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# A Voice for the Voiceless: The UNPO and the Dalai Lama

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A Voice for the Voiceless: The UNPO and the Dalai Lama

By Jamie Brandel

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Supervised by Ellison Findly and Benjamin Carbonetti

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## **Abstract**

International organizations and international law have suffered from structural issues such as Westphalian sovereignty and submission to state interests. These inherent problems have contributed to the ongoing religious violence and occupation of Tibet since 1951, as Tibet does not qualify as a state under international law. While Tibet is not the only group of peoples who do not have access to international fora because of their stateless status, the Dalai Lama is unique in his platform and authority. The Dalai Lama has been able to take Buddhist values and intertwine them with the more familiar Western human rights concepts, promoting nonviolence and compassion throughout the world. As Tibet and other indigenous peoples have not been able to find their position within the current world order, the UNPO and the Dalai Lama have come together to create an international NGO to fight for indigenous issues. The prominence of the Dalai Lama and Tibet has given the UNPO an international platform for indigenous peoples to speak from. With this global platform, issues that are intrinsic to the indigenous struggle, such as population transfer and self-determination, have begun to take hold in the international community and in international law.

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\*\*\*

*Dedicated to my four grandparents, all of whom continue to impact every morning I wake up and every night I go to sleep. As the four of you fought for every opportunity I have today, I strive each day to be the best me I can be.*

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### *The Dalai Lama and His Shaping of Human Rights*

In recent years, the Dalai Lama has become a “norm entrepreneur” for the entire world, dislodging long-standing and conventional notions of state action and behavior. The figure of HHDL (His Holiness the Dalai Lama), and his surging popularity within Western popular imagination over the past several decades, has presented a number challenges to Eurocentric conceptions of state action, particularly those related to the state as the primary unit of the world order. A state must take seriously the demands of populations outside its direct purview. His power and influence, has reached the new and expanding publics, beginning with his Nobel Peace Prize in 1989 - not only producing waves of interest in Tibetan Buddhism in the West but also inculcating Buddhist values of compassion and nonviolence into the minds of lay persons the world over. The Dalai Lama has taken advantage of commercial and Orientalist interest in him, in order to catapult the Tibetan struggle and the Tibetan network onto the world stage. Despite the international community’s early misgivings, the Dalai Lama works through the contemporary global political system as it is for his cause, intertwining Buddhist ideals with the dominant Western democratic ones. Because of this, HHDL has made compassion and nonviolence part of everyday human rights conversations and discourse.

By beginning to popularize these concepts, the Dalai Lama, through the Tibetan movement, has created roles for other marginalized peoples. In this way, he has begun to give human rights, such as self-determination, enshrined in the Universal Declaration of Human Rights, a human face and story. Little by little, he has created a transnational advocacy network (TAN), a global platform, from which marginalized peoples and minorities can act and project their issues through. Because of this, the Dalai Lama’s role is much more far reaching than a lecturer, a figurehead or even a modern leader of Tibetan Buddhism. He has have risen above the Western and Chinese

imaginations of Shangri-La, as Lopez argues, to become a voice for peoples who have been placed outside of the international community and as they are pushed aside in favor of state interest (Lopez 2012). This has created a movement that has begun to change norms in our statist society.

### *The Dalai Lama as Supreme Authority*

Tibet and the Dalai Lama are sources of Buddhist religious and cultural traditions for the world, encompassing the experiential and scriptural teachings of the Buddha. The Dalai Lama is a reincarnation of past Dalai Lamas, more specifically of the *bodhisattva Avalokitesvara*. HHDL has chosen continuous rebirth instead of achieving liberation, which is a general practice of Tibetan Buddhism. This rebirth is known as a *tulku*, or an incarnation body; a reincarnation of other teachers, highly accomplished adepts or buddhas who appear as ordinary beings that are serving others through the beneficial effects of their virtuous deeds (PBS 2012). Past and future lives are vital to all forms of Buddhism, especially Tibetan Buddhism, with customs of praying to the spiritual masters who uphold Dharma or Buddhist teachings and scriptures that tell stories of the reincarnations of *Avalokiteshvara* – the Bodhisattva of Compassion or the Dalai Lama. This embodiment has stepped back from final enlightenment in order to take rebirth in service to humanity. The Dalai Lama is, thus, a *tulku* of the highest ecclesiastical hierarchy and if he reincarnates, he will continue to reincarnate to serve Tibetan Buddhist followers as their leader (Whalen-Bridge 2015).

As such, the Dalai Lama, as the spiritual head of Tibetan Buddhism, and a bodily manifestation of the concept of reincarnation, is essential to the religion. However, there is a specific process in finding the Dalai Lama, as characteristics of actually identifying the reincarnation are not as always as clear when conducting the search. The *tulku* theoretically can reincarnate itself into different forms or different places or even into separate bodies. With the

death of one Dalai Lama, the High Lamas of the Gelugpa Tradition and the Tibetan Government will begin their search to find his reincarnation with various procedures, like identifying possessions of the boy's predecessor or recounting one's previous lives. The Gelugpa school, which was credited with the invention of succession through incarnation in the 14<sup>th</sup> century, has been the dominant school of Tibetan Buddhism for 600 years. During this time, the Dalai Lama has been the key symbol of the state, holding hegemony over all Tibet as the identified patron deity of Tibet in this now familiar succession of incarnate lamas. In this way, the institution of the Dalai Lama has been the unquestionable leader of Tibet ever since (Klieger 1991).

The institution of the Dalai Lama was established with the confirmation and recognition of the 2<sup>nd</sup> Dalai Lama, Gedun Gyatso, as the reincarnation of the previous Gedun Drub, the head of the most powerful Gelugpa sect. The Government of the Gaden Phodrang, began when the Great 5<sup>th</sup> Dalai Lama established his role as the holder of the reincarnation and the religious and temporal leader of Tibet. The Mongols enshrined the religious head of the Gelugpa school with this power, creating the institution of the Dalai Lama that we see today. The institution has expanded since then, but HHDL has been the leader of the Tibetan state since the 15<sup>th</sup> century. Due to this, the Tibetan identity has been centered on its religiosity, with all of Tibet's political and social institutions shaped by the tenets of Buddhism. Thus, Tibet was established as the "land of religion." The foundation of these intertwinements, then, was first found during the Great 5<sup>th</sup>'s reign, known as "*ch'o-si nyi-dan*" or the inextricable link between religion and politics.

The word *chosi* means religious sanctity and political authority- there is not one without the other. With the institution of the Dalai Lama now solidified, the government exemplified the link between politics and religion. Regents and government officials were influenced by monks and the wishes of monasteries. Lay officials had monk counterparts. With the 5<sup>th</sup> Dalai Lama, the



establishment of the administration also marked the official establishment of the *mchod-yon* - the priest and patron relationship between Tibet and the Mongols or Manchu. Tibet provided religious instruction while the Manchu emperors protected Tibet's interest. Therefore, along with his government, the Great 5<sup>th</sup> Dalai Lama was recognized as a sovereign leader of the Tibetan state beginning in the 17<sup>th</sup> century. Though dualistic in its nature, the institution of the Dalai Lama was endowed with a divine authority. It was a government founded upon a "Rule by Incarnation" and an unquestionable authority with the Dalai Lama being a monk, a deity and a king all in one (Klieger 1991: 99).

### *Tibet and China: Before and After Occupation*

The nature and organization of the Tibetan polity and culture has been in place since at least 1642 with the rule of the Great 5<sup>th</sup> – and with this structure have come disputes regarding the status of Tibet as a nation. Tibet and China have enjoyed what the Dalai Lama has called a priest-patron relationship since the time of the Mongol khans and Manchu or Qing Dynasty emperors. Tibet's status in regards to China has gone under many transformations since then: from being designated as a protectorate in the 18<sup>th</sup> century to being directly designated as a part of China. Dating back to 821 C.E., there have been treaties and discussions denoting which portion is part of an autonomous Tibet and which is part of an autonomous China. The different points of view on the nature of the Sino-Tibetan historical relationship serve as the foundation by which China has claimed, since the early 20<sup>th</sup> century, that the Tibetan people are essentially part of the People's Republic of China (PRC), and therefore, the occupation of the mid 20<sup>th</sup> century was not in violation of international law.

With the rise of the Great 5<sup>th</sup> into power and the help of the Mongol Khans, the Dalai Lama wielded "uncontested supreme spiritual and temporal power in Tibet" (Walt van Praag 1987: 10).

He ruled as the sole sovereign of an independent Tibet. Although Tibet had already established a particular relationship with the Mongols and the Manchu, the Great 5<sup>th</sup>'s retirement in 1679 led to the decrease in power of the Dalai Lama institution and a change in the relationship. The Manchu dynasty began a new era of constant back and forth concerning Tibet's status. It's interesting to note, as Walt van Praag points out, that modern day China was only one part of the vast Manchu dynasty, with China having their own revolution to set up a new regime in 1911 that would become today's People's Republic of China.

Despite this fact, the relationship with the Manchus is the starting point for much of the Chinese argument, as the PRC calls Tibet historically part of China because of this relationship with the Manchu dynasty. After the Qing expedition, Tibet became a protectorate and was under rule of the Qing. Tibetan officials, as well as the Dalai Lama and the Panchen Lama, were to report to the Ambans, officials or representatives of the Qing government. These representatives, the Ambans, were stationed in Lhasa as a symbol of Chinese authority from 1644 onwards (Noakes 2012: 512). Van Waalt van Praag states that although the imperial controls of the Chinese government can be seen as a loss of autonomy for Tibet, the only control China really had was wholly derived from the role of the Ambans and the control that the dynasty wielded (Walt van Praag 1987). This "control", especially in the 19<sup>th</sup> century, was a more symbolic relationship than a legal one – being a relationship of patron and priest rather than one of rule and subject (Noakes 2012: 512).

Despite this historical relationship, political ties would soon come to an end, as China would become a Republic after the fall of the Qing in 1912, and Tibet would thus expel Chinese and Manchu troops. The effect of these events would result in the Three Point Agreement and the beginning of Tibet's arguably de facto independence. The Dalai Lama returned from his exile and

reaffirmed his status as the spiritual and temporal ruler of Tibet. His declaration, in which he is identified as the “most omniscient possessor of the Buddhist faith”, stated that Tibet and China, dating back to Genghis Khan and the Ming Dynasty and forward to the current day, had “cooperated on the basis of the benefactor and priest (*cho-yon*) relationship,” and not subordination (Walt van Praag 1987: 48). The Dalai Lama then proclaimed and reaffirmed Tibet as a “small, religious and independent nation” (Walt van Praag 1987: 49). This marked the official break between Tibet and China, which, in the eyes of Tibet, meant their symbolic relationship no longer remained.

On January 11<sup>th</sup> 1913, Tibet and Mongolia declared themselves to be from “the Manchu dominion, becoming independent States and allying themselves in view of the community of religion” in the Treaty of Friendship and Alliance (Walt van Praag 1987: 50). Tibet hoped to organize its state based on its own religion and culture, giving it this power in the Simla Accords following the Simla Conference in 1914. Enshrined in this document was codified autonomy and territorial integrity for Outer Tibet. Other articles gave other powers back to Tibet, such as entering into negotiations for themselves, and denoting His Holiness the Dalai Lama as the leader of Tibet, listing his title along with the King of the U.K. Though occurring decades before the emergence of the Universal Declaration of Human Rights (UDHR), words in the Simla Accords regarding Tibet echoed the right to self-determination and freedom from colonizers that would soon become international law and the basis of Tibet’s argument for independence.

For all intents and purposes, from then on, Tibet has acted and thought of itself as a free and independent state, exercising full authority and enjoying some international recognition. Despite this, the fight over Tibet continued. Tibet continued to act based on its declaration of independence, but Chinese international propaganda of its claims and the Communist agenda

remained the same as before the Simla Conference. This was part of the larger context, as the world was about to embark on the fight between “Communism versus Capitalism”. China was determined to “liberate” Tibet and bring it into its Communist and modernizing vision. China was a global center of power, along with other Communist allies and though there was increasing tension in the Cold War, no nation wanted this to become a third World War. This began the trend of the inaction of the international community. Combined with the youth of the Dalai Lama and the religious conservatism of the ruling elite, Tibet did not have the power to oppose China on a social basis or with its military.

Before the advent of Communism onto the world stage, most states didn’t engage in a Tibet discussion unless it was in their interest. At the same time, as far as Tibet was concerned, its status was governed by the 1914 Simla Convention. The status quo was that Tibet had total control over its internal affairs and maintained a somewhat distinct external personality. Still, Britain remained an influence because of its power in India and Tibet was therefore seen as important in Britain’s security of India. The U.S., before the mid-1940’s, did not publicly formulate an opinion because it had no vested interest especially before the creation of the United Nations and the Cold War. Before the pressures of communism, Tibet had remained isolated and internally in control, but now the Dalai Lama hoped to bring the religious institutions, aristocratic families and elite into the modernization of the 20<sup>th</sup> century.

However, by 1949, when Communist China entered into a Tibet it had no ability to oppose their army. The Chinese Communist Part (CCP) hoped to unify China once again, by convincing and bringing together China’s “oppressed minorities” by liberating Mongolia, Tibet and Sinkiang. Communism was especially frightening to the deeply religious Tibet because it foreshadowed persecution of religion and its leaders. Though Britain, the U.S. and India did not want to aid in

the spread of communism, these nations could not embark on a new military adventure after World War II that, especially, might provoke the Chinese.

Following the Chinese advance, Tibet's governing council, known as the Kashag, which was composed of three temporal officials and one monastic official, appealed to all three nations for support. The Kashag especially needed support for its application into the United Nations (Walt van Praag 1987: 91). In its request, it stated that Tibet and Communist China could have "no common sympathy by reason of religion and principles of life which are just the opposite" (Goldstein 2005: 18). Any public intervening was ruled out by Britain, since Tibet was "redundant to their interests" and would therefore be impracticable and unwise (Goldstein 2005: 19). When Britain relayed this to the United States, adding that this was a matter for the Government of India (GOI), the U.S. State Department replied to Tibet similarly. The two Western nations and India advised Tibet of the "impracticability of the proposal, as the Soviet Union and the Republic of China, both permanent members of the Security Council, would be certain to veto the application" (Walt van Praag 1987: 91). The governments, however, did support Tibet somewhat militarily, sending arms and ammunition.

With Tibet isolated and lacking of international standing, by 1950, China launched a full scale military invasion, calling it the 'Peaceful Liberation of Tibet'. Without assistance, Tibet and the Dalai Lama were left with little choice but to sign the Seventeen-Point Agreement. This allowed the People's Liberation Army to march into Tibet and occupy Tibetan territory, effectively "incorporating" Tibet into China. Multiple declarations and conventions created by the UN, including Article 1 in the UN Charter in 1945 and the UN General Assembly Resolution 3314, define and qualify a war of aggression as a crime of peace, one of the gravest international violations. Therefore, the possibility of the Chinese invasion being defined as an international war

crime has been the cornerstone of a pro-Tibet argument. However, as international law definitions of what constitutes a war of aggression are murky, the international community remained silent following this invasion ((Walt van Praag 1987).

In rebuttal, China continued to claim that it had upheld its parts of the agreement, which promised to protect the Tibetan culture and identity. Following the infamous rebellions against China in 1959, the Tibetan people began the march into exile, creating the vast diaspora we have today. After fleeing to India, the Dalai Lama established his government-in-exile, consisting of his Cabinet and the Kashag with the following portfolios: Home Affairs, Foreign Affairs, Religion and Culture, Education, Finance and Security. Despite the ongoing violence, the oppressive measures, the human rights violations, and the “stateless” nature of Tibet, no other government has recognized the Tibetan government-in-exile (Walt van Praag 1987).

#### *Politics of Reincarnation and the Role of His Holiness Today*

The Dalai Lama is at the apex of Tibetan polity. The Western liberal notion two separate branches, the secular and religious, differ in Tibet. These branches come together for the recognition of the Dalai Lama – a reincarnation of a sentient being. But because Tibet’s independence has become an important debate, especially its status as a state, a religious and sacred process of finding the Dalai Lama’s reincarnation has become a possible political opportunity. The politicization of reincarnation has plagued Tibet for hundreds of years, but the effects on the Buddhist tradition are more damaging now with the retirement of the current Dalai Lama and the question of whether or not the institution will continue.

During the late 18<sup>th</sup> century, the Manchu officials interfered in the process of confirming the Dalai Lama, by deciding themselves whom to recognize as the reincarnation of the Dalai Lama, the Panchen Lama and other high Lamas from a Golden Urn. Though it was technically a lottery

method, in which candidates put their names placed in a Golden Urn, it was merely a way in which the Qing could control the selection process. The ritual to be followed for the Golden Urn was written by the Eight Dalai Lama, but the procedure was done away with for the Ninth and Thirteenth. Even for the Tenth, the authentic reincarnation had already been found and the procedure was not used, although it was announced the procedure had been observed in order to humor the Manchus. It was only used for the Eleventh and Twelfth, though the Golden Urn only actually chose the Eleventh. Although the system was imposed by the Manchus, the Tibetans had no faith in it because it lacked any spiritual quality.

But by the time the 14<sup>th</sup> or current Dalai Lama was recognized in 1939, the priest-patron relationship had come to an end and there was no need for any Chinese involvement. The Regent of Tibet and the Tibetan National Assembly solely followed the Tibetan procedure, taking into account only the predictions of the high Lamas, Oracles and visions (Reincarnation 2011). In accordance with tradition, HHDL did not assume political authority immediately, as he is to prepare for his philosophical exams. However, as the Chinese situation worsened quickly, he finished his exams and assumed his title early. All this was done outside of the Chinese purview, within Tibet's own government and monastic institutions.

Since 1950, the immense power that religion and religious officials held in political affairs has changed. Representatives and government affairs are different, with monastic institutions and officials wielding much less corruptive power in the administration and feudal social aspects losing its hold. However, the role of the Dalai Lama to the Tibetan people has not changed. He is still a religious official, not just to Tibet but to Buddhists across the globe. The Dalai Lama's role has been solidified as this because, in Article 2 of the Simla Accords, China, amongst other things, must abstain from any interference in the administration of the country, including the selection and

installation of the Dalai Lama. Even in the Seventeen-Point Agreement, respecting the religious beliefs, customs and habits of the Tibetan people is one of the clauses. Not only is the Dalai Lama a religious figure but remains a political one as well. Thus, the Tibetan government-in-exile today remains in place and has outlined procedures in its governments to pick the rightful Dalai Lama. It is still, however, a political opportunity for the Chinese to possibly exploit.

### *The Question of the 14<sup>th</sup> Dalai Lama's Death*

In 2011, after 369 years, the 14<sup>th</sup> Dalai Lama wrote a letter to his people, bringing an end to the combined political and spiritual aspects of the institution of the Dalai Lama, as the recognized democratic government continues to flourish. Although he makes clear in this document that the reincarnations do not have to continue, he does state that it should be based on the people's wishes. He also notes that reincarnation is plagued by the "obvious risk of vested political interests misusing the reincarnation system to fulfill their own political agenda" (Reincarnation 2011). Finally, the Dalai Lama lays out the meaning of *tulkus*, thus recognizing the possibility of reincarnations despite the possibility of twisting the system for political gains.

As noted above, reincarnation is a phenomenon that should take place either through the voluntary choice of the concerned person, or through strength of his or her karma, merit and prayers. Therefore, the person who reincarnates has sole legitimate authority over where and how he or she takes rebirth and how that reincarnation is to be recognized. The reincarnation of the Dalai Lama, thus, should be about him and the people that are benefitted by him – Tibetans all over the world.

Despite his views about the office of the Dalai Lama, it wields incredible power. He is the recognized spiritual leader of not only the immense diaspora of Tibetans and in the Tibetan Autonomous Region (TAR), but he is also accepted by the world community as the leader of the



Tibetan Buddhist religion. Upon his death, however, there is likely to be great confusion. If the Chinese had someone of their own choosing disguised as the rightful Dalai Lama, their claim over Tibet would no longer be questioned. Abusive policies would continue to be instituted without a figure to rally against the PRC and dispute their claims of legitimacy. In reality, though, among Tibetans, the current Dalai Lama can choose when and where he will reincarnate. A Chinese Dalai Lama will never be a true Dalai Lama. Despite that fact, Chinese officials will most likely not recognize any Tibetan Dalai Lama. A sacred institution that has given Tibetans legitimacy will likely face constant dispute.

This is evidenced by the case of the Panchen Lama. Most believe that the Chinese will make a grand showing of anointing their own Dalai Lama as the true leader of the Tibetan people, just as they manipulated the system with the Panchen Lama. When the tenth Panchen Lama, the second highest official in Tibet, died in 1989, the Chinese allowed the selection of a new Panchen Lama. Beijing considered it “politically necessary that the search process unequivocally demonstrate its authority over the selection of reincarnations” and, thus, the next Panchen Lama would be found in China (Goldstein 2005: 100). They constructed a team of “traditional lamas and monk officials” to search for the boy based on dreams, omens, and signs. Again, after this search, one of the candidates would be drawn from the “Golden Urn” – all to appear as the legitimate Panchen Lama.

