* note 109, at 62, 74, 81, 104.

territories, but also the Ming waited for opportunities and excuses to annex native domains eventually.¹³⁷ As Shin notes, the Ming–*tusi* alliances “were inherently fragile in part because of the desires of chieftains to expand their domains.”¹³⁸ On the other hand, the Ming Empire also had no intention to maintain *tusi* forever, and sought the opportunity to replace hereditary native chieftains with state-appointed local officials, a policy known as *gaitu guiliu*, or “changing native offices to regular administration.”¹³⁹ As Dardess notes, the Ming “waited for the arrival of yet more ethnic Chinese settlers” to the native domains “until a ‘tipping point’ was reached,” and *tusi* would be “converted by official decree into [regular] prefectures and counties and fully annexed into Ming China’s centralized bureaucratic system.”¹⁴⁰ The policy of *gaitu guiliu* was certainly not welcome and often violently resisted by native chieftains. Although this policy had quite limited success in Ming times, it had much better results later in the Qing period.¹⁴¹

5.8.3 The Legal Status of Tusi

Although the Ming’s actual influence on *tusi* varied, the native domains were legally not parts of the Ming Empire. As Dardess observes, “the Ming *tusi* system” was

¹³⁷ GONG YIN, *supra* note 112, at 104–6; JENNIFER TOOK, A NATIVE CHIEFTAINCY IN SOUTHWEST CHINA: FRANCHISING A TAI CHIEFTAINCY UNDER THE TUSI SYSTEM OF LATE IMPERIAL CHINA 227 (2005).

¹³⁸ SHIN, *supra* note 109, at 81.

¹³⁹ DARDESS, *supra* note 4, at 6; MOTE, *supra* note 1, at 705; Herman, *supra* note 111, at 137–38.

¹⁴⁰ DARDESS, *supra* note 4, at 6.

¹⁴¹ MOTE, *supra* note 1, at 705; Herman, *supra* note 111, at 137–38, 148–49, 154, 161; GONG YIN, *supra* note 112, at 106–8, 147–52.

actually “international relations writ small.”¹⁴² The Chinese Ming court did not actually rule or oversee the internal affairs of *tusi*. As discussed earlier, *tusi* maintained their own troops, continued to be governed by their chieftains in their traditional ways, and paid only tributes but not taxes to the Ming court. Moreover, the Ming could not control the external relations of *tusi*, judging from the facts that native chieftains frequently formed alliances among themselves and expanded their territories at the expense of other *tusi* and even the Ming. Therefore, as Mote notes, most of *tusi* “existed as polities—that is, they were ‘politically organized entities’ if not countries—and were independent of [Ming] China.”¹⁴³

Furthermore, according to the principle of effective control, the Ming borders should be delineated along the edges of those areas that were placed under the regular local administration and household registration, and ruled by the Ming-appointed officials. As a result, there were *tusi* both inside and outside the Ming borders. For those *tusi* surrounded by the Chinese settlements and regular local offices, they were “enclaves” within the Ming borders and inside the Ming provinces, and, therefore, might be called the “internal *tusi*.”¹⁴⁴ Whereas, for those *tusi* not surrounded by or even far away from the Chinese settlements and regular local administrations, they should be viewed as

¹⁴² DARDESS, *supra* note 4, at 6.

¹⁴³ MOTE, *supra* note 1, at 710.

¹⁴⁴ See DARDESS, *supra* note 4, at 6.

foreign tributary vassals outside the Ming borders and could be called “external *tusi*.”¹⁴⁵ For example, those *tusi* in upper Burma (Myanmar) were tributary vassals to the early Ming and were not parts of the Ming’s Yunnan Province.¹⁴⁶ Moreover, those *tusi* in northern Siam and Laos were in a great distance from “any known Chinese populations or the jurisdictions of Chinese administrative agencies,” and were, therefore, outside the Ming borders.¹⁴⁷

It is interesting to note that, during the period from 1540 to the end of Ming, the status of Annam (northern Vietnam) in the Ming tributary system was formally “reduced” from a “kingdom” to a “*tusi*.”¹⁴⁸ For more than a hundred years, the Ming Empire officially styled Annam not as a “state” (*guo*) but as a “superior pacification commission” (*dutong shisi*), consisting of several “pacification commissions” (*xuan wei si*). Although the Annamese rulers continued to claim emperorship in their own country, the Ming court “downgraded” the status of the Annamese ruler from a “king” to a “superior native officer” (*dutong shi*).¹⁴⁹ Nevertheless, while some modern Chinese scholars tend to misrepresent Ming sovereignty over all the nominal *tusi* and loose-rein regions, these

¹⁴⁵ See MOTE, *supra* note 1, at 709–12, 1024 n. 52; 8 CAMBRIDGE, *supra* note 6, at 306, 313.

¹⁴⁶ See 6 THE CAMBRIDGE HISTORY OF CHINA, ALIEN REGIMES AND BORDER STATES, 907–1368, at 485–87 (Herbert Franke & Denis Twitchett eds., 1994); 8 CAMBRIDGE, *supra* note 6, at 313–14, 330–31.

¹⁴⁷ MOTE, *supra* note 1, at 704 map 19, 1024 n. 52.

¹⁴⁸ DARDESS, *supra* note 4, at 5; 8 CAMBRIDGE, *supra* note 6, at 330.

¹⁴⁹ 8 CAMBRIDGE, *supra* note 6, at 330, 330 n. 30; MING SHI, *supra* note 81, vol. 10, at 6720.

same scholars, apparently, refrain from claiming the post-1540 Annam as a Ming *tusi* and a part of Ming China.¹⁵⁰

5.9 Positions on Ming China's Territories

The Ming court itself undoubtedly viewed all the non-Han (i.e., non-Chinese) peoples, e.g., the Jurchens, Mongols, Turks, and Tibetans, as inferior *Yi Di* (barbarians), and considered the neighboring non-Chinese regions (e.g., Manchuria beyond Liaodong, Mongolia, Xinjiang, Qinghai, and Tibet) as foreign territories outside the Ming borders. In the first comprehensive account of Ming geography, the *Gazetteer of the Great Ming* (*Da Ming zhi*, 1370), the four boundaries of the Ming Empire were delineated as: to the east, the ocean; to the south, Qiongya (Hainan Island); to the west, Lintao (in Ming Shaanxi); and to the north, Beiping (Beijing).¹⁵¹ By the early 15th century, the Ming Empire had undergone several territorial changes. As noted earlier, the Ming established control over entire Liaodong in 1387, created Yunnan Province in 1382 and Guizhou Province in 1413, and abandoned the northern outlying garrisons in the southern edge of Mongolia in the early 15th century. Then, in the text and map of the *Gazetteer of the United Great Ming* (*Da Ming yitong zhi*, 1461, approved by Ming emperor

¹⁵⁰ E.g., TAN, CONCISE HISTORICAL ATLAS, *supra* note 31, at maps 61–62, 63–64; GE JIANXIONG, *supra* note 43, at 136–40.

¹⁵¹ MING TAIZU SHI LU, *supra* note 15, at 1149 (59: 2a); cited in JIANG YONGLIN, *supra* note 22, at 104.

Yingzong), the Ming's four boundaries were delineated as: to the east, Liaozuo (Liaodong); to the west, the quicksand (Gansu); to the south, the ocean (Hainan Island); and to the north, the desert (Xuan Fu; modern Xuan Hua in Hebei) (see Maps 5.1 and 5.2).¹⁵² This official Ming gazetteer also classified the Jurchen (in Manchuria), Tatar and Wuliangha (in Mongolia), Hami (in Xinjiang), and Xifan (in Qinghai and Tibet) unambiguously as “foreign barbarians” (*wai yi*), among Korea, Japan, Ryukyu, Annam, and so forth (see Figure 5.1).¹⁵³

Later, the Manchu Qing also held that the non-Han lands outside the Ming provincial system were not parts of the Ming. In the *Treatise on Geography (Dili zhi)* of standard *History of the Ming (Ming Shi)*; compiled from 1678 to 1735 and printed in 1789 by the Manchu Qing court), the four stable boundaries of the Ming were delineated as: to the east, Liaohai (Liaodong); to the west, Jiayu (the west end of the Ming Great Wall in Ming Shaanxi or modern Gansu); to the south, Qiong and Ya (Hainan Island); and to the north, Yun and Shuo (Datong and Shuozhou in Shanxi).¹⁵⁴ In China's Republican-era, in the *Evolutionary History of China's Territory (Zhongguo Jiang Yu Yan Ge Shi)*, 1938, written by two leading Chinese historians, Gu Jiegang and Shi Nianhai), the map of Ming

¹⁵² LI XIANET ET AL., *DA MING YITONG ZHI* [GAZETTEER OF THE UNITED GREAT MING] 55–58 (1965) (Taiwan) (1461).

¹⁵³ *Id.* at 48–51.

¹⁵⁴ MING SHI, *supra* note 81, vol. 2, at 636.

still showed that the Ming territories only included the Fifteen Provinces, while Manchuria, Mongolia, Qinghai, and Tibet were outside the Ming boundaries.¹⁵⁵

It seems that the notion that the Chinese Ming Empire included not only Fifteen Provinces but also the vast non-Han regions in traditional Manchuria and Tibet was only recently constructed. This notion has been used by the PRC government and some Chinese historians to further misrepresent the Manchu Qing (which was founded in Manchuria) as a “Chinese” empire created in “China,” and also to further reimagine “China’s” historical sovereignty over Tibet. Nevertheless, the recent historical claim on Ming sovereignty over substantial non-Han regions in Inner Asia is unjustifiable and against the Ming Empire’s own official position and also the centuries-long shared understanding on the scope of Ming territories.

5.10 The Fall of the Ming

It is popularly, but mistakenly, held that the Ming Dynasty ended on April 25, 1644, when Ming Sizong or the Chongzhen Emperor committed suicide right before the fall of Beijing into the hands of the rebel leader Li Zicheng.¹⁵⁶ Equally mistaken is the common belief that the Qing Dynasty began on October 30, 1644, when the six-year-old

¹⁵⁵ GU JIEGANG & SHI NIANHAI, *ZHONGGUO JIANG YU YAN GE SHI* [THE EVOLUTIONARY HISTORY OF CHINA’S TERRITORY] map between 256 and 257 (Changsha, Shang Wu Yin Shu Guan 1938) (China).

¹⁵⁶ *E.g.*, 7 CAMBRIDGE, *supra* note 2, at 637; MOTE, *supra* note 1, at 809, 813; NAN BINGWEN & TANG GANG, *supra* note 31, at 1186; LI ZHITING ET AL., *supra* note 52, at 333.

Qing Shizu, or Shunzhi Emperor, was enthroned as the new Chinese emperor in Beijing.¹⁵⁷ These two mistakes create an intentional illusion that the transition from Ming to Qing in China Proper was merely a change of “dynasty” or “government” of the same country called “China” in 1644.

In fact, after the fall of Beijing in 1644, the Ming loyalists enthroned a total of four Ming emperors in South China and continued to resist the Qing conquest of China until early 1662. That maintained the legal existence of the Chinese Ming Empire (1368–1662) for another eighteen years, a short period known as the “Southern Ming” (1644–62). Moreover, as shown more clearly in the next chapter, the war between Qing and Ming, which took place mainly from 1618 to 1662, was an “international war” between a Manchu empire and a Chinese empire, rather than a “civil war” within “China.” Moreover, the fall of capital does not necessarily result in the fall of state/empire, and that was certainly the case of the Ming loss of Beijing in 1644.

Soon after the fall of Beijing, the Prince of Fu was enthroned as the new Ming Emperor, known as Ming Anzong or the Hongguang Emperor (r. 1644–45), in June 1644, and reestablished the Ming court in the Ming’s auxiliary capital, Nanjing.¹⁵⁸ As noted

¹⁵⁷ E.g., 17 ZHONGGUO TONG SHI [A HISTORY OF CHINA], QING SHI QI (SHANG CE) [THE QING PERIOD (PART 1)], at 131 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China); IMMANUEL C. Y. HSÜ, THE RISE OF MODERN CHINA 26 (6th ed. 2000).

¹⁵⁸ MOTE, *supra* note 1, at 826–27.

by Jonathan D. Spence, Ming Anzong tried to make peace with Qing, “offering the Manchus enormous presents and an annual subsidy if they would return beyond the Great Wall.”¹⁵⁹ Nevertheless, the Qing made a counteroffer, saying that the Ming ruler was allowed “to maintain a small independent kingdom if he abandoned his imperial claims.”¹⁶⁰ Ming Anzong immediately rejected it, and he was soon later captured by the Qing army in 1645, after the fall of Nanjing.¹⁶¹

Subsequently, the Ming loyalists enthroned three more emperors, namely, Ming Shaozong or the Longwu Emperor (r. 1645–46), Ming Wenzong or the Shaowu Emperor (r. 1646–47), and Ming Zhaozong or the Yongli Emperor (r. 1646–62), to continue the Chinese Ming resistance against the Manchu Qing conquest of China. Moreover, some other Ming loyalists supported the Prince of Lu (regent 1645–53) to claim “protector of the state” (*jian guo*) to fight against the Qing invasion.¹⁶² In March 1659, the last [Southern] Ming emperor, Ming Zhaozong, was forced to flee into Burma. On January 22, 1662, he was captured by the Qing army, formally ending the last Ming court and the

¹⁵⁹ JONATHAN D. SPENCE, *THE SEARCH FOR MODERN CHINA* 35 (2d ed. 1999).

¹⁶⁰ *Id.*

¹⁶¹ *Id.*; 7 CAMBRIDGE, *supra* note 2, at 658–60.

¹⁶² For detail, see 7 CAMBRIDGE, *supra* note 2, at 663–710.

Chinese Ming Empire. About three months later, he was executed in Yunnan on June 11, 1662.¹⁶³

5.11 Summary and Conclusion

Lasting for 294 years, the Chinese Ming Empire (1368–1662) was officially established by Ming Taizu, Zhu Yuanzhang, in Yingtian (modern Nanjing) in 1368. In 1421, Ming Chengzu made Shuntian (modern Beijing) the primary capital, and Yingtian the auxiliary capital. After the fall of Beijing in 1644, the Ming court was soon reestablished in South China and continued to resist the Manchu Qing conquest of China until the last Ming emperor was captured in 1662. The so-called “Southern Ming” (1644–62) was neither a new nor an illegitimate Chinese dynasty but the last period of the same Ming Empire founded by Ming Taizu.

The popular beliefs that the Yuan Dynasty was replaced by the Ming Dynasty in 1368 and that the Ming Dynasty was succeeded by the Qing Dynasty in 1644 (as if their relations were just changes in the government of the same state called “China”) were both wrong and misleading. Ending the Mongol’s alien rule in China, the Ming Empire was a newly independent and restored Chinese state that seceded in 1368 from the Mongol

¹⁶³ FREDERIC WAKEMAN, JR., *THE GREAT ENTERPRISE: THE MANCHU RECONSTRUCTION OF IMPERIAL ORDER IN SEVENTEENTH-CENTURY CHINA* 1034–35, 1035 n. 87 (1985).

Yuan Empire. The Yuan was not destroyed by the Ming's capture of Dadu (modern Beijing) in 1368 but, as we will see in the next chapter, by the [Later] Jin/Qing conquest in 1635. The Manchu Qing Empire invaded China from without and officially completed its conquest of Ming in 1662. The Yuan (1206–1635), Ming (1368–1662), and Qing (1616–1912) were founded respectively by the Mongols in Mongolia, the Chinese in China Proper, and the Jurchens/Manchus in Manchuria. They were “three different empires” with their own independent and distinct “statehoods” or “identities.” They were not three dynasties of the “same country” called “China.”

Configured by its highly overlapping “Han” (Chinese) ethnic, cultural, and territorial boundaries, the Ming Empire was created and maintained as a highly homogeneous and unified Chinese empire, which revived and facilitated the Han-exclusive Chinese “proto-nationalism” (if not “nationalism”). Ethnically, the Ming period witnessed what Elliott calls “the unification of the Han” that reunited the previously Yuan-ruled *Hanren* (Northern Chinese) and *Nanren* (Southern Chinese) into a single “Han” Chinese ethnic identity. Culturally, the Chinese people in Ming times shared abundant common elements, such as the Chinese characters, agricultural lifestyle, and Confucian ideology and norms. Territorially, the Ming Empire's stable dynastic territories contained the so-called “Fifteen Provinces” (i.e., the thirteen provinces and two metropolitan regions),

consisting of a slightly expanded China Proper in the southwest, plus Liaodong (a frontier garrison zone). In the southwest, the Ming created the Yunnan and Guizhou Provinces and began to incorporate these two traditional non-Han regions gradually into China Proper by sending in more Chinese immigrants. However, the Ming did not rule any of the vast non-Han regions in Inner Asia. In other words, the Ming achieved some but limited success in expanding beyond the traditional Chinese heartlands.

Concerning its external relations, the Ming was, in essence, an “inward-looking” “lesser empire,” maintaining a tributary system and a non-aggression policy, which both held a clear distinction between *Hua* (i.e., Chinese) and *Yi* (i.e., “barbarians”). Viewing itself as *Zhongguo* (central state), the Ming Empire claimed political and cultural “centrality” and “superiority” over the non-Chinese “barbarian” states and tribal entities. The Ming emperors expected non-Chinese rulers to send periodic “tribute” missions, which, in reality, were often used to cover the Ming’s subsidies to, and trades with, the non-Chinese states/polities. Moreover, quite analogous to the “diplomatic recognition” in modern international law, the Chinese Ming emperor and tributary non-Chinese rulers mutually “recognized” their legitimacy to rule in their respective territories, rather than that the Ming emperor “granted” legitimacy to his foreign “vassals.” The Ming founder repeatedly emphasized the foreign policy of “non-aggression,” citing the old saying that

“extending the territories is not a way to achieve lasting peace.” Except for a short period of Ming Chengzu reign, this non-aggression policy was generally observed by the Ming Emperors, partially explaining why the Ming territories were, essentially, limited to China Proper.

At its northeastern and northern borders, Ming China, facing the increasing “barbarian” threats from the Jurchens and Mongols, established nine major garrisons and built the Liaodong Border Wall and the Great Wall, which, together, stretched from Liaodong westward to Gansu. Ming China’s northwestern and western borders extended from the Gansu Corridor southward along the eastern edges of the Tibetan Plateau to Yunnan. The Ming “created” purely on paper several non-Chinese “loose-rein” units, such as guards (*wei*) and posts (*suo*), in Nurgan (roughly, traditional Manchuria beyond Liaodong), western Gansu, eastern Xinjiang, Qinghai, and Tibet. The Ming court, at best, maintained tributary relations with these non-Chinese self-ruling polities, which were not subject to the Ming’s effective control and taxation and were beyond the Ming sovereignty and borders. Some Tibetan lamas had *Cho-Yon* (priest-patron) relationships with the Ming Emperors. However, the Tibetans leaders maintained more extensive religious and political relations with the Mongol Khans and princes, facilitating the rise of Dalai Lama and the mass conversion of Mongols to

Tibetan Buddhism. In 1642, the Fifth Dalai Lama reunited Tibet and became the ruler of Tibet, with the help of his Mongol patron, Gushri Khan.

In the Ming's southern and southwestern frontiers, there were various non-Chinese native groups, and the Ming could establish regular local administrative units only in those areas with substantial Chinese settlements. Nevertheless, the Ming court also "established" numerous *tusi* or "native offices" both inside the southern and southwestern provinces, and outside the Ming borders. All these so-called *tusi* had their own troops and were self-governing under their own hereditary native chieftains, who typically had tributary relations and strategic (but often fragile) alliances with the Ming emperors. Contrary to the recent Chinese assertion, the Ming had no sovereignty over the native domains of *tusi*, because the Ming government governed neither the internal nor the external affairs of *tusi*. The native chieftains from time to time provided tributes (typically, local goods, e.g., grains), labor service, and native soldiers to the Ming authorities, but they could always receive more valuable imperial gifts and payments from the Ming. Therefore, those goods and services were not "taxes" and "corvée" paying to the Ming court. The Ming borders should be delineated along the edges of those areas under the Ming's effective control, typically, achieved by the Chinese regular local administration and household registration. Those *tusi* inside the Ming borders

were “enclaves” within the Ming provinces and might be called “internal *tusi*,” whereas those *tusi* outside the Ming borders were just regular “foreign vassals” and could be called “external *tusi*.” The native offices or *tusi* were essentially the tributary loose-rein units. Nevertheless, the term *tusi* tend to be used exclusively for those loose-rein units inside or near China’s southern and southwestern frontiers.

To conclude, unlike those multiethnic Inner Asian conquest empires, the Ming Empire was essentially a homogeneous “Han” Chinese state, whose ethnic, cultural, and territorial boundaries highly overlapped. Having freed China from the Mongols’ alien rule, the Ming Empire upheld a clear Chinese–Barbarian (*Hua–Yi*) dichotomy and sought to reestablish the traditional Chinese *Tainxia* order in East and Inner Asia. Again, unlike those Inner Asian conquest empires, the Ming Empire generally adopted the non-aggression policy and vigorously restored the Chinese tributary system, which only sought “nominal submission” rather than “forcible conquest” of other states/polities. Therefore, instead of pursuing vast territorial expansion, Ming China built the Great Wall and the Liaodong Border Wall and, in essence, merely wanted to maintain its “Fifteen Provinces.” The Ming court created purely on paper numerous so-called “loose-rein” units in the vast regions in Inner Asia, but that, at best, only established tributary relations with, and certainly not sovereignty over, those non-Chinese polities. Territorially, the

Ming Empire only possessed and claimed the “Fifteen Province” (i.e., China Proper, plus Guizhou, Yunnan, and Liaodong). The same understanding on the territorial limits of Ming was shared and lasted for centuries until recently. Any claim that Ming China had sovereignty over any vast region in Inner Asian (in particular, Manchuria and Tibet) is wholly groundless and unjustifiable. After all, the Chinese Ming’s dynastic territories could not be “retroactively” expanded simply by recent “reimagination” of history.

CHAPTER 6

THE MANCHU QING EMPIRE (1616–1912), PART 1

THE QING CREATION, EXPANSION, AND EMPERORSHIP

6.1 Introduction

The Qing Empire (see Tables 1.2 and 1.3, and Map 1.13) was in essence a “Jurchen/Manchu Empire” established by Nurhaci (Qing Taizu or the Tianming Emperor) in 1616 in Manchuria outside China, rather than a “Chinese Dynasty” founded by Fulin (Qing Shizu or the Shunzhi Emperor) in 1644 in China (as the conventional wisdom mistakenly holds).

Influenced by recent Chinese nationalist narratives, people tend to overlook that upon the Manchu capture of the Chinese Ming’s principal capital at Beijing in 1644, the Qing Empire (originally named as the [Later] Jin Khanate) had formally existed outside China for 28 years since 1616. Moreover, before its conquest of China, the Qing Empire not only had unified the Jurchens and annexed Ming Liaodong in Inner Manchuria, but also conquered the Mongol Yuan Empire and incorporated Inner Mongolia. Therefore, the pre-1644 Qing had already combined the “Jurchen/Manchu Khaganship” and “Mongol Khaganship” into the “Qing Emperorship” or “Qing Rulership.”

In 1644, the Shunzhi Emperor added the “Chinese Emperorship” into the Qing Rulership. After completing its lengthy conquest of China in 1681, the Qing Empire further conquered the Dongning Kingdom in western Taiwan; subjugated Outer Manchuria, Outer Mongolia, and Qinghai; and eventually conquered the Zunghar Khanate and annexed what became Xinjiang, and reached its territorial height in 1759. Nonetheless, all these territorial expansions were completely separated from the Qing conquest of China. Moreover, as will be discussed in Chapter 8, large portions of Taiwan and what is now called Tibet had never become Qing territories.

As will be clear, the Qing Empire should not be confused with “China.” In fact, the Manchu conquest of China was wholly irrelevant to the founding of the Qing Empire and constituted only a portion of the Qing territorial expansions. Therefore, China — like Manchuria, Mongolia, western Taiwan, Qinghai, and Xinjiang — was merely a part of the Qing Empire.

6.2 The Creation of the Jurchen [Later] Jin/Manchu Qing Empire

The region known as “Manchuria” was the homeland of Jurchens.¹ In the 12–13th centuries, the Jurchen Jin Empire (1115–1234) conquered and colonized North China until it was destroyed in 1234 by the Mongol Yuan Empire (1206–1635). Under the

¹ PAMELA KYLE CROSSLEY, *THE MANCHUS* 15–24 (1997).

Mongol rule, the Jurchens in Manchuria retained their own ethnic identity and traditional way of life, with the cultural influence from the Mongols.² The Mongols lost their political control over Manchuria around the late 14th century. After that, the Mongol's cultural influence, nonetheless, remained strong on the Jurchens.³

The Chinese Ming Empire (1368–1662) viewed the Jurchens as “barbarians” and distinguished them into three main groups: namely, the Jianzhou Jurchens (who essentially occupied modern Jilin Province), the Haixi Jurchens (who largely inhabited in modern Heilongjiang Province), and the Wild Jurchens (who lived in the more remote forests further north).⁴ Before the rise of the [Later] Jin/Qing Empire in the early 17th century, the Jurchens “lived in small scattered villages” and “engaged in farming, stock-raising, [fishing,] and hunting.”⁵

Having been free from the Mongol control, many Jurchen chieftains maintained extensive tributary relations with the Chinese Ming Emperors, and some of them also

² 8 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 2, at 258 (Denis Twitchett & Frederick W. Mote eds., 1998); CROSSLEY, *supra* note 1, at 24.

³ 9 THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE CH'ING EMPIRE TO 1800, at 11–12, 18–20 (Willard J. Peterson ed., 2002) [hereinafter 9 CAMBRIDGE].

⁴ As Gertraude Roth Li notes: The Jianzhou Jurchens “lived along the Mudan River and in the vicinity of the Long White Mountain . . . in what became [Jilin] province”; Haixi Jurchens “lived in modern [Heilongjiang], east of the Nonni River ([Nenjiang]), around Harbin and on the various tributaries of the Sungari River”; and the Wild Jurchens “occupied the northernmost part of Manchuria, which stretched from the western side of the Greater Khingan Mountains to the Ussuri River and the lower Amur, and bordered on the Tatar Strait and the Sea of Japan.” See *Id.* at 10–11; see also THOMAS J. BARFIELD, THE PERILOUS FRONTIER: NOMADIC EMPIRES AND CHINA 251 (1989).

⁵ BARFIELD, *supra* note 4, at 251.

sometimes offered tributes to Korean Joseon Kings.⁶ The Jianzhou and Haixi Jurchens usually had direct contacts with the Chinese Ming, while the Wild Jurchens often did not.⁷ As noted in Chapter 5, the Ming nominally named several tributary Jurchen tribes as the Ming's "loose-rein" guards (*wei*) and posts (*suo*), but in reality, those Jurchen tribes were beyond the Ming rule and sovereignty. As Frederick W. Mote observes, "these Jurchen tribal groups were entirely independent of [Ming] China in all aspects of their domestic governing; they found benefits in the special diplomatic relationship to the Ming court and used them to their advantage vis-à-vis the nearer Mongol tribes, as well as with other Jurchens."⁸

At the same time, the Korean Joseon Kingdom (1392–1910) "also sought to draw the Jurchens on its northern borders into its own orbit."⁹ Therefore, some Jurchen chieftains — especially those of the Jianzhou Jurchens, from among whom the [Later] Jin/Qing power arose — also offered tributes to the Korean court and received titles, ranks, gifts, and even monetary stipends in return.¹⁰ Nonetheless, just like the Ming–Jurchen tributary relations, the Korean–Jurchen tributary relations also did not establish the Korean sovereignty over the tributary Jurchen tribes.

⁶ 9 CAMBRIDGE, *supra* note 3, at 11–16.

⁷ BARFIELD, *supra* note 4, at 251.

⁸ FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, at 785 (1999).

⁹ 9 CAMBRIDGE, *supra* note 3, at 15.

¹⁰ *Id.* at 14–15.

In the late 16th and early 17th centuries, the fragmented Jurchen tribes, taking advantages of the tributary trades and the Ming's military decline, began to unite under some successful Jurchen chieftains.¹¹ Trade profits enabled these chieftains to increase their wealth and powers, to live in the new fortified towns, and to gain more weapons, followers, and slaves.¹² Besides these factors, the Jianzhou Jurchen chieftain Nurhaci (1559–1626) created the sociopolitical-military “Eight Banner system” (to be discussed in Chapter 7) and established marriage alliances with other Jurchen and Mongol leaders; all these contributed to the rise of Nurhaci and made him the most powerful Jurchen ruler.¹³

In 1587, Nurhaci established his court (*yamun*) and built his first walled capital city at Fe Ala (lit., Old Hill). This arguably constituted the formation of Nurhaci's state, although it is not clear what state name, if any, was in use at that time. After unifying most of the Jianzhou Jurchens in 1588, Nurhaci received the title of “Assistant Commissioner-in-Chief of the Jianzhou Guard” (Ch. *Jianzhou Wei Dudu Jianshi*) from the Ming court in 1589.¹⁴ In 1595, the Ming court further “granted” him the high title of

¹¹ BARFIELD, *supra* note 4, at 250–51.

¹² 9 CAMBRIDGE, *supra* note 3, at 24.

¹³ See MOTE, *supra* note 8, at 786–90; BARFIELD, *supra* note 4, at 251–54.

¹⁴ ZHOU YUANLIAN, QING CHAO XING QI SHI 107–9; LI ZHITING ET AL., QING SHI [HISTORY OF THE QING] 77–79, 138–40 (Li Zhiting ed., Shanghai, Shanghai Ren Min Chu Ban She 2002) (China) (Series: Zhongguo Duandaishi Xilie); MOTE, *supra* note 8, at 786.

“Dragon-Tiger General” (Ch. *Long-Hu Jiangjun*) to recognize his rising power.¹⁵

Nonetheless, all these Ming military titles given to Nurhaci were purely nominal and honorable. In other words, these titles only “recognized” (rather than actually “granted”) the power and legitimacy of Nurhaci over his subjects and territories and by no means made him an actual Ming military officer.

In 1599, Nurhaci ordered to modify the Mongolian script to create a new script for the Jurchen/Manchu “national literature,” which played a crucial role in constructing and reinforcing the unification and identity of the Jurchens/Manchus.¹⁶ This new script created during Nurhaci’s reign was later known as the “Old Manchu script” or “Manchu script without dots and circles” to differentiate it from the “New Manchu script” or “Manchu script with dots and circles,” revised during Hung Taiji’s reign (see Figure 1.2).¹⁷ As Peter C. Perdue notes,

Nurhaci’s motives [to create a new script for the Jurchens/Manchus] were political, not linguistic. What he stressed was oral communication of written commands by the ruler to the entire Manchu population, literate and nonliterate. He needed a scriptural apparatus to bolster his new state because he, like all previous Central Eurasian rulers, needed to communicate his personal will beyond the boundaries of person-to-person contact. His edicts could now be read out in their own language to all his Manchu subjects, and texts could be translated into their native language for their own education. In effect, by creating a distinctive

¹⁵ MOTE, *supra* note 8, at 786; 9 CAMBRIDGE, *supra* note 3, at 29–30.

¹⁶ MARK C. ELLIOTT, *THE MANCHU WAY: THE EIGHT BANNERS AND ETHNIC IDENTITY IN LATE IMPERIAL CHINA* 70 (2001).

¹⁷ GERTRAUDE ROTH LI, *MANCHU: A TEXTBOOK FOR READING DOCUMENTS* 13 (2d ed. 2010); DU JIA-JI, *HUANG TAIJI SHI DIAN* 143 (2005) (Taiwan).

script, Nurhaci broadened the cultural horizons of his people, allowing them to adapt non-Manchu ideas but maintain their distinct identity. The new technology of writing made possible the expansion of the state to cover all the Manchu people.¹⁸

In short, as emphasized by Mark C. Elliott, the new Manchu writing system was an important tool not only for Jurchen/Manchu “cultural and political development” but also for their “national unification” and “[ethnic] identity.”¹⁹

No later than 1605, Nurhaci declared himself the Khan (or King) of the Manchu or Jianzhou State.²⁰ According to Gertraude Roth Li, “Manchu” (Ma. *Manju*) was an old term for “Jianzhou.”²¹ Nurhaci’s supreme power (arguably, “sovereign power”) over his Manchu/Jianzhou State was soon recognized by his Khalkha Mongol allies in 1606 and more or less by the Chinese Ming in 1608.²² At the end of 1606,²³ a confederation of Khalkha Mongols sent a delegation to honor Nurhaci with the title of “Respected Khan” (Mo. *Kündelen Khan*) and recognized his claim to khanship and accepted him on equal

¹⁸ PETER C. PERDUE, *CHINA MARCHES WEST: THE QING CONQUEST OF CENTRAL EURASIA* 127 (2005).

¹⁹ ELLIOTT, *supra* note 16, at 70.

²⁰ ZHOU YUANLIAN, *supra* note 14, at 107, 110–11 (Changchun, Jilin Wen Shi Chu Ban She 1986) (China); YAN CHONGNIAN, *NU’ERHACHI ZHUAN* 158–59 (Beijing, Beijing Chu Ban She 2d ed. 2006) (China).

²¹ 9 CAMBRIDGE, *supra* note 3, at 63.

²² See CROSSLEY, *supra* note 1, at 62; ELLIOTT, *supra* note 16, at 56; PAMELA KYLE CROSSLEY, *A TRANSLUCENT MIRROR: HISTORY AND IDENTITY IN QING IMPERIAL IDEOLOGY* 169 (1999).

²³ According to *The Veritable Records of Qing Taizu*, this event occurred on December 29, 1606, but some English sources mistakenly indicate that this event took place in 1607. See 1 QING SHI LU [QING VERITABLE RECORDS], DA QING TAIZU GAO HUANGDI SHI LU [THE VERITABLE RECORDS OF QING TAIZU], 47 (Beijing, Zhonghua Shu Ju 1986) (China) [hereinafter QING TAIZU SHI LU]; 9 CAMBRIDGE, *supra* note 3, at 31 (mistakenly noting that the event took place in 1607); FREDERIC WAKEMAN, JR., *THE GREAT ENTERPRISE: THE MANCHU RECONSTRUCTION OF IMPERIAL ORDER IN SEVENTEENTH-CENTURY CHINA* 55 (1985) (also mistakenly noting that the event took place in 1607).

grounds.²⁴ In 1608, Nurhaci and the Ming general in Liaodong concluded a border agreement. According to the historical records, this Liaodong border agreement was between the Manchu State (Ma. *Manju Gurun*; Ch. *Manzhou Guo*) and the Ming State (Ma. *Ming Gurun*; Ch. *Ming Guo*), or in other words, between the Jurchen Nation (Ma. *Jusen Gurun*) and the Chinese Nation (Ma. *Nikan Gurun*).²⁵ The border agreement provided that all the Chinese (Ma. *Nikan*; Ch. *Hanren*) and Jurchens (Ma. *Jusen*; Ch. *Nuzhi*, *Zhushen*, or *Manzhou*) illegally crossing the border would be killed, and the boundary between them would be marked by stone steles.²⁶ Apparently, by the Manchu–Chinese Liaodong border agreement of 1608, the Ming recognized Nurhaci’s “political dominion” over his subjects and territories,²⁷ if such recognition had not been conferred earlier.

In 1616, at a formal ceremony in his headquarters in Hetu Ala (lit., Broad Hill; present-day Xingjing in Liaoning Province), Nurhaci proclaimed himself the Jurchen/Manchu Great Khan by assuming the imperial title of “[Great] Bright Khan” (Ma. *[amba] genggiyen han*) and formally founded (or “re-established”) the Jin Khanate or

²⁴ Mark C. Elliott, *Ethnicity in the Qing Eight Banners*, in *EMPIRE AT THE MARGINS: CULTURE, ETHNICITY, AND FRONTIER IN EARLY MODERN CHINA* 27, 40 (Pamela Kyle Crossley et al. eds., 2005); MOTE, *supra* note 8, at 786.

²⁵ 1 QING TAIZU CHAO LAO MANWEN YUANDANG [THE OLD MANCHU ARCHIVES FROM THE REIGN OF QING TAIZU] 8–9 (Guang Lu & Li Xuezhi eds. & trans., 1970) (Taiwan); 1 QING SHI LU [QING VERITABLE RECORDS], MANZHOU SHI LU [THE VERITABLE RECORDS OF MANCHU], 138–39 (Beijing, Zhonghua Shu Ju 1986) (China) [hereinafter MANZHOU SHI LU]; see also QING TAIZU SHI LU, *supra* note 23, at 50.

²⁶ MANZHOU SHI LU, *supra* note 25, at 138–39; see also QING TAIZU SHI LU, *supra* note 23, at 50; CROSSLEY, *supra* note 22, at 169.

²⁷ CROSSLEY, *supra* note 22, at 169.

Empire (Ma. *Aisin Gurun*; Ch. *Jin Guo*; lit., “Golden State”), popularly known as the “Later” Jin.²⁸ Nonetheless, according to Gertraude Roth Li, even before the 1616 ceremony (no later than 1613), “Nurhaci had, at least informally, started using the term Aisin or [Jin] for his country.”²⁹ According to Elliott, by proclaiming the dynastic name of Jin, Nurhaci deliberately suggested that “he and his followers were the legitimate heirs to the imperial tradition left by the founders of the twelfth-century Jin [lit. Golden] dynasty,”³⁰ and “that was probably why he renamed his lineage (a branch of the Gioro *mukūn*) the Aisin, or ‘Golden,’ Gioro.”³¹

Moreover, because the Jurchen lands beyond Liaodong were not part of the Chinese Ming Empire, the founding of the Jin Khanate in 1616 was not “a declaration of independence” from “Ming China” (as some historians mistakenly suggest)³² but an empire-building of the Manchus by unifying the indigenous Jurchen tribes in Inner Manchuria.

²⁸ 1 QING TAIZU CHAO LAO MANWEN YUANDANG, *supra* note 25, at 62–63; ELLIOTT, *supra* note 16, at 53, 56; WAKEMAN, *supra* note 23, at 56–57, 83; CHEN JIEXIAN, NU’ERHAQI SHI DIAN 34–35 (2005) (Taiwan).

²⁹ 9 CAMBRIDGE, *supra* note 3, at 37, 37 n. 76; *see also* CHEN JIEXIAN, *supra* note 28, at 35 (noting that in 1614 the Korean sources confirmed that Nurhaci adopted the state name Jin).

³⁰ ELLIOTT, *supra* note 16, at 56.

³¹ Mark C. Elliott, *Whose Empire Shall It Be?: Manchu Figurations of Historical Process in the Early Seventeenth Century*, in TIME, TEMPORALITY, AND IMPERIAL TRANSITION: EAST ASIA FROM MING TO QING 31, 44 (Lynn A. Struve ed., 2005).

³² *E.g.*, 9 CAMBRIDGE, *supra* note 3, at 37 (Gertraude Roth Li notes that Nurhaci’s “new titles and reign name were a declaration of independence from the Ming”); *see also* BARFIELD, *supra* note 4, at 254 (“From China’s point of view, Nurhaci’s proclamation of a Chin [i.e., Jin] dynasty was his most important action. By traditional Chinese norms this was a[n] ideological declaration of independence from Ming sovereignty”).

6.3 The Pre-1644 Territorial Expansions and Regional Dominance

As discussed below (see Map 1.13), before 1644, the Qing Empire had already unified most of Inner Manchuria, conquered Inner Mongolia,³³ and established suzerainty over Korea. All these territorial expansions and regional domination happened before and were clearly separated from the Qing conquest of China.

6.3.1 Unification of Inner Manchuria

6.3.1.1 Unification of Jurchen Tribes in Inner Manchuria

Nurhaci spent 36 years from 1583 to 1619 to achieve his unification of most Jurchens in “Inner Manchuria” (i.e., what is now referred to as “Manchuria”), including his unification of all the Jianzhou Jurchens in 1593, domination of the nearby Wild Jurchens in 1618, and conquest of all the Haixi Jurchens in 1619.³⁴ The Jianzhou, Haixi, and many Wild Jurchens were incorporated into the Eight Banner system of the [Later] Jin/Qing Empire. Later in 1635, these Jurchens “officially” became the “Manchus.”³⁵

However, Immanuel C.Y. Hsü incorrectly suggests that Nurhaci’s successor, Hung Taiji (r. 1626–43), “had brought the whole Amur Region [including Northern or Outer

³³ For the map showing “Early Qing Conquest, 1616–4[3],” see CROSSLEY, *supra* note 22, at 130–31.

³⁴ ZHOU YUANLIAN, *supra* note 14, at 57; CHEN JIEXIAN, *supra* note 28, at 21–27; *see also* 9 CAMBRIDGE, *supra* note 3, at 29–30.

³⁵ *See* 9 CAMBRIDGE, *supra* note 3, at 30; CROSSLEY, *supra* note 22, at 193.

Manchuria] under the [Qing] rule.”³⁶ Nonetheless, this mistake is also shared by other modern historians.³⁷ In fact, the early Qing Empire did not rule what is known as “Outer Manchuria” and the Wild Jurchens in the remote Amur Region only sometimes offered tributes to the Qing court,³⁸ as admitted by some Chinese historians.³⁹

Moreover, even the early Qing’s influence in the Amur Region was soon challenged by the Russian Romanov Empire (1613–1917). According to Pamela Kyle Crossley, “[b]y the 1650s, the Amur valley had been claimed for the Romanov empire by a series of [Russian] explorers” and “[m]any villages along the Amur were rendering tribute (*yasak, jasak*) to Russian officers representing the Russian court.”⁴⁰ As discussed later, only after the 1680s did the Qing establish, if it ever did, territorial sovereignty over the remote Outer Manchuria by signing the Treaty of Nerchinsk of 1689 with the Romanov Empire.

³⁶ IMMANUEL C. Y. HSÜ, *THE RISE OF MODERN CHINA* 25 (6th ed. 2000).

³⁷ *E.g.*, LI ZHITING ET AL., *supra* note 14, at 293–301; CHEN JIEXIAN, HUANG TAIJI XIE ZHEN 182–85 (2004) (Taiwan); SUN WENLIANG & LI ZHITING, *TIANCONG HAN CHONGDE DI* 254–60 (Changchun Shi, Jilin Wen Shi Chu Ban She 1993) (China).

³⁸ Gertraude Roth Li notes: “Neither Nurhaci nor Hung Taiji occupied the northern territories [of Manchuria], but military expeditions to these areas regularly returned with prisoners or surrendered people. The Wild Jurchens who stayed behind served the Manchus by bringing tribute to the Ch’ing [i.e., Qing] court.” See 9 CAMBRIDGE, *supra* note 3, at 30.

³⁹ LI ZHITING ET AL., *supra* note 14, at 293–301; SUN WENLIANG & LI ZHITING, *supra* note 37, at 255–60.

⁴⁰ CROSSLEY, *supra* note 1, at 102.

6.3.1.2 Conquest of Liaodong and Liaoxi

Nurhaci spent only three years (from 1618 to 1621) to conquer all of Ming Liaodong in southern Manchuria, securing his rising imperial power over what is now called “Manchuria” (in particular, Inner Manchuria).⁴¹ In 1618, Nurhaci declared war against Ming China by announcing his “Seven Great Grievances” (Ma. *nadan koro*; Ch. *qi da hen*), which listed, primarily, the charges of the Ming violation of the Manchu–Chinese border agreement and the Ming interventions in the Jurchen’s intertribal conflicts.⁴² The Manchus soon captured all major cities and towns in Liaodong, including Fushun in 1618, and Shenyang and Liaoyang in 1621. They even advanced further into Liaoxi (lit., “west of the Liao [River]”) and took Guangning in 1622.⁴³ By 1623, the Ming presence outside the Shanhai Pass (at the eastern end of the Great Wall) was essentially reduced to Ningyuan (modern Xingcheng) and Jinzhou.⁴⁴

With his advance in the conquest of Liaodong, Nurhaci moved his imperial base several times in order to consolidate his new territorial gains and to be closer to his next

⁴¹ 9 CAMBRIDGE, *supra* note 3, at 41–42; NICOLA DI COSMO & DALIZHABU BAO, MANCHU–MONGOL RELATIONS ON THE EVE OF THE QING CONQUEST: A DOCUMENTARY HISTORY 9 (2003); CROSSLEY, *supra* note 1, at 74.

⁴² 9 CAMBRIDGE, *supra* note 3, at 41; CROSSLEY, *supra* note 1, at 53; for the Manchu text of “Seven Great Grievances,” see 1 QING TAIZU CHAO LAO MANWEN YUANDANG, *supra* note 25, at 79–82; for the Chinese text of “Seven Great Grievances,” see QING TAIZU SHI LU, *supra* note 23, at 69.

⁴³ 9 CAMBRIDGE, *supra* note 3, at 41–42.

⁴⁴ *Id.* at 42.

target.⁴⁵ In 1625, he moved his imperial seat to Shenyang (Mukden), which remained the capital of the [Later] Jin/Qing until 1644.⁴⁶ In February 1626, Nurhaci was defeated at Ningyuan by the Ming general Yuan Chonghuan, who deployed the newly obtained Portuguese or “red barbarian” (*hong yi*) cannons sourced from Macao.⁴⁷ Nurhaci withdrew his troops back to Shenyang, and several months later, he sickened and died at the age of 67 in September 1626.⁴⁸

After Nurhaci’s death, his eighth son, Hung Taiji (known as Qing Taizong; r. 1626–43), was elected the second Jurchen/Manchu Great Khan of the [Later] Jin.⁴⁹ According to Gertraude Roth Li, “Hung Taiji’s strategy for the conquest of Ming China included sporadic peace negotiations with the Ming in order first to pursue control over Korea and Mongol tribes.”⁵⁰ Hung Taiji’s domination over Korea and conquest of Inner Mongolia will be discussed below. Just before his death in 1643, Hung Taiji eventually conquered most of Liaoxi in 1642, leaving Ningyuan the only remaining Ming garrison in southern Manchuria outside the Shanhai Pass of the Great Wall.⁵¹

⁴⁵ *Id.* at 38–39.

⁴⁶ MOTE, *supra* note 8, at 790.

⁴⁷ *Id.*; WAKEMAN, *supra* note 23, at 74, 82–83.

⁴⁸ WAKEMAN, *supra* note 23, at 83.

⁴⁹ CROSSLEY, *supra* note 1, at 71; WAKEMAN, *supra* note 23, at 83.

⁵⁰ 9 CAMBRIDGE, *supra* note 3, at 52.

⁵¹ *Id.* at 56–57; CHEN JIEXIAN, *supra* note 37, at 176–77.

6.3.2 Suzerainty over Korea

Soon after Hung Taiji's succession to the throne, in January 1627 the Manchus undertook their first invasion of Korea,⁵² which still suffered from the "long-term economic and political instability" caused by the Japanese invasion of 1592–98.⁵³ In March 1627, Joseon Korea was forced to sign two Jurchen–Korean peace treaties, under which Korea agreed to pay tributes, open trade markets, and recognize the [Later] Jin as Korea's "elder brother" (in reality, informal "suzerain"), since Korea insisted to continue to recognize Ming China's "formal suzerainty."⁵⁴ As Gertraude Roth Li comments, "[t]hough Hung Taiji's immediate purpose in controlling Korea was to press it into the roles of supplier of resources and of trade partner, he also sought . . . to have Korea side with the Manchus, or at least to secure its neutrality, in Manchu–Chinese conflicts."⁵⁵

After the Qing conquest of Inner Mongolia in 1635, the Manchus invaded Korea again in late 1636 and forced the Korean court in early 1637 to sign a new peace treaty, under which Joseon Korea agreed to formally terminate its tributary relationship with Ming China; recognize Qing suzerainty and adopt the Qing calendar; pay annual tribute (with specified amounts of gold, silver, and products); and provide military support for

⁵² 9 CAMBRIDGE, *supra* note 3, at 53; LI ZHITING ET AL., *supra* note 14, at 280.

⁵³ 9 CAMBRIDGE, *supra* note 3, at 53.

⁵⁴ CHEN JIEXIAN, *supra* note 37, at 83–84; DU JIA-JI, *supra* note 17, at 23; *see also* 9 CAMBRIDGE, *supra* note 3, at 53.

⁵⁵ 9 CAMBRIDGE, *supra* note 3, at 53.

the Qing campaigns against the Ming.⁵⁶ Korea formally remained a vassal state of the Qing Empire until 1895 when the Qing–Korean tributary relationship was terminated by the Treaty of Shimonoseki between the Qing and Japan, which ended the Qing–Japanese War in 1894–95.⁵⁷

Lasting for 258 years (from 1637 to 1895), the “Manchu” (rather than “Chinese”) suzerainty over Korea was established before and completely separated from the Qing conquest of China in 1644–81. In fact, the establishment of suzerain–vassal relationship between the Qing and Korea was accompanied by the termination of China’s (in particular, Ming China’s) prolonged suzerainty over Korea. However, the “Manchu” Qing’s suzerainty over Korea is often mistaken as the “Chinese” suzerainty over Korea.

6.3.3 Conquest of the Mongol Yuan, and Annexation of Inner Mongolia

When Ligdan Khan (r. 1603–34), the Mongol Yuan’s last legitimate Great Khan ruling in Chahar, began to unify all the Mongols in the 1620s, a Chinese–Chahar alliance become a real threat to the Manchus.⁵⁸ Fortunately for the [Later] Jin, in 1628 the Jurchens and their Mongol allies successfully drove the hostile Chahar Mongols out of the basin of the Xar Moron River.⁵⁹ In 1632, the joint Jurchen–Mongol army forced

⁵⁶ *Id.* at 56; LI ZHITING ET AL., *supra* note 14, at 290–93.

⁵⁷ XIAOBING LI, CHINA AT WAR: AN ENCYCLOPEDIA 391, 401, 404 (2012).

⁵⁸ BARFIELD, *supra* note 4, at 261–62; 9 CAMBRIDGE, *supra* note 3, at 18.

⁵⁹ 9 CAMBRIDGE, *supra* note 3, at 53, 55; CHEN JIEXIAN, *supra* note 37, at 88, 97.

Ligdan Khan and his Chahar followers to flee further west; and in 1634 Ligdan suddenly died of smallpox in Gansu on the road to Qinghai.⁶⁰ In 1635, the widow and son of Ligdan surrendered along with the Mongol Yuan's imperial seal (the symbol of Mongol Khaganship) to Hung Taiji, marking the Qing annexation of what became known as Inner Mongolia (Southern Mongolia) and the formal end of the Mongol Yuan Empire (1206–1635), which was founded by Chinggis Khan and lasted for 429 years.⁶¹

The defeat of Ligdan Khan and the capture of the Mongol imperial seal allowed Hung Taiji to style himself as the Mongol Great Khan and successor to Chinggis and Khubilai.⁶² That encouraged him to de-emphasize the political connection between his empire and the former Jurchen Jin Empire of the 12–13th centuries.⁶³ In 1635, Hung Taiji officially adopted the name “Manchu” for essentially all his Jurchen followers, and in 1636, he formally changed the Chinese-style dynastic or state name from “Jin” to “Qing.”⁶⁴

Nonetheless, the Manchu Qing had not yet unified all the Mongols. The Khalkha Mongols in Outer Mongolia (Northern Mongolia), as well as the Oirat Mongols in

⁶⁰ 9 CAMBRIDGE, *supra* note 3, at 55; BANBUERHAN, ZUI HOU DE KE HAN: MENG GU DI GUO YU HUI [THE LAST KHANS: TWILIGHT OF THE MONGOL EMPIRE] 102 (Beijing, Zhongguo She Hui Chu Ban She 2009) (China).

⁶¹ 9 CAMBRIDGE, *supra* note 3, at 55–56; BANBUERHAN, *supra* note 60, at 103.

⁶² WAKEMAN, *supra* note 23, at 203; 9 CAMBRIDGE, *supra* note 3, at 56.

⁶³ 9 CAMBRIDGE, *supra* note 3, at 63, 67.

⁶⁴ ELLIOTT, *supra* note 16, at 71–72; *see also* 9 CAMBRIDGE, *supra* note 3, at 63.

Zungharia (Western Mongolia) and Qinghai, still remained independent and were not yet incorporated into the Qing Empire.

6.3.4 Peace Negotiation with the Chinese Ming and Invasions of China Proper

During his invasion of Korea in early 1627, Hung Taiji tried to negotiate a peace treaty with the Chinese Ming and demanded boundary re-delimitation, state equality, and “gifts exchange” (in reality, “tributes”).⁶⁵ Asking the Chinese to give up Liaoxi and recognize the Jurchen conquest of Liaodong, Hung Taiji proposed that the Shanhai Pass would be the new [Later] Jin–Ming border.⁶⁶ Although demanding state equality, he was still willing to recognize a slight ritual advantage of the Ming Emperor over the [Later] Jin Khan in the diplomatic communications.⁶⁷ Invoking the precedents of the Song’s annual payments or tributes to the Liao and the Jin as well as the Ming’s payments to the Mongols, Hung Taiji asked the Ming to send “annual gifts” of gold, silver, and silk to the [Later] Jin, with an initial higher payment.⁶⁸ However, as Frederic Wakeman, Jr. points out, the proposed Manchu–Chinese “gifts exchange” was in reality “a thinly veiled demand by the Manchus for tribute from the Chinese.”⁶⁹

⁶⁵ LI ZHITING ET AL., *supra* note 14, at 250–53; 9 CAMBRIDGE, *supra* note 3, at 52.

⁶⁶ CHEN JIEXIAN, *supra* note 37, at 75.

⁶⁷ *See Id.* at 76.

⁶⁸ 2 QING SHI LU [QING VERITABLE RECORDS], DA QING TAIZONG WEN HUANGDI SHI LU [THE VERITABLE RECORDS OF QING TAIZONG], 32, 42–43 (Beijing, Zhonghua Shu Ju 1985) (China); WAKEMAN, *supra* note 23, at 85.

⁶⁹ WAKEMAN, *supra* note 23, at 83, 85.

Although paying “annual gifts” to the [Later] Jin were even much less than the Ming’s previous yearly military spending on Liaodong, it appeared too “humiliating” for the Ming to accept Hung Taiji’s peace terms,⁷⁰ let alone that the Ming had just defeated Nurhaci’s invasion a year earlier at Ningyuan in 1626.⁷¹ In fact, Ming China not only rejected Hung Taiji’s peace terms but also demanded the [Later] Jin to return Liaodong to the Ming.⁷² Eventually, the peace negotiation brought only a short truce. In June 1627, Hung Taiji decided that the negotiation had failed and the hostilities would be resumed.⁷³

However, shortly thereafter, the [Later] Jin failed again to conquer the Ming fortified towns in Liaoxi north of the Shanhai Pass, leading Hung Taiji to seek entry into China Proper via Inner Mongolia.⁷⁴ To clear the new path, the Jurchens and their Mongol allies drove the Chahar Mongols out of the Xar Moron basin in 1628, as mentioned earlier.

Using the new route to cross the Great Wall through the Xifengkou Pass and the Da’ankou Pass, the [Later] Jin invaded China Proper for its first time in 1629, approached the region near the Ming primary capital of Beijing, and raided North China for several

⁷⁰ *Id.* at 85.

⁷¹ BARFIELD, *supra* note 4, at 261.

⁷² 9 CAMBRIDGE, *supra* note 3, at 52.

⁷³ *Id.*; WAKEMAN, *supra* note 23, at 86.

⁷⁴ 9 CAMBRIDGE, *supra* note 3, at 53; CHEN JIEXIAN, *supra* note 37, at 95–97.

months.⁷⁵ Subsequently, the Jurchens/Manchus routinely invaded China Proper through Inner Mongolia (with four large-scale invasions and numerous smaller raids), mainly for booty but not for permanent conquest.⁷⁶ As Thomas J. Barfield explains, for the Manchus, “booty from China and silver from Korea was needed to pay for the expensive gifts which were offered to gain Mongol cooperation.”⁷⁷

Having established the Qing rule over Inner Mongolia in 1635 and the formal suzerainty over Korea in 1637, Hung Taiji turned his ambition toward the eventual conquest of China, but he suddenly died in September 1643, only several months before the Qing capture of Beijing.⁷⁸ Hung Taiji’s ninth son, Fulin, succeeded and was enthroned as the Shunzhi Emperor (1638–61; r. 1643–61) in October 1643.⁷⁹

6.4 The Post-1644 Territorial Expansions and Regional Dominance

As shown below, the Qing Empire spent about 37 years from 1644 to 1681 to actually conquer all of China. After that (see Map 1.13), the Qing Empire further and separately conquered western Taiwan in 1683; subjugated Outer Manchuria in 1689 and Outer Mongolia in 1691; annexed Qinghai in 1724; and finally seized what became

⁷⁵ 9 CAMBRIDGE, *supra* note 3, at 53; CHEN JIEXIAN, *supra* note 37, at 97; MOTE, *supra* note 8, at 793–94.

⁷⁶ 9 CAMBRIDGE, *supra* note 3, at 56; BARFIELD, *supra* note 4, at 263; LI ZHITING ET AL., *supra* note 14, at 267–71.

⁷⁷ BARFIELD, *supra* note 4, at 262.

⁷⁸ 9 CAMBRIDGE, *supra* note 3, at 56–57, 70–71.

⁷⁹ *Id.* at 71; WAKEMAN, *supra* note 23, at 299.

Xinjiang (Zungharia and East Turkestan) in 1757–59. Nonetheless, it should be noted that the Qing’s territorial expansions were not “China’s” expansions. Moreover, as will be discussed in Chapter 8, by the end of the 18th century, the Qing Empire established political domination, but not sovereignty, over Tibet.

6.4.1 The Conquest of the Chinese Ming and the Annexation of China Proper

The Ming–Qing war in 1618–62 was not a “Chinese civil war” as recently represented by some Chinese and even western historians.⁸⁰ It was undoubtedly an “international war” between a Chinese empire and a Jurchen/Manchu empire, and it escalated to a full-scale war of Manchu conquest of China only in 1644. The Ming Empire always viewed the Jurchens/Manchus as non-Chinese “barbarians” and undoubtedly considered the [Later] Jin/Qing as a foreign country outside China. Moreover, the [Later] Jin/Qing Empire also saw the Ming Empire as a neighboring foreign country. In 1618, Nurhaci officially declared the Jurchen [Later] Jin war against the Chinese Ming. In 1631, when Hung Taiji attacked and surrounded Dalinghe (a strategic Ming garrison town in Liaoxi), he tried to persuade the Mongols inside the city to surrender, and wrote them that:

⁸⁰ E.g., LI ZHITING ET AL., *supra* note 14, at 461–62; TONIO ANDRADE, *LOST COLONY: THE UNTOLD STORY OF CHINA’S FIRST GREAT VICTORY OVER THE WEST* 60 (2011).

We Manchus and you Mongols originally belonged to the same country ([Ch.] *guo*). The Ming is a different country. It makes no sense for all of you to die for a different country, and I pity you all the more for that.⁸¹

Apparently, neither the Ming nor the [Later] Jin/Qing considered themselves as the competing dynasties of the “same” country called “China.”

After capturing Beijing in 1644, the Qing Empire soon made Beijing its primary capital. However, contrary to popular belief, the Qing did not replace the Ming as a change of the dynasty (or government) of “China” in 1644. Instead, the Chinese Ming Empire was fully and officially conquered by the invading Manchu Qing Empire only 18 years later in 1662. Moreover, as we will see, the Qing took 37 years from 1644 to 1681 to “truly” conquer all of China. Therefore, as Crossley comments, the Qing capture of Beijing in 1644 “was only the first step in the long and uncertain process of conquest of China.”⁸² Likewise, William T. Rowe also notes, “[i]t took the Qing conquerors nearly forty years from the time they captured Beijing . . . to fully eliminate their [Chinese] competitors, and for much of this time it was by no means a certainty that the Qing would ultimately prevail.”⁸³

⁸¹ WAKEMAN, *supra* note 23, at 170, 172, 172 n. 47; QING TAIZONG SHI LU, *supra* note 68, at 128.

⁸² CROSSLEY, *supra* note 1, at 80.

⁸³ WILLIAM T. ROWE, CHINA’S LAST EMPIRE: THE GREAT QING 24 (2010).

The first Chinese competitor to the Manchu conquerors was the rump state of the Ming Empire itself.⁸⁴ As discussed in Chapter 5, after losing Beijing, the Chinese Ming continued to resist the Manchu Qing conquest for 18 years, a period of the Ming known as the “Southern Ming” (1644–62).

Another challenger to the Qing conquest of China was what Rowe calls the “maritime empire” of the Zheng family from coastal Fujian Province.⁸⁵ The rise of the Zheng family’s wealth and power began with Zheng Zhilong (also known as “Nicolas Iquan” in western documents). In late Ming times, he became the leader of Chinese pirates and dominated China’s external trades. He even legitimized his status by accepting the Ming’s “recruitment” (i.e., by receiving Ming’s official rank and title).⁸⁶ Nevertheless, Zheng Zhilong not only continued to keep his own personal troops but became “one of the richest men in China.”⁸⁷ However, the late Ming internal rebellions in China and external invasion from the Qing changed the destinies of the Zheng family as well as Taiwan. In 1646, lured by the Qing offer for the position of Governor-General of Fujian and Guangdong, Zheng Zhilong betrayed the Ming.

⁸⁴ *See Id.* at 24–25.

⁸⁵ *Id.* at 25.

⁸⁶ ANDRADE, *supra* note 80, at 26–32, 51–53; HUNG CHIEN-CHAO, A NEW HISTORY OF TAIWAN: ASIA’S FIRST REPUBLIC IN THE NEW MILLENNIUM 47–50 (Taipei, Central News Agency 2011) (Taiwan).

⁸⁷ ANDRADE, *supra* note 80, at 53.

However, right after his surrender to the Qing, he was immediately betrayed by the Qing and was placed under house arrest. Eventually, he was executed in 1661.⁸⁸

Nonetheless, upon Zheng Zhilong's surrender to the Qing in 1646, his son, Zheng Chenggong (also known as Koxinga), refused to cooperate with the Manchu Qing invaders. Before long, Zheng Chenggong controlled and even expanded the Zheng family's navy and army, and continued to fight for several years under the slogan of "overthrowing the Qing and restoring the Ming" (though, in reality, only nominally for the Ming cause).⁸⁹ As noted by Tonio Andrade, managing to become "the Manchu's most fearsome adversary," Zheng Chenggong "came close—but not close enough—to toppling the formidable Qing."⁹⁰ In 1661, apparently losing his anti-Qing campaign, Zheng Chenggong and most of his forces left China and invaded Taiwan, seeking to establish a new base on the island.⁹¹ As will be discussed later, Zheng Chenggong conquered the Dutch colony in western Taiwan in early 1662, but that did not make Taiwan a part of "China."

⁸⁸ *Id.* at 65–66; ROWE, *supra* note 83, at 26.

⁸⁹ HUNG CHIEN-CHAO, *supra* note 86, at 75–76; HSUEH HUA-YUAN ET AL., IS TAIWAN CHINESE?: A HISTORY OF TAIWANESE NATIONALITY 49–50 (2005) (Taiwan).

⁹⁰ ANDRADE, *supra* note 80, at 67.

⁹¹ HUNG CHIEN-CHAO, *supra* note 86, at 77–79.

Moreover, “[a] far more serious threat” to the Qing conquest of China was the “Rebellion of the Three Feudatories” (*san fan zhi luan*; 1673–81).⁹² Earlier, because of their betrayals of the Chinese Ming and their cooperations with the invading Manchu Qing, three former Ming generals, namely, Geng Zhongming, Shang Kexi, and Wu Sangui, were granted by the Qing “almost independent” fiefdoms in South China.⁹³ Therefore, in reality, the Qing court simply had no real control over these fiefdoms in southern China.⁹⁴ As Jonathan D. Spence notes, “[t]ogether they were virtual masters over a region equivalent in size to France and Spain combined, or to America’s southern states from Georgia coast to Texas,” and “they also constantly demanded lavish subsidies from the Qing court as the price of their continued loyalty.”⁹⁵

In 1673, the approval of the Kangxi Emperor (r. 1661–1722) to remove the autonomies of the Three Feudatories caused Wu Sangui, Shang Zhixin (son of Shang Kexi), and Geng Jingzhong (grandson of Geng Zhongming) to declare their rebellions, which almost destroyed the Qing Empire or, at least, very likely restored the formal

⁹² ROWE, *supra* note 83, at 25; for the war of the Three Feudatories, see JONATHAN D. SPENCE, *THE SEARCH FOR MODERN CHINA* 49–53 (2d ed. 1999).

⁹³ See SPENCE, *supra* note 92, at 49–51.

⁹⁴ 9 CAMBRIDGE, *supra* note 3, at 137.

⁹⁵ Spence further notes: “Within these areas, despite the nominal presence of Qing bureaucrats, the Three Feudatories supervised all aspects of military and civil government, the examination systems, relations with the [non-Han] indigenous peoples, and the collection of taxes. Not only did they keep the local revenues for themselves and control lucrative trade monopolies, they also constantly demanded lavish subsidies from the Qing court . . . By the 1660s, they were receiving more than 10 million ounces of silver every year.” See SPENCE, *supra* note 92, at 50.

independence of the southern half of China, divided by the Yangzi River.⁹⁶ However, after several years of harsh fighting, the Qing court eventually defeated the Three Feudatories revolt and started to establish effective control and governance over South China in 1681.⁹⁷

Moreover, following the Chinese Ming's precedent, the Manchu Qing also adopted the policy of *gaitu guiliu* (meaning, "changing native [offices] to regular [administration]") and had much better achievement in eliminating the independent *tusi* (lit., native offices) within the southern and southwest provinces.⁹⁸ Many *tusi* inside the provincial boundaries were converted into the regular local administrations and formally incorporated into the Qing Empire.

6.4.2 Conquest of the Dongning Kingdom in Western Taiwan

6.4.2.1 The Founding of the Dongning Kingdom

Contrary to the present Chinese official claim that "Taiwan has belonged to China since ancient times,"⁹⁹ the Chinese until the Ming times still knew little about Taiwan,

⁹⁶ See *Id.* at 50–52.

⁹⁷ HAROLD M. TANNER, 2 CHINA: A HISTORY, FROM THE GREAT QING EMPIRE THROUGH THE PEOPLE'S REPUBLIC OF CHINA (1644–2009), at 40 (2010).

⁹⁸ GONG YIN, ZHONGGUO TU SI ZHI DU [CHINA'S NATIVE CHIEFTAIN SYSTEM] 147–52 (Kunming Shi, Yunnan Min Zu Chu Ban She 1992) (China).

⁹⁹ TAIWAN AFFAIRS OFFICE AND INFORMATION OFFICE OF THE STATE COUNCIL, WHITE PAPER: THE TAIWAN QUESTION AND REUNIFICATION OF CHINA (1993) (China), *available at* <http://www.china.org.cn/e-white/taiwan/index.htm> (last visited Oct. 1, 2014).

and had long regarded Taiwan as a “savage” island “beyond the seas” (*haiwai*) and belonging to the “wilderness” or “wild zone” (*huangfu*).¹⁰⁰ In the Chinese traditional idealized “five-zone” (*wufu*) theory,¹⁰¹ the “wild zone” — being the farthest from the Chinese kingly (or imperial) center — was occupied by completely savage barbarians outside the Chinese domain and civilization.¹⁰²

After the Dutch occupied the Penghu Islands (i.e., Pescadores) in 1622, the Ming official negotiated with the Dutch force and asked them to withdraw from Penghu and move to Taiwan, showing clearly that the Ming official regarded the Penghu Islands as a Chinese territory but considered Taiwan as a remote island outside the Chinese domains.¹⁰³ In 1624, the Dutch force left Penghu and sailed for Taiwan to establish a colony there.¹⁰⁴ When Zheng Chenggong left China and invaded Taiwan in 1661, the Dutch presence in western Taiwan was centered at Sakam (Ch. *Chihkan*), i.e., the coastal

¹⁰⁰ EMMA TENG, *TAIWAN’S IMAGINED GEOGRAPHY: CHINESE COLONIAL TRAVEL WRITING AND PICTURES, 1683–1895*, at 36, 43 (2006); *see also* ALAN M. WACHMAN, *WHY TAIWAN? GEOSTRATEGIC RATIONALES FOR CHINA’S TERRITORIAL INTEGRITY* 51, 57 (2008).

¹⁰¹ According to this Chinese ancient and idealized theory, the five zones were *dianfu* (royal zone), *houfu* (lords’ zone), *suifu* (pacified zone), *yaofu* (controlled zone), and *huangfu* (wild zone). The inner three zones comprised the Chinese states, while the outer two were barbarian areas. The royal zone was under the direct rule of the king, and was defended and served by the feudal states in the lords’ zone, which was further surrounded by the conquered Chinese states in the pacified zone. At the next level, the barbarians in the controlled zone were under Chinese loose control and cultural influence. Finally, the outermost was the wild zone occupied by totally savage barbarians outside the influence of Chinese civilization. See 1 *THE CAMBRIDGE HISTORY OF CHINA, THE CH’IN AND HAN EMPIRES, 221 BC–AD 220, 379–80* (Denis Twitchett & Michael Loewe eds., 1986); JIANG YONGLIN, *THE MANDATE OF HEAVEN AND THE GREAT MING CODE* 193 n. 18 (2011).

¹⁰² TENG, *supra* note 100, at 43; *see also* WACHMAN, *supra* note 100, at 57.

¹⁰³ WACHMAN, *supra* note 100, at 52–53.

¹⁰⁴ *Id.* at 53.

area around Fort Zeelandia (present-day Anping Fort) and Fort Provintia (present-day Chihkan Tower) in modern Tainan City. The Dutch authority in western Taiwan was supervised by the headquarter of the Dutch East India Company at Batavia (present-day Jakarta).¹⁰⁵

Zheng Chenggong invaded Taiwan in April 1661 and soon captured Fort Provintia in early May.¹⁰⁶ The Dutch in Fort Zeelandia, however, continued to fight and refused to surrender until February 1, 1662. On that day, Frederick Coyett, the last Dutch Governor of Formosa (Taiwan), concluded a peace treaty with Zheng, ending the 38 years of the Dutch rule (1624–62) in western Taiwan (see Table 1.2).¹⁰⁷

However, contrary to popular beliefs, Zheng Chenggong did not make Taiwan a part of “China,”¹⁰⁸ nor a part of the “Chinese Empire” (particularly, the Ming Empire),¹⁰⁹ let alone “restore” Taiwan to “China.”¹¹⁰ In fact, Zheng Chenggong’s allegiance to the [Southern] Ming court was only nominal and superficial. He not only issued his own

¹⁰⁵ Ronald G. Knapp, *The Shaping of Taiwan’s Landscapes*, in TAIWAN: A NEW HISTORY 3, 12 (Murray A Rubinstein ed., exp. ed. 2007); HUNG CHIEN-CHAO, *supra* note 86, at 72–73.

¹⁰⁶ HUNG CHIEN-CHAO, *supra* note 86, at 79, 86.

¹⁰⁷ *Id.* at 73, 93.

¹⁰⁸ *But see Id.* at 102 (noting that Zheng Chenggong was the man who “made Taiwan a part of China.”).

¹⁰⁹ *But see* ANDRADE, *supra* note 80, at 184 (stating that Zheng Chenggong “decreed that the island of Taiwan would now be a prefecture of the Chinese Empire”).

¹¹⁰ *But see*, ZHONG GUO LI SHI, QI NIAN JI (XIA CE) [CHINESE HISTORY TEXTBOOK, SEVENTH GRADE (PART 2)] 103–4 (Ke Cheng Jiao Cai Yan Jiu Suo ed., Beijing, Ren Min Jiao Yu Chu Ban She 2001) (China) (claiming that Zheng Chenggong restored Taiwan to China); NAN BINGWEN & TANG GANG, MING SHI [HISTORY OF THE MING] 1047–48 (asserting that Zheng Chenggong restored Taiwan, protecting the territorial unification and integrity of China).

decrees, but also ignored the Ming Emperor's attempted interference.¹¹¹ Moreover, when Zheng started to invade Taiwan in 1661, the last [Southern] Ming court had been in exile in Burma for about two years and had no control and influence at all on Zheng's regime.¹¹² Furthermore, when the Dutch authority in Taiwan surrendered to Zheng on February 1, 1662, the Ming Empire and its last imperial court had been rendered formally extinct a few days earlier on January 22, 1662 (as a result of the Qing capture of Ming Zhaozong or the Yongli Emperor).¹¹³ Therefore, Zheng's victory over the Dutch in Taiwan could not possibly be seen as Ming China's conquest of Taiwan.¹¹⁴

In fact, it was quite clear that Zheng Chenggong established a new independent kingdom in western Taiwan, known as the Dongning Kingdom (1661–83) or the Kingdom of Formosa (Taiwan).¹¹⁵ On May 29, 1661, Zheng Chenggong, having captured Fort Provintia in early May, renamed the area of *Chihkan* (Sakam) to *Dong Du Ming Jing* (lit., Eastern Ming Capital), often shortened as Dongdu (Eastern Capital),¹¹⁶

¹¹¹ HSUEH HUA-YUAN ET AL., *supra* note 89, at 50.

¹¹² Wang Taisheng, *Tai Wan Li Shi Shang De Zhu Quan Wen Ti* [*The Sovereignty Issue in the History of Taiwan*], 9 YUE DAN FA XUE ZA ZHI [THE TAIWAN LAW REVIEW] 4 (1996) (Taiwan), reprinted in 1 TAIWAN ZHU QUAN LUN SHU LUN WEN JI [COLLECTED PAPERS ON THE DISCOURSE OF SOVEREIGNTY OF TAIWAN] 54, 62 (2001) (Taiwan).

¹¹³ WAKEMAN, *supra* note 23, at 1035, 1035 n. 87.

¹¹⁴ PENG MING-MIN & NG YUZIN CHIAUTONG (HUANG ZHAO-TANG), TAI WAN ZAI GUO JI FA SHANG DE DI WEI [THE INTERNATIONAL LEGAL STATUS OF TAIWAN] 24 (Tsai Chou-shung trans., 1995) (Taiwan) (1976).

¹¹⁵ *Id.* at 8, 24, 27; Wang Taisheng, *supra* note 112, at 54, 61–62.

¹¹⁶ YANG YING, XIAN WANG SHI LU JIAO ZHU 253 (Chen Bisheng ed., 1981) (China); JONATHAN MANTHORPE, FORBIDDEN NATION: A HISTORY OF TAIWAN 89 (2005).

“as if it might be the seat of [a Ming] emperor.”¹¹⁷ Nonetheless, on June 14, 1661, Zheng Chenggong issued a decree, which, in part, proclaimed the founding of a new kingdom in Taiwan:

The Eastern [Ming] Capital is where we are starting a country and establishing our families. It will become a stable and enduring base for us for ten thousand generations. . . . All of you commanders and troops and your families will come together and choose sites to build your homes. You must establish there your fields and residences, things that you can pass on to your sons and grandsons and descendants. Thus, with one grand effort now we establish the foundation of eternal prosperity.¹¹⁸

Moreover, anticipating the losses of Xiamen (i.e., Amoy), Jinmen (i.e., Kinmen or Quemoy), and a few other areas in China to the Qing, Zheng Chenggong ordered his officials and military officers to bring all their dependent families to Taiwan.¹¹⁹ Apparently, Zheng Chenggong had moved his administrative center from Xiamen (a coastal city in China) to Dongdu (the capital of his new kingdom in Taiwan).¹²⁰ And he had decided to abandon all his holdings in China.

¹¹⁷ John E. Wills, Jr., *The Seventeenth-Century Transformation: Taiwan under the Dutch and the Cheng Regime*, in *TAIWAN: A NEW HISTORY* 84, 95 (Murray A. Rubinstein ed., exp. ed. 2007).

¹¹⁸ ANDRADE, *supra* note 80, at 184–85; for the original Chinese text, see YANG YING, *supra* note 116, at 253–54.

¹¹⁹ See MANTHORPE, *supra* note 116, at 61; HUNG CHIEN-CHAO, *supra* note 86, at 96, 98.

¹²⁰ *But see* HSUEH HUA-YUAN ET AL., *supra* note 89, at 53 (noting that after conquering Taiwan, Zheng Chenggong “kept his administrative center in the Chinese city of Xiamen”); HUNG CHIEN-CHAO, *supra* note 86 (stating that “[t]he mu-fu [i.e., government] at Amoy [i.e., Xiamen] still exercised control over Taiwan, when the island was brought under Koxinga’s administration”).

Nonetheless, most of the Zheng followers who remained in China and were under the command of Zheng Chenggong's heir, Zheng Jing, refused to move to Taiwan.¹²¹ They further defied Zheng Chenggong's order to execute Zheng Jing, who was found to have committed incest with the wet nurse of his younger brother.¹²² As observed by Hung Chien-Chao, they would have declared an "open break" with Zheng Chenggong's authority in Taiwan, had Zheng Chenggong not suddenly died in Taiwan in June 1662.¹²³

Zheng Jing soon asserted his "right to succession" in Xiamen at the end of June, and in November 1662, he led a military expedition from Xiamen to Dongdu, quickly defeated his uncle, and succeeded as the new king in western Taiwan.¹²⁴ Seeking to consolidate his rule over the Zheng's remaining territories in coastal China, Zheng Jing returned to Xiamen in February 1663. But before long, he was forced to retreat to Taiwan and lost all the Zheng's holdings in China to the Manchu Qing in April 1664.¹²⁵

In September 1664, Zheng Jing renamed his capital from Dongdu to Dongning (Eastern Peace),¹²⁶ which became known as the state name of the Zheng's kingdom in Taiwan. However, contrary to what some historians suggest,¹²⁷ Zheng Jing did not

¹²¹ HUNG CHIEN-CHAO, *supra* note 86, at 96, 99.

¹²² *Id.* at 103.

¹²³ *Id.* at 101, 103.

¹²⁴ *Id.* at 102, 104, 107–8.

¹²⁵ *Id.* at 108–16.

¹²⁶ *Id.* at 120.

¹²⁷ *E.g.*, HSUEH HUA-YUAN ET AL., *supra* note 89, at 53 (noting that "Zheng Jing formally established the Kingdom of Dongning in Taiwan after retreating from the mainland in 1664."); PAO-TSUN TAI

create a new kingdom in 1664 by changing the capital's name and adopting a new state name. The Dongning Kingdom was the same kingdom established by his father, Zheng Chenggong, in 1661.¹²⁸

Zheng Jing ruled western Taiwan for 19 years from his succession in 1662 to his death in 1681, and his reign was regarded by some people as “Taiwan’s first Golden Age.”¹²⁹ Interestingly, as Jonathan Manthorpe notes,

There is a temptation to see a parallel between the era of the [Z]heng dynasty and modern Taiwan. Chiang Kai-shek can be seen as the counterpart to Koxinga [i.e., Zheng Chenggong], the father of the nation. Chiang Ching-kuo, the generalissimo’s son, fostered the island’s development as Cheng Ching [i.e., Zheng Jing] did.¹³⁰

The Dongning Kingdom attached great importance to its foreign trade and relations, in particular, those with China, Japan, Britain, and the Netherlands.¹³¹ Even after the Qing’s adoption of “coastal removal policy” along China’s southeast coast to prohibit contacts with Taiwan, the Dongning still found its way to conduct smuggling trades with China and even became Asia’s maritime trade center for distributing the Chinese

(BAOCUN DAI), JIAN MING TAIWAN SHI [THE CONCISE HISTORY OF TAIWAN] 127–28 (2007) (stating that Zheng Jing “established a kingdom [in 1664] in Taiwan, named Tongning”).

¹²⁸ PENG MING-MIN & NG YUZIN CHIAUTONG (HUANG ZHAO-TANG), *supra* note 114, at 24, 27; Wang Taisheng, *supra* note 112, at 62.

¹²⁹ HUNG CHIEN-CHAO, *supra* note 86, at 102–3; MANTHORPE, *supra* note 116, at 99.

¹³⁰ MANTHORPE, *supra* note 116, at 109.

¹³¹ For details of the maritime trades and external relations of the Dongning Kingdom, see HUNG CHIEN-CHAO, *supra* note 86, at 124–25, 128–45.

goods.¹³² Moreover, the Dongning Kingdom concluded trade agreements with the British East India Company, which addressed the ruler of the Dongning as the King of Tywan (i.e., Taiwan), King of Formosa, and Your Majesty.¹³³ Arguably, the British–Dongning trade agreements constituted the British recognition of the statehood of the Dongning Kingdom.

6.4.2.2 The Dongning’s Continued Use of the Yongli Emperor’s Era Name Would Not Make Western Taiwan a Part of Ming China

After the execution of the Yongli Emperor on June 11, 1662,¹³⁴ Zheng Chenggong (who died only a few days later on June 23, 1662) and his successors continued to use Yongli’s era name, and that is often seen to reflect their continued “allegiance” to the Ming.¹³⁵ It also leads some historians to mistake the Zheng’s rule in Taiwan as a part of the history of the [Southern] Ming.¹³⁶ Hung Chien-Chao even goes so far to note that “[Zheng’s] Taiwan was still a living part of the long deceased Ming Empire,” which “might have ended in China in 1662, but it continued to function without an emperor in

¹³² *Id.* at 124–26.

¹³³ REPORT RELATIVE TO THE TRADE WITH THE EAST INDIES AND CHINA, FROM THE SELECT COMMITTEE OF THE HOUSE OF LORDS APPOINTED TO INQUIRE INTO THE MEANS 392–94 (1829); HUNG CHIEN-CHAO, *supra* note 86, at 133–36; *see also* PENG MING-MIN & NG YUZIN CHIAUTONG (HUANG ZHAO-TANG), *supra* note 114, at 8–9.

¹³⁴ WAKEMAN, *supra* note 23, at 1035.

¹³⁵ *E.g.*, HUNG CHIEN-CHAO, *supra* note 86, at 97, 101.

¹³⁶ *E.g.*, QIAN HAIYUE, NAN MING SHI [HISTORY OF THE SOUTHERN MING], publisher’s note vi, preface iii (2006) (China).

Taiwan until 1683, for the Zheng government existed as a regional administration of the Ming.”¹³⁷

However, from both historical and legal points of view, without a new and restored Ming court, the Chinese Ming Empire would undoubtedly become extinct in 1662 (not only in China, but also anywhere else in the world). The Dongning Kingdom’s continued use of the era name of Yongli Emperor could not possibly make Taiwan a part of the “deceased” Ming Empire (not to mention that the Zheng’s “allegiance” to the Ming was actually quite nominal). Zheng Chenggong’s successors surely knew well that the prolonged absence of a reigning emperor of Ming would inevitably end the Ming Dynasty. They, nevertheless, deliberately “failed to set up and pledge allegiance to another Ming emperor,”¹³⁸ despite the fact that some members of Ming imperial family not only were still alive but also took refuge in Taiwan.¹³⁹

Moreover, in reality, the use of an emperor’s era name itself only had symbolic meaning, representing neither legal jurisdiction nor effective control of the empire. Therefore, it could not be properly seen as evidence of territorial sovereignty. It is well observed that an empire’s era names were also quite commonly extended to its tributary

¹³⁷ HUNG CHIEN-CHAO, *supra* note 86, at 163, 174.

¹³⁸ HSUEH HUA-YUAN ET AL., *supra* note 89, at 50.

¹³⁹ LUO FENMEI, BEI WU JIE DE TAIWAN SHI: 1553–1860 ZHI SHI SHI WEI BI SHI SHI SHI 149–52 (2013).

states,¹⁴⁰ which, while within the tributary orbit of the imperial center, were not under the empire's effective control and formal sovereignty.

Furthermore, in some rare cases (e.g., in the Dongning Kingdom in Taiwan in the 17th century, and Joseon Korea in the 17–19th centuries), for ideological reasons, an emperor's era name continued to be used after the death of the emperor and even the fall of the empire. In 1637, Joseon Korea was forced to recognize Qing suzerainty and adopt Qing era names in Qing–Korean diplomatic communications. But even after that, the Joseon government and Korean scholars still viewed the Manchu Qing as a “barbarian” regime and more or less continued to use “Chongzhen” (the era name of Ming Sizong, the last Ming emperor who ruled from Beijing) in the Korean governmental documents and private works until the end of the 19th century.¹⁴¹

By continuously using the era name of “Chongzhen” in Korea for more than two and a half centuries, Joseon Korea showed its “pro-Ming, anti-Qing sentiments.”¹⁴² But that certainly did not make Korea a part of “deceased” Ming China. Likewise, the Dongning Kingdom's continuous use of the era name of “Yongli” in Taiwan was also symbolic and

¹⁴⁰ ENDYMION PORTER WILKINSON, *CHINESE HISTORY: A NEW MANUAL* 507–9 (rev. ed. 2012).

¹⁴¹ *Id.* at 508; JaHyun Kim Haboush, *Contesting Chinese Time, Nationalizing Temporal Space: Temporal Inscription in Late Choson Korea*, in *TIME, TEMPORALITY, AND IMPERIAL TRANSITION: EAST ASIA FROM MING TO QING* 115, 115–16, 131–32 (Lynn A. Struve ed., 2005).

¹⁴² WILKINSON, *supra* note 140, at 508.

ideological, and that would not legally make Taiwan a part of the “extinct” Chinese Ming Empire.

6.4.2.3 The Qing–Dongning Peace Negotiation and the Qing Conquest of Dongning

During the Qing–Dongning peace negotiation, Zheng Jing always insisted on the Dongning’s independence, emphasizing that the Zheng “have established the Kingdom of Dongning far away in the great ocean and beyond the territories of the [Qing] Empire.”¹⁴³ Meanwhile, as shown below, the Qing Empire initially had no plan to conquer the Dongning Kingdom and was willing to recognize the Dongning as a tributary state staying outside the Qing territory.

Between 1667 and 1677, the Qing Empire prepared to make peace with the Dongning Kingdom under three major conditions: the ruler of Dongning needed to call himself “servant” or “vassal” (*chen*), pay tributes, and wear the Manchu-style queue for himself and all his male subjects.¹⁴⁴ However, Zheng Jing could not agree to adopt the “barbarian” Manchu hairstyle, and insisted on following “the precedent of Korea,” which

¹⁴³ HSUEH HUA-YUAN ET AL., *supra* note 89, at 53–54.

¹⁴⁴ HUNG CHIEN-CHAO, *supra* note 86, at 140–42.

had allowed Koreans to keep their hairstyle unchanged after the Qing established suzerainty over Korea.¹⁴⁵

During the Rebellion of the Three Feudatories, Zheng Jing's army participated in the war in China from 1674 to 1680, causing the Qing Empire to offer better peace terms (based on the precedent of Korea) to the Dongning Kingdom between 1677 and 1680.¹⁴⁶ But Zheng Jing responded with new demands, asking the Qing to cede four prefectures in China to him and to open trade between Taiwan and China. That eventually made the Qing end the peace talks.¹⁴⁷

After Zheng Jing's death in 1681, his son Zheng Keshuang was enthroned as the new King of Dongning and started a period of unrest, which was soon ended with the Dongning's surrender to the invading Qing naval forces in 1683.¹⁴⁸ Right after the conquest, the Qing court, however, was not sure whether to keep or to abandon the conquered lands in western Taiwan, which had previously never been a part of any Asian (regardless of Chinese or non-Chinese) empire.¹⁴⁹

As mentioned by Alan M. Wachman, most officials at the Qing court viewed Taiwan as a "remote, uncivilized, and inconsequential" island, which was not worth "expending

¹⁴⁵ *Id.*

¹⁴⁶ *Id.* at 142–43, 150.

¹⁴⁷ *Id.* at 142–43.

¹⁴⁸ *Id.* at 163–67.

¹⁴⁹ Wills, *supra* note 117, at 102.

additional resources to maintain a garrison” there.¹⁵⁰ These officials, therefore, advised the Kangxi Emperor to evacuate all the Han Chinese settlers from the island back to China, and not to annex Taiwan into the empire.¹⁵¹ The Kangxi Emperor himself also initially held that “Taiwan is a place beyond the seas; it is of no consequence to us,” and even said that “[Taiwan] is no bigger than a ball of mud. We gain nothing by possessing it, and it would be no loss if we did not acquire it.”¹⁵²

Earlier, Shi Lang (the commander of the Qing naval forces for conquering the Dongning) had asked the Dutch whether it would buy Taiwan back, but he received no prompt and positive reply.¹⁵³ Now, he dramatically changed his position, arguing Taiwan’s strategic value as a “hedgerow” or “fence” (*fanli*) to protect the four southeastern coastal provinces of the Qing, and he urged the incorporation of Taiwan into the empire.¹⁵⁴

The Kangxi Emperor eventually adopted Shi Lang’s proposal and decreed the formal annexation of the former territory of the Dongning on May 27, 1684.¹⁵⁵

¹⁵⁰ WACHMAN, *supra* note 100, at 55.

¹⁵¹ John R. Shepherd, *The Island Frontier of the Ch’ing, 1684-1780*, in TAIWAN: A NEW HISTORY 107, 108 (Murray A. Rubinstein ed., exp. ed. 2007).

¹⁵² WACHMAN, *supra* note 100, at 55; for the original Chinese text, see 5 QING SHI LU [QING VERITABLE RECORDS], 2 DA QING SHENGZU REN HUANGDI SHI LU [THE VERITABLE RECORDS OF QING SHENGZU], at 155 (Beijing, Zhonghua Shu Ju 1985) (China).

¹⁵³ JOHN E. WILLS, JR., EMBASSIES AND ILLUSIONS: DUTCH AND PORTUGUESE ENVOYS TO K’ANG-HSI, 1666–1687, at 148, 151–52 (1984); *see also* Wills, *supra* note 117, at 102.

¹⁵⁴ HUNG CHIEN-CHAO, *supra* note 86, at 178–79; TENG, *supra* note 100, at 43–44.

¹⁵⁵ HUNG CHIEN-CHAO, *supra* note 86, at 179.

Nonetheless, as will be discussed in Chapter 8, even by the time of the cession of Taiwan from the Qing to Japan in 1895, the Qing rule in Taiwan basically had only extended to western Taiwan. Moreover, in Qing times, Taiwan was always considered as a “peripheral” island outside the Chinese heartlands, rather than an “inalienable” part of “China.”

6.4.3 The Subjugation of Outer Manchuria

Soon after the Qing conquest of the Dongning in 1683, the Kangxi Emperor began to deal with the northern border issues caused by the Russian Romanov Empire. By that time, the Romanov Empire had dominated Siberia, establishing outposts on the borders of the Khalkha Mongol’s territories in Outer Mongolia and also on the frontiers of the Wild Jurchen’s lands in the Amur region.¹⁵⁶

After some military conflicts, the Qing Empire and the Romanov Empire concluded the Treaty of Nerchinsk in 1689, which had the authoritative Latin and the translated Manchu and Russian versions, but no official Chinese copy.¹⁵⁷ The treaty, among other things, opened the trans-border trade and recognized most of the Amur River Basin as

¹⁵⁶ 9 CAMBRIDGE, *supra* note 3, at 150; MOTE, *supra* note 8, at 871–73.

¹⁵⁷ 9 CAMBRIDGE, *supra* note 3, at 151–53; 17 ZHONGGUO TONG SHI [A HISTORY OF CHINA], QING SHI QI (SHANG CE) [THE QING PERIOD (PART 1)], 386–88 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 17 TONG SHI].

Qing territory.¹⁵⁸ That included an area sometimes known as “Outer Manchuria” (or misleadingly “Outer Northeast”). Being a part of the present-day Russian Far East, “Outer Manchuria” was a large piece of land lying north of the Amur River, east of the Argun River, and south of the Stanovoy or Outer Khingan Range, and stretching all the way east to the Pacific Ocean.¹⁵⁹

The Treaty of Nerchinsk of 1689 has been commonly (but mistakenly) regarded as the first treaty ever signed by “China” (or a “Chinese” dynasty or empire) with a Western or European power. Consequently, the “Manchu” Qing’s Outer Manchuria has been misunderstood as a part of “China” or a “Chinese” territory.¹⁶⁰ In the Manchu version of the Treaty of Nerchinsk, the Qing Empire was indeed referred to as the Manchu term *Dulimbai gurun* (the standard Manchu translation for the Chinese term *Zhongguo*; *Dulimbai* means “middle” or “central,” and *gurun* means “country” or “state”).¹⁶¹ That, however, should only be interpreted literally as a “central state,” rather than a “Chinese

¹⁵⁸ TANNER, *supra* note 97, at 41.

¹⁵⁹ BYRON N. TZOU, CHINA AND INTERNATIONAL LAW: THE BOUNDARY DISPUTES 47 (1990); MOTE, *supra* note 8, at 874; for a map showing the Russo–Qing border of 1689, see CROSSLEY, *supra* note 1, at 166.

¹⁶⁰ E.g., MOTE, *supra* note 8, at 874; PETER ALLAN LORGE, WAR, POLITICS AND SOCIETY IN EARLY MODERN CHINA, 900–1795, at 160–61 (2005); NIKOLAS K. GVOSDEV & CHRISTOPHER MARSH, RUSSIAN FOREIGN POLICY: INTERESTS, VECTORS, AND SECTORS 124 (2013); 17 TONG SHI, *supra* note 157, at 386–88.

¹⁶¹ “The origin of the [Manchu] word *Dulimbai* can be traced to another Manchu word, *dulin*, meaning “middle,” “central”; *gurun* means “country.” See Gang Zhao, *Reinventing China: Imperial Qing Ideology and the Rise of Modern Chinese National Identity in the Early Twentieth Century*, 32 (No. 1) MODERN CHINA 3, 8 (2006).

state” or “China,” since the Manchu rulers by no means regarded their “Manchu” empire as a “Chinese” empire.

Therefore, the Treaty of Nerchinsk did not recognize Outer Manchuria as a territory of “China,” but as a territory of a “central state,” in particular, the “Manchu” Qing Empire. After all, Outer “Manchuria” was part of the homeland of Jurchens/Manchus. There is no reason for the “Manchu” rulers to make their “Manchu” homeland part of conquered “China” and convert it into “Chinese” territory.

6.4.4 The Subjugation of Outer Mongolia, and Conquests of Qinghai and Xinjiang

6.4.4.1 The Rise of the Zunghar State/Khanate

By signing the Treaty of Nerchinsk in 1689, the Qing Empire successfully prevented the Russian Empire from allying with the Zunghar State/Khanate (1635/1678–1757), the rising nomadic power from what was historically known as Zungharia or “Western Mongolia” (roughly, present-day northern Xinjiang).¹⁶² The Zunghar rulers’ connection to Tibetan Buddhism was critical to the legitimacy of the Zunghar State.¹⁶³ As noted in Chapter 5, the mass conversion of the Mongols to Tibetan Buddhism started by the historic meeting between Altan Khan and the Third Dalai Lama in 1578. Being a

¹⁶² PERDUE, *supra* note 18, at 32, 104, 138–41, 274; JAMES A. MILLWARD, *EURASIAN CROSSROADS: A HISTORY OF XINJIANG* 88–89 (2007).

¹⁶³ MILLWARD, *supra* note 162, at 90.

descendant of Esen Taishi (r. 1438/1453–1454), the Zunghar leader Baatur (r. 1635–53) received the title of “Erdeni Baatur Khung-Taiji” from Tibet’s Fifth Dalai Lama (1617–82; r. 1642–82) and declared himself the sole leader of the Oirats (Western Mongols) in 1635. That made him popularly to be considered as the founder of the Zunghar State or even “Khanate.”¹⁶⁴ However, not being a Chinggisid, Baatur in fact never formally became a “khan” but only claimed the title of “khung-taiji” (i.e., hong-taiji), meaning “viceroy to the khan.”¹⁶⁵

In 1640, Baatur Khung-Taiji participated in a *khuriltai* (great assembly), which was called by the Khalkha Mongol’s Zasagtu Khan Subadai.¹⁶⁶ As Perdue notes, the *khuriltai* of 1640 “represented the high point of efforts to gather the [Khalkha and Oirat] Mongols together in a loosely united confederation.”¹⁶⁷ Participated in by the khans and princes (*taiji*) of the Khalkha and Oirat Mongols and also the representatives of Tibetan lamas, the *khuriltai* of 1640 agreed on the Khalkha–Oirat Code (also known as Mongol–Oirat Code), which, among other things, aimed to unite the Khalkha and Oirat Mongols against internecine conflicts as well as outside threats (in particular, the increasing threat

¹⁶⁴ CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 170, 193, 621–22 (2004); PERDUE, *supra* note 18, at 104; BANBUERHAN, *supra* note 60, at 163, 166.

¹⁶⁵ PERDUE, *supra* note 18, at 104–5; ATWOOD, *supra* note 164, at 421 (“By 1640 the title *taishi* was almost wholly replaced by *khung-taiji* Derived from Chinese *huang-taizi*, ‘crown-prince,’ and originally containing the idea of Chinggisid blood, *khung-taiji* became the title of great Oirat rulers, while the lesser nobility of the Oirats became *taiji*.”).

¹⁶⁶ ATWOOD, *supra* note 164, at 389.

¹⁶⁷ PERDUE, *supra* note 18, at 107.

from the Manchus), and declared Tibetan Buddhism the official religion of all the Mongols.¹⁶⁸

However, as noted by Perdue, “[i]n the 1640s serious internal wars broke out among the Oirats,” and “[t]he true unification of the Oirats as a ‘Khanate’ occurred only in 1678, when Galdan received the title of Boshoktu [i.e., Boshogtu] Khan from the [Fifth] Dalai Lama.”¹⁶⁹ Galdan Khan (r. 1671–97) was born in 1644 as a son of Baatur Khung-Taiji and a grandson of Gushri Khan of the Khoshut Mongols on his mother’s side.¹⁷⁰ Soon recognized as the rebirth of the Tibetan incarnate lama dBen-sa sPrul-sku, young Galdan was sent to Tibet to be trained as a lama, firstly, under the Fourth Panchen Lama and, then, under the Fifth Dalai Lama.¹⁷¹

Galdan succeeded as the Zunghar ruler and assumed the title of Khung-Taiji in 1671 with the Fifth Dalai Lama’s approval. Although not being a Chinggisid, he was further bestowed the title of Boshogtu Khan (“Khan with the Heavenly Mandate”) in 1678 by the Fifth Dalai Lama to confirm his undisputed leadership over all the Oirat Mongols.¹⁷² As

¹⁶⁸ *Id.* at 107–8; ATWOOD, *supra* note 164, at 389; MENG GU ZU TONG SHI, vol. 2, at 213–15 (Nei Menggu She Hui Ke Xue Yuan [Inner Mongolia Academy of Social Science] ed., rev. ed., Beijing, Min Zu Chu Ban She 2001) (China).

