

## A Document from the Xunhua Archives

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In 1873 the Qing government regained control over Xunhua subprefecture (循化廳), a sprawling jurisdiction that encompassed a diverse population of Salars, Tibetans, and Mongols in addition to Han and Hui commoners. Local Muslims had ejected the Qing and its military forces from Xunhua and much of the rest of Xining Prefecture following the spread of the Great Muslim Rebellion to Gansu from Shaanxi in 1864. The Xunhua Subprefectural Archives, now held in the Qinghai Provincial Archives, Xining, document the Qing government's attempt to pacify and govern this region from 1873 through the fall of the dynasty in 1911. This archive currently contains 5,319 fascicles (*juan*) totaling approximately one hundred thousand pages of documents in both Chinese and Tibetan.

During the busy summer months when the subprefect was resident in Xunhua, registers of daily business (號簿) list as many as sixty to seventy separate matters, many of which touched on the affairs of local Tibetans. The Xunhua archives reveal that by the mid-nineteenth century, Gansu provincial officials played—often reluctantly—the key role in what had become a Qing-centered pluralistic legal order in the Amdo region. Tibetans from all walks of life—lay people and monks, herders and farmers, Gelukpa hierarchs and village elders, men and women—sought out Qing officials at all levels of the provincial administration to resolve local conflicts. Qing magistrates, working together with the monastic rulers of places such as Labrang and Rongwo, as well as Hui gentry and military commanders, drew on diverse traditions of jurisprudence to adjudicate conflicts. In the process, they created a uniquely Qing body of “jurispractices” (a term I borrow from Katherine Hermes’ study of native American law<sup>1</sup>) and legal precedents.

In the immediate aftermath of the Muslim rebellions in Gansu, Qing officials faced a particularly daunting wave of litigation brought by both Muslims and non-Muslims. During the course of the rebellions, land and other properties had changed hands—often involuntarily, people had been murdered or disappeared, families had separated, individuals had converted from one teaching to another, widows remarried, and the shifting fortunes of Muslim “rebels” and the Qing dynasty “braves” had left a tortuous record of loyalties and betrayals at all levels of society. The return of the Qing represented for some people an opportunity to right these perceived wrongs. The archival record makes it clear that the Tibetan communities of Amdo had not been immune from the turmoil of the Muslim rebellions. Many lay and monastic communities had allied themselves with the Muslims at one point or another. Other communities had suffered the depredations of attacks by Muslim forces and allied Tibetans. Moreover, the exigencies of the decade of rebellion only exacerbated historic tensions between Tibetan communities.

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<sup>1</sup> Katherine A. Hermes, “The Law of Native Americans, to 1815,” in Michael Grossberg and Christopher Tomlins, eds., *The Cambridge History of Law in America*, vol. 1: *Early America, 1580-1815* (Cambridge UK: Cambridge University Press, 2008), 33-34.

Many of these tensions arose from the complex and overlapping claims of the estates owned by the region's reincarnate lamas. During the 1870s-1880s, one of the thorniest cases to emerge from the ashes of the Muslim rebellions involved the estates of two major reincarnate lineages—the Gyangro Lama of Khagya monastery and the Sétsang Lama of Terlung monastery. Successive generations of both lineages had acquired estates, tenants, and mansions in the valleys between the two monasteries. Yet their claims to these properties frequently overlapped or were disputed by local residents. Managers of the two monastic estates also claimed exclusive rights to supervise and order the religious affairs of Khagya monastery. Despite the fact that both lineages (and all monasteries involved) subscribed to the teachings of the Gelukpa school and had often had amicable relations historically, by the 1870s, they had mustered military forces and were escalating attacks on each other. Further complicating the issue were mutual insinuations made by each lineage that the other side had allied with the Muslims of Hezhou during the rebellions, as well as the influence of two hostile monastic polities of regional import—Labrang and Rongwo, both of which attempted to take advantage of the conflict.

The document translated below is a proclamation from the spring of 1874 represents one early attempt by the Xunhua subprefect (at this time a Manchu bannerman named Anfu) to resolve the case. At this particular juncture, the subprefect had delegated the task of negotiating a resolution to the Khagya-Terlung conflict to the senior “nangso” (Tibetan lay official) of Rongwo. The proclamation includes a detailed community compact that was intended to clarify the various obligations the various villages owed to each other and to their respective monastic supervisors.

Despite the involvement of prestigious monks from outside the immediate area of the conflict and the sanction of the magistrate, this compact only held for a matter of months. This case would continue to trouble Xunhua subprefects until 1892. Yet the compact represents the first of a series of important inter-communal accords in Xunhua that attempted to resolve the Gyangro-Sétsang conflict. Throughout the rest of the Qing dynasty and well into the Republican period, these accords would serve as the primary legal basis for resolving intra and inter-communal conflicts. However, like any legal statute or precedent, they also occasionally provided the focus for subsequent friction when the concerned parties found that their understandings of the accords, often based on unofficial or incomplete Tibetan-language translations, differed not only from each other but from the subprefecture's own records.

Reading the Xunhua Archives the researcher is often struck with the strident demands of local Tibetans for the Qing state to “take charge” (作主) and adjudicate conflicts according to the “Tibetan laws and statutes” (番例番規). However, in practice, the demand for “Tibetan” jurisprudence generally provided discursive cover for the creation of a body of decisions, pledges, and community compacts in which the “Tibetan” statutes played only a supporting role. For instance, in the document below, a detailed settlement of community boundaries was far more central to the resolution of the case than the exchange of compensation in accordance with the Tibetan statutes for the deaths and destruction that had attended the outbreak of the conflict months earlier.