However, to actually adhere to Tibetan custom, the Panchen Lama must be confirmed by the Dalai Lama. Historically, 14<sup>th</sup> Dalai Lama has explicitly rejected any Chinese candidate that was chosen without his assistance. In 1995, after disagreements about using the Urn, the Dalai Lama announced the Panchen Lama to be Gendun Choekyi Nyima. In 1995, Beijing disqualified Gendun Choekyi Nyima and used the urn to select another boy as the Panchen Lama – Gyaincain

Norbu. China currently keeps Gendun Choekyi Nyima in an undisclosed location under constant surveillance, as his exile would create another debacle for the Chinese. The leader of the search team, Chadrel Rinpoche, was also sentenced to prison for conspiring to split the nation and for betraying state secrets (Goldstein 2005: 107). As before, then, a Tibetan spiritual figure has become a plot for political gain and the Chinese have been able to not only legitimize their choice but also to punish the Tibetan's.

The Tibetan people are frightened by the influence a Communist nation might have that explicitly rejects religion as an “opiate of the people”, and particularly, rejects the idea of past and future lives and reincarnations of the Dalai Lamas and Panchen Lamas. Any meddling with these institutions, is seen to further China's own political interests. When the current Dalai Lama was recognized as the 14<sup>th</sup> Dalai Lama, there was no longer a priest-patron relationship with the Chinese. The procedures choosing him went along with the Tibetan tradition, taking into account the predictions of high Lamas, oracles and visions seen in the sacred lake south of Lhasa, Lhamoi Latso. This is how the current Dalai Lama was chosen and from his own words, “no one else can force the person concerned or manipulate him or her”. If a false Dalai Lama is chosen, it will be “impossible for Tibetans or others who follow the Tibetan Buddhist religion to acknowledge or accept it” (Reincarnation 2011).

But, because the lay people do not know these procedures, the 14<sup>th</sup> Dalai Lama has laid out his plan. When he turns ninety, he will consult the high Lamas of the Tibetan tradition, the Tibetan public and others concerned with the faith to decide whether or not to continue the institution or not. If the institution continues with a 15<sup>th</sup> Dalai Lama, the responsibility for recognition will rest on the concerned officers of the Dalai Lama's Gaden Phodrang Trust. These offices will consult the various heads of the Tibetan Buddhist traditions and those Dharma Protectors who are oath-

bound to the lineage of the Dalai Lamas. From the instructions of the 14<sup>th</sup> Dalai Lama, a search and recognition procedure in accordance to tradition will be carried out. Although the Dalai Lama, in his message to the world community, plainly states that apart from the legitimate methods of recognition no other recognition or acceptance should be given to a candidate, there is still the question of the Chinese involving themselves in the process and the choice between two Dalai Lamas.

After his death, no one is sure what will happen to the institution - no matter what the Dalai Lama's wishes and his hopes for the nation might be. Since his exile, the Dalai Lama has changed his function and tried to move Tibet into the modern world. In the 1960's, when he wrote his autobiography, he made his role as Dalai Lama much more political and moved his government towards the democratic tradition, all the while appealing to the United Nations. He worked to make reforms to their new constitution, integrating principles of the historical Buddha and the Universal Declaration of Human Rights to create a representative assembly and a free country for Tibetans. In this, he has succeeded. Now, looking to the future, he has given up his role as a formal political leader in favor of a democratically elected leader.

Thus, for fear of its historical power being manipulated, the 14<sup>th</sup> Dalai Lama has set up all the ways in which the institution of the Dalai Lama is not necessary for the Tibetan people as a formal authority. However, if, when, or how, institution will actually end is unclear. Even if the Dalai Lama says he won't reincarnate, Tibetans in the TAR and the diaspora will look for signs following his death, as the office of the Dalai Lama institution is intrinsic to the Tibetan identity. As such, the Tibetans are a mystical sign-oriented people, who will only follow a new Dalai Lama if they read the signs following his death as signals to them about a true reincarnation. Whoever

becomes the next reincarnation will have to follow HHDL's wishes, using signs and connecting the traditions within a democratic system, in order for the Tibetan people to follow.

Though the Tibetan movement is prominent in its own right, the question remains concerning how the Tibetan people can continue their cause without the symbol of the 14<sup>th</sup> Dalai Lama. With the death of the leader that has led the movement into worldwide fame, Tibetans could become marginalized like many other indigenous populations, especially if the world no longer has a similar charismatic Dalai Lama to emulate. The 14<sup>th</sup> Dalai Lama is a unique leader of tremendous presence and personality who brought his cause and Buddhism to the world stage. Despite this, the Chinese have the power to choose their own Dalai Lama, dismissing any other person as a pretender using worldwide propaganda or even executing the other Dalai Lama. Putting a Chinese candidate on the world stage as the rightful Dalai Lama could legitimize their rule and change the way the world sees Tibet.

#### *The World Order and the Human Rights Regime*

If the Dalai Lama were the head of state of a Western power that was being threatened by another nation, it's easy to imagine international institutions stepping – by using the United Nations' procedures, sanctions or military action. In some way other states would respond or the international institutions would be forced to respond, as they are backed by the powerful states. But Tibet doesn't follow the statist and secular status quo that the world order is based upon. It is not territorially bound, but exists with exiles all over the world and a government-in-exile whose polity is based on religion and non-violence, and its leadership based on a reincarnation of a Buddhist bodhisattva. Realist theories say “the state, not the individual, is the basic unit,” with “state sovereignty and non-interference in the domestic affairs of states” being the core principle of international law (Forsythe 2000: 3). Although this is disputed by other international relations

theory that include other actors besides just the state, United Nations and international human rights law is exemplary of a statist world order - one in which Tibet does not fit.

By the end of the Second World War, popular sovereignty was the fundamental basis of political legitimacy (Reisman 1990: 867). As the new international law system was taking form, it began to “prescribe criteria for appraising the conformity of internal governance with international standards of democracy” (Reisman 1990: 868). Nowadays, institutions, namely the United Nations, therefore, have the power to withhold international recognition. In this way, international law is statist as well. International law and standards derive their power from states. The international legal order exists as one of obligations undertaken through voluntary agreement and therefore, states are the only ones who can “legitimately create international obligations” (Meckled-Garcia 2011: 2079).

As a result, international legal doctrines and principles function to: “enable substantive cooperation between states”, adjudicate the duties that are derived from this cooperation, define “what kind of agent is empowered to engage in substantive cooperation and duties,” and “maintain international public order or the background conditions for which cooperation between states is possible” (Meckled-Garcia 2011: 2079). Such legal cooperation can exist through explicit agreements, either bilaterally, multilaterally, regionally, or “through conventions which are intended to attract universal subscription”, and this cooperation can thereby set standards (Meckled-Garcia 2011: 2079). The practice of entering into treaties, then, allows states and state-derived bodies like the UN to create obligations that are internationally recognized. However, only states can give these laws their power, and only states can enter into them.

Following the Second World War, civil and political, economic and social rights were codified in the these legally binding covenants that were to hold governments and government

leaders accountable to their citizens for their actions. The defeat of fascism in the Great War led to “reestablished democracy in Western Europe, and gave rise to new constitutions as well as regional structures designed to ensconce rights in both domestic and international law” (Simmons 2012: 25). The foundation of the United Nations was the human rights language that is found in the United Nations Charter, in the International Bill of Rights, and in subsequent treaties and declarations. Moreover, the language is derived from a moderate democratic tradition and is understood in terms of individual freedoms: western democracies thus being the “natural allies of human rights” (Simmons 2012: 25).

Human rights and its language have been institutionalized and legitimized. Internationally recognized rights that stemmed from the human rights regime had become “routinized” with the beginnings of these institutions. Starting with the Geneva Conventions in 1949, it enshrined the view that certain ethics were to be respected even in times of war. Today, these rules and institutions of “human rights” penetrate every facet of the international community and state actions. In the 1990’s, the UN Security Council created international criminal courts to try violations of international law, such as genocide and crimes against humanity. By the early 21<sup>st</sup> century, more than 140 states had formally supported to the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR). With this, states, in theory, were to finally answer to the international community and its law for abuses in their treatment of citizens (Forsythe 2000: 8).

With the growth of the human rights regimes, nongovernmental organizations (NGOs) and international NGOs (INGOs), an international civil society has also grown. NGOs are “groups of private citizens who have organized, often across national boundaries, to advocate public purposes of various kinds” (Simmons 2012: 32). With their increasing power, civil society groups could

“influence issues of transnational or international public interest” by “[setting] behavioral or policy standards, [producing] independent information, and [lobbying] governments to justify, clarify and/or change their policies” (Simmons 2012: 34). NGOs now participate in the United Nations proceedings and use existing international law and human rights language to help hold governments accountable. They can even participate in and sometimes initiate litigation, and more generally, educate the public to demand for greater accountability and punishable actions. Their role has been to set standards, create norms and break the state monopoly on information. NGOs have helped bring about a human rights culture to the masses, publicizing their version of public affairs with country and issue specific reports (Simmons 2012).

By the 1970’s, the human rights culture took hold; its language became a “vocabulary of a vibrant new conception of public good” (Peck 2012: 1). This vigorous movement saw the development of think tanks, law schools, foundations, UN forums, congressional committees, professional associations, and NGOs (Peck 2012: 1). This human rights culture came at a crucial time in American history, in response to the Vietnam War and the Cold war tactics. Washington and President Carter saw this opportunity to blend a growing international lobby and ideological weapons with America’s own global strategies. As Washington was “fashioning a rights-based vision of America to support its resurgent global aims”, human rights advocates also say they sought to fuse American policies with their “high-minded ethos” (Peck 2012: 3). The Western world propelled the development of human rights laws, ideas and culture.

As it became part of American and Western politics, in general, to have this humanitarian ethic, NGOs also boomed as a way to complement Washington’s policies via an “echo chamber of foundations, academia, existing organizations and international groups” (Peck 2012: 70). They could act where it was inappropriate for the government to do so, but still had to be insulated from

direct dependence to better promote a “worldwide constituency for human rights” (Peck 2012: 70). American foundations and NGOs helped energize the UN and its bodies, helped evolve harmonious policies with other Western nations and NGOs, promoted regional human rights groups, and helped create an alternative voice in the third world.

Some organizations even became associated or partnered with powerful states, like the United States. Amnesty International had a natural ally in the U.S., and Human Rights Watch noted that its greatest advantage is its “identification with a country with a reputation for respecting rights” (Peck 2012: 1). Human rights became the apex of ideals that could reflect American universalism, breaking down freedom into “discrete parts and then [codifying] them, [and] developing new buzz words, analogies and legalisms” (Peck 2012: 62).

As such, many NGOs were never completely insulated from the power relations of the human rights regime, even in their development. Washington has sought to fashion “both the conceptual basis and the direction of the human rights movement, especially in terms of emphasizing civil rights and political freedoms, and movements through individual rights” rather than “resistance and mass mobilization for the creation and nourishment of rights” (Peck 2012: 4). Western human rights leaders International NGOs often gain their legitimacy by “identifying with the language and purposes of international law” and in turn, being legitimated by the international community— like Amnesty International basing its campaigns on the general principles of the UDHR (Thomas 2001: 391). They use the same ideals that are codified in international law - the language of institutions, courts, and politicians (Peck 2012: 7).

Although their legitimacy comes from states regarding their expertise on economic, environmental, political, or social conditions and viewing them as objective, NGOs conform to certain standards. NGOs rely on state-based power, just as the UN needs state-based financing in



order for it to act. In this way, international NGOs (INGOs) “closely resemble those of the domestic lobbies and pressure groups that are commonplace in democratic society” – though they maintain that they represent all the “peoples of the world” (Thomas 2001: 394). INGOs have policy preferences and they “seek to enlist the power of government in pursuit of those preferences” (Thomas 2001: 394). It is legitimate for a government to invite NGO representatives to join delegations at international negotiations or participate in another non-voting capacity on their behalf. In this way, NGOs operate within the system, which supports the “decisionmaking autonomy” of powerful national governments and protects sovereignty ((Thomas 2001: 394). This represents a possible “symbiotic relationship between intergovernmental organizations and international NGOs “that works together to achieve certain goals that are not always as objective as they seem (Thomas 2001: 393).

Despite its conflicted nature, NGOs were part of the reason for the West becoming one of the biggest public champions of human rights and the explosion of concern for human rights in general – as they are some of the most legitimate actors. Once NGOs rose to a certain level of legitimacy, they began to occupy a vital part in the international system. NGOs work in international agenda-setting and compliance monitoring, successfully undermining repressive leaders and regimes while gaining legitimacy in criticizing state and non-state actors when they violated international law. Keck and Sikkink view NGOs as most effective when they link private and public actors to form transnational advocacy networks (TANs) (Keck 2014). The widely used theory describes TANs as using a repertoire of pressure techniques such as information politics, symbolic politics, leverage politics and accountability politics (Keck 2014). Independent or not, NGOs are in the position to lobby national governments just like any democratic society, especially in adhering to ratification and enforcing treaties with these pressure mechanisms. NGOs have

gained such legitimacy in international law, in which states, because of norms and global reputation, must listen to and abide by its pressures.

*The Dalai Lama and Tibet's Role in Human Rights*

Whether or not the international system is motivated by selflessness or self-interest, the international community is efficient in a certain way. As human rights increasingly became a cornerstone of U.S. foreign policy, as well as part of a global discourse, the moral sentiments of the human rights systems' language and values began to take hold in popular culture. As Didier Fassin writes, moral sentiments have become vital in contemporary politics. These emotions are what makes us want to remedy the suffering of others (Fassin 2012). This idea of a good Samaritan helping tend to the wounds of a victim has fed into a “politics of compassion that feeds Western morality” (Dassin 2012: 4) . Fassin calls this “humanitarian government,” in which there is a language that “links values and affects, and serves both to define and to justify discourses and practices of the government of human beings” (Fassin 2012: 4). The vocabulary and language of responsibility to protect, to be humanitarian and to exercise compassion serve to qualify the issues involved. These moral sentiments have been politicized – humanitarianism, thus, is a politics. Humanitarian claims have now moved into an era of biopolitics, rather than legitimate legal claims. The factors that have led to a human rights culture are also what allowed for the immense Tibetan popularity, best expressed in the Dalai Lama winning the Nobel Peace Prize in 1989.

Earlier, the international community was extremely cautious, bordering on silence, during and after the Chinese occupation of Tibet when it seemed as the most pressing time to take an opinion or action. In the Simla Convention in 1914, Britain negotiated with China and Tibet, specifically not giving Tibet its independence because it would cause “international discord” (Shakya 2000). Although Tibet had enjoyed de-facto independence, foreign governments replied

to Tibetan pleas for help by saying that they did not want to embark on a military adventure or provoke to China by outwardly opposing the Chinese occupation. The U.S. believed it was India's responsibility, but the Indian Foreign Ministry responded by dissuading the U.S. from giving military aid or even publicly condemning China. The U.S. claimed that it would be unfair to bring possibly more strife to Tibet if it did not have the capacity to help Tibet effectively (Shakya 2000). The U.S. was joined by Britain in not wanting to be the sole provider to Tibet without India's support.

Similarly, the United Nations heard these pleas, but still did not act for Tibet. During the beginning of the invasion, Tibet implored the U.N. several times to pay attention. Even the U.S. said that if the case were to be introduced to the United Nations, there would be "basis for international concern regarding Chinese Communist intentions" under the UN Charter (Shakya 2000: 61). In the wake of Chinese aggression in 1950, Tibet wrote to the U.N. for membership, claiming communist aggression toward Tibet. In its request, Tibet stated China would never receive international sympathy because it stood opposed to "religion and principles of life" (Shakya 2000: 18). The request was refused, handing off the decision to India so as not to infringe upon any sovereignty, and knowing that China's and Russia's vote in the Security Council was necessary. As India failed to fall in line, the UN postponed the vote on the issue, in effect killing it. Tibet then unsuccessfully requested help from Britain, who no longer had vested economic interest.

After the Dalai Lama's assumption of power, Tibet appealed to the Secretary General in 1959 again, using its unique status as a Buddhist state and Buddhist governance, whose rightful leader was the head of the Buddhist church as its argument. Explaining its relations with China in history, Tibetan officials went on to detail the Simla Convention, maintaining the view that Tibet

was an independent state, in fact and in law. Finally, Tibet asked for a “rightful solution”, asking in particular that the “views of the people of Tibet be ascertained or that the world body... settle the issue by purely juridical means such as seeking redress in an international court of law”. The argument given was that China has violated the U.N. with an unwarranted act of regression (Goldstein 2008). The UN eventually did pass resolutions in 1959, 1961, and 1965 indicating “grave concern” in respect of the violation of fundamental human rights of the Tibetan people and of the suppression of the distinctive cultural and religious life and autonomy that the Tibetans had traditionally enjoyed (Goldstein 2008). Despite some action in the UN, and after much debate and work to get the Tibet to the stage of debate, there was still not any punishable action for China. This signals the UN’s lack of enforcement mechanism by law, especially when powerful states cannot agree.

However, with the explosion of the human rights issue for the general population, the Dalai Lama was able to bring the Tibetan cause onto the scene to eventually pressure states. The Dalai Lama used humanitarian language and intertwined Buddhist thought with democratic ideals, to his advantage. This coincided with the shift in the late 20<sup>th</sup> century, toward an eagerness to come to the aid of victims, by using humanitarian assistance and advocacy, NGOs, and nonprofits and governmental bodies. After the Dalai Lama won the Nobel Peace Prize in 1989, he used his new fame to frame the Tibetan cause in human rights language. From that point, the Tibetan cause exploded, becoming one of the most popular and widely recognized human rights campaigns, as celebrities came flocking to support it with money or simply their name. Richard Gere, one of the biggest supporters, promoted the Tibetan and Buddhist mission as his own, talking about the cause at the 1993 Academy Awards and helping to found the Tibet House in New York. The Buddhist ways of life were endorsed by celebrities like Steven Seagal, Harrison Ford and Sharon Stone.

None were in fact practicing Buddhists, but were attracted to an “exotic” alterity and performing a popular cultural appropriation of Tibet. Though celebrity backings did bring the name of Tibet to popular culture, it did not do much to bring the reasons behind the cause to popularity. Tibet had become a cause celebre.

With this, Tibet and the Dalai Lama became Western icons. The Dalai Lama has published several books, makes appearances constantly, meets with heads of state like Bill Clinton and Barack Obama, and has established himself in social media. Through his status, the cause is now continuously commercialized, with audio CDs of Tibetan monks, mala bead bracelets, and mandala posters that can be found anywhere on the internet. There are trips on the internet advertising it as “living like a monk” or spiritual yoga journeys in Tibet. All of these items are attractive to the Western audience, with people hoping to become “spiritual” and Buddhist. Buying these items or changing one’s life to supposedly live in a more Buddhist lifestyle has become increasingly popular and one in which, people can not only become more active in human rights, but understand and feel a part of the Tibetan culture. Similar to the critique in Didier Fassin’s work *Humanitarian Reason*, much of this has been a performative support for the Tibetan cause, which is a way of demonstrating one’s neoliberal compassion, but it has no actual teeth.

However, in addition to a general popularity and its formation as a cause celebre, the Dalai Lama and Tibet have become influential models and activist causes for human rights. Though the Tibetan religion has become a way for people to achieve “spiritual meaning and purpose within a directionless society”, it has also become a symbol for people to join in a fight for human rights (Iwamura 2011: 163). The Dalai Lama takes authentic and academic strands of Tibetan Buddhism and intertwines his speeches, language and arguments in terms and concepts known to the West – after all, every person wants to be compassionate and peaceful. His website has schedules of his

lectures, webcasts, and sections written about the Buddhist teachings. One message is even called “how to achieve happiness” under his Compassion section. These concepts are part of Tibetan Buddhism, but are framed and interwoven with Democratic concepts and ideas. As the Dalai Lama has continued to do this since the 1980’s, Tibetan Buddhism can be applied universally and, in this way, the tradition has been folded in with human rights.

As such, the Dalai Lama and the Tibetan cause became famous on its own right, creating a massive amount of support from the public after garnering celebrity support. NGOs are supposed to be the social movement that is the “missing link between global grievances and international action”. They are the ones representing the ethical standards, especially when there is a lack of any effective intergovernmental organization (IGO) action, and they represent the “concerned global village” (Lahusen 1996: 336). From that point, organizations, nonprofits and NGOs cropped up dedicated solely to Tibet. These two NGOs, for example Save Tibet and Tibet Fund, release reports, educate the public, donate to the Tibetan diaspora, and lobby national governments. These organizations, along with the Dalai Lama, also propagate as an inherently Tibetan value, the importance of nonviolence, and use it continuously throughout the organization itself to facilitate its norm emergence. With this platform, Tibet was able to grow its human rights organizations and become a transnational movement.

