

# MP-IDSA

## *Issue Brief*

# Self-Determination of Tibet: A Contentious Issue

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## **S***ummary*

Negotiations on self-determination of Tibet has been a contentious matter between the Tibetan ethnic minority and the PRC government. The PRC government has failed to implement in letter and spirit various laws which stipulate the establishment of autonomous regions for the ethnic minorities in China.

A diplomatic spat between the People’s Republic of China (PRC) and the United States (US) has ensued, following US President Biden signing the ‘Promoting a Resolution to the Tibet-China Dispute Act’ on 12 July 2024 into law.<sup>1</sup> Reacting to the Act, China stated that the US is undermining the “basic norms governing international relations” and should recognise Xizang (Tibet) as part of China. It urged the US not to support “Tibet independence” which if it fails to do, “China will take resolute measures to firmly defend its sovereignty, security and development interests”.<sup>2</sup>

Appraising the Act, along with the affirmation of upholding human rights and direct negotiations “without preconditions” with the Dalai Lama in order to resolve the differences, are some of the fundamental aspects at stake for the ‘self-determination’ of Tibet. This Brief examines how the principle of self-determination has been contested between the Chinese government and the Tibetan ethnic minority. It begins with a review on how the principles of self-determination have been construed in international law.

## Self-Determination in International Law

The principle of self-determination, which can be traced back to the French revolution in 1789 and the American Declaration of Independence of 1776, refers to the legal right of people to choose their own political destiny. In the contemporary period, it has been closely associated with US President Woodrow Wilson, when after the First World War, several new states were created from the losing powers of Germany, Austria-Hungary and the Ottoman Empire.<sup>3</sup>

Previously, self-determination was perceived as a ‘political concept’ but later on, it emerged as a “principle of positive international law” based on the UN Charter as in Article 1(2), it is requisite that one of the purposes of the United Nations is to “develop friendly relations among nations based on respect for the principle of equal rights and self-determinations of people”.<sup>4</sup>

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<sup>1</sup> [“Promoting a Resolution to the Tibet-China Dispute Act”](#), 118th Congress (2023–2024), 30 January 2023.

<sup>2</sup> [“Foreign Ministry Spokesperson’s Remarks on the US Signing Into Law the ‘Promoting a Resolution to the Tibet-China Dispute Act’”](#), Ministry of Foreign Affairs, The People’s Republic of China, 13 July 2024.

<sup>3</sup> Joshua Castellino, [“International Law and Self-determination: Peoples, Indigenous Peoples and Minorities”](#), in Christian Walter, Antje Von Ungren-Sternberg and Kavus Abushov (eds), *Self-Determination and Secession in International Law*, Oxford University Press, New York, 21 August 2014.

<sup>4</sup> Frederic L. Kirgis, Jr, [“The Degrees of Self-Determination in the United Nations Era”](#), *The American Journal of International Law*, Vol. 88, No. 2, pp. 304–310, 27 February 2017.

The principle of self-determination has been addressed in several UN resolutions, declarations and conventions. However, it is an ‘elusive concept’, mainly due to an unclear definition of ‘people’, i.e., who are actually entitled to self-determination (for example, indigenous groups, religious groups and other minorities), resulting in various interpretations and significant implications in practice.<sup>5</sup>

One of the foremost legal rights for self-determination is the “Granting of Independence to Colonial Countries and People” adopted by UN General Assembly (GA) Resolution 1514 in 1960, where Para 1 declares, “the subjugation of people to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights” and is contrary to the UN Charter.<sup>6</sup> These legal rights were primarily designed or interpreted to foster the decolonisation process and were upheld by the International Court of Justice in the Namibia case.<sup>7</sup>

Additionally, the application of self-determination beyond the anti-colonial dimension was adopted in 1970 by the UNGA, ‘Friendly Relations Declarations’ which entail the right of self-determination to all people freely “without external interference, their political status and to pursue their economic, social and cultural development”.<sup>8</sup> However, this legal document demands that self-determination be exercised cautiously, without disturbing the territorial integrity of the existing state. In other words, these legal rights are in line with ‘internal self-determination’, i.e., autonomy.<sup>9</sup>

In the case of internal self-determination, Article 1 of the two international Covenants of 1966—International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural Rights—provides people the right to “freely determine their political status and freely pursue their economic, social and cultural development”. Legal expert Antonio Cassese is of the view that all members of an inhabitant state have the right to express self-determination through “internal-decision making processes”, without disturbing the territorial integrity of sovereign states.<sup>10</sup> Indeed, such rights have been recognised in the

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<sup>5</sup> Helen Quane, “[The United Nations and the Evolving Rights to Self-Determination](#)”, *International & Comparative Law Quarterly*, Vol. 47, No. 3, pp. 537–572, 17 January 2008.