¹⁶⁹ PERDUE, *supra* note 18, at 104, 108.

¹⁷⁰ J. Miyawaki, *History of The Dzungars: Introductory Survey*, in 5 HISTORY OF CIVILIZATIONS OF CENTRAL ASIA, DEVELOPMENT IN CONTRAST: FROM THE SIXTEENTH TO THE MID-NINETEENTH CENTURY 141, 147 (Chahryar Adle & Irfan Habib eds., 2003).

¹⁷¹ MENG GU ZU TONG SHI, *supra* note 168, vol. 2, at 221; Miyawaki, *supra* note 170, at 147 (mistakenly stating that Galdan was taught by “the first Panchen Lama”).

¹⁷² ATWOOD, *supra* note 164, at 193; Junko Miyawaki, *The Legitimacy of Khanship among the Oyrat (Kalmyk) Tribes in Relation to the Chinggisid Principle*, in THE MONGOL EMPIRE AND ITS LEGACY 319,

Junko Miyawaki notes, being “a onetime Dge-lugs-pa [i.e., Gelug Sect] monk and now patron of the sect,” Galdan “was an ideal ally to the Dalai Lama, and his relation by blood to Gushri Khan must have weighed decisively in favor of his khanship.”¹⁷³

After consolidating his rule in the Oirat homeland of Zungharia (roughly, northern Xinjiang), Galdan Khan conquered the Turfan and Tarim Basins (essentially, southern Xinjiang or East Turkestan) in 1679–81, marched westward regularly and raided the Kazakhs and the Kyrgyz, and eventually turned his attention to the east and invaded the Khalkha Mongol’s territory (i.e., Northern or Outer Mongolia) in 1688, bringing the Zunghar Khanate into direct competition with the Qing Empire.¹⁷⁴

As a result of Galdan Khan’s initial victories, the first Jebtsundamba Khutuktu (who was the supreme incarnate lama of Mongolia, claiming equal with the Dalai Lama of Tibet) and the Khalkha’s Tüshiyetü Khan Chakhundorji, princes, and lots of refugees were driven southward into the Qing-controlled Inner Mongolia to seek the Qing protection.¹⁷⁵ After some hesitation, the Qing Kangxi Emperor agreed to provide them

328–29 (Reuven Amitai-Preiss & David O. Morgan eds., 1999); PERDUE, *supra* note 18, at 140 ((*Bushuktu* [i.e., Boshogtu], derived from the Mongolian “Boshugh” (decree of Heaven, fate, destiny, command) has very similar connotations to the Chinese concept of the “Mandate of Heaven.”)).

¹⁷³ Miyawaki, *supra* note 172, at 329.

¹⁷⁴ Miyawaki, *supra* note 170, at 147–48; ATWOOD, *supra* note 164, at 193–94, 622–23; MILLWARD, *supra* note 162, at 90–91; MENG GU ZU TONG SHI, *supra* note 168, vol. 2, at 229–30.

¹⁷⁵ PERDUE, *supra* note 18, at 147–49; ATWOOD, *supra* note 164, at 300.

protection, relief grain, livestock, and other supplies, and eventually decided to go to war with the Zunghar Khan, Galdan.¹⁷⁶

Galdan's ultimate goal, as popularly believed, was to reunite all the Mongols into a restored "Great Mongol Empire" and to patronize the Tibetan Gelug Sect headed by Dalai Lama.¹⁷⁷ However, as Christopher P. Atwood notes, Galdan's position soon deteriorated, as his nephew Tsewang Rabdan revolted in the Zungharian homeland, and "the Qing secured Russian neutrality by the Treaty of Nerchinsk" in 1689.¹⁷⁸ In 1690, after invading Inner Mongolia, Galdan was defeated by the Qing armies at Ulan Butong (350 kilometers north of Beijing), but still able to make his escape.¹⁷⁹

6.4.4.2 Qing Subjugations of Outer Mongolia (Khalkha Mongol) and Qinghai (Amdo, or Kokonor)

In 1691, at a *khuriltai* (great assembly) held at Dolon-Nor, the first Jebtsundamba Khutuktu and the Khalkha Mongol's khans and other nobles formally recognized the Kangxi Emperor as their Great Khan (*khagan*) and submitted the Khalkha territory to the

¹⁷⁶ PERDUE, *supra* note 18, at 149–52; MILLWARD, *supra* note 162, at 91.

¹⁷⁷ PERDUE, *supra* note 18, at 189; MENG GU ZU TONG SHI, *supra* note 168, vol. 2, at 238; BANBUERHAN, *supra* note 60, at 184.

¹⁷⁸ ATWOOD, *supra* note 164, at 194, 550.

¹⁷⁹ *Id.* at 194; PERDUE, *supra* note 18, at 155–58, 189 ("Contrary to later accounts, [the result of Battle of Ulan Butong] was not an overwhelming victory for the Qing. Galdan escaped, and Commander Tong Guogang, the Kangxi emperor's uncle, was killed in the battle").

Qing Empire.¹⁸⁰ Nonetheless, despite the Qing's "formal" (i.e., nominal) incorporation of the Khalkha territory (i.e., Outer Mongolia) in 1691, not until 1696 did the Qing troop actually march into Outer Mongolia, decisively defeat the Zunghar army at Jao Modo, and drive Galdan to flee westward.¹⁸¹ Galdan Khan died suddenly on April 4, 1697, most likely because of illness or poison.¹⁸² Around the same time, the Uyghur chief of Hami (a strategic oasis in East Turkestan) and the Mongol princes in Qinghai (Amdo or Kokonor; historically, northeastern Tibet) also "submitted" — though, in reality, temporarily and nominally — to the Qing in 1696 and 1698 respectively.¹⁸³

Nevertheless, as Perdue notes, Galdan's death in 1697 "by no means ended the power of the Zunghar state," and "[f]or the first half of the eighteenth century, the three empires [namely, the Manchu Qing, Mongolian Zunghar, and Russian Romanov empires] maintained an uneasy coexistence, interacting more through trade than through war."¹⁸⁴ Under the rule of Galdan's nephew and successor Tsewang Rabdan (r. 1697–1727), the Zunghar Khanate reached the peak of its power; and Tsewang Rabdan's son Galdan

¹⁸⁰ PERDUE, *supra* note 18, at 175–76; CROSSLEY, *supra* note 22, at 315; ATWOOD, *supra* note 164, at 148.

¹⁸¹ ATWOOD, *supra* note 164, at 194; PERDUE, *supra* note 18, at 180–90, 193–94; *see also* MOTE, *supra* note 8, at 875–76.

¹⁸² PERDUE, *supra* note 18, at 202–3.

¹⁸³ MENGGU ZU TONG SHI, *supra* note 168, vol. 2, at 265, 272, 277; PERDUE, *supra* note 18, at 199, 200; CROSSLEY, *supra* note 22, at 315.

¹⁸⁴ PERDUE, *supra* note 18, at 209.

Tseren (r. 1727–45) continued to keep the Zunghar state united and to compete with the Qing Empire and the Romanov Empire.¹⁸⁵

During the reign of the Yongzheng Emperor (r. 1722–35), the Qing Empire in 1724 forcibly conquered and incorporated Amdo (also known as Kokonor in Mongolian, and Qinghai in Chinese), ending the Khoshut Mongols' autonomy in the area and preventing them from forging an anti-Qing alliance with the Zunghar Mongols.¹⁸⁶ Moreover, in 1727 the Qing Empire and the Romanov Empire signed the Treaty of Kyakhta, which, among other things, delineated the boundary between Qing's Outer Mongolia and Russia's Siberia (by the line from the Sayan Mountains and Shabin-Dabaga in the west through Kyakhta to the Argun River in the east). The treaty and also deepened the Qing–Russian trade and diplomatic relations.¹⁸⁷ Although successfully reassuring the Russian neutrality, the Yongzheng Emperor still failed to destroy the Zunghar Khanate, and his aggressive expeditions to the Zunghar led to nothing but “a military disaster.”¹⁸⁸

¹⁸⁵ *Id.* at 209–10.

¹⁸⁶ *Id.* at 243–47, 310–14; YINGCONG DAI, *THE SICHUAN FRONTIER AND TIBET: IMPERIAL STRATEGY IN THE EARLY QING* 4, 95 (2009).

¹⁸⁷ PERDUE, *supra* note 18, at 161, 250; TZOU, *supra* note 159, at 47.

¹⁸⁸ PERDUE, *supra* note 18, at 250–55.

6.4.4.3 Qing Conquest of the Zunghar Khanate, and Annexation of Xinjiang (Zungharia and East Turkestan)

During the early reign of the Qianlong Emperor (r. 1735–96), the Qing Empire and Zunghar Khanate concluded a peace treaty in 1739, which delineated their boundary by the Altai Mountains and Uvs Lake (Ubsa Nor) and brought 15 years of peace and close trading relations between the two empires.¹⁸⁹ However, soon after the death of Galdan Tseren in 1745, the unity of the Zunghar was destroyed by internecine conflict.¹⁹⁰ Seizing this opportunity, the Qing Empire destroyed the Zunghar Khanate in 1757 and deliberately “exterminated” the Zunghar people (known as the “Zunghar genocide”). By 1759, the Qing had also annexed the Uyghur oasis cities in the Turfan and Tarim basins, completing its conquest of Zungharia and East Turkestan, which together renamed Xinjiang (lit., “New Frontier” or “New Dominion”).¹⁹¹

¹⁸⁹ *Id.* at 257; BARFIELD, *supra* note 4, at 292.

¹⁹⁰ BARFIELD, *supra* note 4, at 292.

¹⁹¹ PERDUE, *supra* note 18, at 32, 256, 270–92; TANNER, *supra* note 97, at 42; James A. Millward & Peter C. Perdue, *Political and Cultural History of the Xinjiang Region through the Late Nineteenth Century*, in *XINJIANG: CHINA’S MUSLIM BORDERLAND*, 53–54 (S. Frederick Starr ed., 2004) (“At one point, [the Qianlong Emperor] ordered the massacre of all able-bodied Zunghars captured in battle and the enslavement of all their women and children, so as to obliterate their identity as a people. By the end of the campaigns, the entire Zunghar population of nearly 1 million people had disappeared, victims of massacre, disease, or flight. Roughly 30 percent died in battle, 40 percent died of smallpox, 20 percent fled to the Russians and Kazaks, and the rest vanished into the steppe.”).

6.4.5 The Domination over Tibet

As will be discussed in more detail in Chapter 8, contrary to popular belief, the Qing Empire never established sovereignty but only shortly maintained some political domination (hardly even suzerainty) over Tibet. Moreover, although some Chinese writers in the Republican era (1912–49) claimed the Qing’s sovereignty over Tibet, as Elliot Sperling notes, they actually tended to view Tibet as “a vassal state of the Qing” rather than “an integral part of China.”¹⁹²

6.5 The “Tripartite Multinational” Qing Emperorship

As Joanna Waley-Cohen comments, the scholars of the school of “New Qing History” have recently persuasively argued that “the Qing regarded China . . . as only a part” of their empire, which “drew as much on Inner Asian [e.g., Jurchen/Manchu, Mongolian, and Tibetan] traditions as on Chinese ones,” and the Qing Emperors presented “a different face to different [ethnic] subjects.”¹⁹³ Based on their new narratives, this research argues that the Qing Emperorship (or Rulership) actually consisted of the Jurchen/Manchu Khaganship, Mongol Khaganship, and Chinese Emperorship, making the Qing Empire more like a tripartite multinational “personal

¹⁹² Elliot Sperling, *Tibet, in* DEMYSTIFYING CHINA: NEW UNDERSTANDINGS OF CHINESE HISTORY 145, 146 (Naomi Standen ed., 2013).

¹⁹³ Joanna Waley-Cohen, *The New Qing History*, 88 RADICAL HISTORY REVIEW 193, 194–95, 198 (2004).

union,” rather than a unitary “nation-state.” Not surprisingly, the era names of the Qing Emperors were all proclaimed in Manchu, Mongolian, and Chinese until the end of the empire.¹⁹⁴ However, as discussed in Chapter 8, regarding Tibet, the Qing Emperors were, religiously, patrons of Tibetan Buddhism, and, politically, at best, suzerains (rather than sovereign rulers) over Tibet.

6.5.1 The Jurchen/Manchu Khaganship

As noted earlier, Nurhaci established his court and his own state in 1587. In his diplomatic letters to Korea in 1605, the name and title that Nurhaci chose for his state and himself were written in or translated into Chinese as the “Jianzhou State” (Ch. *Jianzhou guo*) and “king” (Ch. *guo wang*).¹⁹⁵ In 1606, Nurhaci’s claim to khanship was recognized by his Khalkha Mongol allies, who addressed him as “Respected Khan” (Mo. *Kündelen Khan*). Correspondingly, Nurhaci’s Manchu title in *The Veritable Records of Manchu* was changed from the “Wise Prince” (Ma. *Sure Beile*) to the “Wise Respected Khan” (Ma. *Sure Kundulen Han*).¹⁹⁶ Contemporary Ming and Korean sources also

¹⁹⁴ ATWOOD, *supra* note 164, at 449, 628; ELLIOTT, *supra* note 16, at xxiii.

¹⁹⁵ YAN CHONGNIAN, *supra* note 20, at 158–59; ZHOU YUANLIAN, *supra* note 14, at 111.

¹⁹⁶ MANZHOU SHI LU, *supra* note 25, at 125–26; ZHOU YUANLIAN, *supra* note 14, at 108–9; *see also* WAKEMAN, *supra* note 23, at 55.

confirmed that Nurhaci proclaimed himself the khan, king, or ruler (*zhu*) of the Jianzhou State.¹⁹⁷

In 1616, when his unification of all Jurchens in Inner Manchuria was nearly completed, Nurhaci held a formal ceremony and openly declared his “imperial ambitions.”¹⁹⁸ He proclaimed himself the Jurchen/Manchu Great Khan by assuming the title of “[Great] Bright Khan designated by Heaven to Nourish the Various Nations” (Ma. *Abka Geren Gurun Be Ujikini Seme Sindaha [Amba] Genggiyen Han*; Ch. *Fu Yu Lie Guo Ying Ming Huangdi*),¹⁹⁹ and officially founded the [Later] Jin Khanate or Empire. Moreover, according to the Qing veritable records, at the ceremony of 1616, Nurhaci also adopted his own Chinese-style era name, “Mandated by Heaven” (Ma. *Abkai Fulingga*) or “Heavenly Mandate” (Ch. *Tianming*),²⁰⁰ although Nurhaci’s era name was very likely adopted after 1616, but no later than 1619.²⁰¹

According to Perdue, Nurhaci’s new imperial title also constituted “his claim to the Mongolian traditions of [imperial] leadership,” namely, “the ideal of a multinational ruler,

¹⁹⁷ ZHOU YUANLIAN, *supra* note 14, at 111; LI ZHITING ET AL., *supra* note 14, at 302.

¹⁹⁸ ELLIOTT, *supra* note 16, at 56.

¹⁹⁹ 1 QING TAIZU CHAO LAO MANWEN YUANDANG, *supra* note 25, at 62–63; QING TAIZU SHI LU, *supra* note 23, at 63–64; PERDUE, *supra* note 18, at 122; 9 CAMBRIDGE, *supra* note 3, at 37.

²⁰⁰ QING TAIZU SHI LU, *supra* note 23, at 64; 9 CAMBRIDGE, *supra* note 3, at 37.

²⁰¹ As Mark C. Elliott notes: “‘Before 1636, internal dating was done differently in Manchu than in Chinese. [Nurhaci’s era name] Tianming (lit. heavenly mandate) was used in Chinese-language documents, but its Manchu equivalent, Abkai fulingga (lit. blessed by Heaven) was not; instead, years were counted simply as the “*n*th year of the ‘Bright Khan’ [Ma. Genggiyen han].” The first year of Tianming was 1616, but the first instance in which it is actually used is in 1619, suggesting that this name was invented after 1616 though no later than 1619.’” See Elliott, *supra* note 31, at 63 n.3; see also CHEN JIEXIAN, *supra* note 28, at 34 (Taiwan).

or universal Khan (Mo. *gür qan, dalai-yin qaghan*), derived from the Buddhist ‘wheel-turning king’ (*chakravartin*).²⁰² However, according to Crossley, “so long as [Ligdan] Khaghan ruled in [Chahar]” and “proclaimed himself a universal Buddhist ruler in succession to Chinggis and Khubilai,” “the [Later] Jin claim to universal Buddhist kingship would be unconvincing to the majority in eastern Mongolia.”²⁰³

In 1625, Nurhaci moved the [Later] Jin capital to Shenyang, and started to build a new palace there.²⁰⁴ Shenyang, which renamed *Mukden hoton* in Manchu and *Shengjing* in Chinese in 1634 (see Map 1.13), remained the capital of the [Later] Jin/Qing until 1644. Thereafter, it was retained as an auxiliary capital of the empire.²⁰⁵

As discussed later, in 1636, Hung Taiji was formally recognized as “their” Great Khan by the Mongols of Southern Mongolia, and adopted the new dynastic name, Qing, for his empire. These changes in 1636, however, as Elliott notes, “did not mean the end of the Manchu nation.”²⁰⁶ Rather, as discussed in the next chapter, becoming a part of the “Great Qing Empire” (Ma. [*Amba*] *Daicing gurun*), the “Manchu State” (Ma. *Manju*

²⁰² “[Erdeni Baksi, an advisor to Nurhaci,] told Nurhaci that omens in the sky (the northern lights), so conspicuous in the years 1612, 1614, and 1615, indicated that the Mandate of Heaven was due to be changed soon. This interpretation, combining Central Eurasian reverence for Heaven with Chinese mandate theory, induced Nurhaci to proclaim the Latter Jin dynasty in 1616.” See PERDUE, *supra* note 18, at 122.

²⁰³ CROSSLEY, *supra* note 22, at 212.

²⁰⁴ MOTE, *supra* note 8, at 790.

²⁰⁵ EVELYN S. RAWSKI, *THE LAST EMPERORS: A SOCIAL HISTORY OF QING IMPERIAL INSTITUTIONS* 19 (1998).

²⁰⁶ ELLIOTT, *supra* note 16, at 72.

gurun) not only “lived on in the reorganized Eight Banners” but also continued to exist in Manchuria, the homeland of the Manchus.²⁰⁷

6.5.2 The Mongol Khaganship

After his victory over Ligdan Khan in 1634, Hung Taiji absorbed all Ligdan’s military, incorporated the Chahar princes into the [Later] Jin aristocracy, and acquired a massive golden statue of Mahākāla Buddha.²⁰⁸ This statue of Mahākāla was originally cast by 'Phags-pa Lama for Khubilai Khan,²⁰⁹ who, and whose successors, patronized the Sakya Sect of Tibetan Buddhism. Moreover, in 1635, Hung Taiji formally conquered the Mongol Yuan Empire and obtained the Yuan’s imperial seal, the symbol of Mongol Khaganship.

The above accomplishments allowed Hung Taiji to control the entire Southern or Inner Mongolia, lead more Mongolian forces, and, more importantly, to claim himself the “universal ruler” on the Mongol imperial model in succession to Chinggis and Khubilai.²¹⁰ His new claim over the Mongols, as noted earlier, encouraged him to downplay his empire’s political connection with the former Jurchen Jin and led him to officially adopt the name “Manchu” for essentially all his Jurchen subjects in 1635.

²⁰⁷ *See Id.*

²⁰⁸ Pamela Kyle Crossley, *The Historical Writing of Qing Imperial Expansion*, in 3 THE OXFORD HISTORY OF HISTORICAL WRITING, 1400–1800, 43, 46, 48 (José Rabasa et al. eds., 2012).

²⁰⁹ Elliott, *supra* note 31, at 46.

²¹⁰ 9 CAMBRIDGE, *supra* note 3, at 56; Elliott, *supra* note 31, at 46.

In 1636, at a formal ceremony in his capital at Mukden, Hung Taiji adopted a new honorific title, “Magnanimous, Warm, Benevolent, and Sagacious Khan” (Ma. *Gosin Onco Hūwaliyasun Enduringge Han*; Ch. *Kuan Wen Ren Sheng Huangdi*).²¹¹ He also changed the dynastic or state name from “Jin” or “Da Jin” (lit., Great Golden) to “Qing” or “Da Qing” (Ma. [*Amba*] *Daicing*, lit., “Great Warrior”; Ch. *Da Qing*, lit., “Great Pure”); and also proclaimed his new era name, Chongde (Ma. *Wesihun erdemungge*).²¹²

Also, at the ceremony of 1636, the princes of Southern Mongolia formally recognized Hung Taiji as their Great Khan,²¹³ followed by the Qing’s creation of the Mongol Bureau (Ma. *Monggo Jurgan*; Ch. *Menggu Yamen*) to administer the Mongolian affairs.²¹⁴ According to the Mongolian archives, Hung Taiji issued a decree in 1636 to the princes of Southern Mongolia, stating that: “In the event of the fall of the dynasty, all the laws existing previous to this date should again come into force.”²¹⁵ According to Urgunge Onon and Derrick Pritchatt, this decree showed “[a] clearer picture of the personal union between Southern Mongolia and Manchuria, which came about in 1636

²¹¹ NEIGE CANG BEN MAN WEN LAO DANG, vol. 18, at 995 (Zhong Guo Di Yi Li Shi Dang An Guan ed. & trans., Shenyang Shi, Liaoning Min Zu Chu Ban She 2009) (China) (1607–36); RYŌTARŌ SHIBA, THE TATAR WHIRLWIND: A NOVEL OF SEVENTEENTH-CENTURY EAST ASIA 373 (2007); 9 CAMBRIDGE, *supra* note 3, at 63 (mistakenly stating this title as “*Jen k’uan wen sheng huang-ti*” in Chinese).

²¹² 9 CAMBRIDGE, *supra* note 3, at 63; ELLIOTT, *supra* note 16, at 72, 402–3 n. 118; GIOVANNI STARY, “WHAT’S WHERE” IN MANCHU LITERATURE 7, 133, 343 (2005); *see also* WILKINSON, *supra* note 140, at 807.

²¹³ URGUNGE ONON & DERRICK PRITCHATT, ASIA’S FIRST MODERN REVOLUTION: MONGOLIA PROCLAIMS ITS INDEPENDENCE IN 1911, at 71 (1989).

²¹⁴ 9 CAMBRIDGE, *supra* note 3, at 62.

²¹⁵ HERBERT A. GILES, CHINA AND THE MANCHUS 21 (1912); *see also* ONON & PRITCHATT, *supra* note 213, at 72–73 (providing another translation: “In the event that the [Qing] dynasty should fall, then you will exist in accordance with the former basic laws”).

when they were united under the ruling [Qing] dynasty.”²¹⁶ Two years later in 1638, the Mongol Bureau was renamed as the “*Lifan Yuan*” in Chinese (often, but quite misleadingly, translated as the “Court of Colonial Affairs”) and as “*Tulergi golo be dasara jurgan*” in Manchu (lit., the “Ministry for Governing the Outer Provinces”).²¹⁷

As noted earlier, during the *khuriltai* or great assembly held at Dolon-Nor in 1691, the first Jebtsundamba Khutuktu and the Khalkha Mongol’s khans and other nobles recognized the Kangxi Emperor as their Great Khan, and submitted Northern or Outer Mongolia to the Qing Emperor. Beside the Qing’s military might and patronage of Tibetan Buddhism, the long-term marriage alliances between the Manchu imperial house and the Mongol noble families must also play a crucial role in the Khalkha’s recognition of the Mongol Khaganship claimed by the Kangxi Emperor, whose paternal grandmother was a Khorchin Mongol from the imperial Borjigin clan of Chinggis.²¹⁸

Moreover, the place of the *khuriltai* of 1691, Dolon-Nor, was apparently chosen carefully to reinforce the Qing Emperor’s image as the Mongol Great Khan. Dolon-Nor (Kaiping) was earlier the place that Khubilai was elected the Mongol Great Khan by the

²¹⁶ ONON & PRITCHATT, *supra* note 213, at 72.

²¹⁷ Ning Chia, *The Lifanyuan and the Inner Asian Rituals in the Early Qing (1644–1795)*, 14 (No. 1) LATE IMPERIAL CHINA 60, 61 (1993); Nicola Di Cosmo, *From Alliance to Tutelage: A Historical Analysis of Manchu-Mongol Relations before the Qing Conquest*, 7 (No. 2) FRONTIERS OF HISTORY IN CHINA 175, 182–83 (2012).

²¹⁸ Nicola Di Cosmo, *Marital Politics on the Manchu–Mongol Frontier in the Early Seventeenth Century*, in THE CHINESE STATE AT THE BORDERS 57, 61–63 (Diana Lary ed., 2007); Elliott, *supra* note 24, at 40.

khuriltai of 1260. Between 1263 and 1369, it was the site of the Mongol Yuan's Shangdu (Supreme Capital), which remained an important political and religious center and witnessed most of the *khuriltai* for the elections of new Mongol Great Khans during this period of time.²¹⁹

Ideologically, as James A. Millward comments, “to have the Khalkha Chinggisids as subjects of the Manchu emperors lent the Qing political legitimacy in Inner Asian affairs, aiding in their efforts to assume the Chinggisid mantle and the role of patron and protector of the [Tibetan] Gelugpa church.”²²⁰ Following the Khalkha Mongols, the Khoshut Mongols in Qinghai also recognized the Kangxi Emperor as their Great Khan and submitted to the Qing in 1698.²²¹ However, as noted earlier, the actual Qing control over Qinghai was established only later in 1724 (after the Yongzheng Emperor forcibly ended the Khoshut Mongol's autonomy in the area).

After his conquest of the Zunghar Khanate in 1757, the Qianlong Emperor became the Great Khan of virtually all the Mongols. By 1759, the Qing conquered and annexed basically all the former territories of the Zunghar Khanate and, as noted already, renamed the regions to Xinjiang.

²¹⁹ ATWOOD, *supra* note 164, at 497; 7 THE CAMBRIDGE HISTORY OF CHINA, THE MING DYNASTY, 1368–1644, PART 1, at 117 (Frederick W. Mote & Denis Twitchett eds., 1988).

²²⁰ MILLWARD, *supra* note 162, at 91.

²²¹ CROSSLEY, *supra* note 22, at 315.

As we can see, through the efforts of several generations from Hung Taiji to Qianlong, the Mongol Khaganship (Great Khanship) was eventually fully integrated into the Qing Emperorship. Arguably, the Mongols recognized the Qing Emperors as “their” Great Khan. In other words, the Qing Emperors ruled Inner Mongolia, Outer Mongolia, and Xinjiang as the Mongol Great Khans, rather than the Manchu Great Khans or the Chinese Emperors.

6.5.3 The Chinese Emperorship

After capturing Beijing in 1644, the Qing Empire soon made Beijing its principal capital and kept Mukden (Shengjing) as its auxiliary capital.²²² Earlier, the six-year-old child Shunzhi Emperor or Qing Shizu had been enthroned as the new Qing Emperor in Mukden on October 8, 1643.²²³ Nevertheless, Shunzhi “ascended to the throne of emperor” (Ch. *ji huangdi wei*) “again” in Beijing on October 30, 1644.²²⁴ Apparently, his enthronement in Beijing was to incorporate the Chinese Emperorship into the Qing Rulership.²²⁵

²²² WAKEMAN, *supra* note 23, at 451–53; PHILIPPE FORÊT, *MAPPING CHENGDE: THE QING LANDSCAPE ENTERPRISE* xv (2000).

²²³ 3 QING SHI LU [QING VERITABLE RECORDS], DA QING SHIZU ZHANG HUANGDI SHI LU [THE VERITABLE RECORDS OF QING SHIZU], 33 (Beijing, Zhonghua Shu Ju 1985) (China); WAKEMAN, *supra* note 23, at 299.

²²⁴ QING SHIZU SHI LU, *supra* note 223, at 91–92; ROWE, *supra* note 83, at 19.

²²⁵ See MOTE, *supra* note 8, at 821; Chen-main Wang, *Claiming Dynastic Legitimacy: Qing Strategies During Dorgon Era*, in *THE SCHOLAR’S MIND: ESSAYS IN HONOR OF FREDERICK W. MOTE* 147, 158 (Perry Link ed., 2009) (H.K.).

Having claimed the Chinese “Mandate of Heaven” in 1644 to rule China and Chinese people, the Qing court no longer recognized the legitimacy of the Ming emperors and was determined to conquer the rest of China.²²⁶ Nonetheless, the Qing Emperors’ claim to Chinese Emperorship was fulfilled only in 1662 (when the Qing eventually destroyed the last Ming court) and consolidated only in 1681 (when the Qing finally suppressed the Rebellion of the Three Feudatories). Unfortunately, as Michael C. van Walt van Praag comments, “[m]uch confusion has resulted from the careless and, at times, intentional practice of calling the Qing Empire Chinese,”²²⁷ when, as Owen Lattimore rightly points out, “what existed in fact was a Manchu Empire, of which China formed only one part.”²²⁸

6.6 The Qing Empire Was Not Founded by Hung Taiji in 1636, nor by the Shunzhi Emperor in 1644

Earlier, modern historians had generally agreed that the Qing Dynasty was founded in 1644 when the Shunzhi Emperor claimed the Chinese “Mandate of Heaven” after the Manchu capture of Beijing. However, such a view is contrary to the Qing’s own official position on the founding of the empire (as discussed below). Moreover, it is also biased

²²⁶ 9 CAMBRIDGE, *supra* note 3, at 82–83; SPENCE, *supra* note 92, at 32–37.

²²⁷ MICHAEL C. VAN WALT VAN PRAAG, *THE STATUS OF TIBET: HISTORY, RIGHTS AND PROSPECTS IN INTERNATIONAL LAW* 11 (1987).

²²⁸ OWEN LATTIMORE, *STUDIES IN FRONTIER HISTORY: COLLECTED PAPERS, 1928–1958*, at 77 (1962); *cited in* VAN PRAAG, *supra* note 227, at 11.

by the “re-imagined” presentation of a singular and linear “historical China,” under which, the Qing was distorted as merely a new “Chinese dynasty” seamlessly replacing the Ming in 1644.

Recently, some scholars of the “New Qing History” insisted on seeing 1636 as the Qing Empire’s “proper founding date.”²²⁹ As Waley-Cohen explains, “the change of date has taken place because 1636 was the year in which the Manchu leader, Hung Taiji, unambiguously proclaimed his intention of building an empire, which he named Qing.”²³⁰ Nonetheless, this revised view is still a misreading of history and contrary to the Qing’s official position.²³¹

As we have seen earlier in the cases of Khitan Liao, Tangut Xia, and Mongol Yuan, the adoption of new Chinese-style state or dynastic name would not create a new state or empire, and the new dynastic name should be applied to the whole period of the respective hereditary dynasty. That is why Abaoji, Li Jiqian, and Temujin (Chinggis Khan) — who had never used the dynastic names of Liao, Xia, and Yuan, respectively, in their lifetime — were all posthumously given the temple title of “Taizu” (Grand

²²⁹ See ROWE, *supra* note 83, at 6.

²³⁰ Waley-Cohen, *supra* note 193, at 195.

²³¹ E.g., Crossley, *supra* note 208, at 49 ((mistakenly noting that “Finally, in 1636, Hung Taiji was enthroned as ‘emperor’ (*huangdi*, *hūwangdi*), and announced the creation of a new empire, the Qing”)); DAI, *supra* note 186, at 40 (incorrectly referring to Hung Taiji as “the first emperor of the Qing dynasty”).

Progenitor), and were recognized as the dynastic founders by their successors respectively.

Likewise, in the case of Manchu Qing, Hung Taiji's adoption of the new dynastic name of "Qing" would not create a new empire, nor did it make Hung Taiji the founding emperor of the Qing. Therefore, the name of Qing should also be applied to the entire period of the hereditary Manchu Dynasty from 1616 to 1912.

Furthermore, the notions that Nurhaci had never been an "emperor" and that only in 1636 Hung Taiji changed his title "from khan to emperor"²³² are both mistaken. In fact, Nurhaci's and Hung Taiji's Manchu titles, "*han*" (khan; more correctly, khagan or great khan), were equivalent to "*huangdi*" in Chinese and "emperor" in English. Therefore, in the Qing official records, the imperial titles of Nurhaci, Hung Taiji, and also the Ming's Wanli Emperor were referred to as "*han*" in the Manchu language,²³³ and as "*huangdi*" or "*di*" in the Chinese language.²³⁴

²³² CROSSLEY, *supra* note 1, at 54 (mistakenly stating that: "The question of whether Nurgaci was ever an emperor in fact is easily resolved, then: He clearly was not"); JOHN POWERS, HISTORICAL DICTIONARY OF TIBET 539 (2012) (incorrectly stating that: "In 1636 [Hung Taiji] changed his own title from khan to emperor").

²³³ In Manchu language, the Wanli Emperor was written as "*wanli han*" or "*wan lii han*"; Nurhaci was referred to as "*genggiyan han*" (*abka geren gurun be ujikini seme sindaha [amba] genggiyen han*); and Hung Taiji was "*sure han*" before 1636, and "*enduringge han*" (*gosin onco hūwaliasun enduringge han*) after 1636. E.g., 1 QING TAIZU CHAO LAO MANWEN YUANDANG, *supra* note 25, at 8, 63; NEI GE CANG BEN MAN WEN LAO DANG, *supra* note 211, vol. 17, at 27, 508, 596; vol. 18, at 605, 616, 995, 1241, 1310, 1330.

²³⁴ E.g., QING TAIZU SHI LU, *supra* note 23, at 45, 64; QING TAIZONG SHI LU, *supra* note 68, at 23–25, 42–43.

In fact, Hung Taiji himself had never claimed his “creation” of the Great Qing Empire in 1636, nor did any subsequent Qing Emperor see Hung Taiji as the Qing founder. Instead, not only Hung Taiji posthumously gave his father, Nurhaci, the temple title of “Qing Taizu,” but also the entire imperial family unanimously recognized Nurhaci as the founding emperor of the Qing.²³⁵ Moreover, even in China’s Republican era (1912–49), the *Draft History of the Qing* (*Qing Shi Gao*; compiled by the government of the Republic of China) also still saw Nurhaci as the Qing founding emperor and recognized the 296 years (1616–1912) of the Qing imperial history.²³⁶

Therefore, the historical “reimagination” that the Qing was established in either 1636 or 1644 is not only factually incorrect but also theoretically problematic. Had the Manchus rulers never changed their dynastic name to Qing or had the Manchus never conquered Beijing and the rest of China, people holding those views, ironically, would have had no choice but to recognize the Manchu empire’s formation in Manchuria in 1616. Obviously, it does not make any sense to use what happened later (e.g., the adoption of new state name, or the move of capital into a newly conquered territory) to alter the original founding date of an existing state or empire.

²³⁵ CROSSLEY, *supra* note 22, at 25 n. 50; CROSSLEY, *supra* note 1, at 53.

²³⁶ 2 QING SHI GAO [THE DRAFT HISTORY OF THE QING] 1, 9, 17, 55 (Zhao Erxun et al. comps., Beijing, Zhonghua Shu Ju 1976) (China) (1928).

Interestingly, almost all historians rightly see the founding of the Khitan Liao Empire by Abaoji in the Manchurian–Mongolian borderlands in 907 (even before the later Khitan Emperor’s first adoption of the dynastic name Liao in 938 or 947), and they also correctly observe the establishment of the first Jurchen Jin Empire by Aguda in Manchuria in 1115 (even prior to the Jurchen conquest of North China in the 1120s and the move of principal capital to present-day Beijing in 1153). However, unfortunately, it appears that only very few modern historians still correctly recognize the creation of the Qing Empire by Nurhaci in Manchuria in 1616.²³⁷

6.7 Summary and Conclusion

In the 12–13th centuries, the Jurchens had established the Jin Empire (1115–1234) in Manchuria, colonized North China in its entirety, and moved their primary capital to Yanjing (modern Beijing) in 1153. After the fall of Jin, the Jurchens were ruled by the Mongol Yuan Empire (1206–1635) until the late 14th century. Subsequently, the Jurchens were divided into several self-governing tribes and sometimes formed loose confederations. The Chinese Ming Empire (1368–1662), which had no territorial sovereignty over most of Manchuria, regarded the Jurchens as “barbarians” and

²³⁷ *E.g.*, CHEN JIEXIAN, *supra* note 28, at 51.

distinguished them into three main groups, namely, the Jianzhou, Haixi, and Wild Jurchens.

In the late 16th and early 17th centuries, the fragmented Jurchens began to unite under a wealthy and powerful Jianzhou Jurchen chieftain, Nurhaci (r. 1587/1616–26). Nurhaci established his own state in about 1587 and proclaimed himself the Khan/King of Jianzhou/Manchu State no later than 1605, making himself a regional ruler of the Jurchen nation. Before long, Nurhaci gained the Mongolian and Chinese recognition of his supreme power (arguably, “sovereign power”) over his state, by receiving the title of “Respected Khan” from his Khalkha allies in 1606, and concluding the Liaodong border agreement with the Ming in 1608.

In Hetu Ala in 1616, Nurhaci openly declared his imperial ambition and officially founded (or “restored”) the Great Jin (Golden) Khanate/Empire (popularly known as the “Later” Jin), claiming the Jurchen/Manchu Khaganship in succession to the Jurchen imperial heritage of the 12–13th centuries Jin Empire. Moreover, he assumed the title of “[Great] Bright Khan designated by Heaven to Nourish the Various Nations” and adopted his own Chinese-style era name “Heavenly Mandate” (Ch. *Tianming*), according to the Mongol imperial tradition of “universal khan” and the Chinese imperial ideology of “Mandate of Heaven,” respectively. By 1619, Nurhaci achieved his unification of

Jurchens in Inner Manchuria. He officially declared war against the Chinese Ming in 1618 and conquered Ming Liaodong in 1621. In 1625, he then moved the [Later] Jin's imperial capital to Shenyang, which renamed "Mukden hoton" in Manchu and "Shengjing" in Chinese by Hung Taiji in 1634.

Nurhaci's successor, Hung Taiji (Qing Taizong; r. 1626–43), forced Joseon Korea to pay tributes to the [Later] Jin by two peace treaties in 1627, while allowing Korea to continue to recognize Ming China's suzerainty. Hung Taiji then turned his attention to the threat from the Mongol Yuan's last legitimate Chinggisid Great Khan, Ligdan Khan (r. 1603–34), who ruled in Chahar in Inner Mongolia and sought to unify all the Mongols. In 1635, Hung Taiji formally conquered the Mongol Yuan Empire, acquired the Yuan's imperial seal (the symbol of Mongol Khaganship) and annexed Inner Mongolia, allowing him to claim the legitimate Mongolian-style "universal khan" in succession to Chinggis and Khubilai. As a result, he officially renamed his people from "Jurchen" to "Manchu" later in the same year.

At a ceremony in Mukden in 1636, Hung Taiji took the new honorific title "Magnanimous, Warm, Benevolent, and Sagacious Khan" and officially adopted the new dynastic or state name, "Qing" or "Da Qing." At the same time, Hung Taiji claimed the Mongol Khaganship (Great Khanship) and was recognized as their Great Khan by the

Mongol princes of Inner Mongolia. He also established the Mongol Bureau, which was soon renamed as the Lifan Yuan in 1638.

However, contrary to what some historians suggest, Hung Taiji did not “change” his Manchu imperial title “*han*” (khan; more correctly, khagan or great khan) to the Chinese imperial title “*huangdi*” (often translated as emperor), nor did he create the Qing Empire in 1636. In fact, in the Qing records, the imperial titles of the Jurchen [Later] Jin/Manchu Qing Emperors and the Chinese Ming Emperors were all referred to as “*han*” in the Manchu language, and as “*huangdi*” or “*di*” in the Chinese language. Moreover, Hung Taiji and all the subsequent Qing Emperors recognized Nurhaci as “Qing Taizu,” meaning the founding emperor of the Qing. Like the earlier cases of the Khitan Liao, Tangut Xia, and Mongol Yuan (in which their adoption of new dynastic name, Liao, Xia, and Yuan, respectively, would not create a new empire or state), the adoption of new dynastic name Qing did not establish a new dynasty, and the name Qing should be applied to the whole period of the hereditary and imperial Manchu Dynasty (1616–1912).

The Qing invaded Korea again in 1636 and then forced Korea to sign a new peace treaty in 1637, which formally terminated the Chinese Ming’s suzerainty while establishing the Manchu Qing’s suzerainty over Korea. Eventually, Hung Taiji turned

his attention toward the conquest of China, but he suddenly died in 1643, only months before the Qing capture of Beijing.

After the Qing captured the Ming's principal capital at Beijing, the child Shunzhi Emperor (r. 1643–61) — who had been already enthroned as the Qing Emperor in Mukden in 1643 — was enthroned as emperor “again” in Beijing in 1644, apparently to integrate the Chinese Emperorship into the Qing Rulership. Also, in 1644, the Qing Empire made Beijing its primary capital and kept Mukden as its secondary capital. We should bear in mind that Beijing was previously the principal capital of not only the Chinese Ming but also the Jurchen Jin and Mongol Yuan. Moreover, had the Qing moved its main capital to Mongolia, that would not transform the entire Qing from a “Manchu” to a “Mongol” empire. Similarly, although the Manchu Qing made the newly-conquered Beijing its new principal capital, that would not convert the Qing from a “Manchu” to a “Chinese” empire.

Unfortunately, popular belief mistakenly views the “entire” Qing Empire as merely a new “Chinese dynasty” founded and replacing the Ming in 1644, creating the illusion that all the Qing's territories were “Chinese” territories. In fact, “China” under Manchu rule was only a part of the Qing Empire. Neither the Ming nor the Qing had ever viewed themselves as competing dynasties or governments of the “same” state or nation. The

Ming–Qing War (1618–62) was not a “Chinese civil war” but an “international war” between a Chinese empire and a Jurchen/Manchu empire. The conventional wisdom also fails to observe that the Qing capture of Beijing in 1644 was merely the beginning of the lengthy Qing conquest of China, which was fully accomplished only in 1681, following the destruction of the last Ming court in 1662, the expulsion the Zheng’s maritime power from southeastern China in 1664, and the suppression of the Rebellion of the Three Feudatories in 1681.

Moreover, the Qing conquest of western Taiwan in 1683 was separated from (though related to) the Manchu conquest of China. Contrary to popular belief, the Qing neither “restored” Taiwan to China nor “made” Taiwan part of China. In fact, the Chinese had long regarded Taiwan as a little-known “savage” island outside the Chinese domain and civilization. Moreover, the Zheng’s Dongning Kingdom (1661–83) in western Taiwan could not possibly make Taiwan part of the Chinese Ming, whose last imperial court not only went into exile in Burma in 1659 (about two years earlier than the founding of the Dongning) but which also formally ceased to exist on January 22, 1662 (only a few days before the Dutch surrender to and signing a peace treaty with the Dongning on February 1, 1662).

During their peace negotiation in 1667–80, the Qing Empire was willing to recognize the Dongning Kingdom as a tributary state staying outside the Qing domain. Moreover, in 1677, the Qing even agreed with the Dongning to follow “the precedent of Korea” and no longer demanded the males of the Dongning to adopt the Manchu-style queue. The Dongning, however, responded with new territorial demands, leading the end of the peace talks in 1680 and then to the Qing conquest of the Dongning in 1683. After some hesitation, the Qing formally annexed the former Dongning territory in 1684, with the end result being that the Qing rule in Taiwan essentially extended only to western Taiwan, which, nonetheless, was never perceived as an integral part of “China” in Qing times.

After conquering the Dongning, the Qing began to deal with the northern and western border issues caused by the rising power of the Russians and the Oirats (Western Mongols). In 1689, the Qing Empire concluded with the Russian Romanov Empire (1613–1917) the Treaty of Nerchinsk, which has been misunderstood as the first treaty ever signed between “China” and a Western power. However, the Qing Empire was not just “China,” which formed only a part of the Manchu-ruled Qing Empire. By this treaty, what was known as “Outer Manchuria” (in present-day Russian Far East) was,

arguably, recognized as the Manchu or the Qing's (rather than the Chinese or China's) territory.

To the west of the Qing, the ambition of Galdan Khan (r. 1671–97) to reunite all the Mongols into a Buddhist and restored Great Mongol Empire brought the Zunghar State/Khanate (1635/1678–1757) into direct competition with the Qing Empire. After consolidating his rule in Zungharia (northern Xinjiang), Galdan received the title of “Khan with the Heavenly Mandate” (Boshogtu Khan) from the Fifth Dalai Lama in 1678. Galdan conquered the Turfan and Tarim basins (southern Xinjiang) in 1679–81, and then invaded the Khalkha Mongol (Northern or Outer Mongolia) in 1688, causing the Khalkha leaders and refugees to flee into Qing-controlled Inner Mongolia.

In 1691, at the *khuriltai* (great assembly) held at Dolon-Nor, the religious and political leaders of the Khalkha Mongols formally recognized the Kangxi Emperor as their Great Khan, and submitted Outer Mongolia to the Qing Empire. Nonetheless, it was not until 1696 that the Qing troops marched into Outer Mongolia and drove Galdan Khan to flee westward. During the reign of the Yongzheng Emperor (r. 1722–35), the Qing conquered Qinghai (Amdo or Kokonor) in 1724, thereby ending the Khoshut Mongols' autonomy in the area. In 1727, the Qing Empire signed the Treaty of Kyakhta

with the Romanov Empire, delineating the boundary between Qing's Outer Mongolia and Russia's Siberia and reassuring Russia's neutrality in the Qing–Zunghar conflicts.

During the early reign of the Qianlong Emperor (r. 1735–96), the Qing and the Zunghar finally concluded a peace and territorial treaty in 1739. Nonetheless, taking advantage of the Zunghar internecine conflict, the Qing Empire “exterminated” the Zunghar Khanate and people in 1757, and annexed Xinjiang (Zungharia and East Turkestan) in 1759, hence reaching the territorial height of the empire. The Qing relation with Tibet has been long disputed and widely misunderstood. As will be discussed in Chapter 8, the Qing Empire only for a while established domination (but not sovereignty) over Tibet.

In conclusion, after a more careful examination of the Qing's empire-founding and territorial expansions, it becomes clear that the Qing was, in essence, a “Manchu empire,” or more precisely, a Manchu-ruled “tripartite multinational empire” (as argued in more detail in the next chapter). The Qing Empire, originally named the [Later] Jin Khanate, was established by Nurhaci in Manchuria in 1616. The Qing Empire was not founded by Hung Taiji when he formally adopted the new dynastic name Qing in 1636, nor was the Qing established merely as a “Chinese dynasty” when the child Shunzhi Emperor was enthroned “again” at Beijing in 1644.

On the eve of the Manchu capture of Beijing in 1644, the Qing Empire had already formally existed “outside China” for almost three decades, unified Inner Manchuria and conquered Inner Mongolia, and integrated both the Jurchen/Manchu Khaganship and Mongol Khaganship into the Qing Emperorship. In other words, the empire-building of the Qing in 1616 and its pre-1644 territorial expansions preceded and were entirely independent of its conquest of China. After incorporating the Chinese Emperorship into the Qing Rulership and finishing the conquest of China, the Qing Empire achieved further territorial expansions into western Taiwan, Outer Manchuria, Outer Mongolia, Qinghai, and Xinjiang, all of which, however, were also incorporated into the empire separately from the Qing annexation of China.

The nature of the Qing Empire has been commonly misunderstood and misrepresented, causing the confusion between the “Qing” and “China.” The Qing Empire did claim to be *Dulimbai gurun* (the standard Manchu translation for the Chinese term *Zhongguo*), but that only constituted the Qing’s self-claim to be a “central state” rather than a “Chinese state” or “China.” Undoubtedly, had the Qing Empire never conquered China Proper and had always remained outside China, no one would call the Qing Empire a “Chinese dynasty” or “China.” The consequence of the Qing conquest of China, naturally and logically, made China a part of the “Manchu-ruled” Qing Empire

instead of transforming the entire Qing Empire into “China” or a “Chinese Dynasty” — a plain historical fact that, unfortunately, many people tend to overlook or forget.

CHAPTER 7

THE MANCHU QING EMPIRE (1616–1912), PART 2

A “TRIPARTITE” MULTINATIONAL EMPIRE

7.1 Introduction

The Qing Empire integrated Inner Asian and Chinese imperial and cultural traditions with Manchu innovations to build a more sophisticated, centralized, and “multiethnic” (rather than simply “Sinicized”) governance. Moreover, in principle, the Qing’s Manchu, Mongol, and Chinese realms and peoples were generally kept and governed separately to maintain the ethnic lines and identities, and hence sustain the Manchu domination.

The Qing’s three imperial capitals — Mukden in Manchuria, Chengde in Inner Mongolia, and Beijing in China Proper — symbolized the Qing rulers’ Manchu Khaganship, Mongol Khaganship, and Chinese Emperorship, while the primary capital at Beijing also represented the Qing Emperorship as a whole. In practice, the so-called “Manchu–Han diarchy” was very limitedly and quite nominally applied to only a few central agencies, whereas the Manchu nobles and officials firmly dominated both the Outer and Inner Courts of the central government. Moreover, the Qing created a unique

ministry, the Mongol Bureau/Lifan Yuan, to govern the Mongol (and later, also Uyghur) domains and to handle the relations with Tibet and Russia as well.

To suit the needs of diverse ethnic traditions as well as regional and local conditions, the Qing Empire maintained different administrative systems for the Manchu homeland (Manchuria); the Chinese traditional lands (China Proper) and frontiers (Yunnan and Western Taiwan); the Mongol domains (Mongolia, Qinghai, and North Xinjiang); and the Uyghur lands (South Xinjiang). In late Qing times, Xinjiang, Taiwan, and Manchuria were officially (albeit somewhat nominally) “provincialized.” However, as we will see, that did not equate to the incorporation of these traditional non-Chinese territories into “China.”

Moreover, following Inner Asian precedents, the first two Qing Emperors developed the sociopolitical-military Eight Banner system, which included the entire Manchu population and also some Mongols, Liaodong Chinese, and other ethnic groups. Militarily, the Banner soldiers constituted not only the primary conquering forces but also the post-conquest garrisoning troops to retain Manchu military control over the empire. Administratively, residentially, and socially, the Eight Banner system separated the hereditary “Bannermen” from the “commoners” (mostly, Chinese subjects) to maintain the Banner (notably, the Manchu) privileges, communities, and identity. Furthermore,

politically and militarily, the Manchu Bannermen occupied the key posts and many other positions to secure Manchu supremacy. In other words, the Eight Banner system provided a means to secure and maintain the “Manchu rule” over the entire Qing Empire.

Therefore, rather than a “unitary” “Chinese” empire, the post-conquest Qing was, in essence, a Manchu-dominated “tripartite” “multinational” empire that incorporated the Jurchen/Manchu, Mongol, and Chinese imperial rulerships, lands, and peoples under the Qing imperial ruling house.

7.2 The Pre-1644 Manchu Qing’s Governance

7.2.1 The Formation of the Eight Banner System

Following the Inner Asian precedents (notably, the Jurchen Jin’s *meng’an-mouke* system and the Mongol Yuan’s decimal socio-military organization), Nurhaci (r. 1587/1616–1626) created the system of “Eight Banners” (Ma. *jakūn gūsa*; Ch. *Ba Qi*), a hereditary sociopolitical-military institution that constituted the “root” of Manchu domination and the foundation of Qing Empire.¹ Nurhaci transformed the Jurchen’s small hunting units, known as *niru* (Ch. *niu-lu*), into the basic military units, also called

¹ MARK C. ELLIOTT, *THE MANCHU WAY: THE EIGHT BANNERS AND ETHNIC IDENTITY IN LATE IMPERIAL CHINA* 4–8, 12, 39–40, 57–60 (2001) (“[I]t is probably best to avoid thinking of the banners literally as an unchanging ‘system’ or a unitary entity. The Eight Banners was a hybrid institution that combined a range of military, social, economic, and political functions; as the various dimensions of these changed over time, the banner system changed, too.”).

niru (in Mark C. Elliott's term, "military-*niru*"; Ch. later known as *zuoling*) or "company."

Then, he grouped military-*niru* into the middle units, named *jalan* (Ch. *jia-la*, or later, *canling*) or "regiment," and further into the larger units, called *gūsa* (Ch. *qi*) or "banner."²

In 1601, Nurhaci officially established the Banner system by dividing all his subjects into four banners (known as "plain banners"), distinguished by the flags with four colors (yellow, white, blue, and red).³ Initially, the Banner system still largely preserved the power structure of "pre-existing social units," e.g., clans, tribes, and villages. In many cases (especially when these social units submitted voluntarily), their original rulers or chieftains (*beile*) retained considerable authority over their own peoples.⁴

Nonetheless, as Nurhaci's personal and military powers grew rapidly, he reorganized and standardized the units of the Banner system in 1615.⁵ This reform facilitated his claim to the Jurchen/Manchu Khaganship and his creation of the [Later] Jin Khanate in 1616.⁶ In the 1615 reform, Nurhaci added four more banners (known as "bordered banners"), differentiated by the flags with bordered colors (in particular, bordered yellow,

² *Id.* at 57–61; FREDERIC WAKEMAN, JR., *THE GREAT ENTERPRISE: THE MANCHU RECONSTRUCTION OF IMPERIAL ORDER IN SEVENTEENTH-CENTURY CHINA* 53–54 (1985).

³ 9 *THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE CH'ING EMPIRE TO 1800*, at 34 (Willard J. Peterson ed., 2002) [hereinafter 9 *CAMBRIDGE*].

⁴ *Id.*; ELLIOTT, *supra* note 1, at 60–61; PETER C. PERDUE, *CHINA MARCHES WEST: THE QING CONQUEST OF CENTRAL EURASIA* 111 (2005).

⁵ 9 *CAMBRIDGE*, *supra* note 3, at 34–36.

⁶ DZENGSEO, *THE DIARY OF A MANCHU SOLDIER IN SEVENTEENTH-CENTURY CHINA: MY SERVICE IN THE ARMY* 20 (Nicola Di Cosmo ed. & trans., 2006).

bordered white, and bordered blue with red borders; and bordered red with a white border), thus completing the formation of the original eight banners (see Figure 7.1).⁷

The previously uneven-sized companies were reorganized into the “companies” of about 300 warrior households each, and then grouped into the “regiments” of five to a dozen or so companies each, and finally into the “banners” of five regiments each.⁸ Consequently, as Gertraude Roth Li notes, those pre-existing social units “were transformed into new, artificial units of more or less equal size,” making the Banner system “[no longer] restricted by clan size or clan loyalties.”⁹

Not only combining military, social, political, and economic functions,¹⁰ the Eight Banner system also “helped to streamline power relations.”¹¹ Nurhaci granted the banners to the Banner beiles (Ma. *hosoi beile*) or “Banner princes,” who often considered the banners as their own “private property” and among whom the four eldest and most powerful ones were known as the “Four Senior Beiles.”¹² However, in reality, the Banner beiles only directly commanded their personal guards (Ma. *bayara*), while the Banner commanders (Ma. *gūsai ejen*; Ch. *gushan ezhen*, and later, *doutong*) appointed by

⁷ ELLIOTT, *supra* note 1, at 59.

⁸ 9 CAMBRIDGE, *supra* note 3, at 36; ZHOU YUANLIAN, QING CHAO XING QI SHI 123–24 (Changchun, Jilin Wen Shi Chu Ban She 1986) (China).

⁹ 9 CAMBRIDGE, *supra* note 3, at 34.

¹⁰ *Id.* at 36.

¹¹ ELLIOTT, *supra* note 1, at 62.

¹² 9 CAMBRIDGE, *supra* note 3, at 36; WAKEMAN, *supra* note 2, at 55.

Nurhaci controlled and administered the banners.¹³ Nevertheless, the early Banner system provided power bases for not only Nurhaci but also the beiles (who were often relatives of Nurhaci or submitted chieftains) and Banner commanders (who were often junior beiles or high officials).¹⁴

Originally seen as “an exclusively Jurchen organization,” the Eight Banner system, nonetheless, became “an ethnically plural organization,” after incorporating more and more non-Jurchen troops (in particular, Mongol and Han Chinese soldiers).¹⁵ Nurhaci’s successor, Hung Taiji (r. 1626–43), officially established the Mongol Eight Banners (Ma. *Monggo gūsa*; Ch. *baqi Menggu*) in 1635. He also created the Hanjun or “Chinese-Martial” Eight Banners (Ma. *ujen cooha-i gūsa*, lit. “heavy troop” banners; Ch. *baqi Hanjun*) in 1633–42. After that, the original eight banners became known as the Manchu Eight Banners (Ma. *Manju gūsa*; Ch. *baqi Manzhou*).¹⁶

As Elliott notes, “by and large, distinctions of ancestry (real or assumed), language, and culture were respected,” and therefore, in principle, “Manchus were enrolled in the Manchu banners, Mongols in the Mongol banners, and [former] Ming-frontier Chinese in

¹³ WAKEMAN, *supra* note 2, at 55; 9 CAMBRIDGE, *supra* note 3, at 36.

¹⁴ ELLIOTT, *supra* note 1, at 62; PERDUE, *supra* note 4, at 111.

¹⁵ Mark C. Elliott, *Ethnicity in the Qing Eight Banners*, in *EMPIRE AT THE MARGINS: CULTURE, ETHNICITY, AND FRONTIER IN EARLY MODERN CHINA* 27, 37 (Pamela Kyle Crossley et al. eds., 2005).

¹⁶ ELLIOTT, *supra* note 1, at 59, 72–75; 9 CAMBRIDGE, *supra* note 3, at 57–58.

the Hanjun banners.”¹⁷ Nevertheless, the Manchu banners still retained some Mongol and Korean “regular” companies (to place whom under closer Manchu supervision) as well as some Chinese and Korean “bondservant” (Ma. *booī*; Ch. *bao-yī*) companies.¹⁸ Moreover, the Hanjun banners also contained some “Sinicized” Manchus and Koreans.¹⁹ Later, the Manchu banners even incorporated a small number of Russian and Tibetan companies.²⁰

Not surprisingly, the Eight Banner’s three main ethnic groups were neither regarded nor treated equally. The Manchu Bannermen normally outranked the Mongol Bannermen, and both Manchu and Mongol Bannermen outranked and received more institutional benefits than the Hanjun Bannermen.²¹

¹⁷ Elliott, *supra* note 15, at 45.

¹⁸ *Id.* at 41, 44 (“It is important to note that in a few instances [Mongol bannermen] were registered in the Manchu, not the Mongol, banners. Such exceptions were not the result of accidental blindness to ethnic difference, but of specific political considerations, such as a wish to isolate certain groups whose affiliation with the Qing had happened under duress and whose loyalties remained questionable. Even in these cases, the logic of ethnic separation continued to be obeyed, but at a lower level, as such people remained within Mongol only companies shared out among the Manchu banners, where presumably they could be more easily watched over”); EVELYN S. RAWSKI, *THE LAST EMPERORS: A SOCIAL HISTORY OF QING IMPERIAL INSTITUTIONS* 62 (1998); ELLIOTT, *supra* note 1, at 82–84.

¹⁹ See Elliott, *supra* note 15, at 44–45; 9 CAMBRIDGE, *supra* note 3, at 321.

²⁰ EDWARD J. M. RHOADS, *MANCHUS AND HAN: ETHNIC RELATIONS AND POLITICAL POWER IN LATE QING AND EARLY REPUBLICAN CHINA, 1861–1928*, at 20 (2000).

²¹ ELLIOTT, *supra* note 1, at 78; Elliott, *supra* note 15, at 46.

7.2.2 The Pre-1644 Central Governance outside the Eight Banner System

7.2.2.1 Nurhaci's Reign (1587/1616–1626)

(A) The Deliberative Council

During Nurhaci's early rule, not only the companies and banners remained considerably autonomous, but the governmental functions were also largely channeled through the company and banner leaderships.²² That created the need for Nurhaci to establish new central government institutions (e.g., the Deliberative Council, the Literary Office, and the Five Ministries) outside the Eight Banner system to balance the beiles' powers and to promote a more "centralized" state.²³

Established in 1587 (rather than in 1615, as commonly believed), the Deliberative Council (Ma. *hebei ba*, or *hebei boo*; Ch. *Yizheng Chu*) was dominated by the Khan and the Manchu nobles, and served as the major high-level decision-making body in Nurhaci's state and the early [Later] Jin/Qing.²⁴ The Deliberative Council, later also known as the "Deliberative Council of Princes and High Officials" (Ch. *Yizheng wang dachen huiyi*), represented the Manchu traditions of "collective aristocratic rule," though

²² See 9 CAMBRIDGE, *supra* note 3, at 34, 36, 44–45, 60.

²³ ZHAO ZHIQIANG, QING DAI ZHONG YANG JUE CE JI ZHI YAN JIU 129–34, 162–65, 173–75 (Beijing, Ke Xue Chu Ban She 2007) (China).

²⁴ *Id.* at 129–34, 143–44, 151–53, 180–82, 190–92, 206–12.

it was also generally under the discretion of the Manchu Khan/Emperor.²⁵ During Nurhaci's reign, the Deliberative Council was participated in by the Khan, grand ministers (Ch. *li-zheng ting-song dachen*), and the Four Senior Beiles and other beiles, to determine policies on the main political and military issues and also to review judicial cases when necessary.²⁶

Nurhaci appointed his five long-term “companions” (Ma. *gucu*) as grand ministers or state councilors — commonly and collectively known as the Five Grand Ministers (Ma. *sunja amban*; Ch. *wu dachen*) — to advise the Khan, oversee the administration, and participate in the Deliberative Council.²⁷ The Five Grand Ministers were not only *ambans* (high officials) but also became hereditary Manchu nobles. Several of them even formed marriage alliances with Nurhaci.²⁸

(B) The Literary Office and the Five Ministries

During the early days of his rise, Nurhaci also set up the Literary Office (Ma. *Bithei boo*; Ch. *Shu fang*, or *Wen Guan*) and staffed it with several multilingual *baksi* (scholars) who served as high-level advisers and principal clerks to the Khan.²⁹ According to

²⁵ WAKEMAN, *supra* note 2, at 850–51; ZHAO ZHIQIANG, *supra* note 23, at 180–84, 257–60.

²⁶ ZHAO ZHIQIANG, *supra* note 23, at 142–44; CHEN JIEXIAN, NU’ERHAQI XIE ZHEN 119–20 (2003) (Taiwan).

²⁷ 9 CAMBRIDGE, *supra* note 3, at 35–36.

²⁸ *Id.* at 35; RAWSKI, *supra* note 18, at 63–65.

²⁹ ZHAO ZHIQIANG, *supra* note 23, at 162–63; PERDUE, *supra* note 4, at 111; 9 CAMBRIDGE, *supra* note 3, at 35.

Peter C. Perdue, both the grand ministers and *baksi* provided crucial aids to centralizing the Khan's rule and offsetting the beiles' powers.³⁰

Moreover, following the [Later] Jin's conquest of Liaodong, Nurhaci created the Five Ministries in 1621, which were originally designed to administer the newly incorporated some one million Chinese (Ma. *Nikan*) subjects, many of whom nonetheless became slaves or bondservants.³¹ Before long, the Five Ministries (which were soon expanded to seven, and reduced back to five) became central agencies to administer various kinds of state affairs.³² As will be clear, the [Later] Jin/Qing rulers adopted Chinese-style institutions to centralize imperial control rather than to "Sinicize" their empire.

7.2.2.2 Hung Taiji's Reign (1626–43)

(A) Governmental Centralization

By the end of Hung Taiji's reign (i.e., on the eve of the Manchu conquest of China), the Qing Empire had combined Inner Asian and Chinese imperial traditions with Manchu

³⁰ PERDUE, *supra* note 4, at 111.

³¹ ZHAO ZHIQIANG, *supra* note 23, at 173–75; WAKEMAN, *supra* note 2, at 69 ("The expansion of Nurhaci's Latter Jin state into Liaodong and parts of Liaoxi brought as many as one million Chinese under his control. Many of these were treated as slaves, though that category of subordination now received more careful state regulation than it had earlier. Masters could no longer punish slaves on their own; and if mistreated, the slaves could be taken away by the Manchu government and given to someone else."); Elliott, *supra* note 15, at 44. ("Although a majority of the one million Chinese who came under Latter Jin rule after 1621 were permitted to live more or less as before, virtually all of those captured at Fushun in 1618 and at Mukden [Shenyang] the following year became slaves or bondservants, many of the latter being registered in special 'flag-and-drum' (*qigu/cigu*) companies attached to the Manchu Eight Banners.")).

³² ZHAO ZHIQIANG, *supra* note 23, at 173–75.

innovations into its central bureaucracy. For example, as discussed below, Hung Taiji expanded the membership of the Deliberative Council and established the Mongol Bureau/Lifan Yuan, and these two institutions were created by the Manchus without Chinese precedent. Moreover, like some other non-Chinese (such as Japanese, Korean, and Vietnamese) empires/states, the Qing Empire during Hung Taiji's reign borrowed more Chinese-style imperial institutions and practice to centralize governmental power. Hung Taiji's administrative reforms should be, therefore, characterized not as "Sinicization" but better as "centralization." At any rate, the incorporation of some Chinese-style bureaucratic institutions into the Qing central governance would not convert the Qing from a "Manchu" to a "Chinese" empire.

(B) The Expansion of the Deliberative Council

To further constrain the powerful beiles, Hung Taiji expanded the members of the Deliberative Council twice (first in 1626, and again in 1637) to include some Banner commanders and Banner officials. These new members were still overwhelmingly Manchus, very few Mongols, and no Hanjun Bannermen.³³ A very few Hanjun Banner commanders, submitted Chinese generals, and Chinese scholars occasionally participated

³³ *Id.* at 149–60; *see also* WAKEMAN, *supra* note 2, at 850–51.

in the Deliberative Council (especially when necessary in time of war); they were, however, not the members of the council.³⁴

(C) The Three Palace Academies, Six Ministries, and Censorate

In the 1630s, to increase his imperial control, Hung Taiji also reorganized the central administration into a more centralized and more Chinese-like (in particular, the Ming-style) bureaucracy, headed by the Three Palace Academies, the Six Ministries, and the Censorate.³⁵ As Gertraude Roth Li notes,

By 1636 the Ch'ing [i.e., Qing] government had counterpart versions of most of the Ming governmental functions in place, though the distribution of these functions among the offices differed somewhat and reflected the conscious effort of the Manchus to imprint their own characteristics.”³⁶

In 1636, the Literary Office was reorganized into the “Three Palace Academies” (Ma. *Bithe-i ilan yamun*; Ch. *Nei San Yuan*) — namely, the Palace Historiographic Academy (Ma. *Gurun-i suduri ejere yamun*; Ch. *Nei Guoshi Yuan*), the Palace Secretariat Academy (Ma. *Narhūn bithei yamun*; Ch. *Nei Mishu Yuan*), and the Palace Academy for the Advancement of Literature (Ma. *Kooli selgiyere yamun*; Ch. *Nei Hongwen Yuan*).³⁷ Functioning as the Qing’s counterparts to the Ming’s Hanlin Academy (*Hanlin Yuan*) and

³⁴ ZHAO ZHIQIANG, *supra* note 23, at 153.

³⁵ CHARLES O. HUCKER, A DICTIONARY OF OFFICIAL TITLES IN IMPERIAL CHINA 85–86 (1985); 9 CAMBRIDGE, *supra* note 3, at 60–62.

³⁶ 9 CAMBRIDGE, *supra* note 3, at 61.

³⁷ *Id.*

Grand Secretariat (*Neige*), the Three Palace Academies were in charge of, among other things, compiling the Veritable Records, providing advisory and editorial assistance to the emperor, and translating Chinese classical and historical writings into Manchu.³⁸

The “Six Ministries” or “Six Boards” (Ma. *Ninggun jurgan*; Ch. *Liu Bu*) — namely, the Ministries of Personnel, Revenue, Rites, War, Justice (or Punishments), and Public Works — were officially created earlier in 1631, but were of uneven administrative importance.³⁹ For example, losing some of their traditional functions to the emperor and other institutions, the Ministries of Personnel, War, and Public Works were not as supreme as those of the Ming.⁴⁰

Established in 1636, the “Censorate” (Ma. *Baicara jurgan*; Ch. *Du Cha Yuan*) was primarily in charge of maintaining disciplinary surveillance over the entire officialdom and providing criticisms and suggestions on policies.⁴¹

(D) The Mongol Bureau/Lifan Yuan

Moreover, after the Manchu conquest of the [Northern] Yuan and annexation of Inner Mongolia in 1635, Hung Taiji created the “Mongol Bureau” (Ma. *Monggo Jurgan*; Mo. *Monggol Jurgan*; Ch. *Menggu Yamen*) in 1636 — a new and unique ministry that

³⁸ HUCKER, *supra* note 35, at 85, 346 (no. 4189), 348–9 (no. 4212, 4224, 4229); WAKEMAN, *supra* note 2, at 851–52.

³⁹ HUCKER, *supra* note 35, at 86; 9 CAMBRIDGE, *supra* note 3, at 61.

⁴⁰ HUCKER, *supra* note 35, at 86.

⁴¹ *Id.* at 87, 536; 9 CAMBRIDGE, *supra* note 3, at 61.

had no Chinese precedent at all.⁴² The Mongol Bureau, soon renamed in 1638 as the “Lifan Yuan” (i.e., Ministry for Governing the Outer Provinces) was responsible for administering the Mongol (and later also other Inner Asian) affairs.⁴³ According to Christopher P. Atwood, both Nurhaci and Hung Taiji (i.e., the first two Qing Emperors) “viewed their empire as in part a successor to the Mongol Northern Yuan Dynasty.”⁴⁴

Some historians, however, mistakenly note that the Lifan Yuan was subordinated to the Ministry of Rites (Ch. *Li Bu*) in 1638, and became an independent ministry only in 1661.⁴⁵ In fact, the Mongol Bureau/Lifan Yuan was almost always classified — equally and together with the Six Ministries and the Censorate — as one of the top “Eight Ministries” (*ba yamen*), except those two years from 1659 to 1661 when the Lifan Yuan was indeed placed under the Ministry of Rites.⁴⁶

⁴² 9 CAMBRIDGE, *supra* note 3, at 56, 62; CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 333 (2004).

⁴³ Nicola Di Cosmo, *From Alliance to Tutelage: A Historical Analysis of Manchu-Mongol Relations before the Qing Conquest*, 7 (No. 2) *FRONTIERS OF HISTORY IN CHINA* 175, 180 (2012).

⁴⁴ ATWOOD, *supra* note 42, at 449.

⁴⁵ E.g., Cosmo, *supra* note 43, at 180 n. 20; HUI WANG, *THE POLITICS OF IMAGINING ASIA* 157 (Theodore Huters ed., 2011).

⁴⁶ Ning Chia, *The Lifanyuan and the Inner Asian Rituals in the Early Qing (1644–1795)*, 14 (No. 1) *LATE IMPERIAL CHINA* 60, 61 (1993); ZHAO ZHIQIANG, *supra* note 23, at 403.

7.3 The Post-1644 Manchu Qing's Governance

7.3.1 The Multiple Capitals

Following the traditions of earlier Inner Asian conquest empires (notably, the Khitan Liao, Jurchen Jin, and Mongol Yuan), the Manchu Qing also established a system of multiple (in particular, three) capitals: namely, the Capital City of Beijing (Yanjing) at the northeastern edge of what is known as China Proper; the auxiliary capital of Mukden (Shengjing) in southern Manchuria; and the summer capital of Chengde (Rehe) in Inner Mongolia (see Map 1.13).⁴⁷ The Manchu Qing's Capital City (Beijing) was the former Khitan Liao's Southern Capital (Nanjing). The Qing's Mukden or Prosperous Capital (Shengjing) at Shenyang was near the former Liao's Eastern Capital (Dongjing) at Liaoyang. The Qing's Chengde (Rehe) was near the Liao's Central Capital (Zhongjing) at Dading. In other words, the Qing's three capitals were all located in the previous Khitan Liao's heartlands or what might be called the "Kitad" region (see Maps 1.8, 1.13, and 7.1).

⁴⁷ RAWSKI, *supra* note 18, at 17–18 ("The major capital, Peking [i.e., Beijing], was not only the capital of the preceding [Ming] dynasty . . . but was a capital of the Liao, Jin, and Yuan as well. The Manchus also commemorated Shengjing [i.e., Mukden] as a symbol of the Manchu homeland, and Rehe [Chengde after 1824] was an informal summer capital for at least the first half of the dynasty."); PHILIPPE FORÊT, *MAPPING CHENGDE: THE QING LANDSCAPE ENTERPRISE* 21 (2000).

7.3.1.1 The Principal Capital at Beijing (Yanjing)

Beijing (Yanjing) remained the Qing's principal capital from 1644 to the end of Qing in February 1912. Soon after capturing the Ming capital at Beijing on June 6, 1644, the Qing officially proclaimed Beijing its new and primary capital on August 9.⁴⁸ Then, on October 30, the child Shunzhi Emperor (r. 1643–61) was enthroned as the new Chinese Emperor in Beijing.⁴⁹

At the northeastern edge of China Proper, the Manchu Qing's Beijing, known as “Capital City” (*Jingshi*), was not just a regional capital for the Chinese lands and subjects, but the principal capital for the Qing's entire realms and all its multiethnic populations. Geographically, the Beijing area is more like in the junction of Manchuria, Mongolia, and China (see Maps 1.13 and 7.1). To locate the Qing principal capital at Beijing helped the Qing Empire to more effectively control and govern the empire's Manchu, Mongol, and Chinese realms.

Historically, Beijing (Yanjing) had been the Khitan Liao's Southern Capital (Nanjing) in 938–1122; the Jurchen Jin's Southern Capital (Nanjing) in 1126–53 and Central Capital (Zhongdu) in 1153–1214; the Mongol Yuan's Central Capital (Zhongdu) in 1264–1272 and Great Capital (Dadu) in 1272–1368; and the Chinese Ming's Northern

⁴⁸ FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, at 818–19, 821 (1999); WAKEMAN, *supra* note 2, at 451.

⁴⁹ WILLIAM T. ROWE, *CHINA'S LAST EMPIRE: THE GREAT QING 19* (2010).

Capital (Beijing) in 1403–1644.⁵⁰ This unique history made Beijing an ideal imperial center for the Qing to best represent the “tripartite” Qing Emperorship, into which the Jurchen/Manchu Khaganship, the Mongol Khaganship, and the Chinese Emperorship had been incorporated by 1644.

In fact, over the course of 976 years, from 936 (the Liao’s occupation of the Sixteen Prefectures) to 1912 (the fall of Qing), the Beijing area was controlled by the “non-Chinese” (Liao, Jin, Yuan, and Qing) empires for 697 years and by the “Chinese” (Song and Ming) empires for only 279 years (see Table 7.1),⁵¹ showing clearly that the Beijing area was not so much a part of “China” or “China Proper” as generally assumed. Furthermore, because the Jurchens of the 12–13th century Jin Empire were the ancestors of the Manchus of the Qing, the move of Qing principal capital to Beijing could be seen as the Manchu’s “return” to their Jurchen ancestors’ old principal capital. As Elliott explains, the Manchus saw that they “were heir not only to the imperial tradition of the Jin [1115–1234], but also to former Jin territory.”⁵² During Nurhaci’s reign, the Jurchens/Manchus had made territorial claim south of the Great Wall, asserting that

⁵⁰ STEPHEN G. HAW, *BEIJING – A CONCISE HISTORY* 136–37 (2006); *see also* 6 THE CAMBRIDGE HISTORY OF CHINA, *ALIEN REGIMES AND BORDER STATES*, 907–1368, xxix tbl. 5 (Herbert Franke & Denis Twitchett eds., 1994).

⁵¹ Beijing was controlled by the Khitan Liao for 186 years in 936–1122; the Jurchen Jin for 1 year in 1122–1123; the Chinese Song for 3 years in 1123–1126; the Jurchen Jin again for 89 years in 1126–1215; the Mongol Yuan for 153 years in 1215–1368; the Chinese Ming for 276 years in 1368–1644; and the Manchu Qing for 268 years in 1644–1912. See HAW, *supra* note 50, at 136–37.

⁵² Mark C. Elliott, *Whose Empire Shall It Be?: Manchu Figurations of Historical Process in the Early Seventeenth Century*, in *TIME, TEMPORALITY, AND IMPERIAL TRANSITION: EAST ASIA FROM MING TO QING* 31, 42 (Lynn A. Struve ed., 2005).

“Nanjing, Beijing, and Bianjing [Kaifeng] were not originally the lands of any one person. They are places that have been exchanged back and forth between Jurchens and Han [Chinese].”⁵³

As discussed earlier, before 1644, the Qing had already established various Chinese-style central institutions based on the Ming model. Therefore, when moving from Mukden to Beijing in 1644, the Qing’s existing central government was, by and large, merged with the Ming’s former central government without too much difficulty.⁵⁴ The Qing invited the former Ming officials to join the Qing administration and offered them to remain in their original posts once they registered in the bureaucratic roster and shaved their foreheads in Manchu fashion (as a sign of their submission to the Qing).⁵⁵ According to Frederic Wakeman Jr., “[b]ecause so many [former Ming] officials had already compromised themselves by serving [the rebel leader] Li Zicheng, most bureaucrats accepted this [Qing] offer at once,” and as a result, the Ming’s former government in Beijing virtually surrendered “as an [entirety]” to the Qing.⁵⁶ The merger of the two governments probably was the origin of the so-called principle of “Manchu–Han diarchy,” which will be discussed later.

⁵³ *Id.*; 19 NEI GE CANG BEN MAN WEN LAO DANG, TAIZU CHAO, HAN WEN YI WEN, at 140 (Zhongguo Di Yi Li Shi Dang An Guan ed., Shenyang Shi, Liaoning Min Zu Chu Ban She, 2009) (China).

⁵⁴ See ROWE, *supra* note 49, at 33; LI ZHITING ET AL., QING SHI [HISTORY OF THE QING] 465–66 (Li Zhiting ed., Shanghai, Shanghai Ren Min Chu Ban She 2002) (China) (Series: Zhongguo Duandaishi Xilie).

⁵⁵ WAKEMAN, *supra* note 2, at 416–17.

⁵⁶ *Id.*

Soon after the conquest, the Qing imposed ethnic residential segregation and spatial division upon Beijing (see Map 7.2). The northern “Inner City” (*Nei Cheng*) or “Manchu (Tartar) City” became the residences primarily for the Qing imperial family and Bannermen, whereas the southern “Outer City” (*Wai Cheng*) or “Chinese City” was the residential area for the conquered Han Chinese subjects.⁵⁷ As Evelyn S. Rawski points out, under Qing rule, the subdivisions of Beijing “coincided with the political and social divisions of the empire.”⁵⁸

The Inner City (see Map 7.2) was almost square in shape and was enclosed by walls about 15 miles in perimeter.⁵⁹ As the primary military and political center, the Inner City included the homes of the conquering Bannermen; the central government’s main institutions (e.g., the Six Ministries, the Censorate, and the Lifan Yuan); and the Imperial City (with the Forbidden City at its core).⁶⁰ In contrast, as Beijing’s commercial district, the Outer City was the empire’s largest consumer market and also the Bannermen’s entertainment center.⁶¹

The Imperial City (along with the Forbidden City) was managed by the Imperial Household Department (Ch. *Neiwu Fu*; Ma. *dorgi baita be uheri kadalara yamun*; lit.

⁵⁷ SUSAN NAQUIN, PEKING: TEMPLES AND CITY LIFE, 1400–1900, at 289–92 (2000); RAWSKI, *supra* note 18, at 25–26.

⁵⁸ RAWSKI, *supra* note 18, at 25–26.

⁵⁹ KENNETH PLETCHER, THE GEOGRAPHY OF CHINA: SACRED AND HISTORIC PLACES 121 (2011).

⁶⁰ RAWSKI, *supra* note 18, at 26–34.

⁶¹ *Id.* at 26.

Bureau Supervising Internal Affairs), which was primarily responsible for providing personal service to the emperor and managing the imperial household and finance.⁶²

The Imperial Household Department was a Manchu innovation that effectively prevented the Chinese eunuchs' domination of palace affairs.⁶³ The staff members were overwhelmingly Manchus and almost entirely the imperial bondservants,⁶⁴ who were from the Three Upper Banners (Ch. *Shang San Qi*; namely, the Plain Yellow, Bordered Yellow, and Plain White Banners) under the emperor's direct command.⁶⁵

The innermost palace city was the Forbidden City (Ch. *Zi Jin Cheng*; lit. Purple Forbidden City), which was a walled rectangle covering about 179 acres (723,600 square meters) and was in 1669 formally divided into a northern "Inner Court" (*Nei Ting*) and a southern "Outer Court" (*Wai Chao*, or *Wei Ting*).⁶⁶ Principally, the Inner Court was the emperor's private residence, while the Outer Court was his government headquarters

⁶² NAQUIN, *supra* note 57, at 360; ELLIOTT, *supra* note 1, at 83–84; RAWSKI, *supra* note 18, at 178–79; ROWE, *supra* note 49, at 40.

⁶³ ROWE, *supra* note 49, at 40; RAWSKI, *supra* note 18, at 179.

⁶⁴ HUCKER, *supra* note 35, at 84, 354 (no. 4291).

⁶⁵ ROWE, *supra* note 49, at 40; RHOADS, *supra* note 20, at 19, 23, 46.

⁶⁶ As noted by Lillian M. Li et al., "the term 'Purple Forbidden City' (*Zijincheng*) had been used in Beijing from about the 1420s. It alludes to an ancient conception of rulership: *zi* refers to purple, a color associated with martial bravery, and to the 'purple bright' constellation of the *ziwei* star, the pole star to which others do homage. Similarly, the emperor occupied a unique status as the representative of all humanity to Heaven in annual ceremonies at the Temple of Heaven [in Beijing]. The word *jin* means off-limits, and *cheng* a walled space, a city." See LILLIAN M. LI ET AL., BEIJING: FROM IMPERIAL CAPITAL TO OLYMPIC CITY 43, 45 (2007); RAWSKI, *supra* note 18, at 30–31.

where he conducted various state affairs and public rituals and received tributary and foreign envoys.⁶⁷

Nevertheless, as discussed in more detail later, in Qing times, a substantial part of state affairs (including high-level decision-making and policy-making) was in fact conducted not in the Outer Court, but in the Inner Court.

7.3.1.2 The Auxiliary Capital at Mukden (Shengjing)

Nurhaci moved his headquarters several times in what was later known as Manchuria, and eventually, he made Shenyang (situated in southern Manchuria) his last imperial capital in 1625, only one year before his death.⁶⁸ In 1634, Shenyang was renamed Mukden (Ma. *Mukden hoton*; Ch. *Shengjing*) by Hung Taiji (see Maps 1.13 and 7.1).⁶⁹

After 1644, Mukden (Shengjing; present-day Shenyang) became a Qing auxiliary capital and remained Manchuria's political center.⁷⁰ Mukden eventually had a set of central bureaucratic agencies — namely, the Five Shengjing Ministries (*Shengjing Wubu*) and an Imperial Household Department — which mirrored those in the Qing's principal

⁶⁷ RAWSKI, *supra* note 18, at 30–31; LI ET AL., *supra* note 66, at 43–47.

⁶⁸ RAWSKI, *supra* note 18, at 18–19; MOTE, *supra* note 48, at 790.

⁶⁹ RAWSKI, *supra* note 18, at 19.

⁷⁰ For an extensive study of the Qing auxiliary capital at Mukden, see DING HAIBIN & SHI YI, QING DAI PEI DU SHENGJING YAN JIU [STUDY OF THE QING AUXILIARY CAPITAL AT SHENGJING] (Beijing, Zhongguo She Hui Ke Xue Chu Ban She 2007) (China).

capital at Beijing.⁷¹ Each headed by a Manchu vice minister (*shi lang*), the Five Shengjing Ministries were the Ministries of Rites, Revenue, Public Works, Justice, and War, which were established (or, more properly speaking, “reestablished”) in 1658, 1659, 1659, 1662, and 1691 respectively.⁷² As Jun Fang notes, “not subordinated to the six ministries in Beijing,” the Five Shengjing Ministries “were directly under the control of the emperor and his chief governing office” and “were the highest civilian authorities in Manchuria until 1905 when they were abolished by the late Qing political and military reforms.”⁷³

Moreover, after 1644, the Mukden Palace was not only renovated but also expanded during the reigns of Kangxi (r. 1661–1722) and Qianlong (r. 1735–96). The Qing rulers periodically made imperial visits, known as “Eastern Tours” (*Dong Xun*), to Mukden to make sacrifices to their ancestors at the nearby imperial tombs (in which the first two Qing Emperors, Nurhaci and Hung Taiji, and Nurhaci’s four generations of ancestors were buried) and to inspect the defense and development of the Manchu homeland.⁷⁴

According to Jun Fang, the Qing Emperors regarded Mukden as “the imperial rear base” and considered Manchuria as “an ideal place to retreat to in case of a massive Han

⁷¹ JUN FANG, *CHINA’S SECOND CAPITAL: NANJING UNDER THE MING, 1368–1644*, at 33 (2014).

⁷² DING HAIBIN & SHI YI, *supra* note 70, at 80–86 (Beijing, Zhongguo She Hui Ke Xue Chu Ban She 2007) (China).

⁷³ FANG, *supra* note 71, at 33.

⁷⁴ DING HAIBIN & SHI YI, *supra* note 70, at 16–19; RAWSKI, *supra* note 18, at 19; FANG, *supra* note 71, at 34.

Chinese revolt [in China Proper].”⁷⁵ Therefore, all the chief officials in Mukden and the rest of Manchuria were reserved for Manchu Bannermen. As discussed in more detail later, Manchuria was largely kept as “a Manchu preserve” by prohibiting Han Chinese immigration to the Manchu homeland.⁷⁶

7.3.1.3 The Outer Capital at Chengde (Rehe)

Although located in the northern part of present-day Hebei Province, the Chengde (Rehe) area was “[h]istorically part of Inner Mongolia” (see Maps 1.13 and 7.1).⁷⁷ This area had been the “home to non-Han peoples since early times.”⁷⁸ Moreover, the Chengde area had been a regional or an imperial political center in Liao, Jin, and Yuan times, namely, the Khitan Liao’s Central Capital (Zhongjing) at Dading, the Jurchen Jin’s Northern Capital (“Beijing”) also at Dading, and the Mongol Yuan’s Supreme Capital (Shangdu) at Dolon-Nor (Kaiping).⁷⁹ It should be noted that the Chinese term “*Beijing*” literally means “Northern Capital.” The Jurchen Jin’s “Beijing” or “Northern Capital” was located at Dading rather than Yanjing (present-day Beijing).

Chosen by the Kangxi Emperor, the Qing’s summer capital at Chengde (Rehe) was strategically situated beyond the Great Wall, about 155 miles (250 kilometers) northeast

⁷⁵ FANG, *supra* note 71, at 34.

⁷⁶ *Id.* at 34–35; RHOADS, *supra* note 20, at 40–41, 46–47.

⁷⁷ FORÊT, *supra* note 47, at xiv.

⁷⁸ Ruth W. Dunnell & James A. Millward, *Introduction*, in NEW QING IMPERIAL HISTORY: THE MAKING OF INNER ASIAN EMPIRE AT QING CHENGDE 1, 2 (James A. Millward et al. eds., 2004).

⁷⁹ *See Id.*

of Beijing (Yanjing).⁸⁰ Like Beijing, Chengde was also in the junction of Mongolia, Manchuria, and China Proper.⁸¹ As Philippe Forêt notes,

The location of a [Qing] summer capital beyond the Great Wall violated the architectural and political precedents set by Chinese dynasties (Han, Tang, Song, Ming) but was in accordance with and in fact purposefully followed the state-building traditions of the non-Chinese dynasties (Liao, Jin, Yuan) that had ruled on both sides of the Great Wall.⁸²

According to Ruth W. Dunnell and James A. Millward, Chengde became “a practical and symbolic command center” from which the Manchu Qing Emperors coordinated relations between China, Inner Asia (i.e., Manchuria, Mongolia, Qinghai, Xinjiang, and Tibet), and the expanding Russian Empire.⁸³ The submitted Inner Asian (particularly, Mongol and Uyghur) nobles were required to make the annual “pilgrimages” (scheduled by the Lifan Yuan) to the Qing court to offer “tributes,” or more correctly, to have “imperial audiences” (Ch. *chaojin*), which were “frequently performed at the summer palace at Chengde.”⁸⁴ As will be discussed later, although these Mongol and Uyghur nobles in Mongolia and Xinjiang sent periodic tributes to the Qing court, their domains, if any, were under the Qing’s effective control and formed parts of the Qing territories. In

⁸⁰ *Id.* at 1.

⁸¹ FORÊT, *supra* note 47, at 17; *see also* JOANNA WALEY-COHEN, *THE CULTURE OF WAR IN CHINA: EMPIRE AND THE MILITARY UNDER THE QING DYNASTY* 12 (2006).

⁸² FORÊT, *supra* note 47, at 17.

⁸³ Dunnell & Millward, *supra* note 78, at 2.

⁸⁴ RAWSKI, *supra* note 18, at 22.

other words, their relations with the Qing Emperors were fundamentally different from those non-Chinese rulers' nominal tributary relations with the Ming Emperors.

Inner Asian nobles who were still vulnerable to smallpox were excused from going to Beijing. Instead, they were required to attend imperial audiences at the summer capital at Chengde and participate in the autumn hunt at the nearby Mulan.⁸⁵ Moreover, though not required to have imperial audiences, the Tibetans also offered tributes at Chengde.⁸⁶ Therefore, Chengde functioned as the Qing's "outer capital," where the Mongols, Uyghurs, and Tibetans "performed court rituals under the jurisdiction of the Lifanyuan."⁸⁷

Built and expanded between 1702 and 1792, the vast Chengde Palace (known as *Bishu Shanzhuang*; lit. Mountain Villa for the Escape from the Summer Heat) and its outlying temples (known as *Waiba Miao*, or the "Eight Outer Temples") combined the Chinese and Inner Asian (primarily, Tibetan) architectural, religious, and other cultural components (see Figure 7.2). Although now known as "Eight Outer Temples," the outlying temples originally had twelve, instead of eight, temples in total.⁸⁸ To represent

⁸⁵ *Id.* at 20, 22; GUO SONG-YI ET AL., 10 ZHONG GUO ZHENG ZHI ZHI DU TONG SHI [A HISTORY OF CHINESE POLITICAL SYSTEM], QING DAI [QING DYNASTY] 304–6 (Bai Gang ed., Beijing, Ren Min Chu Ban She 1996) (China).

⁸⁶ RAWSKI, *supra* note 18, at 22, 309 n. 12.

⁸⁷ *Id.* at 22.

⁸⁸ *Id.* at 21–22; FORÊT, *supra* note 47, at xiii, 18–19, 22, 155, 158, 160; Dunnell & Millward, *supra* note 78, at 2.

and legitimize the Qing sovereignty over China, Mongolia, and Xinjiang, and the Qing suzerainty over Tibet, the imperial landscape at Chengde recreated in miniature (with modifications) many key landscapes and monuments in China and Inner Asia. These included the replicas of China's Jiangnan (i.e., southern Chinese) style gardens, Confucian and Daoist temples, Buddhist pagodas, and Great Wall; Mongolia's grassland with tents; Xinjiang's Ghulja Temple; and Tibet's Potala Palace, Tashilhunpo Monastery, and other Buddhist temples.⁸⁹

Following the Inner Asian precedents of the Liao, Jin, and Yuan, the Qing's Kangxi Emperor established a huge imperial hunting preserve at Mulan (Ma. *Muran*, meaning "to call deer") in 1681 (more than twenty years before his creation of a summer capital at Chengde).⁹⁰ Situated about 75 miles (120 kilometers) north of Chengde,⁹¹ the Mulan hunting preserve (see Map 7.1) was near the former Yuan's summer capital of Shangdu and was divided into several hunting sites, each bearing a Mongolian name to emphasize "the Mongol origin of the land."⁹²

⁸⁹ FORÊT, *supra* note 47, at 18–20, 22; Dunnell & Millward, *supra* note 78, at 2, 5–8; WALEY-COHEN, *supra* note 81, at 12.

⁹⁰ RAWSKI, *supra* note 18, at 19–20; Mark C. Elliott & Ning Chia, *The Qing Hunt at Mulan*, in NEW QING IMPERIAL HISTORY: THE MAKING OF INNER ASIAN EMPIRE AT QING CHENGDE 66, 67–69, 71–72 (James A. Millward et al. eds., 2004).

⁹¹ WALEY-COHEN, *supra* note 81, at 105.

⁹² Elliott & Chia, *supra* note 90, at 69, 71–72.

The Kangxi, Qianlong, and Jiaqing Emperors “showed an extraordinary devotion to the Mulan site.”⁹³ After successfully suppressing the Rebellion of the Three Feudatories in 1681, the Kangxi Emperor (r. 1661–1722) vigorously revived the Manchu hunting tradition.⁹⁴ He instituted the autumn hunt at Mulan in 1681 and hunted there almost every year (except two years) until his death in 1722.⁹⁵ Subsequently, although the Yongzheng Emperor (r. 1722–35) never went to Mulan, the Qianlong Emperor (r. 1735–96) reinstituted the tradition and led forty hunts at Mulan.⁹⁶ The Jiaqing Emperor (r. 1796–1820) was the last Qing Emperor to hunt at Mulan, and he hunted there eleven times during his twenty-four years of reign.⁹⁷

The autumn hunt at Mulan was not merely for pleasures but also about military readiness, court ritual, and imperial politics, and became “an integral element” of the seasonal capital of Chengde.⁹⁸ The massive hunt participated in by tens of thousands of persons, including, primarily, the emperor, imperial princes, high court officials, Mongol and other Inner Asian nobles, and Manchu and Mongol (but no Hanjun) Bannermen.⁹⁹

⁹³ *Id.* at 72.

⁹⁴ *Id.* at 69, 75; 17 ZHONGGUO TONG SHI [A HISTORY OF CHINA], QING SHI QI (SHANG CE) [THE QING PERIOD (PART 1)], 825 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China) [hereinafter 17 TONG SHI].

⁹⁵ WALEY-COHEN, *supra* note 81, at 83; RAWSKI, *supra* note 18, at 20.

⁹⁶ RAWSKI, *supra* note 18, at 21; *see also* WALEY-COHEN, *supra* note 81, at 83.

⁹⁷ 17 TONG SHI, *supra* note 94, at 832; *but see* RAWSKI, *supra* note 18, at 21 (stating that the Jiaqing Emperor “led the autumn hunt at Mulan twelve times”).

⁹⁸ Elliott & Chia, *supra* note 90, at 67–69, 73–81; RAWSKI, *supra* note 18, at 20–23.

⁹⁹ Elliott & Chia, *supra* note 90, at 72–73; RAWSKI, *supra* note 18, at 21; ELLIOTT, *supra* note 1, at 335 (noting that “only Manchu and Mongol bannermen were included” during the imperial hunts).

Moreover, as Elliott and Ning Chia notes, “hunting was politically and militarily significant in the world of Inner Asia, whence the Manchus came,” and the “skill in the saddle and proficiency at hunting were always integral parts of the Manchu lifestyle.”¹⁰⁰

Militarily, the autumn hunt at Mulan functioned as a military exercise and prowess display, which provided a crucial opportunity for military training and discipline, including the massive battue hunt (Ma. *aba*; Ch. *da wei*), mock battles, troop formations, camping, archery, horsemanship, and wrestling.¹⁰¹ Ritually, the imperial hunts at Mulan also involved several ritualized events. For example, the Mongol and Uyghur nobles offered tributes to and performed imperial audiences with the emperor. That fostered personal relationships between the Qing Emperor and Inner Asian elites and strengthened the link between the Qing Empire and Inner Asia.¹⁰²

Politically, during the up to month-long Mulan hunt, the imperial palace and central agencies were virtually moved to Mulan. At Mulan, the “seasonal camp” or “traveling camp” (known as *nabo* in Khitan; Ch. *xingying*, or *xingzai*) was spatially arranged as “a miniature tent city” with a layout roughly corresponding to that of the palace and offices

¹⁰⁰ Elliott & Chia, *supra* note 90, at 67.

¹⁰¹ WALEY-COHEN, *supra* note 81, at 83–84; Elliott & Chia, *supra* note 90, at 66–69, 71, 73–74; RAWSKI, *supra* note 18, at 20–21.

¹⁰² RAWSKI, *supra* note 18, at 21–22; GUO SONG-YI ET AL., *supra* note 85, at 304–6.

in Beijing.¹⁰³ Moreover, as an Inner Asia's traditional imperial center, the Mulan area witnessed several diplomatic and fateful moments concerning the Qing's Inner Asian realm, such as the signing of the Treaty of Nerchinsk with Russia in 1689 and the submission of the Khalkha Mongol to the Qing in 1691.¹⁰⁴

7.3.2 The Post-1644 Eight Banner Allocation

As a result of its conquest of China in 1644–81, the Qing Empire moved a substantial Banner population from Manchuria to the new capital at Beijing and the rest of China Proper to perform garrison duties. After the subjugation of Xinjiang in 1759, the Qing essentially finalized its allocation of Eight Banner forces with the main Eight Banner base in Beijing, plus four garrison networks.¹⁰⁵ As will be clear, the presence of Eight Banner force and institutions across the empire provided the foundation of the Manchu's military and political domination (or what Elliott calls the Manchu's "ethnic sovereignty") over the entire Qing Empire.¹⁰⁶

¹⁰³ Elliott & Chia, *supra* note 90, at 72, 75; MENG ZHAOXIN, KANG XI DI [THE KANGXI EMPEROR] 221, 222 (Changchun Shi, Jilin Wen Shi Chu Ban She, 1993) (China).