Tibet and, especially, the Dalai Lama are in a unique position as one of the most publicly recognized and supported human rights campaigns. The Dalai Lama is the epitome of a norm entrepreneur, which Finnemore and Sikkink define as an individual, state or societal actor involved in the first life cycle of a norm – norm emergence. The Tibetan cause has been the “strong organization platform” from which the Dalai Lama operates, as he tries to promote new norms, or standards that govern behavior, across the globe. Keck and Sikkink write that the more prominent

the norm entrepreneur is, the more successful the norm entrepreneur will be in finding states to adopt and accept the new norm. He is legitimated on the global scale as a world leader, he is extremely prominent, and most importantly, the norms he propagates have intrinsic characteristics that “speak to aspects of belief systems or life worlds that transcend a specific cultural or political context”; the Dalai Lama has made Tibetan Buddhism appeal to peoples all over the world (Harnisch 2009: 29).

Although once only a neglected cause, as evidenced by the international community’s lack of action during the initial occupation, the Tibetan issue has risen to the level of international legitimacy. The Tibetan movement now has international legitimacy that other NGOs have, such as Amnesty International or Human Rights Watch, that have the resources and leverage to create norms. Beginning from just the Tibetan cause and the organizations that have followed, a larger organizational platform has emerged: one for all marginalized peoples who have been subjugated just as the Tibetans have.

Through the Dalai Lama, groups of people that are not recognized are now connected, creating a transnational network. The Dalai Lama no longer speaks for only Tibetans but for all the peoples that wish to have a voice in the international order. From this position and platform of global recognition, the Unrepresented Nations and Peoples Organization (UNPO) was created. It is one that is not made up of or acts along with Western states, but is a voice of minorities and indigenous peoples. A cause and organization that without Tibet and the Dalai Lama may have been pushed aside and deemed unimportant because of their lack of recognition. The UNPO is now in the position of having an international platform through which new norms may emerge.

### *The Statist System and the Ways to Affect Change*

In the international community, there are human rights principles that are so basic and irrefutable that they no longer necessitate legal canon – that is, they are as much a part of international law as declarations or treaties that are signed and enforced at the will of the state. These general principles have risen above legal disputes in the UN. They are those certain principles that are categorized as *jus cogens* or *obligations erga omnes* that apply universally as an internationally legal norm, such as genocide, non-intervention, self-defense and good faith. These principles become the standard for all states, in which no state can derogate. Despite our immeasurable institutions in the 21<sup>st</sup> century that govern international law, many of these norms and laws have been in place from before World War II, such as the Caroline Case and Paquete Habana (Wellens 2012). While many declarations are non-binding or optional, in that a state can choose to not sign it and thus have it not apply to them, these norms carry much larger weight.

Despite the human rights system's creation in the wake of World War II, there is a catch 22 in becoming a state recognized by the international community and, thus, being able to have those rights by law. In the modern human rights era, sovereignty is one of the key principles of international law and is the foundation of modern international institutions such as the UN. Since the development of the modern international system, "statehood has been regarded as the paramount type of international personality" (Crawford 1979: viii). Every nation, which governs itself, under whatever form, and does not depend on any other nation is defined as a sovereign State (Crawford 1979: 7). Being able to fit these definitions of sovereignty and statehood allows a regime to become a state and become legitimized as an actor in the global community.



Sovereignty, which governs basic relations between states, is seen as the foundation of the “law of nations” - which has its origins in the European state-system and the Treaty of Westphalia in 1648 agreed upon by 109 delegations representing European powers such as the Kingdom of France and the Holy Roman Empire. The first Article of this Treaty states that “peace among nations requires...that each nation develops itself fully, and regards it as its self-interest to develop the others fully” (Ziring 1988). The legal conception of the modern state system and the territorial state as the cornerstone of this system dates back to this Treaty of Westphalia, a Peace Treaty that ended the European wars of religion (Ziring 1988: 9). It stipulated that each state had exclusive sovereignty of what occurred within the boundaries of each state. It is against this narrow particular context of a state-based background and history that the modern notion of statehood and international law developed.

*The Development of the United Nations and Sovereignty in International Law*

Following World War II, states came to share jurisdiction over human rights issues with international organizations and other foreign governments. Even superpowers deemed it necessary to use their sovereign consent to create these institutions and, in theory, reduce their freedom of choice (Forsythe 2000). With the close of the 18<sup>th</sup> century, the world saw laissez faire economics and democratic nationalism boom, having a profound effect on the state system. It enshrined these specific notions as the dominant way of viewing how states and regimes should organize themselves. These beliefs, along with Westphalia, became the grounding for the creation of the human rights institutions, which “implies a process of international action achieved through the consent of sovereign states” (Ziring 1988: 10).

At the end of the Holocaust in 1945, a new international organization was required. The U.S. became the architect of the UN following the war, as the dominant power of the

international system coming out of World War II. It would symbolize the birth of a “new world, in which peace would now at last be more effectively safeguarded” (Luard 1982: 17). New states, following the break-up of empires and a period of decolonization, saw the United Nations as the guarantor against the aggressiveness of big powers. The U.S. was a natural leader, as the role of the U.S. as “the colossus of the Western hemisphere projected a charitable, benevolent, and amiable presence” (Ziring 1988: 2). As the most prosperous of the time and the nation that conceived of the League of Nations after World War I, the U.S. was unsurprisingly prompted by the international community to assume global responsibility.

However, many of the idealized expectations were not realized by the architects of the UN system. The Charter’s beginnings were found in the Atlantic Charter, in 1941, an agreement between FDR and Churchill, which spoke of a “wider and permanent system of general security” and it would “afford to all nations the means of dwelling in safety within their own boundaries” (Luard 1982: 17). From this agreement came the UN Charter – the foundation of the United Nations which was signed in San Francisco in 1945. The foundation was forged by the wartime alliance comprised of the U.S., Great Britain, the Soviet Union and pre-Communist China. The group that came to be known as the Big Four created the Charter, “through which it was hoped to control the future [by the Charter being] rooted in the past”, used their power to reform the war-torn world (US Stake 1954: 11). In order to ensure its success, the great powers learned from the failures of President Wilson’s League of Nations, which meant that the UN should have “less scope for individual discretion in response to an act of aggression and less opportunity for a small minority to prevent a call for action by their veto power” (Luard 1982: 16).

The structure of the UN would reflect these preferences as well as the realities of the power relations in the international system. Thus a members’ power would be “weighted by

national power capabilities” –purposeful actions by the powers of the time that came out of an obliteration of the world order following World War II (Gregg 1993: 7). Even though these states emerged as the most powerful, the UN suffered because of the fundamental break between Western democracies and the Communist bloc, especially as each state insisted on maintaining its own sovereignty and, thus, allowing for inherent weaknesses within the United Nations (Brinkley 1997: ix). Therefore, after the initial years of its formation, the UN would become an extension of U.S. foreign policy. As such, the institution ending up being rooted in the realities of the balance of the powers that created it (Brinkley 1997: ix).

Thus, ensuring control over domestic jurisdiction had always been part of the UN’s foundation. The U.S. was particularly worried, even before the San Francisco Conference that created the UN Charter. Article 2(7) was a reflection of these state interests. It gave the states of the Security Council its largest power, the ability to determine the existence of any threat to the peace, breach of the peace, or act of aggression and take military and nonmilitary action to restore international peace and security. It was proposed to include a reservation that stated the UN could not interfere in matters ‘essentially’ instead of ‘solely’ within a state’s jurisdiction. Article 2(7) of the UN Charter reads that “nothing in the Charter authorized the UN to intervene in matters which are essentially within the domestic jurisdiction of a state, except in carrying out enforcement measures under Chapter VII” – that is, powers of the Security Council (Luard 1982: 156). The vagueness of the wording presented the risk that each country would be the judge of its “exclusive jurisdiction” – but of course, this vagueness was the idea (Luard 1982: 63).

The UN Charter was created in this way to deliberately exclude any regulations of checks and balances, and “enthrones the victorious powers of World War II as custodians of humanity” (Koechler 1997: 12). The system reflects the power balance of this era, imposing upon the rest of

the world a “legitimacy guaranteed by a few constitutionally privileged countries”. The interests of particular UN member states will override the interest of the weaker member states (Koechler 1997: 12). Sovereignty as one of the grounding principles that had created the UN structure, helped to secure the interests of the powerful states so that no other state could attempt to interfere or override with their interests or actions.

### *Sovereignty and the International Community*

The UN Charter or the constitution of the UN has its most paramount principles grounded in sovereignty. These principles include: the sovereign equality of all members, the non-use of force or threat of force for aggressive purposes, and the nonintervention by the UN in matters that are essentially within a state’s domestic jurisdiction (Ziring 1988: 33). These principles, along with others, are the basic rules of international conduct which member states are committed to observe in order for peaceful international decision making to occur. The issue of consent is vital for the UN, and any international organization, to carry out its tasks. The U.N. would never receive the consent it needed, without sovereignty being rooted in international law.

Because of this, there are certain requirements to qualify as a state in this system. A state can only be recognized as a state if it is legitimized in the international community. Outside of these institutions, there is no one official definition of a state. Most prerequisites for statehood include a defined territory, a population subject to a government and, according to some, the ability to enter into relations with other states or international recognition (Wellens 2012). In *The Creation of States in International Law*, James Crawford writes that “a state is, and becomes, an International Person through recognition only and exclusively” (Crawford 1979: 125). In the international legal system, “some organ must be competent to determine with finality and certainty the subject of the system” - in this case, the UN and the Security Council, which must

recommend admission (Crawford 1979: 18). Even though a state could technically be defined as a nation or a sovereign state, the only way it truly becomes part of the international order is through its recognition and acceptance by the United Nations. Only states or those entities recognized and accepted as states into international society are bound by and afforded opportunities with international law and international persons (Crawford 1979: 13). For example, the UN told Tibet during its occupation by China that it could not take up its issue because Article 35 Charter states that, in order to bring an issue to the United Nations, the appealing party must be a state. Just as the UN only has its power from states, new states now may only have power from the legitimation of the UN. Without this membership, a state is not legitimately recognized as a state and part of the international order.

This forms the world-cultural model of sovereign identity. For application, the Charter distinguishes between new states and original states: for original members participating in the organization is seen as a right. For future members, however, application for membership is dependent on assertions about sovereignty and control over population and territory, as well as the fulfillment of certain aims and purposes (Crawford 1979: 132). Article 4 of the UN Charter states that membership in the United Nations has requisite conditions which include ‘[accepting] the obligations of the Charter, being able and willing to carry out these obligations and being peace-loving. The system because of this has “expanded to something close to universality of the nation-state form” (Meyer 1997: 158).

The most important qualification in admission to the UN is being a state, by the official definition. What this really entails, however, is that new regimes wishing to become states must proclaim, both internally and externally, their conformity to “worldwide models of national identity and state structure” when applying for UN membership (Meyer 1997: 158). Being a part

of this community, nation-states must be formally committed to self-evident goals such as “socioeconomic development, citizen rights, individual self-development and civil international relations” (Meyer 1997: 158). These are specific models of how a state, its economy and social structure should look like, according to specific histories and context. In addition, it has been pointed out that “political considerations often intrude in decisions concerning admission” because of the terms in Article 4, making it difficult to separate out political and legal matters (Meyer 1997: 158). If a regime were to try and resist this model, already legitimized states would rely on “legitimacy myths” (democracy, freedom and equality)” and the ready support of activist external groups to oppose this regime (Meyer 1997: 160). Therefore, it is impossible to go up against this model and these strict definitions. To make any changes, it must go through the system.

Once a state has all the criteria of statehood and is accepted into the international community, sovereignty becomes a challenging principle. In the most modern usage, sovereignty is the “term for the totality of international rights and duties recognized by international law as residing in an independent territorial unit – the State” (Crawford 1979: 26). Sovereignty gives the state its right to say what should be done within its jurisdiction. This goes along with the principle of non-intervention and Article 2(7). This refers to the rights which a state may have once it is accepted by the international community. Old notions of absolute and exclusive sovereignty have passed, especially in the modern age of technology, and now states can easily come under fire from the international community in regards to their actions, so sovereignty may not be absolute and free of public opinion. However, the “reality of state power and authority cannot be ignored,” in that state consent is still a bedrock principle of international law and allows it to continue (Forsythe 2000: 23).

“World society” has grown since the post-war world, with a large umbrella of organized interests and functions, ranging from financial market structures to labor organizations. “World society” has some influence on domestic structures. For example, the world society now generally supports environmentalism and if states do not already have their own environmental protection agencies, local groups will call for national action. Therefore, there is now an international system of a set of shared values that has the ability to constrain the behavior of states. Much of this international society comes from this “international social consciousness, a world-wide community sentiment” – such as the values held concerning the protection of environment (Krasner 1999: 48). These values are found in treaties, the decisions of international tribunals, resolutions of international organizations, writings of authorities, and statements and actions of national policy makers (Krasner 1999: 46).

While there are other ways to constrain states, much of this community and its values are still grounded in this contemporary sovereign state system and its foundations of Christian notions of natural law. Natural law, the foundation of modern human rights, is a philosophy that certain rights are inherent by virtue of human nature, endowed by the Christian God. As Western nations, especially the U.S., emerged from World War II as the dominant powers, these political beliefs and notions prescribed international institutions. American identity is grounded in the “mutual acceptance of Lockeian political values, which ennobled the individual and emphasized democracy and capitalism” and thus, any minority or other group not conforming to these ideals were outside the political heritage of international institutions (Krasner 1999: 96).

These, in turn, were the foundations of international institutions, which informed the kinds of rights, laws and actions of the UN. Minority rights regimes often fall outside of these institutions, as it can violate the Westphalian model (Krasner 1999: 96). There are some human

rights that have risen to an almost untouchable customary law, through which every state feels the pressure to listen to and abide. Still, despite its purpose, state interest and bias plagues international institutions in its structure, laws and eventually, the international community's actions. The postwar generation called for a world order that would supersede state sovereignty and create an organization of states to achieve a lasting peace. However, the institutions of the human rights system embody certain sets of rules and norms and, thus, reflect the policies of the powerful states that created them (Krasner 1999: 58). Though it speaks as the international will of states, the UN, including human rights and its laws, is informed by the status quo and interests of those in power.

*The Interests of States in the UN, its Structure and International Law*

International law can either be hard law or soft law, with binding or non-binding legal agreements. Customary international law, is the most powerful, as it can affect state behavior where its reputation, and sanctions that follow because of its reputation, are concerned. However, this comes as a result of widely accepted state practice, and thus, at a very slow rate. Hard law isn't used as often in the UN, with its main use being Security Council Resolutions, the UN Charter, or other main conventions like the International Convention on Civil and Political Rights (ICCPR). Most resolutions and Declarations that the UN passes, then, fall under the umbrella of soft law. Though legalization is one of the principal methods by which states can affirm their adherence to commitments, there is still debate. Many believe that hard law would be more effective in the international community, with the ability of restricting actors' behavior and sovereignty. However, even hard international law seems to fall short of this standard, since international regimes don't establish any legal obligations that are enforceable (Abbott 2000: 426).



International law, its compliance and regulating interaction of nations, is central to the United Nations. However, compliance and enforcement have also been at the center of criticisms. Though there are global problems that need collective action, reaching a “global consensus [on an agreement] is elusive in a politically charged world” (Puchala 1982: 573). States are not subject to any obligation to which they did not give consent. A state can also sign and not ratify a treaty, meaning that it accepts a treaty but does not give consent to be bound by the treaty and does not put any domestic institutions in place to enforce it. The U.S. hasn’t ratified some of the largest and seemingly most humanitarian treaties – such as the Convention for the Rights of the Child or the International Convention for the Protection of All Persons from Enforced Disappearance – and therefore isn’t bound by them.

States many times do not even adhere to the ones they do sign and or ratify, undermining their legitimacy. The UN has no power “beyond that which its members grant it, and no legitimacy beyond that which its members accord it” (Puchala 1982: 574). The UN is supposed to be an association of sovereign states, each one equal under a majority rule that informs international law. However, the UN often produces agreements that are less than ideal for most. Even with customary international law, powerful states find ways to get around it, such as the incidences of torture in Guantanamo Bay by the U.S. Though perhaps its reputation will be somewhat looked down upon for a short while, its power will not be diminished. By the same token, powerful states are in the position to keep weaker states weaker if they do not commit to international norms.

All in all, these interests undermine legitimacy for international law. The United Nations cannot compel any member to act or react in a specific manner, nor can it “move militarily, politically, financially, or otherwise onto the territory or into the domestic affairs of any member

state, unless it is specifically invited” (Puchala 1982: 574). A state that transgresses international law will only be punished if other powerful states want to punish them. Because it is the nation-state that has entered into international law and created these institutions, states, are the ones that have the duty of enforcing the international doctrines and legal standards designed to protect human dignities – both inside and outside its own nation. Most liberal democracies and polities “display increasingly active policies on international human rights abroad” while being less forceful in employing policies domestically (Forsythe 2000: 221).

Many states, like the U.S., take a particular national slant to their policies, reflecting their general orientation towards international human rights in their national political culture. Every state decides how to address and establish international human rights in domestic settings, how and when it will obey human rights, and how it uses human rights in its foreign policy. Because a state chooses when to be bound by it, the UN is an institution subordinate to the independent desires of sovereign state. No body or organization stands higher than that of the state and thus, the world and international law is a sovereign state system.

Perhaps the most telling aspect of the UN that points to state interest, however, is the creation of and the structure of the Security Council. It is the one structure in the international system that does have the possibility of enforcement. As noted above, power politics played its role in structuring the UN and in ensuring that it was adopted by the general membership. Legitimizing Great Powers, however, still had a role. The UN, though a continuation of the allied coalition that had won World War II, still held “certain deference to the lesser states to gain their support and to lend respectability to the organization” (Hotz 1961: 128). The Security Council was part of the UN’s creation to entrench the special rights of the Great Powers into international law and all of the UN’s decisions.

The Great Powers knew that the League had failed partly because the big powers played no role. If the UN were to succeed, there would have to be a dominant place within it for the Great Powers. Most of the UN's power, thus, rests in the Security Council to this day. The Big Three, along with China, met in Dumbarton Oaks in Washington in 1944 and at Yalta in the Crimea in 1945 to specify their plans for the UN. It was thought that the UN would be most effective if the Great Powers had acted in a spirit of unanimity, so this grand coalition of powers was institutionalized in the Security Council (Hurd 2008).

One of the main aspects at the center of inequality at the UN rests in its veto power, which was decided upon at Yalta. It gives the soon to be permanent five (P-5) members the ability to veto any substantive draft Council resolution, with the exception for procedural votes. The states agreed that it was unacceptable to commit themselves to organization that passed something, and had an enforcement action that they themselves had voted against. The Council had to be structured so that the Great Powers "had an escape route" – they had to protect their sovereignty and national interests (Hurd 2008: 86). With the Security Council, these states not only had the power to bind UN members, but the Great Powers could also have a veto over Council decisions. Once finalized, the draft Charter was circulated by the then Big Four to all other potential members, with the establishment of the UN contingent upon the smaller states agreeing with the veto. Attempts to subordinate the council to regional arrangements and strengthen the General Assembly relative to the Council was never successful.

The bias in the council is hard to ignore. As Forsythe states, realist principles are at play in that, "if major states, especially the U.S., did not see their narrow interests threatened or believed a conflict resided in another's sphere of influence", the Security Council won't use its powers (Forsythe 2000: 60). Today, the Council has five permanent members – China, France,

the U.K., Russia and the U.S., all of which represent the superpowers in the global community - and ten non-permanent rotating members. Its power and responsibility is to maintain international peace and security. With its symbolic power, the use of force and agenda setting, the power of the Security Council is paramount to maintaining the status quo and the pursuit of powerful state's interests.

The Security Council is arguably the most powerful international body in the world. Its power allows it to potentially violate sovereignty in order to maintain peace, by applying either Chapter VI or Chapter VII powers. In issues relating to security, the Council can take legally binding decisions pertaining to enforcement action. The Council is authorized by the Charter to take any action to remove threats to peace. In the 1990's, the Council expanded this power, implying that security could refer to the security of persons within states, based on their human rights (Forsythe 2000: 60). Though technically peace is supposed to trump sovereignty when it comes to the international community, these powers are not always activated to do so. However, numerous situations of violence came during the close of the Cold War which the Council did not address – in, for example, Chechnya, Sri Lanka and Algeria. Realist principles still applied. If major states, the U.S. especially, “do not see their narrow interests threatened, or believed a conflict resided in another's sphere of influence, the Council might not be activated” (Forsythe 2000: 60).