<sup>6</sup> “[Declaration on the Granting of Independence to Colonial Countries and Peoples](#)”, United Nations Digital Library, 14 December 1960.

<sup>7</sup> Robert McCorquodale, “[Self-determination: A Human Rights Approach](#)”, *International & Comparative Law Quarterly*, Vol. 43, No. 4, pp. 857–885, 1994.

<sup>8</sup> “[Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations](#)”, UN General Assembly, 25<sup>th</sup> Session, United Nations Digital Library, 24 October 1970.

<sup>9</sup> Peter Hilpold, “[Self-Determination and Autonomy: Between Secession and Internal Self-Determination](#)”, *International Journal on Minority and Group Rights*, Vol. 24, No. 3, pp. 302–335, 3 August 2017.

<sup>10</sup> Antonio Cassese, *Self-Determination of Peoples: A Legal Reappraisal*, Cambridge University Press, Cambridge, 1995.

United Nations Declaration on the Rights of Indigenous Peoples, 2007 where Article 4 declares that indigenous people “have the right to autonomy or self-government in matters relating to their internal and local affairs, as well as ways and means for financing their autonomous functions”.<sup>11</sup>

Although the core substance of self-determination infers secession or the ability to establish sovereign and independent states, in international laws, unilateral secession is not well received due to the fear of creating instability, when or if the right of self-determination is exercised by all who claim it. Former UN Secretary General Boutros Boutros-Ghali thoughtfully said: “if every ethnic, religious or linguistic group claimed statehood, there would be no limits to fragmentation and peace and security and economic well-being for all would become even more difficult to achieve.”<sup>12</sup>

Nonetheless, there are jurists that emphasise the applicability of self-determination to a particular group of people to secure their territorial sovereignty. Such kinds of self-determination are known as ‘remedial secession’ where self-determination is applied as a last resort or secession is justified, if any aggrieved group is severely persecuted by the state.<sup>13</sup> Such legal rights are detailed in the UNGA Resolution 2625, which states that the territorial integrity of the state is protected, if the government is represented by “the whole people belonging to the territory without distinction as to race, creed or color”.<sup>14</sup> This clause implies that if any government is unrepresentative or oppressive, it may trigger secession. Meanwhile, some jurists also emphasise, if internal self-determination or say autonomy are flawed in implementation, secession should be seen as a matter of last resort.

## Negotiations for Tibetan Self-Determination

On 13 February 1913, the 13<sup>th</sup> Dalai Lama formally declared the independence of Tibet, following the overthrow of Manchu Qing dynasty by the Chinese nationalist revolution in 1911.<sup>15</sup> The historiography on whether Tibet is a part of China,

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<sup>11</sup> [“United Nations Declaration on the Rights of Indigenous People”](#), UN General Assembly, 61<sup>st</sup> Session, United National Digital Library, 13 September 2007.

<sup>12</sup> [“An Agenda for Peace: Preventive Diplomacy, Peacemaking and Peace-Keeping: Report of the Secretary-General Pursuant to the Statement Adopted by Summit Meeting of the Security Council”](#), UN Secretary General, United Nations Digital Library, 31 January 1992.

<sup>13</sup> Allen Buchanan, [Justice, Legitimacy and Self-Determination: Moral Foundation for International Law](#), Oxford University Press, New York, August 2003.

<sup>14</sup> [“Declaration on Principles of International Law Concerning Friendly Relations and Cooperation Among States in Accordance with the Charter of the United Nations”](#), no. 8.

