Buddhism and Law in Tibet

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CHAPTER 17
Buddhism and Law in Tibet
Rebecca Redwood French

The Tibetan plateau is an immense high-altitude desert that, except for a few larger towns, was very sparsely populated with agriculturalists, nomadic herders, and merchant traders prior to 1960. The small population and minimal urbanization are the most important distinguishing features of this Buddhist country because concentrated populations are commonly connected to the development of government administration, law, and intellectual production. Despite this, Tibetan culture is known for its long history of enormous production of literary, scholarly, and religious works. Books on Buddhism and other topics from the five traditional classifications of knowledge in Tibet—arts and crafts, medicine, language, logic and Buddhism—were written and printed throughout much of Tibetan history.

When discussing the relationship between law and Buddhism in Tibet, the number of topics and the many historical twists and turns are daunting given the long history, the growth in Tibetan scholarship, and the rich textual resources available. As it is not possible to cover all of Tibetan legal history, this essay will concentrate on four distinct periods, providing a brief political history followed by a discussion of law during each period: (1) the Empire period (c. 600–850), which is the origin of many of the original customary law practices that were codified over the centuries; (2) the First Patron-Priest period (c. 1264–1350) in which a particular political formation, “the patron-priest,” resulted in the interweaving of...
Buddhist principles with legal and political institutions into a “Buddhist government”; (3) the Law Code Drafting period (c. 1618–1705) in which the law codes were developed and took on a very specific form and shape that included Buddhist elements in the prologue, factoring, and forms of reasoning; and (4) the 1940s in Tibet, the period before the Chinese takeover, in which we can look at the daily practice of law as it blends ordinary bureaucratic decision-making with a continuous thread of customary practices from early times and embedded Buddhist concepts.

While necessarily general and overbroad in their depiction, these sections are meant to acquaint the reader with a few brushstrokes of Tibetan law and to demonstrate how it compares to other Buddhist societies in Asia.

The Empire Period (600–850)

King Songtsen Gampo (r. 629–50), who united the plateau into what became the Tibetan Empire, resided in an enormous mobile court comprised of hundreds of tents that moved from a summer to a winter encampment each year. His judiciary moved with him, as well as hundreds of royal guards. While histories attribute to him the introduction of both a script for the Tibetan language and Buddhism, after marrying the widowed Chinese princess of his son, he and his minister Gar Tsonltsen are also credited with crafting bureaucratic governmental and military institutions – Tibetan administrative divisions, military formations, official ranks and powers, measurements of volume and weight, transportation systems, and a law code.

After a conversion experience when he was twenty years old, King Tri Songdetsen (c. 742–97) committed fully to Buddhism and built the first large Tibetan Buddhist monastery at Samye in 779. He is credited with bringing an Indian Buddhist monk sage to quell the local demons throughout the plateau and supporting hundreds of translations of Buddhist texts into Tibetan. The appeal of monastic, clerical Buddhism to the Tibetan imperial court was based on several factors: a ready-made system of organized knowledge and pundits with a mastery of language and reasoning, a universal religion with universal vision, laws and symbols, and the legitimation of an international religious viewpoint prominent in

4 See Brandon Dotson, *The Old Tibetan Annals: An Annotated Translation of Tibet’s First History*, (Wien: Österreichische Akademie der Wissenschaften, 2009), 43.
5 See Bacot and Toussaint, *Documents de Touen-houang relatifs a l’histoire de Tibet*, (Paris: Libraire orientaliste Paul Geunther, 1940–46); Michael Walters has argued in *Buddhism and Empire: The Political and Religious Culture of Early Tibet*, (Leiden: Brill, 2009) that many of these organizational structures were derived from Central Eurasian models.
Buddhism and Law in Tibet

all of the surrounding countries – Nepal, India, China, and the Silk Road states. In 763, the Empire’s armies invaded the Chinese Tang Empire’s capital of Chang’an and held it for fifteen days. Fighting between the Chinese and the Tibetans continued with skirmishes at the borders of the Tibetan plateau and other spots in Central Asia for the rest of the century. In the west, the “red-faced” Tibetan Empire armies marched as far as the current areas of Tajikistan and Uzbekistan.