The United Nations' power financially also rests within the powerful states that enable it to function. The UN is largely reliant on its members' contributions, evidenced by Article 17 of the UN Charter that says “[t]he expenses of the Organization shall be borne by the Members” (Wellens 2012: 18). A Member State, it says, is under no obligation to pay more than it has the capacity to pay. Therefore, the U.S. has been the prime contributor – paying more than all the

other members combined. The superpowers are the ones that pay the most, with the top 15 countries accounting for 84% and the top 2 countries accounting for 40% of the regular budget in 1996 (MacDermott 2000). The UN has been manipulated in its finances for political gain. When the U.S. has disagreed with the UN's policies or it has seen the UN not to be a useful arm of US foreign policy, it has withdrawn its contributions. The U.S. believes that it is "uniquely qualified to pronounce on what the UN is and what it should do" (MacDermott 2000: 96). In the 1980's, the U.S. withdrew support, citing that the UN "[limits] American freedom of action and [compromises] its capacity to defend democracy" (MacDermott 2000: 99).

As such, as we have moved into the 21<sup>st</sup> century, the discourse of human rights has taken over and inserted into a worldwide pop culture. Although these values and its culture are supposed to be universal, it is inherently a European and Western superior culture. However, with the hegemonic world society, these Western concepts have been entrenched into the universal human rights system. This constitutes what every state, group and individual should be or should aspire to, in that each state should be a capitalist democracy upholding individualistic rights and certain norms. World society and its institutions, thus, also enforce these notions – therefore, anything that does not fit into these clear-cut boundaries is not legitimate.

#### *World Society and Human Rights Discourse*

These aspects of international institutions lead to the fact that world culture and society has followed this specific Western-centric trend since the modern era of the last 200 years. The U.S., since the beginning of its rise as a global power post-World War II exemplifies these Western interests of a capitalist democracy. Consequently, there has been a general submission to the U.S. and debate concerning its hegemony, with most of the world community deferring to its interests. Despite this general submission to the U.S., an economic ordering contained under a

more generalized hegemony seems to be the comprehensive world order, which has created this world culture and thus, has informed the human rights discourse (Meyer 1997).

The world order and its international institutions seem to follow what Gramsci called a historical bloc. The configuration of the UN, its bodies and the world community “its economic basis, its ideological expression, its form of political authority” as a whole seem to represent this world hegemony (Puchala 2005: 576). The world hegemony or historical bloc of the West, therefore, amounts to the ascendance of a “transnational coalition of classes and forces that command and wield disproportionate power; favor and promote particular forms of social, economic and political institutions; and share ideological convictions [that are] assumed to be universal” (Puchala 2005: 576).

The nation-state and our statist system have been culturally constructed and embedded (Meyer 1997: 147). As this model have legitimated over recent decades, nation-states and organizations have all expanded similarly with more than 130 new nation-states forming since 1945. The statist system also takes concrete form in depictions of national identity as well as state structures, programs and policies. This culture is embedded into international institutions and nation-states prescribe themselves to it. The UN allowed for the greater expansion of the “development and impact of [a] global sociocultural [structure]” with this centralized world organization framework” (Meyer 1997: 163). With the creation of the UN and its related bodies, such as the International Monetary Fund and the World Bank, it greatly facilitated this framework and legitimation of a world society. Forces working with, and to standardize, this society “thus gain strength through their linkage to and support by the United Nations system and the great panoply of nongovernmental organizations clustered around it” (Meyer 1997: 163).

International institutions are infused with “world cultural conceptions of the properly behaving nation-state” (Meyer 1997: 160).

*Theories of Nongovernmental Organizations*

According to theory, there are arrangements for some forms of global governance that “restrict and redefine state sovereignty”, which can possibly change or amend state interests (Forsythe 2000: 58). State decision makers still take international commitments seriously.

National governments spend a lot of time “managing and interpreting international obligations, while also trying to influence what international organizations do” (Hurd 2008: 5).

Nongovernmental organizations (NGOs) are the main catalyst for this, using norm development and pressure tactics to further human rights. NGOs are supposed to be the way out of the state-centric system. They are the platform from which people and causes that do not have the same voice as state actors do, can have the voice and the power to possibly restrict state action.

Forsythe states that even though states are the legal subjects under the international law, nongovernmental actors have their own position. As Boli and Thomas write, our culture is increasingly global and a transnational legal world order has emerged that works to shape the action of states, firms, individuals and other subunits; we do not just have states, transnational corporations or national forces and interest groups in our world polity any longer (Thomas and Boli 1997: 13).

A non-governmental organization is defined as any non-profit, voluntary citizens’ group, which is organized on a local, national or international level. When the human rights era began to take hold of the public and regional systems in place, the world saw the influx of NGOs. By the 1960’s NGOs were beginning to operate, and to create public awareness about human rights. Combined with binding human rights law and authoritative human rights institutions, powerful

NGOs like Amnesty International were capable of bringing human rights abuses to the masses. Amnesty International was one of the first NGOs that campaigned against human rights violations and ultimately, because of its pressure and investigation, led to policy change and the end of a dictatorship in Greece.

These private organizations act on the basis of advocating to preserve of the international law regarding human rights and humanitarian affairs. Of all the NGOs across the globe, only a handful have the legitimacy to have a platform. To have this legitimacy, an NGO has to have the requisite budget, contacts, expertise, and reputation to get the global media and superpower governments to pay them “at least periodic attention across a range of issues and situations” (Forsythe 2000: 189). The major NGOs include Amnesty International, Human Rights Watch, the International Commission of Jurists, and Doctors Without Borders. The oldest, best funded, and most successful NGOs are based in the West, concerning themselves with the issues that fit into the Western agenda, such as civil and political rights and international humanitarian law in war or similar situations.

There is a North-South divide even in NGOs, with many of the wealthiest and most prominent NGOs sharing the economic and cultural characteristics of Northern countries. These NGOs focus on the Global South, such as Africa and Latin America. NGOs resemble the interests of the world system in general, as the most prominent NGOs also focus on civil-political rights and humanitarian affairs. Western nations have “manifested the civil rights, private wealth, leisure time and value structures” that have allowed for the successful flourishing of major human rights NGOs – mimicking the human rights boom in Western nations in the 1970’s (Forsythe 2000: 241).



For human rights organizations to become prominent and keep their reputation, the most important principle is the collection of accurate information and timely dissemination. Amnesty International has built a reputation for their accurate reporting, in particular concerning prisoners of conscience, torture, and the death penalty, *inter alia*. With this, NGOs try to persuade public authorities to adopt new human rights standards or abide by those already in place. Much of this is done through educational techniques, with campaigns, publicized reports, or briefing sessions. NGOs use their information to “frame issues, to make them comprehensible to target audiences, to attract attention and encourage action, and to fit with favorable institutional venues” (Keck and Sikkink 2014: 3). All of this leads to new ideas, norms and discourses into policy debates.

Many of the UN monitoring mechanisms, such as special rapporteurs, rely on NGOs and their information when conducting their activities. Once of a certain influence, NGOs receive consultative status with the UN system, which allows them to circulate documents and speak at UN meetings and conferences. Since states do care about their reputation in the international arena, there have been examples of states trying to block NGOs criticism or commentary on their behavior. NGOs have helped “create a climate of opinion in international relations generally sympathetic to human rights” by bringing human rights, its ideals, terms, and violations to the masses; this in some ways has helped restrict and transform state sovereignty (Forsythe 2000: 260). States that engage in gross violations want respect from the international community and thus, try to block NGOs.

Another example of the alignment between NGOs and states is how certain NGOs and states or UN bodies work together and influence one another to operationalize change. When obtaining relief and development, it is usually from both public (UN or states) and private (NGOs) agencies. NGOs provide labor while the powerful states, usually the United States and

the European Union, along with UN agencies, provide the ability to go into the country, access to materials, and funding for the operation. Most of the NGOs provide an accurate assessment of need, they mobilize and deliver the relief in a timely and effective way, and they evaluate past action and plan for the future so states and the UN bodies can give them what is needed. NGOs need the support and cooperation of public institutions, because states, directly or through IGOs, provide the physical security for the grassroots operations. By the same token, states do need NGOs to operationalize the relief and therefore, NGOs can have influence on state action (Forsythe 2000).

Perhaps an NGOs most vital role is norm development. A norm is the standard of appropriate behavior for actors with a given identity. Boli and Thomas tell us that “the nature, purposes, behavior and meaning of actors, whether it be individuals, organizations, social movements, or states, are subject to redefinition and change as the frames themselves change” (Boli and Thomas 2008: 14). NGOs are one of the agents that help to change our world culture and the way we see things. They create both regulative norms, which order and constrain behavior, and constitutive norms, which create new actors, interests or categories of action (Finnemore and Sikkink 1998: 891).

Organizational platforms through NGOs and a larger transnational advocacy network (TAN), which NGOs can sometimes be a part of, are constructed for the purpose of norm creation, promotion and eventual internalization. Finnemore claims that these norms do not constrain behavior but change what states want. By doing so, they contribute to changing perceptions held by both state and societal actors that may affect identities, interests, and preferences which can ultimately lead to changing procedures policies and behaviors (Keck and Sikkink 2014: 3).

NGOs and intergovernmental organizations (IGOs), provide expertise and access to information, framed by altruistic or moral beliefs, to persuade states to accept emergent norms. Once a norm emerges through a norm entrepreneur or an organizational platform, it may become institutionalized in specific sets of international rules and organizations. Emergent norms can be institutionalized in international law, in rules of multilateral organizations or treaties, and in bilateral foreign policies. However, norms may also be institutionalized after their worldwide internalization (Finnemore and Sikkink 1998: 900).

Finnemore and Sikkink write that once a critical mass of states become norm leaders and/or adopt new norms, the norm reaches a threshold or a tipping point. It also matters which states adopt the norms – some are critical in a norm’s adoption while some are less so. NGOs are agents of socialization, in which they pressure actors to adopt new policies and laws, to ratify treaties, and monitor compliance with international standards. NGOs are successful in this because social norms are “sustained, in part, by feelings of embarrassment, anxiety, guilt, and shame that a person suffers at the prospect of violating them” (Finnemore and Sikkink 1998: 900). After a norm is widely accepted, it is internalized by actors and achieves a level of conformance that is almost automatic.

NGOs are also arguably most effective as part of a TAN. International NGOs can draw on the activism of local membership in order to bring in domestic opinion and representation to pressure states internally, based on humanitarian principles and general public opinion. Keck and Sikkink argue that when NGOs are a part of advocacy networks, acting transnationally and domestically, and building links among actors in civil societies, states and international organizations – they multiply channels of access to the international system (Keck and Sikkink 2014). These networks have been crucial in norm development. Some of the main examples of

its success have been in norm creation with the antislavery movement, women's suffrage and the environment. TANs are forms of organization characterized by voluntary, reciprocal and horizontal patterns of communication and exchange (Keck and Sikkink 2014: 8). NGOs play a crucial role initiating actions and acting as the pressure mechanism for powerful actors; they introduce new ideas, provide information and lobby for policy changes.

Because the number of NGOs has increased in the last decades, the amount and efficacy of transnational advocacy networks with an international boomerang effect have as well. TANs have emerged to address claims about rights in their campaigns. While governments are the main guarantors of rights, they can also be the primary violators. When a government is violating human rights, individuals and/or domestic groups often find trouble in their domestic political or judicial mechanisms. In this way, citizens may seek international connections to gain access to what Keck and Sikkink call the boomerang pattern of influence (Keck and Sikkink 2014). Domestic NGOs bypass their state and find international allies to bring pressure on their states. This is especially important for the less powerful third world actors because networks provide access, leverage, information, and often money, that they would not have on their own (Keck and Sikkink 2014: 13).

In the same way that NGOs do, TANs use persuasion and socialization. Tactics include: information politics or the ability to quickly and credibly generate politically usable information: symbolic politics or the ability to call upon symbols, actions, or stories that make sense of a situation for an audience that is far away: leverage politics or the ability to use powerful actors to affect a situation where weaker members are unlikely to have influence: and accountability politics or holding powerful actors to their previously stated policies or principles (Keck and Sikkink 2014: 16). These tactics are used by TANs to influence issue creation and

agenda setting, discursive positions of states and international NGOs (INGOs), institutional procedures, policy change in target actors like states or INGOs, and state behavior (Keck and Sikkink 2014: 25).

NGOs have begun to change the state-centered realist theories of the world, in part because of this broader cultural shift into a “new kind of global public or civil society” which grew out of the legacy of the 1960’s (Keck and Sikkink 2014: 14). The activism that swept Western Europe and the U.S. vastly increased the international contact and opportunities for human rights. For those who were seeking to be part of an activism, NGOs or grassroots movements became the “most likely alternative for those seeking to make a difference”. This era contributed to this shift, allowing for the legitimate power that NGOs hold today. NGOs and advocacy networks succeed because of this global civil society that has emerged.

#### *How NGOs Work Within the System*

As discussed, NGOs are supposedly the way out of our statist system. Although the world has created this “global civil society”, which has both allowed for the power of NGOs and TANs to flourish, it also has arguably allowed for NGOs and TANs to be what Meyer calls “enactors” of world cultural norms or world society as described above. Keck and Sikkink recognize world polity theory, in which states with very “different histories, cultures, and social and political structures have come to adopt similar conceptions of what it means to be a state and what it means to be a citizen, regardless of patterns of institutional development”. The world polity in question comes from a modern Western tradition (Keck and Sikkink 2014: 33). The concept of regimes is fundamentally a state-centric one. Intergovernmental organizations (IGOs) set agendas for states, vice versa, and create situations that drag states along, using NGOs as allies (Barnett and Finnemore 2004: 29).

Unsurprisingly, in the same way, NGOs also can cluster around international regime-based institutions in order to exert influence on particular issues. NGOs have attempted to help create new international fields of action, norms, and law, often working with and through international organizations (Barnett and Finnemore 2004: 31). Once an NGO that has risen to a status that actually provides relief or is heard as a legitimate source, there is a considerable connection to states. NGOs are supported by state donations and frequently act in conjunction with inter-governmental organizations.

Whether it is merely a constraint or an argument about the power and position of NGOs, our transnational civil society is a political arena that dictates ways in which “certain groups emerge and are legitimized by governments, institutions and other groups” (Keck and Sikkink 2014: 34). An important condition for international norms is international legitimation. Authority, defined as the capacity to generate compliance, is created, dispersed and consolidated. There are thousands of NGOs organized around science, education, economic development, medicine, and human rights. Nevertheless, they are arenas in which “rationalized nation-states are seen as the principal responsible actors (Meyer 1997: 164). Even though they are autonomous from states, if an NGO wants to have longstanding influence, it must establish links with domestic actors and the intergovernmental realm.

It is argued, however, that although NGOs paint themselves as “oppositional grassroots movement, decrying gaps or failures in the implementation of world cultural principles and demanding corrective action”, they actually participate in furthering the structure of the rationalized state system (Meyer 1997: 165). NGOs, like Amnesty International (AI), work within these institutions which perhaps why AI is seen as one of the most legitimate NGOs. The NGOs focus their language and campaigns on promoting the Universal Declaration of Human

Rights and related international legal instruments. These NGOs' authority stems from using "universal, rationalized, ultimate principles of moral and natural law" enshrined in the UN and its bodies (Meyer 1997: 166). From these legitimated NGOs, it is more likely that these ideals and western norms will gain prominence and spread through the system. Norms that are held by the successful powerful states are the ones that will become prominent and diffuse. In the same way, then, states that are insecure about their status more eagerly adopt international norms to enhance their reputation or esteem. Norm creation, which is perhaps an NGOs most commanding tool, is not separate from the structure of the world polity.

NGOs are seen as independent and the main catalysts for bottom development, especially Community Based Organizations or Grassroots Organizations, that work with actual communities and implement projects at the local level. But besides gaining legitimacy and having extended influence, NGOs are dependent on states for external funding and compliance with funding agencies. Beginning in the 1980's, NGOs were seen as a "partner in development" and "an enforcer of good governance, whose very existence was required as evidence that a state was democratic" (Reiman 2006: 59). It was now important to have a flourishing civil society, with NGOs and other citizen-organized groups. NGOs were targeted as the ideal channel for aid for reasons such as their ability to access poor communities, cost-effectiveness, innovative approaches, and inclusion of popular participation in projects, *inter alia*. This new model put NGOs as the ideal mechanism for reaching and including "the people". Following the Cold War and the expansion of democracy aid, donor agencies embraced this movement.

Today, for many postcolonial countries, financial institutions are both imposing structural adjustment policies and also expanding community-based NGOs for social services. In the 1980s, the World Bank and UN agencies like the International Fund for Agricultural

Development would informally promote NGO inclusion in these IGO-funded projects. By the 90's, this inclusion was formal policy for bilateral aid agencies and IGOs. It was a way of promoting "people participatory" forms of development and governance (Reimann 2006: 62) By the same token, the most legitimate NGOs functioned much like a lobby group, with extremely well-funded, professionally staffed metropolitan centers in Washington, D.C. or New York. NGOs were slowly socialized into nations not only as part of the world community but also as a way of participating in a global civil society.

Since the eighties and nineties, NGOs participated extensively in international policy forum in the United Nations. From Article 71 of the UN Charter, NGOs "which are concerned with matters within its competence" are allowed consultation status. NGOs have several opportunities for legitimation such as formal international recognition and accreditation, as well as informal opportunities to access decision makers and participate in policy debates. Because these opportunities are necessary to gain legitimation, it has provided incentives to organize and act at the international level in accordance with UN bodies and states. In addition, the UN institutionalized a pro-NGO rhetoric beginning in the 1990s with every major conference recognizing NGOs as partners to the UN and member states in promoting international norms. The UN now had an official mandate to support and include NGOs in their programs, publicized their support of NGOs, created new forms of UN-NGO collaboration, and promoted NGO participation in their programs with developing nations. Participation in conferences was also now highly encouraged by the UN, providing institutional support for conference participation and the creation of NGO "parallel forums" (Reimann 2006).

The increase in international opportunities with political access and funding has not occurred in an ideological vacuum. NGO growth in number and power not only involved the



international system providing structural and material incentives, but it also involved the promoting NGOs from the West to other parts of the world with a “pro-NGO” norm. NGOs need states and the international system to retain their power and influence. If states were scared of their reputation being hurt by NGO criticism or thought their pressure tactics would force them to act in ways that wasn’t in their interest, states wouldn’t advocate for them in this way. In fact, NGOs won’t act completely independently of states’ interests. The world culture of a modern state has been adopted by NGOs, which have all adopted internationally appropriate behavior. NGOs, more specifically the large and influential ones, are not completely devoid of state power and despite their stated purpose, do work within and for the status quo of the international system (Reimann 2006).

The world’s institutions, including NGOs and UN bodies, have proven to be ineffective for many. For example, the two biggest NGOs - Human Rights Watch and Amnesty International - have worked for years releasing information on Tibet and other marginalized peoples, and now it seems monotonous. With a lack of progress, Tibet has turned to new ways to affect change. However, with a uniquely theocratic state that has been marginalized by a super power, there has been a way out of the status quo. As the statist system has thus become obsolete for many, there has been a legitimate platform in Tibet and the Dalai Lama, as an actual voice for people outside the system. With the help of TANs and growing information and technology concerning human rights, domestic jurisdiction has become increasingly ineffective as a deterrent to UN action, as more states are willing to become involved in other states’ actions (Ziring 1988: 34). Because of this, they have created new pathways to change the system from the outside in. Now, indigenous conversation and language has been able to flourish.

### *The Tibetan Case: Its History as a Marginalized State*

Tibet has been a subject of international law since the beginning of its occupation in 1951. From the outside it would seem that the Tibetan situation would be an easily prosecutable case for the United Nations based on human rights. When the Chinese occupied Tibet, it was an act of aggression, in violation of the Tibetan people's self-determination, right to life, right to religion, and right against torture. Because of this, it has been a very prominent and yet, highly confused and contentious case. Despite its being an increasing popular cause and seemingly obvious matter, there has yet to be any real headway in prosecuting or even sanctioning or condemning China for its occupation of Tibet.

#### *Tibetan History as a State*

Beginning in 1642, under the rule of the Great 5<sup>th</sup> Dalai Lama, of the Yellow Hats or Gelupga sect, Tibet was unified. The state was set up to be the perfect environment for the practice of Tibetan Buddhism, with the Great 5<sup>th</sup> establishing new monasteries and reorganizing the economy along a feudal support system. The government expressed its religious ideology with the term *chosi nyitrel*: "religious and political affairs joined together". The commitment of Tibet to be a religious state at the core of its national identity has proven to be both one of its major obstacles in adapting to modernizing institutions and one of the hallmarks of its great public acclaim.