<sup>15</sup> [“Tibet’s Sovereignty and the Tibetan People’s Right to Self-Determination”](#), Tibet Justice Center, 13 February, 2013.

however, is complicated as both sides have competing narratives.<sup>16</sup> But one major historical event in which Tibet formally came under the control of China is when Chinese troops entered Tibet in 1950 and consequently signed the “Agreement on Measures for the Peaceful Liberation of Tibet” (17 Point Agreement) on 23 May 1951.<sup>17</sup>

Subsequently, at the UNGA, numerous resolutions were passed calling for the right to self-determination for the Tibetan people but it was met with negligible support from the international community.<sup>18</sup> Additionally, the UN Sub-Commission on Prevention of Discrimination and Protection of Minorities adopted a resolution on 23 August 1991 calling on the Government of the People’s Republic of China “fully to respect the fundamental human rights and freedoms of the Tibetan people”.<sup>19</sup> After decades of impasse, dialogue between the two sides commenced with a pre-condition that except for “total independence” all other issues were open for discussion.<sup>20</sup> Without substantial outcome, the talks ended in 1985 with the removal of Chinese representative Hu Yao-bang.<sup>21</sup>

Dialogue between the Tibetan and Chinese representatives, however, entered a new chapter following the Dalai Lama’s announcement of the “Middle way approach”, implying not seeking separation or independence of Tibet, but instead securing ‘genuine autonomy’ within the scope of the constitution of the People’s Republic of China.<sup>22</sup> In order to achieve a genuine autonomy for Tibetan peoples, the Tibetan administration formulated a ‘Five point peace plan’ in 1987, the Strasbourg proposal in 1998 and the Memorandum on Genuine Autonomy in 2008. Dialogue between the two sides continued based on these three core documents, but ended abruptly in 2010 without any substantial outcome.

In the negotiations between Tibetan representatives and the Chinese government, securing genuine autonomy for the Tibetan people has been a key issue, and has led to deadlock and pauses in the negotiation process. Hence, it is necessary and worthwhile to look into how the PRC government takes into account autonomy in relation to ethnic minorities.

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<sup>16</sup> Charles Henry Alexanderwicz-Alexander, “[The Legal Position of Tibet](#)”, *The American Journal of International Law*, Vol. 48, No. 2, pp. 265–274, April 1954.

<sup>17</sup> “[Seventeen-Point Plan for the Peaceful Liberation of Tibet \(1951\)](#)”, Tibet Justice Center, 1951.

<sup>18</sup> Melvyn Goldstein, [A History of Modern Tibet, Volume 2: The Calm before the storm 1951-1955](#), University of California Press, January 2007.

<sup>19</sup> “[Commission on Human Rights: Sub-Commission Resolution 1991/10: Situation in Tibet](#)”, Tibet Justice Center, 1991.

<sup>20</sup> “[Letter of His Holiness the Dalai Lama to Deng Xiaoping](#)”, Tibet Justice Center, 23 March 1981.

<sup>21</sup> “[An Overview of Sino-Tibetan Dialogue](#)”, Central Tibetan Administration, Dharamshala.

<sup>22</sup> “[His Holiness’s Middle Way Approach for Resolving the Issue of Tibet](#)”, His Holiness the 14<sup>th</sup> Dalai Lama of Tibet, Dharamshala.

## Assessment of ‘Autonomy’ Implementation in China

Regional ethnic autonomy is supposed to be the core governance mechanism for ethnic minorities in China.<sup>23</sup> Though the ‘Common Program’ and the 1954 Constitution of the People’s Republic of China (PRC) specify the establishment of regional autonomy, Chinese constitutional expert, Gao Quanxi has argued that the 1982 PRC Constitution as amended in 2018 has been infused with a legal attribute, which is aimed at ending incessant revolution, discarding absolute class struggle, substituted by “dictatorship of the proletariat” with a “people’s democratic dictatorship”.<sup>24</sup>

In the 1982 PRC Constitution, the preamble declares, “China is a unified multi-ethnic state founded by the Chinese people of all ethnic groups” and opposes “major ethnic group (Han) chauvinism”. Further, Article 4 stipulates the promotion of ethnic equality and unity, where discrimination and oppression of any ethnic groups is prohibited, and allows for the establishment of autonomous regions for self-governance while obliging that “all ethnic groups shall have the freedom to use and develop their own spoken and written languages and to preserve or reform their own traditions and customs”.<sup>25</sup> Additionally, based on the 1982 constitution, the National People’s Congress in 1984 adopted the “Law on Regional Ethnic Autonomy” which was amended in 2001, strengthening and expanding the existing autonomous rights formulated in the 1982 constitution.<sup>26</sup>