By the beginning of the ninth century, edicts and inscriptions indicate that Buddhism was already beginning to be a part of Tibetan governmental culture and international relations. However, the economic basis of the empire was waning – some scholars have argued that this was caused by too much money being spent on Buddhism translation colleges and monasteries, while others claim that there were no new lands to conquer and poor local harvests. With the death of the last king in 838, the central government began to collapse. Monks packed up their texts and moved away from the central monasteries to temples in the east and west. Over the next several decades, the former Tibetan Empire fragmented into smaller districts, each with its own government, local laws, and Buddhist monasteries. Both language and historical writing changed after this period from imperial histories in archaic Tibetan to largely religious histories.

A great amount of recent scholarly work has been done on the early Empire period in Tibet based on the collection of documents brought back by Sir Aurel Stein from the caves in Dunhuang on the Silk Road in western China. The legal sources that are available to scholars from as early as the seventh century CE include Tibetan legal and administrative texts, documents and monastic records, general legislative documents, contracts, inscriptions, and legal decisions. Several fragments of old law documents from this period discuss how to handle disputes over contracts, dog bites, yak stampedes, theft, and hunting injuries. Tibetan histories such as the Tibetan Chronicles and the Old Tibetan Annals as well as other sources provide information about the operation of the legal process.

One interesting aspect of this period from a legal perspective is how many of the original customary law practices in early Tibetan society were

9 Dotson, *The Old Tibetan Annals*.
retained over the centuries, and then codified. These early legal records set the stage for later Tibetan customary legal concepts such as the ten virtues, the sixteen pure human laws, a graduated restitution system based on a status hierarchy, and the use of dice to decide disputes.

For example, in early Tibetan history, status hierarchy was very important and legal disputes could be based on complaints about order of rank insignia. The *Old Tibetan Annals* contains an extensive list of ranks in the government from horn officials (ru dpon), great justices (zhal ce pa ched po), and translators of Chinese and Turkish, all the way down to accounts inspectors (rtsis spyan) and tally officials and wooden-slip makers (khram palsam mkhan). This social ranking system is echoed in the graduated hierarchy of payments for murder and injury victims in the Ganden Podrang Law Code that starts with the Dalai Lama, in the highest of the high category, and moves down to bachelors, beggars, blacksmiths, executioners, and hermaphrodites in the lowest of the low. Blood money payments correlated to status ranking was an important aspect of cases in Tibetan law until the 1950s.

Other examples in the early legal fragments include discussions of decisions made by local magistrates by rolling dice and using local deities. As Brandon Dotson has described:

> The connection between the divination text and the legal text reveal that local magistrates employed divination dice and divination manuals to decide legal disputes. . . . The content of the divination text reveals a truly “imperial” pantheon of deities from whose mouths the prognoses come, in that the text names territorial deities of several different regions.

In later law codes and even in the twentieth century, there is much evidence of these legal practices and procedures, including oaths as a form of divination occurring in front of Buddhist deities.

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10 These are the ten virtues of the Bodhisattva vow – to abandon acts of the body (murder, stealing, and sexual misconduct), speech (lying, abuse, gossip, and flattery), and mind (greed, anger, and lust) – called the mi dge ba bcu.