During the late nineteenth century litigation in Qing courts led to attempts by committees (委員會) of Qing officials and local Tibetan and Muslim elites to sort out the contradictory claims of religious estates. Investigative parties were sent out and detailed surveys of Tibetan communities collected. The desire to create clear boundaries around monasteries (a desire that originated with the Gelukpa elites as much as it did Qing officials), however, often had the unintended consequence of forcing indigenous Tibetan households and villages to enter into exclusive relationships with particular monasteries and monks. Pious activities such as pilgrimage or alms-giving were abruptly politicized and frequently restricted in the interest of clarifying the rights of monastic estate to a certain people and territories. The end result was the reification of monastic domains and their agglomeration into ever-larger organizations. By the end of the nineteenth century, Tao Baolian (陶保廉), the son of the Gansu governor-general Tao Mo (陶模), would warily describe the large monastic domains of Labrang and Rongwo as the “Warring States.”<sup>2</sup> Paradoxically, the existence of these massive entities was at least partially the result of the Qing’s own colonial legal order in the Sino-Tibetan borderlands.

### **The Document:**

“Let the Rong’ar hönpo and the Khagya chiliarch be informed:

With regards to the case concerning the feud between the [Rong’ar] hönpo and the Khagya chiliarch over three villages, this office ordered elders from both sides to fairly mediate. Upon receiving the terms of their recommended settlement, I made some minor emendations in the interest in ensuring its fairness and arrived at a final judgment. The stipulations shall be listed separately for dissemination to each party and must be observed by all concerned parties, including the hönpo and the chiliarch. Act in accordance with this judgment and there will be permanent peace and no further cause for argument or inconvenience. Promptly observe this command!

The decision stipulates as follows:

- Each household of Menlung must provide Khagya monastery with one *dou* of barley and fifteen catties (*jin*) of butter each year for eternity.
- Xiangka must perform one day of the *monlam* at Khagya monastery during the first month of the new year.
- Menlung is to be considered a tribe of Khagya monastery and, in accordance with past precedents, will be governed by Khagya.
- Fifty plots of land purchased by Khagya from Xiangka shall be returned to Khagya monastery.
- Irrigation water shall be supplied to Xiangka by Khagya according to the existing schedule; Xiangka will host one day of *monlam* each year at Khagya monastery, if on the scheduled days Xiangka does not receive water because the channel has been blocked, Khagya cannot request Xiangka to host *monlam*.

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<sup>2</sup> Tao Baolian, *Xinmao shixingji* 辛卯侍行記(Lanzhou: Gansu minzu, 2002), 240.

- Tangkar is to be considered a tribe of Rong'ar and, in accordance with past precedents, shall be governed by Rong'ar.
- All additional matters are to be handled according to precedent.
- Herders from Menlung who pasture on Khagya's alpine meadows shall be permitted to graze their animals there according to tradition.
- All those common people who have been taken captive shall be returned to their previous tribes.
- Rong'ar shall compensate Khagya for all the property of Khagya monastery that they destroyed or looted.

If these stipulations are not observed you will be punished without mercy!<sup>3</sup>

## 循化廳為遵依議規給隆哇、卡加的諭

諭隆哇紅布、卡家千戶知悉：

照得該紅布與卡家，千戶與隆哇相爭三莊案，本府當飭該兩造鄉老公平評議。嗣據議規前來，本府細加更正，庶幾向昭平允，自應依此判斷。除將所斷條規開列於後外，合行諭知，諭到該紅布、千戶等一體遵照。務須依斷行事，永結合好，毋再爭論生非，致幹未便。切切！此諭！

計開議定條規：

- 一、麻隆每年每家出番門青禾一鬥，又共出酥油十五斤，與卡家寺永遠為照；
  - 一、香卡堡每年與卡家寺每年正月作魔難一日；
  - 一、麻隆一莊原屬卡家寺之部落，仍照舊歸卡家管束；
  - 一、卡家當年與香卡出賣過田地五十塊，仍歸卡家寺；
  - 一、香卡灌地渠水由卡家河源放通，仍照舊日澆灌，；每年與卡家寺作魔難一次，言定香卡地內若不灌水，許將渠溝填塞，卡家亦不得要香卡作魔難；
  - 一、唐尕原系隆哇部落，仍歸隆哇照舊管轄；
  - 一、其餘各事仍照舊行事；
  - 一、麻隆帳房放牧卡家之草山，仍照舊牧放；
  - 一、凡縛下投的百姓，仍各歸舊部落；
  - 一、凡隆哇前日焚殺搶掠卡家寺一切東西，仍照舊規補賠卡家。
- 以上各條若不遵斷定，即嚴懲不貸！

同治十三年二月分府安（6—永久—187）

<sup>3</sup> Qinghai sheng dang'anguan (青海省档案馆) Tongzhi 同治 13/02 (1874-3/4), 6-YJ-187: 《循化廳為遵依議規給隆哇、卡加的諭》。

## **Biography**

Max Oidtmann is a historian of China and Inner Asia teaching at Georgetown University's School of Foreign Service in Qatar. He is currently working on a history of colonial legal culture on the Sino-Tibetan frontier from the 1720s through the 1930s.

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