¹⁰⁴ Elliott & Chia, *supra* note 90, at 76 ("In 1689 the Kangxi emperor, at Mulan on the hunt, signed the Treaty of Nerchinsk; just one year later, having assembled his troops on the northern border of the hunting ground, he led them in victory over Galdan, whose forces were threatening nearby. Again the next year, in 1691, the same area was the site of the submission of the Khalkha princes to the Qing at a momentous convocation at Dolonnor.").

¹⁰⁵ ELLIOTT, *supra* note 1, at 93–96; RHOADS, *supra* note 20, at 26–33.

¹⁰⁶ See ELLIOTT, *supra* note 1, at 2–8.

7.3.2.1 The Metropolitan Banners and the Three Inner Banners in Beijing

The Banner population in Beijing consisted of two types: first, the Metropolitan Banners or Capital Banners (Ch. *Jinlu Baqi*, or *Jing Qi*), which were the regular Banner units located in or just nearby Beijing; and second, the Three Inner Banners (Ch. *Nei San Qi*), which were the bondservant units of the Imperial Household Department.¹⁰⁷ According to scholars' estimates, at least 300,000 Banner people moved to Beijing in the years just after 1644.¹⁰⁸ By the mid-18th century, Beijing's Banner population (including bondservants) grew to about 500,000 and constituted about half of Beijing's total population.¹⁰⁹ The Banner soldiers (Ch. *qi bing*) of the Metropolitan Banners were numbered about 100,000 in the 18th century¹¹⁰ and around 1.25–1.5 hundred thousand in the 19th century.¹¹¹ The Banner force in Beijing constituted roughly half of the total 2–3 hundred thousand Banner forces and virtually made Beijing (particularly, Beijing's Inner City) a large military base.¹¹²

¹⁰⁷ RHOADS, *supra* note 20, at 26–27; QI MEIQIN, QING DAI NEI WU FU [THE IMPERIAL HOUSEHOLD DEPARTMENT IN QING TIMES] 9, 71–75 (Zhongguo Ren Min Da Xue Chu Ban She 1998) (China).

¹⁰⁸ NAQUIN, *supra* note 57, at 293.

¹⁰⁹ ELLIOTT, *supra* note 1, at 118.

¹¹⁰ *Id.* at 117.

¹¹¹ RHOADS, *supra* note 20, at 27; *see also* LI YANGUANG & GUAN JIE, MANZU TONG SHI [A COMPREHENSIVE HISTORY OF THE MANCHUS] 426 (2d ed., Shenyang, Liaoning Minzu Chubanshe 2001) (China).

¹¹² RHOADS, *supra* note 20, at 27, 33 (“[N]ine-tenths of the Metropolitan Banners were stationed in Beijing's Inner City. The remainder were quartered near the emperor's Summer Palace in the northwestern suburb.”); ELLIOTT, *supra* note 1, at 117.

As Edward J. M. Rhoads notes, within Beijing's Inner City, each Metropolitan Banner "was assigned a residential area according to the Manchu system of correlation between color and compass direction" — thus, "the two yellow banners (the most prestigious) were assigned land in the north, the white banners in the east, the red banners in the west, and the blue banners (the least prestigious) in the south."¹¹³ These Metropolitan Banners were also divided into two wings (Ch. *yi*), i.e., the "left" (or east) wing, and the "right" (or west) wing, when facing south.¹¹⁴ Besides the Banner neighborhoods in Beijing, this Manchu spatial arrangement by color and division into two wings were also applied earlier to the Pavilions of Ten Princes (*Shi Wang Ting*) in Mukden, and later to many (if not most) Banner garrisons across the empire.¹¹⁵

7.3.2.2 The Garrison Banners in Four Garrison Networks

As noted already, the total Banner forces were estimated to be 2–3 hundred thousand Banner soldiers.¹¹⁶ About 52 percent of the Banner forces were in the Metropolitan

¹¹³ RHOADS, *supra* note 20, at 24.

¹¹⁴ The left (or east) wing contained the Bordered Yellow Banner (in the northeastern sector), the Plain White and Bordered White (in the eastern sector), and the Plain Blue (in the southeastern sector). The right (or west) wing consisted of the Plain Yellow Banner (in the northwestern sector), the Plain Red and Bordered Red (in the western sector), and the Bordered Blue (in the southwestern sector). See *Id.* at 24–25; for a map of "Eight Banner neighborhoods of Qing Beijing," see ELLIOTT, *supra* note 1, at 103.

¹¹⁵ RHOADS, *supra* note 20, at 25; WALEY-COHEN, *supra* note 81, at 101 ("Of [the Pavilions of Ten Princes in Mukden], eight were assigned to the banners and one each to the banner commanders of the left and right wings. Perhaps the eight-sided shape of the Hall of Great Administration . . . was also intended on one level to evoke the eight-banner military-administrative system."); ELLIOTT, *supra* note 1, at 79.

¹¹⁶ DING YIZHUANG, QING DAI BA QI ZHU FANG YAN JIU [STUDY OF THE GARRISON EIGHT BANNERS IN QING TIMES] 1, 15 (Shenyang Shi, Liaoning Min Zu Chu Ban She 2003) (China); 17 TONG SHI, *supra* note 94, at 694; ELLIOTT, *supra* note 1, at 117; RHOADS, *supra* note 20, at 33.

Banners (Ch. *Jinlu Baqi*) in Beijing. The remaining 48 percent were in the Garrison Banners (Ch. *Zhufang Baqi*) in four garrison networks, including around 5 percent in the “Jifu region” (i.e., Beijing’s surrounding areas), 19 percent in the rest of China Proper, 18 percent in the Northeast (i.e., Manchuria), and 6 percent in the Northwest (primarily, Mongolia and Xinjiang).¹¹⁷ Guarded by about half of the total Banner force, Beijing was regarded as “the official home” for all the Bannermen, and therefore, Beijing was not spoken as “a garrison” but as “the capital” (Ch. *jingshi*).¹¹⁸

Since the Qianlong reign, there were 13 most top-level Banner garrisons, each headed by a Banner “garrison general” (or “military governor”; Ch. *jiangjun*) directly responsible to the emperor.¹¹⁹ As Elliott explains, “[w]e may think of garrisons as fixed [and] fortified military installations aiding in the extension or maintenance of control by a central authority, often as the consequence of invasion or occupation.”¹²⁰

¹¹⁷ See RHOADS, *supra* note 20, at 33 (“Of [the total 260,000 Banner soldiers], roughly 55 percent were concentrated in Beijing and 45 percent were scattered among the provinces, with 5 percent in the capital region, 19 percent in the northeast, 6 percent in the northwest, and 15 percent in the rest of China proper. This finding accords well with Wang Zhonghan’s estimates for 1849: 149,425 [52 percent] in Beijing, 52,552 [18 percent] in the northeast, and 85,219 [30 percent] everywhere else in [the empire].”); ELLIOTT, *supra* note 1, at 117 (“[R]oughly 50 percent of active bannermen were employed in Beijing, 20 percent in Manchuria, and 30 percent spread around the rest of the garrison system, including those in China proper and, later, in the northern and western frontiers.”).

¹¹⁸ ELLIOTT, *supra* note 1, at 98.

¹¹⁹ DING YIZHUANG, *supra* note 116, at 114, 147.

¹²⁰ ELLIOTT, *supra* note 1, at 90.

(A) The Jifu Garrisons in Zhili Province

The network of “Jifu garrisons” (Ch. *Jifu zhufang*) covered most of Zhili Province and was manned by primarily Manchu and also a few Mongol Bannermen, rather than Hanjun.¹²¹ The Qing’s “Zhili” not only included the former Ming’s “Bei Zhili” (Northern Metropolitan Region; roughly, modern Hebei Province) in North China, but also covered a small part of Inner Mongolia (e.g., the Chengde and Mulan areas) (see Maps 1.12, 1.13, and 7.1). The Jifu Banner garrisons provided a defensive cordon around Beijing, helping to suppress local Han Chinese resistance against Manchu rule, and monitoring the traffic between Mongolia and Beijing.¹²²

(B) The Provincial Garrisons in China Proper

The network of “provincial garrisons” (Ch. *zhisheng zhufang*) in China Proper was made up of five “chains,” namely, the Great Wall, Yellow River, Yangzi River, Grand Canal, and Coastal chains.¹²³ The provincial Banner garrisons were placed in strategic cities across Chinese provinces, functioning as a permanent occupying force over China and maintaining control and surveillance over the Chinese Green Standard Army (Ch. *Luying Bing*).¹²⁴ The Green Standard Army was composed of about 600,000 Han

¹²¹ DING YIZHUANG, *supra* note 116, at 21, 37–39; RHOADS, *supra* note 20, at 30.

¹²² ELLIOTT, *supra* note 1, at 94; DING YIZHUANG, *supra* note 116, at 15–21, 37–39.

¹²³ ELLIOTT, *supra* note 1, at 95–96.

¹²⁴ *Id.* at 95–98, 128–29; DING YIZHUANG, *supra* note 116, at 29–30, 35–36, 55–57.

Chinese soldiers and stationed mostly in China Proper, serving not only as a “supplemental force” to (nonetheless, about three times larger than) the Eight Banner force but also as a Qing effort to “use Han to control Han” (Ch. *yi Han zhi Han*).¹²⁵

The Manchus implemented several measures to secure their domination over both the Eight Banner force and the Green Standard Army. For example, the Eight Banner garrison generals were mostly Manchu Bannermen and usually submitted reports written in Manchu to the Qing court.¹²⁶ Moreover, the Green Standard Army was placed under a mixed command of superior Eight Banner (primarily, Manchu) officers and Green Standard officers.¹²⁷

(C) The Northeast Garrisons in Manchuria

The Banner garrison network in the Northeast, i.e., Manchuria, was eventually divided into three regions — namely, Fengtian, Jilin, and Heilongjiang — each governed by a Banner garrison general and all predominated by the Manchus.¹²⁸ The garrisons in Manchuria constituted roughly one-fifth of the total Eight Banner forces, and the one in the auxiliary capital at Mukden was the largest Banner garrison in the empire.¹²⁹ It

¹²⁵ ELLIOTT, *supra* note 1, at 128–29, 424.

¹²⁶ DING YIZHUANG, *supra* note 116, at 3.

¹²⁷ ELLIOTT, *supra* note 1, at 128.

¹²⁸ RHOADS, *supra* note 20, at 31–32, 40–41, 46–47; ELLIOTT, *supra* note 1, at 94; *see also* DING YIZHUANG, *supra* note 116, at 60–83.

¹²⁹ RHOADS, *supra* note 20, at 31, 33.

should be noted again that the largest Eight Banner military base was in Beijing, which, however, was regarded as Banner people's "home" and not a "Banner garrison."

(D) The Northwest Garrisons in Mongolia and Xinjiang

The Banner garrison network in the Northwest covered, primarily, Mongolia and Xinjiang. Inner Mongolia was under the supervision of the adjacent Banner garrisons; Outer Mongolia came under, at least "technically," the jurisdiction of the Banner Garrison General of Uliastai; and entire Xinjiang was governed by the Banner Garrison General of Ili.¹³⁰ As Elliott notes,

[T]he garrisons [in the Northwest] bore greater resemblance to the arrangement in the Northeast [i.e., Manchuria], in that garrison commanders were responsible for all aspects of the administration of an area that was often very large and populated by non-Han ethnic groups, Han colonists, and exiles.¹³¹

Moreover, in Xinjiang, although the garrison force consisted of mainly the Eight Banner troops, it also included some Chinese Green Standard and other armies.¹³²

¹³⁰ 10 THE CAMBRIDGE HISTORY OF CHINA, LATE CH'ING, 1800–1911, PART 1, 49, 59 (John K. Fairbank ed., 1978) [hereinafter 10 CAMBRIDGE].

¹³¹ ELLIOTT, *supra* note 1, at 95.

¹³² 10 CAMBRIDGE, *supra* note 130, at 59–60.

7.3.3 The Post-1644 Central Governance

As discussed below, in the Qing's post-1644 central governance, the "Manchu–Han diarchy" applied (at least on paper) only to a few top positions of some agencies in Beijing,¹³³ while the Outer and Inner Courts were both dominated by the Manchus.¹³⁴

7.3.3.1 The Manchu–Han Diarchy

The so-called principle of "Manchu–Han diarchy" required a roughly equal balance between Manchu and Han Chinese officials, but, in reality, the principle applied (somewhat nominally) to only a few top-level positions in Beijing, such as those in the Grand Secretariat, the Six Ministries, and the Censorate.¹³⁵ The "Manchu" quotas actually consisted of the "ethnic slots" for five different Banner groups: the imperial clansmen, Manchu Bannermen, Mongol Bannermen, Hanjun Bannermen, and bondservants of the Imperial Household Department.¹³⁶ Moreover, in general, the diarchy was not applicable to the far more numerous mid- and lower-level positions,

¹³³ RHOADS, *supra* note 20, at 45–46; GUO SONG-YI ET AL., *supra* note 85, at 141.

¹³⁴ See RHOADS, *supra* note 20, at 45–46; BEATRICE S. BARTLETT, *MONARCHS AND MINISTERS: THE GRAND COUNCIL IN MID-CH'ING CHINA, 1723–1820*, at 25–26, 30–31, 35–37, 48, 64, 178 (1991).

¹³⁵ RHOADS, *supra* note 20, at 45–46; GUO SONG-YI ET AL., *supra* note 85, at 110–11, 131–32, 140–41, 352–58.

¹³⁶ RHOADS, *supra* note 20, at 45; see also WEI LI, *THE INTERACTION BETWEEN ETHNIC RELATIONS AND STATE POWER: A STRUCTURAL IMPEDIMENT TO THE INDUSTRIALIZATION OF CHINA, 1850–1911*, at 75 (May 27, 2008) (Ph.D. dissertation, Georgia State University), available at http://scholarworks.gsu.edu/sociology_diss/33.

where the Manchus overwhelmingly outnumbered Han Chinese “both absolutely and proportionately.”¹³⁷

Furthermore, the Manchu–Han diarchy did not apply at all to certain metropolitan agencies, such as the Imperial Clan Court or *Zongren Fu* (which handled the affairs of imperial lineage), the Imperial Household Department (which managed the palace service and imperial finance), the Lifan Yuan (which was mainly responsible for administering the Mongol and Uyghur domains), and the Metropolitan Banners (which were, of course, Banner-exclusive).¹³⁸

7.3.3.2 The Manchu Domination over the Outer Court

Although referred to as “the natural home of the Han Chinese literati” by Rawski,¹³⁹ the Outer Court agencies (e.g., the Grand Secretariat, Six Ministries, and Lifan Yuan) was largely predominated by the Manchus.¹⁴⁰ As noted earlier, the Six Ministries, Censorate, and Lifan Yuan were officially established by Hung Taiji in Mukden in the 1630s and were collectively known as the top “Eight Ministries.” In 1644, they were, together with other governmental institutions, moved to the Qing’s new primary capital at Beijing.

¹³⁷ RHOADS, *supra* note 20, at 45.

¹³⁸ See *Id.* at 46.

¹³⁹ RAWSKI, *supra* note 18, at 32.

¹⁴⁰ See RHOADS, *supra* note 20, at 45–46.

(A) The Grand Secretariat, Hanlin Academy, and Six Ministries

In 1658, the Three Palace Academies were reorganized into two Ming-style governmental institutions, namely, the Grand Secretariat and the Hanlin Academy, both of which, however, were “outside the circle of real power.”¹⁴¹ Although formally at the top of the Outer Court’s bureaucratic hierarchy, the Grand Secretariat (Ma. *dorgi yamun*; Ch. *Neige*) had never attained much decision-making power in Qing times.¹⁴² Essentially, the Grand Secretariat was an institution that only provided advisory and drafting work, carried out routine administrative business, and monitored the communication system of “routine memorials” (*tiben*), through which the central and local officials sent regular reports to the emperor.¹⁴³ The Hanlin Academy (Ma. *bithei yamun*; Ch. *Hanlin Yuan*) was primarily charged with compiling historical archives and preparing imperial pronouncements, and in practice, it also served as “the training ground” for high civilian officials.¹⁴⁴

Probably, the Manchu and Chinese pairs of top central officials resulted from the integration of the Qing’s previous government at Mukden and the Ming’s former

¹⁴¹ HUCKER, *supra* note 35, at 85.

¹⁴² *Id.*; ZHAO ZHIQIANG, *supra* note 23, at 260–61.

¹⁴³ HUCKER, *supra* note 35, at 346–47 (no. 4193); ROWE, *supra* note 49, at 34, 41–42.

¹⁴⁴ HUCKER, *supra* note 35, at 85, 222–23 (no. 2142 & no. 2154); ROWE, *supra* note 49, at 34; ZHAO ZHIQIANG, *supra* note 23, at 225, 261.

government at Beijing into the post-1644 Qing central governance.¹⁴⁵ Nonetheless, in the Grand Secretariat and the Six Ministries, although the Manchu–Chinese balance was “nominally” maintained at the top-level posts, the Manchu high officials were, in practice, more predominant than their Chinese colleagues, even when they held the exact same positions.¹⁴⁶ Moreover, the Manchus occupied the majority of the mid- and lower-level positions in the Grand Secretariat and the Six Ministries — for example, 20 of the 24 mid-level posts at the Grand Secretariat were reserved for Bannermen (largely, Manchus) and “[t]he situation at the Six Boards was similar.”¹⁴⁷ Furthermore, when a “shadowy” Ministry Superintendent or Supervisor (*Zong Li*) was sometimes appointed to oversee the

¹⁴⁵ In general, the “Grand Secretariat” had 2 Manchu and 2 Chinese “Grand Secretaries” (*Da Xue Shi*) and 1–2 Manchu and 1–2 Chinese “Assistant Grand Secretaries” (*Xie Ban Da Xue Shi*). The “Hanlin Academy” was headed by 1 Manchu and 1 Chinese “Hanlin Academicians in Charge” (*Hanlin Zhang Yuan Xue Shi*). Each of the “Six Ministries” was usually staffed by 1 Manchu and 1 Chinese “Minister” (*Shang Shu*) and 2 Manchu and 2 Chinese “Vice Minister” (*Shi Lang*). The “Censorate” had 1 Manchu and 1 Chinese “Censors-in-Chief of the Left” (*Zuo Dou Yu Shi*) and 2 Manchu and 2 Chinese “Vice Censors-in-Chief of the Left” (*Zuo Fu Dou Yu Shi*). See HUCKER, *supra* note 35, at 85–87, 223 (no. 2154), 240 (no. 2479), 318–19 (no. 3805), 346–47 (no. 4193), 410–11 (no. 5042), 426–27 (no. 5278), 536 (no. 7183); see also GUO SONG-YI ET AL., *supra* note 85, at 110–11, 132, 139–40, 352.

¹⁴⁶ GUO SONG-YI ET AL., *supra* note 85, at 111, 140–41; LI ZHITING ET AL., *supra* note 54, at 472–73, 1136–37.

¹⁴⁷ As noted by Rhoads: “At the Grand Secretariat . . . , twenty of the twenty-four mid-level positions (83 percent) were reserved for [bannermen] (fourteen Manchu bannermen, four Mongol bannermen, two Hanjun) and only four were for Han [Chinese]. The situation at the Six Boards was similar. At the Board of Revenue, of the 141 statutory positions in the three middle ranks, ninety-seven (69 percent) were reserved for [bannermen] (four imperial clansmen, ninety-one Manchu bannermen, two Mongol bannermen); the remaining forty-four slots (31 percent) were to be filled by Han [Chinese].” See RHOADS, *supra* note 20, at 45; see also HUCKER, *supra* note 35, at 85–86.

operations of a particular ministry, he was usually concurrently a trusted inner-court figure and almost always a Manchu, sometimes a Mongol, but very rarely a Chinese.¹⁴⁸

(B) The Lifan Yuan and other Central Agencies

As expected, the Manchu–Han diarchy did not apply at all to the Lifan Yuan because this unique Qing ministry was in charge of administering the Mongol and Uyghur domains and managing the relations with Tibetans and Russians.¹⁴⁹ Except for very few clerical posts held by Hanjun Bannermen, only Manchu and Mongol Bannermen (and, of course, no Chinese official) would be appointed to the Lifan Yuan.¹⁵⁰

As Rhoads observes, in all metropolitan agencies in Beijing, the Manchus were almost always more numerous than were the Han Chinese at the mid-rank positions (except in the Hanlin Academy and the Censorate), and the Manchus also monopolized the lower-rank posts “to the almost total exclusion of Han.”¹⁵¹ Therefore, even in those outer-court agencies to whom the Manchu–Han diarchy did apply, as Wei Li comments, “the few token Chinese officials were controlled by Manchu supervisors from the top and

¹⁴⁸ RHOADS, *supra* note 20, at 45 (noting that the appointments of Ministry Superintendents were “more common in the eighteenth than the nineteenth century”); BARTLETT, *supra* note 134, at 35–41, 242, 374 n. 42.

¹⁴⁹ RHOADS, *supra* note 20, at 46.

¹⁵⁰ Lifan Yuan normally had 1 Manchu Minister, 2 Manchu Vice Minister, and 1 Mongol Additional Vice Minister (*E Wai Shi Lang*). See GUO SONG-YI ET AL., *supra* note 85, at 152–53; RHOADS, *supra* note 20, at 46.

¹⁵¹ RHOADS, *supra* note 20, at 45–46.

their power to some degree [was] undercut by the numerous Manchu officials from [the middle and] the bottom.”¹⁵²

7.3.3.3 The Manchu Domination over the Inner Court

Described as “the bastion of a Manchu-dominated coterie of imperial advisers” by Rawski,¹⁵³ the Inner Court institutions (e.g., the Deliberative Council, Grand Council, and the Imperial Household Department) was obviously dominated by the Manchus.¹⁵⁴ As noted earlier, the Deliberative Council was always dominated by the Manchu aristocrats, and the Imperial Household Department was primarily staffed and operated by Manchu bondservants.

(A) The Deliberative Council and Grand Council

After 1644, the Qing’s major decision-making body was, at first, still the inner-court Deliberative Council, whose power and importance nonetheless gradually declined and eventually was overtaken by a new inner-court body, the Grand Council (Ma. *coohai nashūn i ba*; Ch. *Junji Chu*; lit. Office of Military Strategy).¹⁵⁵ After its creation in 1729–1731 (as popularly believed)¹⁵⁶ or, more likely, in 1735 or 1738 (as Beatrice S.

¹⁵² WEI LI, *supra* note 136, at 76.

¹⁵³ RAWSKI, *supra* note 18, at 32.

¹⁵⁴ BARTLETT, *supra* note 134, at 25, 30, 178, 181, 224.

¹⁵⁵ *Id.* at 17–18, 27, 30–31, 48–49, 137–38; *see also* ZHAO ZHIQIANG, *supra* note 23, at 190–91, 217–18, 272–76, 285–88, 315–16, 349–60.

¹⁵⁶ *E.g.*, LI ET AL., *supra* note 66, at 46; HUCKER, *supra* note 35, at 200 (no. 1735); ZHAO ZHIQIANG, *supra* note 23, at 288.

Bartlett argued),¹⁵⁷ the Grand Council soon became the new and highest decision-making center and directly contributed to the abolishment of the Deliberative Council in 1791.¹⁵⁸

The Grand Council consisted of 2–11 (typically, 4–5) Grand Councillors (*Junji Dachen*) and several Secretaries (*Junji Zhang Jing*).¹⁵⁹ Directly appointed by and responsible to the emperor, the Grand Councillors also often simultaneously held high-level outer-court posts, such as the Grand Secretaries, Ministers, or Vice Ministers.¹⁶⁰ Although a few especially trusted Chinese officials were appointed as Grand Councillors, the Grand Council was overwhelmingly dominated by its Manchu members, who were often the emperor's closest relatives and friends.¹⁶¹

(B) The Palace Memorials

The increasing power of the inner-court Grand Council and the further declining influence of the outer-court Grand Secretariat were partially facilitated by the communication system of “palace memorials” (*zouzhe*), a Manchu innovation that was instituted around the 1690s.¹⁶² The palace memorial system created a private and confidential channel between the emperor and a few carefully selected central and local officials, enabling “the emperor and his personal staff” to “handle certain crucial

¹⁵⁷ BARTLETT, *supra* note 134, at 18, 137–39.

¹⁵⁸ GUO SONG-YI ET AL., *supra* note 85, at 109.

¹⁵⁹ HUCKER, *supra* note 35, at 86, 200 (no. 1735); GUO SONG-YI ET AL., *supra* note 85, at 119–20.

¹⁶⁰ See HUCKER, *supra* note 35, at 86, 200 (no. 1735).

¹⁶¹ ROWE, *supra* note 49, at 41; see also BARTLETT, *supra* note 134, at 178–80.

¹⁶² HUCKER, *supra* note 35, at 85–86.

government business entirely in the inner court” and to bypass the “routine memorial” system monitored by the outer court.¹⁶³ Moreover, the palace memorials were often written in Manchu, which functioned as a confidential language that was not understood by Chinese officials.¹⁶⁴

In other words, through the Grand Council and the palace memorial system, the Manchu Qing rulers could increase their imperial control by communicating directly and secretly with their trusted key central and local officials, without the involvement of the Chinese-style bureaucracy headed by the Grand Secretariat.¹⁶⁵

7.4 The Regional and Local Governance

7.4.1 Governing the “Inner Lands” of China Proper, and the “Frontiers” of Yunnan and Western Taiwan

7.4.1.1 The Eighteen Provinces

Arguably, when acting as the Chinese Emperor, the Qing Emperors ruled only China Proper and the frontiers of Yunnan and Western Taiwan, but not the rest of the Qing territories. By 1664, the Manchu rulers had reconfigured the Ming’s “Fifteen Provinces”

¹⁶³ *Id.*; BARTLETT, *supra* note 134, at 4, 49–53.

¹⁶⁴ ZHAO ZHIQIANG, *supra* note 23, at 356; FORÊT, *supra* note 47, at 21.

¹⁶⁵ *See* WEI LI, *supra* note 136, at 76–77.

roughly into the Qing's "Eighteen Provinces," which basically consisted of China Proper (including "southern part of Zhili," Shandong, Shanxi, Henan, Shaanxi, Gansu, Jiangsu, Anhui, Zhejiang, Jiangxi, Hubei, Hunan, Sichuan, Fujian, Guangdong, Guangxi, and Guizhou Provinces) plus Yunnan Province (see Map 1.13).¹⁶⁶ In historical writings, the English term "China Proper" essentially corresponds to the Chinese terms *neidi* (lit. inner lands) and *guannei* (lit. lands within the passes), referring to the traditional Chinese heartlands inside (i.e., south to) the Ming Great Wall, which stretched from the Shanhai Pass in the east to the Jiayu Pass in the west.¹⁶⁷ As a region that was demographically and culturally dominated by the Han Chinese people, China Proper does not include Manchuria, Mongolia (Inner and Outer), Xinjiang, Tibet, and Taiwan, and arguably also excludes Yunnan.¹⁶⁸

Normally (but not always), each of the Qing's Eighteen Provinces was administered by a provincial governor (*xun fu*), and each set of two contiguous provinces was supervised by a governor-general (*zong du*).¹⁶⁹ Below the province (*sheng*) level, there were basically two levels: first, superior prefecture (*fu*), administered by a superior

¹⁶⁶ R. KENT GUY, QING GOVERNORS AND THEIR PROVINCES: THE EVOLUTION OF TERRITORIAL ADMINISTRATION IN CHINA, 1644–1796, at 10, 47 (2010).

¹⁶⁷ PAMELA KYLE CROSSLEY, THE WOBLING PIVOT, CHINA SINCE 1800: AN INTERPRETIVE HISTORY 66 (2010); Mark Elliott, *Hushuo: The Northern Other and the Naming of the Han Chinese*, in CRITICAL HAN STUDIES: THE HISTORY, REPRESENTATION, AND IDENTITY OF CHINA'S MAJORITY 173, 173 (Thomas S. Mullaney et al. eds., 2012).

¹⁶⁸ CROSSLEY, *supra* note 167, at 66.

¹⁶⁹ ROWE, *supra* note 49, at 35.

prefect; and second, prefecture (*zhou*) or county (*xian*), managed by a prefect or a county magistrate.¹⁷⁰ As the middlemen between the central government and local administrations, the provincial governors supervised local officials and affairs, transformed central policy into local programs, and sent reports on local conditions to the imperial court.¹⁷¹ Nevertheless, the provincial governors shared both civil and military responsibilities with the governors-general, who performed very similar functions to and ranked higher than the provincial governors.¹⁷²

Although not as dominant as they were in Beijing, the Manchus still possessed a “disproportionately large” share of the provincial and local posts, considering that even the total Banner population (roughly 5–6 million) was only comparable to slightly more than 1 percent of the total Chinese population (about 4 hundred million) in the late Qing.¹⁷³ As Rhoads comments on the Qing governance over the Eighteen Provinces,

[The Manchu presence] was greatest among the top two ranks of the provincial administration, where [the Manchu–Han] dyarchy prevailed informally. Thus, over the course of the Qing dynasty, Manchus were 57 percent of all governors-general and 48.4 percent of all [provincial] governors; in terms of length of tenure, they were in office 61.6 percent of the time as governors-general and 51 percent as [provincial] governors. The Manchu presence diminished below the level of [provincial] governor, particularly as the post declined in importance. Thus, . . . among prefects, 21 percent [were Bannermen]; and among county

¹⁷⁰ MOTE, *supra* note 48, at 943; ROWE, *supra* note 49, at 37.

¹⁷¹ GUY, *supra* note 166, at 5–6, 47.

¹⁷² *Id.* at 57, 183; ROWE, *supra* note 49, at 35.

¹⁷³ RHOADS, *supra* note 20, at 34, 45, 47, 293.

magistrates, only 6 percent. However, even at 6 percent, Manchus as local administrators exceeded their share of the population.¹⁷⁴

7.4.1.2 The Manchu–Han Segregation

During the Qing conquest of China, all Han Chinese males (except young boys, monks, etc.) were forced to shave their foreheads and adopt the Manchu-style queue as “a visible emblem of submission,” or otherwise, they would lose their heads.¹⁷⁵ Although the Qing forcefully imposed the Manchu hairstyle on the Chinese male subjects, as Rhoads points out, due to their different classifications, the Manchus and other Bannermen were segregated from the Han Chinese, administratively, residentially, and socially.¹⁷⁶

Administratively, there was a principle known as “separate governance of Banner people and civilians” (*qi min fen zhi*).¹⁷⁷ As “civilians” or “commoners” (Ch. *min-ren*; Ma. *irgen*), the mass Han Chinese (Ch. *Hanren*; Ma. *Nikan*) were governed by the regular local and provincial officials, ranging upward from county magistrate and the sub-prefect to the provincial governors and governors-general. Whereas, as the “Banner people” (Ch. *qi-ren*; Ma. *gūsai niyalma*), the Manchus and others Bannermen were administered by the Banner officials, such as company captains (Ch. *zuo-ling*; Ma. *nirui ejen*, later

¹⁷⁴ *Id.* at 47.

¹⁷⁵ WAKEMAN, *supra* note 2, at 420–22, 647.

¹⁷⁶ RHOADS, *supra* note 20, at 35–42.

¹⁷⁷ *Id.* at 35.

nirui janggin) and Banner garrison generals.¹⁷⁸ Moreover, legally, the Manchus and other Bannermen were subject to better treatments and lighter punishments than the Chinese civilians.¹⁷⁹

Residentially, in Beijing and the rest of China, the Banner people lived in and were “tightly bound to” their own “exclusive residential quarters” known as “Manchu cities” (*Man cheng*), which were segregated from the Han Chinese residential areas.¹⁸⁰ Although a few Chinese did gradually move into the Manchu cities, according to Rhoads, the Manchu cities were still populated “predominantly” (though no longer “exclusively”) by the Banner people even in the late Qing.¹⁸¹ As Elliott further notes,

[T]he walls partitioning Beijing and other Chinese cities symbolized the basic fact of Manchu domination during the Qing period. By representing dynastic territorial rights in some of China’s oldest conurbations . . . , separately delineated “Manchu cities” were, with the [Manchu-style] queue, one of the two most enduring and obvious manifestations of the conquest nature of Qing rule [over China].¹⁸²

¹⁷⁸ *Id.* at 36; ELLIOTT, *supra* note 1, at 59, 133, 136.

¹⁷⁹ RHOADS, *supra* note 20, at 42–43 (“If, for example, a Manchu and a Han [i.e., Chinese] were brought before a court on a legal matter, the Han was required to kneel before the magistrate, whereas the Manchu was permitted to stand. More important, if found guilty of a crime, a Manchu was subject to a lesser punishment than a Han. According to the Qing code, banner people could opt for a beating with a whip instead of a bamboo rod, and they could substitute wearing the cangue in place of penal servitude or even military exile.”); *see also* Elliott, *supra* note 15, at 46.

¹⁸⁰ Rhoads further notes: “In Beijing [the banner people] were restricted to within forty li (about thirteen miles) of the capital, and in the provinces to within twenty li of their garrison (although in the northeast it was one hundred li, or thirty-three miles). These limits applied as well to the location of banner settlements away from a garrison city. . . . Any banner person who ventured beyond these specified distances without permission was considered a deserter.” RHOADS, *supra* note 20, at 36–38.

¹⁸¹ *Id.* at 38.

¹⁸² ELLIOTT, *supra* note 1, at 89.

Socially, the Manchus were also segregated from the Han Chinese by the severe prohibition and the “big taboo” against Manchu-Han intermarriage.¹⁸³ The ban was lifted only in 1902 (i.e., ten years before the fall of Qing) by an edict, which, “however, had little immediate effect.”¹⁸⁴ Therefore, as concluded by Rhoads, “[a]s a cumulative consequence of the various aspects of segregation, Manchus and Han generally lived in separate communities and kept apart from each other.”¹⁸⁵

7.4.2 Preserving the “Homeland” of Manchuria

7.4.2.1 The Ban on Han Chinese Immigration into Manchurian Homeland

Regarded as the Manchu “homeland” rather than a “frontier,” Manchuria (especially its northern part) was during most of Qing period largely kept as a Banner-exclusive domain, to which the Qing conquerors could retreat if necessary.¹⁸⁶ As Christopher Mills Isett notes,

Manchuria was variously called by Qing emperors and officials alike “the land from whence the dragon [ruling house] arose” (*long xing zhi di*), the “cradle” of the Manchu people (*faxiang zhi di*), and the place of “Manchu genesis” (*manzhou genben*). These phrases point to the association in ideology of Manchuria, as a

¹⁸³ RHOADS, *supra* note 20, at 41–42.

¹⁸⁴ *Id.* at 76.

¹⁸⁵ *Id.* at 42.

¹⁸⁶ *Id.* at 40–41; CHRISTOPHER MILLS ISETT, *STATE, PEASANT, AND MERCHANT IN QING MANCHURIA, 1644–1862*, at 23–24, 31 (2007).

geographic and cultural site, with the origins of the Qing dynasty and even the source of its power.¹⁸⁷

To preserve Manchuria as the Manchu homeland, the Qing banned further Chinese immigration into Manchuria and prohibited existing Chinese settlers in southern Manchuria from moving into central and northern Manchuria beyond the Willow Palisade (*Liu-tiao Bian*).¹⁸⁸ Composed of three sections of barrier and totally about 945 miles (1520 kilometers) long, the Willow Palisade (see Map 7.1) divided Manchuria into three regions: to the east and northeast, a large Manchu preserve in Jilin and Heilongjiang; to the west, a Mongol-occupied steppe; and to the south, a Chinese cultivated land in Fengtian (essentially, Liaodong).¹⁸⁹

The policy of “closure” (*feng jin*) of Manchuria to Han Chinese immigration was first introduced in 1668, increasingly stringent in 1740, and gradually abandoned after 1860 (mainly to counter Russian encroachment into Manchuria).¹⁹⁰ The policy resulted in a mixed success, as it was quite successful in keeping the Chinese out of the northern, but not the southern, Manchuria.¹⁹¹ The estimated population of Manchuria was about 0.4 million in 1644; 0.7 million in 1750; 3.7 million in 1860; and, after gradually opening

¹⁸⁷ ISETT, *supra* note 186, at 23.

¹⁸⁸ RHOADS, *supra* note 20, at 40–41, 46–47; ISETT, *supra* note 186, at 23–24, 28, 30, 33–34.

¹⁸⁹ RICHARD L. EDMONDS, NORTHERN FRONTIERS OF QING CHINA AND TOKUGAWA JAPAN: A COMPARATIVE STUDY OF FRONTIER POLICY 58–61, 70 (1985); RHOADS, *supra* note 20, at 40–41.

¹⁹⁰ DING HAIBIN & SHI YI, *supra* note 70, at 137–42; ZHONGGUO DONG BEI SHI [HISTORY OF NORTHEAST CHINA], vol. 5, at 50–52, 86–89, 148–49, 151–54 (Tong Dong et al. eds., Changchun Shi, Jilin Wen Shi Chu Ban She 2006) (China).

¹⁹¹ See RHOADS, *supra* note 20, at 41.

up Manchuria to Han immigration, jumped to 12 million in 1900, and 20 million in 1911.¹⁹² Obviously, most of Manchuria's population growth in the late Qing did not come from the natural increase of Banner population, but the Han Chinese immigration from China Proper.¹⁹³

Nevertheless, as Rhoads notes, by the 1860s “there were still very few Han [Chinese] immigrants living in Jilin and Heilongjiang.”¹⁹⁴ In fact, it was the Qing's “very success” in keeping the Chinese out of these two regions that allowed Russia to annex “Outer Manchuria” north of the Amur River and east of the Ussuri River by the Treaty of Aigun (1858) and the Treaty of Beijing (1860) (see Map 7.3).¹⁹⁵ Even in the very late Qing, the Chinese migrants were still concentrated mainly in southern Manchuria and only partially in central Manchuria, while much of northern Manchuria was largely populated by the Banner people.¹⁹⁶

7.4.2.2 From Three Garrison Districts to Three Eastern Provinces

As argued earlier, even after 1644, the Qing Emperors continued to rule Manchuria in their capacities of the Manchu Great Khan. Until 1907, each of the three Manchurian regions (namely, Fengtian, Jilin, and Heilongjiang) was administered by its respective

¹⁹² ZHAO YINGLAN, *QING DAI DONGBEI REN KOU SHE HUI YAN JIU* [STUDIES ON THE POPULATION OF THE NORTHEAST SOCIETY OF QING DYNASTY] 41–42 (2011) (China).

¹⁹³ ISETT, *supra* note 186, at 111.

¹⁹⁴ RHOADS, *supra* note 20, at 41.

¹⁹⁵ *Id.*

¹⁹⁶ *Id.*; ZHAO YINGLAN, *supra* note 192, at 159–60.

Banner garrison general, who was under the emperor's direct control and almost always a Manchu (much less commonly, a Mongol) Bannerman.¹⁹⁷

In Fengtian (southern Manchuria), the Garrison General of Shengjing (Mukden) had authority over the regional Banner population, but his authority in many areas overlapped with those of the Five Shengjing Ministries, which also had jurisdiction over various Banner affairs of Manchuria as well as civil authority over the growing Han Chinese population.¹⁹⁸ In contrast, in Jilin (central Manchuria) and Heilongjiang (northern Manchuria), the Garrison General of Jilin and the Garrison General of Heilongjiang had both military and civil jurisdictions over the Banner people and the Han Chinese civilians, as well as the local Wild Jurchen tribesmen, many of whom were incorporated into the Eight Banner system as the "New Manchus" after 1644.¹⁹⁹

At the local levels, the principle of "separate governance of Banner people and civilians" was also applied to Manchuria. The Bannermen were governed by the Eight Banner garrison system, while the Han Chinese settlers were typically administrated by Chinese-style superior prefectures (*fu*), prefectures (*zhou*), counties (*xian*), and

¹⁹⁷ RHOADS, *supra* note 20, at 46–47, 77; 10 CAMBRIDGE, *supra* note 130, at 42.

¹⁹⁸ 10 CAMBRIDGE, *supra* note 130, at 42.

¹⁹⁹ *Id.*; RHOADS, *supra* note 20, at 20.

departments (*ting*).²⁰⁰ Nonetheless, even in the late Qing, the local officials of the Chinese-style administrative units in Manchuria continued to be mostly Manchus.²⁰¹

In 1907 (only five years before the fall of Qing), the Qing court abolished the three Banner garrison generals in Manchuria and formally reorganized Manchuria into the “Three Eastern Provinces” (*Dong San Sheng*) — Fengtian, Jilin, and Heilongjiang Provinces — under the jurisdictions of a single governor-general and three provincial governors.²⁰² The creation of a new provincial system in Manchuria was mainly a response to the increasing Japanese encroachment and the growing Han Chinese immigration into Manchuria.²⁰³

Although the reform of 1907 brought Manchuria administratively into line with those provinces in China and fully opened Manchuria to the Chinese immigration, it did not convert the Three Eastern Provinces of Manchuria into parts of “China.”²⁰⁴ As noted in earlier chapters, the provincial system in China was actually a “non-Chinese” innovation — in particular, a Mongol Yuan invention that was later succeeded and further developed by the Chinese Ming, the Manchu Qing, and the Chinese Republics.

²⁰⁰ ZHANG JINFAN & GUO CHENGKANG, *QING RU GUAN QIAN GUO JIA FA LÜ ZHI DU SHI* 44–48, 52, 55–57, 76–78 (Shenyang, Liaoning Ren Min Chu Ban She 1988) (China); GUO SONG-YI ET AL., *supra* note 85, at 243–45.

²⁰¹ RHOADS, *supra* note 20, at 46–47.

²⁰² *Id.* at 77.

²⁰³ *Id.*; REGINALD F. JOHNSTON, *TWILIGHT IN THE FORBIDDEN CITY* 57 (Cambridge University Press 2011) (1934).

²⁰⁴ JOHNSTON, *supra* note 203, at 57.

Moreover, the Mongol Yuan's provincial system applied not only to China Proper but also to its non-Chinese-populated territories (e.g., Manchuria as Liaoyang Province; Outer Mongolia, part of Inner Mongolia, and part of Siberia as Lingbei Province; and Dali as Yunnan Province) and even to a tributary state (Korea as Zhengdong Province) (see Map 1.11). Even though the Yuan Dynasty was a "Mongol" Empire, its provincial system did not incorporate the Chinese-inhabited provinces in China Proper into "Mongolia," let alone make all the Yuan's non-Chinese provinces in Inner Asia into parts of "China."

Similarly, contrary to some scholars' suggestions that Manchuria was incorporated into "China,"²⁰⁵ the late Qing's creations of Fengtian, Jilin, and Heilongjiang Provinces in 1907 only meant that Manchuria would have provincial administrations parallel to those in China Proper. As noted by Reginald F. Johnston,

It should be noted that this administrative change was initiated by the Manchu court itself not because it had any intention of making a present of [Manchuria's] "three eastern provinces" to China but for practical reasons of state and in the hope of demonstrating to the Chinese that the reigning House regarded Manchus and Chinese as members of one great family.²⁰⁶

²⁰⁵ E.g., ISETT, *supra* note 186, at 3 ("This sense of Manchuria's separateness from China Proper remained until the very end of the Qing dynasty. Not until 1907 was the region politically and socially incorporated into China Proper. In that year, Manchuria . . . became simply the Three Eastern Provinces."); 3 CULTURAL SOCIOLOGY OF THE MIDDLE EAST, ASIA, AND AFRICA: AN ENCYCLOPEDIA 319 (Peter J. Seybolt ed., 2012) ("It was not until the waning years of the Qing dynasty, in 1907, that the court fully incorporated Manchuria into China proper, designating the area as the Three Eastern Provinces.").

²⁰⁶ JOHNSTON, *supra* note 203, at 57.

The administrative reform and the opening of Manchuria to Chinese immigration in 1907 were, at least partially, the Qing measures to ease the growing Chinese anti-Manchu movement, which, however, could not be contained and eventually contributed to the fall of Qing in 1912.

Although Manchuria's three garrison generals were "officially" abolished, their Banner jurisdictions were concentrated in the new "Governor-General of the Three Eastern Provinces" (*Dong San Sheng Zong Du*), who from 1907 also concurrently managed the Banner affairs of the "Garrison Generals of the Three Provinces" (*San Sheng Jiangjun*), and from 1910 even concurrently managed the affairs of the just abolished "Fengtian Provincial Governor" (*Fengtian Xun Fu*).²⁰⁷ Consequently, the Governor-General of the Three Eastern Provinces was, in fact, much more powerful than those governors-general in the Eighteen Provinces, who, in contrast, lacked jurisdiction over the Banner garrisons.²⁰⁸

²⁰⁷ After the governor-general of Manchuria also took over the jurisdiction of the abolished Provincial Governor of Fengtian in 1910, his full title became the "Governor-General of the Three Eastern Provinces and Surrounding Areas, Who Concurrently Manages the Affairs of the Garrison Generals of the Three Provinces and the Provincial Governor of Fengtian" (*Zong Du Dong San Sheng Deng Chu Di Fang, Jian Guan San Sheng Jiang Jun Feng Tian Xun Fu Shi*). See LIU WEI, WAN QING DU FU ZHENG ZHI [THE POLITICS OF GOVERNORS-GENERAL AND PROVINCIAL GOVERNORS IN THE LATE QING] 17–18, 199–200 (Wuhan Shi, Hubei Jiao Yu Chu Ban She 2003) (China).

²⁰⁸ *Id.* at 200.

7.4.3 Administering the “Outer Domains” in Mongolia, Qinghai, and Xinjiang

7.4.3.1 The Lifan Yuan’s Chinese, Manchu, and Mongolian Names

The Chinese, Manchu, and Mongolian names for the Lifan Yuan were quite different, causing some controversies over the understanding and translation of this important institution of the Qing central government.²⁰⁹ This unique ministry was responsible for administering Inner Mongolia (annexed in 1635), Outer Mongolia (subjugated in 1691), Qinghai (seized in 1724), and Xinjiang (conquered in 1757–59), and also managing the relations with Tibet and Russia.

The Chinese title, *Li-fan Yuan*, is often (but misleadingly) translated as the “Court of Colonial Affairs.” This translation, as Nicola Di Cosmo comments, is “both arbitrary and anachronistic” and should be “rejected” because “at the time of its creation,” the Lifan Yuan was hardly seen as “anything resembling a *colonial* administrative structure.”²¹⁰ Moreover, in the Chinese title *Li-fan Yuan*, the word “*fan*” — which has the basic meaning of “a hedge, a boundary, a frontier; to screen, to protect”²¹¹ — should be understood here as “*wai fan*” (lit. outer vassals).²¹² Nonetheless, in Qing times, “outer vassals” could refer to not only the tributary “foreign states” outside the Qing

²⁰⁹ For more detail discussion on the names of Lifan Yuan, see Cosmo, *supra* note 43, at 182–85.

²¹⁰ *Id.* at 182.

²¹¹ John K. Fairbank, *A Preliminary Framework*, in *THE CHINESE WORLD ORDER: TRADITIONAL CHINA’S FOREIGN RELATIONS* 1, 9 (John K. Fairbank ed., 1968).

²¹² GUO SONG-YI ET AL., *supra* note 85, at 151; 10 CAMBRIDGE, *supra* note 130, at 31.

borders but also the subordinate “outlying vassals” within the empire. The domains of “outlying vassals” were distinguished from the Manchu “homeland” and Chinese “inner lands.”²¹³ Nevertheless, because the Chinese term “*wai fan*” was typically used to refer to foreign vassals, this institution’s Chinese name, *Li-fan Yuan*, was quite confusing.

On the contrary, the Lifan Yuan’s Manchu name, *Tulergi golo be dasara jurgan* (lit. Ministry for Governing the Outer Provinces),²¹⁴ “better reflected the functions of the institution,” as Crossley observes.²¹⁵ The Manchu word “*tulergi*” (meaning “outer, external, or outlying”) made it clear that the Lifan Yuan was designed to administer territories that were regarded as “outer.”²¹⁶ Moreover, the Manchu word “*golo*” (meaning “province” or “region”) was, in fact, the same Manchu word that was used to refer to the Eighteen “Provinces” in China Proper and Yunnan.²¹⁷ In other words, for the Manchus, the Chinese provinces were viewed as the “inner provinces” (probably, from Beijing’s perspective, as these Chinese provinces were indeed “inside” the Great Wall), and the Inner Asian domains under the jurisdiction of the Lifan Yuan were regarded as the “outer provinces.”

²¹³ See 10 CAMBRIDGE, *supra* note 130, at 31; JAMES A. MILLWARD, *BEYOND THE PASS: ECONOMY, ETHNICITY, AND EMPIRE IN QING CENTRAL ASIA, 1759–1864*, at 158–59 (1998); Cosmo, *supra* note 43, at 183.

²¹⁴ MILLWARD, *supra* note 213, at 158; Pamela Kyle Crossley, *Making Mongols*, in *EMPIRE AT THE MARGINS: CULTURE, ETHNICITY, AND FRONTIER IN EARLY MODERN CHINA*, 68 (Pamela Kyle Crossley et al. eds., 2005).

²¹⁵ Crossley, *supra* note 214, at 68.

²¹⁶ Cosmo, *supra* note 43, at 183.

²¹⁷ MILLWARD, *supra* note 213, at 158.

Slightly differently, the Lifan Yuan's Mongolian name, *yadayadu Mongyol-un törö-yi jasaqu yabudal-un yamun*, literally meant the "Court for Governing the Affairs of the Outer Mongolian Domains."²¹⁸ However, Atwood's translation, "Court of Administration of the Autonomous Mongolian States,"²¹⁹ is somewhat misleading. The Mongolian word "*yadayadu*" (meaning "outer" or "external," rather than "autonomous") confirmed again that the regions administered by the Lifan Yuan were regarded as "outer."²²⁰ Furthermore, the terms "*Mongyol-un*" (meaning "Mongol's") and "*törö*" (meaning "domain" or "state") represented to the Mongols that these regions were, primarily, "Mongol domains" or "Mongolian states."²²¹ Thus, the Lifan Yuan's Mongolian title echoed its original name, the Mongol Bureau (Mo. *Monggol jurgan*), and reinforced the Qing Emperor's image as the Mongol Great Khan in the Mongolian eyes. It should be noted that through the Manchu–Mongol marriage alliance among aristocrats, all of the Qing Emperors from Shunzhi onward were themselves the descendants of the Mongol imperial Borjigin clan.²²²

²¹⁸ Cosmo, *supra* note 43, at 183–84.

²¹⁹ ATWOOD, *supra* note 42, at 333.

²²⁰ Cosmo argues that the translation of *yadayadu* should be "external" rather than "autonomous," and *törö* should be translated here as "domains" rather than "states." Cosmo, *supra* note 43, at 183–84.

²²¹ *See Id.*; ATWOOD, *supra* note 42, at 333.

²²² Nicola Di Cosmo, *Marital Politics on the Manchu–Mongol Frontier in the Early Seventeenth Century*, in *THE CHINESE STATE AT THE BORDERS* 57, 61–63 (Diana Lary ed., 2007); Elliott, *supra* note 15, at 40.

Moreover, because the Mongol Bureau/Lifan Yuan was established before the Qing conquest of China, the Manchu Qing apparently, as Cosmo notes, “already operated a distinction between an internal and an external administrative sphere before the conquest of 1644.”²²³ According to Atwood,

After [Hung Taiji’s] coronation of 1636, the [Manchu–Mongol] relation was no longer one of equal alliance, but rather one in which the emperor (*Bogda Khaan*, Holy Khan in Mongolian) gathered around him both inner (Manchu) and outer (Mongol) noblemen, to whom he granted titles as princes and dukes and who in return strove to win commendation through meritorious service.²²⁴

Indeed, the *Old Manchu Archives* (*Manwen Laodang*) for the year of 1636 also shows clearly that the Qing court regarded the homeland, nobles, and officials of the Manchu nation (Ma. *Manju gurun*) as “inner” (Ma. *dorgi*), while viewing those of the subordinate Mongol nations (Ma. *Monggo gurun*) as “outer” (Ma. *tulergi*).²²⁵

7.4.3.2 The Eight Banner Governance and the Imperial Supervision over the Outer Domains

In terms of regional governance over the Qing’s outer domains, Inner Mongolia was closely supervised by the Eight Banner garrisons “along Mongolia’s southern and eastern frontier,” while Outer Mongolia and Xinjiang (see Map 1.13) came under the Banner

²²³ Cosmo, *supra* note 43, at 183.

²²⁴ ATWOOD, *supra* note 42, at 449.

²²⁵ NEI GE CANG BEN MAN WEN LAO DANG, vol. 18, at 962–65, 990–97; vol. 20, at 671–72, 689–93 (Zhong Guo Di Yi Li Shi Dang An Guan ed. & trans., Shenyang Shi, Liaoning Min Zu Chu Ban She 2009) (China) (1607–36).

jurisdictions of the Garrison General of Uliastai and the Garrison General of Ili, respectively.²²⁶ Qinghai was under the jurisdiction of the *Amban* (Imperial Resident; Ch. *Banshi Dachen*) of Xining.²²⁷ Nonetheless, in practice, by the late 18th century, the *Amban* (Imperial Resident; Ch. *Banshi Dachen*) of Khüree (i.e., Khüriye or Urga; present-day Ulaanbaatar) was given general supervision over the eastern part of Outer Mongolia. The *Hebei-Amban* (Grand Minister Consultant, or Assistant Military Governor; Ch. *Canzan Dachen*) of Kobdo had jurisdiction over the westernmost part (known as the Kobdo region) of Outer Mongolia. Therefore, the Garrison General of Uliastai, in fact, only administrated most of the western part of Outer Mongolia.²²⁸

Xinjiang, which included Zungharia in the north and East Turkestan in the south, was in essence “a huge garrison” under the jurisdiction of the Banner Garrison General of Ili, who stationed at Huiyuan (also known as New Kulja; present-day Yining in the Ili Valley).²²⁹ The military forces in Xinjiang were divided into northern, eastern, and southern districts; those garrisoned in northern and eastern Xinjiang were posted permanently with their dependents, while those stationed in southern Xinjiang were not

²²⁶ 10 CAMBRIDGE, *supra* note 130, at 49, 59.

²²⁷ URADYN ERDEN BULAG, *THE MONGOLS AT CHINA’S EDGE: HISTORY AND THE POLITICS OF NATIONAL UNITY* 35–38 (2002).

²²⁸ 10 CAMBRIDGE, *supra* note 130, at 49; H. S. BRUNNERT & V. V. HAGELSTROM, *PRESENT DAY POLITICAL ORGANIZATION OF CHINA* 453–54 (1911); HUCKER, *supra* note 35, at 90.

²²⁹ 10 CAMBRIDGE, *supra* note 130, at 58–59.

only far fewer but also rotated every three years (later, five years) without their family members.²³⁰

7.4.3.3 The League–Banner (*Meng–Qi*) System in Mongol Domains

According to Joseph Fletcher’s estimate, in the year of 1800, the Qing’s Mongol population (not counting the Mongol Bannermen) were totally about 3.5 million, which included about 2.6 million in Inner Mongolia, 0.7 million in Outer Mongolia, and 0.2 million in Qinghai and Xinjiang.²³¹

At the local level, the Mongol-populated areas were administered primarily by the league–banner (Ch. *meng–qi*; Mo. *chuulgan–khoshuun*) system.²³² Under Qing rule, the “basic sociopolitical units” for the Mongols were the *zasag* “banners” (Mo. *khoshuun*; Ch. *qi*) or what Atwood calls the “autonomous banners,” which must not be confused with the “Mongol Eight Banners” under a different sociopolitical system.²³³

Each Mongol autonomous *zasag* banner consisted of a certain body of Mongol nobles and commoners on “a well-defined territory” and was ruled by a local hereditary

²³⁰ *Id.* at 59–60.

²³¹ *Id.* at 48.

²³² 17 TONG SHI, *supra* note 94, at 690–92; ATWOOD, *supra* note 42, at 30–32, 329.

²³³ ATWOOD, *supra* note 42, at 30.

(often a Chinggisid) Mongol *zasag* (Ma. *jasak*; Ch. *zhasake*) or “banner prince” under the supervision of the Lifan Yuan at Beijing.²³⁴ As Atwood notes,

All of the Qing *zasags* were *taiji* (noblemen), and virtually all were descendants of Chinggis Khan or his brothers. Thus, the *zasag* was simultaneously a hereditary Qing official and a representative of Chinggis Khan. Qing dynasty regulations limited the [Borjigid] (Chinggisid) ruler’s classically patrimonial powers, reserving the right to depose serving *zasags*, divide their banners, or alter the succession. . . .

[The *zasags*] and all the [Mongol] nobility were ranked according to their traditional prominence, seniority, and service to the dynasty. These ranks . . . carried with them both symbolic distinctions and different salaries. The Qing used the possibilities of promotion or demotion to control the *zasags*. The *zasags*, along with the other titled *taijis*, had the right and duty of [imperial] audience at court every three (Inner Mongolia) or six (Khalkha) years, as well as participation in the imperial hunt.²³⁵

The autonomous *zasag* banners were further grouped into several Mongol leagues (Mo. *chuulgan*; Ch. *meng*), which, however, lacked substantial authority.²³⁶ Functioning as mid-level organs, the Mongol leagues held triennial assemblies to regulate inter-banner disputes and transmitted imperial orders and local appeals and conditions between the Qing central government and *zasag* banners.²³⁷ Typically, each league was headed by a league captain-general (*chuulgan-u daruga*), who was always simultaneously a *zasag* from that league. Once appointed by the emperor (originally, elected among the *zasags*),

²³⁴ *Id.*; 10 CAMBRIDGE, *supra* note 130, at 49–51.

²³⁵ ATWOOD, *supra* note 42, at 617–18.

²³⁶ 10 CAMBRIDGE, *supra* note 130, at 51.

²³⁷ *Id.*; ATWOOD, *supra* note 42, at 329.

the league captain-general normally served for life, though could be still replaced for misconduct.²³⁸

Eventually, the Qing established 49 *zasag* banners and 6 leagues in Inner Mongolia (Southern Mongolia); 86 *zasag* banners and 4 leagues in Outer Mongolia (essentially, Northern or Khalkha Mongolia); 29 *zasag* banners and 1 league in Qinghai (known as *Qinghai Menggu* or “Qinghai Mongolia”); 2 *zasag* banners in the western Hetao region; 13 *zasag* banners and 5 leagues in North Xinjiang (known as “Western Mongolia” or Zungharia); and 19 *zasag* banners and 3 leagues in the Kobdo region.²³⁹ Moreover, in Inner Mongolia, Xinjiang, Kobdo, and Tannu Uriankhai (roughly, present-day Tyva Republic), there were also several “*dutong* banners” and “*zongguan* banners,” which were administered by non-hereditary *dutong* (lieutenant-general) and *zongguan* (supervisor-in-chief) and generally lacked the local autonomy.²⁴⁰

The Mongol *zasags* were required to lead “tribute missions” and perform imperial audiences with the Qing Emperor; in return, they were granted imperial gifts.²⁴¹

²³⁸ ATWOOD, *supra* note 42, at 329; 17 TONG SHI, *supra* note 94, at 690; MENG GU ZU TONG SHI, vol. 2, at 348, 351 (Nei Menggu She Hui Ke Xue Yuan [Inner Mongolia Academy of Social Science] ed., rev. ed., Beijing, Min Zu Chu Ban She 2001) (China).

²³⁹ ATWOOD, *supra* note 42, at 30–32, 311–12, 329, 450, 574; MENG GU ZU TONG SHI, *supra* note 238, vol. 2, at 346–49.

²⁴⁰ ATWOOD, *supra* note 42, at 9, 32, 311–12, 556–57; MENG GU ZU TONG SHI, *supra* note 238, vol. 2, at 352–56.

²⁴¹ 10 CAMBRIDGE, *supra* note 130, at 49–50.

However, in Qing times, tribute missions “were not exclusively for foreigners.”²⁴² For the reasons discussed below, the Mongol *zasags* were not “foreign” tributary rulers from without the Qing Empire.

First of all, as Fletcher comments, the Qing’s *zasag* banner system was employed to sever the Mongol’s “traditional lines of tribal authority” and to divide the Mongols into “several separate [and smaller] banners.”²⁴³ As a result, every *zasag* banner had “direct responsibility” to the Qing administration and was assigned “fixed and carefully delimited” lands. Therefore, no *zasag* could freely expand his territory and establish preponderant power.²⁴⁴ In contrast, the Manchu Qing court’s administrative relations with the Mongol *zasag* banners were very different from the Chinese Ming court’s nominal tributary relations with the non-Chinese *jimi* (loose-rein) units and *tusi* (native offices).

Second, despite the fact that every Mongol noble held a rank in the Qing aristocracy, only the *zasags* were granted “temporal power” to rule their respective banners.²⁴⁵ The *zasags* received their seals (the symbols of their “right to rule”) from the Lifan Yuan as well as annual stipends (Ch. *feng-lu*) of silver and silk from the Qing court.²⁴⁶ More

²⁴² MILLWARD, *supra* note 213, at 158–59.

²⁴³ 10 CAMBRIDGE, *supra* note 130, at 51.

²⁴⁴ *Id.*

²⁴⁵ *Id.* at 49.

²⁴⁶ ATWOOD, *supra* note 42, at 30; 10 CAMBRIDGE, *supra* note 130, at 50.

importantly, as Rawski points out, even after the appointments of hereditary *zasags*, “the Qing court could and did shift the appointment from one descent line to another for a variety of reasons.”²⁴⁷

Third, most Mongol “commoners” (*arad*) in the *zasag* banners — especially those in Inner Mongolia — were “tax-paying subjects” (*sumun albatu*). As Fletcher points out, they owed taxes (usually paid “in kind, mainly livestock,” but also in silver), special levies (e.g., the imperial demands for “animals, furs, felt, tents, native jewellery and other Mongolian products”), and public services (e.g., supports to “frontier guard posts” and “postal relay stations”) to the Qing government.²⁴⁸

Fourth, the Qing court also regulated the judicial affairs of the *zasag* banners. According to Atwood, although “the *zasag* was the banner’s supreme judge,” not only “plaintiffs could appeal to the league and the Lifan Yuan” but “[a]ll capital cases were subject to mandatory review.”²⁴⁹

Because the Mongol *zasag* banners were actually subject to the Qing’s administration, judiciary, taxation, and corvée, it is clear that the Mongol *zasag* banners were under the Qing’s effective control and parts of the Qing territories. In other words,

²⁴⁷ RAWSKI, *supra* note 18, at 67–68.

²⁴⁸ Most commoners of the *zasag* banners were tax-paying subjects, except some personal bondservants (*khamjilga*) belonging to Mongol nobles, and some ecclesiastical bondsmen (*shabinar*) belonging to monasteries or reincarnating lamas. See 10 CAMBRIDGE, *supra* note 130, at 50–51; ATWOOD, *supra* note 42, at 31.

²⁴⁹ ATWOOD, *supra* note 42, at 617.

although sending tributes to the Qing court and being quite autonomous, the Mongol *zasags* were nonetheless Qing local officials, instead of nominal foreign vassals.

7.4.3.4 The *Beg* (Chief) System in the Uyghur Lands

Regarding the local governance over Xinjiang, the Mongol domains in North Xinjiang were also ruled under the *zasag* or other banner systems (as discussed just earlier), whereas the Uyghur lands in South Xinjiang and parts of the Ili Valley in North Xinjiang were primarily ruled by a reformed *beg* (chief) system, except Hami and Turfan, where — like the Mongol *zasag* banners — were governed by the autonomous and hereditary Uyghur *zasags* (princes).²⁵⁰

In Qing times, South Xinjiang (East Turkestan) was known as Muslim Region (*Huibu*), Muslim Frontier (*Huijiang*), and the “Circuit to the South of the Tianshan Mountains” (*Tianshan Nanlu*).²⁵¹ This region was inhabited almost exclusively by the Turkic-speaking Muslim oasis dwellers (commonly known as Uyghurs) and was generally administered by the native Uyghur *begs*.²⁵² Nonetheless, the Qing transformed the *begs* from previously hereditary rulers to non-hereditary officials (the *begs*, however, could be still drawn from hereditary nobles) and required the *begs* not to

²⁵⁰ 10 CAMBRIDGE, *supra* note 130, at 74–76; JAMES A. MILLWARD, EURASIAN CROSSROADS: A HISTORY OF XINJIANG 100–101 (2007).

²⁵¹ MILLWARD, *supra* note 213, at 23.

²⁵² 10 CAMBRIDGE, *supra* note 130, at 69–74, 77–79; MILLWARD, *supra* note 250, at 93, 97, 100–101.

serve in their places of origin under the “law of avoidance” (thus, the high-ranking and lower-ranking *begs* must avoid their home towns and villages respectively).²⁵³

According to Fletcher, the Qing “maintained a policy of non-interference” towards “Islam and local customs” in Xinjiang.²⁵⁴ The Uyghurs were allowed “to live by the Islamic calendar, dress in their traditional fashion,” and “go without the queue,” except the highest-ranking *begs*, who were required to wear the Manchu-style queue and dress in the “Qing official clothes” (which, however, has been mistakenly describes as in “Han Chinese fashion”).²⁵⁵

Although the *begs* handled their local affairs highly autonomously and the top-ranking *begs* had to present tributes to the emperor periodically, there were various reasons why the Uyghur lands in Xinjiang were, nonetheless, Qing territories.²⁵⁶ First, the Uyghur *begs* became “non-hereditary” local officials under the jurisdiction of the Lifan Yuan, and they were appointed to and could be removed from posts by the Qing government.²⁵⁷ Second, besides receiving small stipends (Ch. *yang lian yin*) from the Qing, the Uyghur *begs* were also granted lands and serfs in accordance with their official

²⁵³ 10 CAMBRIDGE, *supra* note 130, at 78; Ma Dazheng, *The Tarim Basin*, in 5 HISTORY OF CIVILIZATIONS OF CENTRAL ASIA, DEVELOPMENT IN CONTRAST: FROM THE SIXTEENTH TO THE MID-NINETEENTH CENTURY 181, 203–4 (Chahryar Adle & Irfan Habib eds., 2003).

²⁵⁴ 10 CAMBRIDGE, *supra* note 130, at 77.

²⁵⁵ *Id.* at 77–78.

²⁵⁶ *Id.* at 77–80; MILLWARD, *supra* note 213, at 158–59.

²⁵⁷ 10 CAMBRIDGE, *supra* note 130, at 78.

ranks.²⁵⁸ Third, the Qing government not only demanded gold and jade from the Uyghur lands but, more importantly, also imposed a head tax and corvée on the Uyghur commoners (*alban kash*), and collected taxes on trade and business there.²⁵⁹ Apparently, the Uyghur lands in Xinjiang were under the Qing's effective control, governance, and taxation, and therefore, indeed were territorially parts of the Qing Empire.

7.4.3.5 The Chinese-Style Local Administrative Units in Xinjiang

Because the Qing garrisons in Xinjiang needed grain and North Xinjiang had huge areas suitable for farming, the Qing created various kinds of “agricultural colonies” and “state farms” in North Xinjiang.²⁶⁰ These included the “Muslim agricultural colonies” (*Hui-tun*) for the Uyghurs (who primarily resettled in the Ili Valley); the “military farms” (*bing-tun*) for the Han Chinese Green Standard soldiers; the “Banner farms” (*qi-tun*) for the Manchu and Mongol Bannermen as well as the Sibe (Ch. *Xibo*), Solon, Chahar, and Oirat soldiers; and the “civilian agricultural colonies” (*min-tun*, or *hu-tun*) for the Chinese immigrants.²⁶¹

Soon after the conquest of Xinjiang in 1757–59, the Qing government started to encourage Han Chinese and “Muslim Chinese” (known as Dungan) immigration to North

²⁵⁸ *Id.* at 79; MILLWARD, *supra* note 250, at 101.

²⁵⁹ 10 CAMBRIDGE, *supra* note 130, at 79–80.

²⁶⁰ *Id.* at 64–66.

²⁶¹ *Id.*; MILLWARD, *supra* note 213, at 77–79; MILLWARD, *supra* note 250, at 103–5.

Xinjiang to create more agricultural colonies — a Qing policy on Chinese immigration that was quite contrary to those for Manchuria and Mongolia until the late Qing.²⁶² By the turn of the 19th century, hundreds of thousands of Han and Muslim Chinese immigrants had settled in North Xinjiang, primarily in the Ili area and the eastern districts of Barkol, Turfan, and Urumchi.²⁶³

The Qing created Chinese-style local administrative units — such as superior prefectures (*fu*), prefectures (*zhou*), and counties (*xian*) — to govern the Chinese settlements in Xinjiang. Furthermore, although being geographically within Xinjiang and administratively supervised by the Garrison General of Ili, those Chinese-style local units in the eastern districts were also concurrently under the jurisdiction of Gansu Province.²⁶⁴

7.4.3.6 The Qing's Loss and Reconquest of Xinjiang

Until 1864, the Qing administration in Xinjiang “managed ethnic diversity through multiple administrative and legal systems” (primarily, the Mongol *zasag*, Uyghur *beg*, and Chinese-style *zhou-xian* systems). The Qing “permitted a degree of local autonomy”

²⁶² 10 CAMBRIDGE, *supra* note 130, at 65–66.

²⁶³ *Id.* at 65; James A. Millward & Peter C. Perdue, *Political and Cultural History of the Xinjiang Region through the Late Nineteenth Century*, in *XINJIANG: CHINA'S MUSLIM BORDERLAND*, 57, 59 (S. Frederick Starr ed., 2004).

²⁶⁴ GUO SONG-YI ET AL., *supra* note 85, at 249–50; 10 CAMBRIDGE, *supra* note 130, at 59, 66; MILLWARD, *supra* note 250, at 101.

under the military government at Ili and did not promote proselytization and cultural assimilation.²⁶⁵

However, as a result of the growing internal uprisings and foreign encroachments, the Qing control over Xinjiang significantly “slipped” throughout the 19th and the early 20th centuries.²⁶⁶ Following the large-scale Taiping Revolution (1850–64) based in South China, the Nian Rebellion (1851–68) in North China, and the outbreak of the Muslim Dungan Revolt in Shaanxi and Gansu Provinces (1862–73),²⁶⁷ the Muslim Chinese and Uyghurs in Xinjiang also started a series of revolts in 1864, which soon resulted in the Qing loss of Xinjiang, and the Kokandian and Russian interventions.²⁶⁸

Yakub Beg, a military officer from the Kokand Khanate (1709–1876), seized the vast Tarim Basin (also known as Kashgaria) in South Xinjiang in 1865–68, establishing his own Muslim state, known as Yettishahr (lit. Seven Cities), in 1867. He further conquered the Turfan Basin and also Urumchi in the Zungharian Basin in 1870.²⁶⁹

The State of Yettishahr soon obtained the recognitions from the Russian, Ottoman, and British Empires. Worrying Yakub Beg’s further expansion, the Russian Empire

²⁶⁵ MILLWARD, *supra* note 250, at 98–102.

²⁶⁶ Millward & Perdue, *supra* note 263, at 62.

²⁶⁷ HODONG KIM, *HOLY WAR IN CHINA: THE MUSLIM REBELLION AND STATE IN CHINESE CENTRAL ASIA, 1864–1877*, at 30 (2004); *SOURCES IN CHINESE HISTORY: DIVERSE PERSPECTIVES FROM 1644 TO THE PRESENT*, 48 (David G. Atwill & Yurong Y. Atwill eds., 2010).

²⁶⁸ MICHAEL E. CLARKE, *XINJIANG AND CHINA’S RISE IN CENTRAL ASIA — A HISTORY* 25–26 (2011).

²⁶⁹ *Id.* at 26; CARTER VAUGHN FINDLEY, *THE TURKS IN WORLD HISTORY* 155 (2004).

occupied the Ili Valley in 1871, but, nonetheless, concluded a commercial treaty with Yettishahr in 1872,²⁷⁰ which arguably constituted the Russian recognition of the State of Yettishahr.²⁷¹ The Ottoman Empire also granted formal recognition and military aid to Yettishahr in 1873 and provided more arms and gifts later on. In return, Yakub Beg recognized the nominal suzerainty of the Ottoman sultan, who could therefore strengthen “his role as the leader of the entire Islamic world,” despite his lack of actual power to rule Yettishahr.²⁷² Moreover, to prevent Yakub Beg’s state from falling into Russia’s sphere of influence, the British Empire also signed a commercial treaty with Yettishahr in 1874, which agreed to establish the diplomatic relation between the two parties and that undoubtedly extended the British formal recognition to Yettishahr.²⁷³

Although obtaining some formal recognitions and military aids from the neighboring powers, the Muslim State of Yettishahr collapsed at the end of 1877, mainly because of Yakub Beg’s sudden death in May 1877 (that led to internal succession disputes and a civil war) and also the Qing reconquest of most of Xinjiang in 1876–78.²⁷⁴ Having completely lost Xinjiang for a decade since 1864–65, the Qing court finally approved and prepared a campaign to recover Xinjiang in 1875, after the so-called “great policy debate”

²⁷⁰ CLARKE, *supra* note 268, at 26.

²⁷¹ KIM, *supra* note 267, at 142–43, 187–88 appendix A (providing the text of the Treaty between Russia and Yettishahr of 1872).

²⁷² *Id.* at 151–54.

²⁷³ *Id.* at 144–46, 189–93 appendix B (providing the text of the Treaty between Britain and Yettishahr of 1874).

²⁷⁴ *Id.* at 163–69, 173–76.

in 1874–75 over the “maritime defense” (*hai fang*) in the East vs. the “frontier defense” (*sai fang*) in the North and West.²⁷⁵

In fact, even after the Qing reconquered most of Zungharia (North Xinjiang) in 1876, there was still a high possibility for Yakub Beg to maintain his state in East Turkestan (South Xinjiang) by reaching a diplomatic agreement with the Qing.²⁷⁶ During the British-mediated talks in London, the Yettishahr representative expressed in July 1877 that Yakub Beg would recognize Qing suzerainty if he could retain complete control over his state, and this proposition received a quite favorable response from the Qing representative.²⁷⁷ As Millward notes, “[s]uch a deal would have been in line with an option explored by the Qing in 1758, and then again in the 1830s, by which the dynasty hoped to leave the Tarim Basin under the control of a local power willing to send tribute and acknowledge Qing suzerainty.”²⁷⁸

However, after knowing that Yakub Beg had already died earlier in May and that the military situation in East Turkestan turned quite favorable to the Qing side, the Qing ended the negotiation and conquered Yettishahr at the end of 1877 without much resistance.²⁷⁹ After seizing Khotan (an oasis city in the southwest of Xinjiang) in

²⁷⁵ *Id.* at 161–64.

²⁷⁶ *Id.* at 166–67, 169–71.

²⁷⁷ *Id.* at 170–71.

²⁷⁸ MILLWARD, *supra* note 250, at 129.

²⁷⁹ KIM, *supra* note 267, at 171.

January 1878, the Qing reconquered almost entire Xinjiang, except the Russian-occupied Ili Valley, which was, before long, mostly returned to the Qing by the Treaty of St. Petersburg of 1881.²⁸⁰ However, by this treaty, Russia still gained the westernmost part of the Ili Valley, considerable indemnity, and commercial concessions from the Qing.²⁸¹

7.4.3.7 The Creation of Xinjiang Province, and the “Uyghurization” of North Xinjiang

From the Qing perspective, the reconquered Xinjiang was a “shattered land” and required reconstruction by “provincialization” and “Sinicization.”²⁸² During the earlier Muslim revolts, the former Qing garrisons and governmental institutions were completely ruined; the former Qing officials (including the Uyghur *begs*), Eight Banner and Chinese Green Standard soldiers, and their families were mostly killed or driven away; and the immigrant Chinese peasants and merchants were also largely massacred.²⁸³ Because the Qing’s Eight Banner force had been severely weakened and its old administrative system in Xinjiang had completely collapsed, the Qing decided to change its Xinjiang policy to

²⁸⁰ MILLWARD, *supra* note 250, at 130, 135.

²⁸¹ *Id.* at 135.

²⁸² James A. Millward & Nabijan Tursun, *Political History and Strategies of Control, 1884–1978*, in *XINJIANG: CHINA’S MUSLIM BORDERLAND*, 64–65 (S. Frederick Starr ed., 2004).

²⁸³ *Id.* at 65; KIM, *supra* note 267, at 37, 41, 43, 45, 51, 53–56, 58, 87, 121–23.

provincialization and Sinicization, aiming to promote frontier stability and fiscal independence in reconquered Xinjiang.²⁸⁴

In 1884, the Qing officially established the Xinjiang Province (which was, supposedly, parallel to those in China Proper), but the provincialization should not be confused with “China’s annexation” of Xinjiang.²⁸⁵ As Millward notes,

To say that China ‘annexed’ Xinjiang in 1884 is wrong, first, because it was the Qing empire, and not China, that changed Xinjiang’s status. Secondly, this interpretation wrongly implies that from 1759 to 1864 Xinjiang was less a part of the Qing empire than was China. In fact, . . . Xinjiang, like Mongolia, northern Manchuria and other frontier territories, was an imperial holding on a par with China proper, despite being administered for the most part under different systems. The implementation of provincehood in Xinjiang represented not annexation . . . by ‘China,’ but rather a fundamental shift in the governing principles of the Qing empire as a whole.²⁸⁶

Nevertheless, as Millward & Nabijan Tursun observe, most changes for Xinjiang’s provincialization and Sinicization were merely “symbolic,” and the new Xinjiang authorities “achieved few concrete results.”²⁸⁷ Despite creating new Chinese-style administrative units (e.g., superior prefectures, prefectures, and counties) and appointing Han Chinese officials across Xinjiang, the Qing still heavily relied on the native Uyghur

²⁸⁴ Millward & Nabijan Tursun, *supra* note 282, at 63–66.

²⁸⁵ MILLWARD, *supra* note 250, at 137–38.

²⁸⁶ *Id.*

²⁸⁷ Millward & Nabijan Tursun, *supra* note 282, at 65–67; for details, see MILLWARD, *supra* note 250, at 136–53, 158.

elites to manage the local affairs.²⁸⁸ Thus, in practice, Xinjiang's Uyghur elites "continued to exercise considerable local autonomy" even after provincialization, while Han Chinese officials were "powerless to govern without them."²⁸⁹ Also, the elite Uyghur families resisted the Chinese education system (e.g., Confucian schools and Chinese languages), and the mass Sinicization of Uyghur populations was, in fact, never implemented at all in Qing times.²⁹⁰

Furthermore, in the Qing's post-reconquest Xinjiang, the Chinese resettlement program also failed, while the spread of Uyghur population made "Xinjiang *in its entirety*" becoming "a Uyghur homeland."²⁹¹ Many Chinese farmers and merchants were killed or fled during the earlier turmoil of the 1860s–70s, making it possible for the poor Uyghurs to migrate from the oasis cities in the southwest to the fertile lands left empty by the wars in the north and southeast Xinjiang.²⁹² Moreover, despite "an initial rush" of Chinese immigrants into reconquered Xinjiang, the new immigrant Chinese peasants usually had no plan to settle permanently, and, therefore, those lands reoccupied by the Chinese were, not uncommonly, later abandoned.²⁹³

²⁸⁸ MILLWARD, *supra* note 250, at 139–42, 158.

²⁸⁹ Millward & Nabijan Tursun, *supra* note 282, at 66.

²⁹⁰ MILLWARD, *supra* note 250, at 142–46, 158.

²⁹¹ *Id.* at 151–53.

²⁹² *Id.* at 151–52.

²⁹³ *Id.* at 151.

A census which was taken in 1887 in the three main circuits of Xinjiang (i.e., all Xinjiang, except the most sparsely inhabited circuit) counted about 1.239 million people, including overwhelmingly 1.132 million Uyghurs, 0.066 million Han Chinese, and 0.033 million Dungans (Muslim Chinese).²⁹⁴ Xinjiang remained predominantly populated by the Uyghurs in the last decades of the Qing and the entire period of the Republic of China (1912–49). Xinjiang became more intensively populated by Chinese only after the establishment of the People’s Republic of China (1949–present).²⁹⁵

7.5 Summary and Conclusion

The founder of the Manchu Qing, Nurhaci, established his early Jurchen/Manchu State in around 1587. Following the Inner Asian precedents, Nurhaci created a hereditary sociopolitical-military organization, namely, the Eight Banner system, that grouped his subjects (mostly, Jurchens) into companies, regiments, and eventually banners. He established the first four banners in 1601 and another four in 1615. The reform in 1615 also reorganized and standardized the sizes of the Eight Banner units, making the Banner system less restricted by the pre-existing clan loyalties and contributing to the creation of Jurchen/Manchu Khaganship and the founding of [Later]

²⁹⁴ *Id.* at 152.

²⁹⁵ *Id.* at 151–53, 306–9.

Jin Khanate in 1616. Nonetheless, the early Banner system provided power bases not only for the Khan but also for the beiles (“princes”) and Banner commanders.

The Eight Banner system was initially, in essence, exclusively for Jurchens, but later became a multiethnic organization that shaped and reinforced the collective identity of “Bannermen” or “Banner people.” Nurhaci’s successor, Hung Taiji (r. 1626–43), officially established the Mongol Eight Banners in 1635 and the Hanjun (“Chinese-Martial”) Eight Banners in 1633–42, making the original eight banners become known as the Manchu Eight Banners. With a few exceptions, the Banner people were generally enrolled into the Manchu, Mongol, and Hanjun banners along their ethnic lines.

Nurhaci and Hung Taiji also created a formal bureaucracy outside the Eight Banner system to promote a more “centralized” state/empire. Created by Nurhaci in 1587, the Deliberative Council represented the Manchu’s “collective aristocratic rule” under the Khan’s discretion and served as the primary high decision-making body until the mid-18th century. Moreover, during his early rise, Nurhaci also established the Literary Office, which was staffed by several multilingual advisory and clerical scholars. After conquering Liaodong, he created the Five Ministries in 1621 to govern the newly

incorporated one million Chinese subjects. Soon later, the Five Ministries also began to administer various state affairs.

During Hung Taiji's reign, the [Later] Jin/Qing undertook several significant governmental reforms. Though expanded, the members of the Deliberative Council were still overwhelmingly Jurchens/Manchus. In the 1630s, Hung Taiji reorganized the bureaucracy into a more Chinese-like one, headed by the Three Palace Academies (reorganized from the Literary Office), the Six Ministries (reorganized from the Five Ministries), and the Censorate (newly established). After conquering the Mongol Yuan and seizing Inner Mongolia in 1635, Hung Taiji proclaimed the new state name "Qing" and his Mongol Khaganship in 1636. He also created an innovative ministry, the Mongol Bureau in 1636 (renamed the Lifan Yuan in 1638), to govern the newly conquered Inner Mongolia.

Arguably, by 1636, the Qing had begun to transform into a "tripartite" multiethnic empire. Both in principle and general practice, the Qing's entire Manchu population (and some early Mongol allies and Chinese surrenders) were organized into the Eight Banner system; the Chinese subjects in Liaodong were typically governed by the Chinese-style bureaucracy; and the new Mongol followers were administered by the Mongol Bureau (later, Lifan Yuan). On the eve of the Manchu conquest of China in

1644, the Qing Empire had already combined Inner Asian (notably, Jurchen and Mongol) and Chinese imperial traditions with Manchu innovations into the Qing governance. Moreover, the governmental reforms during the first two Qing Emperors, Nurhaci and Hung Taiji, should be better characterized as “centralization” rather than “Sinicization,” since the adoption of Chinese-style bureaucracy only formed one part of the reforms.

After 1644, following the precedents of earlier Inner Asian conquest empires, the Manchu Qing also established a system of multiple capitals. The Qing’s three capitals — Mukden in Manchuria, Beijing in China Proper, and Chengde in Inner Mongolia — symbolized the Qing rule over the three major and separated realms.

Located at the northeastern edge of China Proper, Beijing (Yanjing) was the Qing’s principal capital from 1644 to the end of the empire in 1912. Right after the Qing capture of Beijing in 1644, the Shunzhi Emperor (r. 1643–61) was enthroned as the new Chinese Emperor in Beijing. Having been the primary capitals of the Jurchen Jin, Mongol Yuan, and Chinese Ming, the Qing’s primary capital at Beijing ideally represented the post-1644 Qing Emperorship, which combined the Jurchen/Manchu Khaganship, the Mongol Khaganship, and also the Chinese Emperorship. Coinciding with the empire’s administrative and social divisions, Qing Beijing’s ethnic residential segregation and spatial division divided Beijing into the northern Inner or Manchu City

(for the conquering Manchu rulers and Bannermen) and the southern Outer or Chinese City (for the conquered Han Chinese). Located in the Inner City, the Imperial City was managed by the Manchu-invented Imperial Household Department, which was staffed primarily by Manchu imperial bondservants. As the innermost palace city, the Forbidden City was further divided into two main areas, the “Inner Court” (principally, the emperor’s private residence) and the “Outer Court” (typically, the emperor’s government headquarters).

Situated in southern Manchuria, Mukden (Shengjing; present-day Shenyang) had been the sole capital of the [Later] Jin/Qing from 1625 to 1644. After 1644, Mukden was retained as Manchuria’s political center and a Qing’s auxiliary capital, which eventually had a set of central agencies (the Five Shengjing Ministries and an Imperial Household Department) mirroring those in Beijing. The post-1644 Qing Emperors periodically made “Eastern Tours” to Mukden to visit the nearby imperial tombs and to inspect the defense and development in the Manchu homeland. Largely kept as a Manchu preserve, Manchuria was closed to Chinese immigration for most of the Qing period. In case the Qing lost China and the capital of Beijing, Manchuria was regarded as an ideal place for the Qing court and the Manchus to retreat to. Consequently, all the

Mukden's chief officials and Manchuria's Banner garrison generals were almost always Manchus.

Built since 1702, the summer capital at Chengde (Rehe) functioned as the Qing "outer capital," strategically situated in historical Inner Mongolia beyond the Great Wall. The Chengde region was traditionally an Inner Asian imperial center of the Khitan Liao, Jurchen Jin, and Mongol Yuan. In Qing times, the submitted Mongol and Uyghur nobles and also Tibetan tributaries periodically performed court rituals at Chengde and participated in the autumn hunt at the nearby Mulan hunting preserve. The Kangxi, Qianlong, and Jiaqing emperors frequently led the massive Mulan hunt, which was not only for pleasures but also about military readiness, prowess display, court ritual, and imperial politics.

After the conquest of Xinjiang in 1759, the Qing basically completed its allocation of the Eight Banner forces (around 2–3 hundred thousand Banner soldiers in total), of which about half were "Metropolitan Banners" at Beijing, and the other half were the "Garrison Banners" stationing across the rest of the empire. The Garrison Banners around Beijing provided additional protection for the principal capital, and those in the rest of China Proper functioned as a permanent occupying force and surveilled the much larger Chinese Green Standard Army. Manchuria, Outer Mongolia, and Xinjiang were

governed by the Banner garrison generals, while Inner Mongolia was closely supervised by the adjacent Banner garrisons. To secure Manchu domination over the military, not only the Banner garrison generals were largely Manchu Bannermen, but the Green Standard Army was under a mixed command of Banner (primarily, Manchu) officials and Chinese Green Standard officers.

In the post-1644 central governance, the Manchus continued to dominate, overwhelmingly, both the major outer-court agencies (e.g., the Grand Secretariat, Six Ministries, and Lifan Yuan) and inner-court institutions (e.g., the Deliberative Council, Grand Council, and Imperial Household Department). After 1644, the main decision-making body was at first still the Deliberative Council, whose power was by the 1730s overtaken by the Grand Council, which was, of course, controlled by the Manchus. The so-called “Manchu–Han diarchy” only applied to a few top positions in some (especially, Chinese-style) central agencies, while the far more numerous mid- and lower-level positions in the entire central government were predominated by the Bannermen, especially the Manchus. Moreover, the Manchu–Han diarchy was not applicable to the Manchu-innovated and Inner-Asian-related institutions (e.g., the Imperial Household Department, Metropolitan Banners, and Lifan Yuan), where the Han Chinese essentially had no role at all. Furthermore, even in those agencies to which the

diarchy did apply, the Manchu top-level officials were always more predominant than their Han Chinese colleagues.

Regarding the regional and local governance, the post-1644 Qing Empire generally ruled and kept its three main ethnic (i.e., Manchu, Mongol, and Chinese) realms separately under the tripartite Qing Emperorship.

When acting as the Chinese Emperor, the Qing Emperors ruled China Proper (the Chinese-populated “inner lands” south of the Great Wall) and the frontiers of Yunnan and western Taiwan. By 1664, the former Ming’s Fifteen Provinces had been roughly reconfigured roughly into the Qing’s Eighteen Provinces. The Manchu–Han diarchy was informally applied to the top provincial posts of governors-general and provincial governors, whereas the Manchu presence diminished in the positions of prefects, sub-prefects, and county magistrates as these posts became less important. In China Proper, the Banner people were segregated administratively, residentially, and socially from the Han Chinese. Administratively, the Han Chinese “civilians” or “commoners” were governed by the regular provincial and local administrations, while the Manchus and other Banner people were administered by the Eight Banner institutions. Residentially, the Banner population lived in their own separate communities known as

the “Manchu cities,” segregated from the Chinese residential areas. Socially, there was a “big taboo” on the Manchu-Han intermarriage, which was banned until 1902.

After 1644, the Qing Emperors continued to rule their “homeland” of Manchuria in their capacity as the Manchu Great Khan. Until 1907, the Qing divided Manchuria into three garrison regions — Fengtian, Jilin, and Heilongjiang — each was ruled by a Banner garrison general, who was under emperor’s direct control and almost always a Manchu. In most of the Qing times, Manchuria (especially its central and northern parts beyond the Willow Palisade) was largely retained as “Banner-exclusive” domains. The policy of “closure” of Manchuria to Han Chinese immigration was only gradually abandoned after 1860, aiming to deter the increasing Russian (and later also the Japanese) encroachment into the regions. Nonetheless, in Manchuria, the Manchus and Han Chinese were also institutionally segregated and lived in separate communities. In 1907, Manchuria was fully opened to Han Chinese immigration and formally reorganized into the “Three Eastern Provinces.” The provincialization nominally brought Manchuria administratively into line with the provincial system in China Proper, but it had neither the intention nor the effect of incorporating Manchuria into “China.”

Acting as the Mongol Great Khan, the Qing Emperors governed the empire’s “outer domains” in Inner and Outer Mongolia, Qinghai, and Xinjiang, primarily through the

Lifan Yuan at the central level and the Eight Banner garrisons at the regional level. The Lifan Yuan's Manchu, Mongolian, and Chinese names showed clearly that this unique central agency was primarily designed to administer the Qing's "outer domains." In the official names of the Lifan Yuan, these "outer domains" were represented as "outer provinces" (*tulergi golo*) in Manchu, "outer Mongol domains" (*yadayadu Mongyol-un törö*) in Mongolian, and "[outer] vassals" (*[wai] fan*) in Chinese. Because the Mongol Bureau/Lifan Yuan was established before 1644, it is evident that the Qing Empire had already classified its Mongol regions as "outer domains" before its conquest of China. After 1644, the Qing continued to expand its "outer domains" or "outer provinces" into the rest of Mongolia and what became Xinjiang, which were also administered by the Lifan Yuan, separately from the Qing governance over Manchuria and China.

Regarding the local governance in the empire's outer domains, the Mongol regions in Mongolia, Qinghai, and Xinjiang were administered by the league–banner system, whereas the Uyghur lands and the Chinese settlements in Xinjiang were ruled by the *beg* (chief) system and the Chinese-style local administration respectively. The basic sociopolitical units for the Mongols were the autonomous *zasag* banners, each of which was ruled by a hereditary (often a Chinggisid) Mongol *zasag* or "banner prince." Several *zasag* banners were grouped into the Mongol leagues, which, however, had not

much substantial authority. The Uyghurs were primarily ruled by a reformed *beg* system, which transformed Uyghur *begs* (chiefs) into non-hereditary Qing officials, but yet largely retained local autonomies and Islam customs. Despite being highly autonomous in local affairs, the Mongol *zasag* and Uyghur *beg* domains were under Qing effective control and, therefore, constituted Qing territories. Both the *zasags* and *begs* not only were appointed by but also could be removed by the Qing court. Moreover, most of their Mongol and Uyghur subjects were “commoners” who owed taxes, special levies, and corvée to the Qing government. Furthermore, soon after the conquest of Xinjiang, the Qing started to encourage Han Chinese and Muslim Chinese immigration to establish “civilian agricultural colonies,” which were organized into the Chinese-style local units.

However, the Qing Empire completely lost control (arguably, also sovereignty) over most of Xinjiang soon after 1864 due to the Muslim revolts and Yakub Beg’s creation of the State of Yettishahr in 1867. Before long, Yettishahr entered into treaty relations with and acquired recognitions from the Russian and British Empires, as well as the military aid and recognition from the Ottoman Empire. The Qing eventually reconquered most of Xinjiang in 1876–78 and recovered most of the Ili Valley in 1881. Nevertheless, from the international law perspective, though being short-lived, the Turkic Muslim State

of Yettishahr (1867–77) was a sovereign State that had, for about a decade, effectively ruled East Turkestan (South Xinjiang) and parts of Zungharia (North Xinjiang).

The Qing's new policy toward the reconquered Xinjiang was “provincialization” and “Sinicization.” In 1884, the Xinjiang Province was officially established, but that was not “China's annexation” of Xinjiang. In actual practice, most changes for the provincialization and Sinicization were only symbolic. The Qing still heavily relied on the Uyghur elites to manage local affairs, and the mass Sinicization of Uyghurs had never implemented in Qing times. Moreover, the Chinese resettlement program also failed. North Xinjiang was actually “Uyghurized,” making entire Xinjiang an “Uyghur homeland” by the late Qing.

To conclude, the Qing was a Manchu-ruled “tripartite multinational” empire, in which a conquered China was merely a part, albeit an important part. The Qing Emperor's “three-in-one” imperial rulership combined the Manchu, Mongol, and Chinese emperors under the same Manchu ruling house. Moreover, the Qing Empire combined Inner Asian and Chinese elements into its more centralized and sophisticated (rather than merely “Sinicized”) imperial governance. Through its multiple administrative systems, the Qing Empire in essence governed and kept its three main imperial realms — namely, the “homeland” of Manchuria; the “outer domains” in

Mongolia, Qinghai, and Xinjiang; and the “inner lands” of China Proper, plus the frontiers in Yunnan and western Taiwan — separately and dividedly. Whereas, the Eight Banners not only preserved and reinforced Manchu identity but also transcended all the administrative boundaries of the three realms to safeguard the Manchu’s political and military domination (in other words, the “Manchu rule”) over the entire Qing Empire.

CHAPTER 8

THE MANCHU QING EMPIRE (1616–1912), PART 3

THE LEGAL STATUS OF TAIWAN AND TIBET IN QING TIMES

8.1 Introduction

This chapter will examine the popular (but mistaken) belief that both Taiwan and Tibet were parts of “China” in Qing times. Just like it was the Manchu Qing Empire (and not “Mongolia”) that conquered Xinjiang, it was also the Manchu Qing Empire (and not “China”) that conquered and ruled Western Taiwan from 1683 to 1895. Moreover, the Qing Empire had never established effective control and territorial sovereignty over most of central and eastern Taiwan or over what is now called Tibet.

Although the Qing made Western Taiwan administratively a superior prefecture of Fujian Province in 1684 and created Taiwan Province in 1885, the Qing’s colonial Western Taiwan was not perceived as an integral part of “China.” At least until the 1870s, the Qing still regarded most of central and eastern Taiwan as the “savage territory” of the Taiwanese “raw barbarians.” Not surprisingly, after the cession of Taiwan to Japan in 1895, the Chinese did not regard Japanese colonial Taiwan as “China’s lost territory” for nearly half a century. It was only in the early 1940s that the government of

the Republic of China (1912–49) suddenly changed its position and started to advocate the “restoration of Taiwan” to “China.”

The legal status of Tibet in Qing times has been long disputed and frequently misunderstood. As discussed later, the Qing Emperors maintained the *Cho–Yon* (priest–patron) relationships with Tibet’s Dalai Lamas from 1640 to 1910. In accord with their *Cho–Yon* relationships, the Qing Emperors sent troops to intervene in Tibet four times in the 18th century. Consequently, the Qing Empire established some “political domination” (probably “suzerainty,” but certainly not “sovereignty”) over Tibet. The Qing interferences in the Tibetan affairs lasted only temporary and intermittently, and they did not undercut Tibet’s legal status as an independent and self-ruling State. Moreover, the Qing had completely lost its influence over Tibet no later than the mid-19th century, leaving Tibet alone to defend against foreign invasions and to accept unfavorable peace treaties in the second half of the 19th and the early 20th centuries.

Because Qing Taiwan was not part of “China” and was even legally ceded to Japan in 1895, and because Tibet remained a sovereign State in entire Qing times, the post-1912 modern Chinese States could not make any legitimate historical claim to “inherit” Taiwan and Tibet from the Qing Empire.

8.2 The Legal Status of Taiwan in Qing Times

8.2.1 The Qing's Colonial Western Taiwan Was Not Part of "China"

Contrary to common belief, it was the Manchu Qing Empire (rather than "China") that conquered the Dongning Kingdom in 1683 and made Western Taiwan a superior prefecture (*fu*) of Fujian Province in 1684.¹ As noted earlier in Chapter 6, before the Qing conquest of Western Taiwan, the Chinese people had long regarded Taiwan as a remote "savage" island belonging to the "wilderness" or "wild zone" (*huangfu*) and far away from the Chinese domain and civilization. After the conquest, the Qing officials started to represent Taiwan as a "hedgerow" (*fanli*) for southeastern China or a "Great Wall for the ocean frontier."² As Emma Teng observes,

[W]here the sea had once served as the boundary between the Chinese domain and the realm beyond the pale, the island of Taiwan itself now served as this boundary. . . . As a hedgerow, Taiwan occupied a somewhat liminal position: it was neither fully outside the Chinese domain nor fully within it; rather, it was itself the boundary between inner and outer.³

Moreover, the Qing rule over Western Taiwan was, in fact, very loose. Until the 1870s, the Qing court maintained a passive and defensive policy toward the often "rebellious"

¹ Stéphane Corcuff, *Ma Ying-Jeou's China-Leaning Policy and the 1683 Fall of the Zheng in Taiwan: A Cross-Centuries Geopolitical Comparison*, in NATIONAL IDENTITY AND ECONOMIC INTEREST: TAIWAN'S COMPETING OPTIONS AND THEIR IMPLICATION FOR REGIONAL STABILITY 93, 103–4 (Peter C. Y. Chow ed., 2012).