13 Examples of this will reappear in later law codes in the Tsangpa and Ganden Podrang periods.


15 See Dotson, *The Old Tibetan Annals*, 71–73.

16 See the murder case described in French, *Golden Yoke*, 291–305.

17 See Brandon Dotson, “Divination and Law in the Tibetan Empire: The Role of Dice in the Legislation of Loans, Interest, Marital Law and Troop Conscription,” in Matthew T. Kapstein and Brandon Dotson (eds.), *Contributions to the Cultural History of Early Tibet*, (Leiden: Brill, 2007), 17
The Patron-Priest Period (1264–1350)

Although Tibet remained politically fragmented from approximately the mid-ninth to the late thirteenth centuries, the plateau was visited during this period by famous Buddhist teachers who taught and worked on translations. Atisha came from India to Toling monastery to teach tantric Buddhism in western Tibet (c. 1042–45) and then traveled to Central Tibet where he stayed for the rest of his life, writing and working on translations, talking to other visiting Indian scholars, and teaching Buddhism. The sectarian lineage of Atisha's teachings, the Kadampa, developed in the smaller western kingdom of Guge, as did the teachings of other well-known teachers in other regional centers. This was the development period for several Tibetan Buddhist sects—the Sakyapa, Kagyupa, and the Zhalungpa.

In 1227, Chinggis Khan conquered the Buddhist Tangut kingdom, a close ally of the Tibetans to the northeast. As the new Mongol Empire began to take over parts of China, a delegation of various local aristocratic Tibetan states requesting to pay tribute was sent to the Mongols. The Khan of the Mongol Empire in 1244 asked the learned Tibetan Buddhist teacher, Sakya Pandita, to come to his court to teach the dharma. This was the beginning of a political relationship called "patron-priest" in which a "patron" country or political leader provided military and foreign protection to a particular priest of a sect of Tibetan Buddhism. These Tibetan Buddhist practitioners, the priests, were able to present the teachings of the Buddha as well as ritual transmissions (lung) of tantric texts that were considered magical and potent by the patron Mongols, Manchus, and Chinese.

While different Tibetan Buddhist sects attended to other members of the Mongol royal house, the Sakyapa sect became the tutors for Qubilai Khan. After invading Tibet, the Mongols supported the Sakyapas as rulers of the plateau from 1264–1350. Their army installed Mongolian administrative institutions into a centralized Tibetan government: regional states with district governors (dzong pon), taxation, postal system, grades of officials, and a census of households. The population of Tibet at that time was estimated by the Mongolians at 300,000 people. While scholars have mentioned a Sakya-Tibetan law code during this time period, there is little evidence that one was written down, although it is likely that a Mongolian military law code was used. When interviewed in India in the mid-1980s, members of the Sakya royal house stated that there had been no independent, separate Sakya law code during this historical period, so this question remains unsettled.

17 See Kapstein, The Tibetans, 115.
From this point on, the Tibetan population was increasingly devoted to Buddhism. With an estimated quarter of the entire adult male population taking vows, the country was soon typified by mass monasticism. These monasteries came to have enormous social, economic, and political power as institutional centers of commerce, scholarship, and industry. Each of the sects of Tibetan Buddhism had monasteries dependent on connections to one or more wealthy aristocratic families and each was vitally concerned to continue its monastic lineage and essential teachings. The Tibetan language had also shifted from the archaic writing of the empire period into a more sophisticated, standardized literary language that was strongly influenced by Indian culture and Buddhism. Over the centuries, thousands of monks became scholar authors, commentators, scribes, plate carvers, and printers of books as well as librarians for vast holdings of scriptural works in Tibetan and Sanskrit. As landholders, the monasteries of Tibet owned an estimated one half of all of the arable farmland on the plateau from this period and well into the second half of the twentieth century.

The patron-priest relationship (yon bdag mchod gnas) became a central principle in Tibetan political ideology under the Sakyapa, producing a distinctive historical pattern. The basis of this dyarchy derives from the practice of the Buddha who gathered his disciples into a monastic unit that needed to be supported by local leaders and a lay population of believers. This created a dependent, reciprocal relationship between, on the one hand, the Buddha (or later, his representative – a monk, spiritual power, priest, or donee) who provided teachings and, on the other hand, the king (or his representative – a lay supporter, temporal power, patron, or donor) who provided food, money, and worldly power. They were the “sun and the moon,” with the Buddha as the personal embodiment of religion and the king as the personal embodiment of political power. At times, one member of this dyadic relationship could be much more powerful than the other, or the two positions could be collapsed into one as in the figure of the Dalai Lama, who, as a manifestation of the Bodhisattva Avalokiteśvara, embodied both religious and political power.