In the early to mid 20<sup>th</sup> century, there were several hundred monk officials who controlled religious and monastic affairs, and who also were crucial in the administration of secular affairs. The Kashag, or the main administrative government, was centralized while monastic and aristocratic estates had local control. The Dalai Lama, the incarnation of the *Bodhisattva Avalokitesvara* and the manifestation of this deity on Earth, had ultimate authority

over all decisions in this bureaucracy. He was at the top of the structure, as the secular and ecclesiastical ruler of Tibet (Grunfeld 1987: 9). The Tibetan system was politico-religious and the Dalai Lama was “the absolute ruler of unchallenged authority, whom all Tibetans devoutly obeyed” (Goldstein 2008: 41). Tibet was, in many ways, a premodern theocratic polity, not because of isolation, but because it chose to reject modernity and any change and adaptation to the outside world (Goldstein 2008: 1).

The Tibetan culture and state did not develop in isolation, however; the Chinese and Tibetans had a historical relationship, dating back to the Manchu and the Mongols. Tibet, sandwiched between India and China, absorbed cultural and political influence from both countries and they from it. The Great 5<sup>th</sup> Dalai Lama was given his position of total religious dominance and temporal dominance by the Mongol leader, Gushri Khan, in 1642, in exchange for protection. This began the priest-patron or in Tibetan *mchod yon* relationship in which Tibet provided religious instruction while the Mongols protected and advanced the interests of the “priest” (Goldstein 2005: 3). Shortly after this began the long period of ambiguity of Tibet’s status vis-à-vis China.

In modern history, the Chinese had political officials in Tibet, called Resident Ambans at Lhasa, while the Dalai Lama enjoyed “unbounded prestige” in the region as the head of Tibetan Buddhism. The presence of these officials was to last uninterrupted from the 19<sup>th</sup> century until 1911. Both Tibet and China maintained different opinions on what their relationship was called, though the most popular view that is written about is that of the priest and the patron (Goldstein 2005). The rule by the Chinese was never peaceful for very long. The Qing in the 18<sup>th</sup> century then imposed some of its officials into the administration of Tibet, even at one point trying to control Tibet indirectly with a dependent aristocratic family. Ambans, eventually, would have

some equality with the Dalai Lama in administrative issues and nominations. However, every so often, Tibetans would create an uprising or riot of their own, in defiance of the Chinese attempt to control the Tibetan administration with the Ambans and troops.

By the end of the 19<sup>th</sup> century, Tibet was on its way to asserting its independence. The Tibetans remained a distinct people from the Chinese, maintaining their own language, officials and legal system, paying no taxes or tribute to China and eventually having their own standing army (Goldstein 2005: 20). The Tibetans would fight their own wars with the Sikhs and Nepalese in the early 1900's, and the 13<sup>th</sup> Dalai Lama was chosen without the "Golden Urn" institution. The 13<sup>th</sup> assumed almost total political control, stopping all consultations with Ambans concerning appointing officials. In addition, throughout the 19<sup>th</sup> century, the Qing dynasty held less and less power in their own empire, fighting rebellions and wars. By the turn of the 20<sup>th</sup> century, Tibet was attempting to assert its distinctness from China. The British conducted their Younghusband expedition into Tibet, a mission to establish diplomatic relations and resolve the border dispute between Tibet and Sikkim. Dalai Lama, on behalf of Tibet, resolved the matter by signing accords with Britain without Chinese involvement (Goldstein 2005).

#### *Tibet in the Modern Era*

After the fall of the Manchu Dynasty in 1912, the Tibetans and the Dalai Lama finally found a way in which they could take back their nation from Chinese occupation and from Western powers attempting colonization. The Chinese still believed their "races" – the Han, Manchu, Mongol, Muslim and Tibetan – would fall in line with their new government. The Dalai Lama sent the Chinese a telegram stating that he would reclaim his temporal and ecclesiastic title and rule over Tibet, and many saw this as the Tibetan declaration of independence. The Simla

Convention and its negotiations would provide the background for how nations would negotiate the Tibet question for the years leading up to Tibet's occupation in 1959.

Because China and Tibet had opposing views on the right to an independent status of Tibet, Great Britain was the negotiator at Simla. The hope was that Britain would be the legitimate actor that Tibet needed. But, since this was prior to decolonization and the legalization of self-determination in the UDHR, Britain would only negotiate Tibet's status so long as it was congruent with its own interests. London was not willing to face the international criticism for Tibet's independence and was fearful of the negative impact on its trade. Thus, the British negotiated that: although Tibet would be autonomous from China, the Chinese would still have suzerainty over Tibet. It did, however, guarantee Tibet control over its own affairs and legitimize it as an international identity.

Despite the Simla Convention's failure, Tibet still *de facto*, or in practice, acted as an independent nation. From 1913 to 1933, when China was too weak to challenge it, there was no governmental interference in Tibet and no officials or troops were allowed to reside in Tibet. Tibet remained at a disadvantage, though, despite it having all the qualities of an independent nation. While China was widely recognized in the international community, Tibetan officials refused to modernize into a new economic and social order, for fear it would introduce "Western atheism and secularism". This would result in the loss of its unique qualities as a Buddhist theocratic state. While Tibet officials had no connections to the West and could not even speak English, China maintained its stance, engaging in a worldwide propaganda mission to create the impression that Tibet was part of China.

As China was transitioning into the modern world and would soon become the People's Republic of China (PRC) under Mao Zedong in the 1940's, Tibet was essentially functioning as

its own independent polity. Although Tibet had still failed to secure international recognition, Britain, India and eventually the United States would deal with Tibet on issues as if it were an independent state. The Dalai Lama and Washington engaged in government-to-government relations. Though the U.S. publicly had a “strong Wilsonian commitment to self-determination”, it still refused to support Tibetan independence. The U.S., along with Britain and India, still acknowledged *de jure* Chinese suzerainty over Tibet (Goldstein 2005).

When FDR wrote to the Dalai Lama, it was to him in his “religious capacity, so as not to offend the government which includes Tibet” (Goldstein 2005: 39). This lack of political recognition allowed the U.S. and other nations to maintain their interests. China and the U.S. were allies in World War II and then post World War II when the two were constructing the United Nations. Thus, the U.S. was unable to recognize Tibet given its relationship with China, even as it agreed to deal with Tibet as *de facto* independent (Goldstein 2005). Despite Western rhetoric about freedom and self-determination, especially following the end of the war, Western democracies “maintained a consistent policy of yielding to Chinese sensibilities” (Goldstein 2005: 40). So, without this international legitimation of Tibet, China could continue its control and eventual violation of international law in Tibet.

With the new Communist China in 1949, China was determined to have a unified multiethnic state. Regaining control over Tibet had deeply nationalistic and symbolic value to China. Moreover, in the climate of the 1950’s, geopolitical issues arose as well. China did not want to lose Tibet to Western democracies and have “imperialists”, such as the United States, control and influence Tibet. Mao Zedong and the Communist Party were convinced that Tibet needed to be “liberated” and integrated into the Chinese state, but he also knew that for international legitimacy and loyalty, peaceful liberation was best for China. However, since the

communist ideology was directly opposed to the deeply religious Buddhist country, Mao made his offer of integrating Tibet and China very attractive while also threatening full-scale military invasion.

As China began its invasion in 1950, Tibet appealed to the international community for help. Tibet sent the U.S. and Great Britain missions and letters asking for aid and detailing China's threatening its territorial integrity. Britain and the U.S. gave noncommittal replies, dissuading Tibet from expecting support. As China moved further into Tibet, the Dalai Lama and Tibet felt it was their only option to appeal to the Secretary General of the United Nations in 1950 (Grunfeld 1989). The Dalai Lama detailed the relationship it shared with China historically: Tibet's status in the preceding years, and perhaps most importantly, how China has violated international law with its act of aggression and Tibet's right to self-determination, *inter alia*. The UN Secretariat simply replied that since the telegram was not from a UN member, nor was the telegram from the Tibetan government itself, it would only record its arrival in a routine list of communications from NGOs – allowing the UN to write off Tibet's plea (Grunfeld 1989: 62). The only way in which it would become an issue for the Security Council would be if the Security Council requested it to be on the agenda (Grunfeld 1989: 63).

At one point, there was discussion on whether or not the United Nations and the General Assembly should debate Tibet's appeal. Article 35 of the UN Charter states that, in order to bring an issue to the United Nations, the appealing party must be a state. The British Foreign Office eventually decided that Tibet had an international identity and therefore, could bring its appeal to the UN. Britain had to consider its relationships with India, as well as India's opinion. Similarly, India had to consider its friendship with China. The only time China spoke of the matter was when it replied to the Government of India's telegram which detailed its concern regarding

China's admittance to the UN and Security Council. China reiterated that Tibet was a part of China and thus warranted no foreign interference. India heeded to its firm warnings that nations must "adhere strictly to the principle of mutual respect for territory, sovereignty, equality and mutual benefit" in order to keep on developing its cultural and commercial relations (Grinfeld 1989: 75). Britain and the U.S. were both committed to following India's lead, not wanting a larger issue for the world community. With Tibet's two possible allies pulling back, the UN decided to defer action on Tibet's appeal.

As the winter of 1950 approached, Tibet faced bleak prospects, as the international arena could not be a conduit of support. The isolated Tibetan government sent a negotiating delegation to Beijing, culminating in the Seventeen-Point Agreement for the Peaceful Liberation of Tibet. Grinfeld writes that, "the fact that the Chinese were so insistent on a document formalizing their control shows that even they recognized Tibet as existing beyond the Boundaries of China proper and something requiring legal incorporation" (Noakes 2012: 515). In support of their position it was crucial to the Chinese that the Tibetan people "return to the big family of the motherland" (Grinfeld 1989: 47). Despite efforts of the Lhasa government to dissuade revolt, mounting pressure to assimilate with the Chinese caused increasing violent rebellions and riots with Tibetan guerillas. By 1959, the Dalai Lama and some of his government decided to flee, with tens of thousands of Tibetans following him to India. To Tibet, the Chinese were completely destroying the Tibetan traditional way of life and were thus committing cultural genocide. To China, the Chinese were freeing Tibetans from the extremely cruel feudal system (Goldstein 2005).

The coming years brought some of the most violent Chinese actions on Tibet and on Tibetan culture and polity. The plight of the Tibetans worsened after the 1959 uprising. By 1961



and 1965, the UN had to pass resolutions on Tibet, condemning violations and using language that supported Tibet's claim for self-determination. Although the U.S. seemed more supportive with some of its language and was training guerilla operations, the U.S. still refused to recognize Tibet's independence, citing the United States' and Tibet's national interests. The U.S. stated it would be damaging the Dalai Lama's prestige as one of Asia's most revered leaders if it interfered directly, though it maintained its historic position as a supporter of the principle of the self-determination of peoples (Goldstein 2005).

With the campaign of the "Four Olds" (Old Customs, Old Culture, Old Habits and Old Ideas) and the Cultural Revolution in the early 1960's, traditional Tibetan culture and religion was under attack. The Chinese goal was to "eradicate all remnants of old values, customs and beliefs", as the Cultural Revolution spread to Tibet (Goldstein 2005: 60). The Chinese aim was to destroy Tibet as a separate identity, it being an "anathema" to the socialist revolution, with the goal of total assimilation of Tibet. The main targets of the Cultural Revolution became monasteries, incarnate lamas, and monks, as the Chinese saw these as the perpetrators of the feudal oppression of the proletariat.

All religious activity was banned; religious structures, like temples and monasteries, were torn down and religious texts and icons were burned or desecrated. Although structures were destroyed previously, the Cultural Revolution saw many monks and nuns imprisoned, tortured, and killed. Education was completely changed, as it was grounded in religion, and the Tibetan language was banned, being slowly replaced with Chinese in the schools. Many Tibetans were nomads and the land was at the core of Tibetan life. The Red Guards confiscated animals from the nomads, as well as robes and blankets, yak tents, and food. Thus, entire livelihoods were eliminated (Goldstein 2005).

With the Cultural Revolution (officially 1966-1976), the principle of Tibetan autonomy was denounced and Tibet, among other areas, was subject to vigorous efforts to suppress religious freedom and cultural diversity. During this time, a period of cultural genocide, the United Nations began to consider the Dalai Lama's pleas. Resolutions were written in 1959, 1961 and 1965, based on provisions of the UDHR and Declaration on Granting Independence to Colonial Countries and Peoples. The UN General Assembly passed these Resolutions indicating 'grave concern' in respect of the violation of fundamental human rights of the Tibetan people and the suppression of the distinctive cultural and religious life and autonomy that the Tibetans had traditionally enjoyed (Van Praag 1987: 38). The 1961 Resolution called for the cessation of practices which had deprived the Tibetan people of their right to self-determination, and the 1965 Resolution stated that actions by the Chinese were in violation of the UN Charter. (Van Praag 1987).

Following this period, in the late 1970's to early 80's, the Chinese attempted to make amends with the Tibetan people— and much seemed to be forgotten in the eyes of the international community. The Chinese government acknowledged these policies were mistaken and that serious injustices occurred; in fact, the Community Party issued a Resolution in 1981 concluding the period was a catastrophe. Since then, the party has suppressed any discussion of it and the ten-year period following Mao Zedong's death would seemingly introduce a new era of peace. The Chinese continued their propaganda game, with many articles and publications stating how many monasteries were rebuilt and controls were loosened.

While this may be true, there were cover ups of other atrocities, such as destruction of religious properties and violence against religious officials. In 1977, the Dalai Lama in exile wrote that 300 Tibetans were arrested and several executed on the ground that the accused

showed a lack of genuine sorrow and grief at the meeting. The Chinese did give marginal improvements in food and working conditions, as well as the usage of the Tibetan language and permission for people to worship. Still, there were direct and indirect restrictions on the teaching of Buddhism, political imprisonments, and a large-scale influx of Chinese into the TAR (Bstan 2005).

The Chinese went on to advertise its modernizing mission as “the unprecedented happiness in Tibet today” through radio and magazines (Bstan 2005). Guided tours for foreigners only heard the Chinese interpretations of the welfare and conditions of the Tibetan people. In 1972, despite the still ongoing Cultural Revolution, the PRC was formally welcomed into the UN and it soon after became a Security Council member, giving it the power to veto any resolution when it came to Tibet – despite the three that had come before.

There were mounting reports concerning Tibet released every month and year from NGOs, from, for example, the International Commission of Jurists, the Tibetan Information Network, and the Tibet Justice Center. Tibetans were still complaining of widespread discrimination and NGOs reports contained sections describing abuse and discrimination in areas of education, language, torture, imprisonment and religion. Though each year passed, the sections blur together as they all seemingly wrote the same information. Yet, it was not until one of the most violent incidents – the Lhasa uprising in 1989 - that some began to pay attention again. Though the Dalai Lama was gaining in popularity, not much was done through the UN in spite of China.

Several protests in Tibet in late 1980's and early 1990's were violently suppressed by the Communist government and martial law was imposed in 1989. During this time, the Dalai Lama was finally able to move the Tibet issue into the realm of foreign affairs, gaining strong sympathy and support for Tibet in the U.S. Congress, in the human rights community, and in

lobbying groups. The U.S. Congress introduced initiatives in 1989, and the Dalai Lama came to address the Congressional Human Rights Caucus. However, the idea of a special envoy for Tibet was vetoed by President Clinton. Similarly, in 1994 President Clinton stated publicly what the criteria were that China had to meet in regards to human rights before it renewed its MFN or most favorable nation status (Goldstein 2005). This status would give China certain international trade privileges with the U.S. and withholding the status would have been a great step in slapping sanctions on China. However, Clinton went back on this promise. In the end, due to “China’s political stability, economic development and combined national strength”, the U.S. showed restraint, and allowed renewed MFN status for China (Goldstein 2005: 18). The State Department noted that China was strategically too important. As long as it didn’t seem as though there was any serious violence, the U.S. would make only “sympathetic but innocuous gestures of support” for Tibet (Goldstein 2005: 123).

The language of the major NGO reports has been much less severe than the reports of lesser known NGOs, like the International Commission of Jurists or the International Campaign for Tibet, who demand complete autonomy. Reports discuss ‘repressive’ policies and indicate their ‘deep concern’ – just as the UN and Congress had done. In 1991, there was a UN Sub-Commission on the Prevention of Discrimination and Protection of Human Rights Resolution that came out entitled ‘Situation in Tibet’. It noted only “grave concern” and asked the PRC to respect the Tibetan culture. During the 1990’s, the European Parliament, actually, had stronger language in its many resolutions than the United Nations, even calling out the UN and its members on its inaction and invoking international laws. Amnesty International released a large report in 1992, concerning the immense human rights violations against the peoples of Tibet, just as Human Rights Watch released similar reports in 1994 and some in the following years. While

these large NGOs like Amnesty International (AI) and Human Rights Watch (HRW) released reports throughout 1990's, they were sporadic and used much of the same information and language as was done previously.

It happens, however, that the language of these reports came from people who did not understand the indigenous struggle involved, it being language that was “structured and configured by an overdetermined legal terrain” (Muehlebach 2001: 423). However, this is the standard language of the UN, for international human rights bodies and NGOs have not been able to articulate the “indigenous histories of economic, political, ecological and cultural oppression” (Muehlebach 2001: 423). The current language of international law seeks to use standard all-encompassing claims. Though people use the standard language, it is merely used as an overarching principle and is not properly defined, nor does it encompass the issues that are under the umbrella of self-determination. The international community is stuck in standardized language, though it does not do “justice to the collective rights sought by all indigenous peoples” and minorities (Muehlebach 2001: 423). The UN, the U.S. Congress and NGOs continue to use legal terms but they end up being words in reports that become monotonous over time. As legitimized international bodies and NGOs continue to use their own legal language, the claims of indigenous peoples such as Tibetans, claim that their rights and struggles “fall outside the parameters of Western legal language...and need to expanded to the indigenous cause as a whole” (Muehlebach 2001: 423).

Because of increasing attention, especially with the Dalai Lama, the late 1980's and early to mid 1990's saw an enormous increase in NGOs dedicated solely to Tibet, and a number that were at the direct behest of the Dalai Lama and the Tibetan Government in Exile. Many of the international bodies and legitimate NGOs did not provide concrete help and, because they proved

disappointing, the Dalai Lama chose another route. In the wake of the legitimate diplomatic processes proving to be futile, HHDL began to carefully construct an image directed to the Western public. Originally, the Dalai Lama symbolized the existence of the Tibetan State through a “persistent western image of a secret world of Shangri-la,” a Tibet that was exoticized and fantastical (Klieger 1991). As he traveled the world as a speaker, and made appearances dressed in his common maroon monk robes, however, the Dalai Lama expressed humanity and humility (Klieger 1991). HHDL worked to create his status as a living symbol; though the leader of a religion, he was also a common monk arousing sympathy for the Tibetan cause all over the world. Tibet fever for the Free Tibet movement was booming by the late 1990’s.

While he was creating a celebrity-level platform in the early 1990’s, one that was supported by the likes of Richard Gere and Sharon Stone, the Dalai Lama worked to create an alternative diplomatic process. Knowing of the difficulty of understanding Tibet in the West, the Dalai Lama spoke the issue before masses of people so that they could understand the situation and be part of a human rights movement. Rallies, movies, and concerts were constant. At the same time, NGOs emerged in great number, from the Tibetan Centre for Human Rights and Democracy to the Tibet Fund. There is now an International Tibet Network as the global coalition of Tibet-related NGOs whose purpose is to maximize the effectiveness of the worldwide Tibet movement. Many of these NGOs were created with the Dalai Lama or the TGIE themselves, fighting for the Tibetan cause. With this, Tibet went from being an issue that was largely fading from the U.S. agenda to gaining its own special coordinator in Congress, as an official stated that “Tibet was an issue of rising salience and prominent visibility on the agenda. His popularity made it impossible to ignore” (Koehn and Cheng 1999: 183).

A new symbol for human rights, HHDL aligned himself with other human rights causes, speaking of democracy and freedom in general, and also linking himself to other indigenous causes like that of Tibet. He sought to change the process and the language of human rights, by forcing the world to incorporate indigenous peoples into the conversation. A once oriental dream-like place for the Western world now had a transnational representative; democracy for such a place then proved to be the right example for indigenous causes to rally behind. Using his newly found platform, the Dalai Lama and Lodi Gyari, foreign minister of HHDL's Tibetan exile government, created an initiative to found a new organization, the UNPO, in cooperation with friends in Estonia. The UNPO's secretary general would be Michael van Walt van Praag, general counsel to the Dalai Lama who had represented the Tibetan case to the U.N. Human Rights Commission. Lodi Gyari and HHDL realized that "unrepresented peoples and nations required a global platform that [generated] solidarity and collaboration with and from other oppressed peoples in order to make an impact on the global geopolitics and multilateral avenues" (Gyari 2011). The UNPO began as an outgrowth of the Tibetan freedom struggle and the principle of non-violence. With linkage between Tibet and other indigenous peoples, the UNPO found new ways to create change in the state-centric international system.