² EMMA TENG, *TAIWAN'S IMAGINED GEOGRAPHY: CHINESE COLONIAL TRAVEL WRITING AND PICTURES, 1683–1895*, at 36, 43–44, 58–59 (2006).

³ *Id.* at 59.

Taiwan.⁴ Consequently, there was a popular saying that described Qing Taiwan as a place having “a small uprising every three years, and a large rebellion every five years.”⁵

Contrary to conventional wisdom, the Qing Empire did not make Taiwan part of “China.” Earlier, in Ming times, although formally placed under the jurisdiction of Shandong Province, the Ming Empire’s militarized Liaodong was more like an outlying military colony beyond the Great Wall, rather than a portion of the Chinese heartlands. Similarly, in Qing times, although administratively being under the jurisdiction of Fujian Province, Western Taiwan was regarded as a part of a remote “savage” island (about 100 miles off the Chinese coast) instead of an integral part of the Chinese “inner lands” (*neidi*) or China Proper.⁶

8.2.2 The Qing Had No Sovereignty over Aboriginal Taiwan

Although from 1684 Taiwan’s western plains were gradually placed under the jurisdiction of Fujian Province, Taiwan’s central mountain and eastern coastal areas mostly remained the “savage territory” (known as “Aboriginal Formosa” in western

⁴ J. Bruce Jacobs, *Taiwan’s Colonial History and Postcolonial Nationalism*, in THE “ONE CHINA” DILEMMA 37, 40–41 (Peter Chow ed., 2008); DENNY ROY, *TAIWAN: A POLITICAL HISTORY* 19–28 (2003).

⁵ HUNG CHIEN-CHAO, *A NEW HISTORY OF TAIWAN: ASIA’S FIRST REPUBLIC IN THE NEW MILLENNIUM* 189–95 (Taipei, Central News Agency 2011) (Taiwan).

⁶ See PAMELA KYLE CROSSLEY, *THE WOBBLING PIVOT, CHINA SINCE 1800: AN INTERPRETIVE HISTORY* 66 (2010); TENG, *supra* note 2, at 54–59.

sources) outside the Qing domains.⁷ Therefore, as Teng notes, the Qing maps of Taiwan often “showed only the western side of the island” in detail, with “Taiwan’s Central Mountain Range as boundary” and “the eastern half of Taiwan a cartographic blank,” providing “no visual representation of the eastern shoreline” (see Map 8.1).⁸ As discussed below, the lack of Qing control over Aboriginal Taiwan was clearly revealed in the *Rover* Incident of 1867 and the Mudan Incident of 1871.⁹

8.2.2.1 The Rover Incident (1867) and the American–Formosan Agreement (1867)

In the *Rover* Incident of 1867, the American vessel *Rover* wrecked off the southern end of Formosa (i.e., Taiwan), and almost all its surviving crew were killed by the “savage” Taiwanese aborigines.¹⁰ The Qing’s top local officials in Taiwan, Brigade General Liu Ming-deng and Taiwan Circuit Intendant Wu Da-ting, refused any responsibility for the slaughter committed outside the Qing domain, and sent a letter to the United States consul at Amoy, General Charles W. LeGendre, stating that:

[I]n this case the Americans were not murdered on [the Qing] territory, or on [the Qing] seas, but in a region occupied by savages. . . . [T]he savage country does

⁷ ALAN M. WACHMAN, WHY TAIWAN? GEOSTRATEGIC RATIONALES FOR CHINA’S TERRITORIAL INTEGRITY 58–59 (2008); TENG, *supra* note 2, at 209–12.

⁸ TENG, *supra* note 2, at 140–41, 146–48.

⁹ J. Bruce Jacobs, *supra* note 4, at 40.

¹⁰ FOREIGN ADVENTURERS AND THE ABORIGINES OF SOUTHERN TAIWAN, 1867–1874: WESTERN SOURCES RELATED TO JAPAN’S 1874 EXPEDITION TO TAIWAN 33–34 (Robert Eskildern ed., 2005) (Taiwan) [hereinafter FOREIGN ADVENTURERS].

not come within the limits of our jurisdiction, and our military force is not able to operate in it.¹¹

After the unsuccessful American expedition to punish the responsible Taiwanese aboriginal tribes, General LeGendre, the United States counsel for Amoy and Formosa, concluded a friendly agreement in 1867 with Tooke-tok (Tauketok), the Great Chief of the polity of the eighteen aboriginal tribes in the southern end of Taiwan.¹² The agreement provided that, among other things, all the future castaways, irrespective of country, would be kindly treated by any of the eighteen Formosan tribes under Tooke-tok, and would be transported to the nearest Chinese settlement.¹³ The American–Formosan Agreement of 1867 was approved by the United States government and was later reaffirmed by LeGendre and Tooke-tok in the south bay of Taiwan in 1869.¹⁴

8.2.2.2 The Mudan Incident (1871) and the Qing–Japanese Beijing Agreement (1874)

In the Mudan Incident of 1871, a ship of the Ryukyu Kingdom (1429–1872; present-day Okinawa) wrecked off the southeastern coast of Taiwan, and 54 of its 66

¹¹ THE EXECUTIVE DOCUMENTS, PRINTED BY ORDER OF THE SENATE, FOR THE SECOND SESSION OF THE FORTIETH CONGRESS, 1867–'68, VOL. 2, EX. DOC. NO. 52, at 22–23 (1868) [hereinafter EX. DOC. NO. 52, 1868]; *see also* CHOU BAN YI WU SHI MO, TONGZHI CHAO, vol. 50, at 10b–12b (1880), *available at* <https://archive.org/details/02081493.cn>; FOREIGN ADVENTURERS, *supra* note 10, at 275–77.

¹² HUNG CHIEN-CHAO, *supra* note 5, at 200–201; EX. DOC. NO. 52, 1868, *supra* note 11, at 51.

¹³ EX. DOC. NO. 52, 1868, *supra* note 11, at 51.

¹⁴ ANNUAL REPORT ON THE COMMERCIAL RELATIONS BETWEEN THE UNITED STATES AND FOREIGN NATIONS, MADE BY THE SECRETARY OF STATE, FOR THE YEAR ENDING SEPTEMBER 30, 1869, at 92 (1871); *see also* FOREIGN ADVENTURERS, *supra* note 10, at 140–41.

surviving sailors were killed by the Taiwanese aborigines (who were believed to be the “savages” of the Mudan tribe).¹⁵ The Qing officials initially refused to take any responsibility for the slaughter committed by the Mudan tribe on the grounds that the domains of the Taiwanese “savage” aborigines were well beyond the Qing jurisdiction.¹⁶ According to Japanese diplomatic records, in 1873 the Qing top officials in the *Zongli Yamen* (the proto-Foreign Affairs Bureau of the late Qing) told the Japanese envoys that there are two kinds of aborigines in Taiwan: first, the “cooked barbarians” (Ch. *shufan*; J. *jukuban*) who were under the Qing administration; and second, the “raw barbarians” (Ch. *shengfan*; J. *seiban*) who were outside the Qing jurisdiction and “beyond the civilization” (Ch. *huawei*; J. *kegai*).¹⁷

Having obtained the Qing response stating that the savage territory of the Taiwanese “raw barbarians” was beyond the Qing control and jurisdiction, the Japanese government decided to send a punitive expedition to Taiwan.¹⁸ Beginning to land at Hengchun on May 7, 1874, the Japanese force with 3,600 men quickly defeated the hostile aboriginal

¹⁵ HUNG CHIEN-CHAO, *supra* note 5, at 204.

¹⁶ JONATHAN MANTHORPE, *FORBIDDEN NATION: A HISTORY OF TAIWAN* 136 (2005); Mizuno Norihito, *Qing China's Reaction to the 1874 Japanese Expedition to the Taiwanese Aboriginal Territories*, 16 *SINO-JAPANESE STUDIES* 100, 102–4 (2009).

¹⁷ 6 *DAI NIHON GAIKO BUNSHO* [DOCUMENTS ON JAPANESE FOREIGN POLICY] 178–79 (Ministry of Foreign Affairs of Japan ed., 1939) (Japan), *available at* <http://www.mofa.go.jp/mofaj/annai/honsho/shiryo/archives/6.html>; Mizuno Norihito, *supra* note 16, at 102–3.

¹⁸ HUNG CHIEN-CHAO, *supra* note 5, at 205.

tribes by June 1874 and occupied the southern end of Taiwan. However, the Japanese troops started to suffer from severe heat and endemic diseases.¹⁹

After hearing about Japan's "Taiwan Expedition," the Qing's *Zongli Yamen* dramatically changed its position on May 11, 1874, and started to claim that the lands inhabited by the Taiwanese "raw barbarians" were truly "belong to *Zhongguo* [here, meaning the Qing Empire]." Nonetheless, the *Zongli Yamen* also admitted that "[Taiwan is] an island lying far off amidst the sea" and that "[the Qing] did not yet restrain the savages inhabiting it by any legislation nor establish any [local] government over them."²⁰

The Japanese government, having recently adopted modern European international law, insisted that "effective control" was essential to justify a territorial claim.²¹ Therefore, Japan viewed the Qing's statement as evidence that the Taiwanese savage domains were not controlled by the Qing or any other country and were thus *terra nullius* (i.e., land belonging to no one), providing the legal ground for the Japanese expedition and even occupation of Aboriginal Taiwan.²² In short, as Norihito Mizuno notes, "[a]ccording to [the Japanese] interpretation of international law, the [Qing]

¹⁹ *Id.* at 205–6; Mizuno Norihito, *supra* note 16, at 115.

²⁰ 7 DAI NIHON GAIKO BUNSHO [DOCUMENTS ON JAPANESE FOREIGN POLICY] 73, 75, 77 (Ministry of Foreign Affairs of Japan ed., 1939) (Japan).

²¹ Masaharu Yanagihara, *Japan*, in THE OXFORD HANDBOOK OF THE HISTORY OF INTERNATIONAL LAW 475, 491 (Bardo Fassbender & Anne Peters eds., 2012).

²² *Id.*; Mizuno Norihito, *supra* note 16, at 104.

acknowledgment of an absence of jurisdiction indicated the absence of [Qing] territorial sovereignty over the [Taiwanese] aboriginal territories.”²³

Nevertheless, at that time, both the Qing and Japan wanted to avoid a military confrontation with each other and sought to settle their dispute by diplomatic means.²⁴ After some negotiations, the two sides signed the Beijing Agreement on October 31, 1874.²⁵ The Japanese force then withdrew from Taiwan on December 20, 1874.²⁶

The Qing–Japanese Beijing Agreement of 1874 first noted that the Japanese expedition to aboriginal Taiwan was a “righteous action” (*yi ju*) to “protect its own [Japanese] subjects” (*bao min*), and the Qing would not impute blame to the Japanese action. Second, the Qing agreed to give “condolence money” (*fu xu yin liang*) to the families of the Japanese victims murdered by the Taiwanese savages and to pay for the roads and buildings constructed by the Japanese during the expedition. Third, the Qing promised to take steps to restrain the “raw barbarians in the area referred to” (*gai chu sheng fan*) to prevent further aboriginal atrocities in the Mudan tribe’s area.²⁷

²³ Mizuno Norihito, *supra* note 16, at 104.

²⁴ *Id.* at 112–14.

²⁵ Agreement between the High Commissioner Plenipotentiary of Japan and the Chinese [Actually, Qing] Ministers of Foreign Affairs, Oct. 31, 1874, Japan–Qing, 2 TREATIES, CONVENTIONS, ETC., BETWEEN CHINA AND FOREIGN STATES 585 (Shanghai, Statistical Dept. of the Inspectorate General of Customs, 2d ed. 1917) (China) [hereinafter Qing–Japanese Beijing Agreement of 1874]; for details of Qing–Japanese negotiations in 1874, see Mizuno Norihito, *supra* note 16, at 112–22.

²⁶ HUNG CHIEN-CHAO, *supra* note 5, at 206.

²⁷ Qing–Japanese Beijing Agreement of 1874, *supra* note 25, at 585–86; Mizuno Norihito, *supra* note 16, at 122.

By this agreement, the Qing recognized the Ryukyuan victims as “Japanese subjects,” and that also implicitly recognized Japanese territorial claim over the Ryukyu Islands.²⁸ Between 1609 and 1872, the Ryukyu Kingdom had been under Japanese domination but remained nominally a vassal state to both the Ming and Japan, and later, to both the Qing and Japan.²⁹ Japan formally incorporated the Ryukyu Islands as the Ryukyu “domain” (Jp. *han*) in 1872 and further made the islands into the Ryukyu “prefecture” in 1879.³⁰ The Qing–Japanese Beijing Agreement of 1874 constituted the Qing recognition of Japan’s territorial sovereignty over the Ryukyu Islands, and also formally ended the Qing suzerainty over the Ryukyu.

Nonetheless, contrary to some scholars’ opinions, this agreement did not constitute Japanese recognition of Qing “sovereignty” or “authority” over “entire Taiwan.”³¹ The Qing agreed to pay “condolence money” to the families of the Japanese victims, but that could only mean that the Qing, in fact, chose to take and fulfill the responsibility of “others” (i.e., the Mudan “raw barbarians” outside the Qing control and domain), in exchange for the withdrawal of the Japanese force from Taiwan and the Japanese

²⁸ WACHMAN, *supra* note 7, at 63; HUNG CHIEN-CHAO, *supra* note 5, at 206; Edward L. Dreyer, *The Myth of “One China,”* in THE “ONE CHINA” DILEMMA 19, 29 (2008).

²⁹ WANG HUI, THE POLITICS OF IMAGINING ASIA 230, 233–34 (Theodore Hutters ed., Zhang Yongle et al. trans., 2011); RONALD P. TOBY, STATE AND DIPLOMACY IN EARLY MODERN JAPAN: ASIA IN THE DEVELOPMENT OF THE TOKUGAWA BAKUFU 45, 50 (Stanford Univ. Press 1991) (1984).

³⁰ Masaharu Yanagihara, *supra* note 21, at 482–83, 486, 489–90.

³¹ *But see*, Dreyer, *supra* note 28, at 29 (“In the end . . . Japan recognized Qing sovereignty over Taiwan”) ; LUNG-CHU CHEN, THE U.S.–TAIWAN–CHINA RELATIONSHIP IN INTERNATIONAL LAW AND POLICY 10–11 (2016) (“The resolution was humiliating for [the Qing], which agreed to compensate Japan over the incident. In exchange, Japan agreed to recognize [Qing’s] authority over the entire island of Taiwan.”).

acknowledgement of the Qing's sphere of influence over "the area referred to" (i.e., the area of the responsible Mudan tribe), rather than entire Aboriginal Taiwan. At any rate, the Qing–Japanese Beijing Agreement of 1874 did not state or imply that Japan recognized Qing sovereignty over all of Taiwan.

8.2.3 The Creation of Taiwan Province in 1885

As J. Bruce Jacobs notes, the Qing "colonial rule" in Taiwan was, at best, "loose, 'minimal,' and partial" — not only "[s]ubstantial parts of Taiwan remained outside of Qing control" but "this partial Qing control was not Chinese, but Manchu."³² Nevertheless, after Japan's "Taiwan Expedition" of 1874, the Qing court changed its long-held passive attitude toward Taiwan and instituted a new policy of "opening the mountains and pacifying the savages" (*kai shan fu fan*), seeking to extend control over the rest of the island.³³ Conceptually, according to Teng,

Qing literati had long regarded eastern Taiwan as "off the map." By the late nineteenth century, this idea was so firmly ingrained that it would seem only natural for the Qing court to abjure all responsibility for atrocities committed in [the] "savage territory." In asserting their sovereignty over "all Taiwan," the Qing [was] compelled to reconfigure this established conception of Taiwan.³⁴

³² J. Bruce Jacobs, *supra* note 4, at 41.

³³ TENG, *supra* note 2, at 211, 214–15.

³⁴ *Id.* at 230–31.

As part of the new policy, the Qing began to survey Taiwan's central mountain and eastern coastal areas, and produced the atlases of "all Taiwan" (*quan Tai*) to create the new image of the island as "a unified Qing terrain."³⁵

In response to the Japanese punitive expedition to southern Taiwan in 1874 and the French attack on northern Taiwan during the Qing–French War of 1884–85, the Qing Empire created Taiwan Province in 1885. The first Provincial Governor of Taiwan, Liu Ming-chuan, initiated an ambitious modernization program.³⁶ However, Taiwan did not become "China's" or a "Chinese" frontier province in 1885. According to Wachman, throughout Qing times, Taiwan was seen as a "peripheral" island outside China and was not regarded as "Chinese" territory "in the national consciousness." In fact, even into the 20th century, "the prevailing image of Taiwan as something other than fully Chinese persisted."³⁷

8.2.4 The Cession of Taiwan to the Japanese Empire in 1895

In 1895 (only ten years after the creation of Taiwan Province), the Qing lost the Qing–Japanese War of 1894–95. Often mistaken as the first "Sino"–Japanese War, this war was actually between the "Qing" and Japan, rather than between "China" and Japan.

³⁵ *Id.* at 231–34.

³⁶ *Id.* at 234–35.

³⁷ WACHMAN, *supra* note 7, at 59.

It is interesting to note that, although some modern historians represent the Mongol Yuan under Khubilai as a “Chinese” dynasty, it appears that the Mongol Yuan’s invasions of Japan are almost never referred to as the “Sino”–Japanese Wars.

After losing the war to Japan, the Qing Empire ceded the island of Formosa (Taiwan) and the Pescadores (Penghu) “in perpetuity and full sovereignty” to the Japanese Empire by the Treaty of Shimonoseki of 1895.³⁸ However, contrary to common belief, Taiwan was ceded from the “Qing” (instead of “China”) to Japan, and, hence, Taiwan did not become “China’s lost territory.”³⁹ Article 2 of the Japanese version of the Treaty of Shimonoseki correctly stated that Taiwan was ceded from the “State of Qing” to the “State of Japan.”⁴⁰ The Chinese version provided that Taiwan was ceded from “*Zhongguo*” (lit. the central state; here, meaning the Qing Empire) to “*Riben*” (Japan).⁴¹ The English version, however, made a common mistake and incorrectly referred to the

³⁸ Treaty of Peace, Apr. 17, 1895, Japan–Qing, 181 Consol. T.S. 217, *available at* <http://www.taiwandocuments.org/shimonoseki01.htm> [hereinafter Treaty of Shimonoseki of 1895]; for the Japanese, Chinese, and English versions of the Treaty of Shimonoseki, see 28 DAI NIHON GAIKO BUNSHO [DOCUMENTS ON JAPANESE FOREIGN POLICY], PART 2, at 362–80 (Ministry of Foreign Affairs of Japan ed., 1953) (Japan) [hereinafter 28 DAI NIHON GAIKO BUNSHO, PART 2].

³⁹ PENG MING-MIN & NG YUZIN CHIAUTONG (HUANG ZHAO-TANG), *TAI WAN ZAI GUO JI FA SHANG DE DI WEI* [THE INTERNATIONAL LEGAL STATUS OF TAIWAN] 34–44 (Tsai Chou-shung trans., 1995) (Taiwan) (1976).

⁴⁰ 28 DAI NIHON GAIKO BUNSHO, PART 2, *supra* note 38, at 363.

⁴¹ *Id.* at 368.

Qing Empire as “China,” causing the misunderstanding that Taiwan and the Pescadores were ceded from “China” to Japan.⁴²

From the Qing perspective, Taiwan was merely a peripheral and quite “expendable” savage island, rather than an “inalienable” part of Qing Empire. Therefore, it was not very difficult for the Qing to abandon its colony in Taiwan in order to preserve more crucial parts of the empire. As Wachman observes, Taiwan, like other frontier peripheries, was “taken as the Qing expanded and lost as it contracted.”⁴³

Moreover, before World War II, the Chinese people had never viewed Japan’s colonial Taiwan as “China’s lost territory.” It was not until the early 1940s that the Chinese Republican government and elites suddenly reimagined and expanded their “mental map of China” and began to advocate the “Restoration of Taiwan” to “China.”⁴⁴ As will be examined in the later chapters, modern China’s claim of sovereignty over Taiwan has no historical and legal validity.

⁴² Treaty of Shimonoseki of 1895, *supra* note 38; *see also* 28 DAI NIHON GAIKO BUNSHO, PART 2, *supra* note 38, at 373.

⁴³ WACHMAN, *supra* note 7, at 60; *see also* PETER C. PERDUE, CHINA MARCHES WEST: THE QING CONQUEST OF CENTRAL EURASIA 547–65 (2005).

⁴⁴ *See* WACHMAN, *supra* note 7, at 69–99.

8.3 The Legal Status of Tibet in Qing Times

Contrary to the modern Chinese claim that Qing “China” had undeniable sovereignty over Tibet,⁴⁵ the legal status of Tibet has long been disputed at least since the late 19th century when the Qing, British, and Tibet debated about the nature of the Qing’s relations with Tibet.⁴⁶ As discussed below, the Qing Empire, in fact, only established some “political domination” (but not “territorial sovereignty”) over Tibet in the 18th century. Moreover, the Qing influence in Tibet rapidly decreased and practically ended by the mid-19th century.

8.3.1 The Establishments of the *Cho–Yon* Relationships between the Early Qing

Emperors and the Tibetan Lamas in the 17th Century

The early Qing Emperors gradually took over from the Mongols the special *Cho–Yon* relationships with the Tibetan lamas.⁴⁷ As Anne Chayet observes, the early Qing Emperors regarded Tibet as a foreign state “outside” (*wai*) the Qing Empire, and “did not pretend to rule over Tibet.”⁴⁸ According to Michael C. van Walt van Praag, the two

⁴⁵ E.g., 17 ZHONGGUO TONG SHI [A HISTORY OF CHINA], QING SHI QI (SHANG CE) [THE QING PERIOD (PART 1)], 196–99 (Bai Shouyi et al. eds., Shanghai, Shanghai Ren Min Chu Ban She, rev. ed. 2004) (China); LI ZHITING ET AL., QING SHI [HISTORY OF THE QING] 1088–97 (Li Zhiting ed., Shanghai, Shanghai Ren Min Chu Ban She 2002) (China) (Series: Zhongguo Duandaishi Xilie).

⁴⁶ MICHAEL C. VAN WALT VAN PRAAG, THE STATUS OF TIBET: HISTORY, RIGHTS AND PROSPECTS IN INTERNATIONAL LAW 10–46 (1987); ELLIOT SPERLING, THE TIBET–CHINA CONFLICT: HISTORY AND POLEMICS (2004); AUTHENTICATING TIBET: ANSWERS TO CHINA’S 100 QUESTIONS 21–45 (Anne-Marie Blondeau & Katia Buffetrille eds., 2008) [hereinafter AUTHENTICATING TIBET].

⁴⁷ FREDERICK W. MOTE, IMPERIAL CHINA 900–1800, at 876 (1999).

⁴⁸ AUTHENTICATING TIBET, *supra* note 46, at 24–26.

general elements of any *Cho-Yon* (priest–patron) relationship are religious worship and protection:

[T]he first element is that of the Lama as *Chö-ne*, the object of worship and offerings, and the respective Khans and Emperors as *Yön-daq*, the Patron, the worshipper, and the giver-of-alms.

The second element is that of protection: The Patron in the *Chö-yön* relation is bound to protect his Priest and Spiritual Teacher . . . or those of his Teaching. The Lama, in turn, sees to the spiritual well-being of the Patron and his subjects, and he prays and conducts religious services for their benefit.⁴⁹

Before the Qing conquest of China, the first two Qing Emperors, Nurhaci (r. 1587/1616–1626) and Hung Taiji (r. 1626–43), had established relations with the Sakya Sect (in particular, the Mongol imperial cult of Mahākāla) of Tibetan Buddhism to strengthen their rules over and ties with the Mongols.⁵⁰ Nurhaci became a patron of the Sakya Sect no later than 1617.⁵¹ After Hung Taiji conquered the Mongol [Northern] Yuan and captured the Mongol imperial seal in 1635, he claimed to be the rightful successor of Chinggis and Khubilai and was formally recognized as the Mongol Great Khan by the princes of Inner Mongolia in 1636.⁵² As Mark C. Elliott notes, it is not surprising that “[Hung Taiji’s] identification with Khubilai” appeared to be “particularly

⁴⁹ VAN PRAAG, *supra* note 46, at 12.

⁵⁰ PAMELA KYLE CROSSLEY, *A TRANSLUCENT MIRROR: HISTORY AND IDENTITY IN QING IMPERIAL IDEOLOGY* 210–12, 238–39 (1999).

⁵¹ *Id.* at 211.

⁵² FREDERIC WAKEMAN, JR., *THE GREAT ENTERPRISE: THE MANCHU RECONSTRUCTION OF IMPERIAL ORDER IN SEVENTEENTH-CENTURY CHINA* 203 (1985); 9 *THE CAMBRIDGE HISTORY OF CHINA, PART 1: THE CH’ING EMPIRE TO 1800*, at 56 (Willard J. Peterson ed., 2002); URGUNGE ONON & DERRICK PRITCHATT, *ASIA’S FIRST MODERN REVOLUTION: MONGOLIA PROCLAIMS ITS INDEPENDENCE IN 1911*, at 71 (1989).

strong,” given his “ambitions as a ‘universal ruler’ on the Mongol model.”⁵³ Therefore, when Hung Taiji built the Temple of True Victory (*Shi Sheng Si*) in Mukden (Shenyang) in 1635–38 to house a massive golden statue of Mahākāla Buddha (which was acquired in 1634 after his victory over the Ligdan Khan), he particularly pointed out that this golden statue was originally cast by the Tibetan lama 'Phags-pa for the Khubilai Khan.⁵⁴

Furthermore, the Qing Emperors also patronized the more widespread Tibetan Gelug Sect, headed by the Dalai Lama. As early as 1639, Hung Taiji had invited the Fifth Dalai Lama to visit his court at Mukden.⁵⁵ The Dalai Lama accepted the emperor's patronage but declined to go to Mukden in person. Instead, he replied with a letter in 1640 and sent his envoys to the Qing court in 1642.⁵⁶ In his letter of 1640, the Fifth Dalai Lama referred Hung Taiji as “Manjusri Great Emperor” and that obviously recognized Hung Taiji as a successor of Khubilai Khan, who was identified as a Cakravartin (the Buddhist universal “wheel-turning” king) and an incarnation of Manjusri (the Bodhisattva of Wisdom) by 'Phags-pa Lama in the 13th century.⁵⁷

⁵³ Mark C. Elliott, *Whose Empire Shall It Be?: Manchu Figurations of Historical Process in the Early Seventeenth Century*, in *TIME, TEMPORALITY, AND IMPERIAL TRANSITION: EAST ASIA FROM MING TO QING* 31, 46 (Lynn A. Struve ed., 2005).

⁵⁴ MARK C. ELLIOTT, *THE MANCHU WAY: THE EIGHT BANNERS AND ETHNIC IDENTITY IN LATE IMPERIAL CHINA* 480 n. 4 (2001); Elliott, *supra* note 53, at 46.

⁵⁵ CROSSLEY, *supra* note 50, at 238–39; VAN PRAAG, *supra* note 46, at 123.

⁵⁶ VAN PRAAG, *supra* note 46, at 11, 13; PATRICIA ANN BERGER, *EMPIRE OF EMPTINESS: BUDDHIST ART AND POLITICAL AUTHORITY IN QING CHINA* 55 (2003).

⁵⁷ See BERGER, *supra* note 56, at 55–56; JOANNA WALEY-COHEN, *THE CULTURE OF WAR IN CHINA: EMPIRE AND THE MILITARY UNDER THE QING DYNASTY* 51–53 (2006).

After the Qing capture of Beijing in 1644, the new emperor, Shunzhi (r. 1643–61), continued to invite the Fifth Dalai Lama (r. 1642–82), who had just united Tibet under his rule earlier in 1642. The Fifth Dalai eventually accepted Shunzhi's third invitation and arrived in the Qing capital at Beijing in January 1653.⁵⁸

Nevertheless, contrary to modern Chinese claim, the visit of the Fifth Dalai (the ruler of Tibet) to Shunzhi (the emperor of Qing) was a meeting between two independent sovereigns, rather than Tibet's formal submission to "China."⁵⁹ As Sam Van Schaik notes, the recent Chinese interpretation of the Fifth Dalai's visit to Shunzhi as "the submission of the Dalai Lama's government to China" is "hardly borne out by either the Tibetan or the [Qing] records of the time."⁶⁰ In fact, the Qing records during the Shunzhi reign described and treated Tibet as a foreign "state" (*guo*) "outside the border" (*bian wai*).⁶¹ Therefore, as Thomas Laird points out, the Qing official records clearly suggested "the opposite of what the modern Chinese assert they prove."⁶²

The Fifth Dalai saw his meeting with Shunzhi not only as the Qing recognition of his new status as "the sole ruler of Tibet," but also as a chance to use the Qing patronage

⁵⁸ SAM VAN SCHAİK, *TIBET: A HISTORY* 125–26 (2011) (mistakenly stating that the Dalai Lama arrived Beijing "in January 1654," rather than January 1653); THOMAS LAIRD, *THE STORY OF TIBET: CONVERSATIONS WITH THE DALAI LAMA* 169–73 (2006).

⁵⁹ VAN PRAAG, *supra* note 46, at 11–12; LAIRD, *supra* note 58, at 170–74; VAN SCHAİK, *supra* note 58, at 125–26; AUTHENTICATING TIBET, *supra* note 46, at 25–26.

⁶⁰ VAN SCHAİK, *supra* note 58, at 126.

⁶¹ QING SHI LU ZANG ZU SHI LIAO (Gu Zucheng et al. eds.), vol. 1, at 10–33 (Lhasa, Xizang Ren Min Chu Ban She 1982) (Tibet); *see also* LAIRD, *supra* note 58, at 170–72.

⁶² LAIRD, *supra* note 58, at 172.

to spread the Gelug Sect's influence in Tibet, China, and Mongolia.⁶³ As Chayet emphasizes, the Fifth Dalai's autobiography showed clearly that "he [spoke] of Tibet, China, and Mongolia as separate entities and always continued to regard them as such."⁶⁴ Moreover, as discussed in more detail later, through their *Cho–Yon* relationship, the Dalai Lama could also obtain the Qing Emperor's protection and support for his Gelug Sect as well as his rule over Tibet.⁶⁵

The Shunzhi Emperor hoped that the Fifth Dalai's visit to his court would bring more Mongols to submit to the Qing, considering that the Dalai Lama had a great influence over the Mongols.⁶⁶ The Dalai Lama frequently settled the disputes between the Mongol princes and gave them titles. When requested by the Qing Emperor, the Dalai Lama also acted as a mediator between the Qing court and those Mongols who had not yet submitted to the Qing.⁶⁷ Thus, maintaining close relations with the Dalai Lama was critical for the early Qing Emperors to subjugate or at least to contain the Mongols in Mongolia and Zungharia.⁶⁸

⁶³ AUTHENTICATING TIBET, *supra* note 46, at 25; VAN SCHAIK, *supra* note 58, at 126 ("[The Fifth Dalai Lama] saw the long journey, of which the meeting with the [Qing] emperor was only a small part, as a chance to show his support for the Gelug monasteries on his route — such as Kumbum, the monastery recently built at Tsongkhapa's birthplace — and to spread the Gelug school's influence in China").

⁶⁴ AUTHENTICATING TIBET, *supra* note 46, at 25.

⁶⁵ VAN PRAAG, *supra* note 46, at 12–13.

⁶⁶ LAIRD, *supra* note 58, at 174; VAN SCHAIK, *supra* note 58, at 126.

⁶⁷ AUTHENTICATING TIBET, *supra* note 46, at 26–27.

⁶⁸ WALEY-COHEN, *supra* note 57, at 53; VAN PRAAG, *supra* note 46.

Moreover, as Sam Van Schaik notes, for the Shunzhi Emperor, an alliance with the Dalai Lama “was an opportunity to bring the Mongols on [the Manchu] side by presenting the [Qing] emperor as (yet another) Kubilai Khan.”⁶⁹ The Fifth Dalai Lama, who perceived himself as an incarnation of Avalokitesvara (the Bodhisattva of Mercy), also identified the Shunzhi Emperor as an incarnation of Manjusri (the Bodhisattva of Wisdom), intentionally echoing the *Cho–Yon* relationship between 'Phags-pa Lama and Khubilai Khan.⁷⁰ In fact, not only Hung Taiji and Shunzhi but also all the subsequent Qing Emperors were recognized as the incarnations of Bodhisattva Manjusri and maintained the *Cho–Yon* relationship with the Dalai Lamas of Tibet.⁷¹

8.3.2 Despite the Qing Military Interventions, Tibet Remained an Independent State in the 18th Century

The Qing Emperors intervened militarily in Tibet four times in total (which all happened in the 18th century) to fulfill their protective obligations under the *Cho–Yon* relationship.⁷² According to van Praag, “such protection did not [in itself] imply the

⁶⁹ VAN SCHAİK, *supra* note 58, at 126.

⁷⁰ AUTHENTICATING TIBET, *supra* note 46, at 25–26; WALEY-COHEN, *supra* note 57, at 51–53; *see also* VAN PRAAG, *supra* note 46, at 8, 13.

⁷¹ AUTHENTICATING TIBET, *supra* note 46, at 13.

⁷² L.L. Mehrotra, *Tibet's Right to Self-Determination*, in TIBETAN PEOPLE'S RIGHT OF SELF-DETERMINATION: REPORT OF THE WORKSHOP ON SELF-DETERMINATION OF THE TIBETAN PEOPLE: LEGITIMACY OF TIBET'S CASE 1994/1996, INDIA, 78, 90 (1996) (India).

[political] superiority of the Protector over the protected.”⁷³ Nevertheless, as Elliot Sperling rightly points out, the *Cho–Yon* relationship did not rule out the possibility of “political domination,” and at least by the end of the 18th century, “the priest–patron relationship [had] coexisted with Tibet’s political subordination to . . . the Qing.”⁷⁴ However, as shown below, the Qing’s political domination over Tibet was only temporary and highly nominal, and by no means led to the extinction of the independent State of Tibet.

8.3.2.1 The First Qing Intervention in Tibet (1720)

The first Qing intervention in Tibet occurred in 1720 when the Kangxi Emperor (r. 1661–1722) sent the Qing army to escort the new Seventh Dalai Lama (r. 1720–28, and 1750–57) to Tibet’s capital, Lhasa, and to end the Zunghar occupation of Tibet (1717–20).⁷⁵ Following the death of Kangxi in 1722, his successor, the Yongzheng Emperor (r. 1722–35), soon withdrew the Qing troops from Ü-Tsang (central Tibet) in 1723.⁷⁶

Nevertheless, after the Qing had suppressed the “revolt” led by the Khoshut Mongol’s leader Lobdzan Dandzin (a grandson of Gushri Khan), Amdo or Kokonor

⁷³ VAN PRAAG, *supra* note 46, at 12.

⁷⁴ SPERLING, *supra* note 46, at 27–28, 30.

⁷⁵ VAN PRAAG, *supra* note 46, at 14–15.

⁷⁶ *Id.* at 15; AUTHENTICATING TIBET, *supra* note 46, at 29.

(historically, northeastern Tibet) was formally incorporated into the Qing Empire in 1724 and became known as Qinghai.⁷⁷

8.3.2.2 The Second Qing Intervention in Tibet (1728) and the Installation of *Ambans* (Imperial Residents) in Lhasa

Triggered by a short Tibetan civil war, the Qing's second military intervention in Tibet occurred in 1728, aiming to stabilize Tibet's political order and to protect the Qing's interests in the region, rather than conquering Tibet.⁷⁸ In fact, when the Qing troops arrived in Lhasa, a new Tibetan government was already established under Polhane (r. 1728–47), who was widely regarded as the new King of Tibet and was immediately recognized by the Qing court. Consequently, the Seventh Dalai Lama was forced into exile to the far east of Kham (southeastern Tibet).⁷⁹

From 1728 to the fall of the empire in 1912, the Qing generally stationed two *ambans* (i.e., one senior and one junior “imperial residents”) and a small garrison of 100–2000 soldiers in Lhasa to secure the Qing influence over Tibet.⁸⁰ Having no real power to govern Tibet, the Qing *ambans* in Lhasa functioned as the “Qing ambassadors” and

⁷⁷ YINGCONG DAI, *THE SICHUAN FRONTIER AND TIBET: IMPERIAL STRATEGY IN THE EARLY QING* 4, 94–95 (2009); MATTHEW T. KAPSTEIN, *THE TIBETANS* 9 (2013); VAN PRAAG, *supra* note 46, at 16.

⁷⁸ AUTHENTICATING TIBET, *supra* note 46, at 30–31.

⁷⁹ VAN PRAAG, *supra* note 46, at 16; KAPSTEIN, *supra* note 77, at 150–51; *see also* VAN SCHAIK, *supra* note 58, at 142–43.

⁸⁰ VAN PRAAG, *supra* note 46, at 16; JOHN POWERS, *HISTORICAL DICTIONARY OF TIBET* 56–57 (2012); MELVYN C. GOLDSTEIN, *THE SNOW LION AND THE DRAGON: CHINA, TIBET, AND THE DALAI LAMA* 16–17 (1999).

were mainly responsible for passing messages between the Qing court and Tibetan government, keeping an eye on the situation in Tibet, and sending reports to the Lifan Yuan.⁸¹

Although the Qing annexed some ethnically Tibetan areas of Kham into its Sichuan and Yunnan provinces in 1728, Tibet remained an independent State with its own government.⁸² Polhane, the new King of Tibet, successfully consolidated his rule and maintained stability in Tibet. Consequently, the Qing garrison in Lhasa was reduced from 2000 to 500 men in 1733, and the Seventh Dalai Lama was allowed to return to Lhasa as a purely religious figure in 1735.⁸³ In the same year, the Yongzheng Emperor died and was succeeded by his son, the Qianlong Emperor (r. 1735–96).

8.3.2.3 The Third Qing Intervention in Tibet (1751) and the Issue of the “[Thirteen-Article] Ordinance for Reforming Tibetan Affairs” (1751)

Polhane died in 1747 and was succeeded by his second son, Gyurme Namgyal (r. 1747–50), whose foreign policy eventually led the Qing’s third military intervention in Tibet in 1751.⁸⁴ Gyurme Namgyal sought to renew Tibet’s tie with the Zunghar (which was the opponent of Qing hegemony in Inner Asia) and wanted to drive all the Qing

⁸¹ VAN PRAAG, *supra* note 46, at 16; AUTHENTICATING TIBET, *supra* note 46, at 30–31; POWERS, *supra* note 80, at 56.

⁸² GOLDSTEIN, *supra* note 80, at 16.

⁸³ KAPSTEIN, *supra* note 77, at 151; WARREN W. SMITH, *TIBETAN NATION: A HISTORY OF TIBETAN NATIONALISM AND SINO–TIBETAN RELATIONS* 130 (1996).

⁸⁴ KAPSTEIN, *supra* note 77, at 153.

presence out of Tibet, despite the fact that the Qing garrison in Lhasa had been reduced to mere 100 soldiers in 1748.⁸⁵

Convinced that Gyurme Namgyal planned to oppose the Qing, the Qing *ambans* in Lhasa murdered him in late 1750. In retaliation, the followers of Gyurme Namgyal killed the Qing *ambans* and 49 Qing soldiers.⁸⁶ Nonetheless, the Qianlong Emperor sent only 800 soldiers to Lhasa in 1751 because the Seventh Dalai Lama had already restored order in Tibet.⁸⁷ The *Kashag* (Cabinet or Council of Ministers), which usually consisted of four *kaloons* (cabinet ministers), was reestablished as the new Tibetan government under the Seventh Dalai Lama, who was again the ruler of Tibet.⁸⁸ As van Praag notes, the new situation in Tibet left the Qing Emperor “no choice but to recognize the supreme position the Dalai Lama had recovered.”⁸⁹

In 1751, the Qing issued the “[Thirteen-Article] Ordinance for Reforming Tibetan Affairs” (*Xi Zang Shan Hou Zhang Cheng [Shi San Tiao]*).⁹⁰ This ordinance not only recognized the Dalai Lama’s secular power over Tibet and his new Tibetan government, but also tried to increase the Qing *ambans*’ influence in Tibet.⁹¹ Consequently, besides

⁸⁵ *Id.*; GOLDSTEIN, *supra* note 80, at 17–18; LI ZHITING ET AL., *supra* note 45, at 1089–91.

⁸⁶ GOLDSTEIN, *supra* note 80, at 18; LI ZHITING ET AL., *supra* note 45, at 1089–91.

⁸⁷ DAI, *supra* note 77, at 130–31; GOLDSTEIN, *supra* note 80, at 18.

⁸⁸ VAN PRAAG, *supra* note 46, at 17; DAI, *supra* note 77, at 131.

⁸⁹ VAN PRAAG, *supra* note 46, at 17.

⁹⁰ QIABAI CIDANPINGCUO ET AL., XIZANG TONG SHI: SONG SHI BAO CHUAN [A HISTORY OF TIBET] 718–23 (Chen Qingying et al. trans., Lhasa, Xizang Gu Ji Chu Ban She 1996) (1989) (Tibet).

⁹¹ See VAN PRAAG, *supra* note 46, at 17.

commanding the Qing garrison (which was increased and fixed at 1500 soldiers) and directing the postal services in Tibet, the Qing *ambans* were “given” (in fact, merely on paper) the power to oversee some Tibetan affairs together with the Dalai Lama.⁹² In reality, as noted by van Schaik, even after 1751 “the ambans were to play only a minor role in Tibetan politics, largely functioning as observers who reported (not always honestly) back to the emperor.”⁹³

In fact, the Qing’s interest in Tibet decreased substantially after the Qing conquest of the Zunghar Khanate in 1757, as the last threat of a possible anti-Qing alliance between the Tibetans and Mongols was finally eliminated.⁹⁴ Not surprisingly, soon after the 1750s, the Qing influence “diminished and was hardly felt in Tibet” until the next Qing intervention in Tibet in 1792.⁹⁵

8.3.2.4 The Fourth Qing Intervention in Tibet (1792) and the Issue of the “Twenty-Nine-Article Ordinance for Reforming Tibetan Affairs” (1793)

The Gurkha (Nepal) invaded Tibet in 1788, resulting in a humiliating peace treaty of 1789 for the Tibetans, who were required to pay annual tributes to Nepal.⁹⁶ After

⁹² *Id.*; QIABAI CIDANPINGCUO ET AL., *supra* note 90, at 719–22.

⁹³ VAN SCHAİK, *supra* note 58, at 145.

⁹⁴ VAN PRAAG, *supra* note 46, at 17.

⁹⁵ *Id.* at 17–20.

⁹⁶ *Id.* at 19–20; VAN SCHAİK, *supra* note 58, at 157–58.

Tibet's delay to pay the agreed amount of tribute in 1791, the Gurkha invaded again, which prompted the Qing's fourth and last military intervention in Tibet in 1792.⁹⁷

Contrary to later Chinese claims, the Qing intervention in 1792 did not establish the Qing (let alone "Chinese") sovereignty over Tibet. As Tsepon W. D. Shakabpa points out, in fulfilling his obligation as the "imperial patron," the Qianlong Emperor sent troops to Tibet "to drive out the [invading] Gurkhas," rather than "to attack Tibetans or to conquer their country."⁹⁸

The joint Tibetan–Qing army drove out the Gurkha army from Tibet and continued to march into Nepal, forcing the Gurkha to conclude a new peace agreement with Tibet in 1792, which, among other things, abolished Tibet's annual tributes to Nepal, and required Nepal to send quinquennial missions to the Qing.⁹⁹ In accordance with this new agreement, the Nepalese kings sent a total of eighteen quinquennial missions — regularly, thirteen times from 1792 to 1852; and less regularly, five times between 1852 and 1906 — to offer "gifts" (or from the Qing perspective, "tributes") to the Qing

⁹⁷ VAN SCHAİK, *supra* note 58, at 158; VAN PRAAG, *supra* note 46, at 19–20.

⁹⁸ TSEPON W. D. SHAKABPA, *TIBET: A POLITICAL HISTORY* 169–70 (1984).

⁹⁹ VAN PRAAG, *supra* note 46, at 20, 214 ("No authoritative text of the treaty, which appears to have been embodied in a series of letters between the parties, is available"); TSEPON W. D. SHAKABPA, *ONE HUNDRED THOUSAND MOONS: AN ADVANCED POLITICAL HISTORY OF TIBET* 535 (Derek F. Maher trans. & ann., 2010) (1976) ("Both sides decided such issues in a mutually agreeable manner, but they did not sign the same protocols and treaties").

Emperors.¹⁰⁰ Modern Chinese distortedly assert that Nepal accepted Qing “suzerainty,” but such claim is strongly denied by the Nepalese on the ground that Nepal had never accepted Qing hegemony, and the Qing had never dominated Nepal’s internal and external affairs.¹⁰¹

In 1793, the Qing issued the “[Twenty-Nine-Article] Ordinance for Reforming Tibetan Affairs” (*Zang Nei Shan Hou Zhang Cheng [Er Shi Jiu Tiao]*).¹⁰² This ordinance intended to strengthen the Tibetan government’s effectiveness, increase the Qing *ambans*’ authorities in Tibet, and, more importantly, preclude further costly Qing military assistance to Tibet.¹⁰³ In reality, all these seemingly extensive “reforms” were only a set of Qing “suggestions,” which were based upon the bilateral negotiation and for the Tibetan government to agree upon in exchange for the Qing protection. The “contractual nature” of these reforms was revealed clearly in a statement made by the commander of the Qing army in Tibet, General Fu K’ang-an, to the Eighth Dalai Lama:

The emperor issued detailed instructions to me, the Great General, to discuss all the points, one by one, in great length. This demonstrates the emperor’s concern that Tibetans come to no harm and that their welfare [will] be ensured in perpetuity. *There is no doubt that the Dalai Lama*, acknowledging his gratitude to

¹⁰⁰ VIJAY KUMAR MANANDHAR, 2 A COMPREHENSIVE HISTORY OF NEPAL–CHINA RELATIONS UP TO 1955 A.D. 4–5 (2004).

¹⁰¹ *Id.* at 257–70.

¹⁰² For the full text of the Twenty-Nine-Article Ordinance in Tibetan, Chinese, and English, see XIZANG LI SHI DANG AN HUI CUI [A COLLECTION OF HISTORICAL ARCHIVES OF TIBET] Doc. 50 (The Archives of the Tibet Autonomous Region comp., Beijing, Wen Wu Chu Ban She 1995) (China).

¹⁰³ DAI, *supra* note 77, at 145–46; SHAKABPA, *supra* note 99, at 557.

the emperor, *will accept these suggestions once all the points are discussed and agreed upon. However, if the Tibetans insist on clinging to their age-old habits, the emperor will withdraw the Ambans and the garrison after the troops are pulled out* [emphasis added]. Moreover, if similar incidents [i.e., foreign invasions] occur in the future[,] the emperor will have nothing to do with them. *The Tibetans may therefore, decide for themselves* as to what is in their favor and what is not or what is heavy and what is light, *and make a choice on their own* [emphasis added].¹⁰⁴

Overall, the Twenty-Nine-Article Ordinance, as Chayet summarizes, can be divided into four groups:

[First,] the imperial intervention in the selection of the Dalai Lama and Panchen Lama . . . [and] the appointment of lesser religious authorities, and the supervision of their properties . . . ; [second,] the *ambans*' power was strengthened and they were proclaimed equal in rank to the Dalai Lama [and Panchen Lama] . . . ; [third,] Tibetan officials were forbidden to maintain correspondence with a foreign country without the *ambans*' involvement, and the *ambans* supervised all inner and outer circulation of people and goods; [fourth,] the administration, army, and taxation [of Tibet] were reorganized. These measures established what is often described as Chinese sovereignty over Tibet. Actually, they were far from being entirely successful.¹⁰⁵

The first article of the Twenty-Nine-Article Ordinance required the selections (or more correctly, "identifications") of Tibet's high reincarnate lamas (*tulkus*), e.g., the Dalai and Panchen Lamas, through a newly-added procedure of "drawing lots from a

¹⁰⁴ SMITH, *supra* note 83, at 135–36 ((quoted from Ya Hanzhang, *Biography of the 8th Dalai Lama*, in 2 Bhod ki LorGyus Rags Rims gYu Phrengba 316 (Lhasa, Tibet Institute of Social Sciences 1991) (Tibet)); for another version of the English translation, see YA HANZHANG, *THE BIOGRAPHIES OF THE DALAI LAMAS* 72 (Wang Wenjong trans., Beijing, Foreign Language Press 1991) (China); for Chinese version, see YA HANZHANG, *DALAI LAMA ZHUAN* [THE BIOGRAPHIES OF THE DALAI LAMAS] 61–62 (Beijing, Ren Min Chu Ban She 1984) (China).

¹⁰⁵ AUTHENTICATING TIBET, *supra* note 46, at 33.

golden urn” (*jin ping che qian*), popularly known as the “Golden Urn Lottery” system.¹⁰⁶

The rules of the Golden Urn Lottery was quite clear,¹⁰⁷ but their effect, if any, on the legal status of Tibet has been long disputed.

Despite later Chinese claims, the introduction of the Golden Urn Lottery system did not establish or signify the Qing sovereignty over Tibet. It was mainly an effort to avoid the discovery of high Tibetan reincarnations among powerful aristocratic families.¹⁰⁸ After all, the Golden Urn Lottery was only “one” of the “many procedures” for the identification of high Tibetan reincarnations, and its use established neither the Qing appointing power nor the actual Qing control over Tibet’s high reincarnate lamas. Not to mention that even in those cases when the Golden Urn was actually used, all the reincarnation candidates were still always “chosen previously by [Tibet’s] competent religious authorities” in the traditional way.¹⁰⁹

Regarding strengthening Qing *ambans*’ power to supervise the Tibetan affairs, a comment made by the Qianlong Emperor earlier in 1792 explained the reason for the new

¹⁰⁶ *Id.* at 32–33; GOLDSTEIN, *supra* note 80, at 19–21.

¹⁰⁷ Elliot Sperling notes that: “The [new] regulations for selecting Lamas were quite clear: the names of the candidates were to be put into a Golden Urn granted by the [Qing] emperor as soon as those names were adduced by the four great oracles of Tibet. If all four agreed on one candidate, then that candidate’s name would be entered into the urn, along with a blank wooden tally slip. The choosing of the blank slip would eliminate the chosen candidate, regardless of the inclinations of the oracles. When used in the cases of high Dge-lugs-pa [i.e., Gelug Sect] incarnations, the names of the candidates were to be written in Manchu, Chinese and Tibetan.” See Elliot Sperling, *Reincarnation and the Golden Urn in the 19th Century: The Recognition of the 8th Panchen Lama*, in *STUDIES ON THE HISTORY AND LITERATURE OF TIBET AND THE HIMALAYA* 97, 99 (Roberto Vitali ed., 2012).

¹⁰⁸ WARREN W. SMITH, *CHINA’S TIBET?: AUTONOMY OR ASSIMILATION* 8, 168 (2009).

¹⁰⁹ AUTHENTICATING TIBET, *supra* note 46, at 33.

“reform,” but it also revealed the nominal role and complete incompetence of the Qing *ambans* in Lhasa since 1728:

Those [Resident Officials (*ambans*)] sent to Tibet have been mostly mediocrities who did practically nothing but wait for the expiration of their tenures of office so they could return to [the Qing capital at] Beijing. Because of that the Dalai Lama and the *kaloons* [i.e., Tibet’s council ministers] were able to do whatever they wished in the administration of Tibetan affairs, ignoring the existence of these incompetent [Qing] officials. That is how the Resident Official has been reduced to nothing more than a figurehead. From now on, the administration of Tibet should be effectively supervised by the Resident Official; [and] . . . the Dalai Lama and the *kaloons* shall no longer be able to monopolize it.¹¹⁰

Despite later Chinese claims to the contrary,¹¹¹ the Twenty-Nine-Article Ordinance of 1793 demonstrated neither Qing nor Chinese “sovereignty” over Tibet, but only represented the height of Qing “influence” in Tibet.¹¹² As Warren W. Smith, Jr. notes, in actual practice, the Twenty-Nine-Article Ordinance “fell far short of establishing [Qing] sovereignty over Tibet” and “[m]ost of the reforms . . . were never fully implemented or quickly fell into disuse.”¹¹³ Therefore, as Smith concludes, the nature of the post-1793

¹¹⁰ 26 QING SHI LU [QING VERITABLE RECORDS], 18 DA QING GAOZONG CHUN HUANGDI SHI LU [THE VERITABLE RECORDS OF QING GAOZONG], at 982 (Beijing, Zhonghua Shu Ju 1986) (China); for the English translation, see YA HANZHANG, *supra* note 104, at 83–84; *see also* GOLDSTEIN, *supra* note 80, at 21.

¹¹¹ *E.g.*, TIEZHENG LI, TIBET: TODAY AND YESTERDAY 53–58 (1960); JIAWEI WANG & NYIMA GYAINCAIN, THE HISTORICAL STATUS OF CHINA’S TIBET 69–70, 78–79 (Beijing, China Intercontinental Press 1997) (China).

¹¹² SMITH, *supra* note 83, at 135–37.

¹¹³ *Id.* at 137; *see also* AUTHENTICATING TIBET, *supra* note 46 (“These measures [of the Twenty-Nine-Article Ordinance] established what is often described as Chinese sovereignty over Tibet. Actually, they were far from being entirely successful. Qianlong [Emperor] died six years later, and the [Qing] dynasty decayed rapidly and was unable to enforce its rule in the border regions.”); DAI, *supra* note 77, at 146 (“Nevertheless, the Qing did not seem to have the determination nor the means to implement all those reforms in the years to come”).

Qing–Tibetan relationship was still “between [two] states, or an empire and a semi-autonomous peripheral state,” rather than “between a central government and an outlying part of that same state.”¹¹⁴ As Chayet points out, “[i]n 1795, Emperor Qianlong still styled the Tibetans *wai fan*, [typically] meaning barbarians and tributary people living in the bordering regions *outside* the empire.”¹¹⁵ However, as noted in Chapter 7, in Qing times, the Chinese term “*wai fan*” could also mean “outlying vassals” (e.g., those Mongol *zasag* banners in Outer Mongolia) “within” the empire, and therefore, the Qing court’s position on the status of Tibet had become quite ambiguous during the 18th century.

Under the *Cho–Yon* relationship, the Qing Emperors were obliged to provide protection to the Dalai Lamas, the Gelug Sect, and Tibet. Nevertheless, the Twenty-Nine-Article Ordinance showed that the Qing sought to interfere in both Tibet’s internal and external affairs, providing a possible legal ground for the Qing “suzerainty” over Tibet. However, the Qing Empire had never established effective control and actual governance over, nor collected tax from, Tibet.¹¹⁶ Therefore, even when the Qing’s interference in the Tibetan affairs reached its height in the late 18th century, the

¹¹⁴ SMITH, *supra* note 83, at 137.

¹¹⁵ AUTHENTICATING TIBET, *supra* note 46, at 29.

¹¹⁶ VAN PRAAG, *supra* note 46, at 37; LAIRD, *supra* note 58, at 202.

Qing Empire still failed to establish sovereignty over Tibet, which remained an independent and self-governing State. As van Praag observes,

[The] Manchu-Tibetan relations in the eighteenth century, while . . . based on the *Chō-yōn* relationship, included features primarily characteristic of protectorate arrangements—though they were often conceived in terms of tributary relations by the Qing Court. As the formal source of government remained in Tibet . . . and as the nature of Manchu interference in Tibetan affairs, specifically its foreign affairs, did not differ from that characteristic of protectorate [i.e., suzerain] relationships and the extent of actual interference was limited and by no means continuous, the State of Tibet never ceased to exist. The exercise of sovereignty by the Tibetans was restricted by the Manchu involvement in the affairs of Tibet, but that did not result in the extinction of the independent State, which continued to possess the essential attributes of statehood. This conclusion is supported by the strong presumption in favor of the continued existence of States in international law.¹¹⁷

Actually, as showed by many edicts issued by the Qianlong Emperor during the second Gurkha invasion of Tibet in 1791–92, the Qing “was no longer willing to safeguard Tibet at all costs.”¹¹⁸ Although it appears that the Qing subsequently “imposed on Tibet a ‘forbidden land’ policy, which closed the borders to most foreigners especially the British and the Russians,” this isolationist policy on Tibet also “became an essential element of Tibet’s own foreign and defense policies.”¹¹⁹ Considering that the 1793 reforms on the Tibetan affairs were largely based on the Qing–Tibetan mutual agreement, it should not rule out the possibility that Tibet’s isolationism was actually

¹¹⁷ VAN PRAAG, *supra* note 46, at 127.

¹¹⁸ DAI, *supra* note 77, at 146, 279.

¹¹⁹ VAN PRAAG, *supra* note 46, at 21, 27.

initiated by the Tibetans and was encouraged by the Qing. At any rate, even assuming that the Qing ever dominated Tibet's foreign relations, it lasted only a short period of time since the Qing Empire itself had rapidly declined in power and, as discussed below, even completely abandoned its protective role for Tibet by the middle of the 19th century.

8.3.3 Tibet's Foreign Relations in the 19th and the Early 20th Centuries

In the 19th and the early 20th centuries, the Qing Empire faced increasing internal rebellions and foreign encroachments, leaving Tibet to defend itself against the invading armies of Dogra Jammu in 1841–42, Gurkha Nepal in 1855–56, and British India in 1903–04, and concluded several peace treaties with them, without any military assistance from the Qing.¹²⁰ All the above showed that the Qing interference in Tibetan affairs or the Qing “suzerainty” (if it had ever actually existed) over Tibet had come to an end by the mid-19th century.¹²¹

8.3.3.1 Tibet's Treaty Relations with Jammu, Kashmir, and Nepal

The Peace Treaty of 1842 between Tibet and Jammu and a new Treaty of 1853 between Tibet and Kashmir affirmed the boundary between Tibet and Ladakh, which, as part of the Jammu and Kashmir region, came under the rule of British India in 1846.¹²²

¹²⁰ *Id.* at 22–24, 33–34; KAPSTEIN, *supra* note 77, at 163–64, 169–70.

¹²¹ *See* VAN PRAAG, *supra* note 46, at 25, 129.

¹²² *Id.* at 23; SHAKABPA, *supra* note 98, at 179–81; KAPSTEIN, *supra* note 77, at 163.

Later, under the Peace Treaty of 1856 between Tibet and Gurkha Nepal, the Tibetan government agreed to accept Nepal's protection and to pay annual payments to the Gurkha government. Moreover, by this treaty, Tibet also permitted Gurkha to station a *Bahadar* (high officer) in Lhasa, opened trade to Nepal, and granted extraterritorial rights to the Nepalese residing in Tibet.¹²³ Just like the Qing *ambans*, the Gurkha *Bahadar* in Lhasa acted as a foreign ambassador in Tibet, rather than as the governor of Tibet. Nevertheless, according to van Praag, in actual practice, "Nepal's new protective role was wholly insignificant," and "Tibet and Nepal functioned as independent States, maintaining direct diplomatic relations with each other on an equal, though not reciprocal, basis."¹²⁴

8.3.3.2 The British Expedition to Tibet (1903–04) and the Anglo–Tibetan Lhasa Convention (1904)

Because the Tibetan government rejected the Qing's capacity to make any treaty on behalf of Tibet and refused to recognize the provisions concerning Tibet in a series of Anglo–Qing treaties concluded between 1876 and 1890, the British government eventually realized that the Qing Empire did not have control and authority over Tibet. At that juncture, the British decided to establish diplomatic and trade relations directly

¹²³ VAN PRAAG, *supra* note 46, at 23–24; for the English translation of the Peace Treaty of 1856 between Tibet and Gurkha Nepal, see SHAKABPA, *supra* note 99, at 595–97.

¹²⁴ VAN PRAAG, *supra* note 46, at 24.

with Tibet.¹²⁵ In 1903, the British diplomatic mission to Lhasa, however, soon developed into a military expedition, forcing the Thirteenth Dalai Lama to appoint a regent and flee to Mongolia.¹²⁶ The British invasion ended by the Convention between Great Britain and Tibet of 1904, popularly known as the “Lhasa Convention.”¹²⁷

By the terms of the Lhasa Convention of 1904, the British, among other things, gained a large indemnity and trade privileges from Tibet, and forbade the Tibetan government from ceding territory or granting special interests to any “foreign power” unless having first acquired British consent.¹²⁸ Article 9 of the Lhasa Convention provides:

The Government of Thibet [i.e., Tibet] engages that, without the previous consent of the British Government—

- (a) No portion of Thibetan territory shall be ceded, sold, leased, mortgaged, or otherwise given for occupation, to any foreign Power;
- (b) No such Power shall be permitted to intervene in Thibetan affairs;
- (c) No Representatives or Agents of any foreign Power shall be admitted to Thibet;
- (d) No concessions for railways, roads, telegraphs, mining, or other rights, shall be granted to any foreign Power, or the subject of any foreign Power. In the event of consent to such Concessions being granted, similar or equivalent Concessions shall be granted to the British Government;

¹²⁵ *Id.* at 27–30.

¹²⁶ *Id.* at 33–35.

¹²⁷ Convention between Great Britain and Thibet, Sept. 7, 1904, Gr. Brit–Tibet, 98 BRITISH AND FOREIGN STATE PAPERS, 1904–1905, at 148–51 (1909) [hereinafter Lhasa Convention of 1904].

¹²⁸ GOLDSTEIN, *supra* note 80, at 24–25; VAN PRAAG, *supra* note 46, at 34–35.

- (e) No Thibetan revenues, whether in kind or in cash, shall be pledged or assigned to any foreign Power, or to the subject of any foreign Power.¹²⁹

Despite the fact that Colonel Francis Younghusband (the commander of the British expeditionary force to Tibet, and the negotiator of the Lhasa Convention) said somehow the contrary in his report,¹³⁰ the Lhasa Convention did not recognize the Qing suzerainty over Tibet, and obviously regarded the Qing Empire as a “foreign power” to Tibet under the Article 9.¹³¹ Moreover, as van Praag notes, the Lhasa Convention constituted the British recognition of “the Tibetan government’s full capacity to enter into treaty relations” with other States, and it undeniably “placed Great Britain closer than the Qing . . . to the position of ‘suzerain’ of Tibet.”¹³²

Responding to the British intervention in the Tibetan affairs, the Qing Empire, though lacking real authority and control in Tibet, ironically started to claim “sovereignty”

¹²⁹ Lhasa Convention of 1904, *supra* note 127, at 150; *see also* INTERNATIONAL COMMISSION OF JURISTS, THE QUESTION OF TIBET AND THE RULE OF LAW 80 (Geneva, 1959) (Switz.) [hereinafter REPORT ON THE QUESTION OF TIBET], *available at* <http://www.icj.org/the-question-of-tibet-and-the-rule-of-law/>; VAN PRAAG, *supra* note 46, at 302.

¹³⁰ SIR FRANCIS YOUNGHUSBAND, INDIA AND TIBET: A HISTORY OF THE RELATIONS WHICH HAVE SUBSISTED BETWEEN THE TWO COUNTRIES FROM THE TIME OF WARREN HASTINGS TO 1910; WITH A PARTICULAR ACCOUNT OF THE MISSION TO LHASA OF 1904, at 286, 421–22 (1910); *see also* LI, *supra* note 111, at 104, 109.

¹³¹ REPORT ON THE QUESTION OF TIBET, *supra* note 129, at 80 (“It may be suggested that because of the actual position of [the Qing] at that time both parties were inclined to ignore whatever claims [the Qing] may have made and decided to regard [the Qing] as a foreign power in Tibet.”); SHAKABPA, *supra* note 98, at 218 (“[The Qing] was regarded as a foreign power under this article as evidenced by Article III of the Anglo-[Qing] Convention of 1906 and Article VI of the Simla Convention of 1914. In other words, it is obvious that the provisions of the 1904 Convention between Great Britain and Tibet completely negate any [Qing] claim of sovereignty or suzerainty over Tibet.”); TSUNG-LIEN SHEN & SHEN-CHI LIU, TIBET AND TIBETANS 49 (1953) (After the signing of the Anglo–Qing Convention of 1906, “[r]esentment was also strong among a faction of the [British] Indian Services, who insisted that [Qing] should be regarded as a foreign power to whom Article 9 of the Lhasa Convention would be applicable.”); *see also* SHAKABPA, *supra* note 99, at 681, 1049.

¹³² VAN PRAAG, *supra* note 46, at 35.

(instead of just “suzerainty”) over Tibet.¹³³ Consequently, the Qing amban in Lhasa was instructed not to sign a proposed “adhesion agreement,” which intended to provide the Qing adhesion to the Lhasa Convention, but was considered by the Qing court to hurt the Qing “sovereignty” (if any) over Tibet.¹³⁴ Nevertheless, the international responses to the British expedition to Tibet and the Lhasa Convention were not favorable, leading the British to regard the Qing adhesion to the Lhasa Convention as important, if not necessary.¹³⁵

8.3.3.3 The Anglo–Qing Convention Respecting Tibet or Beijing Adhesion Agreement (1906)

From a legal point of view, the Qing adhesion to the Anglo–Tibetan Lhasa Convention would constitute the Qing recognition of Tibet’s legal capacity to enter into treaty relations with other States, and that would also imply the Qing recognition of Tibet as an independent State.

Unsurprisingly, during the negotiation of the Anglo–Qing Convention respecting Tibet, the main issue was, the nature of the Qing relationship with Tibet. The British were willing to recognize a loose form of Qing “suzerainty” over Tibet, and that would

¹³³ AUTHENTICATING TIBET, *supra* note 46, at 42.

¹³⁴ LI, *supra* note 111, at 105, 109; YINGGUO, EGUO YU ZHONGGUO XIZANG [GREAT BRITAIN, RUSSIA AND CHINA’S TIBET] 234–35 (Zhou Weizhou et al. eds., Beijing, Zhongguo Zang Xue Chu Ban She 2000) (China).

¹³⁵ VAN PRAAG, *supra* note 46, at 36.

allow Tibet to manage its own administration, and even make international agreements independently. On the other hand, the Qing at first insisted on the British recognition of Qing “sovereignty” over Tibet.¹³⁶ Eventually, the Convention between Great Britain and the Qing respecting Tibet, also known as the “Beijing Adhesion Agreement,” was signed in Beijing in 1906, mentioning neither Qing “suzerainty” nor “sovereignty” over Tibet.¹³⁷

Article 1 of the Anglo–Qing Beijing Adhesion Agreement of 1906 states:

The Convention concluded on September 7, 1904 by Great Britain and Tibet, the texts of which in English and Chinese are attached to the present Convention as an annex, is hereby confirmed, subject to the modification stated in the declaration appended thereto, and both of the High Contracting Parties engage to take at all times such steps as may be necessary to secure the due fulfillment of the terms specified therein.¹³⁸

Consequently, by signing the Beijing Adhesion Agreement, the Qing recognized the Lhasa Convention concluded by Great Britain and Tibet, and that, as noted earlier, would constitute the Qing recognition of Tibet’s legal capacity to enter into treaty relations with other States, and, arguably, also the Qing recognition of Tibet’s status as an independent

¹³⁶ PREMEN ADDY, *TIBET ON THE IMPERIAL CHESSBOARD: THE MAKING OF BRITISH POLICY TOWARDS LHASA, 1899–1925*, at 153, 157–59 (1984); *see also* LI, *supra* note 111, at 109–10.

¹³⁷ Convention between Great Britain and [the Qing] Respecting Tibet, Apr. 27, 1906, Gr. Brit–Qing, 99 BRITISH AND FOREIGN STATE PAPERS, 1905–1906, at 171–172 (1910) [hereinafter Beijing Adhesion Agreement of 1906]; VAN PRAAG, *supra* note 46, at 37–38, 304–5.

¹³⁸ Beijing Adhesion Agreement of 1906, *supra* note 137, at 172.

State. No wonder the Qing court had earlier considered that the Qing adhesion to the Lhasa Convention would hurt its claim to “sovereignty” over Tibet.

Nevertheless, van Praag mistakenly suggested that Article 1 of the Beijing Adhesion Agreement shifted the responsibility to fulfill the terms of the Lhasa Convention “from the Tibetan government to the [Qing] Imperial government.”¹³⁹ In fact, Tibet remained the major party to the Anglo–Tibetan Lhasa Convention, while the Qing had little or no influence over Tibet and therefore lacked any actual capacity to fulfill the terms of the Lhasa Convention.

Moreover, Article 2 of the Beijing Adhesion Agreement provides,

The Government of Great Britain engages not to annex Tibetan territory or to interfere in the administration of Tibet. The Government of China [actually, the Qing] also undertakes not to permit any other foreign State to interfere with the territory or internal administration of Tibet.¹⁴⁰

However, the Qing had possessed no suzerainty and little influence over Tibet at least since the mid-19th century. Since Article 2 by itself could not “preserve” or “create” any Qing supremacy over Tibet, Article 2 should be better understood as a “prearrangement” that when the Qing gained legal authority to do so, the Qing would

¹³⁹ VAN PRAAG, *supra* note 46, at 38.

¹⁴⁰ Beijing Adhesion Agreement of 1906, *supra* note 137, at 172; *see also* VAN PRAAG, *supra* note 46, at 305.

refrain from permitting any other foreign State to interfere with Tibet's territory and administration.

Furthermore, leading to some misinterpretations, Article 3 of the Adhesion Agreement states in part,

The Concessions which are mentioned in Article IX (d) of the Convention concluded on September 7, 1904 by Great Britain and Tibet are denied to any State or to the subject of any State other than China [actually, the Qing].¹⁴¹

Van Praag mistakenly observes that “Article 3 specifically excluded [the Qing] from the term ‘Foreign Power’ where it appeared in Article 9 of the Lhasa Convention.”¹⁴² Moreover, Smith even goes so far to note that “China was defined as not a foreign power in relation to Tibet, which implicitly recognized Chinese sovereignty over Tibet.”¹⁴³

In fact, rather than saying that the Qing was not a “foreign power” to Tibet, Article 3 of the Adhesion Agreement merely constituted the “consent of the British Government” to permit Tibet to grant to the Qing the “concessions for railways, roads, telegraphs, mining, or other rights” as mentioned in Article 9 (d) of the Lhasa Convention.¹⁴⁴ In other words, as the report of “The Question of Tibet and The Rule of Law” of 1959 (published by the International Commission of Jurists) states, “the British, who had

¹⁴¹ Beijing Adhesion Agreement of 1906, *supra* note 137, at 172; *see also* VAN PRAAG, *supra* note 46, at 305.

¹⁴² VAN PRAAG, *supra* note 46, at 38.

¹⁴³ SMITH, *supra* note 83, at 162.

¹⁴⁴ *See* REPORT ON THE QUESTION OF TIBET, *supra* note 129, at 81.

obtained very important concessions from Tibet, were willing to share some of these concessions with the [Qing] in order that the [Qing] would not obstruct or interfere with the enjoyment of those concessions by the British.”¹⁴⁵ Moreover, without the British consent, Article 9 (a), (b), (c), and (e) of the Lhasa Convention continued to apply to the Qing Empire, which was regarded as a “foreign power” to Tibet under the convention. For example, according Article 9 (a) and (b) of the Lhasa Convention, without the consent of the British government, any portion of the Tibetan territory shall not be “ceded, sold, leased, mortgaged, or otherwise given for occupation” to the Qing, and the Qing shall not be “permitted to intervene” in Tibetan affairs.¹⁴⁶

More importantly, as a result of not being a party to the Beijing Adhesion Agreement, Tibet, in essence, rejected the capacity of the Qing (of course, also the British) to conclude any international agreement on behalf of Tibet. Therefore, as Van Praag points out, “[the Tibetan] government in Lhasa protested and, quite legitimately, declared that it did not consider Tibet bound by the Anglo–[Qing] agreement [respecting Tibet].”¹⁴⁷

¹⁴⁵ *Id.*

¹⁴⁶ Lhasa Convention of 1904, *supra* note 127, at 150.

¹⁴⁷ VAN PRAAG, *supra* note 46, at 38.

8.3.3.4 The Anglo–Russian Convention Relating to Persia, Afghanistan, and Tibet (1907)

In 1907, the Anglo–Russian Convention relating to Persia, Afghanistan, and Tibet was signed in St. Petersburg.¹⁴⁸ This convention is mistakenly “believed by some writers to provide a legal basis for Chinese suzerainty over Tibet.”¹⁴⁹ By the Anglo–Russian Convention of 1907, Great Britain and Russia engaged “to respect the territorial integrity of Thibet and to abstain from all interference in its internal administration,” but they also explicitly recognized “the suzerain rights of China [actually, Qing] in Thibet.”¹⁵⁰ Moreover, Great Britain and Russia also engaged “not to send Representatives to Lhasa” and “not to enter into negotiations with Thibet except through the intermediary of the Chinese [actually, Qing] Government,” though this engagement did not exclude direct commercial relations between the British and Tibet. Furthermore, Russia also recognized that Britain had “a special interest in the maintenance of the *status quo* in the external relations of Tibet.”¹⁵¹

¹⁴⁸ Convention between the United Kingdom and Russia Relating to Persia, Afghanistan, and Thibet, Aug. 31, 1907, Gr. Brit–Russ., 1907 Gr. Brit. T.S. No. 34 (Cd. 3753) [hereinafter Anglo–Russian Convention of 1907], available at <http://treaties.fco.gov.uk/docs/pdf/1907/TS0034.pdf>.

¹⁴⁹ REPORT ON THE QUESTION OF TIBET, *supra* note 129, at 81–82.

¹⁵⁰ Anglo–Russian Convention of 1907, *supra* note 148, at 12–13; see also REPORT ON THE QUESTION OF TIBET, *supra* note 129, at 81.

¹⁵¹ Anglo–Russian Convention of 1907, *supra* note 148, at 12–13.

However, the British and the Russian “recognitions” of the Qing “suzerainty” over Tibet were legally invalid, because that “suzerainty” did not even exist at the time of signing the Anglo–Russian Convention of 1907. Moreover, neither Tibet nor the Qing was a party to this convention.¹⁵² Nonetheless, as Van Praag notes, “Britain and Russia in effect recognized that the Manchu [Qing] Empire’s sphere of influence included Tibet, largely to the exclusion of other powers, except the British Empire,” thus encouraging the Qing “to fill the power vacuum [that] the British had created by first defeating the Tibetans and then by withdrawing [its] influence and protection from them.”¹⁵³

8.3.4 The Qing’s Failed Annexation of Tibet in 1910–11

Encouraged by the power vacuum in Tibet that had been created by the British, the Qing pursued an aggressive policy in the early 20th century, seeking to incorporate Tibet forcibly under its direct control.¹⁵⁴ The Thirteenth Dalai Lama, who had left Tibet since the British invasion in 1904, returned to Lhasa in December 1909, but he was soon thereafter forced to appoint a regent and flee again (this time to British India) when the Qing invading army entered Lhasa in February 1910.¹⁵⁵ The Qing invasion of Tibet and the unilateral “deposition” of the Thirteenth Dalai Lama in 1910 formally ended the *Cho*–

¹⁵² See REPORT ON THE QUESTION OF TIBET, *supra* note 129, at 81–82.

¹⁵³ VAN PRAAG, *supra* note 46, at 39.

¹⁵⁴ *Id.*; AUTHENTICATING TIBET, *supra* note 46, at 42.

¹⁵⁵ VAN PRAAG, *supra* note 46, at 44–45.

Yon relationship between the Qing Emperors and the Dalai Lamas. As Van Praag points out,

This was the first Manchu [Qing] invasion of Tibet. The Manchu [Qing] interventions in the eighteenth century (1720, 1728, 175[1], and 1792) had all been measures taken at the request or with the support of the Tibetans to restore order or to protect Tibet from foreign aggressors. The 1910 invasion marked a turning point in Manchu–Tibetan relations. The Patron/Protector was now invading the country of his Priest, destroying the religion of the Protected, and deposing the [Dalai] Lama, who was the object of his worship and protection! Thus, the *Chö-yön* relationship that had existed with the Qing Emperors came to an end.¹⁵⁶

Because the Qing occupation of Tibet lasted no more than two years, the Qing's plan to conquer and annex Tibet failed. After the outbreak of the Chinese Revolution in October 1911, the Qing's garrisoning Chinese soldiers in Lhasa immediately mutinied and attacked the Qing *Amban*, effectively ending the Qing occupation of Tibet at the end of 1911 (even before the fall of Qing in February 1912).¹⁵⁷ As the former Qing troops began looting Lhasa, the Tibetans fought against them and sought to restore the Tibetan rule. The fighting was bloody but did not last long. The Chinese troops soon surrendered in April 1912 and were deported back to China via India at the end of 1912.¹⁵⁸

¹⁵⁶ *Id.* at 45.

¹⁵⁷ VAN SCHAİK, *supra* note 58, at 189–90; SMITH, *supra* note 83, at 181.

¹⁵⁸ VAN SCHAİK, *supra* note 58, at 189–90; SMITH, *supra* note 83, at 181.

The Thirteenth Dalai Lama returned to Tibet in June 1912 and arrived Lhasa in January 1913. Having restored his supreme power, the Dalai Lama issued a proclamation in February 1913, stating in part:

We are a small, religious, and independent nation. To keep up with the rest of the world, we must defend our country. In view of past invasions by foreigners, our people may have to face certain difficulties, which they must disregard. To safeguard and maintain the independence of our country, one and all should voluntarily work hard.¹⁵⁹

This proclamation was often mistaken as Tibet's "declaration of independence" from "China," but it was not. In fact, Tibet had long been a sovereign State and had never been a part of Qing, nor a part of "China." The Dalai Lama's proclamation in 1913 was a "reconfirmation" of Tibet's continuing statehood, rather than a "declaration of independence" from any other country.¹⁶⁰

8.3.5 The Modern Chinese Positions on the Nature of Qing–Tibetan Relations

The Republic of China (ROC; 1912–49) claimed that "China" had established sovereignty over Tibet around "1793" after the Qing army drove out the Nepalese force

¹⁵⁹ SHAKABPA, *supra* note 98, at 248; *see also* VAN PRAAG, *supra* note 46, at 49; for another English translation, *see* SHAKABPA, *supra* note 99, at 761 ("Tibet does not have wealth, power, and technology like other nations. It is a free country abiding in peace and happiness in accordance with our religion. If these days, through taking greater responsibility in their duties, civil and military officials can enhance our military preparedness, enabling us to protect the stability of our territory. . . . Upon giving detailed consideration to the historic reasons for the improper land claims the Chinese have made on us through time, all Tibetans should volunteer . . . to take greater responsibility for protecting and defending our land.").

¹⁶⁰ *See* VAN PRAAG, *supra* note 46, at 48–49.

from Tibet, and the Qing court issued the “Twenty-Nine-Article Ordinance for Reforming Tibetan Affairs.”¹⁶¹ Nonetheless, the People’s Republic of China (PRC; 1949–present) not only claims the Qing sovereignty over Tibet, but goes even further to asserts that Tibet has been part of “China” since the “mid-13th century” (during the so-called “China’s Yuan Dynasty”) or even since “ancient times.”¹⁶² Nevertheless, as examined already, Tibet remained a sovereign State and did not lose its statehood in Qing times.

Furthermore, it appears that ROC-era Chinese did not fully understand the difference between “sovereignty” (*zhu quan*) and “suzerainty” (*zong zhu quan*) under international law, and did not know that a “suzerain” had no territorial sovereignty over its “vassal state.” As Elliot Sperling notes,

When Republican-era [i.e., ROC] writers spoke of China’s claim to sovereignty over Tibet, they tended to view Tibet as having been a vassal state of the Qing rather than (as the present-day Chinese [i.e., PRC] position has it) an integral part

¹⁶¹ Elliot Sperling, *Tibet*, in DEMYSTIFYING CHINA: NEW UNDERSTANDINGS OF CHINESE HISTORY 145, 146 (Naomi Standen ed., 2013) (noting that at the tripartite Anglo–Chinese–Tibetan conference at Simla in 1913, the ROC delegation claimed that after the Qing army drove the invading Nepalese force out of Tibet, “Tibet was then [in 1793] definitely placed under the sovereignty of China.”); see also VAN PRAAG, *supra* note 46, at 55 (“The [ROC] government claimed to have established [China’s] sovereignty over Tibet in 1793, after the [Qing] Imperial armies had protected Tibet from foreign invaders.”).

¹⁶² INFORMATION OFFICE OF THE STATE COUNCIL OF THE PEOPLE’S REPUBLIC OF CHINA, WHITE PAPER: TIBET — ITS OWNERSHIP AND HUMAN RIGHTS SITUATION (1992) (China), *available at* <http://www.china.org.cn/e-white/tibet/index.htm> (“In the mid-13th century, Tibet was officially incorporated into the territory of China’s Yuan Dynasty. Since then, although China experienced several dynastic changes, Tibet has remained under the jurisdiction of the central government of China.”); Sperling, *supra* note 161, at 146–50 (“[The PRC’s new position] holds that Tibet has been a part of China ‘since ancient times,’ that is, since well before the Yuan [Dynasty].”).

of China. The terms used to describe Tibet under the Qing, *fanbang*, *fanshu*, and so on, are specific in that regard, and are generally rendered as “vassal state.”¹⁶³

Because the ROC-era Chinese writers often regarded Tibet as a tributary or vassal state, they probably only asserted the Qing’s “suzerainty” (instead of “sovereignty”) over Tibet.

Furthermore, although the ROC had claimed that the Qing established sovereignty over Tibet around 1793, the *Draft History of the Qing* (*Qing Shi Gao*; compiled by the government of the ROC), nonetheless, admitted that the Qing “had completely lost sovereignty” (*zhu quan jin shi*) over Tibet when Great Britain and Tibet signed the Lhasa Convention in 1904. The *Draft History of the Qing* even stated that Tibet became a vassal state to both the Qing and Great Britain after the signing of the Beijing Adhesion Agreement of 1906.¹⁶⁴ However, in reality, the Qing Empire had never had sovereignty over Tibet and had even lost influence in Tibet by the mid-19th century.

8.4 Summary and Conclusion

It was not “China” but the Manchu Qing Empire that conquered the Dongning Kingdom in Western Taiwan in 1683. Moreover, although jurisdictionally made a superior prefecture of Fujian Province in 1684, Western Taiwan was not conceptually perceived as an integral part of “China.” The Qing rule in Taiwan was often

¹⁶³ Sperling, *supra* note 161, at 146.

¹⁶⁴ ZHAO ERXUN ET AL., *QING SHI GAO* [DRAFT HISTORY OF THE QING], vol. 9, at 2470 (Beijing, Zhonghua Shu Ju 1976) (China).

administratively passive and always geographically partial. Not only was the Qing control over Taiwan's western plain area very loose, but the Qing sovereignty had never been extended to most of Taiwan's central mountain and eastern coastal areas, which both remained the Taiwanese aborigines' "savage territory."

The lack of Qing control and sovereignty over central and eastern Taiwan was clearly revealed in the Rover Incident of 1867 and the Mudan Incident of 1871. In both cases, the Qing government refused, at least initially, to accept any responsibility for the slaughter of the American and Ryukyuan sailors on the grounds that the killings were committed by Taiwan's "savages" who lived well beyond the Qing territory and jurisdiction. To settle the dispute, the United States concluded a friendly agreement in 1867 with the polity of the eighteen aboriginal tribes of the south bay of Taiwan. Japan and the Qing signed the Beijing Agreement of 1874, under which the Qing agreed to pay "condolence money" to the families of the "Japanese" victims, thus implicitly recognizing Japan's sovereignty over the Ryukyu Islands. Moreover, although Japan indirectly acknowledged the Qing's "special interest" in the Mudan tribe's area, nothing in this treaty constituted or implied the Japanese recognition of Qing "sovereignty" over "entire" Taiwan. The Qing Empire (rather than "China") created Taiwan Province in 1885 but soon ceded Taiwan and the Pescadores to Japan by the Treaty of Shimonoseki in

1895. It was not until the early 1940s that the Chinese (in particular, the ROC) government suddenly started to claim Taiwan as “China’s lost territory.”

Regarding the Qing–Tibetan relationship, the first two Qing Emperors, Nurhaci and Hung Taiji, established their special *Cho–Yon* (priest–patron) relationships with Tibetan lamas before the Qing conquest of China. They patronized the Sakya Sect (particularly, the Mongol imperial cult of Mahākāla) and the more widespread Gelug Sect (headed by the Dalai Lama) in order to strengthen the Manchu tie with the Mongols. After conquering the [Northern] Yuan in 1635, Hung Taiji claimed the universal Great Khan on the Mongol imperial model and was recognized as the universal Cakravartin (“wheel-turning”) king in the Buddhist tradition. Moreover, Hung Taiji and all subsequent Qing Emperors were also identified as incarnations of Bodhisattva Manjusri by the Dalai Lamas, deliberately echoing the *Cho–Yon* relationship between Khubilai Khan and 'Phags-pa Lama in the 13th century.

In 1653, the Fifth Dalai Lama visited the Shunzhi Emperor in the Qing capital at Beijing. As historical records show, this meeting was between two independent sovereigns instead of Tibet’s submission to the Qing. For the Shunzhi Emperor, the meeting would encourage more Mongols to ally with, or submit to, the Qing. For the Fifth Dalai, the meeting reaffirmed not only the Qing recognition of his new status as the

ruler of Tibet, but also the imperial patronage of the Gelug Sect and the Qing protection for Tibet. To fulfill the Qing Emperors' protective obligations toward Tibet, the Qing intervened militarily in Tibet four times (in particular, in 1720, 1728, 1751, and 1792). Consequently, the Qing established a level of political "domination" or "influence" in Tibet that might constitute the Qing suzerainty, but certainly not sovereignty, over Tibet.

The Qing annexed Qinghai (historically, northeastern Tibet) in 1724 and some part of Kham (historically, southeastern Tibet) in 1728, but that did not diminish Tibet's independence and statehood. Moreover, starting in 1728, the Qing usually stationed two *ambans* (imperial residents) and a small garrison (about 100–2000 soldiers) in Lhasa to maintain, quite unsuccessfully, the Qing influence in Tibet. The Qing *ambans* in Lhasa functioned as the Qing ambassadors, rather than the governors of Tibet. In 1751, the Qing issued the "[Thirteen-Article] Ordinance for Reforming Tibetan Affairs," which attempted (but failed) to increase the Qing influence in Tibet. In reality, the Qing's interest and influence in Tibet soon decreased after the Qing conquest of the Zunghar Khanate in 1757, as a Mongol–Tibetan alliance against the Qing was no longer a concern.

Therefore, with an exception in 1792 during which the Qing helped Tibet to expel the invading Gurkha army, Tibet had begun to defend itself against foreign invasions without any Qing assistance since 1788. In 1793, the Qing issued the

“[Twenty-Nine-Article] Ordinance for Reforming Tibetan Affairs,” which, in part, intended to increase the Qing’s interference in both Tibet’s internal and external affairs but those measures were, in reality, never or only briefly implemented. Tibet remained an independent State beyond the Qing effective control and boundaries. Therefore, contrary to modern Chinese claims, the Twenty-Nine-Article Ordinance of 1793, at best, represented the height of Qing interference in the Tibetan affairs, but that neither established nor signified the Qing (let alone “Chinese”) sovereignty over Tibet.

However, without any Qing military assistance, Tibet had to face the invasions from Dogra Jammu in 1841–42, Gurkha Nepal in 1855–56, and British India in 1903–04, demonstrating clearly that the Qing had lost its influence in Tibet no later the mid-19th century. In its own legal capacity, Tibet signed peace treaties and other agreements with various foreign powers. For example, in 1904, Tibet signed the Anglo–Tibetan Lhasa Convention, which, arguably, established the British “suzerainty” over Tibet. Among other things, the Lhasa Convention provided that “without the previous consent of the British Government,” Tibet was forbidden to cede territory or grant special interests to any “foreign power,” which apparently applied to the Qing Empire as well.

The Qing adhered to the Anglo–Tibetan Lhasa Convention of 1904 by signing the Anglo–Qing Beijing Agreement of 1906, which, arguably, constituted the Qing’s

recognition of Tibet's legal capacity to enter into treaty relations with other States, and hence the Qing recognition of Tibet as an independent State. Eventually, with an attempt to conquer, the Qing invaded Tibet in 1910, but the Qing's temporary occupation of Tibet lasted less than two years and would not terminate the statehood of Tibet.

In conclusion, contrary to the modern Chinese claim, neither Taiwan nor Tibet belonged to "China" in Qing times. It was not "China" but the "Manchu" Qing Empire that ruled Western Taiwan from 1683 to 1895. The Qing never established territorial sovereignty over most of central and eastern Taiwan nor what is now called Tibet. Though their relationship was not always on an equal basis, the Qing and Tibet remained two independent States. Moreover, the Qing Empire legally ceded Taiwan and Penghu to Japan by the Treaty of Shimonoseki in 1895. Because Taiwan and Tibet were not parts of "China" in Qing times, nor were they the Qing territories at the end of the Qing Empire, the post-1912 modern Chinese States could not make historical claims over Taiwan and Tibet based on the Qing's imperial legacy.

CHAPTER 9

THE REPUBLIC OF CHINA (1912–1949), PART 1

THE SECESSIONS OF THE REPUBLIC OF CHINA AND THE MONGOL STATE FROM THE MANCHU QING EMPIRE

9.1 Introduction

The transition from the Manchu rule to the Chinese rule in most of the Qing territories in 1911–12 was commonly (but mistakenly) regarded as merely a “change in the government” of “China.” For example, a memorandum of the United States Department of State in 1913, entitled the Memorandum on the Recognition of the “Republican Government of China,” specifically noted that “the question involved is the recognition of a new government and not a new State.”¹

However, as discussed in this and the next chapters, rather than just a change in the government of “China,” the dissolution of the Manchu Qing Empire in 1911–12 was a much more complicated process, which involved: first, the creation of two newly independent States, in particular, the Great Mongol State and the Republic of China (ROC); second, the fall of Qing Empire; and third, the ROC’s annexation of the former Qing’s remaining territories.

¹ UNITED STATES DEPARTMENT OF STATE, PAPERS RELATING TO THE FOREIGN RELATIONS OF THE UNITED STATES, 1913, at 90 (1920), *available at* <https://history.state.gov/historicaldocuments/frus1913/d78> (last visited Jan. 19, 2019).

Under the Manchus' alien rule, China and Mongolia were both parts of the Qing Empire, but the Chinese had long fought for restoring their own state, as did the Mongols in the late Qing. On December 1, 1911, the Mongols restored the Great Mongol State in Outer Mongolia. One month later, on January 1, 1912, the Chinese revolutionaries officially established the Republic of China in the fourteen seceding provinces in China Proper. From a legal perspective, they were both "new States" seceding from the Manchu Qing Empire. Neither the Mongol State nor the Chinese Republic were able to legally assert to be the "continuing State" or "identical State" to the Qing Empire, nor could either make legitimate claims to automatically "inherit" all the Qing's remaining territories.

Although the Chinese revolutionaries originally sought to establish a Han-exclusive Chinese republic within the Eighteen Provinces (essentially, China Proper and Yunnan), the newly established ROC made claims to all the pre-revolution Qing territories. Nevertheless, when the ROC was formally founded at the beginning of 1912, the ROC's "original territories" were limited to the fourteen seceding Chinese provinces (see Map 1.14), far from what it claimed to be a "Five-Race Republic" that combined the Han (Chinese), Manchu, Mongol, Hui (Muslim), and Tibetan territories into a single Chinese State (see Map 9.1). In fact, upon the founding of the ROC, the Qing Empire still

legally existed and possessed Manchuria, four provinces of China, Inner Mongolia, Qinghai, and Xinjiang. Therefore, the “Five-Race Republic” formula was actually a “blueprint” for the ROC’s territorial ambition. As will be discussed in later chapters, this ambition was largely achieved soon after the fall of Qing, but the ROC had never acquired territorial sovereignty over Outer Mongolia, Tibet, or Taiwan.

9.2 The Chinese Anti-Manchu/Qing Movements up to the Mid-19th Century

From the beginning of the Manchu conquest of China in 1644 to the fall of the Qing in 1912, the Chinese people had never completely given up resisting the alien rule and avenging the Manchus’ “crimes” against the Chinese people, particularly the Manchu slaughters of the Chinese during the conquest.² As discussed in Chapter 6, some early Chinese anti-Manchu Qing movements included the resistance of the Southern Ming (1644–62) and the Dongning (1662–83), and the Revolt of Three Feudatories (1673–81).³ Moreover, during the early period of the Qing rule, some prominent Chinese scholars such as Huang Zongxi (1610–95), Gu Yanwu (1613–82), Wang Fuzhi (1619–92), and Lu

² IMMANUEL C. Y. HSÜ, *THE RISE OF MODERN CHINA* 127–30, 452–53 (6th ed. 2000).

³ WILLIAM T. ROWE, *CHINA’S LAST EMPIRE: THE GREAT QING* 24–27 (2010).

Liuliang (1629–83) continued to preserve and promote the Chinese–Barbarian distinction and oppose the alien rule of the Manchus.⁴

After the 1680s, the Chinese anti-Qing activities went underground and were led by some “secret societies” — such as the White Lotus Sect (*Bailain Jiao*), the Heaven and Earth Society (*Tiandi Hui*) or Hong League (*Hong Men*), and the Elder Brothers Society (*Gelao Hui*) — which launched several revolts, including the large-scale White Lotus Rebellion (1796–1805).⁵ All these secret societies were “anti-Manchu” and often called to “overthrow the Qing and restore the Ming” (*fan Qing fu Ming*).⁶ Among them, the White Lotus Sect was a much older “quasi-religious secret body,” which was first established around 1250 (or even earlier) and originally devoted to “overthrow the Yuan and restore the Song” when China was under the Mongol alien rule.⁷ As William T. Rowe observes, many secret societies in Qing times “shared a strong Han proto-nationalism and an antipathy to Manchu rule,” and their anti-Manchu sentiment “drew on a collective memory of the role played by popular organizations in the Han-led rebellions that overthrew the Mongol Yuan in the fourteenth century.”⁸

⁴ HSÜ, *supra* note 2, at 453; PRASENJIT DUARA, *RESCUING HISTORY FROM THE NATION: QUESTIONING NARRATIVES OF MODERN CHINA* 59 (1996); FRANK DIKÖTTER, *THE DISCOURSE OF RACE IN MODERN CHINA* 17–20 (2d ed. 2015).

⁵ HSÜ, *supra* note 2, at 127–30; ROWE, *supra* note 3, at 180–85.

⁶ HSÜ, *supra* note 2, at 127–30.

⁷ *Id.* at 129.

⁸ ROWE, *supra* note 3, at 179.

In the mid-19th century, the Qing was troubled by foreign encroachments (e.g., the first and second Opium Wars with Great Britain in 1839–42 and 1856–60 respectively) as well as various internal rebellions across the empire. In China Proper, two large-scale uprisings — the Taiping (lit. Great Peace) Heavenly Kingdom Revolution (1850–64) based in South China and the Nian Rebellion (1851–68) in North China — spread over most of the Chinese provinces and nearly toppled the Qing Empire.⁹ Moreover, there were the Miao Rebellion (1854–73) in Guizhou Province in southwest China, the Muslim (*Hui*) Panthay Rebellion (1856–73) in the neighboring Yunnan Province, and the Muslim Dungan Revolt (1862–73) in Shaanxi and Gansu Provinces in northwest China.¹⁰ In the outer domain of Xinjiang, as discussed in Chapter 7, the Chinese and Uyghur Muslims also revolted in 1864, followed by Yakub Beg’s invasion and his creation of the Muslim State of Yettishahr (1867–77) based in South Xinjiang.

The Eight Banners suffered heavy casualties during these rebellions, which were often anti-Manchu. For example, during the Taiping Heavenly Kingdom Revolution, the Chinese revolutionaries appealed to “the strong anti-Manchu sentiments of the Chinese populace.”¹¹ They claimed the “heaven-sent mission” to slaughter the

⁹ HSÜ, *supra* note 2, at 221; HAROLD M. TANNER, 2 CHINA: A HISTORY, FROM THE GREAT QING EMPIRE THROUGH THE PEOPLE’S REPUBLIC OF CHINA (1644–2009), at 79, 82 (2010).

¹⁰ SOURCES IN CHINESE HISTORY: DIVERSE PERSPECTIVES FROM 1644 TO THE PRESENT, at 48 (David G. Atwill & Yurong Y. Atwill eds., 2010).

¹¹ *Id.* at 49.

“Manchu demons” and to restore China.¹² This was clearly shown, for instance, in a Taiping Anti-Manchu Proclamation of 1852, which reads in part:

Oh people, listen to our words. It is our belief that *Tianxia* [lit. All under Heaven] is China’s *Tianxia*, not the barbarians’ *Tianxia*. . . . Alas! Since the [late] Ming’s misrule, the Manchus crept in . . . and stole China’s *Tianxia*

China [*Zhongguo*] is the head, and Tartary [*Hu-Lu*; here, meaning Manchuria] is the feet; China is the land of spirits, and Tartary is the land of demons. . . . But alas! How have the feet assumed the place of the head? How did the [Manchu] demons usurp the land of the spirits and force us Chinese to become demons? . . .

The Chinese have Chinese characteristics; but now the Manchus have ordered us all to shave our hair around the head, leaving a long tail in the back, thus making us Chinese appear like brute animals. The Chinese have Chinese dress and hats; but now the Manchus have ordered us to wear barbarian style clothes and monkey caps, abandoning the robes and headdresses of our ancestors. All with the purpose to make Chinese forget their roots. . . .