As a political pattern, the patron-priest model resulted in the creation of multiple possible centers of power and, at times, political instability. Inside Tibet, royal aristocratic families acted as patrons to their sectarian monasteries and created local patron-priest polities. An external patron

18 Also lugs gnyis, chos srid gnyis ldan, and chos srid zung 'brel.
19 For a recent example of this idea, see Anya Bernstein, “More Alive than all the Living: Bodies and Cosmic Politics in Buddhist Siberia,” Cultural Anthropology 27 (2012), 261–85.
army backing a particular Tibetan Buddhist lama could devastate the plateau, force a leader to flee into exile, and then set up its own Tibetan Buddhist “priest.” The next several centuries were typified by cycles of internal division followed by periods of centralization or fragmented peace. While some invaders proceeded to interfere with internal governmental affairs for a period of time, others did not. The twentieth-century colonial powers, specifically the British and the Chinese, took on somewhat similar roles.

This relationship between religion and the state in Tibet, as it manifested later in the sixteenth and seventeenth centuries, has been termed “Buddhist government” by Yumiko Ishihama. It was a common idea and term in correspondence between three major sovereignties of the time, Tibet, Mongolia, and Manchurian-ruled China. In the context of the Bhutanese government, Ardussi has described it as “the Buddhist equivalent of a ‘Social Contract.’” There is little doubt that it was a very distinctive relationship and that it fused religion and secular politics in a special way, which affected the legal system and legal practices.

The Period of Law Code Drafting (c. 1618–1705)

This 100-year period was the central time for the drafting of law codes in Tibet. Many of the extant codes and other administrative texts that were found on the desks of judges when the Chinese took over the plateau were drafted or dated to this period. Our knowledge of these codes and their connection to Buddhism is, therefore, a central subject of concern.

However, the story begins much earlier with a monk, Jangchup Gyeltsen (1303–64), the founder of the Pakmodrupa Dynasty that followed the Sakya reign. He built on the Mongolian administrative infrastructure but also tried to Tibetanize the government, and to that end, he created a new law code that was promulgated throughout the kingdom. The

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Pakmodrupa or Neudong Law Code that is attributed to him had an introductory section followed by fifteen substantive law sections.

The introduction of the Neudong Law Code is filled with accumulated wisdom, proverbs, and lists that are important to legal decision-making. For example, the best type of witness for a law case was one with “high victorious speech,” which was demonstrated by the four causes, signs, or qualities of greatness. The causes (important paternal ancestors, acts for the country, learning, and great wealth), the signs (presenting tea and beer, wearing silk, lynx or fox, using 20 animals, and having important guests), and the qualities (taking on a guru, taking care of one’s parents or one’s relatives and servants, and vanquishing enemies) were marks of a good character – someone who should be trusted in legal proceedings.

The following substantive sections cover both criminal and civil acts without a strong distinction between the two. They include murder, theft, oath taking, adultery, family separation, selling and buying goods, accounts, loans of animals, rules for the chief of the army, rules for those who retreat, and rules regarding the payment of court costs. This general set of categories appears to have remained important as a template for the next 400 years, although much future research on this topic is needed.

A famous cleric, Je Tsongkhapa (1357–1419) lived during this period and was supported by later Pakmodrupa kings. He is renowned as the founder of the Gelukpa sect of Tibetan Buddhism, the sect of the Dalai Lamas, and as a promoter of monastic education, fidelity to the Vinaya, and strict morality. Regional kingdoms continued to vie for power with the Pakmodrupa over the next two centuries. In the seventeenth century, the king of the Tsangpa of western Tibet was successful in beating the Pakmodrupa, a fact that is important for our purposes as one of his successors, Karma Tenkyong, commissioned the drafting of the new law code, the Tsangpa Law Code (Khrims yig chen mo dang zhal le bcu drug pa sogs bzugs so).²⁵

²³ There is some disagreement about the dating of this law code. The former Tibetan magistrate that I worked with stated emphatically that this law code was written during the next century and not under this leader.