Assessing implementation of the ethnic minorities’ policy by the PRC government, it is characterised as one of “gradualism and pluralism” where until the late 1950s, a tolerant and benign attitude was practiced towards ethnic minorities by the PRC government.<sup>27</sup> But from the 1960s onwards under the leadership of Mao, especially during the Cultural Revolution (1967–1976), the ethnic minorities experienced the most repressive and assimilative period in the history of PRC.<sup>28</sup> Again from the 1970s, under the leadership of Deng Xiaoping, extreme assimilation of minorities ended and they began to make claims to uphold their rights to national autonomy.

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<sup>23</sup> Sienho Yee, “[Grouphood Promotion v. Grouphood Destruction: China’s Regional Ethnic Autonomy as Antithesis to Genocidal Intent](#)”, *Chinese Journal of International Law*, Vol. 22, No. 4, pp. 823–849, 23 December 2023.

<sup>24</sup> Gao Quanxi, “[Revolution, Reform & Constitutionalism: The Evolution of China’s 1982 Constitution](#)”, *Peking University Law Journal*, Vol. 2, No. 1, pp. 27–57, 1 May 2015.

<sup>25</sup> “[Constitution of the People’s Republic of China](#)”, The State Council, The People’s Republic of China, 20 November 2019.

<sup>26</sup> “[Law of the People’s Republic of China on Regional Ethnic Autonomy](#)”, The National People’s Congress of The People’s Republic of China, 1 October 2024.

<sup>27</sup> Xiaohui Wu , “[From Assimilation to Autonomy: Realizing Ethnic Minority Rights in China’s National Autonomous Regions](#)”, *Chinese Journal of International Law*, Vol. 13, No. 1, pp. 55–90, 15 April 2014.

<sup>28</sup> Uradyn E. Bulag, “[Twentieth-Century China: Ethnic Assimilation and Intergroup Violence](#)”, in Donald Bloxham and A. Dirk Moses (eds), *The Oxford Handbook of Genocide Studies*, Oxford University Press, 18 September 2012.



In the case of the Tibetan ethnic minority, though the demand for genuine autonomy by the Tibetan representative emerged more recently, essentially it was already featured way back in 17 Point Agreement in May 1951, as para 3 underlined that, “the Tibetan people have the right of exercising national regional autonomy under the unified leadership of the Central People’s Government”.<sup>29</sup> The PRC government, however, violated the agreement.<sup>30</sup>

To achieve the aspiration of autonomy for the Tibetan people, its representatives even submitted a “Memorandum on Genuine Autonomy for the Tibetan People” in 2008 to the PRC government.<sup>31</sup> The demand for autonomy in the memorandum was drafted in consonance with the PRC constitution and the Law on regional ethnic autonomy, which essentially addresses independently managing the internal affairs of Tibetans including language, culture, religion education, environment protection and utilisation of natural resources.

The evaluation of autonomy implementation in the Tibet Autonomous Region, however, reveals policy swings between “more tolerant and more repressive” by the PRC government.<sup>32</sup> Ironically, one of the fundamental reasons why the PRC government rejected the Tibetan proposal of autonomy, and instead adopted a repressive policy towards the Tibetan ethnic minority, is due to “fear of the external forces” of Western countries, especially the United States.<sup>33</sup>

The US policy on Tibet can be traced back to the 1940s, when the US government entered an agreement with Tibet to build a supply route through Tibet to China against Japanese attack. US policy on Tibet has been termed “inconsistencies in commitment, interspersed with occasional bursts of sympathy and activism”<sup>34</sup> mostly due to the impact of Cold War politics. Until 1970, Tibet was included in the US strategy to counter communist expansion in Asia. But it was weakened following the rapprochement of Sino-US relations in the 1970s.<sup>35</sup> And conversely, the Soviet Union, which in the 1950s fully backed the PRC government claim to sovereignty over Tibet, began to condemn Chinese policy in Tibet as a “colonial power”.<sup>36</sup>

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<sup>29</sup> [“Promises and Lies: The 17-Point Agreement”](#), *The Tibet Journal*, Vol. 36, No. 1, pp. 27–45, 2011.