. . . The [Manchu] demon’s . . . fortune has come to an end, and the rightful sovereign has already appeared. The Manchu’s crimes are so grave, making the August Heaven thunders with anger. Thus, Heaven has ordered the Heavenly King [i.e., Hong Xiuquan, the founder of the Taiping Heavenly Kingdom] . . . to sweep away the [Manchu] demons and purify China and to carry out Heaven’s punishments. . . . [Therefore, we] vow to slaughter the Eight Banners to pacify China [*Jiuyou*; lit. “Nine Regions,” an old name for China]. . . .¹³

During the Taiping Revolution, many Eight Banner garrisons in southern and central China were destroyed, and lots of Banner people (including the reinforcements of Banner

¹² EDWARD J. M. RHOADS, *MANCHUS AND HAN: ETHNIC RELATIONS AND POLITICAL POWER IN LATE QING AND EARLY REPUBLICAN CHINA, 1861–1928*, at 58–59 (2000).

¹³ The English text is based on Michael’s and Atwill’s translations (with my modifications). For their English translations, see FRANZ H MICHAEL, *2 THE TAIPING REBELLION: HISTORY AND DOCUMENTS* 144–49 (1966); David G. Atwill & Yurong Y. Atwill eds., *supra* note 10, at 50–51; for the Chinese text, see TAI PING TIAN GUO YIN SHU 108–10 (Nan Jing Tai Ping Tian Guo Li Shi Bo Wu Guan ed., Nanjing, Jiangsu Ren Min Chu Ban She 1979) (China).

troops sent from elsewhere) were brutally massacred, forced to commit suicide, or heavily wounded.¹⁴ Suffering similar fates, the Banner garrisons in the northwest, particularly Xinjiang, were also ruined and the Bannermen there were mostly killed or scattered during the Chinese and Uyghur Muslim revolts and Yakub Beg's invasion.¹⁵

More critically, the mid-19th-century rebellions revealed the decline and ineffectiveness of the Eight Banners, the root of the Manchu domination. Eventually, the Qing government had to rely on highly personalized regional armies led by prominent Chinese officials to suppress the Taiping and other revolts and to reconquer Xinjiang.¹⁶ As a result, the Chinese officials increased their influence in provincial and even in national affairs after the 1850s. However, it would be mistaken to assume that “the locus of power in government [had] shifted from the Manchus to the Chinese.”¹⁷

In fact, according to Edward J. M. Rhoads, although “far fewer bannermen [and more Chinese] were appointed as provincial rulers after 1851,” there was “no parallel shift from Manchus to Han [Chinese] at the metropolitan level of government.” Moreover, even in the post-Taiping era, the Qing court not only “continue[d] to favor

¹⁴ RHOADS, *supra* note 12, at 58–59.

¹⁵ *Id.* at 59; for details, see HODONG KIM, HOLY WAR IN CHINA: THE MUSLIM REBELLION AND STATE IN CHINESE CENTRAL ASIA, 1864–1877, at 37, 41, 43, 45, 51, 53–56, 58, 87, 121–23 (2004).

¹⁶ HSÜ, *supra* note 2, at 251–52; RHOADS, *supra* note 12, at 58 (“[The Banner soldiers were] ineffective in the 1790s against the White Lotus Rebellion (1796–1804). The Qing dynasty thereafter was forced to rely on a succession of non-banner forces: first the Army of the [Chinese] Green Standard, then locally raised [Chinese] militias, and finally regional [Chinese] armies.”).

¹⁷ *But see* HSÜ, *supra* note 2, at 251–52.

Manchus at the expense of Han [Chinese]” in the metropolitan appointments, but also “exhibited even greater favoritism toward Manchus when it excluded practically all Han [Chinese] from several of its Self-Strengthening reforms [in 1861–95].”¹⁸

Down to the end of the empire, the Qing had never stopped granting “preferential treatment” to the Manchus and practicing extensive “discrimination” against its Chinese subjects.¹⁹ As discussed in more detail later, the political inequality between the Manchus and Chinese was one of the important factors that continued to fuel the Chinese anti-Manchu feeling in the late Qing.²⁰

9.3 The Strengthening of Manchu Domination in the Late-Qing Reforms

Responding to the defeat of the Qing in the Qing–Japanese War in 1895, two major political movements further developed in the late Qing. One was the progressive reform movement led by Kang Youwei (1858–1927) and his student Liang Qichao (1873–1929), seeking to transform the Qing Empire into a constitutional monarchy and preserve the “geo-body” of the Qing. The other was the anti-Manchu revolutionary movement

¹⁸ As Rhoads explains further: “Thus, both the Peking Field Force ([Shenji Ying,] formed in 1862) and the Kunming Lake Naval School (Kunminghu Shuishi Xuetang, opened in 1888) drew their personnel entirely from the ranks of the Metropolitan Banners, while the Translators College (Tongwenguan, founded in Beijing in 1862 and in Guangzhou two years later) recruited most, though not all, of its students from the local banner population. The court’s exclusion of Han from [some of] its efforts at modernization was also evident at the Navy Yamen, founded in 1885 after the naval debacle of the [Qing]–French War (1883–85).” See RHOADS, *supra* note 12, at 47–48.

¹⁹ *Id.* at 16–17, 43–48.

²⁰ *Id.* at 16–17.

largely led by Sun Yat-sen (1866–1925) and Huang Xing (1874–1916) and advocated by “radical” intellectuals and students, urging to drive out the Manchus from China and restore the Chinese state.²¹

As noted by Hsü, at first, the progressive reform movement “played the more prominent role.”²² However, despite the support from the Guangxu Emperor (r. 1875–1908), Kang Youwei’s aggressive reform measures in 1898, popularly known as the “Hundred Days Reform,” lasted for only 103 days. The powerful Empress Dowager Cixi (co-regent 1861–73, 1875–81; regent 1881–87, 1898–1908) and other conservative Manchus abruptly ended the reform by a *coup d’état*, accusing the reform as “a plot to benefit the Chinese at [the Manchu’s] expense.”²³ After the coup 1898, the Empress Dowager Cixi’s court reversed most of the reform measures, and the reform leaders Kang Youwei and Liang Qichao took refuge in Japan.²⁴

Nonetheless, soon later, the Boxer Uprising (1899–1901) caused the joint intervention of the Eight-Nation Alliance (1900–01) and the temporary Allied occupation of Beijing, leaving Dowager Cixi little choice but to recognize the need for extensive

²¹ Hsü, *supra* note 2, at 373, 412–15, 452, 457–64; ROWE, *supra* note 3, at 236–43, 264–73, 277–80; RHOADS, *supra* note 12, at 12–18, 63–67.

²² Hsü, *supra* note 2, at 452.

²³ *Id.* at 376–78, 447.

²⁴ *Id.* at 378–79.

reforms.²⁵ When the Allied force entered Beijing in 1900, the Qing court fled west to Xi'an, the provincial capital of Shaanxi. After the signing of the humiliating Boxer Protocol of 1901, the Qing court returned to Beijing in early 1902.²⁶ Earlier, while still in Xi'an, Cixi's court announced a series of reforms, known as the late Qing "New Policy" or "New Administration" (*Xin Zheng*) reforms in 1901, aiming to preserve and extend the Qing rule.²⁷

However, as will become clear, parts of the New Policy reforms, such as the encouragement of studying abroad (especially in Japan), the creation of the New Army, and the establishment of provincial assemblies, ironically, facilitated the revolutionary movement and contributed to the success of the Chinese Revolution of 1911.²⁸ Although part of the New Policy reforms intended to abolish the discrimination between Manchus and Chinese, these efforts were in reality only "cosmetic" because at the same time the Qing court was devoted to strengthening Manchu domination, both politically and militarily.²⁹ Indeed, as Rhoads notes, "[o]ne main purpose of Cixi's New Policies . . . was to recentralize political and military authority, to reverse the half-century

²⁵ *Id.* at 392–98; 11 THE CAMBRIDGE HISTORY OF CHINA, LATE CH'ING, 1800–1911, PART 2, at 413 (John K. Fairbank & Kwang-Ching Liu eds., 1980) [hereinafter 11 CAMBRIDGE].

²⁶ HSÜ, *supra* note 2, at 398–401.

²⁷ ROWE, *supra* note 3, at 255–62; for details of the late Qing reforms, see 11 CAMBRIDGE, *supra* note 25, at 375–415.

²⁸ 11 CAMBRIDGE, *supra* note 25, at 377; ROWE, *supra* note 3, at 258.

²⁹ 11 CAMBRIDGE, *supra* note 25, at 411.

drift of power away from Beijing to the provinces dating from the suppression of the Taiping Rebellion.”³⁰

By the end of 1906, the Qing had formally abolished the Manchu–Han diarchy and expanded the traditional Six Ministries and the Lifan Yuan to a total of eleven ministries, each headed by a single minister, with the exception that the Ministry of Foreign Affairs had two additional supervisors.³¹ However, the ending of the Manchu–Han diarchy did not increase the Chinese presence among top officials. Instead, it allowed Cixi’s court to appoint even more Manchus than before.³² Out of the thirteen ministry heads (including the two additional supervisors in the Ministry of Foreign Affairs) appointed in November 1906, there were seven Manchu Bannermen, one Mongol Bannerman, and five Han Chinese.³³ A year later, in late 1907, the ministry heads were divided between eight Manchu Bannermen, one Mongol Bannerman, and four Han Chinese, making the Manchu domination even greater.³⁴

Moreover, in the name of the New Policy reforms, Cixi sought to place all military forces under the Manchu control.³⁵ By the end of 1906, essentially all of the land forces

³⁰ RHOADS, *supra* note 12, at 142.

³¹ *Id.* at 78, 101–02.

³² *Id.* at 101–02.

³³ QING DAI ZHI GUAN NIAN BIAO 325 (Qian Shifu ed., Beijing, Zhonghua Shu Ju 1980) (China) [hereinafter QING DAI ZHI GUAN]; *see also* 11 CAMBRIDGE, *supra* note 25, at 395; RHOADS, *supra* note 12, at 102.

³⁴ QING DAI ZHI GUAN, *supra* note 33, at 326; RHOADS, *supra* note 12, at 120.

³⁵ 11 CAMBRIDGE, *supra* note 25, at 383–86.

(including the regional New Army led by prominent Chinese provincial officials) had been annexed under the direct command of the newly-created Ministry of Army, which was firmly controlled by the Manchus. The Ministry of Army took over four out of six divisions of the Beiyang New Army from Yuan Shikai in 1906 — the other two divisions were further put under direct control of the Ministry of Army in 1910.³⁶ In 1907, the Qing court “promoted” the two most powerful Chinese governors-general, Yuan Shikai and Zhang Zhidong, to the positions of grand councilors in central government in order to deprive them of their power in the provinces and military.³⁷

As Chuzo Ichiko observes, after Cixi’s reforms “the power of the Manchu officials in the [Qing] central government increased enormously, and the influence of the Chinese provincial officials was quite reduced in comparison.”³⁸ After the deaths of the Guangxu Emperor and the Empress Dowager Cixi on November 14 and 15, 1908, respectively, the two-year-old Puyi became the Xuantong Emperor (r. 1908–12) and his father, Zaifeng (regent 1908–11), became the prince regent (*shezheng wang*).³⁹

The Prince Regent Zaifeng continued to concentrate even more military and political powers into Manchu hands. Militarily, Zaifeng reorganized the top command of armed

³⁶ *Id.* at 385–86.

³⁷ *Id.* at 385–86, 395.

³⁸ *Id.* at 195–96.

³⁹ RHOADS, *supra* note 12, at 130–31.

forces and largely put it under the imperial kinsmen's control. Moreover, in late 1908, Zaifeng created a new Palace Guard (*Jinwei Jun*), which was put under his personal control and mostly recruited from the Banner soldiers. He reasserted that the emperor was the supreme military commander, and that he, as the prince regent, could command and assign all the armed forces.⁴⁰ In 1909, he designated himself as the acting “Generalissimo (*Dayuanshuai*) of the Army and Navy of the Great Qing Empire,” and made the General Staff Council (*Junzi Chu*) — later renamed the General Staff Office (*Junzi Fu*) — directly under the emperor and headed by imperial princes. He also created the Navy Commission (*Chouban Haijun Shiwuchu*), which was led by an imperial prince, and was later converted into the Ministry of the Navy.⁴¹ Despite the efforts to put all armed forces formally under the imperial command and the Manchu control, it could not guarantee the loyalty of all the military forces to the Manchu Qing. In fact, as we will see, the Chinese Revolution of 1911 was started (and largely supported) by the New Army, especially those in South China.⁴²

Politically, Zaifeng continued to increase Manchu domination in the governmental system. Right after becoming the regent, in January 1909 he forced the most influential Chinese official at the time, Yuan Shikai, to retire on the pretext of a “foot ailment.”

⁴⁰ *Id.* at 143–49.

⁴¹ *Id.* at 144–45, 149–50; 11 CAMBRIDGE, *supra* note 25, at 386.

⁴² 11 CAMBRIDGE, *supra* note 25, at 387–88.

Moreover, another Chinese high official, Zhang Zhidong, died nine months later in October 1909.⁴³ Zaifeng appointed even more Manchus in the central bureaucracy than Cixi did. Among the fourteen ministry heads in 1910 (including the minister of the newly-created Ministry of the Navy), there were nine Manchu Bannermen, one Mongol Bannerman, and only four Han Chinese.⁴⁴

In response to the Chinese reformers' increasing demand for a constitutional monarchy and a representative government, the Qing established several "advisory" local assemblies beginning in 1908 and provincial assemblies (*Zi Yi Ju*) in 1909. Moreover, the Qing created the "consultative" National Assembly (*Zi Zheng Yuan*) in 1910 and the so-called "responsible cabinet" (*zeren neige*) in 1911.⁴⁵ As Rowe notes, once established, these local, provincial, and national assemblies "quickly became the mouthpieces for the reformist elite and for their ideology of constitutionalism."⁴⁶ In May 1911, Zaifeng abolished the Grand Secretariat and Grand Council and organized a cabinet to be responsible to the throne.⁴⁷ The thirteen "new" cabinet members consisted of one prime minister, two deputy prime ministers, and ten ministry heads, but, in reality,

⁴³ *Id.* at 396.

⁴⁴ QING DAI ZHI GUAN, *supra* note 33, at 329; RHOADS, *supra* note 12, at 151.

⁴⁵ 11 CAMBRIDGE, *supra* note 25, at 396–402 ("The Provincial Assembly was to be the antecedent of the eventual provincial legislature, and the National Assembly the antecedent of the parliament."); ROWE, *supra* note 3, at 277–78.

⁴⁶ ROWE, *supra* note 3, at 277.

⁴⁷ 11 CAMBRIDGE, *supra* note 25, at 396.

they were mostly holdovers from the previous administration.⁴⁸ Furthermore, this very first “responsible cabinet” was composed of nine Manchus (including five imperial princes) and only four Han Chinese. Therefore, it was sharply criticized as being the “imperial kinsmen’s cabinet” and was a considerable impediment to the Chinese constitutional reformers.⁴⁹

The late Qing’s increase of Manchu power at the expense of Han showed clearly the continuing Manchu suspicion and hostility toward the Chinese, which disappointed the Chinese reformers and fueled the anti-Manchu revolutionaries.⁵⁰ As Hsü observes, as the late Qing reforms proved to be “insincere” and “discriminatory against the Chinese,” the Chinese revolutionary movement “gained increasing support from the younger intellectuals, the secret societies, and the overseas Chinese communities.”⁵¹ Eventually, more and more Chinese reformers lost their faith in a peaceful transition to a constitutional monarchy and began to support or at least prepare to accept the coming revolution.⁵² In March 1911 (i.e., seven months before the outbreak of the Xinhai

⁴⁸ The number of ministries was reduced from twelve to ten, when two traditional ministries, Personnel and Rites, were abolished. RHOADS, *supra* note 12, at 167.

⁴⁹ QING DAI ZHI GUAN, *supra* note 33, at 331; RHOADS, *supra* note 12, at 167–68.

⁵⁰ HSÜ, *supra* note 2, at 412–17, 446–47.

⁵¹ *Id.* at 452.

⁵² 11 CAMBRIDGE, *supra* note 25, at 512–13.

Revolution), even the main leader of the constitutional reformers, Liang Qichao, called on all Chinese to overthrow the bad Qing government and to reconstruct a good one.⁵³

9.4 The Chinese Revolutionaries and Anti-Manchu Movement in the Late Qing

9.4.1 The Anti-Manchu Sentiments

Rhoads has summarized the Chinese revolutionaries' critique of the Manchus in a "seven-point indictment." In short, the Chinese revolutionaries criticized the Manchus as an alien and barbarian race, who stole and barbarized China, and committed heinous crimes and practiced extensive discriminations against the Chinese people. In other words, the Chinese revolutionaries accused the ruling Manchus as an alien privileged minority who were institutionally separated from and fundamentally hostile toward the Chinese majority.⁵⁴

Sharing these strong anti-Manchu sentiments, the Chinese revolutionaries vigorously criticized the Qing court as a foreign autocratic government. For example,

⁵³ *Id.* at 513.

⁵⁴ Rhoads summarizes the Chinese revolutionaries' critique of the Manchus in a "seven-point indictment": (1) "the Manchus were an alien, barbarian group who were different from the Chinese and did not belong in China"; (2) "the Manchus had committed a number of heinous crimes against the Chinese people, particularly in the course of their conquest in the midseventeenth century; (3) "the Manchus had barbarized China by imposing their savage customs [e.g., the Manchu's male hairstyle and official dress] up on their Han subjects"; (4) "the Manchus had set themselves up as a privileged minority separate from and superior to the Han"; (5) "the Manchus subjugated the Han in the manner of a foreign military occupation [by Eight Banner troops and garrisons]"; (6) "the Manchus practiced political discrimination against their Han subjects"; and (7) "the Manchus, despite their pretense at accommodation, were fundamentally at odds with and hostile toward the Han people." See RHOADS, *supra* note 12, at 13–18.

the leading revolutionary activist, Sun Yat-sen, in his article entitled “China’s Present and Future” (published in London and New York in 1897), reminded the readers (particularly, the Western readers) that “[i]t is too generally forgotten that . . . the throne and all the highest offices, military and civil, [in China] are filled by [the Manchu] foreigners.”⁵⁵ In his another article, “The True Solution of the Chinese Question” (published in New York in 1904), Sun Yat-sen emphasized again the fact that China is under foreign rule, and the Qing court is actually the “Manchu” rather than “Chinese” government:

We [Chinese revolutionaries] say the Manchu government, and not the Chinese government, with intention. *The Chinese have at present no government of their own, and the term “Chinese Government,” if applied to the present government of China, is a misnomer* [emphasis added]. This seems to be startling to one who is not well acquainted with Chinese affairs, but *it is a fact — a historical fact* [emphasis added]. . . .

Before they [Manchus] came in contact with the Chinese, the Manchus were a savage, nomadic tribe roaming in the wilds of the Amoor [i.e., Amur] region. They often raided and plundered the peaceful Chinese inhabitants along the frontier. Towards the close of the Ming Dynasty there was a great civil war in China, and taking advantage of this golden opportunity they suddenly came down and captured Peking [Beijing] This was in the year 1644. The Chinese were unwilling to submit to this foreign yoke and offered to the invaders the most stubborn resistance. In order to force [the Chinese] to yield, the barbarous Manchus ruthlessly massacred millions of people . . . and forced [the Chinese] to

⁵⁵ Sun Yat-sen, *China’s Present and Future: The Reform Party’s Plea for British Benevolent Neutrality*, 61 (No. 363) THE FORTNIGHTLY REVIEW 424, 424 (1897), available at <http://hdl.handle.net/2027/njp.32101037980040?urlappend=%3Bseq=434>; for Chinese translation, see SUN YAT-SEN, SUN ZHONGSHAN QUAN JI [THE COMPLETE WORKS OF SUN YAT-SEN] (1981), vol. 1, at 87, 88 (Beijing, Zhonghua Shu Ju 1981) (China) [hereinafter SUN ZHONGSHAN QUAN JI].

adopt their costume. . . . It was [only] after [much] bloodshed and barbarity that the Chinese finally submitted to the Manchu rule.⁵⁶

Moreover, as Rhoads observes, the Chinese revolutionaries “were opposed not only to the Qing court but also to the Manchu people as a whole” because, as the revolutionaries saw it, the Manchus were “foreign invaders” and simply “did not belong in China.”⁵⁷ For example, Zou Rong (1885–1905), in his widely circulated pamphlet of 1903 titled “The Revolutionary Army” (*Geming Jun*), contended that “China belongs to the Chinese” and “this is the China of the Han race.”⁵⁸ Zou’s hatred towards Manchus even led him to urge the Chinese to “annihilate the five million and more of the furry and horned Manchu race, wash away the shame of two hundred and sixty years of cruelty and oppression, and make China clean once again.”⁵⁹ Similarly, Chen Tianhua (1875–1905), in his popular pamphlet of 1903, “An Alarm to Awaken the Age” (*Jingshi Zhong*), also wrote: “Kill! Kill! Kill! . . . Advance *en masse*: kill the [Western] foreign devils [*yang*

⁵⁶ Sun Yat-sen, *The True Solution of the Chinese Question* (1904), reprinted in SUN YAT-SEN, GUO FU QUAN JI [THE COMPLETE WORKS OF SUN YAT-SEN], vol. 10, at 87, 88–89 (Taipei, Jin Dai Zhongguo Chu Ban She 1989) (Taiwan) [hereinafter GUO FU QUAN JI], available at <http://sunology.culture.tw/g32/sunyatsen-sys1/index.htm>; for Chinese translation, see SUN ZHONGSHAN GUAN JI, *supra* note 55, vol. 1, at 243, 244.

⁵⁷ RHOADS, *supra* note 12, at 9, 11, 13.

⁵⁸ Quoted in THE SEARCH FOR MODERN CHINA: A DOCUMENTARY COLLECTION 200 (Pei-kai Cheng et al. eds., 1999); see also RONG ZOU, THE REVOLUTIONARY ARMY: A CHINESE NATIONALIST TRACT OF 1903, at 123 (1968) (John Lust trans., The Hague and Paris, Mouton 1968) (1903).

⁵⁹ See 11 CAMBRIDGE, *supra* note 25, at 482; ZOU, *supra* note 58, at 58 (a slightly different translation).

guizi] . . . If the Manchus help the [Western] foreigners kill us, then first kill all the Manchus. . . . Advance, kill! Advance, kill! Advance, kill! Kill! Kill!”⁶⁰

Both Zou Rong and Chen Tianhua were among those many students who joined the anti-Manchu revolutionary movement when they studied in Japan.⁶¹ Because the late Qing reforms encouraged students to study abroad, especially in Japan, the number of Chinese students in Japan kept growing and reached around ten thousand by 1905–06.⁶² In Japan’s freer environment, the Chinese students criticized the Manchu’s foreign rule even more sharply. Many of them were deeply moved by the speeches and publications of exiled Chinese revolutionaries and other radical students in Japan and then joined the revolutionary movement.⁶³ Although the Qing government tried to control the Chinese students in Japan, as Chuzo Ichiko points out, “[t]he tighter the controls became, the stronger was the anti-Manchu feeling among the students,” and “[e]ventually . . . the Chinese student body in Japan became [a] nucleus of the anti-[Qing] movement.”⁶⁴

In late Qing times, although the Manchus were, to some extent, culturally “Sinicized” (e.g., many Manchus only spoke the Chinese language), “Manchus and Han [Chinese]

⁶⁰ *Quoted in* JOSEPH ESHERICK, *REFORM AND REVOLUTION IN CHINA: THE 1911 REVOLUTION IN HUNAN AND HUBEI* 48 (1976); *see also* 11 CAMBRIDGE, *supra* note 25, at 481.

⁶¹ ROWE, *supra* note 3, at 265–70.

⁶² 11 CAMBRIDGE, *supra* note 25, at 382.

⁶³ *Id.* at 382–83; ROWE, *supra* note 3, at 265–67.

⁶⁴ 11 CAMBRIDGE, *supra* note 25, at 383.

were still sufficiently different from each other as to justify many of the revolutionaries' criticisms."⁶⁵ As Rhoads observes,

Although they had absorbed much of Han culture, the Manchus were, as [the Chinese revolutionaries] charged, an alien people who in some respects were still manifestly different from the Han; their men, for example, did not use Han-style surnames, and their women dressed differently from Han and did not bind their feet. . . . The Manchus were, as charged, a privileged minority separate from and superior to the Han; they were administratively and residentially segregated, they were barred from marrying Han, and they were stipendiaries of the Qing state who were prohibited from any employment other than soldiering, serving as officials, and, in some regions, farming. The Manchus did, as charged, constitute a foreign occupying force; they were a hereditary military caste and were garrisoned within their own walled citadels that were strategically distributed throughout the empire. The Manchus did, as charged, receive preferential treatment that was denied to the Han; they were dealt with more leniently under the law, and they had more opportunities to enter and advance in government service. In short, the revolutionaries' indictment against the Manchus *qua* Manchus was not a mere propaganda ploy devoid of substance; rather, it did have a basis in contemporary social reality.⁶⁶

9.4.2 The Original and Primary Goals of the Chinese Revolution: Drive out the Manchus and Restore China

Not surprisingly, the original and primary goals of the Chinese revolutionary movement were to expel the Manchus from China and to restore the Chinese state within the "Eighteen Provinces" of China Proper and Yunnan (or, essentially, the former Ming territories). Sun Yat-sen founded the Revive China Society (*Xing Zhong Hui*) in

⁶⁵ RHOADS, *supra* note 12, at 10, 52–63.

⁶⁶ *Id.* at 68.

Honolulu in 1894 and moved its headquarters to Hong Kong in 1895. All the members of the Revive China Society were required to vow to “drive out the Tartar caitiffs [i.e., Manchus], restore China, and establish a federal government” (*quchu dalu, huifu Zhongguo, chuangli hezhong zhengfu*).⁶⁷ Obviously, the first two parts of the oath deliberately borrowed from the Ming founding emperor Zhu Yuanzhang’s denunciation of the Mongol Yuan in 1367, which called for the Chinese people to “drive out the Hu caitiffs [i.e., Mongols], and restore China” (*quchu hulu, huifu Zhonghua*).⁶⁸ Other revolutionary organizations such as the China Revival Society (*Hua Xing Hui*; founded in Changsha, Hunan Province, in 1903) and the Restoration Society (*Guangfu Hui*; established in Shanghai in 1904) were also extremely anti-Manchu.⁶⁹

In Tokyo in 1905, Sun Yat-sen and other revolutionary leaders founded the Chinese [Revolutionary] Alliance (*Zhongguo [Geming] Tongmeng Hui*), commonly known as the Revolutionary Alliance. It merged the Revive China Society, China Revival Society, and other revolutionary organizations, seeking to unite and expand the anti-Manchu/Qing support both in China and overseas. The support for revolution mainly came from the

⁶⁷ 1 ZHONG HUA MIN GUO JIAN GUO SHI [THE FOUNDING HISTORY OF THE REPUBLIC OF CHINA], pt. 1, at 208–14 (Jiao Yu Bu [Ministry of Education] ed., Taipei, Guo Li Bian Yi Guan 1985) (Taiwan); HSÜ, *supra* note 2, at 457.

⁶⁸ Wang Chongwu, *Lun Ming Taizu Qibing Ji Qi Zhengce Zhi Zhuanbian* [The Up-Rising of Ming Tai-Tzu and the Change of His Political Tactics], 10 ZHONG YANG YAN JIU YUAN LI SHI YU YAN YAN JIU SUO JI KAN [BULLETIN OF THE INSTITUTE OF HISTORY AND PHILOLOGY, ACADEMIA SINICA] 57, 68 (1948) (China).

⁶⁹ 11 CAMBRIDGE, *supra* note 25, at 478–80; 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 1, at 255–65.

Chinese oversea communities, secret societies, student groups, radical intellectuals, and even some military officials and soldiers (especially those who were concealed in the recently-created New Army).⁷⁰

Sun Yat-sen's "Three Principles of the People" (*San Min Zhuyi*) — namely, the Principle of Nationalism (*Minzu Zhuyi*), the Principle of Democracy (*Minquan Zhuyi*), and the Principle of People's Livelihood (*Minsheng Zhuyi*) — were accepted as the ideology of the Revolutionary Alliance. All members of the Revolutionary Alliance needed to take the oath to "drive out the Tartar caitiffs [i.e., Manchus], restore China, establish a republic, and equalize land rights."⁷¹ Sun's revolutionary ideology was also outlined in "The Manifesto of the Revolutionary Alliance" (*Tongmeng Hui Xuanyan*) of 1905, which was renamed "The Manifesto of the Military Government" (*Jun Zhengfu Xuanyan*) in 1906.⁷² The Manifesto reads in part:

. . . Therefore we [the Chinese Military Government] proclaim to the world in utmost sincerity the outline of the present revolution and the fundamental plan for the future administration of the nation.

1. Drive out the Tartars: The Manchus of today were originally the eastern barbarians beyond the Great Wall. They frequently caused border troubles during the Ming dynasty; then when China was in a disturbed state they came inside Shanhaikuan [the Shanhai Pass], conquered China, and enslaved

⁷⁰ HSÜ, *supra* note 2, at 463–65; 11 CAMBRIDGE, *supra* note 25, at 484–89; for details, see 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 1, at 266–90, 296–347.

⁷¹ 11 CAMBRIDGE, *supra* note 25, at 490–93.

⁷² MARIE-CLAIRE BERGÈRE & JANET LLOYD, SUN YAT-SEN 153 (1998); SUN ZHONGSHAN QUAN JI, *supra* note 55, vol. 1, at 296–97.

our [Han] Chinese people. Those who opposed them were killed by the hundreds of thousands, and *our [Han] Chinese have been a people without a [state] [Ch. guo] for two hundred and sixty years* [emphasis added]. The extreme cruelties and tyrannies of the Manchu government have now reached their limit. With the righteous army poised against them, we will overthrow that government, and restore our sovereign rights. . . .

2. Restore China: *China is the China of the Chinese. The government of China should be in the hands of the Chinese. After driving out the Tartars, we must restore our national state* [emphasis added]. . . .
3. Establish the Republic: Now our revolution is based on equality, in order to establish a republican government. All our people are equal and all enjoy political rights. . . . A constitution of the [Republic of China] [*Zhonghua Min Guo*] will be enacted, and every person must abide by it. . . .
4. Equalize land ownership: The good fortune of civilization is to be shared equally by all the people of the nation. . . .⁷³

Moreover, in his article of 1906 entitled “The Three Principles of the People and Future of the Chinese People,” Sun further explained his Principle of Nationalism in more detail, clarifying that the Chinese were a people without their own state, and the purpose of the Chinese “nationalist revolution” was to restore the Chinese state:

. . . A person always recognizes his parents and never confuses them with strangers. Nationalism is analogous to this. It has to do with human nature and applies to everyone. Today, more than 260 years have passed since the Manchus [conquered] China proper, yet even as children we Han would certainly not mistake [the Manchus] for fellow Han. This is the root of nationalism. . . . [*Nationalism*] means not allowing [another nation] to seize our political power, for only when we Han are in control politically do we have a [state] [*Ch. guo*].

⁷³ SSU-YÜ TENG & JOHN KING FAIRBANK, CHINA’S RESPONSE TO THE WEST: A DOCUMENTARY SURVEY, 1839–1923, at 227–28 (1979); for the original Chinese text, see SUN ZHONGSHAN QUAN JI, *supra* note 55, vol. 1, at 296–97.

If that political control is in the hands of people of another nationality, then there is no Han [state] [emphasis added].

. . . Actually, we [Han] are already a people without a [state]! [emphasis added]. . . If we close our eyes and think back to the time when our Han [state] fell, we can see that our ancestors bled rather than submit to the Manchus; their bodies littered the battlefields. Thus, our ancestors did all they could for their posterity; it is we, their descendants, who should feel ashamed. . . . Certainly, once we Han unite, our power will be thousands of times greater than theirs, and the success of the nationalist revolution will be assured.

. . . The reason for the nationalist revolution is our unwillingness to let the Manchus extinguish our [state] and dominate us politically, and our determination to restore our [state] by liquidating their regime [emphasis added].⁷⁴

The Three Principles of the People were officially recognized as the ideology of the Revolutionary Alliance. All Chinese revolutionaries accepted the anti-Manchuism and the Han Chinese nationalism, but the principle of democracy and the principle of people's livelihood (similar to socialism), in reality, received less support.⁷⁵ Nevertheless, after the success of the revolution, the Revolutionary Alliance formed the core of the Kuomintang (Chinese Nationalist Party) in 1912, with Sun Yat-sen's Three Principles of the People as its official ideology.⁷⁶

It is clear that when the Chinese revolutionaries urged the Chinese people to restore China, they had in mind an essentially Han-exclusive "China" (*Zhonghua*), which

⁷⁴ JULIE WEI, *PRESCRIPTIONS FOR SAVING CHINA: SELECTED WRITINGS OF SUN YAT-SEN* 41–43 (1994); for the original Chinese text, see GUO FU QUAN JI, *supra* note 56, vol. 3, at 8–9.

⁷⁵ 11 CAMBRIDGE, *supra* note 25, at 493; HSÜ, *supra* note 2, at 464.

⁷⁶ HSÜ, *supra* note 2, at 477.

included the “Eighteen Provinces” of China Proper and Yunnan, but excluded Manchuria, Mongolia, Qinghai, Xinjiang, and Tibet.⁷⁷ This “mental map” of “China” was evident in various Chinese revolutionaries’ writings, which only saw the Han people as Chinese, regarded the Manchus and other non-Han peoples as foreign, and frequently used “China” and the “Eighteen Provinces” interchangeably.⁷⁸ In other words, the Chinese revolutionaries sought to “restore” the Han Chinese state within the Eighteen Provinces of China, in succession to the “Chinese” dynasties of the Han, Tang, Song, and Ming, and not to the “non-Chinese” conquest dynasties of the Khitan Liao, Jurchen Jin, Mongol Yuan, and Manchu Qing.⁷⁹

9.5 The Creation of the Republic of China in the Fourteen Chinese Provinces

9.5.1 Imitating the American Revolution and Independence

Besides other intellectual resources, some leading Chinese revolutionaries were deeply inspired by the United States Declaration of Independence and planned to model

⁷⁷ Zhang Yong, *Cong “Shiba Xing Qi” Dao “Wu Se Qi” [From the Eighteen-Star Flag to the Five-Color Flag]*, 39 (No. 2) BEIJING DAXUE XUEBAO (ZHEXUE SHEHUI KEXUE BAN) [JOURNAL OF PEKING UNIVERSITY (HUMANITIES AND SOCIAL SCIENCES)] 106, 106–08 (2002) (China).

⁷⁸ *Id.*; see also ZHONG HUA MIN GUO JIAN GUO WEN XIAN, 1 GE MING KAI GUO WEN XIAN, pt. 1, at 170–88, 192–210, 219–30, 273–391, 401–15, 436–83, 492–530, 559–61, 583–91, 673–88 (Guo Shi Guan ed., 1995) (Taiwan) [hereinafter 1 KAI GUO WEN XIAN].

⁷⁹ See Xiaoyuan Liu, *From Five “Imperial Domains” to a “Chinese Nation”: A Perceptual and Political Transformation in Recent History*, in *ETHNIC CHINA: IDENTITY, ASSIMILATION, AND RESISTANCE* 3, 13–16 (2015).

their new Chinese government after the American one.⁸⁰ As we will see, the process of the Chinese Revolution and Independence (during which, fourteen Chinese provinces first declared independence from the Qing, and then formed the Republic of China) largely followed the model of the American Revolution and Independence (in which the thirteen American colonies first declared independence from the British, and then established the United States of America).⁸¹

In his popular pamphlet “The Revolutionary Army” of 1903, Zou Rong particularly noted that his proposals “have carefully modelled on the principles of American revolutionary independence” to create the “Republic of China” (*Zhonghua Gonghe Guo*), whose “law of constitution shall be modelled on American constitutional law” and whose “law of self-government shall be modelled on the American law of self-government.”⁸² Similarly, Chen Tianhua, in his pamphlet of 1903 entitled “A Sudden Look Back” (*Meng Huitou*), urged the Chinese people to “imitate the American Independence from the British” and restore the Chinese state.⁸³

⁸⁰ For detail, see Pan Kuang-che, *Meiguo “Duli Xuanyan” Zai Wan Qing Zhongguo [The American Declaration of Independence in Late Qing China]*, 57 *ZHONG YANG YAN JIU YUAN JIN DAI SHI YAN JIU SUO JI KAN* [BULLETIN OF THE INSTITUTE OF MODERN HISTORY, ACADEMIA SINICA] 1, 1–55 (2007) (Taiwan).

⁸¹ Uradyn E. Bulag, *Independence as Restoration: Chinese and Mongolian Declarations of Independence and the 1911 Revolutions*, 10 (52) (No. 3) *THE ASIA-PACIFIC JOURNAL* 1, 3 (2012).

⁸² ZOU, *supra* note 58, at 123–24; Pan Kuang-che, *supra* note 80, at 21–26.

⁸³ 1 *KAI GUO WEN XIAN*, *supra* note 78, at pt.1, at 341.

Moreover, in 1904, Sun Yat-sen also called upon the people of the United States to support the Chinese revolution that would create a Chinese republic based on the American model.⁸⁴ Even the Revolutionary Alliance adopted a formal (though somewhat symbolic) structure with the legislative, executive, and judicial departments, which were deliberately modeled on the government of the United States.⁸⁵

9.5.2 The Secessions of the Fourteen Chinese Provinces from the Qing Empire

During the Chinese Xinhai Revolution of 1911, Hubei was the first Chinese province to secede from the Qing Empire. On October 10, 1911, the Chinese revolutionaries in the New Army started an uprising in Wuchang, the provincial capital of Hubei (see Map 1.14). One day later, on October 11, the Hubei Provincial Assembly endorsed Hubei's independence, and the Chinese revolutionary Hubei Military Government was established in Wuchang (see Figure 9.1).⁸⁶ On October 12, the Hubei revolutionaries also seized Hankou and Hanyang, two cities just nearby Wuchang.⁸⁷

⁸⁴ Sun Yat-sen, *The True Solution of the Chinese Question* (1904), reprinted in GUO FU QUAN JI, *supra* note 56, vol. 10, at 95; BERGÈRE & LLOYD, *supra* note 72, at 126.

⁸⁵ As Michael Gasster notes, "In providing for federalism, checks and balances, and divided authority, Sun and his comrades even created [the Revolutionary Alliance's] legislative, executive and judicial departments, but this was only symbolic of their allegiance to modern republicanism." 11 CAMBRIDGE, *supra* note 25, at 488.

⁸⁶ ROWE, *supra* note 3, at 281; 11 CAMBRIDGE, *supra* note 25, at 524–25 ("Convinced that they needed a leader whose name would impress both Chinese and foreigners, [the revolutionaries] simply turned to Li [Yuanhong] as the highest-ranking officer available. . . . Impressed by the revolutionaries' achievements and confronted now with a choice between assuming the governorship or being executed as a traitor, he grudgingly agreed to serve [on October 13].").

⁸⁷ YANG TIANSHI, *ZHONG JIE DI ZHI: JIAN MING XIN HAI GE MING SHI* 325 (Hong Kong, San Lian Shu Dian 2011) (H.K.).

The Chinese revolutionaries chose and successfully convinced Li Yuanhong (a modern-trained brigade commander of the New Army in Wuchang) to be the Military Governor (*Dudu*) of Hubei, not only because Li was the highest-ranking Chinese military officer in Wuchang but also because his reputation was sufficient to impress both Chinese and foreigners.⁸⁸ Soon after Huang Xing, a prominent leader of the Revolutionary Alliance, arrived in Hankou on October 28, the Hubei Military Government appointed Huang as the Wartime Commander of the Republican Army (*Minjun Zhanshi Zongsiling*) on November 3.⁸⁹

Upon its establishment, the revolutionary Hubei Military Government immediately issued several proclamations to appeal to the Chinese people of the Eighteen Provinces to restore the Chinese state by creating the “Republic of China” (*Zhonghua Minguo*). The Hubei Military Government also adopted the “Iron Blood Eighteen-Star Flag” (*Tiexue Shiba Xing Qi*) (see Figure 9.2) as the revolutionary flag to represent the Han-exclusive nationalism and the “Eighteen Provinces” of China, thereby excluding Manchuria, Mongolia, Xinjiang, Qinghai, and Tibet from the Chinese Republic.⁹⁰ Furthermore, it abolished the Qing Emperor’s era name, Xuantong, and adopted the “Yellow Emperor era”

⁸⁸ 11 CAMBRIDGE, *supra* note 25, at 525.

⁸⁹ Ma Mingde, *Tang Hualong in the 1911 Revolution*, in CHINA: HOW THE EMPIRE FELL 135, 145 (Joseph W. Esherick & C.X. George Wei eds., 2013); YANG TIANSHI, *supra* note 87, at 330–31.

⁹⁰ Joseph W. Esherick, *How the Qing Became China*, in EMPIRE TO NATION: HISTORICAL PERSPECTIVES ON THE MAKING OF THE MODERN WORLD 229, 238 (Joseph W. Esherick et al. eds., 2006); YANG TIANSHI, *supra* note 87, at 247–48; for some of the relevant proclamations of the Hubei Military Government, see 1 KAI GUO WEN XIAN, *supra* note 78, vol. 3, at 261–64, 269–75, 278–79.

(*Huangdi Jiyuan*) that had been used by the Chinese revolutionaries since 1903.⁹¹ The military government used Song Jiaoren's calculation (by which, 2698 BCE was roughly the first year of the Yellow Emperor era), making the year of 1911 CE roughly corresponded with the 4609th year of the Yellow Emperor, the “mythological ancestor” of all Chinese people.⁹²

The Hubei Military Government in Wuchang was deeply concerned about the foreign reaction to the Chinese Revolution and immediately made efforts to secure the neutrality of foreign powers, especially those having consulates in nearby Hankou (see Map 1.14).⁹³ On October 12, the Hubei Military Government sent notes to all the five foreign consulates in Hankou, stating that the future Chinese Republic would recognize the validity of all existing international treaties and debts made by the Qing with other foreign powers.⁹⁴ Moreover, the notes also promised that the rights and properties of the foreigners would be protected in the areas controlled by the revolutionary military government.⁹⁵ At the same time, the Hubei Military Government also successfully negotiated with the foreign consulates in Hankou to secure their respective governments'

⁹¹ 11 CAMBRIDGE, *supra* note 25, at 525; ENDYMION PORTER WILKINSON, CHINESE HISTORY: A NEW MANUAL 519 (rev. ed. 2012).

⁹² WILKINSON, *supra* note 91, at 519.

⁹³ 11 CAMBRIDGE, *supra* note 25, at 526; 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 687–90.

⁹⁴ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 687–88; *see also* 11 CAMBRIDGE, *supra* note 25, at 526.

⁹⁵ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 688; *see also* 11 CAMBRIDGE, *supra* note 25, at 526.

“recognition of belligerency” of the Chinese revolutionary force and to maintain their neutrality during the Chinese Revolution.⁹⁶

Soon after the outbreak of the Chinese Xinhai Revolution, a total of fourteen out of the eighteen Chinese provinces effectively declared their independence from the Qing Empire between October 10 and November 27, 1911, aiming to restore the Chinese state (see Map 1.14).⁹⁷ The secessions of these Chinese provinces were typically initiated by the Chinese revolutionaries in the New Army or the secret societies, who were either the members of or radicalized by the Revolutionary Alliance or other revolutionary organizations. Their declarations of independence were soon supported by provincial assembly members, gentry, and merchants, and resulted in the establishment of the Chinese provincial military governments.⁹⁸ As Michael Gasster notes the general results of their independence,

The most common outcome was a provincial regime [in particular, military government] headed by a military governor together with a civil administration dominated by the [provincial] gentry and assembly. But the relations between military and civil authorities varied greatly. In some provinces[,] merchants fitted into the military-gentry-assembly constellation of power. In others, former Ch'ing

⁹⁶ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, at 687–90; *see also* 1 KAI GUO WEN XIAN, *supra* note 78, vol. 3, at 281–84.

⁹⁷ The fourteen seceding Chinese provinces and their independence dates were: Hubei on Oct. 10; Hunan and Shaanxi on Oct. 22; Shanxi on Oct. 29; Yunnan on Oct. 30; Jiangxi on Oct. 31; Guizhou on Nov. 4; Zhejiang and Jiangsu on Nov. 5; Guangxi on Nov. 7; Anhui on Nov. 8; Fujian and Guangdong on Nov. 9; and Sichuan on Nov. 27. Shandong declared independence on Nov. 13, but soon revoked on Nov. 24. *See* YANG TIANSHI, *supra* note 87, at 332–44; 11 CAMBRIDGE, *supra* note 25, at 523–24, 527; CHEN JIEXIAN, XUAN TONG SHI DIAN 144–45 (2008) (Taiwan).

⁹⁸ 11 CAMBRIDGE, *supra* note 25, at 528; YANG TIANSHI, *supra* note 87, at 332–44.

[i.e., Qing] officials or Revolutionary Alliance men entered the diverse circle of the new ruling elite. Meanwhile vast areas of the countryside saw peasant uprisings fade out and old patterns of authority quickly re-established.⁹⁹

At the prefectural and county levels, it was common for the former Qing officials of Han origin to simply join and support the revolution.¹⁰⁰

However, during the Chinese revolution, many Banner people in the seceding Chinese provinces became victims of “anti-Manchu violence,” which sought to revenge the Manchu’s crimes and oppression against the Chinese people.¹⁰¹ As Rhoads points out, the Banner detachment in Wuchang and the Banner garrisons in Xi’an, Taiyuan, Zhenjiang, and Nanjing suffered from horrible anti-Manchu violence:

The Manchus in those five places were slaughtered, driven to commit suicide, or expelled and their residential quarters looted and destroyed. The slaughter was indiscriminate and was directed at not only the soldiers but also their dependents, including women and children. They were essentially victims of genocide. It is thus clear that for many revolutionaries, the anti-Manchu element of their ideology was no mere rhetorical flourish.¹⁰²

Moreover, some other Manchus who served as provincial and local officials in the revolutionary-controlled areas also became victims of the anti-Manchu violence, and so did their dependents.¹⁰³ Of course, not all Manchus in the revolutionary territories were

⁹⁹ 11 CAMBRIDGE, *supra* note 25, at 528.

¹⁰⁰ ROWE, *supra* note 3, at 281.

¹⁰¹ For detail of the anti-Manchu violence during the Chinese Xinhai Revolution, see RHOADS, *supra* note 12, at 187–205.

¹⁰² *Id.* at 204.

¹⁰³ *Id.* at 202–3.

slaughtered. Some of them fled before the takeover by the revolutionaries or were allowed to leave or even remain where they were. However, they were all first confronted with the “real danger” of racial extermination.¹⁰⁴

9.5.3 The Establishment of the United Assembly of Representatives of the Provincial Military Governments

Following the model of the American Revolution, the seceding Chinese provinces sent their delegates to convoke a united assembly in late 1911, mainly to create a provisional central government of the Republic of China (ROC).¹⁰⁵ On November 9, the Military Governor of Hubei, Li Yuanhong, sent a telegram to request other independent provinces to send representatives to Wuchang for organizing a provisional government.¹⁰⁶ In an interview on November 20, Li Yuanhong explained his views on the creation of a Chinese republic based on the American model:

My personal desire would be to see every province a free province, with its own Assembly, but controlled by one great national governmental body. We shall take our pattern from the United States of America, having a President to control [sic] our provincial assemblies — just like America.

. . . .

Roughly, the scheme that I should favour would be:

¹⁰⁴ *Id.* at 187, 203.

¹⁰⁵ 11 CAMBRIDGE, *supra* note 25, at 528; for detail, see 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 867–926.

¹⁰⁶ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 868; K. S. LIEW, STRUGGLE FOR DEMOCRACY: SUNG CHIAO-JEN AND THE 1911 CHINESE REVOLUTION 129 (1971).

1. Expulsion of the Manchus outside the Great Wall to Mongolia (excepting those who are willing to join the Republican party).
2. Establishment of a [Chinese] Republic on lines after the style of America, with exclusive government for each [province] and one great National Assembly.¹⁰⁷

Nevertheless, about the same time, on November 11 the Military Governors of Jiangsu and Zhejiang also called for provincial delegates to meet in Shanghai to establish a united assembly in emulation of the Continental Congress during the American Revolution. On November 13 the Military Governor of Shanghai cabled fourteen military governors, inviting them to send representatives to Shanghai to discuss the formation of a provisional government of the new Chinese Republic.¹⁰⁸

On November 15, 1911, the United Assembly of Representatives of the Provincial Military Governments (*Ge Sheng Dudu Fu Daibiao Lianhe Hui*) was firstly established in Shanghai. Nonetheless, the United Assembly was soon relocated to Hankou (near Wuchang) in late November and eventually moved to Nanjing after the Chinese revolutionaries successfully seized Nanjing on December 2.¹⁰⁹

While still in Shanghai, the United Assembly decided on November 20, 1911, to recognize the Hubei Military Government as the Central Military Government of the

¹⁰⁷ EDWIN J. DINGLE, *CHINA'S REVOLUTION, 1911–1912: A HISTORICAL AND POLITICAL RECORD OF THE CIVIL WAR* 33, 39, 41 (1912).

¹⁰⁸ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 869–70; 11 CAMBRIDGE, *supra* note 25, at 528.

¹⁰⁹ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 869–72, 874–76, 880–83; LIEW, *supra* note 106, at 129–33.

ROC.¹¹⁰ Accompanying this recognition was the request for the Central Military Government's appointments of Wu Tingfang and Wen Zongyao (who would remain in Shanghai) as the Director (*Zong Zhang*) and Vice-Director (*Fu Zhang*) of Foreign Affairs, respectively.¹¹¹ This request was easily secured since Wu and Wen had been already accepted as temporary representatives for foreign affairs by most of the provincial military governments and also by the United Assembly.¹¹² On November 23, the assembly decided to move to Wuchang (in fact, to nearby Hankou's British concession for safety reasons), but one day later, it asked each province to retain one representative in Shanghai for better communication.¹¹³

While in Hankou, the United Assembly reaffirmed on November 30 the Hubei Military Government's status as the Central Military Government. On December 3, the assembly passed the "Structural Outline of the Provisional Government of the Republic of China" (*Zhonghua Minguo Linshi Zhengfu Zuzhi Dagang*). Then, on December 4, it was decided that Nanjing would be the seat of the provisional government, and all

¹¹⁰ LIEW, *supra* note 106, at 130.

¹¹¹ *Id.*; LINDA POMERANTZ-ZHANG, WU TINGFANG (1842–1922): REFORM AND MODERNIZATION IN MODERN CHINESE HISTORY 207–08 (1992).

¹¹² POMERANTZ-ZHANG, *supra* note 111, at 207–8; 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 868–72, 874.

¹¹³ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 874–75; LIEW, *supra* note 106, at 130.

provincial representatives (including those in Hankou and Shanghai) should move to Nanjing.¹¹⁴

9.5.4 The Formal Founding of the Republic of China

After years of exile, Sun Yat-sen, the head of the Revolutionary Alliance, arrived in Shanghai on December 25, 1911. On December 29, the United Assembly in Nanjing elected Sun as the ROC provisional president with a nearly unanimous vote made by the provincial representatives from “seventeen” provinces.¹¹⁵ However, some provincial “representatives” were from Zhili, Shandong, Henan, and Fengtian Provinces, which were still controlled by the Qing Empire.¹¹⁶ Undoubtedly, those so-called “representatives” from the Qing-controlled provinces were unauthorized, and therefore unlawful.¹¹⁷

Moreover, although Guizhou was a seceding province, no representative from Guizhou voted in the election of the provisional president.¹¹⁸ However, it would be mistaken to assume that Guizhou did not want to join the new Chinese Republic. In fact, right after Guizhou’s independence, the Guizhou Military Government issued a

¹¹⁴ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 876–80; LIEW, *supra* note 106, at 131–32.

¹¹⁵ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 894, 902–04.

¹¹⁶ *Id.*, pt. 2, at 902–03; 11 CAMBRIDGE, *supra* note 25, at 523.

¹¹⁷ See 1 KAI GUO WEN XIAN, *supra* note 78, pt. 3, at 660–62.

¹¹⁸ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 67, pt. 2, at 902–03.

proclamation stating, in part, that the people of Guizhou and other provinces agree to form a “Federal Republic of the Great Han” (*Da Han Lianbang Minguo*).¹¹⁹ Furthermore, the Guizhou Military Government did send telegrams to other provincial military governors, expressing Guizhou’s support for Sun Yat-sen’s presidency and even providing a list of suggested ministers.¹²⁰ It is therefore clear that the Guizhou Military Government also participated in the establishment of the ROC Provisional Government and wanted Guizhou to be a part of the new Chinese Republic.

On January 1, 1912, the Provisional Government was formally established in Nanjing with Sun Yat-sen and Li Yuanhong as the provisional president and the vice-president respectively, marking the official founding of the Republic of China.¹²¹ The ROC Provisional Government replaced the lunar calendar with the solar one and ended the use of the Yellow Emperor era by adopting the Chinese “Republican era” (*Minguo Jiyuan*), which designated January 1, 1912, as the first day of the Chinese Republic (*Minguo*).¹²²

¹¹⁹ GUIZHOU XINHAI GE MING ZI LIAO XUAN BIAN, at 12–13 (Hao Wenzheng et al. eds., Guiyang, Guizhou Ren Min Chu Ban She 1981) (China).

¹²⁰ FENG ZUYI & GU DAQUAN, GUIZHOU XINHAI GE MING 140–41 (Guiyang, Guizhou Ren Min Chu Ban She 1981) (China); *see also* Hao Wenzheng et al. eds., *supra* note 119, at 42.

¹²¹ HSÜ, *supra* note 2, at 470.

¹²² WILKINSON, *supra* note 91, at 507.

9.6 The Restoration of the Mongol State in Outer Mongolia

As discussed below, it is often overlooked that even before the formal founding the Republic of China on January 1, 1912, the Khalkha Mongols in Outer Mongolia had already proclaimed their independence and re-established the Great Mongol State on December 1, 1911. In other words, it is clear that the restored Mongol State was created by its secession from the Manchu Qing Empire, and certainly not from “China.”

9.6.1 The Deterioration of the Manchu–Mongol Relationship and the Mongolian Independence Movement in the Late Qing

The Manchu–Mongol relationship had seriously deteriorated by the end of the 19th century. As Urgunge Onon and Derrick Pritchatt note, “the Manchu government no longer considered the Mongols important allies or dependable subjects,” and, at the same time, “the Mongols were starting to look for ways of separating from the Manchus.”¹²³ In 1900 (and probably also earlier in 1894), the Eighth Jebtsundamba Khutuktu (1870–1924) — Outer Mongolia’s spiritual head of Tibetan Buddhism, known as the Bogda (i.e.,

¹²³ URGUNGE ONON & DERRICK PRITCHATT, *ASIA’S FIRST MODERN REVOLUTION: MONGOLIA PROCLAIMS ITS INDEPENDENCE IN 1911*, at 4 (1989).

the Holy One) — sent a mission to St. Petersburg to seek, though unsuccessfully, the Russian support for Mongolian independence.¹²⁴

In the early 20th century, the late Qing's New Policy reforms in Mongolia severely hurt the Mongol interests and further worsened the Manchu–Mongol relations.¹²⁵ Until then, the Qing court had long prohibited Chinese immigration to Mongolia. However, as part of the New Policy, the Qing officially opened up Inner Mongolia in 1902 and Outer Mongolia a few years later for the Chinese immigration and cultivation, primarily to deter Russian and Japanese encroachments into the region.¹²⁶ According to Mei-hua Lan, the new “colonial policy” toward Inner Mongolia “greatly hindered existing political, economic, and social structures,” thereby increasing the Mongols’ anger and hatred toward Qing officials and Chinese immigrants, and causing armed revolts and other opposition activities (e.g., murders of officials, and tax resistance).¹²⁷ The measure to open up Outer Mongolia to Chinese agricultural settlers further deepened the Mongol’s anti-Manchu/Qing sentiment and eventually led to the secession of Outer Mongolia from the Qing Empire.¹²⁸

¹²⁴ CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 267, 269–70, (2004); ONON & PRITCHATT, *supra* note 123, at 4, 39; Mei-hua Lan, *China's “New Administration” in Mongolia, in MONGOLIA IN THE TWENTIETH CENTURY: LANDLOCKED COSMOPOLITAN* 39, 52 (Stephen Kotkin & Bruce A. Elleman eds., 1999).

¹²⁵ ONON & PRITCHATT, *supra* note 123, at 4–6; for detail, see Mei-hua Lan, *supra* note 124, at 39–53.

¹²⁶ Mei-hua Lan, *supra* note 124, at 40–42, 45.

¹²⁷ *Id.* at 49–50.

¹²⁸ *Id.* at 49–51; ONON & PRITCHATT, *supra* note 123, at 4–15.

In July 1911, the Eighth Jebtsundamba Khutuktu sent another secret mission to St. Petersburg to seek Russian protection and assistance for Mongolia's independence.¹²⁹ After arriving in St. Petersburg, the Mongol delegation presented their petition to the Tsar of Russia on August 16. The petition was jointly signed by the Eighth Jebtsundamba Khutuktu and the four khans of Khalkha (i.e., Outer Mongolia).¹³⁰ It reads, in part:

[I]n recent years high-ranking [Manchu and] Chinese officials have become powerful and begun to meddle in our [Mongolian] national affairs. In particular, the worst thing is, in the name of the "New Policy," their violation of the old traditions by taking over land to use for farming. . . . [T]he suffering created by them is clearly increasing. . . . Most of the people of Inner Mongolia also hold this view.

Because of this, after discussion, we have decided to seek help and protection from you [i.e., the Russian Tsar]. . . . As we know, from international precedents, any weak and small nation which can rely on a bigger and stronger nation can become independent. It is common for strong nations to help weak and small nations. . . . After reviewing the true facts, you, Great Khaan [Tsar], please bestow on us your help quickly, like rain in a drought, through your great mercy. . . .¹³¹

Moreover, the Mongol delegates also submitted a separate memorandum to the Russian government, clearly expressing that "[the] Mongols aimed to make the Jebtsundamba their [Great Khan] and build a Mongol state."¹³² However, at that time, the Russian

¹²⁹ ONON & PRITCHATT, *supra* note 123, at 6, 9–10.

¹³⁰ *Id.* at 6–7, 9; ATWOOD, *supra* note 124, at 470.

¹³¹ *Translated and cited in* ONON & PRITCHATT, *supra* note 123, at 9–10 (with my modifications); Nakami Tatsuo, *Russian Diplomats and Mongol Independence, 1911–1915*, in *MONGOLIA IN THE TWENTIETH CENTURY: LANDLOCKED COSMOPOLITAN* 69, 72–73, 78 n. 14 (Stephen Kotkin & Bruce A. Elleman eds., 1999).

¹³² *See* Nakami Tatsuo, *supra* note 131, at 73, 78 n. 18.

government still hesitated to support militarily the Mongolian independence, although it did request the Qing government to abandon the New Policy reforms in Mongolia.¹³³

9.6.2 Outer Mongolia's Declaration of Independence and the Restoration of the Great Mongol State

After the outbreak of the Chinese Revolution on October 10, the Manchu Qing rule was severely weakened and challenged, leading the Mongolian independence movement to grow rapidly in November 1911.¹³⁴ In early November, upon the Mongolian request, the Russian government transferred 15 thousand rifles and 7–7.5 million cartridges to the Mongols.¹³⁵ On November 13, the Khalkha Mongols established the Mongolian Provisional Government in Khüree (i.e., Khüriye or Urga; present-day Ulaanbaatar, the capital of Mongolia) (see Map 9.1). On the same day (or later on November 15), the use of Qing Emperor's era name, Xuantong (Mo. *Khebtü Yosü*), was abolished and replaced by the traditional Mongolian calendar, under which, the year of 1911 was the White Female Pig Year.¹³⁶ Then, on November 28, the provisional government ordered the mobilization of 4,000 Mongol soldiers from eastern Khalkha to converge on Khüree.¹³⁷

¹³³ ONON & PRITCHATT, *supra* note 123, at 13.

¹³⁴ *Id.* at 14.

¹³⁵ GERARD MARTIN FRITERS, OUTER MONGOLIA AND ITS INTERNATIONAL POSITION 61 (1949); ATWOOD, *supra* note 124, at 470; *but see* ONON & PRITCHATT, *supra* note 123, at 14 (stating that the Russian government gave “75 [sic] million rounds of ammunition” to the Mongols).

¹³⁶ ONON & PRITCHATT, *supra* note 123, at 14; ATWOOD, *supra* note 124, at 74–75, 470, 628.

¹³⁷ ONON & PRITCHATT, *supra* note 123, at 14; ATWOOD, *supra* note 124, at 470.

On December 1, 1911, the Mongolian Provisional Government issued a proclamation that constituted the Mongolian declaration of independence. The proclamation reads in part:

At present[,] we often hear that in the southernland [i.e., China] the Manchus and Chinese are creating disturbances and are about to precipitate the fall of the Manchu dynasty. *Because our Mongolia was originally an independent nation, we have now decided . . . to establish a new independent nation* [emphasis added], based on our old tradition, without the interference of others in our own rights.

We should not be ruled by the Manchu–Chinese officials. After taking away their rights and powers, an ultimatum for their extradition has finally put an end to their power¹³⁸

Consequently, the Qing *Amban* (Imperial Resident) of Khüree, Sando, and some other Qing officials were deported from Outer Mongolia on December 4.¹³⁹

On December 29, at a formal ceremony in Khüree, the Eighth Jebtsundamba Khutuktu (r. 1911–24) assumed the title of “Holy Great Khan” or “Holy Emperor” (*Bogda Khagan* or *Bogd Khaan*). He also adopted his era name, “Elevated by All” (*Olnoo Örgögsön*), which was derived from the Sanskrit title of the first Indian monarch Mahasammata in the Buddhist tradition.¹⁴⁰ According to Onon and Pritchatt, the new Mongol State was also officially named “Elevated by All” (*Olnoo Örgögsön*), but it has

¹³⁸ SHAGDARIIN SANDAG (SH. SANDAG), *MONGOLYN ULS TORIIN GADAAD KHARILTSAA* (1850–1919) [FOREIGN RELATIONS OF MONGOLIA (1850–1919)], at 245 (Ulaanbaatar, 1971) (Mong.); *translated and cited in* ONON & PRITCHATT, *supra* note 123, at 15.

¹³⁹ ONON & PRITCHATT, *supra* note 123, at 14–15.

¹⁴⁰ *Id.* at 15–16, 192 n. 34; ATWOOD, *supra* note 124, at 470–71.

been variously and more popularly known as the “Great Mongol Nation” (*Ikh Mongol Uls*), “Great Mongol Dynasty” (*Ikh Mongol Tör*), and “Holy Khaganate Mongol Nation” (*Bogd Khaant Mongol Uls*).¹⁴¹ Moreover, the Chinese name of this restored Mongol nation was the “Great Mongol State” (*Da Menggu Guo*), the same Chinese name of the Mongol Empire which was founded by the Chinggis Khan in 1206.¹⁴²

9.7 The Republic of China Was a New State

As Joseph W. Esherick notes, “[i]f we are to understand how the new Chinese nation managed to inherit the territory of the Qing, we must focus on the moment of transition from empire to nation—the 1911 Revolution that established the Republic of China.”¹⁴³ However, as shown below, it is often overlooked that the establishment of the Republic of China was, in fact, the creation of a “new State” that seceded from the Qing Empire. As discussed in the next chapter, after the fall of Qing, the ROC did not “inherit” but “annexed” the former Qing’s remaining territories.

¹⁴¹ ONON & PRITCHATT, *supra* note 123, at 16.

¹⁴² MENGGU ZU TONG SHI, vol. 1, at 42, vol. 3, at 1109 (Nei Menggu She Hui Ke Xue Yuan [Inner Mongolia Academy of Social Science] ed., rev. ed., Beijing, Min Zu Chu Ban She 2001) (China).

¹⁴³ Esherick, *supra* note 90, at 233.

9.7.1 The “Five-Race Republic” Formula: The Blueprint for the ROC’s Territorial Expansion

As mentioned earlier, the original and primary goals of the Chinese revolution were to drive out the Manchus from China and to restore the Chinese state. Moreover, imitating the American Independence, the Chinese Revolution was, from the legal perspective, a “secession movement” that sought to create, in essence, a Han-exclusive Chinese Republic within the Eighteen Provinces of China, out of the Qing Empire. In contrast, the Chinese reformers preferred a constitutional monarchy that tried to preserve the “geo-body” of the Qing and maintain both the Han Chinese and non-Han domains together.¹⁴⁴ Not surprisingly, the reformer leader and influential intellectual Liang Qichao referred to the revolutionaries’ Han-exclusive nationalism as a “small nationalism,” and the reformers’ multiethnic nationalism as a “big nationalism.”¹⁴⁵

However, at the end of 1911, the so-called “Five-Race Republic” formula suddenly emerged as a conceptual “compromise” between the ideologies of the Chinese revolutionaries and reformers. After the outbreak of the Wuchang Revolt on October 10, 1911, more and more Chinese reformers abandoned their support for a constitutional monarchy and joined the formation of the Chinese Republic.¹⁴⁶ Nevertheless, their

¹⁴⁴ Xiaoyuan Liu, *supra* note 79, at 12–13, 21.

¹⁴⁵ *Id.* at 12–13.

¹⁴⁶ 11 CAMBRIDGE, *supra* note 25, at 512–13.

desire to preserve the “geo-body” of the Qing continued and dramatically altered the revolution’s goal from establishing a Han-exclusive State to forming a “Five-Race Republic.”¹⁴⁷ The “five-race” part of this new formula came from the reformers’ preference to maintain the so-called Qing’s five major races (which included the Tibetans, as the reformers saw it) and the five-race domains together and intact, whereas the “republic” part of the formula came from the revolutionaries’ goal to create a Chinese republic.¹⁴⁸ The “Five-Race Republic” formula was, thus, a result of the cooperation and compromise between the Chinese reformers and revolutionaries.

Consequently, by the time of the formal founding of the ROC on January 1, 1912, the Provisional Government in Nanjing had adopted the idea of the “Five-Race Republic” (*wu zu gonghe*), seeking to “inherit” (as the ROC saw it) all the pre-revolution Qing territories.¹⁴⁹ On that day, the Provisional President Sun Yat-sen issued a proclamation, which in part called for the national and territorial “unification”:

People are the foundation of a state. The Han, Manchu, Mongol, Hui [Muslim], and Tibetan territories are to be combined into one state, and the Han, Manchu, Mongol, Hui, and Tibetan races are to be united into one people. This is what we call the Unity of Nation [*Minzu*].

Since the outbreak of revolution at Wuchang, over a dozen provinces have proclaimed independence. While by independence we mean to secede from the

¹⁴⁷ Zhang Yong, *supra* note 77, at 110–11; Xiaoyuan Liu, *supra* note 79, at 18–23.

¹⁴⁸ See Xiaoyuan Liu, *supra* note 79, at 8–18.

¹⁴⁹ *Id.* at 18–19.

yoke of the Qing court, we also mean to unite the provinces and to amalgamate Mongolia and Tibet. . . . This is what we call the Unity of Territories.¹⁵⁰

However, because the Qing had already ceded Taiwan to Japan in 1895, Taiwan was not even mentioned in this proclamation. The ROC Provisional Government did not make any formal claim to “inherit” Taiwan from the Qing.

Moreover, the ROC Provisional Government adopted the “Five-Color Flag” as the national flag to symbolize the notion of “Five-Race Republic,” despite the fact that the “Five-Color Flag” was originally a revolutionary flag that had a different meaning. Earlier, when still preparing the revolution, the Chinese revolutionaries had proposed several designs for the revolutionary flag, such as the “Eighteen-Star Flag,” the “Five-Color Flag,” and the “Blue Sky and White Sun Flag” (see Figure 9.2). However, the revolutionaries could not agree on which flag to be chosen. Consequently, during the Chinese revolution, there were various revolutionary flags being used in different provinces and areas.¹⁵¹ For example, the “Five-Color Flag” was used in Jiangsu, Zhejiang, and Anhui Provinces in December 1911.¹⁵² However, using that flag did not

¹⁵⁰ It appears that this proclamation was issued on January 1, 1912, but was published on January 2. For original Chinese text and English translations, see *IMPORTANT DOCUMENTS RELATING TO CHINA’S REVOLUTION: WITH ENGLISH TRANSLATIONS* 64–68 (Shanghai, Commercial Press 1912) (China) [hereinafter *DOCUMENTS ABOUT CHINA’S REVOLUTION*]; David G. Atwill & Yurong Y. Atwill eds., *supra* note 10, at 151; *see also* 1 *KAI GUO WEN XIAN*, *supra* note 78, pt. 3, at 541.

¹⁵¹ ZHANG YUFA, *QING JI DE GE MING TUAN TI* 703–4 (Taipei, Zhong Yang Yan Jiu Yuan Jin Dai Shi Yan Jiu Suo 2d ed. 1982) (Taiwan).

¹⁵² Zhang Yong, *supra* note 77, at 110; PETER ZARROW, *AFTER EMPIRE: THE CONCEPTUAL TRANSFORMATION OF THE CHINESE STATE, 1885–1924*, at 226 (2012).

necessarily mean to endorse the idea of the “Five-Race Republic,” because the “Five-Color Flag” was originally designed by the revolutionaries to represent the traditional Chinese concept of “Five Elements,” i.e., red for Fire, yellow for Earth, blue for Wood, white for Metal, and black for Water. It was only after the Chinese reformers began to participate in the ongoing revolution that the “Five-Color Flag” became associated with the notion of “Five-Race Republic.”¹⁵³

On January 10, 1912, the United Assembly, acting on behalf of the ROC Provisional Senate, formally recognized the “Five-Color Flag” as the national flag to symbolize the idea of the “Five-Race Republic” and ROC’s succession to the Qing territories. The flag’s five colors represented the “ROC’s” (as the Chinese Republicans saw it) five major races and domains, namely, red for Han, yellow for Manchu, blue for Mongol, white for Hui (Muslim), and black for Tibetan.¹⁵⁴ Subsequently, the “Iron Blood Eighteen-Star Flag” became the flag of the army. Moreover, the “Blue Sky, White Sun, and a Wholly Red Earth Flag” (see Figure 9.2), preferred by Sun Yat-sen, became the flag of the navy, which, nonetheless, later became the ROC’s national flag in 1928 when the Kuomintang overthrew the Government in Beijing.¹⁵⁵

¹⁵³ See ZHANG YUFA, *supra* note 151, at 703.

¹⁵⁴ ZARROW, *supra* note 152, at 226–27.

¹⁵⁵ *Id.*; ZHANG YUFA, *supra* note 151, at 703–04.

The “Five-Race Republic” formula and the “Five-Color Flag” represented the Chinese Republic’s claim to all the pre-revolution Qing territories. However, as Xiaoyuan Liu observes, “in light of the later developments of the Republic of China, ‘five-race republic’ is one of the most spurious notions in Chinese political history of the twentieth century.”¹⁵⁶ Particularly, the formula was advocated by some Chinese elites, but it “was not a consensus among the so-called five races.”¹⁵⁷ Indeed, when the ROC was formally established on January 1, 1912, the Manchus, Mongols, Huis, and Tibetans did not express their free will to join the newly-established Chinese Republic.

Moreover, upon the ROC’s founding, there were, in fact, four States in the so-called “five-race” domains (see Map 9.1). The Manchu Qing Empire still formally existed and possessed Manchuria, four Chinese provinces, Inner Mongolia, Qinghai, and Xinjiang at the beginning of 1912. The State of Tibet, as discussed in Chapter 8, maintained its statehood, in spite of the Qing interventions in the 18th century and the Qing temporary military occupation in 1910–11. Furthermore, the Great Mongol State had proclaimed its independence on December 1, 1911, and controlled Outer Mongolia. Therefore, far from being a “Five-Race Republic,” the Republic of China, in reality, possessed no more than the fourteen Chinese provinces in China Proper upon its founding.

¹⁵⁶ Xiaoyuan Liu, *supra* note 79, at 18.

¹⁵⁷ *Id.*

Therefore, the “Five-Race Republic” formula was, in fact, the ROC’s ambitious blueprint for territorial expansion, which, at that time, could still be accomplished even by forcible annexation since the international law had not yet formally outlawed territorial aggression and conquest.

9.7.2 The Republic of China Saw Itself as a “New State,” Rather Than the “Continuing State” to the Qing Empire

Although the ROC sought to inherit the geo-body of the Qing, it would be mistaken to assume that the ROC claimed itself as the “continuing State” of the Qing Empire. In fact, the ROC founders viewed it as a newly “restored” (*guangfu* or *hui fu*) Chinese state, and consistently described the ROC’s founding as a “creation of State” (*jian guo*).¹⁵⁸ For example, in November 1911, Wu Tingfang, then the “Director of Foreign Affairs” for the Chinese revolutionaries, issued an appeal to the world for the recognition of the Chinese Republic. This appeal reads in part:

The Chinese Nation, *born anew* [emphasis added] in the travail of revolution, extends friendly greetings and felicitations to the whole world. . . .

[We] Chinese people are not untried in self-government. For countless ages [we] ruled [ourselves] and developed an observance of the law to a degree not known among other races. . . .

¹⁵⁸ 1 KAI GUO WEN XIAN, *supra* note 78, pt. 3, at 267, 269, 278, 280–81, 283, 540, 546, 549, 582–84, 586; Zhang Yong, *supra* note 77, at 106–10.

Down upon [us] swept the savage hordes of an alien, warlike [Manchu] race. [We] Chinese people were conquered and enslaved. For 270 [more accurately, 268] years this bondage existed. Then the Chinese people arose and struck this blow for freedom. . . .

. . . .

. . . We ask recognition that we may enter upon [a] new life and new relationships with the great powers. We ask recognition of the [Chinese] Republic because the Republic is a fact.

Fourteen of the Eighteen Provinces have declared independence [from] the Manchu Government and promulgated allegiance to the [Chinese] Republic. The remaining Provinces will, it is expected, soon take the same course. . . .¹⁵⁹

In the Chinese version of this appeal, it stated even more clearly that China (*Zhonghua*) was “reborn as a new state” (*zhong chan wei xin guo*).¹⁶⁰ Apparently, Wu Tingfang asked other States to confer their “recognition of state” to the newly independent Chinese Republic, which was clearly represented as a restored Chinese State within the Eighteen Provinces of China. Wu’s position was also in line with the “Iron Blood Eighteen-Star Flag,” which was adopted as the revolutionary flag by the Hubei Military Government and later by the ROC Central Military Government.¹⁶¹

Furthermore, even after the formal founding of the ROC and the adopting of the “Five-Race Republic” formula, the Provisional President Sun Yat-Sen issued on January 5, 1912, “The Manifesto from the Republic of China to All Friendly Nations”, which

¹⁵⁹ For the English text, see H.R. REP. NO. 62–368, at 3 (1912); *see also* FREDERICK MCCORMICK, THE FLOWERY REPUBLIC 428–29 (1913); for the Chinese text, see 1 KAI GUO WEN XIAN, *supra* note 78, pt. 3, at 582–84.

¹⁶⁰ 1 KAI GUO WEN XIAN, *supra* note 78, pt. 3, at 582.

¹⁶¹ Zhang Yong, *supra* note 77, at 109–10.

sought to justify the Chinese Revolution against the Manchu Qing, and apparently requested the “recognition of state” to the ROC. The manifesto stated in part:

. . . [W]e now proclaim the . . . overthrow of the despotic sway wielded by the Manchu Dynasty and the establishment of a [Chinese] Republic. . . .

We, the Chinese people, are peaceful and law-abiding. . . . We have borne our grievances during 268 years of Manchu misrule Oppressed beyond human endurance, we deemed it our inalienable right as [well as] our sacred duty to appeal to arms to deliver ourselves and our posterity from the yoke to which we have so long been subjected

The policy of the Manchu Dynasty has been one of unequivocal seclusion and unyielding tyranny. Beneath it, we have bitterly suffered, and we now submit to the free peoples of the world the reasons justifying the revolution and the inauguration of our present government [in the Chinese official version, “the creation of new state” (*jian li xin guo*)]. . . .

. . . .

To remedy these evils [done by the Manchu Dynasty] and render possible *the entrance of China to the family of nations* [emphasis added], we have fought and formed our Government, and lest our good intentions should be misunderstood, we now publicly and unreservedly declare the following to be our promises:

1. All treaties entered into by the Manchu Government before the date of the Revolution will be continually effective up to the time of their termination; but any and all entered into after the commencement of the Revolution will be repudiated.
2. All foreign loans or indemnities incurred by the Manchu Government before the Revolution will be acknowledged without any alteration of terms; but all payments made to, and loans incurred by, the Manchu Government after the commencement of the Revolution will be repudiated.
3. All concessions granted to foreign nations or their nationals by the Manchu Government before the Revolution will be respected; but any and all granted after the commencement of the Revolution will be repudiated.

4. All persons and property of any foreign nation within the jurisdiction of the Republic of China will be respected and protected.

. . . .

The cultivation of better relations with foreign peoples and governments will ever be before us. It is our earnest hope that the foreign nations who have been steadfast in sympathy will bind more firmly the bonds of friendship. . . .

With this message of peace and goodwill *the Republic of China cherishes the hope of being admitted into the family of nations* [emphasis added], not merely to share their rights and privileges, but also to co-operate with them in the great and noble task called for in the upbuilding of the civilization of the world.¹⁶²

When requesting “the entrance of China to the family of nations” and stating that “the Republic of China cherishes the hope of being admitted into the family of nations,” the ROC Provisional Government obviously requested other states to confer the “recognition of state” to the newly created ROC. In other words, while the “Manchu Qing Empire” was an existing State generally recognized among the family of nations, the ROC Provisional Government saw “China” (particularly, the “Republic of China”) as a new State seeking to be recognized and admitted into the family of nations.

The Provisional Government adopted (in fact, “reaffirmed”) a foreign policy to succeed to all the “pre-revolution” international treaties, debts, and concessions made by the Qing government. As discussed earlier, since October 12, 1911 (only two days after the outbreak of the revolution), the same foreign policy regarding the succession of

¹⁶² DOCUMENTS ABOUT CHINA’S REVOLUTION, *supra* note 150, at 74–81; *see also* MCCORMICK, *supra* note 159, at 456–58; 1 KAI GUO WEN XIAN, *supra* note 78, pt. 3, at 546–49.

treaties had been adopted by the Hubei Military Government, which was recognized as the ROC Central Military Government soon later in December. In fact, the foreign policy for the new Chinese Republic to succeed to all the existing treaties and international obligations from the Qing Empire had already been formulated by the Revolutionary Alliance in its “Foreign Declaration” (*Dui Wai Xuan Yan*) of 1906.¹⁶³

As a newly independent Chinese State seceding from the alien Manchu Qing Empire, the ROC probably could quite legitimately assert that it would not succeed to the pre-existing treaties and international obligations made by the Qing Empire. Nonetheless, considering that various foreign powers had already acquired special interests in China during the Qing rule, the founders of the ROC “voluntarily” chose otherwise, hoping that the foreign policy to succeed to pre-revolution international obligations from the Qing would make the new Chinese Republic easier for other states to recognize and admit into the family of nations.

In short, the Chinese revolutionaries, revolutionary organizations (e.g., the Revolutionary Alliance), the provincial military governments (e.g., the Hubei Military Government), and the ROC Provisional Government consistently regarded and represented the Chinese revolution and the founding of the ROC in the context of the

¹⁶³ For the Chinese text of the Revolutionary Alliance’s Foreign Declaration of 1906, see GUO FU QUAN JI, *supra* note 56, vol. 1, at 284–85; *see also* SUN ZHONGSHAN QUAN JI, *supra* note 55, vol. 1, at 310–11.

“creation of new State,” instead of a “change in government” of the alien Manchu Qing Empire.

More importantly, a Manchu-ruled “China” was only a part of the Qing Empire, and the ROC was created by uniting the fourteen Chinese provinces that had proclaimed independence and seceded from the Qing. When the United States of America (US) proclaimed independence in 1776, it was legally impossible for the US to claim to be the continuing State of the British Empire and have the legal right to inherit all the British Empire’s territories. It was also unthinkable that the newly-created Great Mongol State in 1911 was identical to the Manchu Qing Empire, such that all the Qing territories suddenly became Mongolian territories. Likewise, it is impossible to justify that the newly-independent Republic of China was the same state as the Manchu Qing Empire, and all the former Qing’s traditional non-Chinese Inner Asian domains would naturally belong to the Chinese Republic.

9.8 Summary and Conclusion

After the Qing conquest of China, the Chinese people did not completely abandon their resistance to the Manchus’ alien rule. The early Chinese anti-Manchu Qing movements were mainly led by the Ming imperial house and loyalists, and later the Qing’s three Chinese feudatories, who eventually revolted but failed. Some of the most

influential Chinese scholars at that time also tried to preserve the idea of the Chinese–Barbarian distinction. After the 1680s, the Chinese anti-Qing activities were organized by some “secret societies,” which shared a strong anti-Manchu sentiment and the Han Chinese “proto-nationalism” (if not “nationalism”).

In the mid-19th century, the Qing Empire was deeply troubled by foreign aggression and internal rebellions. These revolts were often anti-Manchu, and they, especially the Taiping Heavenly Kingdom Revolution (1850–64), brought heavy casualties to the Eight Banners. More critically, these revolts revealed the ineffectiveness of the Eight Banner forces, the root of the Manchu domination. Consequently, the Qing had to rely on the highly-personalized armies of the prominent Chinese officials to suppress the Taiping and other rebellions. In the post-Taiping era, although more Chinese became provincial governors, the Qing still favored Manchus over Chinese at the central government. The political discrimination against the Chinese continued to fuel the Chinese anti-Manchu sentiment.

In the very late Qing, there were two major political movements. One was the progressive reform movement, which sought to transform the Qing Empire into a constitutional monarchy and preserve the geo-body of the Qing. The other was the anti-Manchu revolutionary movement, which urged the expulsion of the Manchus from

China, and the restoration of a Chinese state within the eighteen provinces of China. Although the progressive reform movement had a more prominent role at first, the revolutionary movement prevailed eventually.

The late Qing launched the “New Policy” or “New Administration” reforms in 1901. Politically, various reform measures only allowed the Qing court to appoint even more top Manchu officials in the central government than before. On the other hand, the Chinese influence in the provinces was significantly reduced. The Qing established local, provincial, and national assemblies, all of which, however, were merely “advisory” or “consultative.” Militarily, all the armed forces were formally under the imperial command and Manchu control, but that could not guarantee the military’s loyalty. In fact, many Chinese in the New Army were revolutionaries or willing to join the revolution when the revolt began.

In trying to save the Qing rule, the late Qing reforms unintentionally facilitated the Chinese anti-Manchu feelings and eventually contributed to the success of the Chinese Revolution. Moreover, because the reforms favored the Manchus and discriminated against the Chinese, many Chinese reformers eventually lost their faith in a peaceful transition to a constitutional monarchy and began to support or at least prepare to accept a revolution.

Unlike the reformers, the Chinese revolutionaries maintained the traditional *Hua–Yi* (Chinese–Barbarian) distinction. They viewed the ruling Manchus as an alien, barbarian, and privileged race, who had stolen and barbarized China and committed serious crimes and extensive discriminations against the Chinese people. Sharing these strong anti-Manchu sentiments, Chinese revolutionaries such as Sun Yat-sen condemned the “Manchu” Qing regime as an autocratic “non-Chinese” government. Moreover, many revolutionaries, such as Zou Rong and Chen Tianhua, opposed and even hated the Manchu race as a whole, fueling the anti-Manchu violence during the Chinese revolution.

As the Chinese revolutionaries saw it, China belonged to the Chinese people and not to the Manchu invaders. In Tokyo in 1905, Sun Yat-sen and other revolutionary leaders founded the Chinese Revolutionary Alliance, which merged several revolutionary organizations and sought to unite and expand the anti-Manchu/Qing support both in China and overseas. The revolution’s primary ideology was anti-Manchuism and Han Chinese nationalism, and its major goals were to drive out the Manchus from China and restore the Chinese state. In other words, they wanted to reestablish a Han-exclusive Chinese state within the Eighteen Provinces of China, in succession to the “Chinese” dynasties of Han, Tang, Song, and Ming, and not to the barbarian “non-Chinese” dynasties of the Liao, Jin, Yuan, and Qing.

Between October 10 and November 27, 1911, a total of fourteen Chinese provinces declared their independence from the Qing and established their provincial military governments, aiming to create a new Chinese State. Among them, Hubei was the first Chinese province to declare independence on October 10, 1911. The Chinese revolutionary Hubei Military Government urged the Chinese people of the Eighteen Provinces to restore the Chinese state by creating the Republic of China. Moreover, the Hubei Military Government adopted the “Iron Blood Eighteen-Star Flag” as the revolutionary flag, which represented Han Chinese nationalism and the Eighteen Provinces of China. In addition, the era name of the Qing Emperor was replaced by the era of the Yellow Emperor, the mythological ancestor of all Chinese people.

Following the model of the American Revolution and declaration of independence, the Chinese revolutionary provincial military governments sent delegates to convoke a United Assembly to create a provisional central government. In November–December 1911, the United Assembly recognized the Hubei Military Government as the ROC Central Military Government, chose Nanjing as the seat of the provisional government, and elected Sun Yat-sen as the first provisional president. On January 1, 1912, the Provisional Government was established in Nanjing, formally creating the Republic of

China. The lunar calendar and the Yellow Emperor era were replaced by the solar calendar and the Republican era.

Shortly before the founding of the ROC, Outer Mongolia declared independence from the Qing and restored the Great Mongol State on December 1. The Khalkha or Outer Mongols established the Mongolian Provisional Government in Khüree (present-day Ulaanbaatar, the capital of Mongolia) and the Eighth Jebtsundamba Khutuktu (the spiritual head of Tibetan Buddhism in Outer Mongolia) assumed the title of “Holy Great Khan” and adopted his own era name. The restored Great Mongol State in Outer Mongolia was created by the secession from the Qing Empire rather from “China.”

Just as Outer Mongolia’s assertion of independence created a new Mongol State, the Chinese Revolution also established a new Chinese State out of the Qing Empire — a historical fact that popular belief, unfortunately, fails to observe. The confusion between the centuries-old Manchu Qing Empire and the newly-created Chinese Republic is mainly a result of making the common mistake of regarding the Qing Empire simply as “China.” Adding to the confusion is the ROC’s claim to be a “Five-Race Republic” and the fact that, as discussed in the next chapter, most (but not all) of the Qing’s remaining territories later became the ROC territories.

Symbolized by the national “Five-Color Flag,” the “Five-Race Republic” formula sought to incorporate the Qing’s five major races and entire geo-body (including Tibetans and Tibet, as the Chinese Republicans saw it) into the new Chinese Republic. However, there were various reasons why the newly independent ROC could not automatically inherit all the Qing territories.

First, the Chinese revolutionaries had long rightly pointed out that the Manchus were foreign conquerors and the Qing court was a “non-Chinese” Manchu government. Accordingly, the Chinese revolution’s original and major goals were to expel the Manchus from China and to restore an essentially Han-exclusive Chinese state. During the revolution, the ROC provincial military governments, central military government, and provisional government all urged the Chinese people to end the Manchu’s alien rule by creating the new Chinese Republic.

Second, both before and after the revolution, the ROC founders and government had consistently defined the founding of the ROC as the creation of a new Chinese State instead of a “change in government” of the existing Qing Empire of the foreign Manchu conquerors. In other words, the ROC did not claim to be the “continuing State” or “identical State” to the Qing Empire. Moreover, when requesting recognition, the ROC represented itself as a new-born Chinese State, expressed a wish to join the family of

nations, and requested that other States confer the “recognition of State” to the newly-established ROC.

Third, imitating the spirit and process of American Independence, the Chinese Revolution of 1911 was, in fact, China’s “independence movement,” during which fourteen Chinese provinces first declared their independence from the Qing, and then jointly created the Republic of China. Therefore, it is also legally impossible to assert that the newly independent ROC was identical to the Qing Empire and was “automatically” entitled to all the pre-revolution Qing territories.

Last but not least, when the ROC was formally established on January 1, 1912, what the ROC called the “Five-Race Republic” simply did not exist because there were actually four States within the so-called “five-race” domains. The Manchu Qing Empire still existed and ruled Manchuria, four provinces of China, Inner Mongolia, Qinghai, and Xinjiang. Tibet remained a sovereign State and just ended the temporary Qing military occupation. Outer Mongolia already proclaimed its independence and restored a Mongol State. The newly created Republic of China, in reality, possessed fourteen provinces in China Proper as its original territories, far from what it called a “Five-Race Republic.” Moreover, by that time, the Manchus, Mongols, Huis, and Tibetans did not

express their endorsement of the “Five-Race Republic” formula or their will to join the Republic of China.

In conclusion, quite similar to the new Mongol State in Outer Mongolia, the Republic of China was also a newly independent State, which was originally founded in the fourteen Chinese provinces that had earlier seceded from the Manchu Qing Empire. During the period of Manchu rule, the Chinese were a conquered people, and China was only a part of the Qing Empire. The Chinese revolution was clearly and originally a “secession movement” that sought to restore a Han-exclusive Chinese state within the Eighteen Provinces of China. Although the ROC planned to incorporate all the pre-revolution Qing territories, it was not founded as a “Five-Race Republic.” Nonetheless, the ROC could later become a “Five-Race Republic” through peaceful or even forcible territorial expansion because the international law at that time still recognized the fruits of conquest. However, as discussed in the next chapter, the ROC had never completely annexed the so-called “five-race” domains; in particular, Tibet and Outer Mongolia remained independent and never became part of the ROC. Further, the newborn Chinese Republic did not include Taiwan in its territorial blueprint because the Qing had ceded Taiwan to Japan earlier in 1895.

CHAPTER 10

THE REPUBLIC OF CHINA (1912–1949), PART 2

THE FALL OF THE MANCHU QING EMPIRE AND THE EXPANSION OF THE REPUBLIC OF CHINA

10.1 Introduction

It is often overlooked that the negotiation and agreements in 1911–12 between the centuries-old Qing Empire and the newly independent Republic of China (ROC) were actually “international” in nature. After the two sides reached the abdication agreement that in part promised the ROC’s favorable treatment for the Qing imperial house, the Qing Emperor formally abdicated on February 12, 1912. The emperor’s abdication officially ended the Qing Empire, but it did not secure the ROC’s annexation of the former Qing’s remaining territories, which were still controlled by the former Qing prime minister, Yuan Shikai.

In accordance with his political deal with the Chinese revolutionaries, Yuan Shikai was elected as the second ROC provisional president by the ROC Provisional Senate in Nanjing after the Qing Emperor abdicated. Only after Yuan’s assumption of office on March 9 (or his inauguration on March 10), 1912, did he begin to rule the former Qing’s remaining territories as the new ROC provisional president, hence completing the ROC’s

annexations of Manchuria, Inner Mongolia, part of northern China Proper, Qinghai, and Xinjiang. Soon after, the ROC Provisional Government was relocated from Nanjing to Beijing. However, contrary to common belief, the ROC government in Beijing was not the “successor government” to the former Qing government in Beijing, as they were in fact the governments of two different countries.

Furthermore, despite the ROC’s claims of sovereignty over Tibet and Outer Mongolia, before its fall in 1949, the ROC had never effectively annexed the long existing Tibetan State or the newly independent Mongolian State (see Map 1.15).

10.2 The Fall of the Manchu Qing Empire

10.2.1 The Rise of Yuan Shikai and the Decline of the Manchu Qing Court

Soon after the outbreak of the Chinese Xinhai Revolution on October 10, 1911, Yuan Shikai acquired extensive political and military powers in the Qing Empire, at the expense of Prince-Regent Zaifeng and the Manchu Qing court. On October 14, 1911, the Qing court turned to the help of Yuan Shikai, who had been forced to “retire” earlier in January 1909.¹ On October 27, Yuan was appointed “imperial commissioner” (*qin chai*) with “complete authority over all military and naval forces in Hubei” to suppress

¹ 11 THE CAMBRIDGE HISTORY OF CHINA, LATE CH’ING, 1800–1911, PART 2, at 396, 530 (John K. Fairbank & Kwang-Ching Liu eds., 1980) [hereinafter 11 CAMBRIDGE].

the revolt.² By November 1, the Qing troops had reconquered all of Hankou. Despite the fact that Wuchang and the nearby Hanyang could probably also have been retaken quite easily, Yuan ordered the troops to rest and halt their advance, seeking to maximize “his own power in his ongoing negotiation with the Qing court,” as Edward J. M. Rhoads explains.³

It was only after the Qing agreed to grant him extensive powers that Yuan Shikai accepted the appointment of the Qing prime minister on November 8, 1911. On November 13, Yuan arrived in Beijing with two thousand troops and was granted “full military authority around the capital,” with the exception of the new Palace Guard, which remained under the direct control of the Qing court.⁴ On November 16, Yuan organized an eleven-member cabinet with ten Chinese and one Manchu. Not surprisingly, the only Manchu minister was at the Lifan Bu (renamed from the Lifan Yuan in 1906), which was primarily in charge of governing the Qing’s non-Chinese “outer domains.”⁵

Moreover, on November 22, Yuan obtained “the authority to make decisions in most matters” and “all memorials and petitions would henceforth be addressed to the cabinet

² EDWARD J. M. RHOADS, *MANCHUS AND HAN: ETHNIC RELATIONS AND POLITICAL POWER IN LATE QING AND EARLY REPUBLICAN CHINA, 1861–1928*, at 177 (2000).

³ *Id.* at 178.

⁴ 11 CAMBRIDGE, *supra* note 1, at 530; RHOADS, *supra* note 2, at 205–06.

⁵ RHOADS, *supra* note 2, at 209; QING DAI ZHI GUAN NIAN BIAO 332 (Qian Shifu ed., Beijing, Zhonghua Shu Ju 1980) (China).

and not [to] the emperor.”⁶ On December 6, Zaifeng was forced to resign from the position of regent, and the indecisive Empress Dowager Longyu, the widow of the Guangxu Emperor, simply took over the Qing court affairs, without any new regent being appointed for the child Xuantong Emperor.⁷

By the end of December 1911, Yuan Shikai not only dominated the Qing’s actual decision-making body (i.e., the cabinet), but also gained control of all the Beiyang New Army and even seized the Palace Guard.⁸ Consequently, the Qing court was in a vulnerable position to resist any of Yuan’s suggestions or demands, including even his request that the Qing Emperor abdicate.⁹

10.2.2 The Qing–ROC Negotiation and Agreements Were “International” in Nature

Starting in late October 1911, Yuan Shikai initiated contact with the Chinese revolutionaries through private channels, largely for his own gain.¹⁰ From about November 8, more and more revolutionary leaders voiced their support for Yuan’s presidency of the Chinese Republic on the conditions that Yuan would support the

⁶ RHOADS, *supra* note 2, at 206.

⁷ *Id.*

⁸ *Id.*

⁹ Hsü even comments that: “What was left of the Ch’ing [i.e., Qing] court was merely the boy emperor and the widowed dowager. With them as his puppets, Yüan started to flirt with the revolutionary forces for his personal future.” IMMANUEL C. Y. HSÜ, *THE RISE OF MODERN CHINA* 471 (6th ed. 2000).

¹⁰ YANG TIANSHI, *ZHONG JIE DI ZHI: JIAN MING XIN HAI GE MING SHI* 345–46, 348 (Hong Kong, San Lian Shu Dian 2011) (H.K.); HSÜ, *supra* note 9, at 471–72.

Chinese revolution and pressure the Manchu Qing Emperor to abdicate.¹¹ Consequently, on December 2, the United Assembly of Representatives of the Provincial Military Governments made a decision that Yuan Shikai would be elected as the new president if he would support the Chinese Republic and secure the abdication of the Qing Emperor.¹² Moreover, many revolutionaries also expressed their willingness to offer favorable treatment for the Qing imperial house and the general Banner population if the Qing Emperor would abdicate in favor of the Chinese Republic.¹³

These indirect and informal talks made possible the direct and formal peace conference in December 1911 between the Manchu Qing Empire and the Republic of China.¹⁴ On December 5, Wu Tingfang, a British-trained lawyer and former Qing diplomat, was appointed as the ROC chief negotiator and plenipotentiary.¹⁵ Wu was the obvious choice since he had been appointed as the Director of Foreign Affairs by the ROC Central Military Government since November, and his appointment was reaffirmed by the United Assembly on December 4.¹⁶ On December 7, the Qing court granted the

¹¹ 11 CAMBRIDGE, *supra* note 1, at 530; YANG TIANSHI, *supra* note 10, at 345–46.

¹² 1 ZHONG HUA MIN GUO JIAN GUO SHI [THE FOUNDING HISTORY OF THE REPUBLIC OF CHINA], pt. 2, at 876 (Jiao Yu Bu [Ministry of Education] ed., Taipei, Guo Li Bian Yi Guan 1985) (Taiwan) [hereinafter 1 ZHONG HUA MIN GUO JIAN GUO SHI].

¹³ RHOADS, *supra* note 2, at 209–10.

¹⁴ *See Id.* at 210.

¹⁵ LINDA POMERANTZ-ZHANG, WU TINGFANG (1842–1922): REFORM AND MODERNIZATION IN MODERN CHINESE HISTORY 1–5, 209 (1992); 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 12, pt. 2, at 935.

¹⁶ IMPORTANT DOCUMENTS RELATING TO CHINA'S REVOLUTION: WITH ENGLISH TRANSLATIONS 55–56 (Shanghai, Commercial Press 1912) (China) [hereinafter DOCUMENTS ABOUT CHINA'S REVOLUTION].