²⁴ For example, “The murder section ... gives a history of the law of murder; the social classes that distinguish the victim compensation payments (these categories were already present in the Empire period); exceptions in the case of the killing of a woman or killing by a child; murder during theft; murder by mob or multiple persons; attempted murder; payments in land instead of money or goods; mitigations in payments; merit payments for the purification of the dead body; payments in the case of cremation and for religious ceremonies; numerous categories of allowances to be paid to all the relatives; reductions resulting from payments; and the form the payments can take.” French, Golden Yoke, 352, n. 11.

²⁵ Many copies of this text are available. See Law Code of the Tsang Kings in Sixteen Sections, Manuscript Ta.5, 13544 (Dharamsala, India: Library of Tibetan Works and Archives). Also, Tibetan Legal
King Karma Tenkyong, a secular ruler aligned with the Karma Kagyu sect, was keenly interested in legal administration. One version of the new code states that the humble compiler, "the donkey with a leopard skin on its back," canvassed Tibetans of many occupations from all areas as well as Buddhist lamas, and also collected all available law texts. The resulting law code, comprised of sixteen sections, included customary legal rules and processes, Buddhist reasoning and ideas, systems of factoring, some proverbs, moral principles, and charts of social statuses. It was preceded by an introduction with offering verses praising the king and Buddhism and concluded with a long section on how to handle foreigners. Gone are the previous law code's discussions of causes, signs, and qualities of greatness; they are replaced by more substantive expositions on how to think about and factor a case or mitigate an offense. In the section on "Establishing Evidence of the Truth through an Oath," it states:

The one who wins the dice can choose the order of the administration of the oath. Whatever the dice indicate, the judge or conciliator shall read into the ear of the oath-taker the oath document three times, explaining each term one by one in such a manner that it goes well into the realm of the oath-taker's mind.

Within a few decades, the armies of the Mongolian Gushri Khan, a patron of the Gelukpa sect, rode into central Tibet. By 1642, they had established a new government in Lhasa headed by the Fifth Dalai Lama called the Ganden Podrang. The regent commissioned a new law code using the Tsangpa template that began with a prologue describing the relationship between the "sun and the moon," the priest and patron, the Fifth Dalai Lama and Gushri Khan. Legal officials interviewed in the early 1980s could recite sections from this law code and confirmed that they had used it in making decisions as late as the late 1950s. The same status hierarchy for victim compensation in nine parts, now with the Dalai Lama and other lamas at the top, was included.

Similarities in the drafting and structure of these codes raise four points for our consideration of Buddhism and Law. First, these law codes have

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26 See French, Golden Yoke, 41-44. 27 Ibid., 129.

28 G. Tucci stated that the Ganden Podrang Law Code was copied from the Neudong code and was just a revision. However, a close look at the documents shows the Tsangpa to be the real template. G. Tucci, Tibetan Painted Scrolls (Roma: Libreria dello Stato, 1949), 37.
from twelve to sixteen sections with an introduction and generally similar substantive content. Second, they appear to be primarily local customary rules and procedures blended with administrative procedures. Third, they acknowledge the Buddhist nature of Tibetan society; whether encouraging submission to a guru or lauding a current leader as the manifestation of a Buddhist deity, the religious grounding of Tibetan society in the patron-priest relationship is evident. Fourth, some forms of analysis in the law codes correlate with Buddhist forms of reasoning.