<sup>30</sup> [“The Question of Tibet and the Rule of Law”](#), International Commission of Jurists, 1959.

<sup>31</sup> [“Memorandum on Genuine Autonomy for the Tibetan People”](#), Central Tibetan Administration.

<sup>32</sup> Baogang He, “Minority Rights with Chinese Characteristic”, in Will Kymlicka and Baogang He (eds), *Multiculturalism in Asia*, Oxford University Press, pp. 56–57, 2005.

<sup>33</sup> Lin Le, [“China’s Perception of External Threats and its Current Tibet Policy”](#), *The China Journal*, Vol. 76, pp.103–123, July 2016.

<sup>34</sup> Sujan R. Chinoy, [“Bursts of Sympathy, Teetering Commitment: U.S. Policy on Tibet”](#), Issue Brief No. 727, Observer Research Foundation, 3 September 2024.

<sup>35</sup> Guangqiu Xu, [“The United States and the Tibet Issue”](#), *Asian Survey*, Vol. 37, No. 2, pp. 1062–1077, 1997.

<sup>36</sup> Thomas J. Wersto, [“Tibet in Sino-Soviet Relations”](#), *Asian Affairs: An American Review*, Vol. 10, No. 3, pp. 70–85, 26 October 2012.

Contrary to the Cold War period, however, Russia’s policy on Tibet “seems to view the Tibetan issue in the context of Chechenya, unfortunately”.<sup>37</sup>

One major reason for the US leveraging of Tibetan separatism is based on the notion of a growing ‘China threat’ both in terms of military and economy, which the PRC government considers as a ‘containment policy’. Yet, US leveraging of Tibetan secession has consequences, especially for Tibetans in Tibet and also for the resolution of the Tibetan question. Sinologist Barry Sautman cautions that backing secession by great powers “makes it harder for Tibetans in Tibet to seek self-representation without being suspected of pursuing secession” and also “even makes it harder to resolve the Tibetan question”.<sup>38</sup>

## Way Forward

The President of the Central Tibetan Administration Penpa Tsering in September 2024 acknowledged that ‘back-channel’ talks between the two sides have been initiated.<sup>39</sup> The PRC government has laid two conditions for resuming negotiations. First, as the Chinese government considers the Central Tibetan Government as an organised political group with an agenda for ‘Tibetan independence’, negotiations will be held “only with the personal representatives of the 14<sup>th</sup> Dalai Lama”. And second, any contact or talks will only be about the personal future of the 14<sup>th</sup> Dalai Lama and the handful of people close to him, and not a ‘high degree of autonomy’.<sup>40</sup> Meanwhile, external threat perceptions will significantly determine the outcome of negotiations.

To preserve the territorial integrity and maintain amicable relations among the 56 ethnic groups in China, however, one fundamental key is to uphold the PRC constitution and the Law of ethnic regional autonomy in letter and spirit. The fact is Tibetans are not seeking separation from China and this was reiterated recently by the Dalai Lama when he stated “We want to have full autonomy, as part of the People’s Republic of China.”<sup>41</sup> Thus, much of the discontent among the minorities stems from incomplete or flawed implementation of China’s ethnic minority policies.

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<sup>37</sup> Kunga Jigmey, “[An Overview of the Tibetan and Russian Contacts](#)”, Tibet Policy Institute, 22 April 2014.

<sup>38</sup> Barry Sautman, “[Secessionism as a United States Foreign Policy Lever: Tibet in Context](#)”, *Brown Journal of World Affairs*, Vol. 20, No. 2, pp. 179–201, 2014.

<sup>39</sup> “[Back-Channel Talks with China Exist, But There is Little Progress: Tibetan Leader](#)”, *The Hindu*, 28 September 2024.

<sup>40</sup> “[Foreign Ministry Spokesperson Wang Wenbin’s Regular Press Conference](#)”, Ministry of Foreign Affairs, The People’s Republic of China, 26 April 2024.

<sup>41</sup> “[Tibetans Want More Autonomy, Not Independence or Political Separation from China: Dalai Lama](#)”, *The Hindu*, 26 September 2024.



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