Prime Minister Yuan Shikai “full powers” (*quan quan*) to designate a representative to discuss the “general situation” (*da ju*) and negotiate a political settlement with the Chinese revolutionaries.¹⁷ Yuan immediately appointed Tang Shaoyi, an American-trained diplomatic negotiator and a sympathizer to the republican revolution, as his envoy plenipotentiary.¹⁸

10.2.2.1 The Qing–ROC Peace Conference at Shanghai

Formally beginning on December 18, 1911, the so-called North–South (or more correctly, Qing–ROC) peace conference at Shanghai was, in fact, between two different States (see Maps 1.14 and 9.1), rather than two competing governments of the same State called “China.”¹⁹ As the wordings in the conference records and the armistice and other agreements put it, one party of the negotiation was the “Qing Government” (*Qing Zhengfu*), and the other party was the “Republic of China Central Military Government” (*Zhonghua Minguo Zhongyang Jun Zhengfu*) and later the “Republic of China Provisional Government” (*Zhonghua Minguo Linshi Zhengfu*).²⁰ It should be noted that although the ROC Provisional Government was formally established on January 1, 1912,

¹⁷ RHOADS, *supra* note 2, at 210–11; YANG TIANSHI, *supra* note 10, at 346–47.

¹⁸ RHOADS, *supra* note 2, at 211; 11 CAMBRIDGE, *supra* note 1, at 531; JEROME CH’EN, YUAN SHIH-K’AI 94 (2d ed. 1972).

¹⁹ For detail of the North–South (Qing–ROC) negotiation, see GUO FU DANG XUAN LIN SHI DA ZONG TONG SHI LU, vol. 2, at 51–259 (Xu Shishen ed., Taipei, Guo Shi Cong Bian She 1967) (Taiwan) [hereinafter GUO FU DANG XUAN SHI LU]; see also RHOADS, *supra* note 2, at 211–28; 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 12, pt. 2, at 935–38, 943–55.

²⁰ ZHONG HUA MIN GUO JIAN GUO WEN XIAN, 1 GE MING KAI GUO WEN XIAN, pt. 3, at 650–52, 655–56, 660, 664, 670–72, 676–78 (Guo Shi Guan ed., 1995) (Taiwan) [hereinafter 1 KAI GUO WEN XIAN].

the agreement signed by Tang Shaoyi and Wu Tingfang on December 30, 1911, already used the term “Republic of China Provisional Government” to refer to the Chinese revolutionaries’ government in Nanjing.²¹

As Rhoads points out, the irreducible demands of the revolutionaries were “the establishment of a [Chinese] republic” and “the termination of the Qing dynasty and the monarchy.”²² On the other hand, the Qing court preferred to maintain the Qing dynasty by transforming the empire into a constitutional monarchy. The Qing Prime Minister Yuan Shikai, however, was more concerned about his future presidency offered by the ROC after the Qing Emperor’s abdication.²³ And not surprisingly, Tang Shaoyi made no effort to preserve the Qing Dynasty, and he even told Wu Tingfang that he personally agreed that a Chinese republic was the only way to restore peace, and he had been long inspired by the republicanism since he was studied in the United States of the America.²⁴

During the negotiation, Wu Tingfang told Tang Shaoyi that “the Qing Emperors were not Chinese persons [*fei Zhongguo zhi ren*], and have usurped the [Chinese] thrones for more than two hundred years.”²⁵ After some discussion, Tang suggested to “first announce the [post-abdication favorable] treatment for the Qing imperial house to relieve

²¹ *Id.*, pt. 3, at 670–71.

²² RHOADS, *supra* note 2, at 211–12.

²³ *Id.* at 212, 215.

²⁴ 1 KAI GUO WEN XIAN, *supra* note 20, pt. 3, at 658; RHOADS, *supra* note 2, at 212.

²⁵ 1 KAI GUO WEN XIAN, *supra* note 20, pt. 3, at 657.

[the Qing court's] worry.” Wu agreed, and further proposed to follow “the precedent of Japan’s treatment of Korea [*Riben dai Chaoxian zhi li*].” Tang replied that the abdicated Qing Emperor should be “treated with the ceremonies accorded to a *foreign sovereign* [emphasis added].” Wu answered “agree” (*ke*), apparently without any hesitation.²⁶

When Wu proposed to follow “the precedent of Japan’s treatment of Korea,” he obviously referred to the precedent of Japan’s annexation of Korea, which was formalized by the Japan–Korea Annexation Treaty of 1910.²⁷ Moreover, a Proclamation of Japan Annexing Korea was also issued in 1910, stating in part:

The Governments of Japan and Korea . . . have, with the approval of his Majesty the Emperor of Japan and his Majesty the Emperor of Korea, concluded, through their respective plenipotentiaries, a treaty providing for [the] complete annexation of Korea to the Empire of Japan. By virtue of that important act . . . the Imperial Government of Japan undertake[s] the entire government and administration of Korea.²⁸

Articles 1 and 2 of the Japan–Korea Annexation Treaty provided that “all rights of sovereignty [J. *touchi ken*; lit. administrative power] over the whole of Korea” were ceded from “the Emperor of Korea” to “the Emperor of Japan” and that completed “the

²⁶ *Id.*, pt. 3, at 666.

²⁷ Treaty Annexing Korea to Japan, Japan–Korea, Aug. 22, 1910, 4 (No. 4) AM. J. INT’L L. SUPP. 282, 282–83 (1910) [hereinafter Japan–Korea Annexation Treaty]; for the Japanese and English versions of the Japan–Korea Annexation Treaty, see 43 DAI NIHON GAIKO BUNSHO [DOCUMENTS ON JAPANESE FOREIGN POLICY], PART 1, at 679–82 (Ministry of Foreign Affairs of Japan ed., 1962).

²⁸ *Proclamation of Japan Annexing Korea*, 4 AM. J. INT’L L. SUPP. 280, 281 (1910).

annexation of Korea to the Empire of Japan.”²⁹ However, as we will see, the Qing Emperor’s abdication edict did not provide this level of clarity on the arrangement for the Qing sovereignty and territories.

Moreover, Articles 3 and 4 of the Japan–Korea Annexation Treaty promised that “the Emperor of Japan” will grant appropriate honor and treatment to “the Emperor and ex-Emperor and . . . the Crown Prince of Korea and their consorts and heirs” and “[other] members of the Imperial House of Korea and their heirs.”³⁰ Similarly, as discussed later, the ROC also concluded an abdication agreement with the Qing, promising to give favorable treatment for the Qing Imperial House.

By the end of 1911, the Qing and the ROC had concluded several agreements by their respective plenipotentiaries, Tang Shaoyi and Wu Tingfang, during the peace conference at Shanghai.³¹ As the conference records and related telegrams shown, Tang, Wu, and some other relevant people used the terms “treaty” (*tiaoyue*), “peace treaty”

²⁹ “Article I. His Majesty the Emperor of Korea makes complete and permanent cession to his Majesty the Emperor of Japan of all rights of sovereignty over the whole of Korea.”

“Article II. His Majesty the Emperor of Japan accepts the cession mentioned in the preceding article and consents to the complete annexation of Korea to the Empire of Japan.”

See Japan–Korea Annexation Treaty, *supra* note 27, at 282.

³⁰ “Article III. His Majesty the Emperor of Japan will accord to their Majesties the Emperor and ex-Emperor and his Imperial Highness the Crown Prince of Korea and their consorts and heirs such titles, dignities, and honors as are appropriate to their respective ranks, and sufficient annual grants will be made for the maintenance of such titles, dignities and honors.”

“Article IV. His Majesty the Emperor of Japan will also accord appropriate honor and treatment to the members of the Imperial House of Korea and their heirs other than those mentioned in the preceding article, and funds necessary for the maintenance of such honor and treatment will be granted.”

See *Id.* at 282–83.

³¹ RHOADS, *supra* note 2, at 211–14; 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 12, pt. 2, at 937–38.

(*heyue*), and “articles” (*tiaojian*, *tiaokuan*, etc.) interchangeably to refer to the armistice and other “agreements” (*yue*), which were concluded and signed, or being discussed or drafted by Tang and Wu.³²

Nevertheless, irritated by the formal founding of the ROC Provisional Government and Sun Yat-sen’s inauguration as the ROC Provisional President on January 1, 1912, Yuan Shikai sent Wu Tingfang a telegram on January 2, stating that he had dismissed Tang Shaoyi as his envoy plenipotentiary because Tang exceeded his authority. Moreover, Yuan also repudiated most of the “articles” (*tiao*) concluded and signed by Tang and Wu, and requested the subsequent negotiation to be directly conducted between Yuan himself and Wu through telegraph.³³ Furthermore, in a telegram of January 6 to Wu, Yuan claimed that the ongoing negotiation was between “the [Qing] government and its nationals,” and not between “two States.”³⁴ However, as discussed later, Yuan’s denial of the legal validity of the Tang–Wu agreements and the international nature of the Qing–ROC negotiation was heavily challenged by Wu and was problematic under international law.

³² GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 71–75 77–78 81–82, 88, 91–92, 95, 97–102, 104, 108, 111, 115–21; *see also* 1 KAI GUO WEN XIAN, *supra* note 20, pt. 3, at 652–53, 655–57, 662–65, 670–71, 675–81.

³³ 52 NEI GE GUAN BAO, XUANTONG SAN NIAN, SHIYI YUE FEN, No. 134, at 79 (Taipei, Wen Hai Chu Ban She 1965) (Taiwan) (1911–12); RHOADS, *supra* note 2, at 215–16; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 123, 125.

³⁴ 52 NEI GE GUAN BAO, *supra* note 33, No. 138, at 94; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 142.

10.2.2.2 The Yuan–Wu Peace Talks

In early January 1912, Wu Tingfang sent Yuan Shikai several telegrams, insisting that the Tang–Wu agreements were duly concluded and signed during the peace conference, and therefore were valid and binding under international law.³⁵ For example, in his telegram of January 3, Wu argued that Tang was appointed as “the [Qing] Prime Minister’s envoy plenipotentiary” with “full powers” (*quan quan*) to participate in the peace conference, and “the treaties (*tiaoyue*), once having been concluded and signed, created the obligation to comply,” and therefore, “although the envoy Tang resigned, the agreements (*yue*) signed by Tang before his resignation would not lose their [legal] effects (*xiao li*).”³⁶

Furthermore, in his telegram of January 5 to Yuan, Wu maintained that there was no precedent of “international peace negotiation” (*wan guo yi he*) allowing Yuan to freely alter the treaties that had been concluded by the plenipotentiaries.³⁷ Furthermore, in his telegram of January 6, Wu argued that the “armistice articles” (*ting zhan tiaojian*) just concluded a few days earlier by Wu himself and Tang was legally valid under “public

³⁵ 52 NEI GE GUAN BAO, *supra* note 33, No. 136, at 85, No.137, at 89, No. 138, at 93, No. 139, at 97–100, No. 143, at 105–06; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 127, 136, 139–41, 148–49.

³⁶ 52 NEI GE GUAN BAO, *supra* note 33, No. 136, at 85; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 127.

³⁷ 52 NEI GE GUAN BAO, *supra* note 33, No. 137, at 89; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 136.

international law” or “law of nations” (*wan guo gong fa*) because the “Qing Government” (*Qing Zhengfu*) had not yet announced and informed the ROC side of Tang’s dismissal at the time they concluded the armistice agreement.³⁸ Indeed, from international law perspective, because the Tang–Wu agreements were duly concluded and signed by the plenipotentiaries of the Qing Government and the ROC Central Military Government, these agreements were valid in law and were international in nature.

Nevertheless, with Yuan Shikai’s future ROC presidency reassured by Sun Yat-sen, Yuan resumed the peace negotiation and continued to pressure the Qing to abdicate.³⁹ The new round of negotiation, which focused on the favorable treatment for the Qing imperial house, was nonetheless based on the earlier Tang–Wu agreements, while Tang Shaoyi even continued to serve, though unofficially, as Yuan’s representative in Shanghai.⁴⁰ Because there were already fourteen Chinese provinces seceding from the Qing; the Qing government lacked funds to suppress the Chinese revolution by force; and even the foreign powers (particularly the British) favored the Chinese Republic, the Qing court soon realized that it would be better to accept the Emperor’s abdication in exchange

³⁸ 52 NEI GE GUAN BAO, *supra* note 33, No. 141, at 99–100; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 141.

³⁹ RHOADS, *supra* note 2, at 215–16.

⁴⁰ *Id.* at 215–16.

for the ROC's favorable treatment for the Qing imperial house and the general Banner population.⁴¹

On January 22, the ROC Provisional President Sun Yat-sen sent a telegram to Wu and newspaper offices, announcing the procedures for the Qing Emperor's abdication and Yuan's assumption to the ROC presidency. Sun's telegram reads in part:

[J]udging by the telegrams received . . . Yuan's idea is not only that he wishes to remove the Manchu Government, but at the same time he demands the necessity of abolishing the Republican Provisional Government, while he would form another provisional government in Beijing. . . . Therefore, my telegram of yesterday states that my office will be relinquished when all the Powers have recognized us; my sole aim and desire is nothing less than the consolidation of the foundation of the Republic [of China]

If Yuan can really carry out the clause of severing his connection with whatever concerns the Manchu Government and become a citizen of the Republic [emphasis added], then I will still keep my words [to resign my provisional presidency in favor of Yuan]. Considering that . . . people might not understand that after the Qing Emperor has abdicated, the officers and men of the North will be officers and men of the Republic, and the peace and order in the North shall be maintained by the Republic, there must be a means to deal with the transition period. I suggest that Yuan nominates a well-known and respected man to rule the North temporarily.

. . . .

I have fixed the procedures as follows:

- (1) The Qing Emperor abdicates, then Yuan shall at once notify the Foreign Ambassadors at Beijing who will telegraph the information to the Republican Government, that now the Qing Emperor has abdicated his Throne; or order the Consuls in Shanghai to do so.

⁴¹ *Id.* at 219–26; YANG TIANSHI, *supra* note 10, at 350–56, 372–75.

- (2) Simultaneously, Yuan shall declare his political view, saying that he absolutely supports the object of republicanism.
- (3) I, upon receipt of the information that the Qing Emperor has abdicated his Throne from the Foreign Diplomatic Body or from the Consular Body, will at once resign my office.
- (4) The Senate shall then elect Yuan as the Provisional President.
- (5) Yuan, after having been elected Provisional President, shall, swear that he will obey the constitutional law enacted and passed by the Senate, before he can take over his duties and power.

Clauses (1) and (2) are framed for the purpose of *enabling Yuan to sever connection with whatever concerns the Manchu Government, and to become a citizen of the [Chinese] Republic* [emphasis added].

This is my last plan for a solution. If Yuan cannot even act as set forth, he must surely be deemed as unwilling support or approve the Republic, nor willing to arrive a peaceful solution. Then the clauses with respect to the generous [favorable] treatment of the Imperial Family and the Eight Banners, cannot be carried out, hostilities will be resumed, and blood-shedding throughout All under Heaven [*Tianxia*] will result. . . .⁴²

As we can see, although the ROC had been formally established in the South, the ROC Provisional President Sun rightly pointed out that the Qing Prime Minister Yuan Shikai was not yet a citizen of the ROC (obviously, nor were the Qing Emperor, other Qing officers, and Qing subjects in the North), and that also implied that the territories under the Qing control were not yet the ROC territories. Therefore, if Yuan wanted to be elected as the new ROC provisional president, Yuan must first sever his connection with the Manchu Qing government and become a citizen of the Chinese Republic.

⁴² DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 82–85 (with my modification); *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 280–81.

Moreover, Sun insisted that Yuan's future presidency must be elected by the ROC Senate in Nanjing, and Yuan could not form another provisional government in Beijing and make himself the president. The conditions for Yuan's assumption to the presidency, as stipulated in this telegram, were approved by the ROC Provisional Senate.⁴³ These conditions, as we will see, were in fact followed in order to secure the foundation of the ROC.

On January 26, 1912, more than forty Qing generals and military officers jointly announced their support for a republic and criticized the Qing court's delay in the abdication. Under pressure, the Qing court issued an edict on February 3 to confer Yuan the "full powers" to negotiate the terms of the post-abdication favorable treatment. Also on February 3, Yuan sent Wu his version of favorable treatment, and Wu immediately took Yuan's version to the ROC Provisional Government in Nanjing.⁴⁴

On February 5, the ROC Provisional Senate made some revisions and approved the draft of the Articles of Favorable Treatment based on Yuan's version. On February 6, Wu wired the amended draft to Yuan.⁴⁵ The Qing court found most of the ROC Senate's revisions "tolerable," and therefore only asked Yuan to negotiate a few changes.⁴⁶ On

⁴³ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 282.

⁴⁴ *Id.*, vol. 2, at 181–82, 218, 220–22; RHOADS, *supra* note 2, at 221–23.

⁴⁵ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 222–28; RHOADS, *supra* note 2, at 224–25.

⁴⁶ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 231–33; RHOADS, *supra* note 2, at 225.

February 9, using his limited authority given by the ROC Senate, Wu agreed to make some minor modifications, but asked Yuan not to request any further changes in this final version.⁴⁷

On February 10, Wu sent an ultimatum to Yuan, stating that if there had been no confirmation of the Qing Emperor's abdication by eight o'clock in the morning of February 11, the offer of the Articles of Favorable Treatment would be canceled. Yuan replied on February 11, confirming that the Qing court had approved the post-abdication Articles of Favorable Treatment. Consequently, the Qing Emperor abdicated on February 12, 1912.⁴⁸

It is often overlooked that the Yuan–Wu talks were international in nature. Because the ROC had been formally established on January 1, 1912, and the Qing continued to exist until February 12, 1912, the peace talks between Yuan Shikai (the Qing Prime Minister and plenipotentiary negotiator) and Wu Tingfang (the ROC plenipotentiary negotiator) was clearly an international negotiation between two States (see Map 9.1). Moreover, since the Yuan–Wu talks neither planned to achieve nor resulted in the elimination of the newly independent ROC, their talks should not and could not be

⁴⁷ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 239–40; RHOADS, *supra* note 2, at 225.

⁴⁸ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 240–41.

regarded as an internal negotiation between a lawful government and a rebellious group within one State.

10.2.3 The Qing Abdication Edicts

On February 12, 1912, the Qing court under the Empress Dowager Longyu issued three edicts relating to the abdication,⁴⁹ formally ending the 296-year-old Manchu Qing Empire (1616–1912). The first edict was the abdication edict of the Qing Emperor. The second one was related to the Articles of Favorable Treatment for the Qing imperial house. The third one basically called on all metropolitan and local officials to continue to maintain public order during the transitional period.⁵⁰ For the purpose of this study, only the first two edicts will be discussed below.

10.2.3.1 The Abdication Edict of the Qing Emperor Did Not Make the ROC a “Five-Race Republic”

As commonly believed, the “Abdication Edict of the Qing Emperor” (*Qing Di Tuiwei Zhaoshu*) was drafted by the ROC Provisional Government (mainly, by Zhang Jian), and was revised by the Qing Government (particularly, by Yuan Shikai).⁵¹ This edict formally ended the Qing Empire, but, as will be made clear, it did not by itself

⁴⁹ RHOADS, *supra* note 2, at 226–27.

⁵⁰ *Id.*; for the Chinese texts and English translations of these three abdication edicts, see DOCUMENTS ABOUT CHINA’S REVOLUTION, *supra* note 16, at 88–99 (Shanghai, Commercial Press 1912) (China).

⁵¹ See YANG TIANSHI, *supra* note 10, at 375–76.

secure the unification of China nor the ROC's expansion into the former Qing's non-Chinese domains in Inner Asia. The Qing Emperor's abdication edict reads in part:

How could I [i.e., the Empress Dowager Longyu] bear to oppose the will of the millions for the sake of the glory of one Imperial Family! Therefore, judging from the tendencies of the age and the public opinion, I and His Majesty the Emperor hereby vest the sovereignty [*tongzhi quan*; lit. administrative power] in common to the *entire country* [emphasis added], and decide in favor of a republican form of constitutional government.

....

Yuan Shikai was earlier elected by the National Assembly [*Zi Zheng Yuan*] to be the [Qing] Prime Minister. During this transitional period from the old order to the new, there should be some means to unify the South and the North. Yuan Shikai shall have *full powers* [emphasis added] to organize a provisional republican government, and confer with the Republican Army on a plan for unification, *wishing* [*qi*; emphasis added] . . . to combine the territories of the five races, namely, the Manchus, Hans, Mongols, Huis, and Tibetans, into a Great Republic of China. The Emperor and I will retire into leisure . . .⁵²

By this edict, the abdicating Qing Emperor vested the “sovereignty (*tongzhi quan*)” in common to the “entire country,” rather than to the Republic of China in the South. According to the context of this edict, the Chinese term “*tongzhi quan*” (lit. administrative power) should be here understood and translated as “sovereignty,” as some historians have done.⁵³ Just like the Japanese term “*touchi ken*” (lit. administrative

⁵² The English translation is based on DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 89–91; THE SEARCH FOR MODERN CHINA: A DOCUMENTARY COLLECTION 211–12 (Pei-kai Cheng et al. eds., 1999) [hereinafter MODERN CHINA: A DOCUMENTARY COLLECTION]; for the original Chinese text, see DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 88–89; 1 KAI GUO WEN XIAN, *supra* note 20 pt. 3, at 687.

⁵³ E.g., MODERN CHINA: A DOCUMENTARY COLLECTION, *supra* note 52, at 212.

power) was also understood and officially translated as “sovereignty” in the Japan–Korea Annexation Treaty, to stipulate that “all rights of sovereignty over the whole of Korea” was ceded to the Emperor of Japan.⁵⁴ Moreover, since the Qing Emperor abdicated in favor of a “republican form” of government, it must mean that the Qing Emperor vested the Qing “sovereignty” (rather than merely the “administrative power”) to the “entire country.”

However, from legal point of view, what “still” constituted the “entire country” (*quan guo*) in the Qing Emperor’s abdication edict needs some explanation. As discussed before, the Qing Empire had never acquired sovereignty over Tibet. Moreover, Outer Mongolia and those fourteen seceding Chinese provinces had already formally declared independence and founded the Great Mongol State and the Republic of China respectively. Because the Qing failed to recover these territories before the empire ended, it must be concluded that the Qing had lost territorial sovereignty over Outer Mongolia and those fourteen seceding Chinese provinces (see Maps 1.14).

Therefore, right before the Qing abdication, the remaining Qing territories were those still under Qing control, in particular, Manchuria, Inner Mongolia, four northern provinces in China Proper, Qinghai, and Xinjiang (see Map 9.1). Consequently, when

⁵⁴ 43 DAI NIHON GAIKO BUNSHO, PART 1, *supra* note 27, at 679, 681.

the Qing Emperor vested the sovereignty to the “entire country,” it could only mean to vest Qing sovereignty to the people of the remaining Qing territories, rather than to the Republic of China in the South (and of course, nor to the Mongol State in Outer Mongolia).

Moreover, without the prior consent of the republicans in Nanjing, Yuan Shikai inserted a proviso in the abdication edict that conferred Yuan “full powers” to organize a provisional republican government.⁵⁵ Apparently, this proviso explicitly declined to recognize the existing ROC Provisional Government in Nanjing as the “successor government” of the Qing Government. Furthermore, because the ROC was already established by the Chinese revolution, the ROC Provisional President Sun Yat-sen also insisted that “the Government of the Republic [of China] could not be organized by the Qing Emperor’s authorization,” as stated in Sun’s earlier telegram to Yuan.⁵⁶

Nevertheless, the Qing Emperor’s conferment of “full powers” upon Yuan Shikai still had some meaning — particularly, Yuan Shikai could organize a provisional republican government within the former Qing’s remaining territories in the North without any approval from the ROC in the South. In other words, if the ROC Provisional Senate in the South refused to elect Yuan Shikai as the ROC’s new

⁵⁵ RHOADS, *supra* note 2, at 226.

⁵⁶ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 286.

provisional president, Yuan could still quite easily make himself a president in the North by invoking the “full powers” conferred by the Qing Emperor.

Furthermore, the edict also stated that the Empress Dowager Longyu and the Emperor were “wishing [*qi*] . . . to combine the territories of the five races, namely, the Manchus, Hans, Mongols, Huis, and Tibetans, into a Great Republic of China.”⁵⁷ However, their “wish” had no actual legal effect to transform the ROC into a “Five-Race Republic.” As mentioned already, upon the abdication, the Qing Emperor himself had neither sovereignty nor control over Outer Mongolia, the fourteen seceding Chinese provinces, and Tibet, and therefore he had no legal capacity to decide the future of these territories. Consequently, although the Qing Emperor abdicated, that by no means guaranteed the incorporation of the former Qing’s territories and Tibet into a single Chinese State, in particular, the Republic of China. No wonder the abdication edict only expressed the “wish” (*qi*) to combine the five-race territories into a Great Republic of China.

10.2.3.2 The Abdication Agreement Was a Treaty between the Qing and the ROC

The second edict promulgated the abdication agreement, commonly known as the “Articles of Favorable Treatment for the Qing Imperial House” (*Qing Shi Youdai*

⁵⁷ DOCUMENTS ABOUT CHINA’S REVOLUTION, *supra* note 16, at 89, 91 (English translation with my modifications); *see also* MODERN CHINA: A DOCUMENTARY COLLECTION, *supra* note 52, at 212.

Tiaojian).⁵⁸ It is often overlooked that the abdication agreement was actually a treaty between two States; the agreement-making process and the agreement's text, as discussed below, showed clearly its international nature.

First, following the general treaty-making process, the Articles of Favorable Treatment was formally negotiated by the ROC plenipotentiary (Wu Tingfang) and the Qing plenipotentiaries (Tang Shaoyi; and later, Yuan Shikai), and was approved by both the ROC Provisional Senate and the Qing court. Therefore, just like the Japan–Korea Annexation Treaty that promised Japan's favorable treatment for the Korean imperial house, the ROC–Qing abdication agreement was an international treaty that provided the ROC's favorable treatment for the Qing imperial house and general Banner population.

Second, the text of the abdication agreement made clear that the favorable treatment was offered and promised by the “Republic of China” (*Zhonghua Minguo*).⁵⁹ Undoubtedly, this referred to the ROC that had been already established by the Chinese revolution and had its provisional government in Nanjing. Therefore, when the Qing court approved the abdication agreement, the Qing Empire must already (or at least at the same time) have recognized the “Republic of China” in order to conclude the abdication agreement with the latter. Arguably, the Qing conferred recognition to the ROC when

⁵⁸ RHOADS, *supra* note 2, at 226–27; YANG TIANSHI, *supra* note 10, at 376–77.

⁵⁹ DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 91–97.

the Qing formally entered peace talks and concluded several agreements with the ROC during the so-called North–South peace negotiation. At any rate, when the Qing court accepted the abdication agreement right before the end the empire, the Qing Empire must recognize the Republic of China in the South, because it was that “existing” ROC in the South that concluded the abdication agreement with the Qing and offered the favorable treatment for the Qing imperial house.

Third, the abdication agreement provided that “After the abdication of the Great Qing Emperor, his exalted title shall be retained, and the Republic of China will treat him with the same ceremonies accorded to *a foreign sovereign* [emphasis added].”⁶⁰ This clause was clearly in line with the Chinese revolutionaries’ long-lasting position that the Qing Emperors and the Manchus were foreign rulers and an alien race. We should also recall that during the Qing–ROC peace conference at Shanghai, Wu Tingfang said that the Qing Emperors were “not Chinese persons,” and “have usurped the [Chinese] thrones” for centuries. In fact, to treat the abdicated Qing Emperor “with the ceremonies accorded to a foreign sovereign” was a consensus easily reached during the peace conference.⁶¹

⁶⁰ *Id.* at 92, 95.

⁶¹ 1 KAI GUO WEN XIAN, *supra* note 20, pt. 3, at 657, 664, 666.

Fourth, the abdication agreement stipulated that “[t]he above Articles shall be written in due form and communicated through the delegates on either side [apparently, the Republic of China on one side and the Qing Empire on the other] to the Foreign Ambassadors at Beijing, to be transmitted to their respective Foreign Governments.”⁶² This special requirement also strongly suggested that the abdication agreement was a treaty between the ROC and the Qing. By notifying this agreement to foreign governments and making it public to the international community, both contracting parties could demonstrate their promises and commitments made in the abdication agreement.⁶³ Accordingly, after the Qing abdication, Yuan Shikai sent a copy of the abdication agreement and also the abdication edict to the foreign ambassadors at Beijing, to transmit these documents to their respective foreign governments.⁶⁴

10.3 The ROC’s Unification of China Proper, and Its Annexations of Manchuria, Inner Mongolia, Qinghai, and Xinjiang

As discussed earlier, although the Qing Empire ended on February 12, 1912, the abdication edict of the Qing Emperor and the ROC–Qing abdication agreement neither provided nor completed the ROC’s unification of China Proper, let alone the ROC’s

⁶² DOCUMENTS ABOUT CHINA’S REVOLUTION, *supra* note 16, at 94, 97.

⁶³ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 209–10.

⁶⁴ *Id.*, vol. 2, at 246.

annexations of the former Qing's non-Chinese territories in Inner Asia. Moreover, after the Qing abdication, Yuan Shikai still controlled the former Qing's remaining territories, and he was even conferred "full powers" by the emperor to organize a provisional republican government.

Before the Qing abdication, the ROC Provisional President Sun Yat-sen had repeatedly insisted that when the Qing Emperor abdicated, the Qing could not authorize any of its subjects (particularly, Yuan Shikai) to establish another provisional government in Beijing, and only the ROC Senate in Nanjing could elect Yuan as the ROC provisional president.⁶⁵ On February 11 (one day before the Qing Emperor's abdication), in a telegram from Yuan to the South, Yuan expressed his support for the republicanism, but at the same time Yuan also stated that the day on which the abdication edict issued would be "the end of the Imperial Government" and also "the beginning of the foundation of a Republic."⁶⁶ However, the ROC Provisional Government in Nanjing insisted that the ROC had been legitimately established by the Chinese revolution (rather than by the Qing abdication edict), and therefore refused to recognize Yuan's "full powers" conferred by the Qing Emperor to form another provisional government. Consequently, on February 13, President Sun sent a telegram to Yuan and maintained that the ROC

⁶⁵ *Id.*, vol. 2, at 274–77, 279–82.

⁶⁶ DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 87–88; *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 285.

government could not be organized by the Qing Emperor's authorization, and asked Yuan to come to Nanjing.⁶⁷

Also on February 13, Sun Yat-sen submitted his resignation to the Provisional Senate and recommended Yuan as the new provisional president. On February 14, the Senate accepted Sun's resignation and announced that President Sun would continue to perform his duty until the new president came to Nanjing to assume office. On February 15, the Provisional Senate unanimously elected Yuan Shikai as the new provisional president and informed Yuan to come to Nanjing.⁶⁸

Because President Sun in the South kept his promise and submitted his resignation in favor of Yuan, and the military leaders in the North and the Mongol princes in Beijing also expressed their support to Yuan's presidency, Yuan sent a telegram on February 15 to the ROC Provisional Government, provincial military governors, and so forth, stating that Sun's position that "the republic government could not be organized by the Qing Emperor's authorization" was extremely correct, and "the Qing Emperor's authorization" (i.e., the conferment of "full powers" upon Yuan to organize a provisional republican government) had no longer mattered. In the same telegram, Yuan proposed that the only

⁶⁷ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 286.

⁶⁸ *Id.*, vol. 2, at 288–89, 291–92.

way for the unification was to let the Nanjing government “take over” (*jie shou*) the provinces and militaries in the North.⁶⁹

In late February, a delegation from the Nanjing government arrived in Beijing to invite President-elect Yuan to Nanjing for his inauguration. However, the public opinion in the North strongly rejected Yuan’s inauguration in Nanjing because, in the eyes of the northerners, that would very likely mean the “move” of the capital to Nanjing.⁷⁰ Yuan at first agreed to go to Nanjing temporarily for the inauguration, but after the short incident of “Beijing Mutiny” which started February 29, Yuan claimed that he had to maintain order in the North and could not go to the South.⁷¹

On March 6, the ROC Senate in Nanjing agreed that Yuan could be inaugurated as the new ROC provisional president in Beijing, and announced the detailed procedures for the transfer of power and the unification of governmental organization:

- (1) The Senate telegraphs to President Yuan, agreeing that he shall assume office in Beijing.
- (2) After the receipt of this telegram by President Yuan, he shall telegraph the Senate declaring his oath.
- (3) *When the Senate has received the telegram declaring the oath, it will reply by telegraph recognizing that he has assumed office [emphasis added], and it will also circulate the information throughout the nation.*

⁶⁹ *Id.*, vol. 2, at 302–03; *see also* 1 KAI GUO WEN XIAN, *supra* note 20, pt. 3, at 707–08.

⁷⁰ Shang Xiaoming, *Yuan Shikai and the February 1912 “Beijing Mutiny,”* in CHINA: HOW THE EMPIRE FELL 233, 234–35 (Joseph W. Esherick & C.X. George Wei eds., 2013).

⁷¹ *Id.* at 237–38, 242–43.

- (4) When President Yuan has assumed office, he shall telegraph to the Senate the names of the Prime Minister and Ministers whom he wanted to nominate, asking the Senate to give its consent.
- (5) *When the Prime Minister and Ministers have been appointed, they shall assume their offices in the Provisional Government in Nanjing* [emphasis added].
- (6) President Sun shall be discharged from his office only on the day when the transfer [of power] takes place.⁷²

Accordingly, on March 8, Yuan Shikai sent a telegram to the Senate, expressing his recognition of all these procedures, and declaring his oath to the Republic of China and its Constitution. The ROC Provisional Constitution (which was designed, in part, to constrain Yuan's power) was passed by the Provisional Senate in Nanjing on March 8 and was promulgated by the Provisional President Sun on March 11. Under the Provisional Constitution, the prime minister and ministers were given more power to check and balance the provisional president, who nevertheless was still endowed with significant executive power, and was the commander-in-chief of all the ROC army and navy.⁷³

Having received Yuan's oath, the Provisional Senate telegraphed Yuan on March 9, stating that it recognized President Yuan's assumption to office. On March 10, in a formal ceremony in Beijing, Yuan Shikai publicly took his oath and was inaugurated as

⁷² DOCUMENTS ABOUT CHINA'S REVOLUTION, *supra* note 16, at 102–03 (The English translation with my modifications); *see also* GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 314–15.

⁷³ 1 ZHONG HUA MIN GUO JIAN GUO SHI, *supra* note 12, pt. 2, at 1072–75; 12 THE CAMBRIDGE HISTORY OF CHINA, REPUBLICAN CHINA 1912–1949, PART 1, at 213 (John K. Fairbank ed., 1983).

the “second” provisional president of the Republic of China.⁷⁴ According to the procedures stipulated on March 6 by the Senate, Yuan had already legally assumed the provisional presidency on March 9 when the Senate in Nanjing telegraphed Yuan its recognition of Yuan’s assumption to office. However, it is generally held that Yuan became the second ROC provisional president on March 10 when he held the inauguration ceremony in Beijing. In fact, even President Yuan himself considered that he assumed the ROC’s presidential office on March 10.⁷⁵

At any rate, it was only from March 9 (or March 10), 1912 that Yuan Shikai formally began to rule the North as the ROC provisional president. Consequently, on that day, those lands which had been under Yuan’s control (i.e., four northern provinces in China Proper, Manchuria, Inner Mongolia, Qinghai, and Xinjiang) were “legally” incorporated into the ROC (see Map 1.15). However, President Yuan’s inauguration in Beijing did not immediately and practically unify the South and the North, because President Sun and his cabinet still performed their duties in Nanjing.

On March 11, the Senate gave its consent to President Yuan’s nominee for the prime minister, Tang Shaoyi, and on March 13, Yuan officially appointed Tang as the new prime

⁷⁴ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 317–320; for the Chinese text and English translation of Yuan’s inauguration oath, see DOCUMENTS ABOUT CHINA’S REVOLUTION, *supra* note 16, at 105–06.

⁷⁵ GUO FU DANG XUAN SHI LU, *supra* note 19, vol. 2, at 320.

minister.⁷⁶ Tang arrived in Nanjing on March 25 and requested the Provisional Senate to give its consent to the nominees for ten ministers. On March 29, the Senate gave its consent to nine of them, and the new cabinet was regarded as having been formed.⁷⁷

As Yuan Shikai's new cabinet assumed offices in Nanjing, the Provisional President Sun Yat-sen was formally discharged from his duty on April 1, 1912, and that eventually unified the North and the South under the administration of the Provisional President Yuan. Moreover, on April 2, the Senate approved Yuan's request and decided to move the seat of the ROC provisional government from Nanjing to Beijing. On April 4, the ROC Senate agreed to adjourn on April 8, and meet again in Beijing on April 21.⁷⁸

It was only after the completion of the move of the ROC provisional government that most territories of the former Qing came under the rule of a unified ROC government in Beijing. However, it did not mean that the ROC "inherited" the former Qing's territories. Legally speaking, the ROC government in Beijing was not a "successor government" to the former Qing government, but the "continuance" of the ROC provisional government previously located in Nanjing.

It should be noted again that, more correctly speaking, the ROC, as a newly established Chinese State, "annexed" Manchuria, Inner Mongolia, Qinghai, and Xinjiang

⁷⁶ *Id.*, vol. 2, at 370.

⁷⁷ *Id.*, vol. 2, at 416, 418, 422–24.

⁷⁸ *Id.*, vol. 2, at 425, 428, 431–32.

on March 9 or 10, 1912 (when these territories legally began to be ruled by the second ROC provisional president, Yuan Shikai), rather than that the ROC “succeeded” to these traditional non-Chinese regions directly from the Qing Empire (which had formally ceased to exist on February 12, 1912).

10.4 Tibet and Outer Mongolia Had Never Been Parts of the ROC

10.4.1 Tibet Remained an Independent State

As noted in Chapter 8, despite the temporary Qing occupation of Tibet in 1910–11, Tibet remained an independent State. When the Xinhai Revolution began in China in October 1911, the Qing’s Chinese occupying force in Lhasa revolted against the Qing *Amban*, and that effectively ended the Qing occupation of Tibet.⁷⁹ After the fall of Qing in February 1912, the former Qing’s Chinese soldiers surrendered to the Tibetans in April and were deported back to China at the end of 1912.⁸⁰ In early 1913, having returned to Lhasa and restoring his rule, the Dalai Lama issued a proclamation “reaffirming” Tibet’s statehood and independence.⁸¹

⁷⁹ SAM VAN SCHAIK, *TIBET: A HISTORY* 189–90 (2011); WARREN W. SMITH, *TIBETAN NATION: A HISTORY OF TIBETAN NATIONALISM AND SINO–TIBETAN RELATIONS* 181 (1996).

⁸⁰ SMITH, *supra* note 79, at 181.

⁸¹ MICHAEL C. VAN WALT VAN PRAAG, *THE STATUS OF TIBET: HISTORY, RIGHTS AND PROSPECTS IN INTERNATIONAL LAW* 48–49 (1987).

In 1913–14, the tripartite Simla Conference between Tibet, the ROC, and Great Britain was held in India to discuss the relationship between Tibet and China and the border between Tibet and British India.⁸² However, in the end, only the delegates of Great Britain and Tibet signed the Simla Convention. The ROC plenipotentiary initialed the convention, but the ROC government immediately refused to sign it.⁸³

The most important part of the Simla Convention was Article 2, which provided:

The Governments of *Great Britain and China* [emphasis added] recognising that Tibet is under the suzerainty of China, and recognising also the autonomy of Outer Tibet, engage to respect the territorial integrity of the country, and to abstain from interference in the administration of Outer Tibet (including the selection and installation of the Dalai Lama), which shall remain in the hands of the Tibetan Government at Lhasa.⁸⁴

However, Article 2 did not provide that the Tibetan government itself recognized China’s “suzerainty” over Tibet. As a contracting party, the British government recognized China’s “suzerainty” (but not “sovereignty”) over Tibet and also recognized the autonomy of Outer Tibet (roughly, what is now called Tibet Autonomous Region).

Moreover, since late Qing times, Great Britain had continuously recognized Tibet as an independent State. Before the fall of the Qing, Great Britain had concluded the

⁸² *Id.* at 137–39; for detail, see TSEPON W. D. SHAKABPA, *ONE HUNDRED THOUSAND MOONS: AN ADVANCED POLITICAL HISTORY OF TIBET*, vol. 2, at 756–57, 767–75 (Derek F. Maher trans. & ann., 2010) (1976).

⁸³ AUTHENTICATING TIBET: ANSWERS TO CHINA’S 100 QUESTIONS 47 (Anne-Marie Blondeau & Katia Buffetrille eds., 2008); VAN PRAAG, *supra* note 81, at 138.

⁸⁴ VAN PRAAG, *supra* note 81, at 322–23.

Anglo-Tibetan Lhasa Convention in 1904 and the Anglo-Qing-Tibetan Trade Regulations Agreement in 1908. After the founding of the ROC, Great Britain concluded the Simla Convention and also a new Trade Regulations Agreement with Tibet in 1914. By doing so, Great Britain obviously continued to recognize Tibet as a sovereign State.⁸⁵

Nevertheless, the first point of the “proposed” exchange of notes for the Simla Convention stated that “[i]t is understood by the High Contracting Parties that Tibet forms part of Chinese territory.”⁸⁶ Here, the term “Chinese territory” was extremely ambiguous and very loosely defined. It must not mean that Tibet formed part of the ROC because the very idea of China’s “suzerainty” over Tibet and the recognition of Tibet’s capacity to conclude the Simla Convention had legally ruled out the possibility that Tibet was a territorial part of the ROC.⁸⁷ Furthermore, as van Praag notes,

[T]he Anglo-Tibetan Declaration [of July 3, 1914], by which the Simla Convention became binding upon the two governments, denied China all the privileges it would have accrued by the terms of the convention, specifically the recognition of [China’s] nominal suzerainty over Tibet, unless and until it affixed its signature to the convention, which China never did.⁸⁸

⁸⁵ *Id.* at 137–39, 300–04, 309–14, 322–29.

⁸⁶ *Id.* at 138, 325.

⁸⁷ *Id.* at 137–38.

⁸⁸ *Id.* at 138, 321–22.

Because the ROC never signed the Simla Convention, it is clear that the ROC could not claim China's "suzerainty" (let alone "sovereignty") over Tibet by this convention.

Despite the ROC's refusal to sign the Simla Convention, according to van Praag, the ROC's "formal recognition" of the capacity of the Tibetan delegate to participate in the tripartite Simla Conference and to negotiate a treaty on an equal footing with the British and Chinese plenipotentiaries arguably constituted the ROC's "implicit recognition" of "Tibet's independent treaty-making powers and unimpaired international personality."⁸⁹

Furthermore, because the ROC had announced to recognize the validity of all pre-revolution treaties between the Qing and other States, the ROC must have recognized the Anglo–Qing Convention Respecting Tibet of 1906 (which provided the Qing adherence to the Anglo–Tibetan Lhasa Convention of 1904) and the Anglo–Qing–Tibetan Trade Regulations Agreement in 1908. When recognizing these international agreements to which Tibet was a party, the ROC implicitly first recognized Tibet's treaty-making powers and distinct international personality.

⁸⁹ As van Praag further notes: "Indeed, one of the arguments advanced by the Arbitral Tribunal in the *Deutsche Continental Gas Gesellschaft v. Poland* case in support of Germany's implied recognition of Poland, namely, that when Poland was admitted to the Peace Conference on 15 January 1919, 'the full powers of [Poland's] delegation were, without reservation, recognized, admitted and accepted as being in order and valid by the delegation which negotiated in the name of Germany and represented that State,' could equally well be quoted with respect to Great Britain[s] and China's recognition of Tibet [during the Simla Conference]." *Id.* at 137 ((quoting *Deutsche Continental Gas-Gesellschaft v. Etat polonaise*, 9 Trib. Arb. Mixtes 336, 344 (Ger.-Pol. 1929))).

At any rate, the ROC (1912–49) never ruled and incorporated Tibet, which remained a sovereign State possessing both the formal and actual independence until the invasion and annexation of Tibet in 1950–51 by the People’s Republic of China (PRC; 1949–present).⁹⁰ Because the Charter of the United Nations of 1945 outlawed aggression and conquest, the PRC’s invasion and annexation of Tibet was illegal under international law.

10.4.2 Outer Mongolia Consolidated Its Independence

As noted earlier, Outer Mongolia declared independence and restored the Great Mongol State in December 1911, even before the founding of the ROC. At first, the new Mongol State controlled only eastern Khalkha, and it soon annexed western Khalkha in January 1912 (before the fall of the Qing), as well as the Kobdo region in August 1912.⁹¹ Initially, the Mongol State’s war to seize Inner Mongolia from the ROC went well in 1913, but the Mongolian troops were eventually forced to withdraw by the increasing Russian pressure in 1914–15.⁹² The withdrawal was formalized by the tripartite Sino–Russian–Mongolian Kyakhta Treaty of 1915, and consequently, as Christopher P. Atwood notes, “the current territory of the modern State of Mongolia was basically defined.”⁹³

⁹⁰ *Id.* at 134–41.

⁹¹ CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 471 (2004).

⁹² *Id.* at 503, 534.

⁹³ *Id.* at 534.

Moreover, contrary to the Chinese claim,⁹⁴ the Mongol State did not renounce its statehood and formal independence by (or right after) the Kyakhta Treaty of 1915.⁹⁵ Since 1912, the ROC had urged the Mongol State to renounce its independence and recognize China's sovereignty, but the Mongol State had firmly refused to do so.⁹⁶ Therefore, Article 2 of the Kyakhta Treaty only provided that "Outer Mongolia recognizes China's suzerainty" (but not China's "sovereignty").⁹⁷

Article 2 also stipulated that "*China and Russia* [emphasis added] recognize the autonomy of Outer Mongolia forming part of Chinese territory"⁹⁸ — however, it did not provide that Outer Mongolia itself recognized that Outer Mongolia formed part of Chinese territory. Moreover, here, the term "Chinese territory" was again extremely ambiguous and loosely defined, and it might only mean that Outer Mongolia was under China's "suzerainty," rather than that Outer Mongolia territorially formed a part of the ROC. Otherwise, it could not explain why the ROC signed the tripartite Kyakhta Treaty, of which Outer Mongolia was a party. Furthermore, although Article 3 deprived Outer

⁹⁴ E.g., MENGGU ZU TONG SHI, vol. 3, at 1157 (Nei Menggu She Hui Ke Xue Yuan [Inner Mongolia Academy of Social Science] ed., rev. ed., Beijing, Min Zu Chu Ban She 2001) (China); Feng Jianyong, *The "Political Game" and "State-Building": Outer Mongolia during the 1911 Revolution*, in CHINA: HOW THE EMPIRE FELL 249, 263 (Joseph W. Esherick & C.X. George Wei eds., 2013).

⁹⁵ See GERARD MARTIN FRITERS, OUTER MONGOLIA AND ITS INTERNATIONAL POSITION 182–83 (1949).

⁹⁶ Uradyn E. Bulag, *Independence as Restoration: Chinese and Mongolian Declarations of Independence and the 1911 Revolutions*, 10 (52) (No. 3) THE ASIA-PACIFIC JOURNAL 1, 8–12 (2012); URGUNGE ONON & DERRICK PRITCHATT, ASIA'S FIRST MODERN REVOLUTION: MONGOLIA PROCLAIMS ITS INDEPENDENCE IN 1911, 59–77 (1989); FRITERS, *supra* note 95, at 163–81.

⁹⁷ Tripartite Agreement in Regard to Outer Mongolia, June 7, 1915, 2 TREATIES AND AGREEMENTS WITH AND CONCERNING CHINA, 1894–1919, at 1239–40 (John V. A. MacMurray ed., 1921).

⁹⁸ *Id.* at 1240.

Mongolia of its right to conclude “political and territorial” treaties, Article 5 provided that China and Russia recognized “the exclusive right of the Autonomous Government of Outer Mongolia” to manage all its internal affairs and to conclude “commercial and industrial” treaties.⁹⁹

According to Article 4, the title of Outer Mongolia’s Bogda Khan (Holy Great Khan) would be conferred by the ROC President, and both the ROC and Mongol calendars would be used in Outer Mongolia’s official documents.¹⁰⁰ As common practices in Asia’s traditional tributary system, these arrangements only symbolized China’s nominal “suzerainty” over Outer Mongolia.

Accordingly, after the Kyakhta Treaty of 1915 entered into force, the Mongol State still retained its exclusive right to govern all its internal affairs and also largely kept its legal capacity to enter into treaty relations with other States, though its right to conclude political and territorial treaties was limited. Moreover, the ROC and Russia signed the Kyakhta Treaty with Outer Mongolia, and that, arguably, would constitute their recognition (or continuing recognition) of Outer Mongolia as an independent State with its own international personality.

⁹⁹ Article 3: “Autonomous Mongolia has no right to conclude international treaties with foreign powers respecting political and territorial questions. . . .” Article 5: “China and Russia . . . recognize the exclusive right of the Autonomous Government of Outer Mongolia to attend to all the affairs of its internal administration and to conclude with foreign powers international treaties and agreements respecting all questions of a commercial and industrial nature concerning autonomous Mongolia.” See *Id.*

¹⁰⁰ *Id.*

Except for the temporary Chinese occupation from late 1919 to early 1921, the ROC did not control Outer Mongolia.¹⁰¹ It is clear that the ROC failed to conquer Outer Mongolia, and the Mongol State legally continued to exist under the ROC's temporary occupation. After restoring the Mongol rule in 1921, the Mongol State became a constitutional monarchy headed by the Bogda Khan.¹⁰²

When the ROC and the USSR (the Union of Soviet Socialist Republics, or the Soviet Union) established the diplomatic relations in an agreement of 1924, the USSR government stated that it “recognises that Outer Mongolia is an integral part of the Republic of China and respects China’s sovereignty therein.”¹⁰³ However, neither the ROC nor the USSR had territorial sovereignty over Outer Mongolia, and therefore the Soviet Union’s recognition of China’s sovereignty over Outer Mongolia could not diminish or terminate the statehood of the Mongol State. In fact, according to Christopher P. Atwood, “the Soviet authorities were confident that China was too weak to recover [sic] Mongolia.”¹⁰⁴

¹⁰¹ ATWOOD, *supra* note 91, at 471; FRITERS, *supra* note 95, at 187–92.

¹⁰² ATWOOD, *supra* note 91, at 473–74.

¹⁰³ Agreement on general principles for the settlement of the questions between the Republic of China and the Union of Soviet Socialist Republics, with six declarations and exchange of notes, May 31, 1924, TREATIES AND AGREEMENTS WITH AND CONCERNING CHINA, 1919–1929, at 133, 134 (John Van Antwerp MacMurray ed., 1929).

¹⁰⁴ ATWOOD, *supra* note 91, at 473.

After the Bogda Khan's death in May 1924, the Mongol State was transformed into the Mongolian People's Republic in November 1924, showing clearly that the Outer Mongols insisted on their independence and refused to recognize China's sovereignty over Outer Mongolia.¹⁰⁵ Eventually, after a plebiscite of 1945 that "reaffirmed" the Outer Mongols' desire for independence, the ROC officially recognized the independence of Outer Mongolia in 1946.¹⁰⁶

10.5 Summary and Conclusion

Soon after the outbreak of the Wuchang Revolt in October 1911, the Qing court turned to the help of Yuan Shikai and made him the new prime minister of the Qing, hoping that he could save the empire. However, Yuan soon increased his political and military powers at the expense of the Qing court and even made a political deal with the Chinese revolutionaries for his own gain. The revolutionaries promised to elect Yuan as the ROC president if he would support the Chinese revolution and pressure the Qing Emperor to abdicate.

Held in late December 1911, the Qing–ROC peace conference at Shanghai was actually a negotiation between the governments of two States, rather than between two

¹⁰⁵ *Id.* at 377; FRITERS, *supra* note 95, at 197.

¹⁰⁶ ATWOOD, *supra* note 91, at 377, 438.

competing governments of the same State called “China.” During the peace conference, the ROC plenipotentiary Wu Tingfang and the Qing plenipotentiary Tang Shaoyi concluded several armistice and other agreements, which were frequently referred to as “treaties” in the conference records and related telegrams, showing clearly their international nature.

However, irritated by Sun Yat-sen’s inauguration as the ROC provisional president, Yuan Shikai dismissed Tang Shaoyi as the Qing plenipotentiary at the beginning of 1912 and requested the subsequent negotiation to be conducted through telegraph between Yuan himself and Wu Tingfang. Furthermore, Yuan repudiated most of the agreements concluded and signed by Tang and Wu. Not surprisingly, Wu Tingfang firmly insisted and correctly pointed out that those agreements were duly concluded and signed by the plenipotentiaries of the two parties, and therefore were legally valid and binding under public international law. Nonetheless, after his future ROC presidency was reassured by the Chinese revolutionaries, Yuan continued to pressure the Qing Emperor to abdicate.

Eventually, on February 12, 1912, the Qing court issued the “Abdication Edict of the Qing Emperor,” which formally ended the Manchu Qing Empire, but did not and could not transform the ROC into a “Five-Race Republic.” Upon his abdication, the Qing Emperor had no sovereignty and control over Tibet, Outer Mongolia, and those fourteen

seceding Chinese provinces, and therefore he lacked legal capacity to decide the future of these territories. The abdication edict expressed the Qing Emperor's "wish" to combine the five-race territories of the Manchus, Hans, Mongols, Huis, and Tibetans into a "Great Republic of China." However, in reality, his wish had no legal effect to make the ROC into a "Five-Race Republic." Furthermore, the Emperor vested the Qing sovereignty in common not to the ROC in the South, but to the "entire country" of the Qing. In other words, the Qing sovereignty was vested in all the Qing's remaining people in its remaining territories. According to the abdication edict, these people and territories would be temporarily ruled by Yuan Shikai, who was conferred "full powers" to organize a provisional republican government. Apparently, the abdication edict denied that the existing ROC Provisional Government in Nanjing would be the "successor government" of the Qing Government. In fact, the ROC Provisional Government itself also contended that the ROC had been already established by the Chinese revolution, and could not be created by the Manchu Qing Emperor's authorization.

When the Qing Emperor abdicated, the Qing court also issued an edict that promulgated its "abdication agreement" with the ROC. Just like the 1910 Japan–Korea Annexation Treaty that provided Japan's favorable treatment for the Korean imperial house, the abdication agreement between the ROC and Qing, popularly known as the

“Articles of Favorable Treatment for the Qing Imperial House,” was also a treaty. In terms of the agreement-making process, the abdication agreement was negotiated by the ROC and Qing plenipotentiaries, and was approved by the ROC Provisional Senate and the Qing court, respectively. The text of the agreement made clear that the favorable treatment was offered by the “Republic of China,” obviously the one that had already been established in the fourteen Chinese provinces in the South and had its provisional government in Nanjing. Therefore, when the Qing court approved the agreement, the Qing Empire must already (or at least at the same time) have recognized that newly independent “Republic of China” in order to conclude the abdication agreement with the latter.

In addition, the abdication agreement provided that the abdicated “Great Qing Emperor” could retain his exalted title, and the ROC would treat him as “a foreign sovereign.” That clearly corresponded to the Chinese revolutionaries’ position that the Qing Emperors and the Manchus were foreign rulers and an alien race. Furthermore, both the ROC and Qing delegates were required to notify the foreign governments about this agreement, which also strongly suggested that the abdication agreement was an international treaty.

Though the Qing Empire ended on February 12, 1912, neither the Qing Emperor's abdication edict nor the ROC–Qing abdication agreement sufficiently provided the ROC's annexation of the former Qing's remaining territories. Actually, the ROC's annexation of the former Qing's remaining territories was completed later by the fulfillment of the political deal between the Chinese revolutionaries and Yuan Shikai. Despite the authorization in the abdication edict, Yuan had never invoked his “full powers” conferred by the Qing Emperor to organize a provisional republican government. Instead, Yuan was elected as the new ROC provisional president by the ROC Provisional Senate in Nanjing on February 15, and he assumed the office on March 9. In a formal ceremony in Beijing on March 10, Yuan took his oath to the Chinese Republic and the Provisional Constitution, and he was inaugurated as the “second” ROC provisional president. Therefore, only on March 9 (or March 10) did Yuan Shikai begin to rule the North as the ROC provisional president, and that, from the legal point of view, incorporated the former Qing's remaining territories under Yuan's control (namely, Manchuria, Inner Mongolia, four northern provinces in China Proper, Qinghai, and Xinjiang) into the ROC. On April 2, the Provisional Senate decided to move the seat of the provisional government from Nanjing to Beijing, and only after completing the move, a unified ROC provisional government began to rule most of the former Qing's territories from Beijing.

However, though formerly a Qing territory, Outer Mongolia declared independence from the Qing and restored the Great Mongol State in December 1911, even before the founding of the ROC and the fall of the Qing. The new Mongol State controlled Outer Mongolia but failed to seize Inner Mongolia from the ROC due to Russia's intervention. As a result, the tripartite Sino-Russian-Mongolian Kyakhta Treaty was signed in 1915. Under Article 2 of the treaty, Outer Mongolia recognized China's "suzerainty" but not "sovereignty." Although Article 3 deprived Outer Mongolia's right to conclude political and territorial treaties, Article 5 unambiguously provided that China and Russia recognized the exclusive right of Outer Mongolia to manage all its internal affairs and to conclude commercial and industrial treaties. Moreover, the fact that the ROC signed the Kyakhta Treaty, of which Outer Mongolia was a party, arguably had constituted the ROC's recognition of the Mongol State's separate international personality. Contrary to the Chinese claim, Outer Mongolia did not renounce its independence by (or right after) the 1915 Kyakhta Treaty, which in fact essentially defined the territory of the modern State of Mongolia. Later, the ROC temporarily occupied Outer Mongolia in 1919–21 but eventually failed to conquer the Mongol State, which insisted on its independence and was officially recognized by the ROC in 1946.

Tibet remained a sovereign State in both Qing and ROC times but was illegally invaded by the PRC in the early 1950s. Although the Simla Convention of 1914 provided a possibility for creating a legal fiction of China's "suzerainty" over Tibet, the ROC refused to sign and therefore could not claim China's "suzerainty" (let alone "sovereignty") over Tibet based on that convention. Moreover, the ROC's acceptance of the Tibetan plenipotentiary during the Simla Conference arguably constituted the ROC's "implicit recognition" of Tibet's statehood or at least Tibet's independent international personality. In contrast, Great Britain signed the Simla Convention with Tibet and therefore reaffirmed the British recognition of Tibet as an independent State. In 1950–51, the People's Republic of China (PRC) invaded and annexed the sovereign State of Tibet, which clearly violated the Charter of the United Nations of 1945 and constituted an illegal aggression.

To conclude, by negotiating the abdication of Qing Emperor and making a political deal with Yuan Shikai, the newly independent ROC soon annexed the Qing's remaining territories. However, that could not retroactively change the nature of the ROC from a new State to the continuing State of the Qing Empire. Despite the ROC's territorial claims, Outer Mongolia and Tibet remained independent States and never became parts of the ROC. Furthermore, as discussed in the next chapter, although Taiwan was under

the ROC military occupation in 1945–49, Taiwan never legally became a province of the ROC, which was ended by the PRC in late 1949.

CHAPTER 11

THE PEOPLE’S REPUBLIC OF CHINA (1949–PRESENT) AND THE STATE OF TAIWAN (1949–PRESENT)

TWO SUCCESSOR STATES TO THE REPUBLIC OF CHINA

11.1 Introduction

After examining the status of Taiwan since 1895 and China’s territorial claim over Taiwan, this chapter argues that the State of Taiwan (ROC on Taiwan; 1949–present) came into being in late 1949, and that Taiwan is not a part of the People’s Republic of China (PRC; 1949–present). Moreover, both the PRC and the State of Taiwan are “successor States” to the Republic of China (ROC; 1912–49), which was ended by the PRC in late 1949 (see Table 1.2).

Taiwan and Penghu were ceded from the “Manchu” Qing Empire to Japan by the Treaty of Shimonoseki in 1895. For readability, throughout this chapter, the term “Taiwan” refers to the island of Taiwan and also the Penghu archipelago (see Map 1.17). Only around the 1940s did the ROC officially begin to make a territorial claim over Taiwan. During World War II, the major Allied Powers, including the ROC, expressed in various wartime documents their non-legally binding “intention” to transfer post-war Taiwan from Japan to the ROC. However, at the same time, the ROC and other Allied

Powers were legally bound by the UN Declaration of 1942 and the UN Charter of 1945 to respect the Taiwanese people's right to self-determination and to prevent the ROC's unilateral annexation of Taiwan.

The ROC's military occupation of Taiwan began in October 1945, and ended in December 1949 with the fall of the ROC. During the period of the ROC's military occupation, Taiwan remained *de jure* Japanese territory, and the so-called "Retrocession of Taiwan" (*Taiwan Guangfu*) to China was invalid under international law. Therefore, by the end of the ROC in 1949, the ROC had never acquired sovereignty over Taiwan.

After losing the Chinese Civil War, the Chinese Nationalist Party or Kuomintang (KMT) fled to Taiwan and effectively established a new State in Taiwan in December 1949. At that time, Taiwan already met all the criteria of statehood: a permanent population; a defined territory; an independent government; and the capacity to enter into relations with the other states. According to the "declarative theory" of state recognition, Taiwan became a new State and seceded from Japan. Although officially named the "Republic of China," the State of Taiwan or the "ROC on Taiwan" (see Map 1.17) was not identical to the former ROC that existed in China from 1912 to 1949 (see Map 1.15). Nonetheless, Taiwan, at least, still partially inherited the former ROC's treaties, and

international rights and obligations, thus, making Taiwan a “successor State” to the former ROC.

The People’s Republic of China or the PRC (see Map 1.16) was founded a couple of months earlier in October 1949. Because the PRC renounced all the ROC’s diplomatic relations and refused to succeed generally to the ROC’s international treaties and responsibilities, it is arguable that the PRC was created as a new State. Consequently, the PRC was not entitled to “automatically” and “universally” succeed to the ROC’s international rights, overseas properties, and memberships in international organizations. In other words, the PRC is not the “continuing State” but instead a “successor State” to the former ROC.

Nevertheless, the PRC could not succeed to the title of Taiwan from the ROC, which had never acquired that title. Moreover, the PRC never established sovereignty over Taiwan by itself, since the PRC never controlled and ruled Taiwan for a single day. Because Taiwan is not part of the PRC, and because both the PRC and Taiwan are sovereign States, the PRC’s invasion and unilateral annexation of Taiwan will be illegal, and therefore should not be recognized under international law.

11.2 The ROC (1912–49) Never Acquired Sovereignty Over Taiwan

11.2.1 The Cession of Taiwan from the Qing to Japan, and the Short-lived Republic of Taiwan in 1895

In 1895 (only ten years after the Qing's creation of Taiwan Province), the Manchu Qing Empire lost the “Qing–Japanese War” (1894–95), which is often mistaken as the first “Sino–Japanese War.” As a result of the war, the Qing ceded the island of Formosa (Taiwan) and the Pescadores (Penghu) “in perpetuity and full sovereignty” to Japan by Article 2 of the Treaty of Shimonoseki of 1895.¹ As discussed in earlier chapters, it was not until the Qing Empire conquered the Dongning Kingdom that Taiwan (particularly, Western Taiwan) and China were ruled by the same state or empire. Nevertheless, when the Qing ceded Taiwan to Japan in 1895, Taiwan and China once again “followed different roads in their political, economic and social development.”²

Shortly before the landing of Japanese troops, the people of Taiwan formally established the Republic of Taiwan (*Taiwan Minzhu Guo*; lit. Democratic State of Taiwan) on May 25, 1895, with the “Yellow Tiger Flag” (showing a tiger in a dark blue

¹ Treaty of Peace, Apr. 17, 1895, Japan–Qing, 181 Consol. T.S. 217, *available at* <http://www.taiwandocuments.org/shimonoseki01.htm> [hereinafter Treaty of Shimonoseki]; for the Japanese, Chinese, and English versions of the treaty, see 28 DAI NIHON GAIKO BUNSHO [DOCUMENTS ON JAPANESE FOREIGN POLICY], PART 2, at 362–80 (Ministry of Foreign Affairs of Japan ed., 1953) (Japan).

² Hans Kuijper, *Is Taiwan a Part of China?*, in THE INTERNATIONAL STATUS OF TAIWAN IN THE NEW WORLD ORDER 9, 10 (Jean-Marie Henckaerts ed., 1996).

background) as the national flag.³ The Declaration of Independence of the Republic of Taiwan was issued two days earlier on May 23, 1895, and reads in part:

If we, the People of Taiwan, permit [the Japanese] to land, Taiwan will become the land of savages and barbarians. If, on the other hand, we resist, our state of weakness will not be for long, as Foreign Powers have assured us that Taiwan must establish its independence before they will assist us.

Therefore, we, the People of Taiwan, are determined to die rather than be subdued by the Japanese. This decision is irrevocable. The leaders of the People of Taiwan, in Council, have decided to constitute Taiwan as a Republican State, and all administration, henceforth, shall be in the hands of officials, elected by the People of Taiwan.

. . . .

The official ceremonies of inauguration of the Republic will take place on the second day of the fifth moon [May 25, 1895]

This is a declaration of the People of Taiwan.⁴

However, lacking competent political and military leaders, and failing to obtain foreign support and recognition, the Republic of Taiwan lasted only about five months and was destroyed by the Japanese troops on October 21, 1895.⁵

³ HUNG CHIEN-CHAO, A NEW HISTORY OF TAIWAN: ASIA'S FIRST REPUBLIC IN THE NEW MILLENNIUM 231–33 (Taipei, Central News Agency 2011) (Taiwan).

⁴ *Id.* at 232–33; *see also* JAMES W. DAVIDSON, THE ISLAND OF FORMOSA, PAST AND PRESENT 279–80 (1903).

⁵ HUNG CHIEN-CHAO, *supra* note 3, at 241–49.

11.2.2 The ROC's Claim over Taiwan Only Began in the Early 1940s

As noted earlier in Chapter 9, when the ROC was formally founded at the beginning of 1912, the ROC government did not (and also could not) claim to “inherit” the territory of Taiwan from the Qing Empire because the Qing had already ceded Taiwan to Japan in 1895. Moreover, as Alan M. Wachman points out, Taiwan was not even in the Chinese people’s “mental map of China” during most of the ROC era. In fact, it was not until the early 1940s did the ROC government and Chinese elites suddenly begin to claim Taiwan as “China’s lost territory.”⁶

Undoubtedly, before the early 1940s, the ROC formally recognized that Taiwan was Japanese territory, and that the Taiwanese people were Japanese subjects rather than Chinese citizens. Moreover, because the ROC’s “overseas Chinese” (*hua qiao*) population in Taiwan continued to grow and reached a significant amount, the ROC established a Consulate General in Taipei in 1931, which lasted until 1938 (when the ROC severed its diplomatic relationship with Japan, as the Sino–Japanese conflict escalated).⁷ The fact that the ROC maintained a Consulate General in Taipei until 1938

⁶ See ALAN M. WACHMAN, WHY TAIWAN? GEOSTRATEGIC RATIONALES FOR CHINA’S TERRITORIAL INTEGRITY 69–99 (2008).

⁷ Lan Shichi, *Nationalism in Practice: Overseas Chinese in Taiwan and the Taiwanese in China, 1920s and 1930s*, JAPAN–TAIWAN EXCHANGE ASSOCIATION 1–9 (Apr. 2003).

shows clearly that the ROC still recognized Japanese sovereignty over Taiwan at that time.

The Sino–Japanese War (1937–45) did not immediately change the positions of the ROC government and Chinese elites toward Taiwan. They began to claim Taiwan as China’s lost territory in the early 1940s only because the defeat of Japan suddenly became possible after the United States (US) declared war on Japan on December 8, 1941.⁸

11.2.3 Examining the Relevant Wartime Declarations and Treaties During WWII

11.2.3.1 The ROC’s Declaration of War on Japan in 1941

On December 9, 1941 (only one day after the US declaration of war on Japan), the ROC, having been at an “undeclared war” with Japan since 1937, also formally made a declaration of war on Japan, which stated, in part, that “all treaties, conventions, agreements, and contracts regarding relations between China and Japan are and remain null and void.”⁹ Soon after, the ROC decided to make the territorial claim over Taiwan sometime in 1942.¹⁰

⁸ WACHMAN, *supra* note 6, at 70.

⁹ Hungdah Chiu, *The International Legal Status of Taiwan*, in *THE INTERNATIONAL STATUS OF TAIWAN IN THE NEW WORLD ORDER* 3, 3 (Jean-Marie Henckaerts ed., 1996).

¹⁰ WACHMAN, *supra* note 6, at 70.

However, the ROC could not “recover” sovereignty over Taiwan simply by its declaration of war on Japan and its unilateral abrogation of all treaties between China and Japan, because the cession of Taiwan to Japan provided by the Treaty of Shimonoseki was of a “final” and “permanent” character.¹¹ It should be noted that, although it was actually the “Qing” rather than the “ROC” that concluded the Treaty of Shimonoseki of 1895 with Japan, the newborn ROC had in 1912 voluntarily succeeded to all the treaties made by the Qing government with foreign powers, including the Treaty of Shimonoseki.

The Treaty of Shimonoseki was, in part, a “territorial treaty,” which provided the cession of Taiwan and Penghu “in perpetuity and full sovereignty” to Japan.¹² As Y. Frank Chiang notes, “[a] unilateral proclamation to abrogate a treaty by a party . . . cannot effectively abrogate a territorial treaty.”¹³ Further, it is generally recognized that “treaties stipulating State rights of a permanent character connected with sovereignty and status of territory are considered not to be affected by the outbreak of war between the contracting parties.”¹⁴ This was also the position of the United Kingdom (UK) on this issue:

According to International Law, a State cannot merely by unilateral declaration regain rights of sovereignty which it has formally ceded by Treaty. China

¹¹ Kuijper, *supra* note 2, at 13; Y. Frank Chiang, *One-China Policy and Taiwan*, 28 (No. 1) FORDHAM INT’L L.J. 1, 9–13 (2004).

¹² Treaty of Shimonoseki, *supra* note 1, at 217.

¹³ Y. Frank Chiang, *supra* note 11, at 11–13.

¹⁴ Kuijper, *supra* note 2, at 13.

therefore could not, and did not, regain sovereign rights over these territories [i.e., Formosa and the Pescadores] by the unilateral denunciation of this Treaty [i.e., Treaty of Shimonoseki] in 1941.¹⁵

In short, Taiwan remained *de jure* Japanese territory after the ROC declaration of war on Japan and the unilateral abrogation of the Treaty of Shimonoseki.

11.2.3.2 The Atlantic Charter of 1941, the UN Declaration of 1942, and the Cairo

Declaration of 1943

On December 1, 1943, the governments of the US, the UK, and the ROC issued a joint statement, known as the Cairo Declaration, which expressed their intention to “return” Taiwan to the Republic of China.¹⁶ The Cairo Declaration reads in part:

The Three Great Allies [i.e., the US, the UK, and the ROC] are fighting this war to restrain and punish the aggression of Japan. *They covet no gain for themselves and have no thought of territorial expansion* [emphasis added]. It is their purpose . . . that all the territories Japan has *stolen from the Chinese*, such as Manchuria, Formosa [Taiwan], and the Pescadores [Penghu], *shall be restored to the Republic of China* [emphasis added]. . . . The aforesaid three great powers . . . are determined that in due course Korea shall become free and independent.¹⁷

Nevertheless, contrary to the wordings of the Cairo Declaration, because Taiwan was “lawfully ceded” from the “Manchu” Qing Empire to the Japanese Empire by a peace

¹⁵ 212 PARL. DEB., H.L. (5th ser.) (1958) 497 (U.K.), *available at* <https://api.parliament.uk/historic-hansard/lords/1958/nov/13/sovereignty-of-formosa>.

¹⁶ Cairo Declaration, 9 Dep’t St. Bull. 393, 393 (1943) [hereinafter Cairo Declaration].

¹⁷ *Id.*

treaty, Japan's colonial Taiwan was by no means a territory that Japan had "stolen" from the "Chinese."¹⁸ As Claude S. Phillips, Jr. notes,

It is difficult to imagine how territory legally ceded in 1895 to Japan . . . could be regarded in any legal sense as "stolen." It was hardly illegal in 1895 to gain territory by conquest and if title to such can be questioned then a Pandora's box of challenges to title to all other territories so acquired . . . is opened. Clearly, the term "stolen" as used in the Cairo Declaration has no legal meaning.¹⁹

Moreover, by the time the Cairo Declaration was issued in 1943, neither any "Chinese" empire nor the ROC had ever annexed and ruled Taiwan. Therefore, saying that Taiwan "shall be restored" to the "ROC" was merely a disguise for the ROC's "territorial expansion," and that was even against the pledges made by the ROC, the UK, and the US in the Cairo Declaration to "covet no gain for themselves and have no thought of territorial expansion."²⁰

Furthermore, any attempt by the ROC to unilaterally annex Taiwan would also violate the Declaration by United Nations (hereinafter, the UN Declaration) signed earlier on January 1, 1942, which subscribed to, among other things, the principles of "no territorial aggrandizement" and "self-determination" embodied in the Atlantic Charter of

¹⁸ Huang Zhao Tang, *Tai Wan De Gui Shu Wen Ti — Guo Ji Fa Shang De Di Wei Wei Ding* [Who Owns Taiwan — The Status in International Law Is Undetermined], TAIWAN QINGNIAN [TAIWANESE YOUTH], July 1971, reprinted in 1 TAIWAN ZHU QUAN LUN SHU ZI LIAO XUAN BIAN [COLLECTED DOCUMENTS ON THE DISCOURSE OF SOVEREIGNTY OF TAIWAN] 56, 61 (2001) (Taiwan).

¹⁹ Claude S. Phillips, Jr., *The International Legal Status of Formosa*, 10 (No. 2) THE WESTERN POLITICAL QUARTERLY 276, 282–83 (1957).

²⁰ Huang Zhao-Tang, *supra* note 18, at 61; Cairo Declaration, *supra* note 16, at 393.

1941.²¹ On August 14, 1941, US President Franklin D. Roosevelt and UK Prime Minister Winston Churchill released a joint declaration, known as the Atlantic Charter, stating “certain common principles in the national policies of their respective countries on which they based their hopes for a better future for the world.”²² The first three of the “eight points of the Atlantic Charter” reads:

First, their countries seek no aggrandizement, territorial or other.

Second, they desire to see no territorial changes that do not accord with the freely expressed wishes of the people concerned.

Third, they respect the right of all peoples to choose the form of government under which they will live; and they wish to see sovereign rights and self-government restored to those who have been forcibly deprived of them.²³

Although the Atlantic Charter itself was not a treaty, its common principles were subscribed by the UN Declaration of 1942, which was indeed a treaty. The first clause of the UN Declaration reads that the signatory nations had “subscribed to a common program of purposes and principles embodied in . . . the Atlantic Charter.”²⁴ All the five major Allied Powers were parties to the UN Declaration — the ROC, the UK, the US,

²¹ Huang Zhao-Tang, *supra* note 18, at 61–62; Declaration by United Nations, Jan. 1, 1942, 55 Stat. 1600, at 1600–03 (1942), *available at* <http://www.un.org/en/sections/history-united-nations-charter/1942-declaration-united-nations/> [hereinafter UN Declaration].

²² Joint Declaration of the President of the United States and the Prime Minister of Great Britain, 5 Dep’t St. Bull. 125, 125–26 (1941), *available at* <http://www.un.org/en/sections/history-united-nations-charter/1941-atlantic-charter/>.

²³ *Id.* at 125.

²⁴ UN Declaration, *supra* note 21, at 1600–03.

and the USSR (Union of Soviet Socialist Republics, or the Soviet Union) were among the original signatories, and France later signed the declaration on December 29, 1944.²⁵

Consequently, under the UN Declaration, any attempt by the ROC to unilaterally annex Taiwan would not only break the ROC's legal obligation of seeking no territorial aggrandizement, but would also unlawfully deprive the Taiwanese people of their right to self-determination.²⁶ According to the second point of the Atlantic Charter, a transfer of sovereignty over Taiwan from Japan to the ROC should have been in "accord with the freely expressed wishes" of the Taiwanese people. Moreover, the contracting parties of the UN Declaration also had legal obligations not to support China's unilateral annexation of Taiwan, and to respect the right to self-determination of the Taiwanese people.

11.2.3.3 The Potsdam Proclamation, and the Japanese Instrument of Surrender of 1945

On July 26, 1945, the heads of the ROC, the UK, and the US issued the "Proclamation Defining Terms for Japanese Surrender," commonly known as the Potsdam Proclamation, which in part reaffirmed the Cairo Declaration, and hence the

²⁵ EDMUND JAN OSMAŃCZYK, 4 ENCYCLOPEDIA OF THE UNITED NATIONS AND INTERNATIONAL AGREEMENTS 2445 (3d ed. 2003).

²⁶ Huang Zhao-Tang, *supra* note 18, at 61–62.

intention to transfer post-war Taiwan to the ROC.²⁷ Section 8 of the Potsdam Proclamation states: “The terms of the Cairo Declaration shall be carried out and Japanese sovereignty shall be limited to the islands of Honshu, Hokkaido, Kyushu, Shikoku and such minor islands as we determine.”²⁸ The USSR adhered to the Potsdam Proclamation on August 8, 1945, and so did France on August 11, 1945.²⁹ Consequently, the five major Allied Powers, i.e., the future permanent members of the UN Security Council or the so-called “Big Five” (the US, the UK, the USSR, the ROC, and France), all accepted the Potsdam Proclamation and hence the terms of the Cairo Declaration.

On September 2, 1945, Japan signed the Instrument of Surrender, which accepted the provisions of the Potsdam Proclamation and therefore also the terms of the Cairo Declaration, including the “intention” to transfer Taiwan to the ROC.³⁰

Nevertheless, the Cairo Declaration, Potsdam Proclamation, and Japanese Instrument of Surrender together still could not (and did not) transfer the sovereignty over Taiwan to the ROC. The Cairo Declaration and the Potsdam Proclamation were merely wartime “policy statements,” which expressed the “intention” of the declaring States, and were not legally binding. Moreover, the Japanese surrender was also not a

²⁷ Proclamation Defining Terms for Japanese Surrender, 13 Dep’t St. Bull. 137, 137 (1945).

²⁸ *Id.*

²⁹ UNITED STATES DEPARTMENT OF STATE, 2 FOREIGN RELATIONS OF THE UNITED STATES, DIPLOMATIC PAPERS: THE CONFERENCE OF BERLIN (THE POTSDAM CONFERENCE), 1945, at 1474, 1555–56 (1960); *see also* Chiu, *supra* note 9, at 4.

³⁰ Instrument of Surrender, Sept. 2, 1945, 59 Stat. 1733.

definitive transfer of sovereignty over Taiwan to the ROC, but, at best, a “commitment” to transfer Taiwan in a future peace treaty.³¹ As D. Barry Kirkham observes, the Potsdam Proclamation (which defined terms for Japanese surrender) was “a statement of future intention, to which the signatories may be morally committed, but moral commitments do not constitute legal commitments.”³²

On the other hand, there were several legal commitments relating to the future status of Taiwan already involved, such as the Allied Powers’ pledges of seeking no territorial aggrandizement and respecting the right to self-determination in the UN Declaration, a treaty of which the ROC and all other “Big Five” States were parties.

11.2.3.4 The UN Charter of 1945

More importantly, the ROC’s unilateral annexation of Taiwan would also violate the Charter of the United Nations (hereinafter the UN Charter), which incorporated the principle of self-determination, and prohibited aggression and conquest. Signed on June 26, 1945, the UN Charter entered into force on October 24, 1945, after the five permanent members of the Security Council and a majority of the other signatory states

³¹ Y. Frank Chiang, *supra* note 11, at 15–17; D. P. O’Connell, *The Status of Formosa and the Chinese Recognition Problem*, 50 AM. J. INT’L L. 405, 407–8 (1956); Quincy Wright, *The Chinese Recognition Problem*, 49 AM. J. INT’L L. SUPP. 320, 332 (1955).

³² D. Barry Kirkham, *The International Legal Status of Formosa*, 6 CAN. Y.B. INT’L L. 144, 149 (1968).

ratified it and deposited the ratification with the US government.³³ Notably, the ROC ratified the UN Charter and deposited its instrument of ratification with the US government on September 28, 1945.³⁴

Consequently, all the five major Allied Powers not only expressed their intention to transfer post-war Taiwan from Japan to the ROC as a term of the Cairo Declaration and Potsdam Proclamation, but they (and other UN members) were also bound by the legal obligations to refrain from acts of aggression against Taiwan and to respect the right to self-determination of the Taiwanese people under the UN Charter.

According to the UN Charter, the UN trusteeship system shall apply to post-Japanese surrender Taiwan, pending the Taiwanese people's exercise of their right to self-determination. Article 77 of the UN Charter provides that "[t]he trusteeship system *shall apply* [emphasis added] to," among other things, "territories which may be detached from enemy states as a result of the Second World War."³⁵ Accordingly, after the Japanese surrender, Taiwan, as a territory which may be detached from Japan (an enemy state) as a result of WWII, should be placed under the UN trusteeship system.

³³ Charter of the United Nations, June 26, 1945, 59 Stat. 1031, T.S. 993 [hereinafter UN Charter], available at <http://www.un.org/en/charter-united-nations/index.html>; 1945: *The San Francisco Conference*, UNITED NATIONS, <http://www.un.org/en/sections/history-united-nations-charter/1945-san-francisco-conference/index.html> (last visited Jan. 16, 2017).

³⁴ Sheng-tsung Yang, *The Right to Participate in the United Nations*, in *THE INTERNATIONAL STATUS OF TAIWAN IN THE NEW WORLD ORDER* 117, 123 (1996).

³⁵ UN Charter, *supra* note 33, at 1049.

Moreover, according to Article 76 of the UN Charter, the “basic objectives of the trusteeship system . . . shall be,” among other things, “to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned.”³⁶ Therefore, normatively, not only post-Japanese surrender Taiwan should become a UN trust territory, but the Taiwanese people should also have a right to freely determine the future status of Taiwan, including the pursuit of self-government or independence.

Furthermore, the UN Charter prohibited conquest and aggression. Article 2(4) of the UN Charter bans “the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.”³⁷ According to Article 1, the “Purposes of the United Nations” include, among other things, to suppress “acts of aggression” and to “develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples.”³⁸ Accordingly, the ROC’s forcible annexation of Taiwan would constitute an

³⁶ *Id.* at 1048–49.

³⁷ *Id.* at 1037; BOLESŁAW A. BOCZEK, *INTERNATIONAL LAW: A DICTIONARY* 213–14 (2005).

³⁸ UN Charter, *supra* note 33, at 1037.

act of aggression and violate the right of Taiwanese people to self-determination, and therefore would be illegal and should not be recognized.

In sum, by the Cairo Declaration, the Potsdam Proclamation, and the Japanese Instrument of Surrender, the five major Allied Powers and Japan expressed their “non-legally binding” intentions to transfer post-war Taiwan to the ROC. However, according to the UN Declaration and the UN Charter, a transfer of the sovereignty over Taiwan to the ROC (or any other State) could lawfully be done only if the people of Taiwan freely expressed their wishes and agreed to such territorial change.³⁹ Otherwise, it would become an illegal annexation of and aggression against Taiwan, and should not be recognized under international law. Moreover, the UN trusteeship system should apply to post-Japanese surrender Taiwan, which had been a Japanese colony and may be detached from Japan as a result of WWII. Furthermore, the Taiwanese people, who were previously under the Qing and Japanese colonial rule, should have a right to self-determination to decide the future status of Taiwan.

11.2.4 The ROC’s Military Occupation of Taiwan Began in 1945

Right after the UN Charter entered into force on October 24, 1945, the ROC formally began its military occupation of Taiwan on October 25, 1945. As discussed

³⁹ Lung-chu Chen & W. M. Reisman, *Who Owns Taiwan: A Search for International Title*, 81 (No. 4) YALE. L.J. 599, 638–39 (1972).

later, the ROC could not acquire sovereignty over Taiwan merely by its military occupation. Moreover, as argued below, although the Allied Powers did authorize Generalissimo Chiang Kai-shek (then, the ROC's head of state; formally, the Chairman of the National Government of China) to occupy Taiwan, the ROC forces occupied Taiwan on behalf of the ROC, rather than as an agent of the Allied Powers.

After Japan signed the Instrument of Surrender on September 2, 1945, General Douglas MacArthur, the Supreme Commander for the Allied Powers (SCAP), began the Allied occupation of Japan.⁴⁰ On the same day of the Japanese surrender, General Douglas MacArthur issued the General Order No. 1 to the Japanese Imperial General Headquarters, directing that, in part: "The senior Japanese commanders and all ground, sea, air and auxiliary forces within China (excluding Manchuria), Formosa and French Indo-China North of 16 degrees North latitude, shall surrender to Generalissimo Chiang Kai-shek."⁴¹

Subsequently, Generalissimo Chiang Kai-shek sent General Chen Yi as his delegate to accept the Japanese surrender in Taiwan on behalf of the Allied Powers as a whole.⁴²

Nevertheless, right after the Japanese forces in Taiwan surrendered on October 25, 1945,

⁴⁰ FRANK CHIANG, THE ONE-CHINA POLICY: STATE, SOVEREIGNTY, AND TAIWAN'S INTERNATIONAL LEGAL STATUS 190–91 (2017).

⁴¹ 3 DIGEST OF INTERNATIONAL LAW 487–88 (Marjorie M Whiteman ed., 1964); for English and Japanese texts of the General Order No. 1, see Ministry of Foreign Affairs of Japan, <http://www.mofa.go.jp/mofaj/files/000097066.pdf> (last visited Jan. 27, 2019).

⁴² Chen & Reisman, *supra* note 39, at 611 n.43; Y. Frank Chiang, *supra* note 11, at 20–21.

the ROC General Chen Yi immediately proclaimed that Taiwan was “restored” and became a province of “China,” in particular, the ROC.⁴³ As a result, the ROC authority in Taiwan occupied Taiwan on behalf of the ROC, rather than as an agent of the Allied Powers. In other words, contrary to the opinion of some scholars, without an agent, the Allied Powers never occupied Taiwan.⁴⁴

However, the ROC could not and should not convert its military occupation of Taiwan into a unilateral annexation, or what the ROC called “retrocession of Taiwan,” which, as noted earlier, would violate several relevant principles and provisions of the UN Declaration and the UN Charter. Moreover, the law of belligerent occupation had long held that territorial sovereignty would not be transferred by military occupation.⁴⁵ As Boleslaw A. Boczec points out, “sovereignty over the occupied territory continues to be vested in the state whose territory is occupied.”⁴⁶ Therefore, during the ROC’s military occupation, Taiwan remained *de jure* Japanese territory, pending a peace treaty to determine Taiwan’s status,⁴⁷ which should accord with the freely expressed wish of the

⁴³ HUNG CHIEN-CHAO, *supra* note 3, at 321; Kuijper, *supra* note 2, at 12.

⁴⁴ *But see*, Y. Frank Chiang, *supra* note 11, at 23–24 (“The R.O.C. government occupied Formosa as an agent of the Allied Powers, pending a peace settlement.”); Chen & Reisman, *supra* note 39, 611–12 n.43, 640 (noting that Chiang Kai-shek’s forces occupied Taiwan only as the agent of Allied Powers).

⁴⁵ LAW OF BELLIGERENT OCCUPATION 1 (The Judge Advocate General’s School ed., 1944) (“Sovereignty is not transferred by reason of [military] occupation.”); Y. Frank Chiang, *supra* note 11, at 7–8, 21 (“The occupation of an enemy’s territory after the enemy surrenders pending a settlement, however, does not give the occupying State the title to the territory that it occupies.”).

⁴⁶ BOCZEK, *supra* note 37, at 443–44.

⁴⁷ Y. Frank Chiang, *supra* note 11, at 22–26; LUNG-CHU CHEN, THE U.S.–TAIWAN–CHINA RELATIONSHIP IN INTERNATIONAL LAW AND POLICY 88 (2016).

Taiwanese people. Nevertheless, as we will see, the Treaty of Peace with Japan neither decided nor settled the status of Taiwan.

11.2.5 The End of ROC and the End of ROC's Military Occupation of Taiwan in 1949

After losing several campaigns to the Chinese Communist forces, Chiang Kai-shek, the leader of the Chinese Nationalist Party or Kuomintang (KMT), was compelled to “retire” (*yin tui*) — in reality, “resign” — from the ROC presidency on January 21, 1949. Vice President Li Zongren (Li Tsung-jen) succeeded him and became the acting president.⁴⁸

Nanjing, which became the ROC's national capital earlier in 1928, was captured by the Chinese Communist troops in April 1949. Subsequently, the ROC government first retreated to Guangzhou (in Guangdong Province) in April, then to Chongqing (in Sichuan Province) in October, and eventually to Chengdu (also in Sichuan Province) in November.⁴⁹

On October 1, 1949, Mao Zedong, the leader of the Chinese Communist Party (CCP), proclaimed in Beijing the establishment of the People's Republic of China (PRC;

⁴⁸ LIN HSIAO-TING, *ACCIDENTAL STATE* 75 (2016); Chen & Reisman, *supra* note 39, at 613.

⁴⁹ LIN HSIAO-TING, *supra* note 48, at 89, 115–16; LIN TONGFA, 1949 DA CHE TUI [1949 BIG RETREAT] 175, 190–92 (2009) (Taiwan).

1949–present) (see Table 1.2 and Map 1.16). As argued later, the founding of the PRC actually created a new Chinese State, rather than being merely a change of the government of the ROC (which, as discussed later, ended in December 1949). In other words, the PRC had a new and different “international personality” from that of the ROC.

Nevertheless, from the PRC’s point of view, the ROC ceased to exist when the PRC was proclaimed on October 1, 1949, and subsequently, the former ROC government led by the KMT became an illegal group and could no longer legitimately represent “China.”⁵⁰ This position is stated clearly in a PRC’s white paper of 2000, entitled “The One-China Principle and the Taiwan Issue,” which reads in part:

On October 1, 1949, the Central People’s Government of the PRC was proclaimed, replacing the government of the Republic of China to become the only legal government of the whole of China and its sole legal representative in the international arena, thereby bringing the historical status of the Republic of China to an end.⁵¹

Because the PRC government considered that the ROC government became illegal and lost the capacity to represent China on October 1, 1949, the PRC cannot inherit or claim any new or further benefits through the ROC government beyond that date.⁵² For

⁵⁰ Hungdah Chiu, *Certain Legal Aspects of Recognizing the People’s Republic of China*, 11 (No. 2) CASE W. RES. J. INT’L L. 389, 407–8 (1979).

⁵¹ TAIWAN AFFAIRS OFFICE OF THE STATE COUNCIL OF THE PRC, WHITE PAPER ON TAIWAN ISSUE: THE ONE-CHINA PRINCIPLE AND THE TAIWAN ISSUE (2000) (China), *available at* http://www.gwytb.gov.cn/en/Special/WhitePapers/201103/t20110316_1789217.htm (last visited Jan. 30, 2019).

⁵² See Chiu, *supra* note 50, at 408.

example, although Taiwan was still occupied by the ROC, the PRC government did not recognize the ROC government's capacity to represent "China" or the PRC, and, therefore, the PRC cannot claim that the ROC's ongoing occupation of Taiwan was still on behalf of "China" or the PRC. In other words, in the PRC's eyes, "China" no longer controlled Taiwan, because the PRC government, which claimed to be the sole legitimate government of "China," had no control over Taiwan at all.

However, regarding the end of the ROC, as argued below, a better view would be that the "Chinese State" of ROC ended on December 8, 1949 (when the ROC government ceased to exist in China), instead of on October 1, 1949 (when the PRC was officially founded). By early December, 1949, the ROC rule in China had completely collapsed. Anticipating this frustrating situation, ROC Acting President Li Zongren had left for British colonial Hong Kong in November (even before the fall of Chongqing to the PRC), and then he flew to the US for medical treatment in early December.⁵³ Although Chiang Kai-shek had officially "retired" from the ROC presidency in January 1949, he remained the head of the Chinese Nationalist Party or KMT, and continued to monitor and control largely the ROC's political, military, and even foreign affairs.⁵⁴

⁵³ 13 THE CAMBRIDGE HISTORY OF CHINA, REPUBLICAN CHINA 1912–1949, PART 2, at 784–85 (John K. Fairbank & Albert Feuerwerker eds., 1986).

⁵⁴ For detail, see LIN HSIAO-TING, *supra* note 48, at 83–118.

Losing the Chinese Civil War, Chiang and his followers had prepared for a while to “retreat” the ROC government to Taiwan.⁵⁵

On December 8, 1949, the ROC government officially “moved” to Taipei, Taiwan, and after that ceased to exist in China.⁵⁶ Arguably, that also ended the ROC government as a “government of China,” thereby effectively ending the “Chinese State” of ROC on that day. As discussed later, on December 9, 1949, the KMT established a new “ROC” government in Taipei, Taiwan, which however was not a “government of China” because it cannot legally represent China. On December 10, Chiang Kai-shek flew to Taiwan, and never returned to China again.⁵⁷ Moreover, in the years around 1949, some one million Chinese (mostly, the KMT forces and followers) also fled to Taiwan.⁵⁸ Nonetheless, since the KMT’s government in Taipei cannot legally represent China, the government of the ROC (1912–49), in reality, already ended in China in December 1949, and could not and did not actually “move” to Taiwan.

Following the end of the ROC, the ROC’s military occupation of Taiwan also terminated on December 8, 1949. During the ROC’s military occupation, Taiwan remained *de jure* a Japanese territory, rather than a part of the ROC. Because the ROC

⁵⁵ LIN TONGFA, *supra* note 49, at 45–69, 97–110.

⁵⁶ *Id.* at 128, 193.

⁵⁷ *Id.* at 128; LIN HSIAO-TING, *supra* note 48, at 118.

⁵⁸ LIN TONGFA, *supra* note 49, at 323–36; *but see* 13 CAMBRIDGE, *supra* note 53, at 784 (“Taiwan became the refuge for some two million KMT supporters, including half a million survivors of Chiang’s armed forces”).

had never acquired sovereignty over Taiwan, the PRC could not possibly inherit the legal title of Taiwan from the ROC.

11.3 The PRC Was a “New State”

11.3.1 The Principles for the Foreign Policy of “New China”

By early December 1949, most of China had undergone a change from the ROC rule to the PRC rule. Since December 8, 1949, the ROC government had no longer existed in China, and the PRC government had undoubtedly become the sole legitimate and effective government of China. However, the PRC’s communist revolution brought radical changes in both the internal affairs and the external relations of China. That raised the question of whether the PRC remained the same State as the ROC. As argued below, the transition from the ROC rule to the PRC rule in most of China was not merely a change in the government of China, but actually the creation of a new Chinese State.

On the eve of the PRC’s founding, the Chinese Communist Party, or CCP, Chairman Mao Zedong had formulated three major principles for the foreign policy of “New China” — namely, the principles of “starting anew,” “putting the house in order before inviting guests,” and “leaning to one side [i.e., the side of the socialist bloc, led by the Soviet Union].” These three diplomatic principles for “New China” deliberately

rejected to generally inherit the treaties, international obligations, and foreign relations from “Old China.”⁵⁹ For this study, only the first two above-mentioned principles are relevant and will be discussed. As Han Nianlong and others explain the meaning of these two principles,

In order to make a clean break with the diplomacy of the semi-colonial Old China, and to safeguard the independence and sovereignty of New China, Chairman Mao maintained that China should “start anew” and “put the house in order before inviting guests.” Under these principles, China renounced all the diplomatic relations the Kuomintang Government had established with foreign countries; treated heads of foreign diplomatic missions accredited to Old China as ordinary foreign nationals instead of diplomatic envoys; reviewed all the treaties and agreements Old China had concluded with foreign countries; gradually cleared up the prerogatives and influence the imperialist countries had in China; and established anew diplomatic relations with other countries on the basis of mutual respect for sovereignty and territorial integrity, and equality and mutual benefit.⁶⁰

Subsequently, the “Common Program of the Chinese People’s Political Consultative Conference” (*Zhongguo Renmin Zhengzhi Xieshang Huiyi Gongtong Gangling*; hereinafter “Common Program”) — which was adopted on September 29, 1949, and functioned as the PRC’s provisional constitution until 1954 — incorporated these foreign policy principles formulated by Mao Zedong for New China. For example, Article 55 of the PRC’s “Common Program” refused to recognize and succeed, in general, the existing treaties and other international agreements from the ROC:

⁵⁹ DIPLOMACY OF CONTEMPORARY CHINA 5 (Han Nianlong et al. eds., 1990) (H.K.).

⁶⁰ *Id.* at 5–6.

The Central People's Government of the People's Republic of China shall examine the treaties and agreements concluded between the Kuomintang and foreign governments, and shall recognize, abrogate, revise, or renegotiate them according to their respective contents.⁶¹

As Hungdah Chiu points out, although Article 55 refers only to the treaties concluded by the ROC's KMT government in 1928–49, the PRC's practice indicates that it also applies to the treaties concluded by the ROC's previous Beijing governments in 1912–28 and even to those concluded by the former Qing's Imperial government before 1912.⁶²

11.3.2 The PRC Recognized Very Few Pre-1949 Treaties

11.3.2.1 Multilateral Treaties

In practice, the PRC was willing to recognize very few pre-1949 multilateral treaties. Moreover, even in those few cases, the PRC almost always only accepted the binding force of the recognized treaties from the respective dates of the PRC's own recognition, or the PRC's deposits of the instruments of ratification or accession.⁶³ For example, although the PRC recognized the 1899 and 1907 Hague Conventions for the Pacific Settlement of International Disputes (participated in by the Qing, and later by the ROC),

⁶¹ JEROME ALAN COHEN & HUNGDAH CHIU, *PEOPLE'S CHINA AND INTERNATIONAL LAW: A DOCUMENTARY STUDY*, vol. 1, at 214 (1974); *see also* H. Arthur Steiner, *Mainsprings of Chinese Communist Foreign Policy*, 44 AM. J. INT'L L. 69, 94 (1950).

⁶² HUNGDAH CHIU, *THE PEOPLE'S REPUBLIC OF CHINA AND THE LAW OF TREATIES* 93 (1972).