### *The World Society and the UNPO as a Way Out*

Hegemony, a domination by the many of the few, connotes institutionalization of privilege, distributions of particular values and the consequent inequality and injustices inherent in inequality (Puchala 2005: 571). Nonetheless, it is a very real component of international relations. Hegemonic theory describes a state of international affairs, in which a single state attains power and elects this power to manage the international system. The common belief is that the only remaining superpower is the U.S., which, therefore, implies the American domination of global organizations. Due to this, embodiment of American “norms, rules and decision-making procedures” constitute the world order and its regimes (Puchala 2005: 572).

Many who study the United Nations say it is “the servant” of this long-standing U.S. hegemony that predates, but was solidified at the end of the Cold War - as it was largely an American creation. There are examples of the UN being used as an instrument of US foreign policy, too, with episodes such as those involving UNEF and Suez, Korea, Atoms for Peace, decolonization, and the Soviet invasion of Afghanistan (Puchala 2005: 572). Many of the decisions -what the UN does or does not do – is conditioned by the “will, whims and resources of the United States” (Puchala 2005: 574). This view has been debated, and member states have even voiced their concerns in the United Nations about the United States’ position, given that the world is prone to defer to the U.S., just as the U.S. is prone to promoting its wishes by exercising influence commensurate with its power (Puchala 2005: 575). However, as stated previously, Robert Cox’s notion is possibly more true now: that “hegemony can be transposed to the international level, such that world hegemony is describable as a social structure, an economic structure and a political structure” (Puchala 2005: 575). For Cox,



world hegemony is also a normative, ideological, or ethical structure that is expressed in universal norms, institutions and mechanisms which lay down general rules of behavior for states and for forces of civil society that act across national boundaries (Puchala 2005: 575).

Cox uses Gramsci's notion of the historical bloc in which particular forms of social, economic, and political institutions are disseminated, leading to the establishment of international organizations through which what are seen as universal norms of a world hegemony are expressed. So, "when such an order enjoys legitimacy, it is widely recognized as being right and just, and there exists a shared understanding of why it should be so regarded" (Ruggie 1983: 96). This world order is the one which the Dalai Lama, the Tibet population and other marginalized peoples were unable to penetrate by conventional means.

As Cox and Gramsci argue, civil society, the supposed legitimized platform of world institutions for marginalized peoples, is also part of this world hegemony. As noted previously, many of the powerful and legitimate NGOs are aligned with superpower states or national interests. The Tibetans, have of course, had their experience with continuous NGO reports - with many hundreds of NGOs being founded for the cause of Tibet, but the case remains unsolved. Nevertheless, there continue to be reports every year that are horrifying in their details of Tibet's human rights violations. The U.S. is one of the most, if not the most, powerful nations and it frequently uses rhetoric to support Tibet. It does not, however, provide action, making it nothing more than words and reports. The U.S. has not been the platform that it was promised to be, despite being highly legitimated and prominent with NGOs such as Human Rights Watch or Amnesty International.

#### *The UNPO as a Response to the World Hegemony*

The Unrepresented Nations and Peoples Organization (UNPO) was officially founded in 1991 and in their own words was

born out of a feeling of frustration at the exclusion of nations, peoples and minorities which do not constitute independent states from access to international fora and organizations. Many peoples, especially the relatively small ones, have a long history, much of which is marked by oppression, discrimination and sometimes deportation at the hands of outside powers. Their primary concern is to protect their people from extermination, assimilation, or oppression. Many times the states of which they form a part do not respond to their concerns. Their only recourse is through the international community and access to these organizations (Mullen 1996).

A committee consisting of national representatives from prominent national movements included Estonia, Crimean Tatars, Georgia, Tatarstan in Tartu and Tibet. The leaders in 1990 came together to create the UNPO and draft a charter to be presented to the founding assembly. The UNPO's values were grounded in democracy, self-determination, tolerance, and non-violence – a globally promoted and recognized principle of Buddhism. The UNPO's goal was to “provide a legitimate international forum for the world's voiceless peoples and assist its members in bringing change by effective, democratic, diplomatic and non-violent means” (Mullen 1996).

On February 11, 1991 the Founding Assembly took place, along with diplomats, press, NGO representatives and representatives of other nations, peoples and minorities in the Peace Palace in The Hague. After signing the Covenant of the UNPO, media reported it as the birth of “the alternative United Nations”. The UNPO is working through the “systematic bias into the political community”, in which the vast majority of the world and world behavior conforms. This has led to the effort of the UNPO, who wish to contest the legitimacy claim (Ruggie 1983: 96). Members of the UNPO, thus, seek to change the world order that theorists can qualify as hegemonic.

Minorities have frequently been kept away from international attention and confined to the domestic sphere of states, so most of the issues facing UNPO founding members were not known outside of their immediate regions. This was because indigenous and minority issues

were not considered to be at the same level as other issues that were of international importance and concern. Though certain rights are codified in the UN Charter, signifying their extreme importance – such as the freedom of movement, the right to self-determination, the right to religion, and the freedom from discrimination – these rights been a touchy subject for a statist world order to expand on, to legitimize, or to even talk about. In this way, the UNPO is a forum to “promote the interests of peoples and minorities in a world dominated by nation-states” (Brolmann 1993: ix).

Though the post-1945 era ushered in an era of decolonization and self-determination, with documents like the 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples and enshrined principles in the UN Charter, there was a scarcity of nations actually enforcing or confronting the subject of these issues. Consequently, indigenous populations, as groups of people who are not defined by the international community by the concept of a “state”, have had difficulties claiming their rights. Non-state groups, like stateless peoples, minorities and indigenous peoples, have had an ambiguous presence in the establishment of human rights law, with no clear definitions or enforcement of who they are or the issues they face as groups.

Thus, indigenous peoples have remained outside of international law, as this law operated only between sovereigns or the very people who conquered and “civilized” those on the periphery. The UN Charter did not provide specific definitions for self-determination, or for the groups of peoples outside the “state” category. Nor did it provide for “internal colonialism” within the case of countries that have significant indigenous populations, e.g. the case of China and Tibet. Perhaps the most common critique is that most of these rights, including the newly created rights for indigenous peoples, are individual rights rather than group rights. Thus, rights

that have been created for minorities are Eurocentric, disregarding peoples in Asia and Africa who organize themselves based on the “group” rather than the “state”. Though the U.N. attempted to usher in new norms for the international system, it was hard to erase normalized behaviors of colonialism and domination that have been in place for hundreds of years.

As a reaction to this and in defiance of international and national economic interests, indigenous peoples began to rise together in their struggles for their codified right to self-determination, in order to have ownership over their own lands and resources. Prior to the 1990’s, there was a global or transnational indigenous movement brewing. Indigenous communities and organizations from all continents, including Asia and Africa, as well as marginalized peoples such as the Khoi, San, Ogoni and Maasai, tapped into the global sphere of funding, information, support, and legitimacy to begin a network of their own (Morgan 2007: 277). There was the International NGO Conference on Indigenous Peoples and the Land held in 1977 and 1981 and other similar events (Morgan 2007: 277). This growing sentiment, leading up to the 1990’s brought groups together to act upon the right to self-determination, allowing for “all peoples to freely determine their political status and freely pursue their economic, social and cultural development” (Morgan 2007: 277).

Many authors have written of the 1990’s, as a decade that really saw the emergence of the indigenous social movement, that allowed for the introduction of indigenous peoples into international law in the context of a continued development of international law. 1995 marked the first International Decade of the World’s Indigenous People. The decade’s goals were to “strengthen international cooperation for the solution of problems faced by Indigenous peoples” (Cornassel 2007: 138). The establishment of the Working Group of Indigenous People (WGIP), created in 1982, was an amazing forerunner of the movements allowing debates, reporting and

standard-setting for indigenous peoples, as well as providing a body as to begin the process for the Declaration on the Rights of Indigenous people. In 1994, the UN Draft Declaration on the Rights of Indigenous Peoples was adopted. The WGIP has continued to meet annually and these meetings have been international events for those unrepresented groups, smaller states, minorities, and indigenous peoples to have a voice. The group has increasingly had a bigger and more heterogeneous audience attend its group since its beginning. With these advancements, the movement began to make an “indigenous place” for itself, in which indigenous delegates and their activist practices have been articulated and carried out.

Still, there were significant gaps within the international institutions for marginalized peoples. At the movement’s infancy, there was only one working group discussing these issues, made of representatives, NGOs and activists. By the end of the 1990’s, there was ever-increasing globalization, and an awareness that

culture has become a source of values that can be converted into political assets, both internally as bases of group solidarity and mobilization, and externally as claims on the support of other social groups, governments and public opinion all over the globe (Hannerz 2012: 52).

Thus, the UNPO was created at a time to allow for and bring together these notions. No permanent conversation or mechanism came into place outside of the statist system until this globalized forum of the UNPO came into being, the expansion of this dialogue fostering and an emerging culture to pressure the world to hear these problems. Now the UNPO represents more than 30 peoples, with Estonia, Georgia and others gaining UN membership, and representing over 100 million of the world’s indigenous people. Its the largest “NGO” of its kind.

### *What Makes the UNPO Different*

The UNPO was part of a culmination of this emerging movement in the late 20<sup>th</sup> century. The 1960's and 70's saw an emergence of a human rights global community, in which the lay person developed a more active mindset, that is concerned with human rights and that was activated by emotions like guilt and shame at the prospect of human rights violations. At the same time, the Dalai Lama and the Tibetan case became increasingly important. Before the UNPO's creation, the U.N. was what created an official discourse on what constitutes indigeneity. The movement and indigenous politics needed to be framed by indigenous delegates and activists themselves. In this way, the UNPO tied all of these peoples and movements together into one and, with the combined fame and platform of Tibet, created a formal globalized forum for all unrepresented peoples into one "alternative UN". It was a group almost mocking the UN, pointing out the inherent flaws of the UN statist model. It used similar mechanisms and structure -such as working groups, assemblies, and reports - except that it was modeled for, by, and composed of the nations that had been previously pushed aside.

With the UNPO, this growing social movement experienced a process of institutionalization. Co-optation allowed for the UNPO to go from being an informal, diffuse, powerless movement to a formalized institution that, along with other groups, has been legitimated and brought into the realm of "routinized and established politics" to create change (Morgan 2007: 274). Three things make the Tibetan case and the UNPO different and allow it the possibility to be more successful than the average NGO, non-profit, or any other human rights entity. The UNPO has the Tibetan case as one of its core jumping off points, with the norm entrepreneur as the Dalai Lama, and a built in Transnational Advocacy Network (TAN) connecting the Tibetan diaspora, in interlinkage, with indigenous people all over the world.

### *The UNPO Defined as an NGO*

Every group that is not a state is defined as an NGO. However, the UNPO does not really express the traditional definition of an NGO – which has actually been one of its benefits. The UNPO functions like an NGO and is defined as such, but only because it has no other choice as it has been locked out of the international community. This exclusion, in fact, was reason for the UNPO's creation. Groups of peoples that are not defined by state terms are not accepted by the international community, but still need an international forum of their own.

To understand the creation of the UNPO, we need to explore the origin of NGOs. The term NGO was coined by the United Nations itself. Initially, it referred to societal actors engaged in international bodies and the UN context. Since the 1980's, the term has become popular for societal actors outside the UN framework, both internationally and nationally, and used more and more broadly. The term can now encompass multinational companies or national liberation organizations (Martens 2002: 272). Many studies, thus, fail to have a clear definition on what is and what is not an NGO.

NGOs have been identified as international bodies or non-state organizations contributing to the advancement of international standards of human rights. The UN Charter only defines them as international bodies with certain principle and objectives that must be in place: the NGO must have an international standing, independent governance, and a geographic affiliation (Martens 2002: 274). Despite this apparent broadness, there are some inherent biases for NGOs. In the Western world, the right to societal organization is linked back to basic civil and political rights, and therefore, people can form organizations to express views to the public or express their dissatisfaction with governmental action. However, laws dealing with rights, duties, and recognition depend greatly upon on respective national conditions; This creates a problem for

when an activity of an NGO transcends borders of its national state of origin or, for example, when it must follow a state's national law despite its members being of other national origins. Finally, the governmental aspect in the term NGO has been questioned by many scholars. Financial dependence or general interest and philosophical alignments can be a factor for NGOs. Many have become increasingly dependent on governments when they accept funding and become subcontracted by official institutions for specific purposes; individual governments, mainly the most powerful, are the forces behind missions in the UN, which also use the large NGOs in those missions.

There has been a specific image of what an NGO is, despite there being more than one definition; the public conceives as to what qualifies an NGO usually as the type of NGOs that states in the UN favor. Amnesty International (AI), therefore, has been an archetype for what an NGO is or should be; the way it has monitored the implementation of certain human rights and used the same language as intergovernmental organizations (IGOs) i.e. acted as an "independent actor with authoritative critical reports, developed into the ideal type of NGO monitoring". This has forced other NGO's to emulate AI in order to gain the same type of independence and quality (Demars 2015: 121). However, there is a system, in which IGOs and NGOs use each other for the process of international standard setting. An NGO gains legitimacy with the IGO, while the IGO gains their expertise and NGO support for IGO policy.

The UNPO, thus, uses the same mechanisms as typical NGOs e.g., using the media, fact-finding missions, reporting and education – in order to inform policy makers and governments, and to educate and engage the public in speaking out as a form of pressure as well. The UNPO provides training in lobbying and diplomacy, and facilitates engagement of its members with UN bodies and the European Parliament. Although a rival global forum is unrealistic, the UNPO has



some functions and a structure that is like an IGO. The UNPO is modeled after the UN, with member states, a secretary general, and general assemblies that produce reports. Members and the organization communicate with willing governments, create their own treaties and agreements, speak for member-nations and conduct their own fact-finding missions.

While the UNPO uses monitoring and reporting, as well as international legal language, its goal is to gain legitimacy and an equal position to that of something like an Amnesty International. The UNPO is only an NGO because the international legal order refuses to recognize UNPO members as states, and thus peoples must use the UNPO as a method of pressure, whether it to be to gain a platform, recognition or indigenous rights. It is a place for them: an umbrella organization of polities, indigenous peoples, and minorities that have been excluded from the formal state system. The presence of the UNPO itself, “brings to the fore the power relations that underpin the positionality of these within the modern diplomatic system” (McConnell 2016). Because it is premised on subalternity, or those outside the hegemonic geopolitical configurations, the UNPO has become a powerful alternative. It has carved out a space for indigenous people to have their own voice and, in the world of archetypes of NGOs that are aligned with states; they are formally denied a vote but are not fully outside of the state system. Thus, the UNPO uses its position to represent a political objectivity.

#### *The Dalai Lama’s Prominence and Role as a Norm Entrepreneur*

The Dalai Lama is an important symbolic figure and has a role as one of the most powerful and recognizable norm entrepreneurs. Through his advocacy, his lectures, and his presence in social media, he has been able to reach audiences all over the world, taking other Tibetan leaders and the transnational government-in-exile with him. International norms are usually promoted by transnational moral or norm entrepreneurs. With the Dalai Lama, he is able

to foster norm emergence by using his dominance and reputation to convince the public that something must be changed. This platform allows him to frame an issue and reach a broad audience. He has also used international norms to shape and build strength in his argument in order to further goals for indigenous peoples. In norm emergence, the norm entrepreneur or Dalai Lama must try to persuade a critical mass of states to adopt this norm; he does so by using pressure to conform, using public opinion, or using a state's reputation.

Despite an amazing premise, the UNPO could not gain a platform or a voice without some legitimating source in its beginning that would allow it to have more formal diplomatic practices. Politics and IGO's seek to exclude and silence actors who would challenge their interests. The Dalai Lama and the Tibetan case has been one of the most prominent cases of peoples who have been denied a gateway to the conventional fora of international politics. The Dalai Lama has become an incredibly popular, perhaps even celebrity, advocate for human rights. During the human rights culture boom, he and other Tibetan leaders began to market Tibetan Buddhism in a particular way. Celebrities began to take on the Tibetan cause during concerts and rallies; Tibetan song CD's, prayer beads, and other Buddhist relics became hugely popular in the West, along with adopting the Buddhist faith. Thus, the Dalai Lama has packaged Buddhist ideals in such a way that they become a moral language that is hard to ignore.

The Dalai Lama has found a way to inextricably link Buddhist and democratic ideals, making them not so foreign and a more accessible for the world public. HHDL has taken simple ideas, such as compassion and non-violence which are inherent in Tibetan Buddhism, and framed them for his Western democratic audience. In a speech in Washington D.C. in 1993, HHDL linked freedom, forces of liberty, peoples' movements, and democracy with nonviolence and peace. He referenced the Tibetan government that hold these ideals most dear in the frame of

a modern democracy, while at the same time using the United States' example as the largest and most influential democracy in the world. While he made the connection between the people of Tibet and Western democracies, HHDL also explained the plight and wishes of the Tibetan people for a future of political freedom and the desire to enjoy international human rights. In his words,

Modern democracy is based on the principle that all human beings are essentially equal, that each of us has an equal right to life, liberty, and happiness. Buddhism too recognises that human beings are entitled to dignity, that all members of the human family have an equal and inalienable right to liberty, not just in terms of political freedom, but also at the fundamental level of freedom from fear and want. Irrespective of whether we are rich or poor, educated or uneducated, belonging to one nation or another, to one religion or another, adhering to this ideology or that, each of us is just a human being like everyone else. Not only do we all desire happiness and seek to avoid suffering, but each of us has an equal right to pursue these goals (Buddhism and Democracy 1993).

*Tibet Prominence, 'Homelessness' and its Example*

NGOs like the UNPO, as well as other NGO's that have emerged from 1990's, have adopted these norms as well and used the Dalai Lama as this norm entrepreneur. Both have worked in tandem to "mobilize popular opinion and political support within their own or host countries and abroad" (Geldenhuys 2014: 18). As the Dalai Lama becomes their official norm-entrepreneur, he has been able to popularize the Tibetan people, the Tibetan cause, and Tibetan norms and ideals, such as non-violence, influential in the West.

The diaspora began with 80,000 Tibetans following HHDL out of Tibet in 1959. After years of being in exile, Tibetans have had to forge a new identity and an "imagined homeland", using the Western world for assistance while the West took hold of this new culture. In total, roughly 80,000 Tibetans followed HHDL into exile. In 2002, the census numbered the Tibetan diaspora to be around 130,000 people in exile, but with the majority of exiles living in India. The Tibetan diaspora has only continued to grow since 1985, with the U.S. being the most desired

destination for Tibetans. The fondness of Tibetan culture in the West has been a “product of diasporic Tibetans” who have concepts, such as universal human rights and indigeneity, to further their cause (Anand 2003: 221). There is debate on whether or not using Buddhist values in this way is a good thing, as there is still a global emphasis on “Buddhist universalism in the teachings of the Dalai Lama” and on a romantic timeless romantic representation of Tibetan culture (Anand 2003: 222). This view is often seen as a monolithic, exoticized and Orientalist notion of Tibetans. Whether or not people agree with this direction, this articulation of Tibetan identity has allowed for Tibet to present its case to the West as displaced members of a bounded territory, and thus to, create a globally recognized pan-Tibetan identity and a movement that makes moralities, such as a desire for homeland and preservation, obvious.

In 1960, the Dalai Lama established the Tibetan government in Dharamsala, with the government-in-exile’s main goal being the rehabilitation of Tibetan refugees and restoring freedom in Tibet. From then on, the Tibetan government-in-exile (TGiE) has worked hard to forge a national identity and state to supersede regional divisiveness, ushering in an era of a national identity of Tibet instead of individual localities. The current administration is composed of a legislature (Assembly of Tibetan People’s Deputies), executive (Kashag), judiciary (Tibetan Supreme Justice Commission), constitution (Charter of Tibetans-in-Exile) and seven governmental departments (McConnell 2009: 116). The TGiE has transplanted government structures, institutionalized and democratized them, and also has established a state-like polity in exile, thereby transcending geographic and cultural boundaries. It provides for provision of health services, an education system, a ‘voluntary’ taxation system for the diaspora, the issuing of Tibetan ‘passports’, the establishment of quasi ‘embassies’ in some states, and the implementation of democratic parliamentary elections. It represents 122,000 Tibetans in exile,

perceives itself as the *de jure* representative and is increasingly acknowledged by the international community (McConnell 2009).

Tibetan diaspora is considered the model for indigenous populations, as it is thought to be the most successful group of unrepresented peoples. Although the Tibetan diaspora lacks “officialness”, the Dalai Lama has adopted democratic principles, combined inherent statelessness with statehood, and redefined democracy with Tibetan culture and the situation of exile-statelessness and territorylessness. This has become a model for what the UNPO has now adopted in their readoption of international law principles (McConnell 2009: 117).

Indigenous activists and delegates have tried to reinforce their view that the “idea of an inextricable linkage between peoples and places”, that is behind the idea of a nation-state being territorially integrated is false. Up until the late 1970’s, the idea of indigenous cultural difference was denied, and the idea that indigenous groups were part of a nation and were thus assimilated into a national mainstream society, with no need for any self-determination or separate group rights, was promoted. This definition is written by non-indigenous peoples who had no experience of being shut out of the world order. Otto writes that the common notion of sovereignty is “so conflated with the idea of statehood that it appears to have no separate existence” (Muehlebach 2001: 422). The indigenous struggle is one of the main facets of the “growing dissatisfaction with the dominant conception of the international community as a society of states” (Muehlebach 2001: 423). The case of Tibet inherently contradicts the European model of sovereign nation-states that our world order is placed.

#### *The UNPO’s Use of its Transnational Advocacy Network*

One critique of the UNPO has been that its influence on norms is now low because the Tibetan cause has become so influential that it no longer needs the UNPO. On the contrary,

because the UNPO began with Tibet, an association with the Dalai Lama, the diaspora, and associated norms, it allowed for its legitimation and its entry into dialogue within international fora. Houben's thesis, for example, says that the UNPO promoting Tibet's right to self-determination and argues that Tibetan influence is low because of China being a rigid and powerful state. Of course, though, when comparing a state's power, the UNPO as an NGO will have low influence in having the ability to force a superpower state to change its policy (Houben 2016). The statist world order is not built to take a policy that has been in place for officially 66 years and reverse this policy in 20 years with the creation of the UNPO. Even Keck and Sikkink, who wrote one of the largest theories on the abilities of norm emergence, acknowledge that NGOs are not states and, cannot, therefore, have the same power as states in our system and do not have the power directly to change international norms (Keck and Sikkink 2014).

The UNPO's power, though, is of a different nature; though the politicians still set the international agenda, the UNPO's power is to initiate the conversation and educate the public. Norm creation comes from this pressure and emergence that then states cannot ignore. The TAN of the Tibetan diaspora, the Dalai Lama, the transnational movement of indigenous peoples enshrined in the UNPO and other NGOs that have emerged along with it, have all created a force in which the beginnings of norm emergence and/or a 'norm cascading effect' can take place. A transnational advocacy network has this power because it places "norm-violating states on the international agenda by raising moral consciousness, [so that they] legitimate the claims of domestic opponents against norm-violating governments, and [they] challenge these errant governments by exerting pressure on them" (Geldenhuis 2014: 18).

This is what makes a TAN so crucial when it forms, as it becomes the very embodiment of its own norms. Such norms, thus, provide a basis for advocacy network formation, "aiding in

the creation of identities and preferences without which transnational advocacy becomes impossible to sustain” (Noakes 2012: 508). Tibet has had a TAN for a few decades, with the TGiE, the Tibetan diaspora and the ever increasing number of Western NGOs dedicated to the Tibetan cause. All of these have allowed for this “network of meaning” to take form around “certain moral sentiments about rights and obligations of certain actors towards others” (Noakes 2012: 509).

From the beginning, these norms have had constitutive effects “that specify what actions will cause relevant others to recognize a particular identity” or the identity of the UNPO (Noakes 2012: 508). Though a transnational network before, the Tibetan cause was just for Tibet; now it is part of an imagined community beyond itself, in which it “[shares] ethical standards of individuals and groups living in disparate geographic areas” (Noakes 2012: 509). The UNPO has the ability to reach wider audiences by using these already popularized norms to identify and inform the larger indigenous movement enshrined in the UNPO.

#### *How the UNPO Has Used its Advantages*

The appeal of the Tibetan people and the Tibetan cause allows for the public to listen and be attracted to it. But with Tibet, its issues can be extrapolated to many, if not all, marginalized or unrepresented peoples in the UNPO, giving it a larger platform than ever before. The UNPO has taken on inherent Tibetan or widely associated Tibetan ideals since its beginning. HHDL assisted in the creation of the UNPO, addressing German Parliament with the UNPO General Secretary, for example, and having the UNPO aid him with his visit to the U.S. The Dalai Lama’s Special Envoy Lodi Gyari is one of the founding members of the UNPO and the head of its delegation, and is helped by well-known opponents of Chinese imperialism and Tibetan advocates. One of these is Michael van Walt van Praag, a prominent international lawyer who

has been a legal adviser to HHDL and the TGiE, as well as a prominent writer about Tibet. The image of Tibetan and the Dalai Lama as the pioneers of autonomy struggles has given a Tibetan legitimacy to the UNPO. Its first conference was held on Prevention of the Use of Force by Governments Against Peoples Under Their Rule, and Lodi Gyari, who has written extensively about self-determination in the Tibet case, was one of the conference's leaders.

In addition to using Tibetan speakers, the UNPO has also used widely associated Tibetan norms that have taken hold in the West in their covenant. The Dalai Lama has maintained his view on non-violence throughout the decades of occupation, insisting that if Tibet took up arms against China, it would prove suicidal for Tibetans. Parallel to this, the UNPO maintains that it will assist its member in advancing their cause only through nonviolent means, as an organization “dedicated to nonviolent programs and solutions” (UNPO Covenant 1991). Self-determination has also been inherent to the Tibetan struggle and one of the universal rights that the Dalai Lama has projected as norm entrepreneur. The UNPO has taken that principle and grounded its entire framework in it- from conferences and panels, to reports, advocacy for its members, and as an argument against nation-states in international forums. Another cornerstone to Tibet is its non-traditional formation as a state. Arguments against traditional notions of a state are at the root of the UNPO, which argues that the current order “is outdated and needs to be rethought” to give way to local realities and nonstate groupings (Self-Determination 1993).

Despite its nontraditional aspects, the UNPO has emulated the trajectory of Tibet – using every international law and democratic foundation, as well as modeling international organizations, as a way to reconfigure and recreate these principles as their own. This is when the UNPO has been most successful; by using Tibetan speakers or prominent figures of the Tibetan movement by using issue-based concepts from HHDL, and by arguing that the Tibetan



case be intertwined with democratic concepts. All of these are then extrapolated to the members of the UNPO in general.

*How Has the UNPO Accomplished its Goals*

The UNPO, one of the many groups that has been part of the emergence of the indigenous cultural politics at the U.N., has been a result of “the complex struggles over meaning and the creation of... frames of meaning...that become part of the political culture” in which it is “part of the reservoir of symbols from which future movement entrepreneurs can choose” (Keck and Sikkink 1998: 17). Beginning with the Dalai Lama and the Tibetan case, this has been a significant part of the actions of the UNPO. With the increasingly popular Tibetan movement and the Dalai Lama, the UNPO has now gone on to create different meanings and symbols from which it can act. In this way, the UNPO has been able to help promote and talk about international norms, such as non-violence and self-determination; transnational moral entrepreneurs and NGOs create globalized concern over policies by creating a

culture [that] has become a source of values that can be converted into political assets, both internally as bases of group solidarity and mobilization, and externally as claims on the support of other social groups, governments and public opinion all over the globe (Hannerz 2012: 52)

With this emerging culture and platform, the UNPO has been able to promote new international norms within the international community for indigenous peoples.

*Working Group on Indigenous Populations (WGIP)*

One of the major advancements for the UNPO, and the indigenous cause in general, was the creation in 1982 of the Working Group on Indigenous Populations, set up by the Economic and Social Council (ECOSOC). Its responsibilities were to review what was affecting indigenous peoples and to draw up a draft declaration on the rights of indigenous peoples for eventual consideration by the UN General Assembly. For the first time, indigenous populations had

access to the United Nations – although, the working group still had to go through the sub-commission, the commission, ECOSOC, the third committee and General Assembly before any declaration, their main goal, could be approved. Beginning in 1993, a Declaration founding the UNPO was drafted, but there was no real presence of representatives of indigenous peoples during this consideration. Representatives could not obtain consultative status that, according to Article 71 of the UN Charter, allows for ECOSOC to make arrangements for consultation for NGOs “that are concerned with matters within its competence”. The Human Rights Commission, in turn, established its own Working Group (HRC Working Group), in which it created procedures by which indigenous organizations and representatives could apply to participate in these sessions. This was a major success – a way of bypassing this highly sought after consultative status or legitimizing measure (Suagee 1997).

These groups were only allowed to address the floor, but not make motions or vote; still, as of 1996, about 106 indigenous groups were approved for participation. The UNPO had begun its participation with major international bodies and procedures. During the UN sessions, the UNPO organized time with representatives, for example from East Timor, the Chittagong Hill Tracts, Nagaland and Tibet. In addition to lobbying for its members, the UNPO began its more than 10 year daily summaries of all the proceedings in the Working Group on Indigenous Populations (WGIP) in the form of the *UNPO Monitor*.

This was the beginning of what is one of the UNPO’s most widely used pressure methods: consistently releasing reports of actions and meetings. The *UNPO Monitor* appeared in English and Spanish within 24 hours of the meeting (Simmons 1995). Continuing its monitoring, the UNPO also provided members of its delegation with assistance during these proceedings. The UNPO, especially in the 2000’s, has continued to release its reports after each session. Now

with its website, it has enjoyed much wider access, and this has resulted in the WGIP's culmination of passing the Declaration in 2006. Not only have these reports been able to reach the public, but scholars have used the UNPO's reports to write about the WGIP's sessions in general.

One of the main points of contestation before the passing of the Declaration was the use of self-determination – a principle at the core of the UNPO's entire organization and a norm propagated and identified by the Dalai Lama as a core human rights belief. In response to the draft Declaration in 1996, the U.S. was against using the term in the Declaration. It claimed that the meaning was hard to interpret, and varied on the context; moreover, it argued there was no “international practice or international instruments that recognizes indigenous groups as peoples in the sense of having a legal right of self-determination” (Suagee 1997: 380). It was suggested that the term self-determination was not yet a widely accepted norm and that the states of the world would not pass the Declaration with it. This might be problematic for the U.S., for example, in its relationship with Native American tribes. The *UNPO Monitor* also included a very important clarification, from the representative from Hawaii who said that,

self-determination does not mean separation or isolation, it means being able to meaningfully influence your own destiny, according to values and wishes...it is the essence of the whole struggle for recognition (Suagee 1997).

With the release of the Monitor, the UNPO spoke for all indigenous peoples in its strongly worded report stating that self-determination may be the most important principle in the entire draft Declaration. Self-determination was perhaps one of the most, if not the most, important causes for the Tibetan case and for marginalized peoples as a whole. As has been publicly stated for years, it is at the core of the Tibetan struggle, and at the core of the UNPO and

all indigenous struggles. Thus, it was most important for this definition to echo Tibet, as the definition had to come not from states but from indigenous peoples themselves.

The *UNPO Monitor* detailed how the UNPO and indigenous delegates in the WGIP decided on a strategy amongst themselves prior to its session. The delegates state that the rights in the Draft were the minimum standards and the group would not even discuss dialogue diminishing any of those rights. They would not approve of amending, changing or regrouping the Draft – the only possible discussion would be on overall principles, requesting a relaxation of the ECOSOC principles to increase the equality of indigenous participation in the forum or unanimously agreeing on it in its current form (Suagee 1997: 383). After the indigenous representatives requested that the Declaration be immediately adopted and the Chair reminded that since they were not representatives of member states, they could not make such motions. *The Monitor* then wrote of how this particular session witnessed the indigenous delegations walked out of the meeting, as they stuck to their beliefs and promises in making sure this was a Declaration truly for indigenous peoples.

After years of debate and of nation-states trying to prevent any mobilization or indigenous communities from directly confronting state practices, the Declaration passed. Although powerful nations like the U.S. outwardly say it supports the Tibetan cause with, for example, symbolic gestures and holding glitzy benefits on behalf of the Dalai Lama, they are unwilling or unable to effectively assist the cause. In 2007, the United States voted against the Declaration that came from the WGIP. The UNPO remains as the group for all indigenous delegates to work with and through, as it makes the individuals stronger and allows for public recognition and education of the inequality that indigenous peoples face in international bodies, even when discussing the issues that pertain to them.

This has become more evident with the changes in the UN system and its bodies. With this ushering in of new conversations, the 2000's saw even more advances for the indigenous cause after the WGIP's first decade. The Commission on Human Rights appointed a Special Rapporteur on the Rights of Indigenous peoples in 2001 as well as a mandate establishing a Special Rapporteur on Minority Issues in 2005, both with wide mandates and the role to enforce and promote Declarations for indigenous peoples and minorities. The UN also created the Permanent Forum on Indigenous Issues in 2000, and the Expert Mechanism on the Rights of Indigenous Peoples in 2007. The UNPO's goals in its covenants were to bring change by effective, democratic, diplomatic and nonviolent means. It has begun movement towards its goal by slowly working to bring indigenous-centered norms into the international system.

The UNPO's goals have always been to assist its members, in advancing their interests, and in "using the United Nations and other international procedures" to allow them to empower themselves to participate in the international community (Covenant 1991). The UNPO fights for its member states for recognition and legitimization, slowly accomplishing these goals with some of them a part of these indigenous peoples bodies in the UN. The actions of the UNPO directly echoed the Dalai Lama, especially in his Nobel Prize Speech, in which he advised that "truth is the only weapon we possess". It was his duty to speak out as a "free spokesman for [his] captive countrymen and women"—just as it was for the UNPO to speak out.

At the forum discussing the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, one third of the UNPO's members shared experiences and discussed challenges of minority groups. Similarly, the UN system has allowed indigenous peoples to help set the Permanent Forum's agenda and determine the outcome; their delegations has been the largest and most active in recent years. With the UNPO's facilitation of

an entry point into international fora, five Iranian groups in 2009 were part of the Forum on Minority Issues. This group had a session based on “Minorities and Effective Political Participation, and the representatives used this platform to identify obstacles to their involvement in international political processes – all the while wearing traditional dress to represent their diversity.

The UNPO as a whole participates in conjunction with these bodies, continuously holding side or parallel events during sessions of the UN Human Rights Council, the body that oversees the recently created indigenous bodies. Their events promote issues concerning their members, as well as the UNPO’s broader issues, such as a conference entitled ‘Dialogue on the Situation of Human Rights of Minorities in South Asia’. Their participation comes in all forms of world events, such as the Earth Summit and the World Conference. The UNPO continues to release its reports to the UN’s Universal Periodic Review and contributes to the UN reports themselves. UNPO along with many other representatives of indigenous peoples, have remained in the conversation concerning norms they want to be universalized, allowing for the beginnings of changes to the UN system as a whole.

#### *Population Transfer as a Norm*

One of the norms that the UNPO successfully promoted and named internationally was population transfer. The right to return is generally seen as customary international law since 1948 as a response to the Holocaust, which displaced millions. The United States High Commissioner for Refugees (UNHCR) has a specific mandate coordinating a return plan for refugees and displaced persons. However, there is already difficulty within international law for refugees to be called refugees and receive the proper benefits and recognition, let alone unrecognized peoples within a nation-state. There has been hard law concerning mass

expulsions, with the Refugee Convention placing restrictions on state parties' ability to expel foreigners and the Convention on the Elimination of Racial Discrimination recommending that expulsion should not discriminate. However, there was still a lack of legal instrument that covered a larger basis and a proper definition that didn't leave the community in interpretive limbo which forced nations to fall on the cautious approach.

The Second General Assembly of the UNPO passed a resolution on the Question of Human Rights of Nations and Peoples Subject to Population Transfer. Other papers, such as one entitled 'Population Transfer' submitted to the International Federation for the Protection of the Rights of Ethnic, Religious, Linguistic and Other Minorities, as well as other reports on the Discrimination and Protection of Minorities, resulted in a UN draft resolution. The Sub-Commission adopted Resolution E/CN.4/Sub.2/1991/38. Although population transfer was not its main subject, it committed the Commission to "include the question of human rights dimensions of population transfers, including the implantation of settlers and settlements" and had a "deep concern that population transfer may threaten the survival of a distinct people's national or cultural identity" (UNPO Conference 1992).

Following this Declaration, the UNPO held one its first major conferences, called the Conference on Human Rights Dimensions of Population Transfer, held in Estonia in 1992. The UNPO subsequently released a report of the conference. It brought together representatives and UNPO members, as well as other peoples and nations affected by population transfer, human rights and international law experts, and representatives of governments, NGOs, and the United Nations. The UNPO laid its recommendations, including for international organizations to work against population transfer that result in violations of human rights, for organizations to promote and document information, actively promote the recognition and realization of the right to self-

determination of such peoples, and for any proper organization to pursue the issue in appropriate UN bodies or other conferences such as the 1993 World Conference on Human Rights (UNPO Population Transfer 1992: 4). Invoking international law, the report specifically called on international organizations such as the U.N. to operationalize a working definition of population transfer. This has often been a problem for international law.

There were multiple resolutions in the following years mentioning population transfer up until the final resolution in 1997. The UNPO's description of population transfer covered the essential elements like absence of free and informed consent, the government's intention behind the movement, and the effect on peoples. With the resolution, it affirmed "the right of persons to remain in their own homes, on their own lands, and in their own countries" and urged governments to do everything possible "to cease at once all practices of forced displacement [and] population transfer...in violation of legal standards" (UNPO Population Transfer 1992). The freedom of movement and population transfer Sub-Commission Resolution 1997/29 covers all these bases – especially in terms of ethnic cleansing. This was the furthest and most explicit definition of this right, especially in reference to indigenous peoples or minorities.

Exploring the definition and norm of population transfer is at the heart of many UNPO members' stories from Taiwan to Abkhazia to Tibet itself – making it inherently a minority and indigenous struggle. As a concept, population transfer is inextricably linked to cultural genocide, noted explicitly so by the UNPO. It is also inherent to the Tibetan story as been told by the Dalai Lama, and Lodi Gyari. In fact, Lodi Gyari has spoken for the UNPO on behalf of making term 'population transfer' well known. It continues to be linked specifically to Tibet, as in a 2008 conference in 2008. It was entitled 'Population Transfer from Baltic and Tibetan Perspectives, where Tibetan NGO representatives spoke. The conference, the representatives and the subject



matter using Tibet and the Dalai Lama as the inextricable link with population transfer to help facilitate the term's spread.

### *Norm of Non-Violence*

The UNPO has taken other principles that are talked about - general notions or even customary international law - and has tried to develop them into actual norms, such as self-determination, non-violence, and preventing the use of force. Their work has taken these norms specifically, but has also tied them to particular peoples to further their members' causes. Non-violence, one of the first principles taken up by the UNPO due to its alliance with Tibet, has been promoted and used for every indigenous struggle.

The Movement for the Survival of the Ogoni People (MOSOP), one of many Delta minorities in Nigeria, was shaped by the UNPO as one of its earliest supporters. The Ogoni adopted a strategy of nonviolent mobilization, after realizing their violent confrontation with the Nigerian state institutions proved to be futile. The UNPO gave civil disobedience training to the activists in MOSOP. The Ogoni people had a mass rally in 1993 where the Nigerian state was confronted about the Ogoni's feelings about their goals and identity, and the Ogoni's strategy to contact and lobby international institutions was helped once the UNPO took up their cause. The Ogoni movement itself to frame itself with positive developments and they were drawing greater international attention to their cause (Clifford 2002: 406). As the Nigerian special forces became less blatant, the UNPO continued to assist MOSOP developing and implementing new strategies, conducting a training session for 45 MOSOP leaders, and facilitating dialogue and negotiations between Royal Dutch Shell and the MOSOP leadership (UNPO 1997: 18). Though this helped the Ogoni themselves, it did not further the non-violence cause in general, as it was specific to help Ogoni with their struggle.

However, the UNPO focuses on nonviolence throughout its website, with multiple pages dedicated to it, advocating for its use as the UNPO's core principle for its members as well as for the international community. These articles and pages invoke the Tibetan struggle explicitly and show how the Tibetans have used international diplomatic and public relations campaigns to further their cause, and use the nonviolent Buddhist philosophy with indigenous terminology and language to show the amoral actions of many examples of human rights violations against indigenous peoples. Non-violence is now not only intertwined with Tibet but also with the UNPO. After the founding member, Estonia, gained independence, the UNPO organized an International Conference on Nonviolence and Conflict alongside the Dalai Lama, to train its members in this strategy. A Zanzibar activist, one of the speakers, spoke of how they led a nonviolent campaign, even after there was widespread violence and imprisonment. Their new multi-partism party, CUF, won the election even though it was not recognized. The new party continued to peacefully boycott the illegal government, even as the opposition incurred violence and although elections are still difficult, the international community now recognizes the issues of Zanzibar.

The Crimean Tatars, a UNPO member, constantly speak of and are written about in how they have always followed the principle of nonviolence. The leader of the Crimean Tatar National Movement, Mustafa Dzhemilev, is a well-known spokesman for nonviolence and has allowed for the Tatar movement to be recognized based on this principle. He has become a prominent figure for the movement, always mentioning his beliefs in nonviolence. Although the Tatar struggle has been ongoing for many years, there have been legitimate and prominent developments in the recent years. In 2014, the Office of the United Nations High Commissioner for Human Rights released an almost 50-page report detailing the human rights violations against

Crimean Tatars in Ukraine. Similarly, HRW released a report in 2017 of Ukraine, detailing the disproportionate crimes against the Tatars while also noting their peaceful opposition to Russia's occupation.