⁶³ *Zhong Guo Can Jia Guo Ji Gong Yue Qing Kuang Yi Lan Biao (1875–2003) [A List of Multilateral Treaties Participated by China (1875–2003)]*, MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE'S REPUBLIC OF CHINA, <http://www.mfa.gov.cn/chn/pds/ziliao/tytj/tyfg/t4985.htm> (last visited Jan. 31, 2019).

the PRC considered itself bound by these two treaties only from the date of its own recognition on November 22, 1993.⁶⁴

The PRC's practice strongly suggests that the PRC was not the same "international legal person" as the ROC (let alone the Qing). Had the PRC preserved the "international personality" of the ROC, and became the "continuing State" of the ROC, all the existing treaties participated in by the ROC should have continued as being binding on the PRC, without any interruption.

11.3.2.2 Bilateral Treaties

According to Chiu, it appears that, except for some boundary treaties, the PRC did not recognize any other pre-1949 bilateral treaties concluded by the former Qing and ROC.⁶⁵ Nonetheless, as discussed later, many (if not most) of existing boundary treaties were regarded as "unequal treaties," and were still not recognized by the PRC. Chiu, however, misinterprets a report delivered by PRC Premier and Foreign Minister Chou Enlai in 1957, and consequently mistakenly observes that "Communist China *recognizes* the continued binding force of *all boundary treaties* [emphasis added] concluded by Chinese governments prior to 1949."⁶⁶ In that report of 1957, Chou Enlai states,

⁶⁴ *Id.*

⁶⁵ See CHIU, *supra* note 62, at 96–100.

⁶⁶ *Id.* at 96.

It was the opinion of our [PRC] government that, on the question of boundary lines, demands made on the basis of [pre-existing] formal treaties [concluded by former Chinese governments] should be *respected* [emphasis added] according to general international practice, but this by no means excluded the seeking by two friendly countries of a settlement fair and reasonable for both sides through peaceful negotiation between their governments.⁶⁷

In fact, PRC Premier Chou only expressed that other states' territorial demands based on the pre-existing treaties should be "respected" (Ch. *zun zhong*), rather than that all the pre-1949 boundary treaties concluded previously by the Qing and ROC governments had been "recognized" (Ch. *cheng ren*) by the PRC. Furthermore, as Chiu himself points out, the Premier Chou's 1957 report "does not imply . . . that 'unequal' boundary treaties will be continued in force forever."⁶⁸

11.3.2.3 The So-called "Unequal" Boundary Treaties

The PRC had considered several pre-1949 boundary treaties (such as those relating to the cessions of Hong Kong and Taiwan, the status of Macao, and the Chinese borders with Burma and the Soviet Union) as "unequal" treaties, and demanded the relevant

⁶⁷ "Report on the Question of the Boundary Line between China and Burma Delivered by Chou En-lai, Premier and Foreign Minister, at the Fourth Session of First National People's Congress," July 9, 1957, in *Zhong Hua Ren Min Gong He Guo Dui Wai Guan Xi Wen Jian Ji* (Collection of Documents on the Foreign Relations of the People's Republic of China), vol. 4, 1956–1957, at 343 (Beijing, Shi Jie Zhi Shi Chu Ban She 1958) (China), available at <http://www.people.com.cn/zgrdxw/zlk/rd/1jie/newfiles/d1180.html>; for English translation, see A Victory for the Five Principles of Peaceful Co-Existence 19 (Chinese People's Institute of Foreign Affairs ed., Beijing, Foreign Language Press 1960) (China); cited in *id.*; see also COHEN & CHIU, *supra* note 61, volume 1, at 427.

⁶⁸ CHIU, *supra* note 62, at 96.

territorial issues to be settled or renegotiated.⁶⁹ For example, in a comment in March 1963, the PRC explicitly named several territorial treaties as unequal treaties:

In the hundred years or so prior to the victory of the Chinese revolution, the imperialist and colonial powers — the United States, Britain, France, Tsarist Russia, Germany, Japan, Italy, Austria, Belgium, the Netherlands, Spain, and Portugal — carried out unbridled aggression against China. They compelled the governments of old China to sign a large number of unequal treaties — the Treaty of Nanking of 1842, the Treaty of Aigun of 1858, the Treaty of Tientsin of 1858, the Treaty of Peking of 1860, the Treaty of Ili of 1881, the Protocol of Lisbon of 1887, the Treaty of Shimonoseki of 1895, the Convention for the Extension of Hong Kong of 1898, the International Protocol of 1901, etc. By virtue of these unequal treaties, they annexed Chinese territory in the north, south, east, and west and held leased territories on the seaboard and in the hinterland of China. Some seized Taiwan and the Penghu Islands, [others] occupied Hong Kong and forcibly leased Kowloon, [still others] put Macao under perpetual occupation, [and so forth].

. . . As a matter of fact, many of these [unequal] treaties concluded in the past either have lost their validity, or have been abrogated or have been replaced by new ones. . . .⁷⁰

As another example, in a statement in May 1969, the PRC asserted that “the treaties relating to the present Sino–Soviet boundary are all unequal treaties, that *they should all*

⁶⁹ *Id.* at 97–99; BYRON N. TZOU, CHINA AND INTERNATIONAL LAW: THE BOUNDARY DISPUTES 79–86 (1990).

⁷⁰ Editorial, *A Comment on the Statement of the Communist Party of the U.S.A.*, RENMIN RIBAO [PEOPLE’S DAILY], Mar. 8, 1963, at 1; translated in 6 (Nos. 10 & 11) PEKING REVIEW 58, 61 (1963) (China), available at <https://www.marxists.org/subject/china/peking-review/1963/PR1963-10-11.pdf> [hereinafter *A Comment* (Mar. 8, 1963)]; see also COHEN & CHIU, *supra* note 61, at 379–80.

be annulled [emphasis added] and that the Sino–Soviet boundary question remains an outstanding issue.”⁷¹

Although not recognizing the “unequal” boundary treaties, the PRC still held that the boundary questions with neighboring countries “should be settled peacefully through negotiations and that, pending a settlement, the status quo should be maintained.”⁷² However, whether the PRC was a new State or not, the PRC government still had to respect the boundary status quo, because, according to the principle of *uti possidetis*, not only the new governments of the existing States but also the newly established successor States are required to respect the existing international boundaries.⁷³

Right after the Sino–Soviet border conflict in 1969, the PRC reiterated that “the Chinese Government was still prepared to take these [unequal] treaties as the basis for an overall settlement of the Sino–Soviet question and proposed that, pending a settlement, the status quo of the border should be maintained and armed conflicts averted.”⁷⁴ Facing a potential nuclear war with the Soviet Union, the PRC even made clear that

⁷¹ *Statement of the Government of the People’s Republic of China* (May 24, 1969), 12 (No. 22) PEKING REVIEW 1, 6 (1969) (China), available at <https://www.marxists.org/subject/china/peking-review/1969/PR1969-22.pdf>.

⁷² *A Comment* (Mar. 8, 1963), *supra* note 70, at 61.

⁷³ See BOCZEK, *supra* note 37, at 138.

⁷⁴ *Statement of the Government of the People’s Republic of China* (Oct. 7, 1969), 12 (No. 41) PEKING REVIEW 3, 3 (1969) (China), available at <https://www.marxists.org/subject/china/peking-review/1969/PR1969-41.pdf>.

“[t]he Chinese Government has never demanded the return of the territory tsarist Russia had annexed by means of the *unequal treaties* [emphasis added].”⁷⁵

However, it would be mistaken to conclude that “[a]ctually, the PRC did not unilaterally annul any boundary treaty, including the Sino–Russia boundary treaty.”⁷⁶ A better view would be that the PRC did unilaterally abrogate, and refused to recognize the validity of what the PRC regarded as the “unequal” boundary treaties, but the PRC’s abrogation of these pre-1949 boundary treaties had no legal effect to alter the existing pre-1949 Chinese borders with neighboring States unilaterally. In other words, while asserting that all the “unequal” Sino–Russian boundary treaties should be annulled, the PRC still pragmatically “respected” the status quo of the Sino–Russian boundaries in order to avoid further and mass armed conflicts with the Soviet Union (and, after December 1991, with the Russian Federation). It was only after concluding two new border agreements in 1991 and 1994, and a complementary agreement in 2004 with Russia that the PRC government considered the Sino–Russian border “*de jure*” settled.⁷⁷

On the other hand, not worrying about potential wars with Britain and Portugal, the PRC asserted that Hong Kong and Macao had “always” been “Chinese territories,” and

⁷⁵ *Id.*

⁷⁶ *But see* TZOU, *supra* note 69, at 84.

⁷⁷ JEANNE WILSON, STRATEGIC PARTNERS: RUSSIAN–CHINESE RELATIONS IN THE POST-SOVIET ERA 41–48 (2015); Mark Galeotti, *Sino–Russian Border Resolution*, BEIJING’S POWER AND CHINA’S BORDERS: TWENTY NEIGHBORS IN ASIA, 258–59, 262–63 (Bruce A. Elleman et al. eds., 2013).

were “illegally occupied” by the British and Portuguese imperialists through a series of “unequal treaties.” Consequently, the PRC unambiguously demanded the “returns” of Hong Kong and Macao to China.⁷⁸ In March 1972, in a letter to the chairman of the UN Special General Assembly’s Special Committee on Colonialism, PRC Ambassador Huang Hua asserted that “the settlement of the questions of Hong Kong and Macao is entirely within China’s sovereign right.”⁷⁹

The PRC made clear that it refused to succeed to these relevant “unequal” treaties, and did not recognize the British sovereignty over the Hong Kong or the Portuguese permanently administration (let alone sovereignty) over Macao. Therefore, the PRC considered the “returns” of Hong Kong in 1997 and Macao in 1999 to the PRC as China’s “resumption” of the “exercise of sovereignty” over these two places, rather than the British and Portuguese “transfer of sovereignty” over Hong Kong and Macao to the PRC.⁸⁰

⁷⁸ See COHEN & CHIU, *supra* note 61, at 381–84.

⁷⁹ *Cited in Id.* at 384.

⁸⁰ *The Chinese Government Resumed Exercise of Sovereignty over Hong Kong*, MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE’S REPUBLIC OF CHINA, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18032.shtml (last visited Mar. 7, 2017); *Resumption by China of the Exercise of Sovereignty over Macao*, MINISTRY OF FOREIGN AFFAIRS OF THE PEOPLE’S REPUBLIC OF CHINA, http://www.fmprc.gov.cn/mfa_eng/ziliao_665539/3602_665543/3604_665547/t18052.shtml (last visited Mar. 7, 2017).

11.3.3 The PRC Is a “Successor State” to the ROC

Because the PRC claimed itself a “New China” created by the Chinese communist revolution, and because it refused to automatically and generally succeed the diplomatic relations, treaties, and other international obligations from “Old China,” it is arguable that the PRC was established as a “new State,” which indeed started “anew” as Mao asserted. In other words, the PRC created for itself a new “international legal personality,” which is different from that of the ROC. As Gray L. Dorsey points out,

According to communist theory, the “socialist” state . . . is essentially different in substance from the “bourgeois” state which is *destroyed* [emphasis added] by a successful communist revolution. . . . The whole new order of society that a communist revolution brings in its wake further supports the view that the result is not just a change of government but *a new and different state* [emphasis added]. One of the legal rules resulting from the assumption that a state is the same entity, through revolutionary changes of government, is that its [international] obligations can not be abrogated by a new government. Yet, the Chinese Communists announced abrogation of all obligations of [Old] China that they considered not in their interest to accept.⁸¹

Similarly, a US Department of State memorandum in 1958 observes,

[Communist China] has shown no intention to honor its international obligations. One of its first acts was to abrogate the treaties of the Republic of China, except those it chose [in its interest] to continue. On assuming power it carried out a virtual confiscation without compensation of the properties of foreign nationals,

⁸¹ Gray L. Dorsey, *Chinese Recognition: Law and Policy in Perspective*, 23 U. PITT. L. REV. 17, 42–43 (1961).

including immense British investments notwithstanding the United Kingdom's prompt recognition of it [i.e., the PRC].⁸²

Under international law, any existing State's new governments, no matter created by revolution or not, have no general right to terminate existing treaties unilaterally. Only new States, particularly "newly independent States" in the context of decolonization, can possibly invoke the "clean slate" principle and need not succeed to the treaties of their predecessor States.⁸³ Accordingly, as Myres S. McDougal and Richard M. Goodman point out, "Communist China, indeed, has virtually proclaimed itself a 'new' state, for it has claimed for itself the exclusive right to decide which of its predecessor's treaty obligations it would honor, and which it would not."⁸⁴

Because the PRC broke away from the ROC's international obligations and hence the ROC's international personality, the PRC forfeited its right (if any) to claim to be legally identical to the ROC. In other words, as a new State, the PRC became a "successor State" instead of the "continuing State" of the ROC. Consequently, as a new State which refused to generally inherit the ROC's international responsibilities, the PRC was not entitled to automatically and universally succeed the ROC's international rights, memberships in international organizations, and overseas properties. For example,

⁸² *U.S. Policy on Nonrecognition of Communist China*, 39 DEP'T ST. BULL. 385, 388 (1958).

⁸³ See BOCZEK, *supra* note 37, at 128, 138–39.

⁸⁴ Myres S. McDougal & Richard M. Goodman, *Chinese Participation in the United Nations: The Legal Imperatives of a Negotiated Solution*, 60 AM. J. INT'L L. 671, 702 (1966).

though established in 1949, the PRC had been denied to succeed the ROC's membership in the UN until 1971. Moreover, other States should also have the rights to refuse their existing treaties with the former ROC to be succeeded by the PRC. Furthermore, as the US has done, other States could also legitimately refuse to transfer the ROC's state-owned assets in their countries to the PRC government.

11.4 Taiwan Became a Sovereign State

11.4.1 Japan's "Renunciation" of Sovereignty over Taiwan by the Peace Treaty of San Francisco of 1951 (Entered into Force Apr. 28, 1952)

To prepare for a peace treaty with Japan, the US and the UK "assumed the task of drafting the treaty," and "the draft was distributed to other allied powers for comments."⁸⁵

The US initially planned to invite the "ROC" government in Taipei to participate in the Japanese Peace conference, but the UK and other countries, which recognized the PRC government in Beijing, raised strong objections.⁸⁶ In mid-1951, a compromise was reached that neither the "ROC" (i.e., the ROC on Taiwan) nor the PRC would be invited to the peace conference, and "after the conclusion of the multilateral peace treaty, Japan

⁸⁵ CHIANG, *supra* note 40, at 208.

⁸⁶ Chiu, *supra* note 9, at 4.

would conclude a bilateral peace treaty of similar content with the ROC [on Taiwan] or the PRC.”⁸⁷

On September 8, 1951, the Treaty of Peace with Japan, commonly known as the Peace Treaty of San Francisco, was signed between Japan and the 48 Allied Powers.⁸⁸ Article 2(b) of the Peace Treaty of San Francisco simply provides that “Japan renounces all right, title and claim to Formosa and the Pescadores,” without stating who would receive sovereignty over Taiwan.⁸⁹ On April 28, 1952, Japan and the “ROC” (i.e., the ROC on Taiwan) signed a bilateral peace treaty, known as the Treaty of Taipei, wherein Article 2 provides: “It is recognized that under Article 2 of the Treaty of Peace with Japan signed . . . on September 8, 1951, Japan has renounced all right, title and claim to Taiwan (Formosa) and Penghu (the Pescadores).”⁹⁰

Neither the Peace Treaty of San Francisco nor the Treaty of Taipei provided for the transfer of the title of Taiwan to China, or any other settlement of the status of Taiwan. Subsequently, the position that Taiwan’s legal status remained “undetermined” was commonly shared by the international community at least in the following years of the

⁸⁷ *Id.* at 4–5.

⁸⁸ CHIANG, *supra* note 40, at 208.

⁸⁹ Treaty of Peace with Japan, Sept. 8, 1951, 136 U.N.T.S. 45, 48, *available at* https://en.wikisource.org/wiki/Treaty_of_San_Francisco [hereinafter Peace Treaty of San Francisco].

⁹⁰ Treaty of Peace, ROC [on Taiwan]–Japan, Apr. 28, 1952, 138 U.N.T.S. 38, *available at* https://en.wikisource.org/wiki/Treaty_of_Peace_between_Japan_and_the_Republic_of_China.

Peace Treaty of San Francisco.⁹¹ For example, in 1954, US Secretary of State John Foster Dulles, stated:

[T]echnical sovereignty over Formosa and the Pescadores has never been settled. That is because the Japanese peace treaty merely involves a renunciation by Japan of its right and title to these islands. But the future title is not determined by the Japanese peace treaty, nor is it determined by the peace treaty which was concluded between the Republic of China [i.e., the ROC on Taiwan] and Japan.⁹²

Similarly, in a written answer in 1955 in the British House of Commons, the British Secretary of State for Foreign Affairs, Anthony Eden, stated:

[The Cairo] Declaration [of November, 1943] was a statement of intention that Formosa should be retroceded to China after the war. This retrocession has, in fact, never taken place, because of the difficulties arising from the existence of two entities claiming to represent China, and the differences amongst the Powers as to the status of these entities. The Potsdam Declaration of July, 1945, laid down as one of the conditions for the Japanese Peace that the terms of the Cairo Declaration should be carried out. In September, 1945, the administration of Formosa was taken over from the Japanese by Chinese forces at the direction of the Supreme Commander of the Allied Powers; but this was not a cession, nor did it in itself involve any change of sovereignty. The arrangements made with Chiang Kai-shek put him there on a basis of military occupation pending further arrangements, and did not of themselves constitute the territory Chinese. Under the Peace Treaty of April, 1952, Japan formally renounced all right, title and claim to Formosa and the Pescadores; but again this did not operate as a transfer to Chinese sovereignty, whether to the People's Republic of China or to the Chinese Nationalist authorities [in Formosa]. Formosa and the Pescadores are therefore, in

⁹¹ LUNG-CHU CHEN, AN INTRODUCTION TO CONTEMPORARY INTERNATIONAL LAW: A POLICY-ORIENTED PERSPECTIVE 49 (2015).

⁹² Purpose of Treaty with Republic of China, 31 DEP'T ST. BULL. 896 (1954).

the view of Her Majesty's Government, territory the *de jure* sovereignty over which is uncertain or undetermined.⁹³

Many scholars also share the view that Taiwan remained *de jure* a Japanese territory until the Peace Treaty of San Francisco entered into force on April 28, 1952.⁹⁴ Nevertheless, regarding the post peace-treaty status of Taiwan, there are various views, such as: (1) legal status undetermined; (2) an entity *sui generis*; (3) a sovereign State; (4) a *de facto* State; (5) part of the ROC; and (6) part of the PRC. Having no intention to discuss all these different views, the rest of this chapter seeks to argue that Taiwan became a sovereign State in late 1949 (even before the Peace Treaty of San Francisco entered into force), and that the PRC has never acquired sovereignty over China. Moreover, it is worth noting that, even assuming that Taiwan's post-1952 status was at first undetermined, according to Lung-chu Chen, Taiwan has achieved "effective self-determination" through decades of democratic reforms (which started in the 1990s and created a legitimate government of Taiwan), and that transformed Taiwan into a sovereign and independent State with freedom and democracy.⁹⁵

⁹³ 536 PARL. DEB., H.C. (5th ser.) (1955) 159. (U.K.), available at <https://api.parliament.uk/historic-hansard/written-answers/1955/feb/04/formosa-and-the-pescadores-treaties>.

⁹⁴ E.g., CHEN, *supra* note 47, at 88; Y. Frank Chiang, *supra* note 11, at 22–26; JAMES CRAWFORD, THE CREATION OF STATES IN INTERNATIONAL LAW 207 (2d ed. 2006).

⁹⁵ CHEN, *supra* note 47, at 90–92.

11.4.2 The So-called “ROC Government” Established in Taiwan in Late 1949 Was Not the Government of “China”

As noted earlier, by December 8, 1949, the ROC central government had no longer existed in China, which arguably ended the “Chinese State” of the ROC (1912–49). Since that time, the PRC government has become the only central government in China, maintaining effective control over almost all the former ROC’s territories and populations. Since late 1949, the PRC has legally qualified to be recognized as a State, and so has the PRC government for the recognition as the sole legitimate government of China. Nonetheless, it is generally accepted that both the “recognition of State” and the “recognition of government” by other States are “acts” of political discretion, rather than “legal duties.”⁹⁶ Therefore, even though the PRC had been firmly established as a state and the PRC government had become the sole legitimate and effective government of China *in situ* by late 1949, other States have no legal obligations to recognize the PRC as a State or the PRC government as the new government of China.

However, it does not follow that other States are allowed to freely recognize the so-called “ROC” government in Taiwan as the government of “China,” let alone the government of “the entire China.” After fleeing to Taiwan, the KMT established a

⁹⁶ IAN BROWNLIE, *PRINCIPLES OF PUBLIC INTERNATIONAL LAW* 89–90 (7th ed. 2008); MALCOLM N. SHAW, *INTERNATIONAL LAW* 444–45, 449–50 (6th ed. ed. 2008).

“ROC” government in Taipei on December 9, 1949.⁹⁷ As discussed earlier, during the former ROC’s military occupation, Taiwan remained *de jure* Japanese territory, rather than becoming a part of the ROC or China. Therefore, to recognize the KMT’s government in Taiwan as the government of “China” would be actually a recognition of that government as the government of China “in exile.”

However, as Stefan Talmon points out, when there is an independent and effective government in a State and the creation of that government involves no “international illegality,” a recognition of a government in exile will constitute an “unlawful intervention in the internal affairs” of that State.⁹⁸ The transition from the ROC rule to the PRC rule in China was a result of the Chinese communist revolution, rather than conquest or aggression by any foreign State.⁹⁹ Because the PRC government became the sole independent and effective government of China in 1949, and its creation by revolution only violated the ROC’s constitutional order but not international law, the recognition of the KMT’s government in Taiwan as the government of China in exile would be invalid, and would constitute an unlawful intervention in the internal affairs of China, in particular, the PRC.

⁹⁷ LIN TONGFA, *supra* note 49, at 193.

⁹⁸ Stefan Talmon, *Who Is a Legitimate Government in Exile? Towards Normative Criteria for Governmental Legitimacy in International Law*, in *THE REALITY OF INTERNATIONAL LAW* 499, 520–23 (Guy S. Goodwin-Gill & Stefan Talmon eds., 1999).

⁹⁹ See Wright, *supra* note 31, at 327–29.

11.4.3 Taiwan Became a New State in Late 1949

As noted previously, the KMT established a central government in Taipei on December 9, 1949. Having ruled Taiwan for months, Chiang Kai-Shek formally claimed to “resume” the presidency of the “ROC” in Taiwan on March 1, 1950.¹⁰⁰ However, Chiang could not “resume” his presidency of the “ROC” in Taiwan, because the ROC had ceased to exist in December, 1949, and also because he no longer ruled China. In reality, when he took the presidential office in Taiwan in March 1950, he became the President of “Taiwan” rather than again becoming the President of “China.”¹⁰¹

Right after the fall of the ROC in December 1949, the KMT troops still controlled some small areas in China (namely, parts of the southwestern provinces, Hainan Island, Zhoushan Islands, and some other offshore islands). However, by May 1950, almost all of these Chinese areas had been further lost to the PRC forces, except for a few tiny Chinese offshore islands, particularly Kinmen and Matsu (see Map 1.17).¹⁰² Those traditional Chinese lands, temporarily controlled by the KMT between December 1949 and May 1950, remained *de jure* parts of China, and subsequently, no doubt, became territories of the PRC. However, the PRC has never captured and ruled Kinmen and

¹⁰⁰ HUNG CHIEN-CHAO, *supra* note 3, at 333–34.

¹⁰¹ See Kirkham, *supra* note 32, at 154.

¹⁰² LIN HSIAO-TING, *supra* note 48, at 119–20, 123–27, 136–40; LIN TONGFA, *supra* note 49, at 63–65.

Matsu, which have continuously been controlled by the government in Taipei since 1949, and, therefore, as discussed below, should be regarded as territories of the State of Taiwan.

Although never becoming the legitimate government of “China,” the so-called “ROC” government in Taipei, which has effectively controlled mainly Taiwan since December 1949 (see Map 1.17), should be better regarded as the government of “Taiwan.” According to Kirkham, after Japan renounced of sovereignty over Taiwan in 1952, Taiwan effectively became a new sovereign State:

[W]hen Chiang Kai-shek first assumed control over Formosa [i.e., Taiwan] in 1945, he did so [on behalf of] the government of China. Hence, Formosa came under Chinese jurisdiction [under military occupation]. But no change in sovereignty could occur by this exercise of jurisdiction, because Japan retained sovereignty until 1952. Thus when Chiang Kai-shek fled to the island in 1949, he fled to Japanese territory. Since his claims to be the government of China were effectively extinguished in the eyes of international law shortly thereafter, he became the factual government of Formosa, and Formosa only [except some minor islands]. Formosa became *terra nullius* [i.e., land belonging to no one] in 1952, and Chiang Kai-shek continued as its government. The continued existence of Formosa as an independent territory, with its own *de facto* government, converted the island into a sovereign entity in the eyes of international law. The fact that the government claims to exercise authority on another basis, namely as the government of China, cannot change the legal situation. In the recognition of the existence of states and governments, international law is concerned with objective criterion, and not with unrealistic claims by various regimes. Not being the government of China, Chiang Kai-shek’s exercise of authority on the island

has therefore constituted him the government of a sovereign entity — the state of Formosa.¹⁰³

However, even before the Japanese renunciation of Taiwan in 1952 by the Peace Treaty of San Francisco, Taiwan (despite its formal name of “Republic of China”) had already, since December 1949, met all the four criteria for statehood (as enumerated in the Montevideo Convention of 1933): a permanent population; a defined territory; [an independent and effective] government; and the capacity to enter into relations with the other states.¹⁰⁴ Since December 9, 1949, the central government in Taipei has effectively controlled and ruled the territories and populations of Taiwan, Penghu, Kinmen, and Matsu, and conducted foreign relations with other States. Therefore, according to the “declarative theory” of state recognition (which holds that the existence of a State is, in principle, independent of recognition),¹⁰⁵ it is arguable that Taiwan became a new State on December 9, 1949, by its effective “secession” from Japan (see Table 1.2, and Map 1.17).

The creation of the State of Taiwan in 1949 was analogous to the creation of two Korean States, namely, the Democratic People’s Republic of Korea and the Republic of

¹⁰³ Kirkham, *supra* note 32, at 154.

¹⁰⁴ For detailed discussion of the criteria for statehood, see CRAWFORD, *supra* note 94, at 37–95.

¹⁰⁵ As James Crawford states: “According to the declaratory theory, recognition of a new State is a political act, which is, in principle, independent of the existence of the new State as a subject of international law.” He further notes: “[R]ecognition is not a condition for statehood in international law. An entity is not a State because it is recognized; it is recognized because it is a State.” See *Id.* at 22, 93.

Korea, which became independent States and seceded from Japan in 1948. In other words, just like North Korea and South Korea, Taiwan became a newly independent State by secession, and had been detached from Japan even before the entry into force of the Peace Treaty of San Francisco in 1952.¹⁰⁶

Although the KMT's government in Taiwan under Chiang Kai-Shek and his son Chiang Ching-kuo was authoritarian, democracy is not a criterion for statehood under international law. Furthermore, the creation of the State of Taiwan in 1949 not only did not violate international law, but an independent Taiwan was also coherent with (or at least, preserved) the Taiwanese people's right to self-determination as provided by the UN Declaration and the UN Charter. Having a stable government, the State of Taiwan has existed for about seventy years since 1949. Taiwan is legally qualified for recognition and memberships in international organizations. When conferring recognition to Taiwan (which is not a part of China, particularly, the PRC), other States will neither violate any international law, nor interfere in China's internal affairs, nor damage China's territorial integrity. Apparently, the obstacle for the State of Taiwan to be generally recognized stems from political rather than legal concerns.

¹⁰⁶ Article 2(a) of the Peace Treaty of San Francisco provides that "Japan, *recognizing the independence of Korea* [emphasis added], renounces all right, title and claim to Korea," whereas Article 2(b) simply stipulates that "Japan renounces all right, title and claim to Formosa and the Pescadores." The main difference between the two is that Japan explicitly recognized the independence of Korea by this peace treaty, while Japan merely stated its renunciation of sovereignty over Taiwan and Penghu, but took no position on the legal status of Taiwan in this treaty. See Peace Treaty of San Francisco, *supra* note 89, at 48.

11.4.4 Taiwan Is Also a “Successor State” to the ROC

It is arguable that the State of Taiwan or the “ROC on Taiwan” (1949–present) is also a “successor State” to the former ROC (1912–49). In the following years of 1949, Taiwan received about one million immigrants from the former ROC, effectively controlled some former ROC’s small islands, and largely inherited the former ROC’s legal system and governmental institutions. Moreover, for decades after 1949, Taiwan had at least partially (if not once generally) succeeded to and maintained the former ROC’s international obligations and rights as well as memberships in international organizations.

For example, Taiwan or the “ROC on Taiwan” succeeded to the former ROC’s membership in the UN in 1949 and maintained the seat until 1971. Furthermore, although the US “derecognized” Taiwan in 1979, several pre-1949 bilateral and multilateral treaties concluded or participated in by the US and the former ROC (e.g., the UN Declaration) continue in force between the US and Taiwan to the present day.¹⁰⁷

¹⁰⁷ United States Department of State, *A List of Treaties and Other International Agreements of the United States in Force on January 1, 2018*, at 519–20, 533, 549, 554, <https://www.state.gov/documents/organization/282222.pdf> (last visited Apr. 15, 2019).

11.5 The PRC Has Never Acquired Sovereignty Over Taiwan

Whether the PRC formed a new State or not, the PRC could not possibly inherit the territorial sovereignty over Taiwan from the ROC, which never acquired legal title to Taiwan. Nevertheless, if the PRC (as this study argues) was indeed created as a new State, the PRC's claim to Taiwan would be even weaker than that of the ROC. During WWII, the major Allied Powers and Japan had expressed their intention in wartime documents to transfer Taiwan to the "ROC" rather than to "PRC." As Dorsey notes,

Russia has taken the position that the People's Republic of China is not the same entity as the Republic of China. The United States reminded her of this during negotiations for the 1952 Japanese peace treaty when Russia objected that the draft treaty did not include a cession of Formosa to "China" in accordance with the Potsdam Declaration. The United States pointed out that the Potsdam Declaration provided for restoration of Formosa — and also Manchuria — to the "Republic of China" and inquired whether Russia really wanted the provision carried out, in view of the distinction it had often made between the "Republic of China" and the "Chinese People's Republic."¹⁰⁸

Moreover, it is legally impossible for the PRC to claim title to Taiwan by the principle of "prescription," since the PRC never has had "physical control" over Taiwan, nor has the so-called "ROC" government in Taipei ever occupied Taiwan on behalf of the

¹⁰⁸ Dorsey, *supra* note 81, at 43; see also *U. S. Memorandum to U. S. S. R.*, 24 DEP'T ST. BULL. 852, 853.

PRC.¹⁰⁹ Furthermore, as discussed already, neither the Peace Treaty of San Francisco nor the Treaty of Taipei provides the “cession” of Taiwan to the PRC.

Although the PRC claims territorial sovereignty over Taiwan, and Taiwan (or the “ROC on Taiwan”) previously claimed territorial sovereignty over Mainland China, that would not and did not make Taiwan part of “China,” especially not part of the PRC. Both North Korea and South Korea assert territorial sovereignty over the entire Korean peninsula and seek unification in their constitutions, but that only created “overlapping territorial claims” rather than preventing the legal existence of two Korean States.¹¹⁰ Similarly, the PRC’s and Taiwan’s once “overlapping territorial claims” would not make the PRC and Taiwan into one single State.

It is clear that Taiwan is not part of the PRC. Consequently, the PRC’s threat or use of force toward Taiwan will be against international law, including the UN Charter. Any unilateral annexation of Taiwan by the PRC, if it were to occur, would be unlawful, would violate the Taiwanese people’s right to self-determination, and should not be recognized. Furthermore, the PRC also makes a territorial claim over the Japanese-controlled Senkaku Islands (Ch. Diaoyutai or Diaoyu Islands) in the East China

¹⁰⁹ Chiu, *supra* note 9, at 8.

¹¹⁰ DAEHANMINGUK HUNBEOP [CONSTITUTION OF THE REPUBLIC OF KOREA], pmbl., art. 3, art. 4 (S. Kor.); CONSTITUTION OF THE DEMOCRATIC PEOPLE’S REPUBLIC OF KOREA, pmbl., art. 1 (N. Kor.).

Sea, asserting that these small islands are parts of the “PRC’s” Taiwan Province.¹¹¹

However, because the PRC has no sovereignty over Taiwan, it is evident that the Senkaku/Diaoyutai Islands do not belong to the PRC.

11.6 Summary and Conclusion

Ever since its founding in 1949, the PRC has never ruled Taiwan. Nevertheless, the PRC has continued to use the ROC’s unjustified argument to claim China’s sovereignty over Taiwan. As examined in this chapter, neither the ROC’s nor the PRC’s territorial claim over Taiwan is supported by international law. The Treaty of Shimonoseki of 1895, which ceded Taiwan and Penghu “in perpetuity and full sovereignty” from the “Manchu” Qing Empire to Japan, was legal under international law at that time. Also, the ROC’s declaration of war on Japan in 1941 and its unilateral abrogation of the Treaty of Shimonoseki could not automatically “restore” the sovereignty over Taiwan from Japan to “China” because a territorial treaty of cession, once executed, is of a permanent character and cannot be unilaterally abrogated. Moreover, China did not resume the “exercise of sovereignty” over Taiwan on October 25, 1945, since that only marked the beginning of the ROC’s military occupation of

¹¹¹ STATE COUNCIL INFORMATION OFFICE OF THE PRC, WHITE PAPER: DIAOYU DAO, AN INHERENT TERRITORY OF CHINA (2012) (China), *available at* http://english.gov.cn/archive/white_paper/2014/08/23/content_281474983043212.htm (last visited Apr. 9, 2019).

Taiwan. Pending a settlement by a peace treaty, Taiwan remained *de jure* a Japanese territory under the ROC's military occupation because the law of belligerent occupation has long held that the military occupation cannot transfer territorial sovereignty over the occupied territory.

Furthermore, by the beginning of the ROC occupation of Taiwan on October 25, 1945, several relevant wartime documents (namely, the Cairo Declaration of 1943, the Potsdam Proclamation of 1945, and the Japanese Instrument of Surrender of 1945) had been concluded to express the non-legally binding intention of the five major Allied Powers and Japan to transfer Taiwan to the ROC in a future peace treaty. On the other hand, there had also been treaties (namely, the UN Declaration of 1942 and the UN Charter of 1945) that prohibited China or any other State from unilaterally annexing Taiwan without first acquiring the Taiwanese people's consent. All five major Allied Powers (i.e., the ROC, the UK, the US, the USSR, and France) were parties to these two treaties. Accordingly, they had treaty obligations to seek no territorial aggrandizement; to refrain from aggression and conquest; to place territories which may be detached from enemy states (e.g., Taiwan, which may be detached from Japan) as a result of WWII under the UN trusteeship system; and to respect the self-determination of peoples, and the freely expressed wishes of the peoples concerned (e.g., the Taiwanese people) during

territorial changes. Therefore, a transfer of sovereignty over Taiwan to the ROC could have lawfully been done only if the Taiwanese people had freely expressed their wishes and agreed to incorporate Taiwan into the ROC — that, however, did not happen before the end of the ROC in 1949.

The PRC was formally established on October 1, 1949. Arguably, the PRC was created as a new State, having a new and different “international personality” from that of the ROC. In other words, the PRC was a “successor State” rather than the “continuing State” to the ROC. The PRC claimed to be a “New China” which started “anew” and made a clear break with the diplomacy of “Old China.” Thus, the PRC renounced all the ROC’s diplomatic relations with foreign countries and refused to automatically and generally succeed to the existing treaties and international obligations from the ROC. In actual practice, the PRC recognized very few pre-1949 multilateral treaties, and even in those few cases, the PRC almost always only accepted the binding force of these recognized multilateral treaties from the respective dates of the PRC’s own recognition or the PRC’s deposits of the instruments of ratification or accession. Moreover, it appears that the PRC did not inherit any pre-1949 bilateral treaty, except for (probably) a few boundary treaties. Many pre-1949 territorial treaties were labeled as “unequal treaties” and were not recognized by the PRC.

Under international law, the “presumption” that a change of government does not affect the legal personality and international rights of the State rests on the assumption that the new government will not and cannot unilaterally abrogate the existing international obligations of that State. However, because the PRC generally broke away from the ROC’s treaty commitments and other international obligations, the PRC forfeited its right, if any, to continue the ROC’s international personality and to claim automatic and universal succession to the ROC’s international rights, memberships in international organizations, and overseas properties.

Japan formally renounced sovereignty over Taiwan by the Peace Treaty of San Francisco of 1951, which entered into force on April 28, 1952. However, according to the “declarative theory” of state recognition, it is arguable that after the KMT established a central government in Taipei on December 9, 1949, Taiwan had already met all the criteria for statehood, and had effectively become a new sovereign State by its secession from Japan. Moreover, after 1949, Taiwan also had (and even still has) partially succeeded and maintained the ROC’s treaties, international obligations and rights, and memberships in international organizations. That made the State of Taiwan, or so-called the “Republic of China on Taiwan” also a “successor State” to the former ROC.

To conclude, both the PRC and the State of Taiwan were new States created in late 1949, and both of them were also the “successor States” to the former ROC. The international community has, so far, rejected the “Two Chinas formula,” and, instead, has generally accepted the “One-China policy.” If there is only “one China” in the world, then, only the PRC is entitled to be called “China,” and the State of Taiwan (despite its formal name of “Republic of China”) is just “Taiwan” rather than another “China.” At any rate, because Taiwan is not a part of the PRC, and because Taiwan and the PRC are two separate and distinct States, any threat or use of force by the PRC toward Taiwan would be illegal, and any future unilateral and forcible annexation of Taiwan by the PRC would violate international law and therefore should not be recognized.

CHAPTER 12

CONCLUSION

During the Spring and Autumn period (770–453 BCE), ancient China had become a multistate system of sovereign independent states with increasingly clear boundaries. These ancient Chinese states developed a body of Chinese “interstate law” (*lieguo fa*), which consisted of custom and treaties to govern the interstate relations, and basically treated the states in the system as equals. As the more powerful states annexed their weaker neighbors, the number of states was constantly and drastically reduced. During the Warring States period (453–221 BCE), there were seven major (and several minor) states, which continued to be more centralized and bureaucratized. In order to levy tax and corvée and recruit soldiers more effectively, these ancient Chinese states generally organized their territories into directly administered regular units under the commandery–county (*jun-xian*) system, and governed their populations by the household registration (*huji*) system. The first unification of “*Zhongguo*” or “China” in 221 BCE by the Qin Empire ended the ancient Chinese multistate system. However, the Chinese interstate order reappeared in China during the subsequent periods of division, and was sometimes used by the Chinese empires to treat powerful non-Chinese states/empires as equal adversaries.

The Chinese traditional notion of “state” or “*guo*” (which was characterized by ancient Confucian philosopher Mencius as an entity that consisted of a ruler and his people, lands, and governmental administration) resembled in surprising ways the Western modern concept of “State” (which, as defined by the Montevideo Convention of 1933, is an entity that has a permanent population, a defined territory, a government, and the capacity to enter into relations with other States). Moreover, like modern States, all the native Chinese empires saw themselves not as universal empires, but as territorially limited dynasties with quite well-defined territories and boundaries. The Chinese empires realistically defined their dynastic “territories” (*jiangyu*) as the “registered and mapped domains” (*bantu*), which were subject to the empires’ household registration, taxation, landholding, and other administrative systems, and were typically organized into the “regular” (*zheng*) administrative local units (such as the regular prefectures and counties) under the commandery–county system or something similar. In other words, by using a customary rule that resembled the modern principle of effective control, the Chinese empires duly and consistently defined their territories as those areas that were only within the areas under their actual governance.

For thousands of years, the pre-modern Chinese people held the *Hua–Yi* distinction or Chinese–Barbarian dichotomy, which regarded the Chinese realms or “*Zhongguo*” (lit.

the central state/states) as the center of the world, and asserted the Chinese racial and cultural superiority over the surrounding non-Chinese “barbarians.” During China’s so-called “imperial era” (221 BCE–1912 CE), the Chinese consistently equated their transdynastic *Zhongguo* or “China” with the traditional Chinese regions south of the Great Wall line and east of the Tibetan Plateau. This geographical sphere of *Zhongguo* or “China” is known variously in Chinese as the Nine Regions (*Jiuzhou*), the narrowly defined *Tianxia* (lit. All under Heaven), the Han lands (*Handi* or *Hantu*), the central lands (*zhongtu*), the lands within the passes (*guannei*), and so forth, and is popularly referred to in English as “China Proper” (which is much smaller than the territories of the present-day PRC). In pre-modern times, it was this geographical space of the traditional Chinese lands that served as the conceptual standard to determine whether or not a particular dynasty achieved the unification of *Zhongguo* or “China.”

Under that definition of unification, it has been long accepted that *Zhongguo* or “China” was unified by the native Chinese empires of Qin (221–206 BCE), Han (202 BCE–220 CE), Western Jin (265–316), Sui (581–618), Tang (618–907), Northern Song (960–1127), and Ming (1368–1662). All of these unified Chinese empires, however, could only maintain stable territories roughly within the traditional Chinese-populated regions, and had never established long-term rule over any large portion of the traditional

non-Chinese regions in Inner Asia. In other words, contrary to the PRC's claim that the vast Inner Asian regions (in particular, Manchuria, Mongolia, Xinjiang, Qinghai, and Tibet) have been parts of China since ancient times, pre-modern "historical China" remained roughly the same size, and was essentially equivalent to what is today known as "China Proper."

Regarding the traditional Chinese foreign relations, there is no doubt that the Chinese empires preferred to assert China's superiority and centrality by extending the hierarchical Chinese "*Tianxia* law" (*Tianxia fa*) or "world order" to the non-Chinese "barbarian" states/polities. However, contrary to common assumption, historical East and Inner Asia were rarely dominated by "Chinese" empires, which sometimes even had to apply "interstate law" and its rituals to some powerful non-Chinese states that demanded to be equals. For example, the Chinese Song Empire existed among several equal rivals. In contrast, the Chinese Ming Empire became a more dominant regional power, and drew various non-Chinese states/polities into its tributary orbit.

After losing wars to its northern neighbors, the Chinese Song Empire (960–1279) was compelled to maintain treaty (and, more or less, equal) relations and well-delineated international boundaries with the non-Chinese dynasties of Khitan Liao, Tangut Xia, and Jurchen Jin. The Chinese Song and these Inner Asian rivals formed a "Westphalia-like"

interstate system, which practically operated on the principle of sovereign equality. However, their interstate relations were not always ritually equal, and the Song had treaty obligations to send annual payments to the Liao, Xia, and Jin, with the goal of maintaining peace. After losing North China to the Jurchens, the Song Empire still ruled South China, and coexisted with the Jin Empire for slightly more than a century. Nevertheless, this interstate system was ended by the Mongol Yuan Empire, which conquered large parts of Inner and East Asia, including all of China.

Ending the Mongols' alien rule over China, the Chinese Ming Empire (1368–1662) was created as a new and restored Chinese state by secession from the Mongol Yuan Empire. The Chinese Ming was essentially a homogeneous “Han-exclusive” empire, upholding the traditional doctrines of “*Hua–Yi* distinction” and “defense through *Siyi*.” According to the security doctrine of “defense through *Siyi*” (i.e., defense through the barbarians of the four quarters), the best way to defend China was not to conquer the neighboring barbarians but to establish tributary–investiture relations with them, making the barbarians defend their own lands, and then by doing so, indirectly defend China's own security. In other words, the Ming court held a policy of “non-aggression,” and sought to rebuild the Chinese *Tianxia* order.

Contrary to popular assumption, the notion of the Chinese *Tianxia* order did not lead the Ming (or any other Chinese dynasty) to claim to be a universal empire. Both in theory and practice, the Chinese *Tianxia* order separated the Chinese empire at the center from the barbarian domains on the outside. Otherwise, without any territorial boundary to distinguish the “center” (*zhong*) from the “outer” (*wai*), there would be no Chinese “central state/states” or *Zhongguo* at all. At the apex of the *Tianxia* order was *Tianzi* (lit. Son of Heaven), who was believed to be the “universal ruler” over the whole world. In China’s imperial era, *Tianzi* was also the Chinese Emperor, who should govern only the Chinese-populated central lands under his empire, and, in his role as *Tianzi*, he was also expected to nominally reign over (but not actually govern) the non-Chinese tributaries outside the Chinese empire. Strictly speaking, under the *Tianxia* order, it was *Tianzi* (rather than the Chinese Emperor) who should be the universal ruler and receive the non-Chinese tributes. Nevertheless, it appears that, for convenience, the distinction between *Tianzi* and the Chinese Emperor is seldom made in historical writings.

The newly-established Ming Empire was eager to reestablish the hierarchical and normative Chinese *Tianxia* order (largely characterized by the so-called tributary system) to regulate the “proper” relations between the superior Chinese and the inferior barbarians. The Ming court expected the non-Chinese rulers to offer nominal

submission and send periodic tribute missions, which, in reality, often covered the Ming's subsidies to, and trade with, the non-Chinese states/polities. The tributary system also promoted mutual recognition of legitimacy (similar to what is now called “diplomatic recognition”) between the Ming and its tributaries, and that helped to maintain regional stability and territorial status quo.

As essentially a Han-exclusive empire, the Ming only sought to maintain its Fifteen Provinces (i.e., China Proper, plus Guizhou, Yunnan, and Liaodong) south of the Liaodong Wall and the Great Wall, and east of the Tibetan Plateau, instead of pursuing any vast territorial expansion into the non-Chinese “barbarian” regions in Inner Asia. Although some tributary and self-ruling *tusi* (native offices) became enclaves within the Ming's southern and southwestern provinces, many (if not most) of the so-called *tusi* were outside the Ming borders. Moreover, the Ming court nominally “created” (or, more correctly speaking, “named”) several non-Chinese “loose-rein” (*jimi*) units in the Inner Asian regions (such as Manchuria, Qinghai, and Tibet) beyond the Ming's effective control and actual governance. The Ming court itself did not claim nor regarded these non-Chinese “loose-rein” tributaries in Inner Asia as the Ming territories. The recent Chinese claim that the Ming Empire had sovereignty over the entire of Manchuria and Tibet is merely a fiction, and should not be recognized.

Furthermore, contrary to the modern Chinese assertion, the Khitan Liao (907–1125), Tangut Xia (c. 982–1227), Jurchen Jin (1115–1234), Mongol Yuan (1206–1635), and Manchu Qing (1616–1912) were not “Chinese” dynasties, but, in fact, multiethnic empires established and ruled by “non-Chinese” Inner Asian peoples. All of these so-called “conquest dynasties” were originally founded in the “non-Chinese” regions (particularly, what became known as Mongolia and Manchuria) in Inner Asia, and they subsequently conquered and annexed parts or all of China Proper. Nevertheless, their conquest of the Chinese lands would not and did not transform themselves into “Chinese dynasties,” nor did they convert their traditional non-Chinese territories into parts of “China.”

The Khitan, Tangut, Jurchen, Mongol, and Manchu conquerors always maintained their political and military domination over their empires, and they carefully preserved (and even reinforced) their distinct ethnic identities and cultural traditions, and rejected wholesale Sinicization. Their native languages were continuously spoken and existed well throughout the periods of their empires. Moreover, all of them created their own writing systems, and their native scripts were used in government documents and private works, and were also taught in schools. Rather than forcing complete assimilation, the rulers of these Inner Asian conquest empires typically promoted multiculturalism. They

held a multi-language policy, patronized various religions and ideologies, and cherished different cultural traditions. For example, Khubilai and the succeeding Mongol Great Khans sought to derive legitimacy not only from Mongolian Shamanism, but also from Chinese Confucianism and Tibetan Buddhism. Inspired by the Mongol Yuan precedent, the Manchu Qing Emperors eventually incorporated the Manchu Khaganship, Mongol Khaganship, and Chinese Emperorship into their Qing rulerships, and were identified as the incarnations of Bodhisattva Manjusri by Tibet's Dalai Lamas, deliberately showing different "images" to various ethnic groups. The *Cho-Yon* (priest-patron) relationships between the Qing Emperors and the Tibetan Dalai Lamas helped to legitimize the Qing rule over Mongolia. However, the Qing Empire only temporarily and intermittently established some political domination (at best "suzerainty," but not "sovereignty") over Tibet.

These non-Chinese conquest empires mixed Inner Asian tribal customs and nomadic tradition, Chinese-style institutions and practice, and also their own administrative innovations into their pluralist mode of governance. The ruling Khitans, Mongols, Jurchens, and Manchus organized themselves and some other groups into the tribal-style socio-military systems (such as the Jin's *meng'an-mouke* units, and the Qing's Eight Banner organizations) to maintain their ethnic identities as well as their political and

military dominations. The Liao, Jin, and Yuan Empires all established a “dual administration” system which institutionally separated the non-Chinese tribal populations (including the Khitan, Jurchen, and Mongol conquerors) and their Inner Asian domains from the conquered Chinese subjects and regions. The Qing Empire created a more sophisticated “tripartite administration” that generally kept and governed the Manchu, Mongol, and Chinese realms and populations separately in order to maintain the existing ethnic lines and identities, and hence sustain the Manchu rule.

The Liao, Jin, Yuan, and Qing had established and maintained multiple capitals in what might be called the “Kitad” heartlands, which covered the areas of southwestern Manchuria, southeastern Mongolia, and northeastern China Proper (known as the “Sixteen Prefectures of Yan and Yun,” including the area of present-day Beijing). Because the post-conquest Liao, Jin, Yuan, and Qing had all remained or relocated their imperial centers in or to the “Kitad” region, and also because there were some succession-related relationships between these four empires, we might call them the “Kitad” or “Kitad-based” dynasties, rather than (as some historians suggest) the “Central Plains” dynasties. It would be improper to refer to these four Inner Asian conquest empires as the “Central Plains” dynasties, because the Central Plains (i.e., the areas along the middle and lower reaches of the Yellow River) covers only parts of northern China

Proper, but does not include the areas of southwestern Manchuria and southeastern Mongolia.

It is clear that, as a result of conquest, all these Inner Asian conquest empires made parts or all of “China” into a portion of their imperial territories, rather than that these non-Chinese empires and their traditional non-Chinese domains suddenly became “Chinese” dynasties and parts of “China.” Not only the contemporary Chinese Song Empire regarded the Khitan Liao, Jurchen Jin, and Mongol Yuan as “non-Chinese” barbarian states, but also the Liao, Jin, and Yuan did not view themselves as “Chinese” dynasties. Similarly, the Chinese Ming Empire (and other Asian states, such as Joseon Korea) saw the Jurchen [Later] Jin/Manchu Qing as a “non-Chinese” barbarian state, and the [Later] Jin/Qing also did not regard itself as a “Chinese” (Ma. *Nikan*) dynasty.

As a result of modern China’s misrepresentation of history, it is commonly but mistakenly believed that the Yuan Dynasty of “China” was established by Kublai Khan sometime between 1260 and 1279, and was replaced by the Ming Dynasty in 1368, and that the Ming Dynasty was substituted by the Qing Dynasty in 1644, as if they were merely three succeeding “Chinese” dynasties of the same country called “China.” In fact, they were three different empires: (1) the Mongol Yuan Empire or the “Yeke Mongghol Ulus” (Great Mongol Empire) was established in Mongolia by Chinggis Khan

or Yuan Taizu in 1206, and was ended by the Jurchen [Later] Jin/Manchu Qing in 1635; (2) the Chinese Ming Empire was founded in China Proper by Zhu Yuanzhang or Ming Taizu in 1368, and was formally ended by the Manchu Qing in 1662; (3) the Manchu Qing Empire was originally created as the Jurchen [Later] Jin Khanate in Manchuria by Nurhaci in 1616, and was ended by the abdication of the last Qing Emperor in 1912. Since the Ming territories were basically limited to China Proper, the Ming Empire could be conveniently called “China.” However, because the Yuan and Qing Empires were created and were ruled by “non-Chinese” Mongols and Manchus peoples respectively, and both of them had conquered the entire of China Proper from without, it would be incorrect to refer to the Yuan and Qing as merely being “China” and to regard their vast traditional non-Chinese domains (e.g., the Yuan’s and Qing’s Mongolia and Manchuria, and the Qing’s Western Taiwan and Xinjiang) as being parts of “Chinese” territories.

Shortly before the fall of the Manchu Qing Empire on February 12, 1912, the Mongols proclaimed the Mongol State (1911–present) in Outer Mongolia on December 1, 1911, and the Chinese also formally established the Republic of China (ROC; 1912–49) in the fourteen seceding provinces in China Proper on January 1, 1912. Because Manchu-ruled Mongolia and China were both parts of the Qing Empire, the Mongol State and the ROC were two newly-independent States, created by their secession from the

Manchu Qing. Nevertheless, after the secession of the Mongol State and the ROC, the Qing Empire still legally existed and controlled a significant amount of remaining territories. Moreover, the Qing's remaining territories would not suddenly become parts of the new Mongol State, nor would they automatically turn into the territories of the ROC.

Imitating the American Independence, the Chinese Revolution of 1911 was originally an “independence movement” that sought to create a new Chinese Republic within the Eighteen Provinces of China. During the actual revolution, fourteen out of the eighteen Chinese provinces declared their independence from the Qing, and subsequently formed the ROC. In other words, upon its founding, the ROC only had its original territories in those fourteen Chinese provinces in China Proper, far from what it claimed a “Five-Race Republic” to combine the Han (Chinese), Manchu, Mongol, Hui (Muslim), and Tibetan territories into the Chinese Republic.

By negotiating the abdication of Qing Emperor and making a political deal with the former Qing's prime minister, Yuan Shikai, the ROC successfully annexed the former Qing's remaining territories, namely, Manchuria, four northern provinces in China Proper, Inner Mongolia, Qinghai, and Xinjiang. However, that would not retroactively convert the newly independent ROC into the “continuing State” of the Qing Empire. In other

words, the ROC provisional government (which was relocated from Nanjing to Beijing) was not the successor government to the former Qing government, because they were, in fact, the governments of two different States. Moreover, despite the ROC's claims, Outer Mongolia and Tibet remained two independent States and had never become parts of the ROC. In 1946, the ROC officially recognized the independence of Outer Mongolia. However, that was not the independence of Mongol State in 1946 from the "ROC," because the Mongol State had been already created in late 1911 by directly seceding from the Qing Empire (instead of "China").

Furthermore, for about three decades since its founding in 1912, the ROC had consistently recognized the Japanese sovereignty over Taiwan, and had not questioned the validity of the Qing's cession of Taiwan to Japan in 1895. Even after the outbreak of the Sino-Japanese War in 1937, the ROC still saw Taiwan as Japanese territory. It was only in the early 1940s that the ROC began to claim Taiwan as "China's lost territory" because the defeat of Japan suddenly became possible after the US declared war on Japan in 1941 during WWII.

Although in several wartime documents, the five major Allied Powers (i.e., the ROC, the UK, the US, the USSR, and France) and Japan had expressed their intention to transfer post-war Taiwan to the ROC, such "non-legally binding" commitment was never

carried out. The People's Republic of China (PRC; 1949–present) insists that China (in particular, the ROC) had recovered Taiwan and resumed the exercise of sovereignty over Taiwan on October 25, 1945, but such claim is groundless under international law. After the Japanese forces in Taiwan surrendered to the Allied Powers on October 25, 1945, the ROC began to militarily occupy Taiwan, but, during military occupation, Taiwan still remained *de jure* Japanese territory. Moreover, the UN Declaration of 1942 and the UN Charter of 1945 prohibited the ROC's or any other State's unilateral (especially, forcible) annexation of Taiwan, without first acquiring the Taiwanese people's freely expressed consent. Furthermore, according to the UN Charter and the principle of self-determination, post-surrender Taiwan should have been placed under the UN trusteeship system, pending for the Taiwanese people to determine the future status of Taiwan, including the creation of an independent State of Taiwan.

Contrary to the PRC's claim that Taiwan has belonged to China since ancient times, China has no historical sovereignty over Taiwan. It is clear that none of the "Chinese" empires had ever ruled the island of Taiwan. Until the early 17th century, Taiwan had been inhabited exclusively by the Taiwanese aborigines and remained beyond the control of any foreign power. The Dutch colonized parts of Western Taiwan in 1624–62, and the Spanish controlled northern Taiwan shortly in 1626–42 before they surrendered to the

Dutch. The Dutch colonial rule was ended in 1662 by Zheng Chenggong, who established the Dongning Kingdom or the Kingdom of Formosa (1661–83) in Western Taiwan. After conquering the Dongning in 1683, the “Manchu” Qing Empire (rather than “China”) ruled Western Taiwan until 1895 when the Qing ceded Taiwan to Japan. Nevertheless, it is often overlooked that before Japan’s colonial rule (1895–1945) over Taiwan, the central mountain and eastern coastal areas of Taiwan had always been dominated by the self-ruling Taiwanese aborigines, and had never become territory of any foreign country (not even the Qing, let alone “China”).

In 1895, it was the “Qing” Empire of the “Manchus” (rather than “China” or the “Chinese”) that ceded Taiwan (more correctly, Western Taiwan) to the Japanese Empire. However, Japan acquired the sovereignty over the rest of Taiwan (known as Aboriginal Formosa) actually by Japan’s own conquest, rather than by the Qing’s cession. Because it was still lawful at that time for Japan to gain Taiwan by force from the Qing Empire and the Taiwanese aborigines, and also because the ROC was not even the same country as the deceased Manchu Qing, there was no legal or historical basis for the ROC to demand the “return” of Taiwan from Japan after WWII. Furthermore, in the era of the self-determination, the ROC should have respected the Taiwanese people’s right to determine the future status of post-war Taiwan.

By early December 1949, the PRC had ended the ROC, and that also ended the ROC's military occupation of Taiwan. Under the leadership of Chiang Kai-shek, the Chinese Nationalist Party or Kuomintang (KMT) and its followers fled to Taiwan and effectively established a new State of Taiwan in December 1949 (just like, about three centuries earlier, the Zheng family fled to Taiwan and established the Dongning Kingdom in 1661). Although also officially named the "Republic of China," the new State of Taiwan or the "ROC on Taiwan" was not the same "ROC" that had previously existed in China from 1912 to 1949. The creation of the State of Taiwan in late 1949 not only did not violate international law, but was also in accord with (or at least, preserved) the Taiwanese people's right to self-determination. Moreover, even assuming that Taiwan's legal status remained "undetermined" during the period of the KMT's authoritarian rule (which ended around 1988), according to Lung-chu Chen, Taiwan has evolved into an independent sovereign State by the Taiwanese people's "effective self-determination" through the democratic reforms which started in the 1990s and created a legitimate government of Taiwan.

Although Taiwan's statehood is not generally recognized, it is clear that Taiwan is not part of the PRC because the PRC did not inherit the title of Taiwan from the ROC, nor did it annex and rule Taiwan by itself. Therefore, the disagreement between Taiwan

and the PRC over the status of Taiwan was not an “internal affair” of the PRC, but an “international dispute.” Although Taiwan is not currently a UN member, the PRC’s threat or use of force against Taiwan, or any unilateral annexation of Taiwan, would result in the violations of international law and the Taiwanese people’s right to self-determination.

To be sure, when dealing with territorial disputes, not only international law but also history are important. Without a better understanding (especially as regards the creation, territory, diplomacy, and extinction) of some relating, historical and current, Chinese and non-Chinese states/empires in East and Inner Asia, we cannot properly examine the legal and historical validity of modern China’s (particularly, the PRC’s) territorial claims.

In recent decades, the PRC government and some leading Chinese historians project what they regard as “the Qing territories at its height in 1759–1840” (which, in the PRC’s view, included Tibet and all of Taiwan) into China’s entire past, retroactively claiming that “since ancient times,” all these regions have been parts of “China” and all the non-Han peoples (such as the Khitans, Jurchens, Mongols, and Manchus) living in these areas were and are always “Chinese minority groups.” By doing so, the PRC attempts to incorporate the histories of the non-Han dynasties of the Liao, Jin, Yuan, Qing, and so

forth into “historical China” in order to construct modern China’s “historical sovereignty” over the territories of those non-Han dynasties.

However, as argued in the previous chapters, the geographical sphere of pre-modern “historical China” was, in essence, what is known as “China Proper” (i.e., the traditional Chinese-populated areas south of the Great Wall line and east of the Tibetan Plateau). Contrary to the PRC’s claim, China has no “historical sovereignty” over the vast Inner Asian regions (in particular, Manchuria, Mongolia, Qinghai, Xinjiang, and Tibet) and Taiwan since ancient times. Nevertheless, it does not follow that modern China has no sovereignty over large parts of Inner Asia.

After its founding in China Proper, the ROC did expand its territories into Manchuria, Inner Mongolia, Qinghai, and Xinjiang. However, the ROC’s legal titles to these Inner Asian regions were not inherited from the Manchu Qing (let alone, the Mongol Yuan), but were lawfully acquired by the ROC’s own territorial expansion. After 1949, these Inner Asian regions became territories of the PRC, as a result of the Chinese Civil War. However, in violation of the UN Charter of 1945, the PRC illegally invaded and annexed the State of Tibet in the early 1950s. Consequently, whether the PRC has acquired sovereignty over Tibet became a legal issue. Considering that the PRC has ruled Tibet for nearly seventy years, and that many (if not most) of the countries

have recognized the PRC's sovereignty over Tibet, it is (unfortunately) arguable that the original illegality of the PRC's annexation of Tibet has, probably, been "cured" by the lapse of time, and by the recognition of the international community. The case of Tibet is very different from the case of Taiwan. Since Tibet no longer has its own central government with effective control and does not meet the criteria for statehood for many decades, Tibet has thereby lost its status as an independent State. In contrast, because Taiwan has its central government with effective control over its population and territories, and maintains official or unofficial relations with other States, Taiwan is an independent sovereign State.

Nonetheless, even assuming that Tibet has become a PRC territory, the previous long history of an independent Tibet and the distinct Tibetan ethnic and cultural identity still provide a strong case for Tibetan people to have a legal right to external self-determination. (In light of the International Court of Justice's advisory opinion of 2010 on Kosovo's declaration of independence, if the Tibetans effectively exercise their right to external self-determination, then even a unilateral declaration of Tibet's independence will not violate international law.) Similarly, considering that Xinjiang remained predominately populated by the Uyghurs in Qing and ROC times, and the PRC has increasingly violated the human rights of the Uyghurs in recent years (for example,

the mass detentions of Uyghurs in the so-called “re-education camps”), the Uyghurs, especially those in southern Xinjiang, could very likely also make a legal case for self-determination.

Unfortunately, the current PRC government does not respect the Taiwanese, Tibetan, and Uyghur peoples’ right to self-determination, and even unlawfully and constantly threatens Taiwan with the use of force to bring Taiwan under its control “if necessary.” Following the path of the previous Inner Asian conquerors and the Western colonizers, modern China has expanded into and colonized several traditional non-Chinese regions. Hopefully, one day, China will genuinely embrace the legal principles of non-aggression and self-determination, or re-endorse the Chinese traditional security doctrine of “defense through *Siyi*,” renouncing the use of force to settle its dispute with Taiwan, and letting the neighboring non-Chinese peoples rule themselves.

TABLES, MAPS, AND FIGURES

Table 1.1
A Chronology of Rulers of China, Manchuria, and Mongolia (1200 BCE–500 CE)

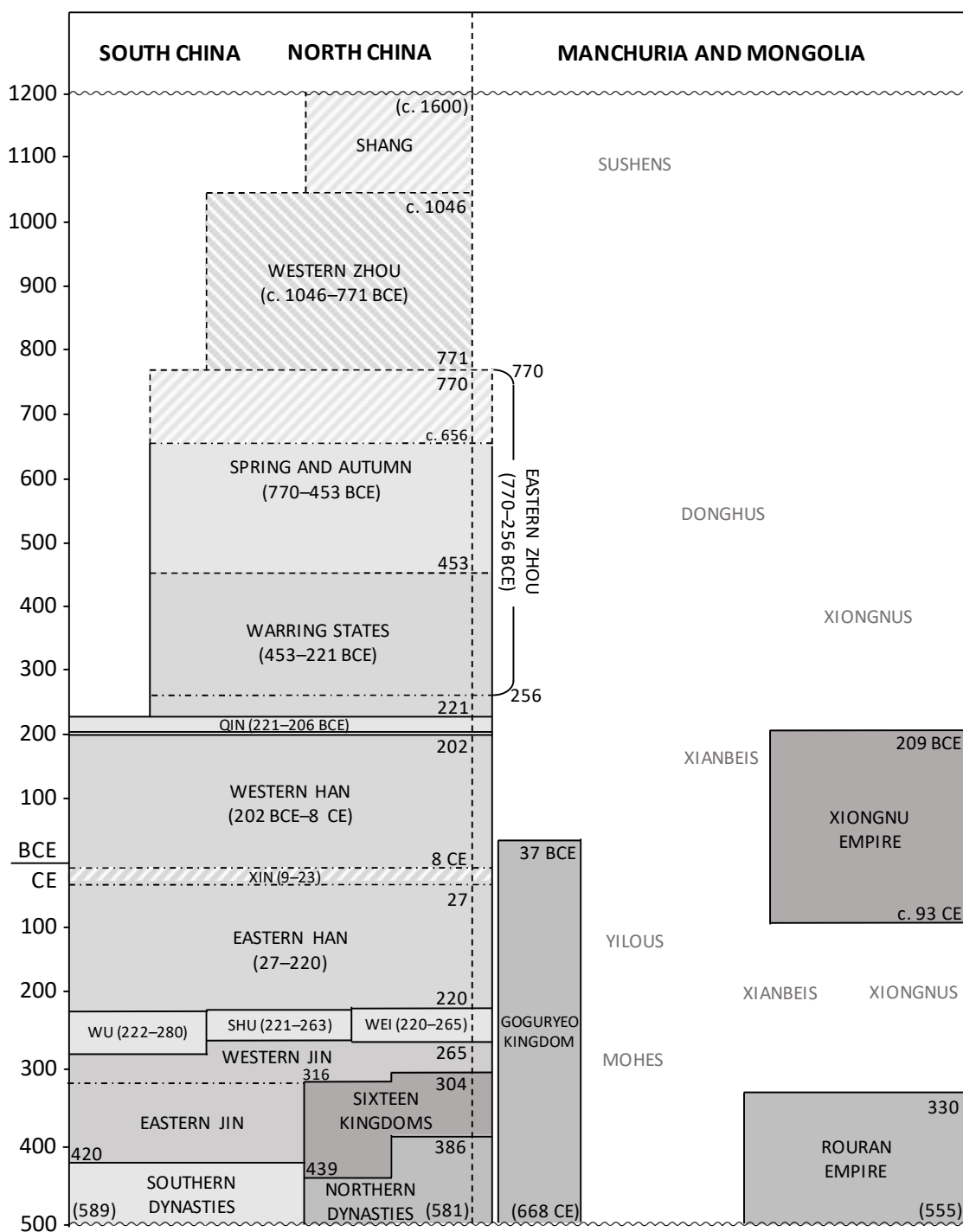


Table 1.2

A Chronology of Rulers of China, Manchuria, Mongolia, and Taiwan (500–Present)

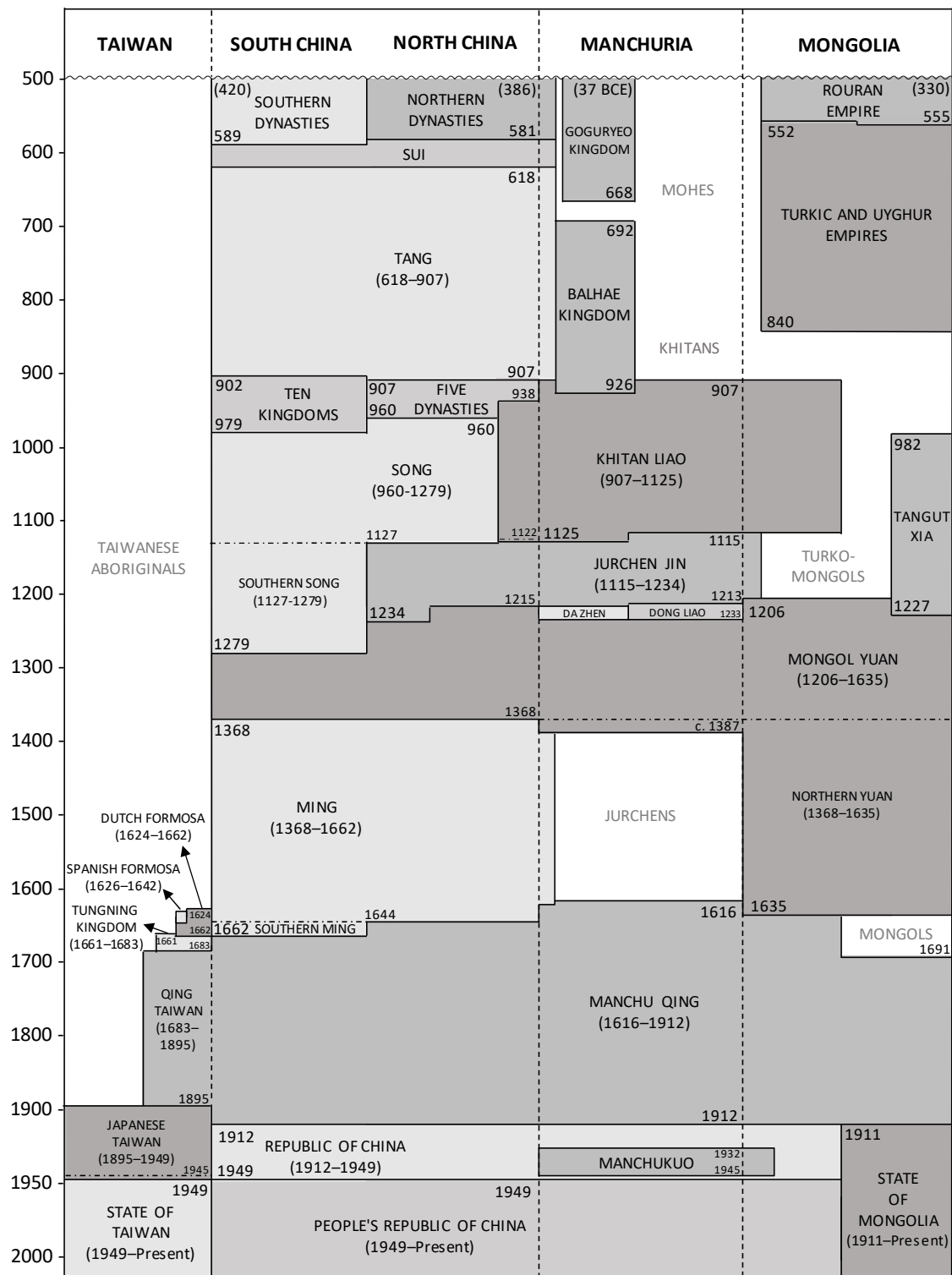


Table 1.3
A List of Major Chinese and Selected Non-Chinese Empires/States,
770 BCE–Present

Chinese Native Empires/States		Non-Chinese Inner Asian Empires/States	
State/Period Names	Dates	State/Period Names	Dates
Spring and Autumn 春秋	770–453 BCE		
Warring States 戰國	453–221 BCE		
Qin 秦	221–206 BCE	Xiongnu Empire 匈奴	209 BCE–c. 93 CE
Han 漢	202 BCE–220 CE		
Three Kingdoms 三國	220–280		
Western Jin 西晉	265–316		
Eastern Jin 東晉	317–420	Sixteen Kingdoms 十六國 (mostly, Five Barbarians 五胡)	304–439
Southern Dynasties 南朝	420–589	Northern Dynasties 北朝 (essentially, Xianbei 鮮卑)	386–581
Sui 隋	581–618	Turkic and Uyghur Empires	552–840
Tang 唐	618–907	突厥、回鶻	
Later Liang 後梁	907–923	Liao 遼 (Khitan 契丹)	907–(1125)
		Later Tang 後唐 (Shatuo 沙陀)	923–936
		Later Jin 後晉 (Shatuo 沙陀)	936–947
		Later Han 後漢 (Shatuo 沙陀)	947–951
Later Zhou 後周	951–960		
Northern Song 北宋	960–1127	Liao 遼 (Khitan 契丹)	(907)–1125
Southern Song 南宋	1127–1279	Xi-Xia 西夏 (Tangut 黨項)	c. 982–1227
		Jin 金 (Jurchen 女真)	1115–1234
Ming 明	1368–1662	Yuan 元 (Mongol 蒙古)	1206–1635
		Qing 清 (Manchu 滿洲)	1616–1912
Republic of China 中華民國	1912–1949	State of Mongolia 蒙古國	1911–present
People's Republic of China 中華人民共和國	1949–present		

Table 1.4
Glossary of Chapter 1

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Hua–Yi zhi bian</i> 華夷之辨	Chinese–Barbarian dichotomy	
<i>Hua</i> 華	Chinese	
<i>Xia</i> 夏	Chinese	
<i>Huaxia</i> 華夏	Chinese	
<i>Zhongxia</i> 中夏	Chinese	
<i>Zhongguoren</i> 中國人	people of the central state	Chinese people
<i>Huaren</i> 華人	Hua people	Chinese people
<i>Hanren</i> 漢人	Han people	Chinese people
<i>Siyi</i> 四夷	the barbarians of the four corners	
<i>Dong Yi</i> 東夷	Eastern Yi barbarians	
<i>Nan Man</i> 南蠻	Southern Man barbarians	
<i>Xi Rong</i> 西戎	Western Rong barbarians	
<i>Bei Di</i> 北狄	Northern Di barbarians	
<i>Hu</i> 胡	barbarians	
<i>Fan</i> 番	barbarians	
<i>Hanhua</i> 漢化	Hanicization	Sinicization
<i>Handi</i> 漢地	Han lands	Chinese lands
<i>Hantu</i> 漢土	Han lands	Chinese lands
<i>Hanzi</i> 漢字	Han characters	Chinese characters
<i>Hanfa</i> 漢法	Han statecraft	Chinese statecraft
<i>Han wenhua</i> 漢文化	Han culture	Chinese culture

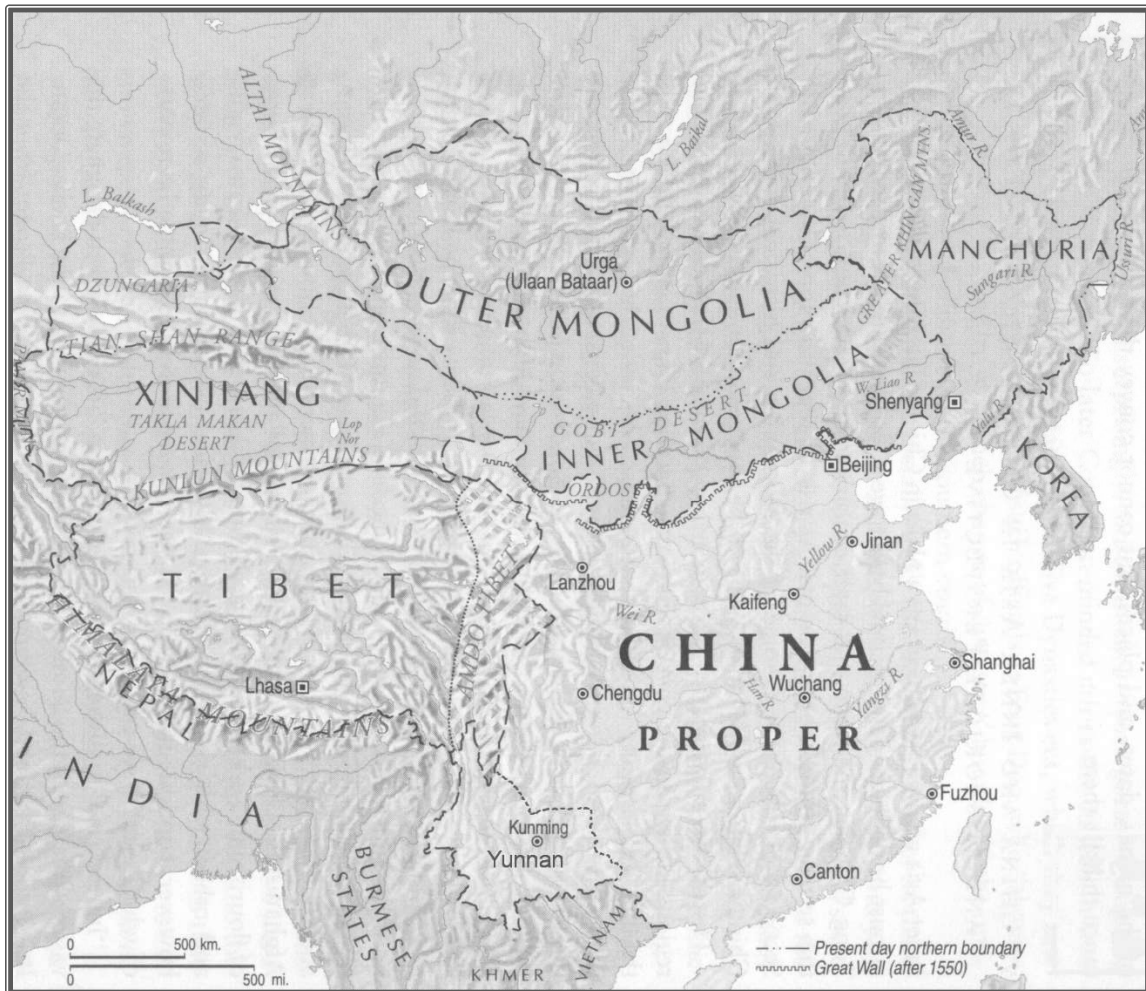
(Continued)

Table 1.4 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Tianxia</i> 天下	All-under-Heaven	broadly: the whole world narrowly: China (China Proper)
<i>Zhongyuan</i> 中原	Central Plains	
<i>tong yi</i> 統一	unification	
<i>Zhongguo</i> 中國	Central State	China (China Proper)
<i>Jiuzhou</i> 九州	Nine Regions	China (China Proper)
<i>zhongtu</i> 中土	central lands	China (China Proper)
<i>neidi</i> 內地	inner lands	China (China Proper)
<i>guannei</i> 關內	lands within the passes	China (China Proper)
<i>Neiya</i> 內亞	Inner Asia	
<i>Manzhou</i> 滿洲	Manchuria	
<i>Menggu</i> 蒙古	Mongolia	
<i>Qinghai</i> 青海	Qinghai	
<i>Xinjiang</i> 新疆	Xinjiang	
<i>Xizang</i> 西藏	Tibet	

https://www.cia.gov/library/publications/resources/cia-maps-publications/map-downloads/china_physiography.jpg/image.jpg (last visited Oct. 22, 2018)

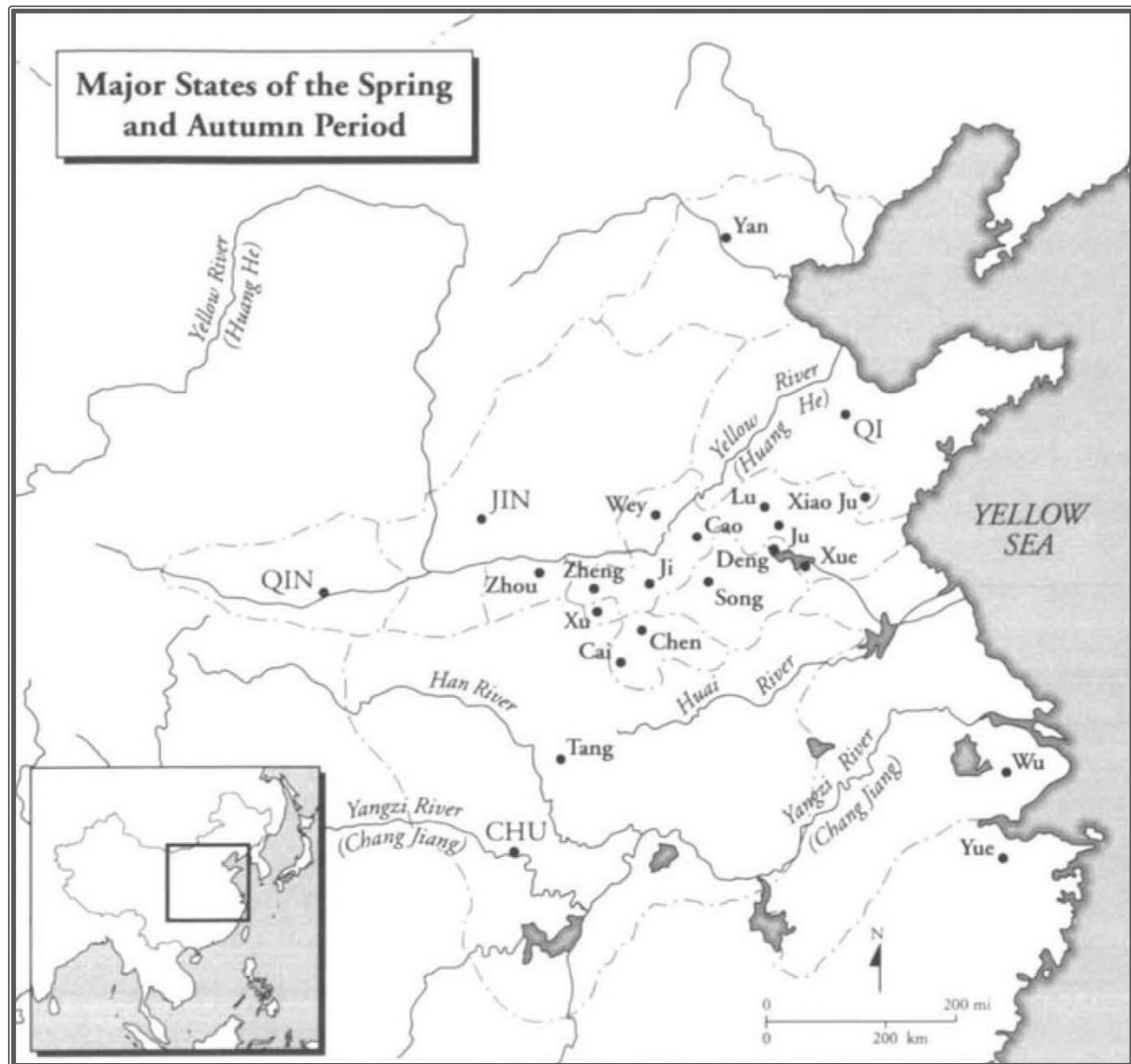
Map 1.2
Inner Asia in Relation to China Proper, c. 1800



Note: The line between “Yunnan” and China Proper is added by me. This study takes the position that Yunnan was not part of China Proper in 1800.

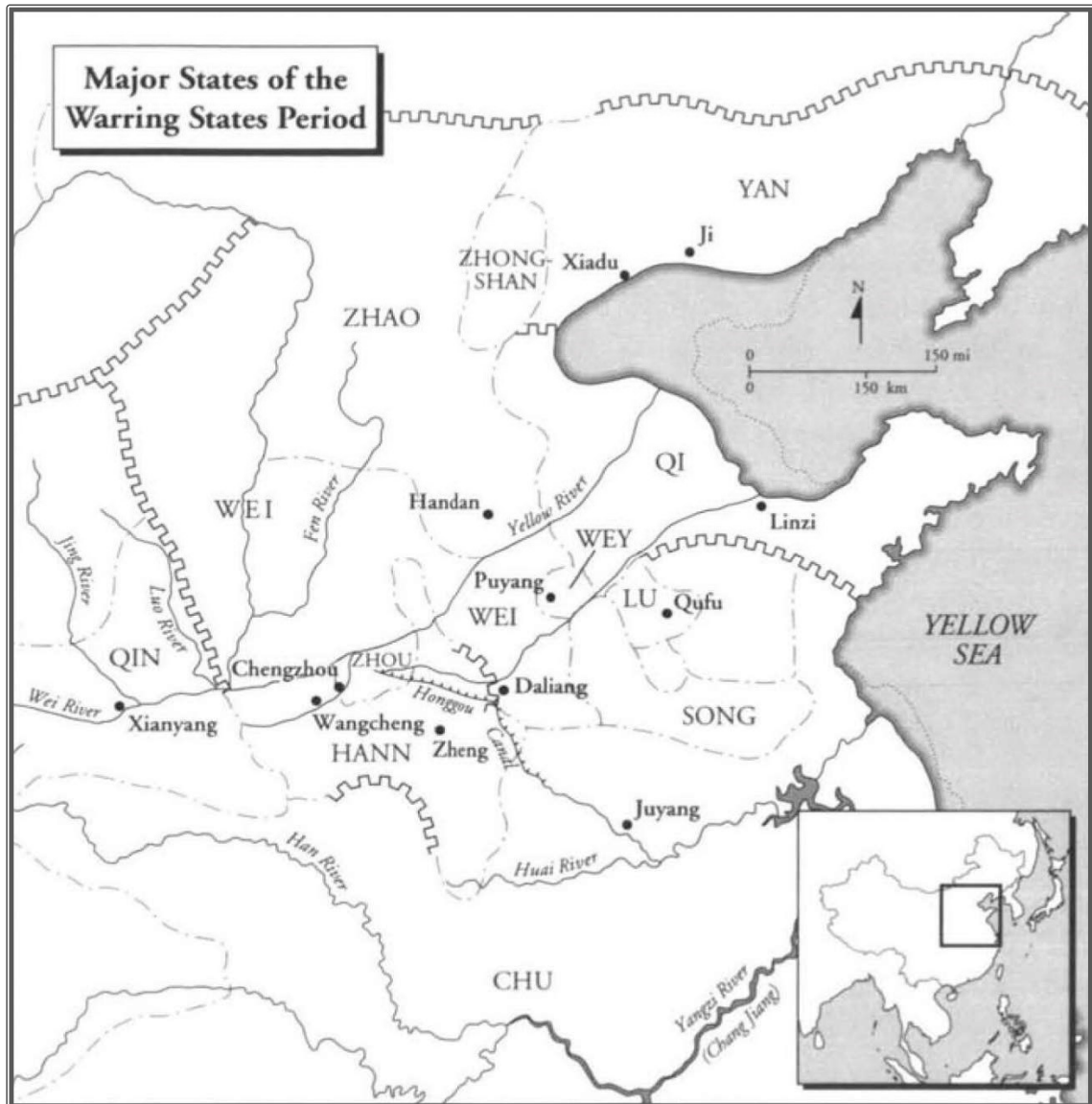
Source: Modified from FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, 24 map 3 (1999).

Map 1.3
Major States of the Spring and Autumn Period, 770–453 BCE



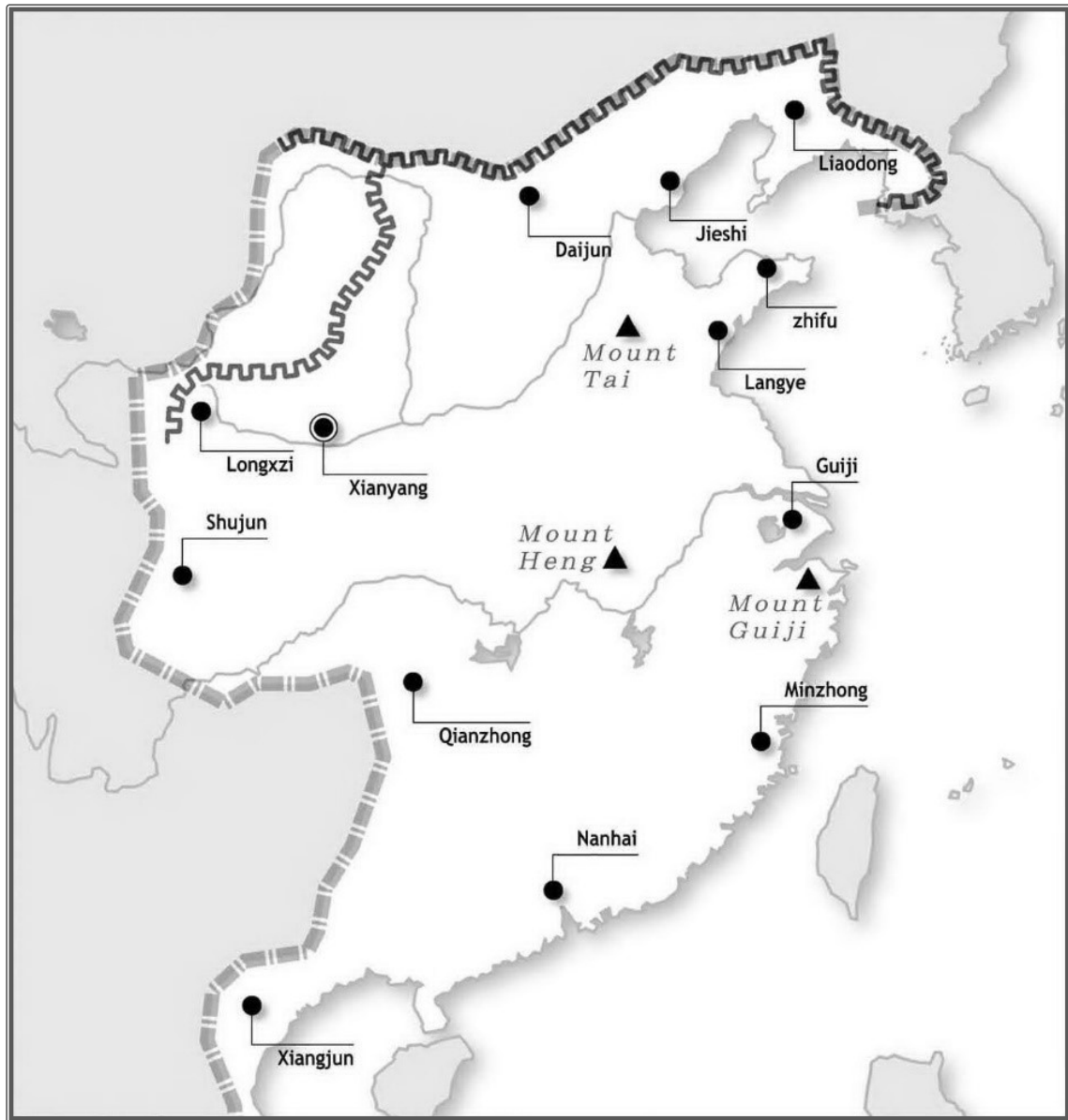
Source: Cho-yun Hsu, *The Spring and Autumn Period*, in *THE CAMBRIDGE HISTORY OF ANCIENT CHINA: FROM THE ORIGINS OF CIVILIZATION TO 221 B.C.*, 545, 548 map 8.1 (Michael Loewe & Edward L. Shaughnessy eds., 1999).

Map 1.4
Major States of the Warring States Period, 453–221 BCE



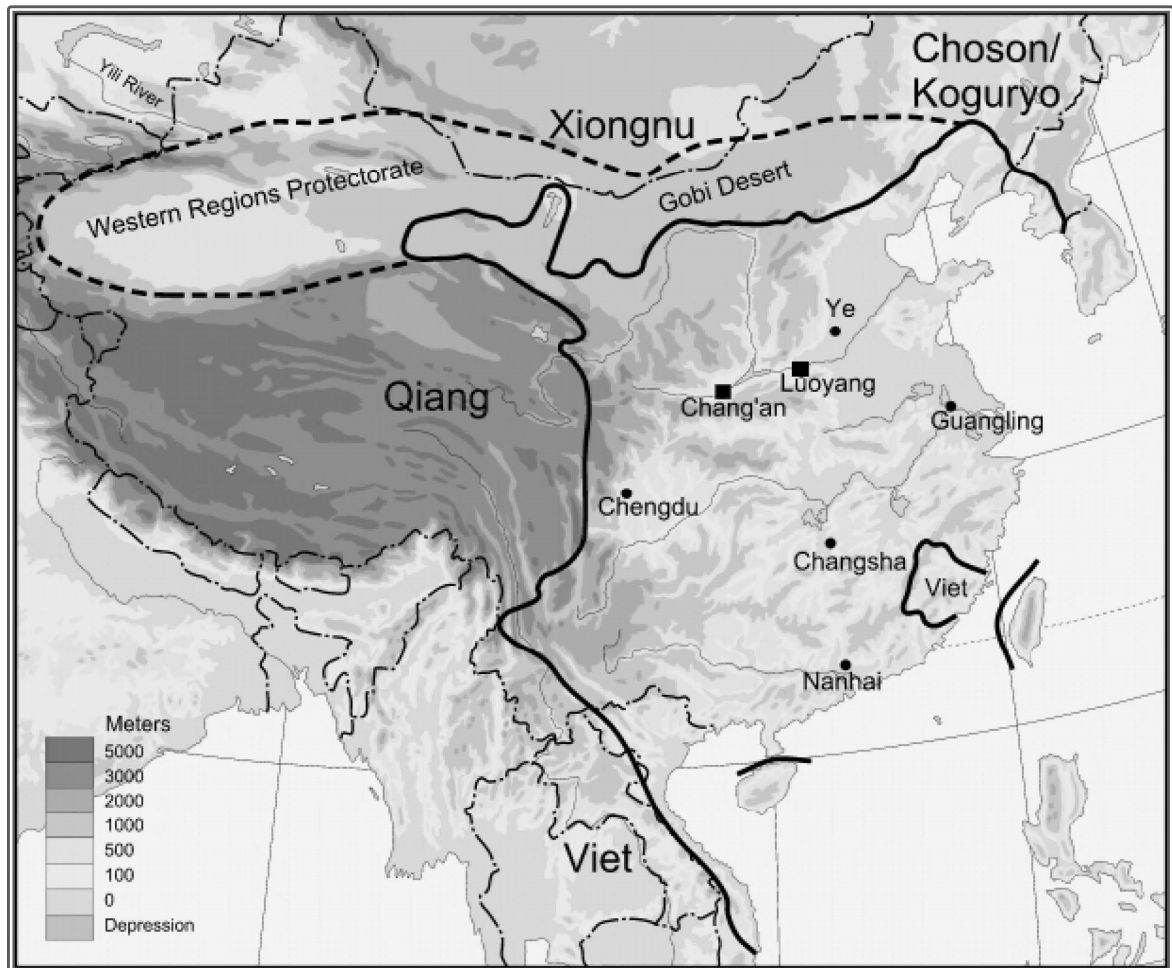
Source: Mark E. Lewis, *Warring States Political History*, in *THE CAMBRIDGE HISTORY OF ANCIENT CHINA: FROM THE ORIGINS OF CIVILIZATION TO 221 B.C.*, 587, 594 map 9.1 (Michael Loewe & Edward L. Shaughnessy eds., 1999).

Map 1.5
Chinese Qin Empire, 221–206 BCE



Source: CHO-YUN HSU, CHINA: A NEW CULTURAL HISTORY, 124 fig. 3.1 (2012).

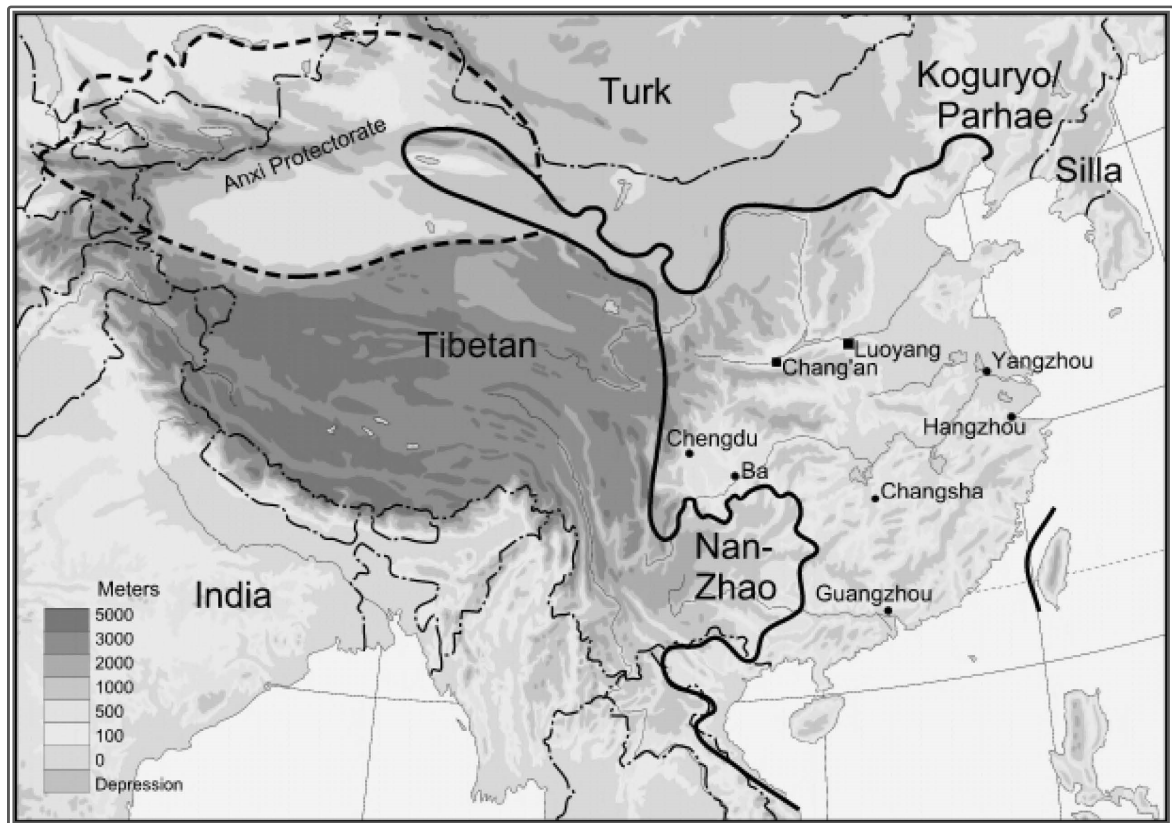
Map 1.6
Chinese Han Empire, c. 2 CE



Note: The areas of “Gobi Desert” and “Western Regions” were only sometimes within the Han’s sphere of influence and, therefore, outside the Han’s dynastic territories.