### *Self-determination as a Norm*

A goal for the UNPO has been to clear up the definitional issues and misconceptions surrounding the term self-determination. Self-determination has been used over and over again in the Tibetan struggle and by the Dalai Lama himself, as the Tibetans wish to have control over their culture without Chinese interference. However, nation-states have been operationalizing a definition without the consultation of the people to which it actually pertains. The 2007 UN Declaration finally recognized the right to self-determination of indigenous peoples, the important progress done on behalf of minority rights, and the ongoing work of the UNPO. However, broad and skewed definitions still remain, due probably to the lack of actual international action. The international community has often thought of self-determination as 'separatism', which seems to be the reason for so much of this negative responses. States do not want to get involved in a struggle for independence, as we have seen in the U.S. and China and Tibet. This, however, remains a misunderstanding.

The UNPO has tried to change this conception of self-determination into one that fits within indigenous peoples' views: the determination of one's own destiny, a destiny that may be determined within the framework of an existing state or any other relationship with a state. The UNPO wrote of Chief Ted Moses, a former Chief of the Grand Council of the Crees and an ambassador to the UN, who spoke at the UN in 1996 of the definitional problems that states make. the UNPO wrote to publicize his statements, that distortions of what 'peoples' are constitute a serious and significant violation of international and human rights law. The UNPO

continues to post past and current WGIP reports, as well as other UN bodies, to see what delegates say about this definition. Definitional problems still remain to say what constitutes a ‘peoples’, as nation-states are reluctant to give this definition. The Naga people, who have a similar story to that of the Tibetans as they declared independence from the British in 1947, were forcibly annexed. Since its membership in 1993, the Naga were recognized as a ‘people’ by the UNPO as well as other international bodies. Despite the UNPO continuing to write of civil conflict, breakthroughs have been made, such as the Indian government recognizing the uniqueness of the Naga case in 2002.

Another one of the UNPO’s largest conferences was ‘The Question of Self-Determination: The cases of East Timor, Tibet and Western Sahara’ hoping to invoke a sense of parity with Tibet’s struggle. After the 52<sup>nd</sup> Session of the UN Commission on Human Rights with a Conference on Self-Determination, East Timor, and Tibet requested the UNPO to organize this event. It linked these specific countries with self-determination, population transfer policies, and the human rights violations that went along with it. In 2002, there was a handover of government from the UN Transitional Administration for East Timor to the Timorese. During the six months prior to the declaration of independence, van Walt worked in East Timor. Following its success, UNPO International Secretariat staff were developing a project studying the road to independence, identifying lessons for those aspiring to self-determination. The UNPO in 2008 also wrote of the comparative cases between East Timor, the Western Sahara and West Papua.

#### *Lobbying for States*

Achieving entry into legitimate international organizations that have excluded marginalized people has been the goal of the UNPO. Its way to do that is by giving them their large UNPO platform as a means for visibility. The UNPO, thus, releases reports fervently and

even more so now with the use of the internet. It only sometimes uses Tibet and the Dalai Lama explicitly, perhaps in reports to compare the struggles. However, lobbying on behalf of states does not necessarily broaden their platform or success. When it does link the struggles together, though, it brings more attention to otherwise unheard of groups of peoples. In addition, when a member has success or a member that was lobbied for does receive UN membership, it raises the UNPO's own reputation as the member will support and speak on behalf of the UNPO once it is legitimated.

The UNPO homepage contains links to its member websites, each of which displays the peoples' own flag and country name, and a description of its struggle and relevant UN documents. Reports that are put out for members pertain to various norms that are high points in international law, circling back to self-determination, non-violence, or other general indigenous struggles. Thereby, continuing to connect all indigenous peoples through this link.

A fact-finding mission was conducted for its member, Assyria, in 2009 in order to observe Iraqi elections, at the behest of the Assyria Council of Europe. Their report was then welcomed by the international community, with a briefing in the House of Commons in 2009. The UNPO continues to write about Assyria and its widespread human rights violations on its website incessantly, reporting everything from the Anti-Christian Campaigns, to Assyrian representatives meeting with Australia and suicide attacks. In 2012, Assyrian representatives met with the Office of the High Commissioner for Human Rights and presented on the Forum on Minority Issues. Its largest recognition came in 2016 as the European People's Party Group, the largest in the European Parliament, passed a resolution to protect religious minorities and recognized the atrocities by ISIS as genocide (UNPO 2017).

The UNPO has lobbied for and acted with states, invoking international law on behalf of its members to bring attention to their struggle. A region of Bangladesh, which is home to thirteen different indigenous ethnic groups (some of whom close to the Sino-Tibetan people) were being forced off of their home lands by Bengalis. The UNPO submitted to the UN Universal Periodic Review reports of violations of the 1997 Chittagong Hill Tracts Peace Accord, writing off the human rights abuses and urging the UN and Bangladeshi authorities to resolve disputes fairly and end the widespread violations. As little progress was being made, the UNPO continued to release reports throughout the 2000's in conjunction with the release of reports by the U.S. on the situation (UNPO 2017).

In 1998, the Kosovo Liberation Army (KLA), previously recognized as a terrorist organization, obtained de facto diplomatic recognition in the west. The UNPO backed the East Timorese independence movement and one of its leaders Jose Ramos Horta, who suffered many human rights violations, such as arbitrary arrest and torture, like Tibet. Michael Van Walt van Praag facilitated the transition to independence of East Timor, along with Jose Ramos Horta, preparing East Timor for international treaties, but publicly speaking out against the Indonesian occupation, by specifically comparing its case to Tibet, and by continuing to assert its right to self-determination. In 2002, with this recognition, East Timor officially became an independent nation. Jose Ramos Horta has publicly thanked Tibet and HHDL as the leader of these struggles, as well as other indigenous peoples in the UNPO like the Chittagong Hill Tract, and the UNPO as an NGO coordinated effort (Jenne 2014).

The UNPO has also used its Peace Action Council (PAC), formerly the Urgent Action Council, especially in conjunction with other states, to promote peaceful resolutions to conflicts and conduct missions into a state's conflict. The PAC was asked to assist in the search for a

peaceful solution to the political stalemate in Zanzibar before violent conflict broke out (UNPO 1997). The PAC also launched a delegation to the Caucasus, along with Lord David Ennals, who met with the region's warring leaders. The British launched a propaganda campaign following this on behalf of Chechen and Abkhazian secession from Russia (Burdmann 1996: 31).

### *Conclusion*

Although there have not been an extraordinary amount of concrete laws or declarations, the UNPO has helped to create the culture that has allowed for these working groups and forums to flourish. It has helped to new norms to begin their norm cycle and introduce norms into the system that allow indigenous peoples to be visible in an exclusive system and forums to be created in which these issues are discussed with possibility of action to follow. The UNPO's goals have always been to create a legitimate platform and legitimate voice and to be part of the UN and be on the same playing field as other "states". It has never been to upheave the world order, nor be the sole voice for all indigenous peoples. Rather, it has sought to start the conversation of certain norms for peoples without a voice to become legitimated in the world order.

Whether or not international law has changed, the conversation has begun. There will continue to do with increasing indigenous and minority NGOs such as the UNPO and there will continue to be work on behalf of self-determination for Tibet. The TAN has only gotten larger, combining the Tibetan diaspora, Tibetan NGOs, and all other members of the UNPO under this umbrella. The UNPO has created an NGO that would normally never have been successful in a system designed to deny the voice of indigenous peoples, by using their growing prominence and values to appeal to the public and to gain an entryway into the international fora that has continued to deny them. With this, they have been effective in the sense that it has somewhat

changed the world order, changed the language, and begun to integrate new norms into the system. With this, because of the public attention and its pressure, the conversations can now take place.



### *The Future of the Indigenous Struggle*

The UNPO was “born out of a feeling of frustrating at the exclusion of nations, peoples and minorities which do not constitute independent states from access to international fora and organizations” (Mullen 1997: 2). As the most prominent of these states, Tibet has begun a transnational movement for other excluded states and peoples to rally behind. The notoriety of Tibet and the Dalai Lama have given not only the prominence to attract attention from the international community, but also a recognizable story of indigenous peoples that do not fit into the status quo. This movement has allowed for peoples, whose stories have been doomed into silence because of their lack of formal status, to have an international platform of their own.

Tibet’s success has mirrored that of HHDL. From being unable to enter the U.S. during his first twenty years in exile to now being the recognized leader of a traditional theocratic state and head of the fastest growing religion in the U.S., the Dalai Lama has brought the Tibetan cause from a voiceless anonymity to a presence at the forefront of a growing human rights consciousness. The leap in all things Tibetan in the West has had profound political effects – allowing for a change in status quo that wasn’t thought possible before the 1990’s. Before that, Tibet, its government-in-exile, and HHDL were pushed aside and essentially silenced in the international community, on account of a viable lack of interest in the states that had the power to take any concrete action.

The Treaty of Westphalia in 1648 is generally agreed upon as the beginning of our state system today, while the beginning of the human rights system as we know it is marked by the end of World War II. Fearful of repeating the same mistakes of World War II and wanting to avoid future genocides, the Great War marked historical achievements for human rights, creating a Universal Declaration grounded in the philosophical notion of natural rights and an

international military tribunal that prosecuted leaders of genocide as war criminals. Despite its vast achievement, it is hard not to agree with or find merit in realist or neorealist theory concerning the international community – the “United Nations is economically dominated by the North and politically controlled by the West” (Puchala 2005: 571). The world’s institutions, such as the UN’s specialized agencies, were mostly Northern or Western creations: the World Bank, the International Monetary Fund, and the World Trade Organization, were in charge of establishing, monitoring, maintaining, and enforcing global rules or regimes. These institutions had, and continue to have, a Northern and Western perspective and backing, making it difficult not to further Northern and Western goals and the stable liberal world order. Such a world order frequently leaves out the non-world powers that do not empower it.

Hegemony usually connotes the domination of the weak by the strong, the many by the few (Puchala 2005: 571). With the end of the 18<sup>th</sup> century and the emergence of laissez-faire and democratic nationalism, the stage was set for modern international organizations, which rest on the state as the dominant political unit and voluntary agreement among states in order to be successful in mitigating international rivalry (Ziring 1988: 11). Hegemony, in this case, is not an influence of one state over others (like the United States) but more of a world hegemony that is a “social structure, an economic structure, and a political structure” that is “expressed in universal norms, institutions, and mechanisms which lay down general rules of behavior” (Puchala 2005: 576).

As stated previously, the Law of Nations or the Treaty of Westphalia, ushered in the era of the independent territorial integrity and because of this, “diverse forms of political and social units that [thrive] in other parts of the world [now] go unrecognized within the framework of international law” (Griswold 1996: 92). With European expansion, colonialism, and the

construction of a national culture, international law also developed, grounded in the European notion of a “single sovereign state representing a single cultural people” and the idea that non-state institutions, such as families, the church, the ethnic group and the community had no political role in the modern world (Griswold 1996: 92). Though the hegemonic world order would have us think otherwise, this isn’t true in all parts of the world today. Despite indigenous and minorities having guaranteed rights that are codified in the UN Charter (1945) and other laws such as the Declaration on the Granting of Independence to Colonial Countries and People (1960), there is still a statist perception of rights that prevails, recognizing dialogue between individuals, individual rights and states that answer to them. Rights are given to states in this way:

the state, as the supreme political unit and the sole legitimate source for the exercise of force, has certain rights: sovereignty, territorial integrity, exclusive jurisdiction, and nonintervention in domestic affairs (Griswold 1996: 92).

Thus, the idea that “states will honor each other’s power and rights” retains its predominance as the foundation of human rights (Griswold 1996: 92).

This undoubtedly leaves many states, peoples, and cultures out of decision-making, out of the world order, out of sight and out of mind for the political elite. As Michael van Walt van Praag, General Secretary of the UNPO has stated, institutions are run by government “clubs”; institutions that protect and help members to keep the privileged position they are in, by promoting and protecting the interests of the privileged political elite that has achieved power. With this in mind, there needs to be a way to captivate the world’s attention in order for any change to take place, any improvement that could affect the institutions from the outside in.

*What This Says About the UNPO*

Today, the Dalai Lama is not unaware of the current world order. He knows that he must market his cause, the Tibetan belief systems and his people to the Western world. He knows this message must be packaged for a different audience, an audience that has the power to move the needle, and he understands that norms are generally the way in which human rights are created and institutionalized to become “normal behavior” for states. Though realists will argue that states are the primary actors who will not act if there is nothing to gain, in the day and age of globalization and technology norms do become in their interest. If a population, whether it be through activism, social media or celebrity, is committed to a cause, a government cannot simply ignore its people without facing repercussions. The U.S., other Western nations and the UN system, when “outed” publicly, care deeply about the image they portray: the image of the epitome of modernization and democracy, which, supposedly, all nations strive to be accepted into and be like.

Two theories or ways arise concerning norms and their emergence, that are particularly vital to Tibet and the UNPO: TANS and norm entrepreneurs. Norms go through a life cycle: norm emergence, norm acceptance, and norm internalization, in which different mechanisms and crucial actors are a part of for the different stages in the evolution of a norm. The Dalai Lama, as discussed, has become one of the ultimate norm entrepreneurs, similar to the likes of Nelson Mandela. As a norm entrepreneur, HHDL’s role is to promote a norm and seek initial acceptance for the norm. The Dalai Lama has worked to create Tibet’s platform for decades, since its occupation in the early 1950’s, but becoming successful in the late 1980’s – finally. The idea of a theocracy to the West is something that has been seen as backwards or in opposition to democratic ideals that are held so highly. With HHDL, he has taken an exoticized Shangri-la

image of Tibet and disseminated Buddhist values combined with democratic ideals – making it not only less foreign but something that the West and the masses have sought to emulate.

Tibet has become an icon for so many things – not only for cultural genocide but for a culture saved or a culture that has saved itself from itself. This ‘Tibetanness’ is unique and has become cultural cache unlike any other. HHDL has cultivated this, creating Tibet as a symbol of nonviolence, compassion, dissent, and political change. Tibetan Buddhism is an esoteric religion with people’s empowerment at its core. The Dalai Lama has made some aspects of his religion public, but kept the powerful behind closed doors. However, HHDL has combined Buddhism and the situation of Tibet, taking Buddhism as his jumping off point for political change. He has taken the political – the situation of Tibet – and found Buddhist values in it. From this platform, the Dalai Lama has been able to advocate for human rights of all kinds, such as the nonviolent solution of international conflicts, the interrelatedness of social and individual human rights, and the need to face the threat of global environmental disaster” (Bharti 2002: 3500). HHDL has linked the Buddhist values of compassion or nonviolence with the political. With emphases on a compassionate and altruistic mind, known as the incarnation of the Bodhisattva of compassion, the HHDL has helped to stress a “viable system of humanitarian ethics for the world’s social problems” (Bharti 2002: 3500)

The Dalai Lama had his way into influence with consumerism and, although it became a new fad for some, with this strategy of internationalization, he was able to bring issues to light and start these conversations. HHDL has thus been on the cutting edge of religion and politics, indigenous people, and human rights in general. Along with reaching the masses to concern themselves with human rights, HHDL has, perhaps most importantly, become a symbol through which others can act. Ethnic groups, indigenous peoples, minorities, and those suffering from

religious persecution have found deep resonance with the situation of Tibet and the Dalai Lama himself. In international law and the international community, there were no ways in which these peoples that did not identify with a traditional view of a state could be part of the system, have a voice or have anyone speak on their behalf; there were no mechanisms or ways to recognize peoples not part of a state.

This has become more of an issue as globalization and boundaries have become blurred and the world looks much different now than the beginning of the contemporary human rights era in 1942. With HHDL and Tibet as a model for these new ways to conceive of peoples and states, it has shown how the UN may have reached its peak with contemporary international law and has showed the cracks in the system. Indigenous peoples and indigenous issues have been able to, through the UNPO, use Tibet and the Dalai Lama as their model. Thus, conversations concern how international law has been both a

product of, and a contributor to, state policies of appropriating indigenous lands resources without compensation...displacing or resettling indigenous populations, and...attempting to assimilate and eradicate indigenous cultures (Griswold 1996).

From the platform that Tibet and HHDL has created, other issues that indigenous peoples and minorities face, can be brought to the forefront using concepts like nonviolence, compassion and self-determination. Instead of it becoming a vague concept in international law, these principles become real; they have a face to them with indigenous peoples and minorities coming forward and beginning the conversations. With this, the norm cycle can take place – allowing for the possibility of change in the status quo statist system.

### *The Dalai Lama and the Future of the UNPO*

Tibet is a unique state in the eyes of the international community, with a global popularity, a transnational government, and a theocratic government with a spiritual leader as the head of

state. All this makes Tibet the perfect model for all other indigenous models: a state that is so distinct from the traditional notion of a state, but still is a state, for all intents and purposes. Tibet, and the UNPO along with it, have become a transnational advocacy network that has been able to transform “interests by developing, diffusing and monitoring compliance with norms”. This, as a movement, then has also become the very embodiment and symbol of the norms they try to champion (Noakes 2012: 507). In this way, “norms operate like rules that define the identity of an actor, thus having ‘constitutive effects’ that specify what actions will cause relevant others to recognize a particular identity” (Noakes 2012: 507).

Certain norms have thus become associated with Tibet and the Dalai Lama, and in turn, the UNPO. The indigenous struggle has come to identify itself with self-determination and nonviolence, which not only helps to circulate these norms (because it’s become more diffuse over time with these networks) but also gives these norms an identifiable platform. Following the Tibetan case, there has been a global network of indigenous peoples with the center of the network being the Dalai Lama. His persona, his abilities, and “his presence as a unifying figurehead has been an undeniable asset in mounting and sustaining” support (Noakes 2012: 517). He traveled the world throughout the 1980’s and 1990’s, speaking of Tibetan statehood and creating an international lobby, never passing up an opportunity to speak of statehood with heads of state. The Dalai Lama’s success is directly responsible for the expansion, recognition and legitimation of this network of indigenous peoples. Even with Tibet’s success, however, the UNPO, the Tibetan network, and minorities in general have been limited in their ability to give their claims legitimate grounding in international law and to rally the support of key intergovernmental bodies for causes of independence.

With the impending death of the Dalai Lama and the question of his reincarnation, the prospects of future success in the indigenous movement come into question. The Dalai Lama has written of cases of some methods used in recognizing reincarnations that were improper because they undermined the Dharma, the monastic community, and Tibetan society (Reincarnation 2011). Authoritarian rulers in the Communist PRC - who while rejecting religion but still involve themselves with religious affairs - declared an Order No. Five in 2007. This order concerns the control and recognition of reincarnations. In this way, they are waiting for the current Dalai Lama's death to recognize a 15<sup>th</sup> Dalai Lama of their choice. Because of this, the Dalai Lama has renounced his political authority, giving authority to the TGiE and bringing into question whether or not the institution of the Dalai Lama will continue.

However, the institution of the Dalai Lama is more complicated than this, even if it does not technically have political power any longer. Just because he says so, Dalai Lama cannot necessarily decide that the reincarnations should halt. If there is a reincarnation, the Tibetans in the TAR and in exile will read the signs, as part of the traditional methods of recognition. The problem lies within the Chinese, who will pick a Dalai Lama of their own no matter what. There could be one Dalai Lama, which the Chinese present to the world, and whom other states might readily accept for fear of Chinese repercussions. There might also be two Dalai Lamas, one Chinese and one Tibetan. Thus, questions of the institution will remain, as Tibet is clear concerning its recognitions of reincarnations, and the Chinese are relentless in maintaining control.

A more fundamental question, though, is whether or not the next reincarnation of the *Bodhisattva Avalokiteshvara* will have the same or similar qualities to the 14<sup>th</sup> Dalai Lama. His unique presence and personality has propelled him as a norm entrepreneur; he alone had this



ability to speak - transcending cultures, races, and religions - to make Buddhist ideals available for everyone. Without this unique presence, though, is the more concerning fact of whether or not these inherently Buddhist and indigenous ideals will carry on into future generations.

Without the proliferation and continuation of these values, it is not clear whether or not the cause can continue to grow. The movement has frequently been defined by the Dalai Lama and his advocacy for nonviolence and self-determination in Democratic ways, that has ushered indigenous peoples into a statist society. However, with his death and the questions regarding the institution, the UNPO, the Tibetan network, and indigenous peoples all over the world must not let tactical fragmentation overcome the network. For the struggle to continue, the Dalai Lama's values must live on with these networks that he has allowed to flourish and become the indigenous platform that creates change in the international community.

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