Source: Patricia Buckley Ebrey, A Visual Sourcebook of Chinese Civilization, A Map of Han Dynasty China circa 2, <https://depts.washington.edu/chinaciv/1xarhan1.htm> (last visited Oct. 26, 2018)

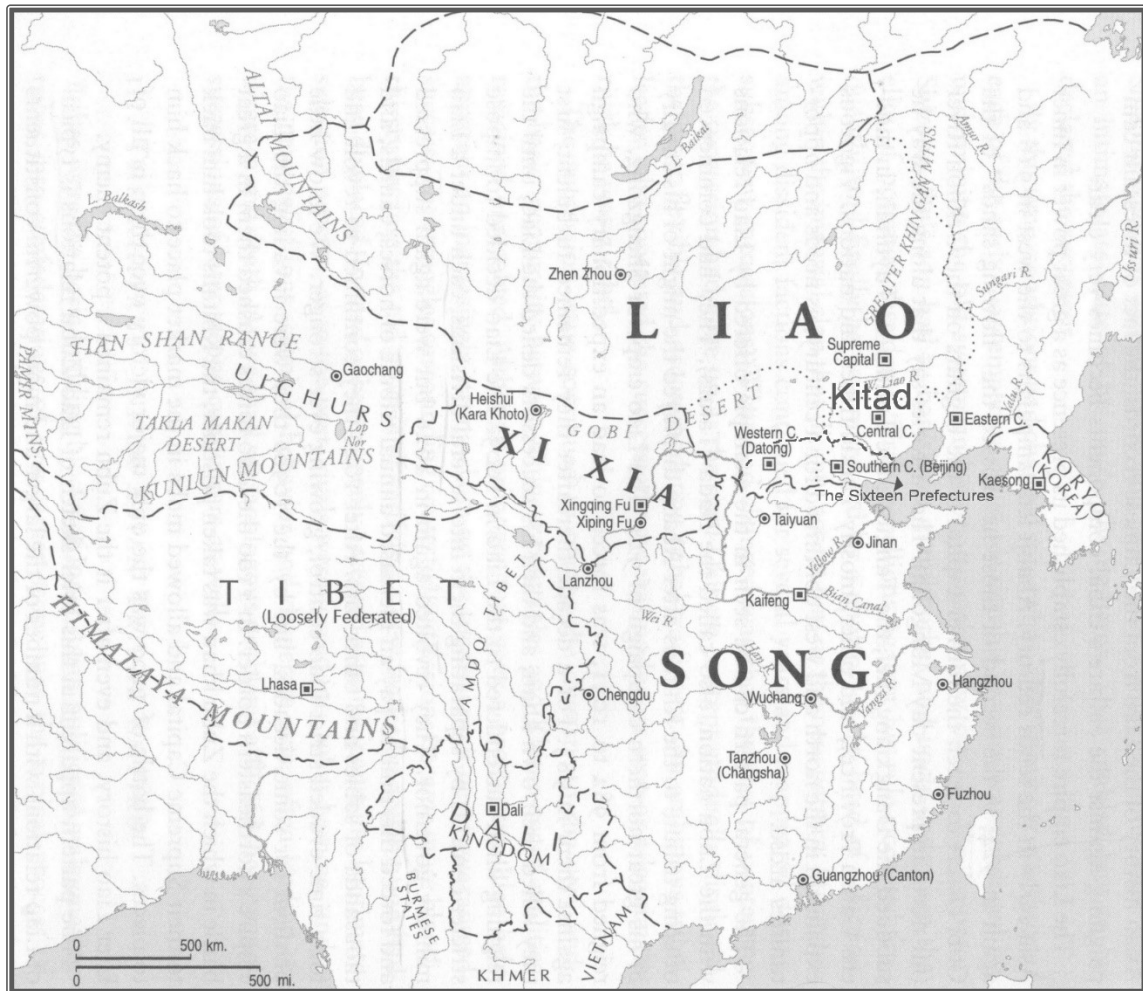
Map 1.7
Chinese Tang Empire, c. 742



Note: The areas supervised by the “Anxi Protectorate” were only sometimes within the Tang’s sphere of influence and, therefore, outside the Tang’s dynastic territories.

Source: Patricia Buckley Ebrey, *A Visual Sourcebook of Chinese Civilization*, A Map of Tang Dynasty China circa 742, <https://depts.washington.edu/chinaciv/1xartang.htm> (last visited Oct. 26, 2018)

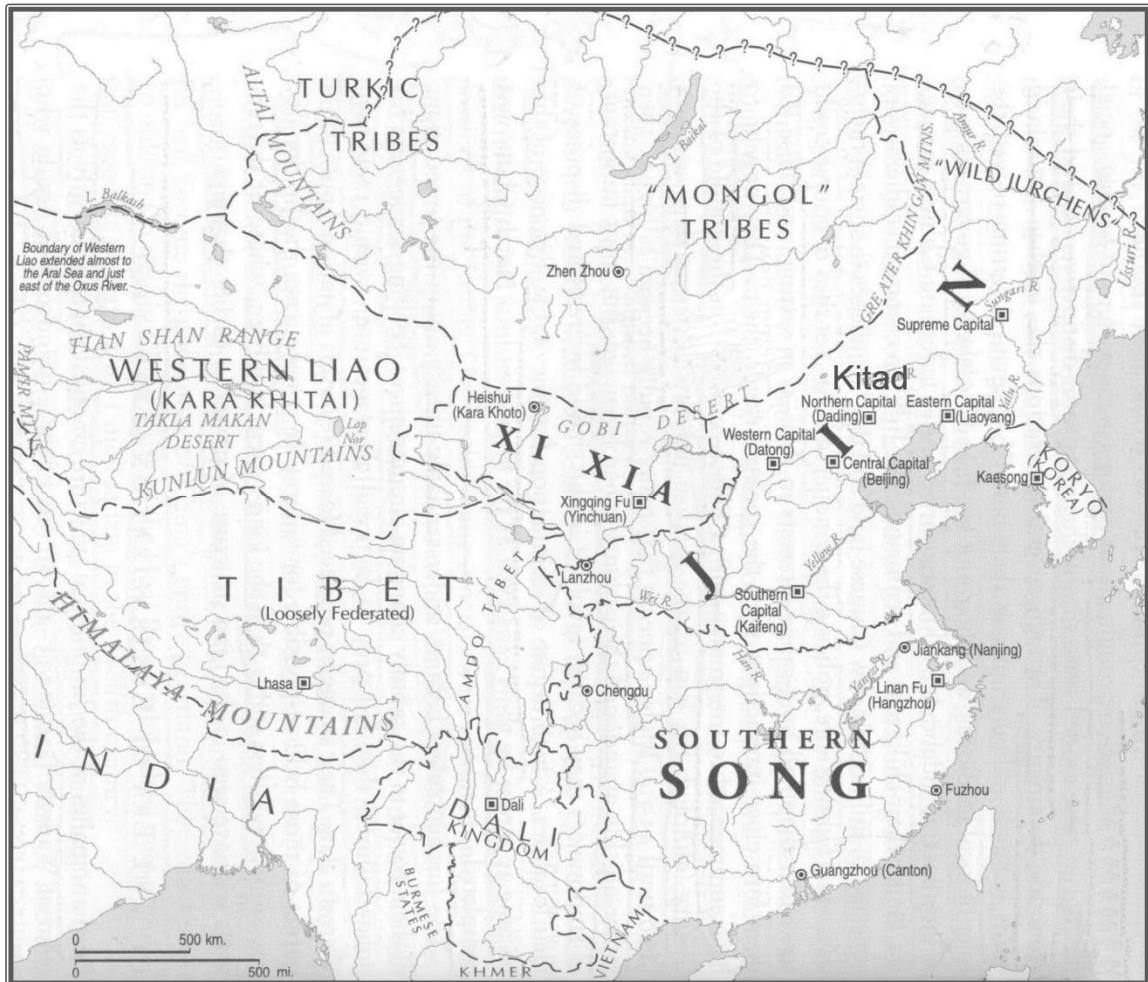
Map 1.8
 Khitan Liao, Chinese Song, Tangut Xia, c. 1100



Note: “Kitad” (the region surrounded by and nearby the Liao’s five capitals) and “The Sixteen Prefectures” are added by me.

Source: Modified from FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, 58 map 4 (1999).

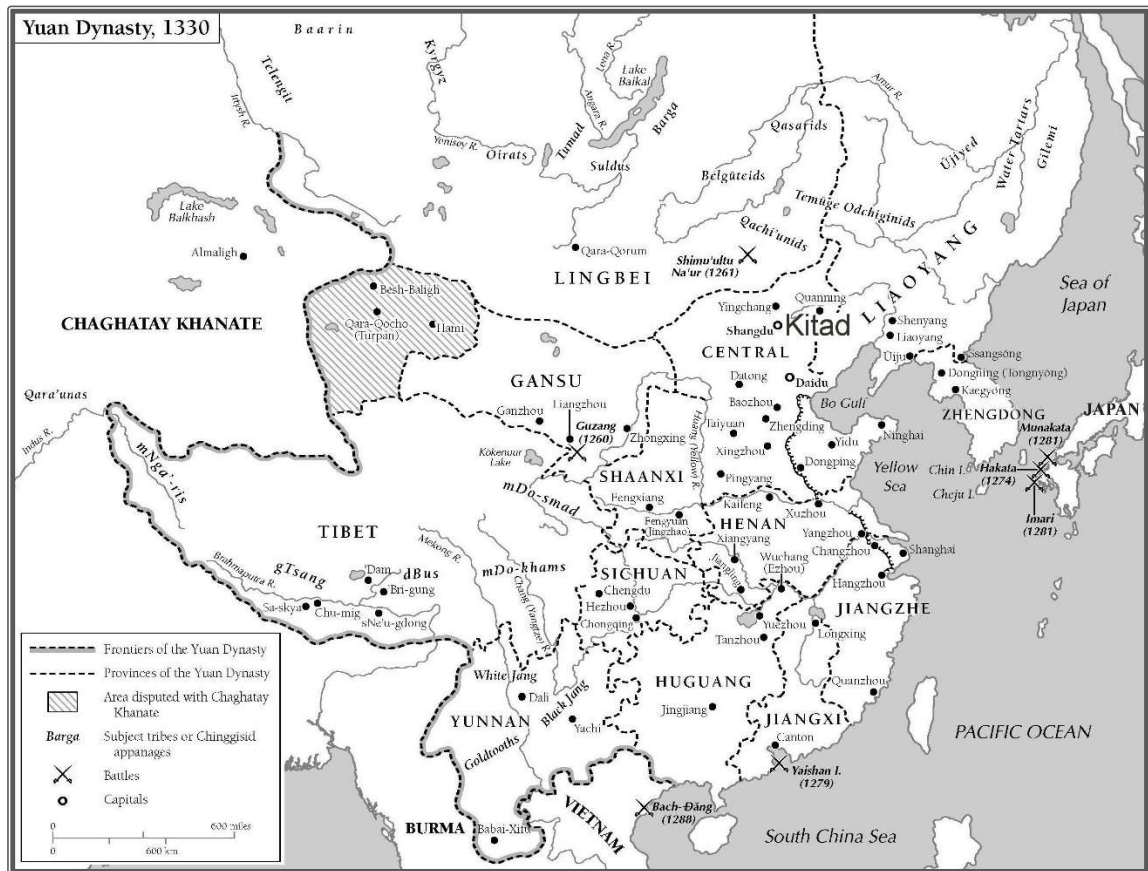
Map 1.9
Jurchen Jin, Chinese Southern Song, and Neighboring States, c. 1200



Note: “Kitad” and “Northern Capital (Dading)” are added by me.

Source: Modified from FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, 230 map 8 (1999).

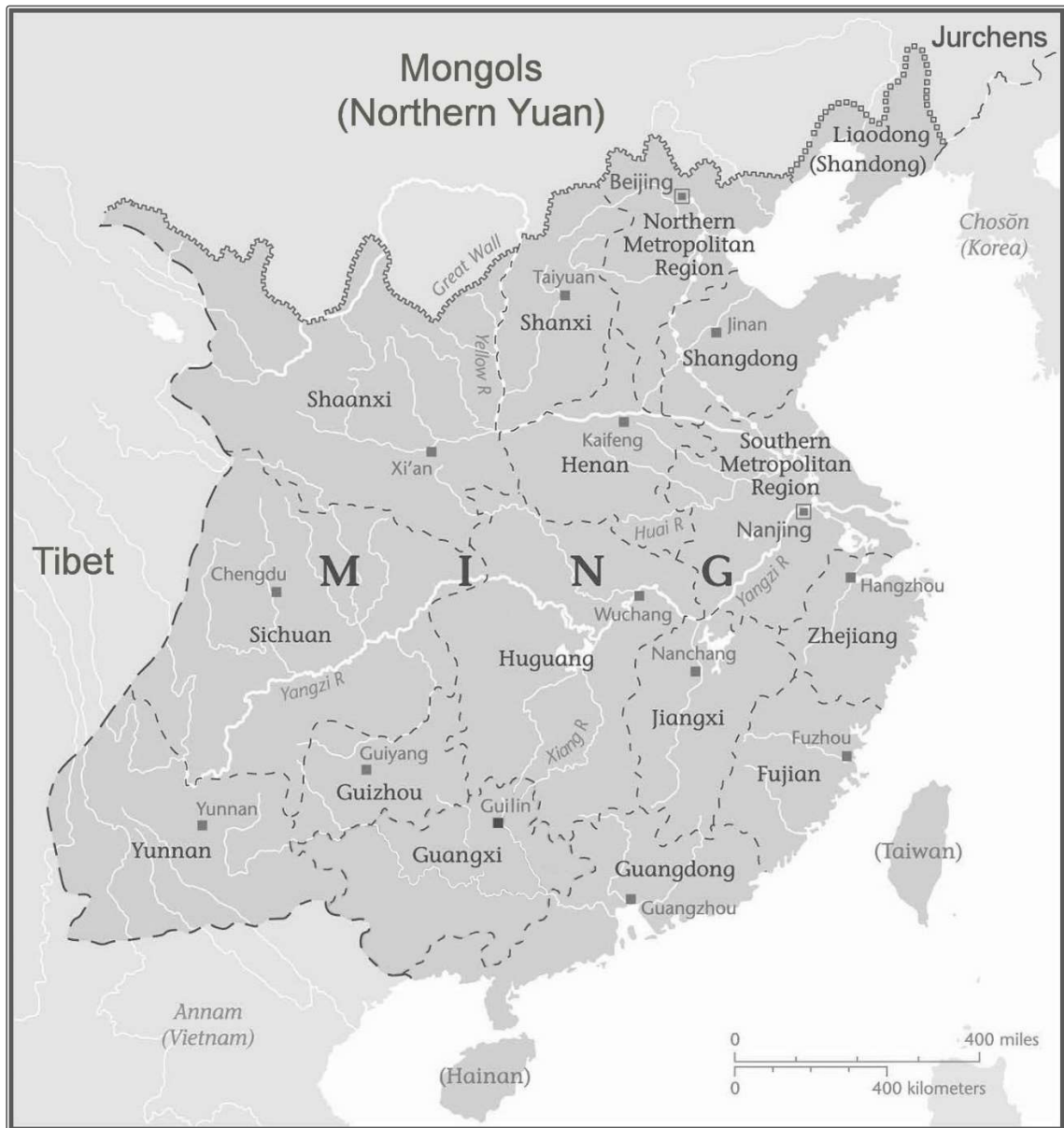
Map 1.11
Mongol Yuan Empire, 1330



Note: “Kitad” is added by me. Contrary to what this map shows, this study argues that most of Tibet had never been part of the Mongol Yuan Empire.

Source: CHRISTOPHER P. ATWOOD, *ENCYCLOPEDIA OF MONGOLIA AND THE MONGOL EMPIRE* 604 (2004).

Map 1.12
Chinese Ming Empire, c. 1580



Note: “Jurchens,” “Mongols (Northern Yuan),” and “Tibet” are added by me.

Source: FREDERICK W. MOTE, *IMPERIAL CHINA 900–1800*, 640 map 15 (1999); modified from LEO K. SHIN, *THE MAKING OF THE CHINESE STATE*, 9 map 1.1 (2006).

https://commons.wikimedia.org/w/index.php?title=File:China_1820_zh-hant.svg&oldid=332959163 (last visited Jan. 21, 2019); *see also* FREDERICK W. MOTE, IMPERIAL CHINA 900–1800, 944 map 22 (1999).

Map 1.14
The Chinese Xinhai Revolution, December 1911



Source: Modified from Wikimedia Commons, File:China 1820 zh-hant.svg,
https://commons.wikimedia.org/w/index.php?title=File:China_1820_zh-hant.svg&oldid=332959163 (last
 visited Jan. 21, 2019); see also Michael Gasster, *The Republic Revolutionary Movement*, in *THE*
CAMBRIDGE HISTORY OF CHINA, LATE CH'ING, 1800–1911, PART 2, 523 (John K. Fairbank &
 Kwang-Ching Liu eds., 1980).

Map 1.15
Republic of China, 1936



Note: Contrary to the Republic of China's claims, Outer Mongolia and Tibet were both independent States.

Source: Modified from Wikimedia Commons, File:China blank map (1936).svg,

[https://commons.wikimedia.org/w/index.php?title=File:China_blank_map_\(1936\).svg&oldid=271252243](https://commons.wikimedia.org/w/index.php?title=File:China_blank_map_(1936).svg&oldid=271252243)

(last visited Jan. 21, 2019); see also HSAIO-TING LIN, TIBET AND NATIONALIST CHINA'S FRONTIER:

INTRIGUES AND ETHNOPOLITICS, 1928–49, at 4 map 1 (2006).

Map 1.16
People's Republic of China (1949–present)



Source: CIA Maps, China Administrative (2011),

https://www.cia.gov/library/publications/resources/cia-maps-publications/map-downloads/china_admin.jpg/image.jpg (last visited Oct. 22, 2018)

Map 1.17

State of Taiwan (1949–present)



Source: The U.S. State Department, <https://www.state.gov/p/eap/ci/taiwan/> (last visited Oct. 28, 2018)

Figure 1.1
Character Scripts
Chinese, Khitan, Jurchen, and Tangut

CHARACTER SCRIPTS					
CHINESE	KHITAN		JURCHEN		TANGUT
	Large	Small	Large	Small	
微風徐動有淒	金無鬱蒸之氣	果申卒七疾卒尼南	戾戾五五空吏	卡弄花備蓋建	姦姦麗麗緯緯
		尖飛母迦林穴亡卒	完禹永焉刃	儻余无素仇	綴綴綴綴綴綴

Source: Chinese Characters, <https://zh.wikipedia.org/wiki/%E6%A5%B7%E4%B9%A6>; Khitan Large Script, <http://std.dkuug.dk/jtc1/sc2/wg2/docs/n4631.pdf>; Khitan Small Script, http://www.babelstone.co.uk/Fonts/KSS_Test.html; Jurchen Large and Small Scripts, http://www.ccame.co/jurchen_intro.php; Tangut Script, <http://www.babelstone.co.uk/Fonts/Wenhai.html> (last visited Jan. 25, 2019).

Table 2.1
Chinese Dynastic Territories and Foreign Lands

Inside Chinese Dynastic Borders	Outside Chinese Dynastic Borders
<p>Chinese dynastic territories</p> <p>Regular administrative units (e.g., prefectures, and counties)</p> <p>Frontier garrisons</p> <p>Frontier garrison regions</p> <p>Others (e.g., fiefdoms)</p>	<p>Chinese overseas military posts</p>
<p>Non-Chinese enclaves</p> <p>Some loose-rein units (e.g., <i>tusi</i>)</p>	<p>Foreign tributary areas</p> <p>Loose-rein districts</p> <p>Invested outer vassals</p> <p>Non-invested tributaries</p> <hr/> <p>Foreign non-tributary areas</p> <p>Rival states (which were treated as equals)</p> <p>Remote or wild zones</p>

Table 2.2
Glossary of Chapter 2

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Tianzi</i> 天子	Son of Heaven	
<i>wang</i> 王	king	
<i>huangdi</i> 皇帝	emperor	
<i>nian hao</i> 年號	era name	
<i>guo</i> 國	state	
<i>jun-xian zhi</i> 郡縣制	commandery-county system	
<i>xian</i> 縣	county	
<i>jun</i> 郡	commandery	
<i>zhou</i> 州	prefecture	
<i>fu</i> 府	superior prefecture	
<i>huji zhi</i> 戶籍制	household registration system	
<i>hulu</i> 戶律	household law	
<i>chao</i> 朝	court visit	
<i>pin</i> 聘	mission of friendly inquiry	
<i>gong</i> 貢	tributes	
<i>shi</i> 使	ambassador or envoy	
<i>jie</i> 節	diplomatic credential	
<i>hui</i> 會	interstate assembly or meeting	
<i>meng</i> 盟	treaty or covenant	
<i>zhi</i> 質	taking or exchange of hostages	
<i>lian-yin</i> 聯姻	marriage alliance	

(Continued)

Table 2.2 (*Continued*)

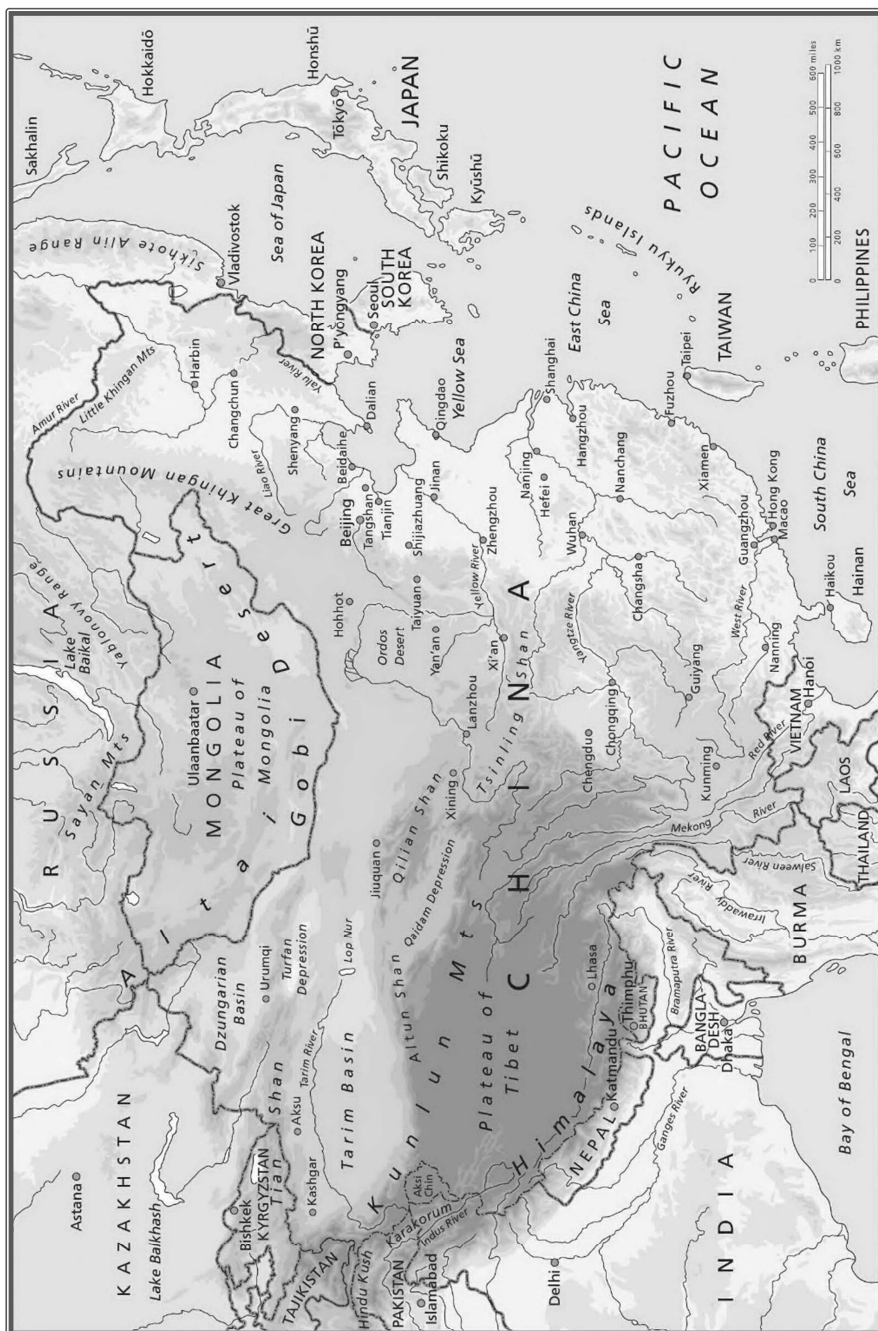
Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>gouji fa</i> 國際法	international law	
<i>zhu quan</i> 主權	sovereignty	
<i>zongzhu quan</i> 宗主權	suzerainty	
<i>lieguo fa</i> 列國法	law of various states	interstate law
<i>li</i> 禮	ritual or rites	custom or customary law
<i>meng</i> 盟	blood oath	treaty
<i>fei li</i> 非禮	offense against custom	
<i>bei meng</i> 背盟	breach of treaty	
<i>zui</i> 罪	crime	
<i>xing</i> 刑	punishment	
<i>meng-hui</i> 盟會	leagues of states	
<i>meng zhu</i> 盟主	league leader	
<i>ba</i> 霸	hegemon	
<i>bazhu</i> 霸主	hegemonic leader	
<i>Tianxia fa</i> 天下法	<i>Tianxia</i> law	world order
<i>cho-gong zhi du</i> 朝貢制度	tributary system	
<i>de</i> 德	virtue	
<i>lai-hua</i> 來化	to come and be transformed	to come to the Chinese court and be Sinicized
<i>kowtow (koutou)</i> 叩頭	knock head	kneeling and knocking forehead upon the ground to show deep respect or submission

(Continued)

Table 2.2 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>nei Zhongguo, wai Yi Di</i> 內中國、外夷狄	including China and excluding barbarians	
<i>wai chen</i> 外臣	outer subjects	outer vassals
<i>tong er bu zhi</i> 統而不治	reigning but not governing	
<i>shou zai Siyi</i> 守在四夷	defense through the barbarians of the four quarters	
<i>bu zheng zhu yi</i> 不征諸夷	the barbarians not to be invaded	
<i>bu zheng zhi guo</i> 不征之國	the states not to be invaded	
<i>zheng shi</i> 正史	standard dynastic histories	
<i>dili zhi</i> 地理志	treatise on geography	
<i>jiang</i> 疆	boundary	border, frontier, or territory
<i>jiangyu</i> 疆域	territory	
<i>bantu</i> 版圖	registered and mapped domains	state/dynastic territory
<i>duhufu</i> 都護府	protectorate	frontier garrison or overseas military post
<i>dusi</i> 都司	regional military commission	
<i>jimi</i> 羈縻	“bridle and halter” or “loose-rein”	
<i>jimi di</i> 羈縻地	loose-rein district or unit	
<i>wai guo</i> 外國	foreign state	

Map 2.1
East Asia Physical



Source: CHARLES HOLCOMBE, A HISTORY OF EAST ASIA: FROM THE ORIGINS OF CIVILIZATION TO THE TWENTY-FIRST CENTURY, 4 map 1 (2011).

Table 3.1
Glossary of Chapter 3

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Qidan</i> 契丹	Khitans	
<i>kehan</i> 可汗	Khagan (Great Khan)	
<i>Yelu Abaoji</i> 耶律阿保機	Yelü Abaoji	Liao Taizu
<i>ji huangdi wei</i> 即皇帝位	ascended to the throne of emperor	
<i>zun hao</i> 尊號	honorific title	
<i>miao hao</i> 廟號	temple title	
<i>Da Zhongyang Hulizhi Qidan</i>		
<i>Guo</i>	Great Central Hulzhi Khitan State	
大中央胡里只契丹國		
<i>Da Qidan Guo</i> 大契丹國	Great Khitan State	
<i>Da Liao Guo</i> 大遼國	Great Liao State	
<i>Yan Yun shi liu zhou</i>	Sixteen Prefectures of Yan and	
燕雲十六州	Yun	
<i>Shangjing</i> 上京	Supreme Capital	
<i>Dongjing</i> 東京	Eastern Capital	
<i>Nanjing</i> 南京	Southern Capital	
<i>Zhongjing</i> 中京	Central Capital	
<i>Xijing</i> 西京	Western Capital	
<i>dao</i> 道	capital circuits	
<i>Huang Cheng</i> 皇城	Imperial City	
<i>Qidan Cheng</i> 契丹城	Khitan City	
<i>Han Cheng</i> 漢城	Chinese City	

(Continued)

Table 3.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Han-er Si</i> 漢兒司	Han-People Office	Chinese Bureau
<i>Yelu Deguang</i> 耶律德光	Yelü Deguang	Liao Taizong
<i>er yuan tongzhi</i> 二元統治	dual administration	
<i>Bei Mian</i> 北面	Northern Region	
<i>Bei Mian Guan</i> 北面官	Northern Administration	
<i>Nan Mian</i> 南面	Southern Region	
<i>Nan Mian Guan</i> 南面官	Southern Administration	
<i>woerduo</i> 斡耳朵(宮帳)	<i>ordo</i> (royal court or royal camp)	
<i>nabo</i> 捺鉢(行在)	seasonal camp	
<i>Chanyuan zhi meng</i> 澶淵之盟	Treaty of Chanyuan (1005)	
<i>meng shu</i> 盟書	oath-letters	
<i>sui bi</i> 歲幣	annual payments	
<i>Dangxiang</i> 黨項(唐古特)	Tanguts	
<i>dudu fu</i> 都督府	area command	
<i>Eerduosi</i> 鄂爾多斯	Ordos (Plateau)	
<i>Xiazhou</i> 夏州	Xia Prefecture	
<i>Ping-xia bu</i> 平夏部	Ping-Xia tribe	Xiazhou-based Tanguts
<i>Yinchuan</i> 銀川	Yinchuan (Plain)	
<i>Li Jiqian</i> 李繼遷	Li Jiqian	Xia Taizu
<i>Bai Gao Da [Xia] Guo</i> 白高大(夏)國	Great State of White and High	
<i>Da Xia Guo</i> 大夏國(西夏)	Great Xia State (Western Xia)	

(Continued)

Table 3.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Dingnan Jun Jiedushi</i> 定難軍節度使	Military Governor of the Dingnan Army	
<i>Xia Guo Wang</i> 夏國王	King of Xia State	
<i>Xiping Wang</i> 西平王	Prince of Xiping	
<i>Li Yuanhao</i> 李元昊 <i>Weiming Yuanhao</i> 嵬名元昊	Li Yuanhao (Weiming Yuanhao)	Xia Jingzong
<i>wuzu</i> 吾祖(青天子)	Son of Blue Heaven	Tangut imperial title
<i>Zhuanlun Wang</i> 轉輪王	Cakravartin	Buddhist “wheel-turning king”
<i>Jingde heyi</i> 景德和議	Treaty of Jingde (1006)	
<i>sui ci</i> 歲賜	annual gifts	
<i>Qingli heyi</i> 慶曆和議	Treaty of Qingli (1044)	
<i>Xia Guo Zhu</i> 夏國主	Ruler of Xia State	
<i>chen</i> 臣	“servant” or “vassal”	
<i>Nuzhen</i> 女真(女直)	Jurchens	
<i>Sheng Nuzhen Jiedushi</i> 生女真節度使	Military Governor of the Wild Jurchens	
<i>Wanyan Aguda</i> 完顏阿骨打	Wanyan Aguda	Jin Taizu
<i>Da Jin Guo</i> 大金國	Great Jin State	
<i>hai shang zhi meng</i> 海上之盟	the alliance conducted at sea	
<i>Shaoxing heyi</i> 紹興和議	Treaty of Shaoxing (1141)	
<i>Huai he</i> 淮河	Huai River	
<i>Dasan guan</i> 大散關	Dasan Pass	

(Continued)

Table 3.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>sui gong</i> 歲貢	annual tributes	
<i>Longxing heyi</i> 隆興和議	Treaty of Longxing (1165)	
<i>Jiading heyi</i> 嘉定和議	Treaty of Jiading (1208)	
<i>mengan mouke</i> 猛安謀克	<i>Meng'an-Mouke</i> system	Jurchen sociopolitical-military tribal organizations
<i>dubojilie</i> 都勃極烈	Supreme Chief	Jurchen imperial title
<i>bojilie</i> 勃極烈	great chieftains	
<i>guolun bojilie</i> 國論勃極烈	Council of Great Chieftains	
<i>Shangshu Sheng</i> 尚書省	Department of State Affairs	
<i>Liu Bu</i> 六部	Six Ministries	
<i>Zhongdou</i> 中都	Central Capital	
<i>lu</i> 路	routes	
<i>Xing Shangshu Sheng</i> 行尚書省	Branch Department of State Affairs	

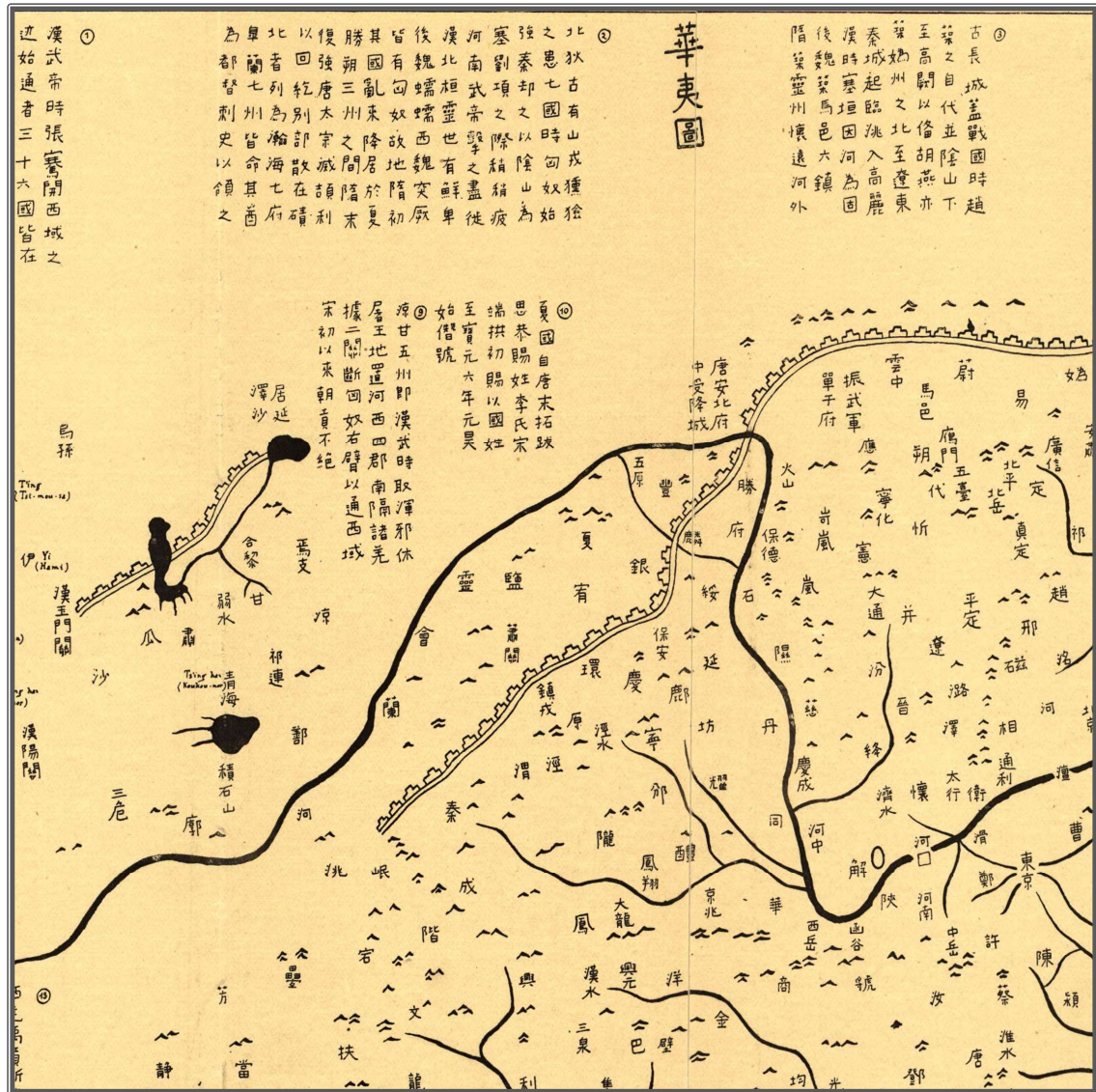
Map 3.1
Tangut Xia State, 1150



Source: Modified from Wikimedia Commons, File:Western Xia.png,

https://commons.wikimedia.org/w/index.php?title=File:Western_Xia.png&oldid=277270735 (last visited Jan. 26, 2019).

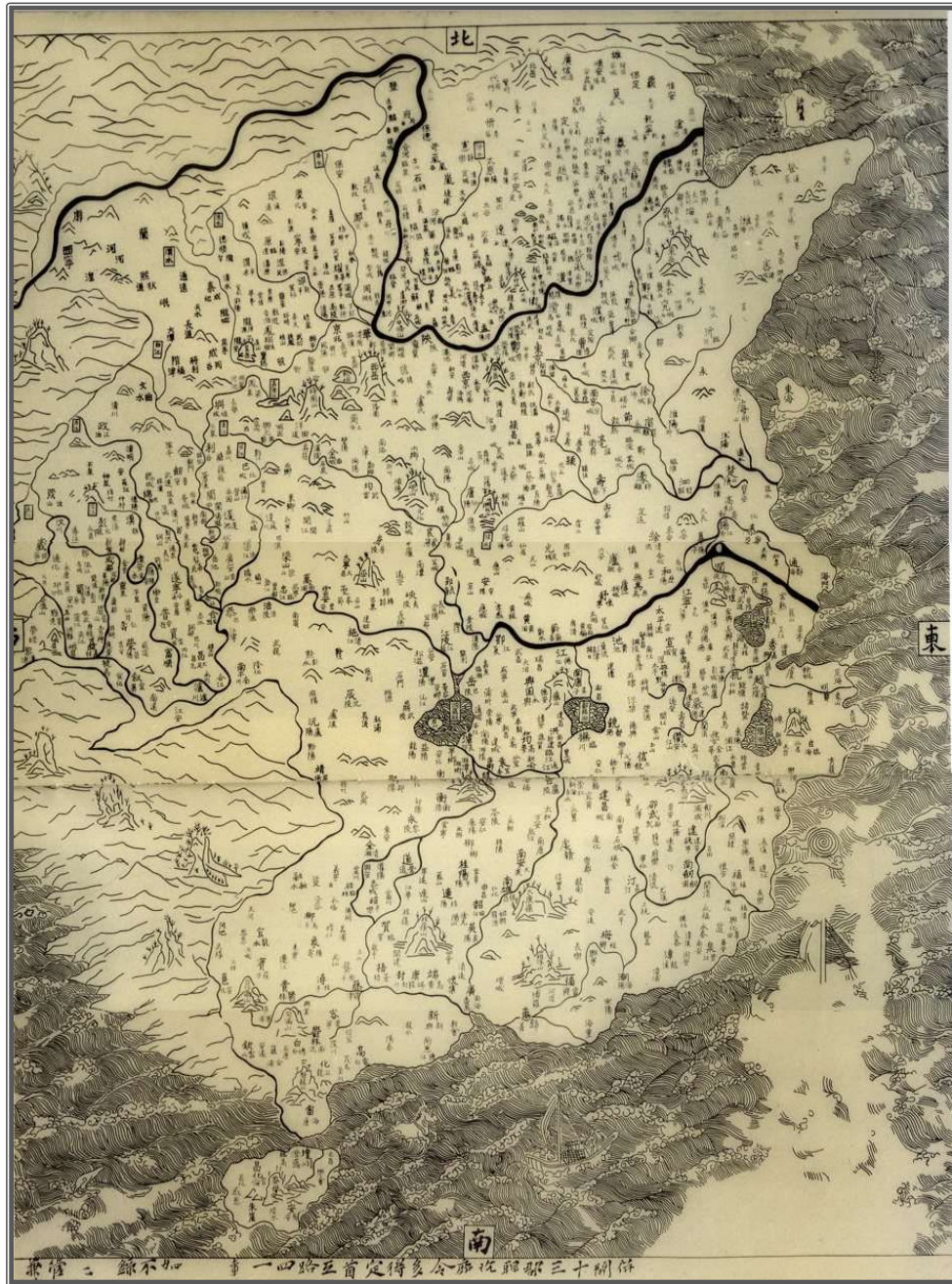
Map 3.2
Part of the *Hua Yi Tu* (Map of China and the Barbarian Countries),
Produced in 1136 (in Song Times)



Source: *Hua Yi Tu* (1136), retrieved from the Library of Congress, <https://www.loc.gov/item/2002626771/> (last visited Jan. 25, 2019).

Map 3.3

Jiu Yu Shou Ling Tu (Map of the Administration of the Nine Regions),
Produced in 1121 (in Northern Song Times)



Source: *Jiu Yu Shou Ling Tu* (1121), in 1 *ZHONGGUO GU DAI DI TU JI* [AN ATLAS OF ANCIENT MAPS IN CHINA], FROM THE WARRING STATES PERIOD TO THE YUAN DYNASTY (476 B.C.–A.D. 1368), map 65 (Cao Wanru et al. eds., Beijing, Cultural Relics Publishing House 1990) (China)

Map 3.4
Hua Yi Tu (Map of China and the Barbarian Countries),
 Produced in 1136 (in Song Times)



Source: *Hua Yi Tu* (1136), retrieved from the Library of Congress, <https://www.loc.gov/item/2002626771/>
 (last visited Jan. 25, 2019).

Table 4.1
Glossary of Chapter 4

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Menggu</i> 蒙古	Mongols	
<i>Boerzhijin shi</i> 孛兒只斤氏	Borjigin clan	
<i>kehan (dahan)</i> 可汗(大汗)	Khagan (Great Khan)	
<i>Tiemuzhen</i> 鐵木真	Temujin	Yuan Taizu
<i>Chengjisai Han</i> 成吉思汗	Chinggis Khan	Yuan Taizu
<i>huliletai</i> 忽里勒臺	<i>khuriltai</i> (great assembly)	
<i>Da Menggu Guo</i> 大蒙古國	Great Mongol State (Mo. <i>Yeke Mongghol Ulus</i>)	
<i>Da Chao</i> 大朝	Great Dynasty	
<i>Da Yuan Guo</i> 大元國	Great Yuan State	
<i>Chang sheng tian</i> 長生天(蒙哥·騰格里)	Eternal Heaven (Mo. <i>Möngke Tenggeri</i>)	
<i>Hubilie</i> 忽必烈	Khubilai	Yuan Shizu
<i>Dali</i> 大理	Dali	modern Yunnan
<i>Gaoli</i> 高麗	Korea	
<i>Zhengdong Xingsheng</i> 征東行省	Zhengdong Province	
<i>Halahelin</i> 哈拉和林	Karakorum (Kharkhorin)	
<i>Shangdu</i> 上都(開平)	Supreme Capital (Kaiping)	present-day Dolon Nor
<i>Dadu</i> 大都	Great Capital	modern Beijing
<i>qiexue</i> 怯薛	<i>keshig</i> (imperial guard)	

(Continued)

Table 4.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Zhongshu Sheng</i> 中書省	Central Secretariat	
<i>Liu Bu</i> 六部	Six Ministries	
<i>Shumi Yuan</i> 樞密院	Bureau of Military Affairs	
<i>Yushi Tai</i> 御史臺	Censorate	
<i>Fuli</i> 腹裏	Central Province	
<i>sheng</i> 省	province	
<i>lu</i> 路	route	
<i>fu</i> 府	superior prefecture	
<i>zhou</i> 州	prefecture	
<i>xian</i> 縣	county	
<i>si deng ren zhi</i> 四等人制	four-status system	
<i>Mengguren</i> 蒙古人	Mongols	
<i>Semuren</i> 色目人	Western and Central Asians	
<i>Hanren</i> 漢人	essentially, northern Chinese	
<i>Nanren</i> 南人	mainly, southern Chinese	
<i>daluhuachi</i> 達魯花赤	<i>darughachi</i> (overseers)	
<i>zhaluhuchi</i> 扎魯忽赤	<i>jarghuchi</i> (Mongolian judges)	
<i>Zhasa</i> 扎撒	<i>Jasaq (Yasa)</i>	the body of laws that was based upon Mongolian customary law
<i>hadi</i> 哈的(卡迪)	<i>qadi</i> (Muslim judges)	
<i>Taihe Lu</i> 泰和律	Chinese-style Taihe Code	
<i>Tanyue</i> 檀越	<i>Cho-Yon</i> (priest-patron) relationship	

(Continued)

Table 4.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Basiba</i> 巴思八	'Phags-pa	'Phags-pa Lama
<i>Guoshi</i> 國師	State Preceptor	
<i>Dishi</i> 帝師	Imperial Preceptor	
<i>Zhuanlun Wang</i> 轉輪王	Cakravartin or Cakravartiraja	Buddhist universal “wheel-turning king”
<i>Wenshu Pusa</i> 文殊菩薩	Manjusri	Bodhisattva of Wisdom
<i>Sajia pai</i> 薩迦派	Sakya Sect of Tibetan Buddhism	
<i>Zongzhi Yuan</i> 總制院	Supreme Control Commission	
<i>Xuanzheng Yuan</i> 宣政院	Commission for Buddhist and Tibetan Affairs	
<i>Taimiao</i> 太廟	Imperial Ancestral Temple	
<i>Sheji</i> 社稷	Altars of the Soil and Grain	
<i>Kongmiao</i> 孔廟	Confucian Temple	
<i>Dada</i> 韃靼	Tatar Mongols	
<i>Wala</i> 瓦剌	Oirat Mongols	
<i>taishi</i> 太師	grand preceptor or regent	

Table 5.1
Glossary of Chapter 5

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Hanren</i> 漢人	Han people	
<i>Zhu Yuanzhang</i> 朱元璋	Zhu Yuanzhang	Ming Taizu
<i>quchu hulu, hui fu Zhonghua</i> 驅除胡虜、恢復中華	drive out the <i>Hu</i> caitiffs [i.e. Mongols], and restore China	
<i>Zhongguo zhi min</i> 中國之民	Chinese people	
<i>Da Ming Guo</i> 大明國	Great Ming State	
<i>Hanren gu guo</i> 漢人故國	Han people's old country	
<i>Zu Xun Lu</i> 祖訓錄	Ancestral Instructions	
<i>Huang Ming Zu Xun</i> 皇明祖訓	Ancestral Instructions of the August Ming	
<i>bu zheng zhu yi</i> 不征諸夷(不征之國)	the barbarians not to be invaded	
<i>Zhu Di</i> 朱棣	Zhu Di	Ming Chengzu
<i>shiwu sheng</i> 十五省	Fifteen Provinces	
<i>Shuntian</i> 順天	Shuntian (lit. Obedient to Heaven)	modern Beijing
<i>Bei Zhili</i> 北直隸	Northern Metropolitan Region	
<i>Yingtian</i> 應天	Yingtian (lit. Responsive to Heaven)	present-day Nanjing
<i>Nan Zhili</i> 南直隸	Southern Metropolitan Region	
<i>Liaodong Dusi</i> 遼東都司	Liaodong Regional Military Commission	

(Continued)

Table 5.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Nurgan</i> 奴兒干	Nurgan region	“traditional Manchuria” beyond Liaodong
<i>Nuergan Dousi</i> 奴兒干都司	Nurgan Regional Military Commission	
<i>wei</i> 衛	guard	
<i>suo</i> 所	post	
<i>Chang Cheng</i> 長城	Great Wall	
<i>Jiu Bian Zhen</i> 九邊鎮	Nine Border Garrisons	
<i>Liaodong Bian Qiang</i> 遼東邊牆	Liaodong Border Wall	
<i>Dalai Lama</i> 達賴喇嘛	Dalai Lama	
<i>Gelu pai</i> 格魯派	Gelug Sect of Tibetan Buddhism	
<i>tusi</i> 土司	native office	
<i>tu ren</i> 土人	native people	
<i>tu guan</i> 土官	native official	
<i>tu bing</i> 土兵	native soldiers	
<i>gaitu guiliu</i> 改土歸流	changing native offices to regular administration	
<i>Da Ming zhi</i> 大明志	Gazetteer of the Great Ming	
<i>Da Ming yitong zhi</i> 大明一統志	Gazetteer of the United Great Ming	
<i>wai yi</i> 外夷	foreign barbarians	
<i>jian guo</i> 監國	protector of the state	

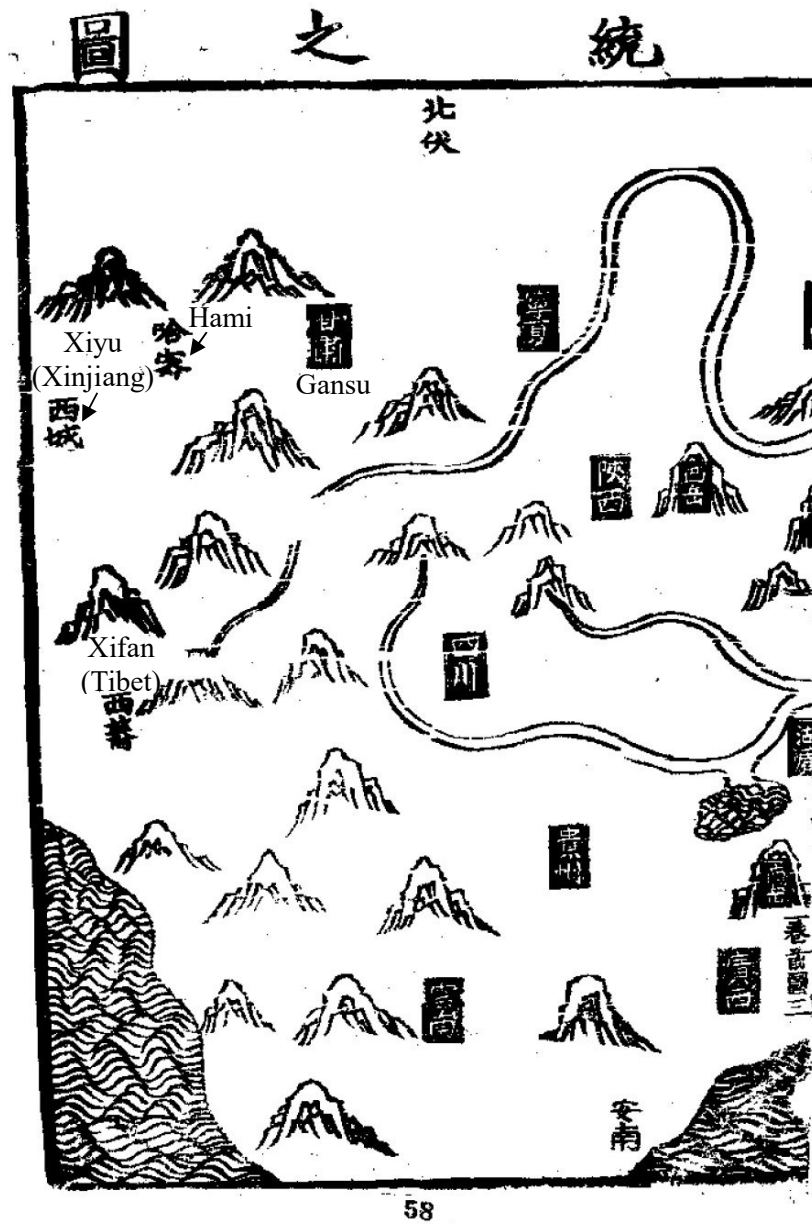
Map 5.1
Historical Map of Chinese Ming Empire, the Eastern Half



Note: “Hainan Island,” “Xuan Fu,” “Liaodong,” and “Jurchen (Manchuria)” are added by me.

Source: LI XIANET ET AL., DA MING YITONG ZHI [GAZETTEER OF THE UNITED GREAT MING] 57 (1965) (TAIWAN) (1461).

Map 5.2
Historical Map of Chinese Ming Empire, the Western Half



Note: "Gansu," "Xiyu (Xinjiang)," and "Tibet" are added by me.

Source: LI XIANET ET AL., DA MING YITONG ZHI [GAZETTEER OF THE UNITED GREAT MING] 58 (1965) (TAIWAN) (1461).

Figure 5.1
Foreign Barbarians (*wai yi*)

<p>平越衛軍民指揮使司 龍巖衛軍民指揮使司 都勻衛軍民指揮使司 畢節衛 威清衛 安莊衛 清平衛 平壩衛 安南衛 普市守禦千戶所 卷之八十九 外夷 Foreign Barbarians (<i>wai yi</i>) 朝鮮國 Korea 女直 Jurchen (<i>Nuzhi</i>) 日本國 Japan 琉球國 Ryukyu (<i>Lingyu</i>) 西蕃 Tibet (<i>Xifan</i>) 赤斤蒙古衛</p>	<p>罕東衛 安定衛 阿端衛 曲先衛 哈密衛 Hami 火州 亦力把力 撒馬兒罕 哈烈 于闐 卷之九十 安南 Vietnam (<i>Annan</i>) 占城國 暹羅國 爪哇國 真臘國 滿刺加國 古麻剌國 拂菻國</p>
<p>三佛齊國 淳泥國 蘇門答剌國 蘇祿國 彭亨國 西洋古里國 瑣里國 榜葛刺國 天方國 默德那國 古里班卒國 錫蘭山國 白葛達國 百花國 婆羅國 呂宋國 合猫里國 蝶里國 打回國 日羅夏治國</p>	<p>阿魯國 甘巴里國 忽魯謨斯國 忽魯母恩國 柯枝國 麻林國 沼納模兒國 加異勒國 祖法兒國 溜山國 阿哇國 韃靼 Tatar (<i>Dada</i>) 兀良哈 Wuliangha</p>

Source: LI XIANET ET AL., DA MING YITONG ZHI [GAZETTEER OF THE UNITED GREAT MING] 58 (1965) (TAIWAN) (1461).

Table 6.1
Glossary of Chapter 6

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Nuzhen</i> 女真	Jurchens	
<i>Jianzhou Nuzhen</i> 建州女真	Jianzhou Jurchens	
<i>Haixi Nuzhen</i> 海西女真	Haixi Jurchens	
<i>Yeren Nuzhen</i> 野人女真	Wild Jurchens	
<i>Nikan</i> 尼勘	Han (Chinese) people	
<i>Manzhou</i> 滿洲	Manchus	
<i>han</i> 汗	Khan or Khagan (Great Khan)	
<i>Nuerhaqi</i> 努爾哈齊	Nurhaci	Qing Taizu
<i>[Hou] Jin Guo</i> (後)金國	“Later” Jin State (Ma. <i>Aisin Gurun</i>)	
<i>Da Qing Guo</i> 大清國	Great Qing State (Ma. <i>[Amba] Daicing gurun</i>)	
<i>qi da hen</i> 七大恨	Seven Great Grievances	
<i>Huang Taiji</i> 皇太極	Hung Taiji	Qing Taizong
<i>Lindan Han</i> 林丹汗	Ligdan Khan	the Mongol Yuan’s last Great Khan
<i>Chahaer</i> 察哈爾	Chahar	
<i>Nei Menggu</i> 內蒙古	Inner Mongolia	
<i>Menggu Yamen</i> 蒙古衙門	Mongol Bureau	
<i>Lifan Yuan</i> 理藩院	Ministry for Governing the Outer Provinces (Ma. <i>Tulergi golo be dasara jurgan</i>)	Lifan Yuan

(Continued)

Table 6.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Fulin</i> 福臨(順治帝)	Fulin (Shunzhi Emperor)	Qing Shizu
<i>Xuanye</i> 玄燁(康熙帝)	Xuanye (Kangxi Emperor)	Qing Shengzu
<i>san fan zhi luan</i> 三藩之亂	Rebellion of the Three Feudatories	
<i>gaitu guiliu</i> 改土歸流	changing native offices to regular administration	
<i>wufu</i> 五服	five-zone theory	
<i>huangfu</i> 荒服	wild zone	
<i>Zheng Chenggong</i> 鄭成功	Zheng Chenggong	Koxinga
<i>Fuermosha</i> 福爾摩沙	Formosa	Taiwan
<i>Dongning Wangguo</i> 東寧王國	Dongning Kingdom	Kingdom of Formosa
<i>Nibuchu Tiaoyue</i> 尼布楚條約	Qing–Russian Treaty of Nerchinsk (1689)	
<i>Kaerka</i> 喀爾喀	Khalkha Mongols	
<i>Weilate</i> 衛拉特(瓦剌)	Oirat Mongols	
<i>Zhungaer Hanguo</i> 準噶爾汗國	Zunghar State/Khanate	
<i>Gaerdan</i> 噶爾丹	Galdan Khan	
<i>Zhebuzundanba Hutuketu</i> 哲布尊丹巴呼圖克圖	Jebtsundamba Khutuktu	the supreme incarnate lama of Mongolia
<i>Yinzhen</i> 胤禛(雍正帝)	Yinzhen (Yongzheng Emperor)	Qing Shizong
<i>Qiaketu Tiaoyue</i> 恰克圖條約	Qing–Russian Treaty of Kyakhta (1727)	

(Continued)

Table 6.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Hongli</i> 弘曆(乾隆帝)	Hongli (Qianlong Emperor)	Qing Gaozong
<i>Xinjiang</i> 新疆	New Frontier	Xinjiang
<i>Zhungaer</i> 準噶爾	Zungharia	roughly, present-day northern Xinjiang
<i>Dong Tujuesitan</i> 東突厥斯坦	East Turkestan	roughly, present-day southern Xinjiang
<i>Qing Shi Gao</i> 清史稿	<i>Draft History of the Qing</i>	

Table 7.1
The Rulers of Beijing (Yanjing), 936–1912

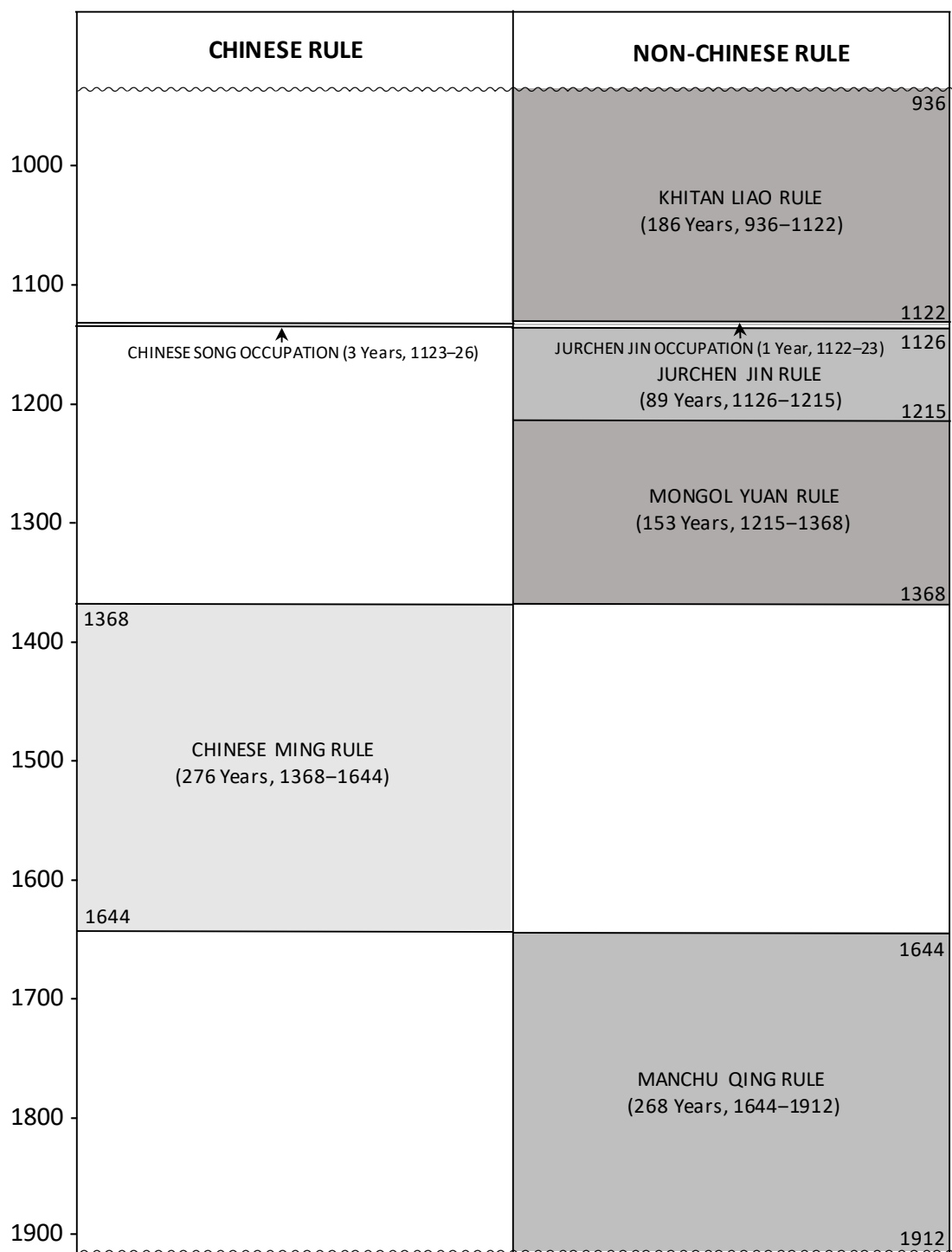


Table 7.2
Glossary of Chapter 7

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Ba Qi</i> 八旗	Eight Banners (Ma. <i>jakūn gūsa</i>)	
<i>baqi Menggu</i> 八旗蒙古	Mongol Eight Banners	
<i>baqi Hanjun</i> 八旗漢軍	Hanjun or “Chinese-Martial” Eight Banners	
<i>baqi Manzhou</i> 八旗滿州	Manchu Eight Banners	
<i>zuoling (niu-lu)</i> 佐領(牛錄)	company (Ma. <i>niru</i>)	
<i>canling (jia-la)</i> 參領(甲喇)	regiment (Ma. <i>jalan</i>)	
<i>qi (gushan)</i> 旗(固山)	banner (Ma. <i>gūsa</i>)	
<i>doutong</i> 都統	Banner commanders	
<i>beile</i> 貝勒	chieftains or princes	
<i>bao-yi</i> 包衣	bondservants	
<i>Yizheng Chu</i> 議政處	Deliberative Council	
<i>Yizheng wang dachen huiyi</i> 議政王大臣會議	Deliberative Council of Princes and High Officials	
<i>dachen</i> 大臣	<i>ambans</i> (high officials)	
<i>Wen Guan</i> 文館(書房)	Literary Office	
<i>zhongyang jiquan</i> 中央集權	centralization of power	
<i>Hanhua</i> 漢化	Sinicization	
<i>Nei San Yuan</i> 內三院	Three Palace Academies	
<i>Nei Guoshi Yuan</i> 內國史院	Palace Historiographic Academy	
<i>Nei Mishu Yuan</i> 內秘書院	Palace Secretariat Academy	
<i>Nei Hongwen Yuan</i> 內弘文院	Palace Academy for the Advancement of Literature	

(Continued)

Table 7.2 (Continued)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>ba yamen</i> 八衙門	Eight Ministries	
<i>Liu Bu</i> 六部	Six Ministries or Six Boards	
<i>Du Cha Yuan</i> 都察院	Censorate	
<i>Menggu Yamen</i> 蒙古衙門	Mongol Bureau	
<i>Lifan Yuan</i> 理藩院	Ministry for Governing the Outer Provinces (Ma. <i>Tulergi golo be dasara jurgan</i>)	Lifan Yuan
<i>Beijing</i> 北京	Northern Capital	Beijing (Yanjing)
<i>Jingshi</i> 京師	Capital City	
<i>Wai Cheng</i> 外城	Outer City	
<i>Han Cheng</i> 漢城	Chinese City	
<i>Nei Cheng</i> 內城	Inner City	
<i>Man Cheng</i> 滿城	Manchu (Tartar) City	
<i>Huang Cheng</i> 皇城	Imperial City	
<i>Neiwu Fu</i> 內務府	Imperial Household Department	
<i>Shang San Qi</i> 上三旗	Three Upper Banners	
<i>Zi Jin Cheng</i> 紫禁城	Purple Forbidden City	Forbidden City
<i>Nei Ting</i> 內庭	Inner Court	
<i>Wei Ting</i> 外庭	Outer Court	
<i>Shengjing</i> 盛京(瀋陽)	Prosperous Capital	Shengjing or Mukden (Shenyang)
<i>pei dou</i> 陪都	auxiliary capital	
<i>Shengjing Wubu</i> 盛京五部	Five Shengjing Ministries	
<i>Dong Xun</i> 東巡	Eastern Tours	

(Continued)

Table 7.2 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Chengde</i> 承德(熱河)	Chengde (Rehe)	
<i>xia dou</i> 夏都	summer capital	
<i>chaojin</i> 朝覲	imperial audiences	
<i>Mulan weichang</i> 木蘭圍場	Mulan imperial hunting preserve	
<i>Jinlu Baqi</i> 禁旅八旗(京旗)	Metropolitan or Capital Banners	
<i>Nei San Qi</i> 內三旗	Three Inner Banners	
<i>qi bing</i> 旗兵	Banner soldiers	
<i>Zhufang Baqi</i> 駐防八旗	Garrison Banners	
<i>zhufang jiangjun</i> 駐防將軍	Banner garrison general or military governor	
<i>Jifu zhufang</i> 畿輔駐防	Jifu garrisons	
<i>zhisheng zhufang</i> 直省駐防	provincial garrisons	
<i>Luying Bing</i> 綠營兵	Chinese Green Standard Army	
<i>dongbei zhufang</i> 東北駐防	Northeast Garrisons	
<i>xibei zhufang</i> 西北駐防	Northwest Garrisons	
<i>Man Han gongzhi</i> 滿漢共治	Manchu–Han diarchy	
<i>Zongren Fu</i> 宗人府	Imperial Clan Court	
<i>Neige</i> 內閣	Grand Secretariat	
<i>tiben</i> 題本	routine memorials	
<i>Hanlin Yuan</i> 翰林院	Hanlin Academy	
<i>Junji Chu</i> 軍機處	Grand Council	
<i>Junji Dachen</i> 軍機大臣	Grand Councillors	
<i>zouzhe</i> 奏摺	palace memorials	

(Continued)

Table 7.2 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>shiba sheng</i> 十八省	Eighteen Provinces	roughly, China Proper
<i>neidi (guannei)</i> 內地(關內)	inner lands (lands within the passes)	roughly, China Proper
<i>xun fu</i> 巡撫	provincial governor	
<i>zong du</i> 總督	governor-general	
<i>fu</i> 府	superior prefecture	
<i>zhou</i> 州	prefecture	
<i>xian</i> 縣	county	
<i>qi min fen zhi</i> 旗民分治	separate governance of Banner people and civilians	
<i>Man cheng</i> 滿城	Manchu cities	
<i>long xing zhi di</i> 龍興之地	the land from whence the dragon [ruling house] arose	
<i>Liu-tiao Bian</i> 柳條邊	Willow Palisade	
<i>feng jin</i> 封禁	closure	the policy of closure of Manchuria to Chinese immigration
<i>Dong San Sheng</i> 東三省	Three Eastern Provinces	
<i>Fengtian</i> 奉天	Fengtian	southern Manchuria
<i>Jilin</i> 吉林	Jilin	central Manchuria
<i>Heilongjiang</i> 黑龍江	Heilongjiang	northern Manchuria
<i>Aihun Tiaoyue</i> 璦琿條約	Qing–Russian Treaty of Aigun (1858)	
<i>Beijing Tiaoyue</i> (清俄)北京條約	Qing–Russian Treaty of Beijing (1860)	

(Continued)

Table 7.2 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>li fan</i> 理藩	governing the “outer domains” or “outer provinces”	
<i>Meng-Qi Zhi</i> 盟旗制	League–Banner System	
<i>[Menggu] meng</i> (蒙古)盟	[Mongol] leagues (Mo. <i>chuulgan</i>)	
<i>[Menggu] qi</i> (蒙古)旗	[Mongol] banners (Mo. <i>khoshuun</i>)	
<i>zhasake</i> 扎薩克	zasag banners	
<i>taiji</i> 台吉	noblemen	
<i>Nan Jiang</i> 南疆	South Xinjiang	
<i>Huibu</i> (Huijiang) 回部(回疆)	Muslim Region (Muslim Frontier)	
<i>Weiwuer</i> 維吾爾	Uyghurs	
<i>Boke Zhi</i> 伯克制	<i>Beg</i> (Chief) System	
<i>boke</i> 伯克	<i>begs</i> (Uyghur chiefs)	
<i>Bei Jiang</i> 北疆	North Xinjiang	
<i>Hui-tun</i> 回屯	Muslim agricultural colonies	
<i>bing-tun</i> 兵屯	military farms	
<i>qi-tun</i> 旗屯	Banner farms	
<i>min-tun</i> 民屯	civilian agricultural colonies	
<i>Agubo</i> 阿古柏	Yakub Beg	
<i>Zhedeshaer</i> 哲德沙爾	Muslim state of Yettishahr	
<i>Shenghidebao Tiaoyue</i> 聖彼得堡條約(伊犁條約)	Qing–Russian Treaty of Saint Petersburg (1881)	
<i>jian sheng</i> 建省	provincialization	

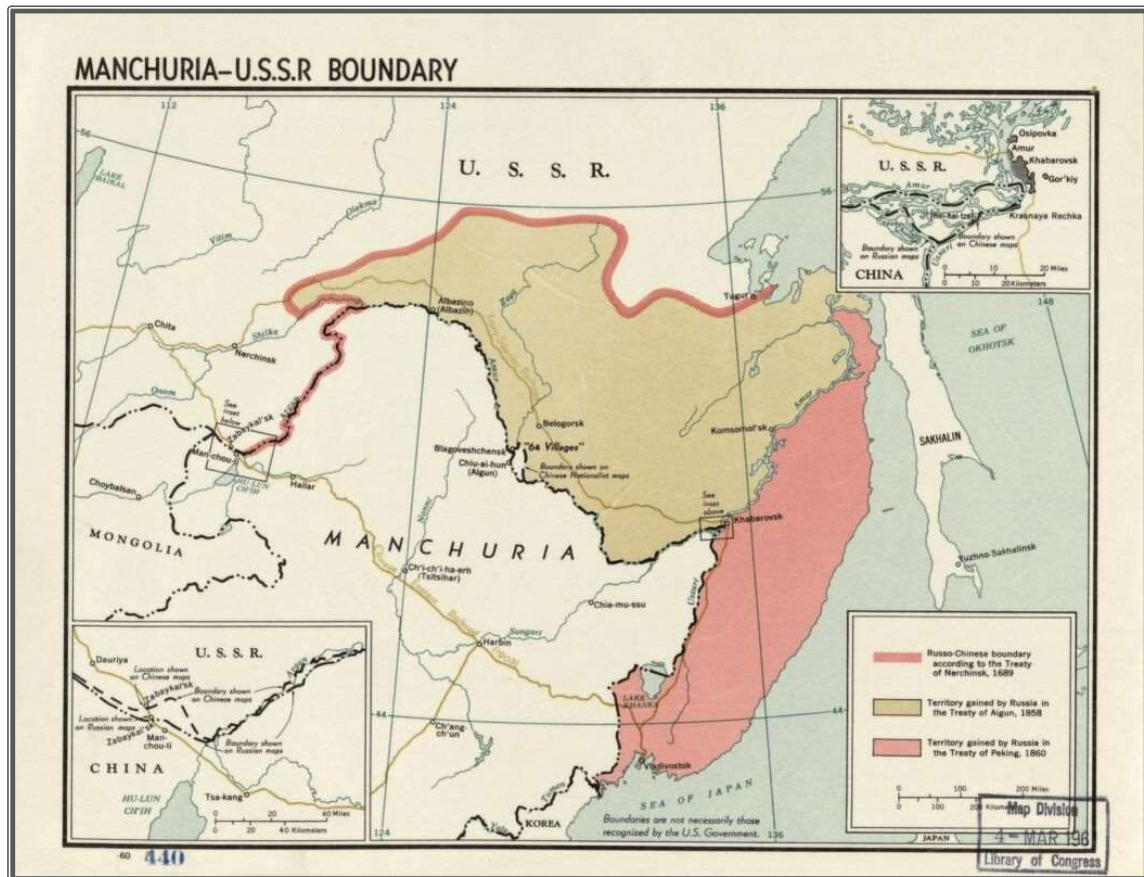
Map 7.2
Divisions of Qing Beijing



Source: Modified from Wikimedia Commons, File:Beijing city wall map vectorized.svg,
https://commons.wikimedia.org/w/index.php?title=File:Beijing_city_wall_map_vectorized.svg&oldid=261457166 (last visited Jan. 18, 2019).

Map 7.3

The Territories (Outer Manchuria) ceded from the Qing to Russia in 1858 and 1860



Source: United States Central Intelligence Agency, Manchuria-U.S.S.R. Boundary (1960), retrieved from the Library of Congress, <https://www.loc.gov/item/2007627809/> (last visited Jan. 18, 2019).

Figure 7.1
The Eight Banners



Plain Yellow Banner



Bordered Yellow Banner



Plain White Banner



Bordered White Banner



Plain Blue Banner



Bordered Blue Banner



Plain Red Banner



Bordered Red Banner

Source: Eight Banners, https://en.wikipedia.org/w/index.php?title=Eight_Banners&oldid=872978808 (last visited Jan. 18, 2019).

Figure 7.2
Chengde (Rehe) Imperial Palace



Source: The United States Library of Congress, *Rehe Xing Gong Quan Tu* (Panoramic View of the Rehe Imperial Palace), <https://www.loc.gov/resource/g7824c.ct001844/> (last visited Jan. 18, 2019).

Table 8.1
Glossary of Chapter 8

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Dongning Wangguo</i> 東寧王國	Dongning Kingdom	Kingdom of Formosa
<i>huangfu</i> 荒服	wild zone	
<i>fanli</i> 藩籬	hedgerow	
<i>Luofahao Shijian</i> 羅發號事件	<i>Rover</i> Incident (1867)	
<i>Mudanshe Shijian</i> 牡丹社事件	Mudan Incident (1871)	
<i>Zongli Yamen</i> 總理衙門	proto-Foreign Affairs Bureau of the late Qing	
<i>shufan</i> 熟番	cooked barbarians	
<i>shengfan</i> 生番	raw barbarians	
<i>huawei</i> 化外	beyond the civilization	
<i>Beijing Zhuanyue</i> 北京專約	Qing–Japanese Beijing Agreement (1874)	
<i>bao min yi ju</i> 保民義舉	righteous action to protect its own [Japanese] subjects	
<i>fu xu yin liang</i> 撫卹銀兩	condolence money	
<i>gai chu sheng fan</i> 該處生番	the raw barbarians in the area referred to	
<i>kai shan fu fan</i> 開山撫番	opening the mountains and pacifying the savages	
<i>Maguan Tiaoyue</i> 馬關條約	Qing–Japanese Treaty of Shimonoseki (1895)	

(Continued)

Table 8.1 (*Continued*)

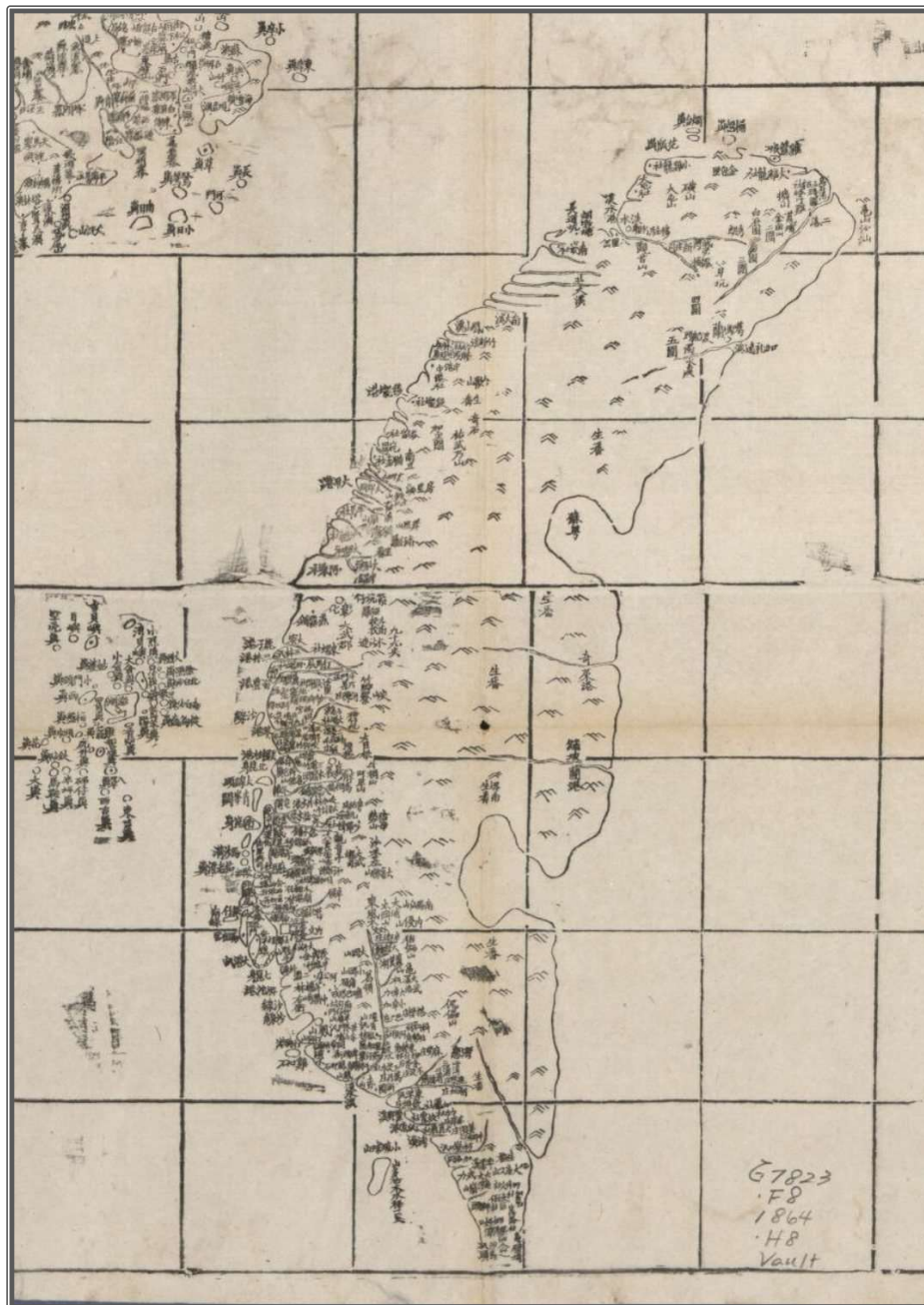
Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Tanyue</i> 檀越	<i>Cho-Yon</i> (priest-patron) relationship	
<i>Dalai Lama</i> 達賴喇嘛	Dalai Lama	
<i>Gelu pai</i> 格魯派	Gelug Sect of Tibetan Buddhism	
<i>Zhuanlun Wang</i> 轉輪王	Cakravartin	Buddhist universal “wheel-turning king”
<i>Wenshu Pusa</i> 文殊菩薩	Manjusri	Bodhisattva of Wisdom
<i>Anduo</i> 安多	Amdo (or Kokonor) region	historically, northeastern Tibet
<i>Zhu Zang Dachen</i> 駐藏大臣	Qing <i>ambans</i> (imperial residents) in Tibet	
<i>gaxia</i> 噶廈	<i>Kashag</i>	Tibetan Cabinet of Ministers
<i>galun</i> 噶倫	<i>kaloons</i>	Tibetan cabinet ministers
<i>Xi Zang Shan Hou Zhang</i> <i>Cheng [Shi San Tiao]</i> 西藏善後章程十三條	[Thirteen-Article] Ordinance for Reforming Tibetan Affairs	
<i>Kuoerka</i> 廓爾喀	Gurkha (Nepal)	
<i>Qin Ding Zang Nei Shan Hou</i> <i>Zhang Cheng [Er Shi Jiu Tiao]</i> 欽定藏內善後章程二十九條	[Twenty-Nine-Article] Ordinance for Reforming Tibetan Affairs	
<i>jin ping che qian</i> 金瓶掣籤	drawing lots from a golden urn	
<i>Lasa Tiaoyue</i> 拉薩條約	Anglo-Tibetan Lhasa Convention (1904)	
<i>Qing Ying Xuding Zang Yin</i> <i>Tiaoyue</i> 清英續訂藏印條約	Anglo-Qing Convention Respecting Tibet (1906)	Beijing Adhesion Agreement

(Continued)

Table 8.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Ying E Guanyu Bosi Afhan</i> <i>Xizang Zhi Tiaoyue</i> 英俄關於波斯、阿富汗、西 藏之條約	Anglo-Russian Convention Relating to Persia, Afghanistan, and Tibet (1907)	
<i>zhu quan</i> 主權	sovereignty	
<i>zong zhu quan</i> 宗主權	suzerainty	

Map 8.1
Historical Map of Taiwan (1864)



Source: The United States Library of Congress, Geography and Map Division, *Fujian Quan Tu* (Complete map of Fujian Province) (1864), <https://www.loc.gov/item/96685903/>.

Table 9.1
Glossary of Chapter 9

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>fan man/fan Qing</i> 反滿/反清	anti-Manchu/anti-Qing	
<i>Bailain Jiao</i> 白蓮教	White Lotus Sect	
<i>Tiandi Hui</i> 天地會	Heaven and Earth Society	
<i>Hong Men</i> 洪門	Hong League	
<i>Gelao Hui</i> 哥老會	Elder Brothers Society	
<i>fan Qing fu Ming</i> 反清復明	overthrow the Qing and restore the Ming	
<i>Taiping Tianguo</i> 太平天國	Taiping (lit. Great Peace) Heavenly Kingdom	
<i>Kang Youwei</i> 康有為	Kang Youwei	
<i>Liang Qichao</i> 梁啟超	Liang Qichao	
<i>Bairi Weixin</i> 百日維新	Hundred Days Reform	
<i>Cixi Taihou</i> 慈禧太后	Empress Dowager Cixi	
<i>Ba Guo Lianjun</i> 八國聯軍	Eight-Nation Alliance	
<i>Xin Zheng</i> 新政	New Policy	New Administration
<i>Xinjian Lujun (Xinjun)</i> 新建陸軍(新軍)	New Army	
<i>Beiyang Xinjun</i> 北洋新軍	Beiyang New Army	
<i>Zi Yi Ju</i> 諮議局	provincial assemblies	
<i>Zi Zheng Yuan</i> 資政院	National Assembly	
<i>zeren neige</i> 責任內閣	responsible cabinet	
<i>huangzu neige</i> 皇族內閣	imperial kinsmen's cabinet	

(Continued)

Table 9.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Sun Wen</i> 孫文(孫中山)	Sun Yat-sen (Sun Zhongshan)	
<i>Huang Xing</i> 黃興	Huang Xing	
<i>Xing Zhong Hui</i> 興中會	Revive China Society	
<i>quchu dalu, huifu Zhongguo, chuangli hezhong zhengfu</i> 驅除韃虜，恢復中國，創立 合眾政府	drive out the Tartar caitiffs [i.e., Manchus], restore China, and establish a federal government	
<i>Zhongguo [Geming]</i> <i>Tongmeng Hui</i> 中國(革命)同盟會	Chinese [Revolutionary] Alliance	
<i>San Min Zhuyi</i> 三民主義	Three Principles of the People	
<i>Minzu Zhuyi</i> 民族主義	Principle of Nationalism	
<i>Minquan Zhuyi</i> 民權主義	Principle of Democracy	
<i>Minsheng Zhuyi</i> 民生主義	Principle of People's Livelihood	
<i>quchu dalu, huifu Zhonghua, jianli Minguo, pingjun diquan</i> 驅除韃虜，恢復中華， 建立民國，平均地權	drive out the Tartar caitiffs [i.e., Manchus], restore China, establish a republic, and equalize land rights	
<i>Tongmeng Hui Xuanyan</i> 同盟會宣言	The Manifesto of the Revolutionary Alliance	
<i>Jun Zhengfu Xuanyan</i> 軍政府宣言	The Manifesto of the Military Government	
<i>minzu geming</i> 民族革命	nationalist revolution	

(Continued)

Table 9.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Xinhai Geming</i> 辛亥革命	Xinhai Revolution	
<i>Wuchang Qiyi</i> 武昌起義	Wuchang Uprising	
<i>Hubei Jun Zhengfu</i> 湖北軍政府	Hubei Military Government	
<i>Dudu</i> 都督	Military Governor	
<i>Li Yuanhong</i> 黎元洪	Li Yuanhong	
<i>Tiexue Shiba Xing Qi</i> 鐵血十八星旗	Iron Blood Eighteen-Star Flag	
<i>Huangdi Jiyuan</i> 黃帝紀元	Yellow Emperor era	
<i>Ge Sheng Dudu Fu Daibiao</i> <i>Lianhe Hui</i> 各省都督府代表聯合會	United Assembly of Representatives of the Provincial Military Governments	
<i>Zhonghua Minguo Zhongyang</i> <i>Jun Zhengfu</i> 中華民國中央軍政府	Central Military Government of the Republic of China	
<i>Waijiao Zong Zhang</i> 外交總長	Director of Foreign Affairs	
<i>Wu Tingfang</i> 伍廷芳	Wu Tingfang	
<i>Zhonghua Minguo Linshi</i> <i>Zhengfu Zuzhi Dagang</i> 中華民國臨時政府組織大綱	Structural Outline of the Provisional Government of the Republic of China	
<i>Zhonghua Minguo Linshi</i> <i>Zhengfu</i> 中華民國臨時政府	Provisional Government of the Republic of China	
<i>Zhonghua Minguo</i> 中華民國	Republic of China	
<i>Minguo Jiyuan</i> 民國紀元	Republican era	

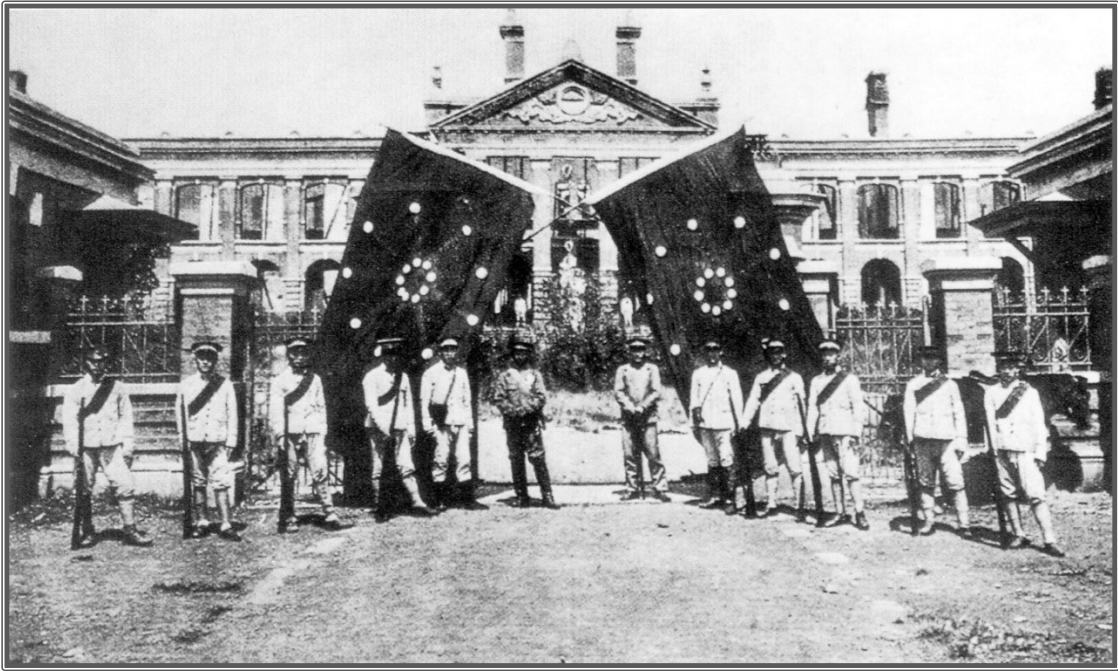
(Continued)

Table 9.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Wai Menggu Duli</i> 外蒙古獨立	Outer Mongolia's Declaration of Independence	
<i>Zhebuzundanba Hutuketu</i> 哲布尊丹巴呼圖克圖	Jebsundamba Khutuktu	the supreme incarnate lama of Mongolia
<i>Kulun</i> 庫倫	Khüree (Khüriye or Urga)	present-day Ulaanbaatar
<i>Da Menggu Guo</i> 大蒙古國	Great Mongol State	
<i>Zhonghua Minguo Linshi Canyi Yuan</i> 中華民國臨時參議院	Provisional Senate of the Republic of China	
<i>wu zu gonghe</i> 五族共和	Five-Race Republic	
<i>Wu Se Qi</i> 五色旗	Five-Color Flag	
<i>Qingtian Bairi Mandihong Qi</i> 青天白日滿地紅旗	Blue Sky, White Sun, and a Wholly Red Earth Flag	
<i>jian guo</i> 建國	creation of State	
<i>zhong chan wei xin guo</i> 重產為新國	was “reborn as a new state”	

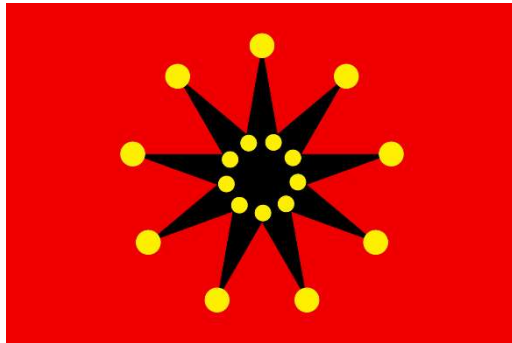
1911.svg, https://commons.wikimedia.org/w/index.php?title=File:Qing_Dynasty_blank_map_1911.svg&ol_did=245613206 (last visited Jan. 21, 2019)

Figure 9.1
The Hubei Military Government of the Republic of China



Source: Wikimedia Commons, File:Hubei Military Government.jpg,
https://commons.wikimedia.org/w/index.php?title=File:Hubei_Military_Government.jpg&oldid=286159549
(last visited Jan. 21, 2019).

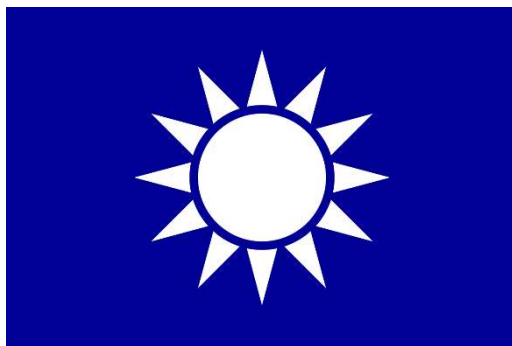
Figure 9.2
Some Revolutionary and National Flags of the Republic of China



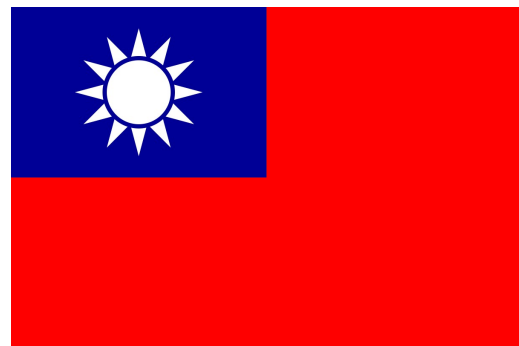
The Iron Blood Eighteen-Star Flag



The Five-Color Flag



The Blue Sky and White Sun Flag



The Blue Sky, White Sun,
and a Wholly Red Earth Flag

Source: Wikimedia Commons, File:Chinese-army Wuhan flag (1911-1928) 18 dots.svg,
[https://commons.wikimedia.org/w/index.php?title=File:Chinese-army_Wuhan_flag_\(1911-1928\)_18_dots.svg&oldid=272281857](https://commons.wikimedia.org/w/index.php?title=File:Chinese-army_Wuhan_flag_(1911-1928)_18_dots.svg&oldid=272281857) ; Wikimedia Commons, File:Flag of China (1912–1928).svg,
[https://commons.wikimedia.org/w/index.php?title=File:Flag_of_China_\(1912%E2%80%931928\).svg&oldid=333807742](https://commons.wikimedia.org/w/index.php?title=File:Flag_of_China_(1912%E2%80%931928).svg&oldid=333807742) ; Wikimedia Commons, File:Naval Jack of the Republic of China.svg,
https://commons.wikimedia.org/w/index.php?title=File:Naval_Jack_of_the_Republic_of_China.svg&oldid=317982021 ; Wikimedia Commons, File:Flag of the Republic of China.svg,
https://commons.wikimedia.org/w/index.php?title=File:Flag_of_the_Republic_of_China.svg&oldid=330645969 (last visited Jan. 21, 2019).

Table 10.1
Glossary of Chapter 10

Terms	Literal Meaning	Conventional Meaning (other than the literal meaning)
<i>Yuan Shikai</i> 袁世凱	Yuan Shikai	
<i>Tang Shaoyi</i> 唐紹儀	Tang Shaoyi	
<i>Wu Tingfang</i> 伍庭芳	Wu Tingfang	
<i>Nanbei Yihe</i> 南北議和	North–South Peace Conference	
<i>tiaoyue</i> 條約	treaty	
<i>heyue</i> 和約	peace treaty	
<i>tiaojian (tiaokuan)</i> 條件(條款)	articles	
<i>[falu] xiao li</i> (法律)效力	[legal] effects	
<i>ting zhan tiaojian</i> 停戰條件	armistice articles	
<i>Qing Di Tuiwei Zhaoshu</i> 清帝退位詔書	Abdication Edict of the Qing Emperor	
<i>quan quan</i> 全權	full powers	
<i>qi</i> 期	wish/wishing	
<i>Qingshi Youdai Tiaojian</i> 清室優待條件	Articles of Favorable Treatment for the Qing Imperial House	
<i>waiguo junzhu</i> 外國君主	foreign sovereign	
<i>Zhonghua Minguo Linshi Yuefa</i> 中華民國臨時約法	Provisional Constitution of the Republic of China	
<i>Ximula Tiaoyue</i> 西姆拉條約	Anglo–Tibetan Simla Convention (1914)	
<i>Qiaketu Tiaoyue</i> 恰克圖條約	Sino–Russian–Mongolian Kyakhta Treaty (1915)	

Table 11.1
Glossary of Chapter 11

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Taiwan</i> 台灣	Taiwan (Formosa)	
<i>Penghu</i> 澎湖	Penghu (Pescadores)	
<i>Maguan Tiaoyue</i> 馬關條約	Qing–Japanese Treaty of Shimonoseki (1895)	
<i>Taiwan Minzhu Guo</i> 台灣民主國	Democratic State of Taiwan (Republic of Taiwan)	Republic of Formosa
<i>Daxiyang Xianzhang</i> 大西洋憲章	Atlantic Charter (1941)	
<i>Lianheguo Gongtong Xuanyan</i> 聯合國共同宣言	Declaration by United Nations (1942)	
<i>Kailuo Xuanyan</i> 開羅宣言	Cairo Declaration (1943)	
<i>Bocitan Xuanyan</i> 波茨坦宣言	Potsdam Proclamation (1945)	
<i>Riben Xiangfu Wenshu</i> 日本降伏文書	Japanese Instrument of Surrender (1945)	
<i>Lianheguo Xianzhang</i> 聯合國憲章	Charter of the United Nations (1945)	
<i>zijue</i> 自決	self-determination	
<i>Yiban Mingling Di Yi Hao</i> 一般命令第一號	General Order No. 1 (1945)	
<i>Jiang Jieshi</i> 蔣介石	Chiang Kai-shek	
<i>junshi zhanling</i> 軍事占領	military occupation	
<i>Taiwan Guangfu</i> 台灣光復	retrocession of Taiwan	

(Continued)

Table 11.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Mao Zedong</i> 毛澤東	Mao Zedong	
<i>Zhonghua Renmin Gonghe Guo</i> 中華人民共和國	People's Republic of China	
<i>Jiu Zhongguo</i> 舊中國	Old China	
<i>Xin Zhongguo</i> 新中國	New China	
<i>ling qi luzao</i> 另起爐灶	starting anew	
<i>dasao ganjing wuzi zai qingke</i> 打掃乾淨屋子再請客	putting the house in order before inviting guests	
<i>yi bian dao</i> 一邊倒	leaning to one side	
<i>Zhongguo Renmin Zhengzhi Xieshang Huiyi Gongtong Gangling</i> 中國人民政治協商 會議共同綱領	Common Program of the Chinese People's Political Consultative Conference	
<i>bu pingdeng tiaoyue</i> 不平等條約	unequal treaties	
<i>zun zhong</i> 尊重	respect	
<i>cheng ren</i> 承認	recognize	
<i>Duiri Heyue (Jiujinshan Heyue)</i> 對日和約(舊金山和約)	Treaty of Peace with Japan (1951)	Peace Treaty of San Francisco
<i>Taipei Heyue</i> 台北和約	Treaty of Taipei (1952)	
<i>Jinmen</i> 金門	Kinmen	
<i>Mazu</i> 馬祖	Matsu	
<i>wu zhu di</i> 無主地	<i>terra nullius</i>	

(Continued)

Table 11.1 (*Continued*)

Terms	Literal Meaning	Conventional Meaning (other than literal meaning)
<i>Mengteweiduo Gongyue</i> 蒙特維多公約	Montevideo Convention (1933)	
<i>xuanshi shuo</i> 宣示說	declarative theory of state recognition	
<i>Jiange zhu dao (Diaoyutai)</i> 尖閣諸島(釣魚台)	Senkaku Islands (Ch. Diaoyutai or Diaoyu Islands)	