With the exception of these law codes, jurisprudential questions were not the center of the prolific literary scholarship of book production during this or any period of Tibetan literature. Neither comprehensive legal treatises nor legal commentaries appear to have been produced because law was not a highly prized subject matter for creating merit through the production of texts. That said, Dieter Schuh and Hanna Schneider have found, analyzed, and published many examples of seal inscriptions, contracts, loans, decision documents, and legislative and executive edicts from the Ganden Podrang in the last two centuries. Christoph Cuppers has also done fascinating studies of the administrative texts produced during this period, including government handbooks, seating order lists with ranks, letter writing manuals, reminder notes for district officials, decrees, tax collection notices, inventory books, and lists of government offices with salaries.

Ultimately of course, the real question is how these codes and documents were employed. The actual use as opposed to the cultural production of many of these legal texts remains a subject for further research. Some of the recent work by younger Tibetan scholars has been particularly exciting in this area. Alice Travers, for example, has used interviews of Tibetan officials as a database to determine what the legal documents actually

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31 Above are only a few of the books containing the seals and legal documents they have recorded: Dieter Schuh, Grundlagen tibetischer Siegelkunde: Eine Untersuchung über tibetische Siegelaufschriften in Phags-pa-Schrift (Monumenta Tibetica historica) (St. Augustin: VGH Wissenschaftsverlag, 1981); Dieter Schuh, Urkunden und Sendeschreiben aus Zentral-Tibet, Ladakh und Zanskar (St. Augustin: VGH Wissenschaftsverlag, 1976). There are many more volumes in this series. See also for example, Hanna Schneider, Tibetische Handschriften und Blockdrucke: Teil 16: Tibetischsprachige Urkunden aus Sudwesttibet (Spo-Rong, Ding-Ri und She-Phar) (Stuttgart: Franz Steiner Verlag, 2012).

mean, whether or not they reflect actual normative practices, invented
traditions, and techniques to preserve family wealth and power or simply
practices to achieve status.31

The 1940s in Tibet
At the turn of the twentieth century, Tibet was still an agricultural and
pastoral society perched on a high-altitude plateau with extreme weather,
few wheeled vehicles, and no industrialization. Most inhabitants worked
hard in their daily lives and were taxed by the local nobles, monastery,
or government for corvée labor, traveling parties, and in-kind produce.
Local customs and traditions, local officials, and legal processes varied with
the degree of distance from a center of administrative power. Scholars
have noted that, given the extensive differences across the plateau, one of
the larger intellectual quandaries is "the strong sentiments of affinity and
cohesiveness running throughout the Tibetan culture world."32 Much of
this affinity undoubtedly came from Tibetan Buddhism, the most pervasive
religious institution in the society, which organized and pervaded much of
Tibetan life in terms of holiday rituals, education, art, calendar, medicine,
language, logical reasoning, and crafts until the modern period.

The government intrigues in the decades before the Chinese takeover
reflect the brittle political institutions that had developed over the previous
centuries of Gelukpa rule, a small-scale central government often riven by
dissenting factions seeking power. The small Tibetan military trained by
the British had limited usefulness. Conservative politically and rejecting
of modernizing reforms, the enormous monasteries around the capital city
employed their power to maintain the status quo. Added to all of this
was the unstable system of incarnation for the replacement of the titular
Dalai Lama. With a young child being trained for up to twenty years of
interregnum during which regents ruled, the Tibetan governmental system
was neither stable nor strong and certainly not extensive in its range.

With the death of an effective leader, the Thirteenth Dalai Lama, in 1933,
Tibet experienced another period of instability. Factions strove for power
even as the new Dalai Lama was found and took his vows in 1942. An

31 Alice Travers, "The Careers of the Noble Officials of the Ganden Phodrang (1895–1959): Organiza-
tion and Hereditary Divisions within the Service of the State" in Kelsang Norbu Gurung, Tim
Myatt, Nicola Schneider, and Alice Travers (eds.), Revisiting Tibetan Culture and History, Proceedings
of the Second International Seminar of Young Tibetologists Vol 1. (Paris: Revue d'Etudes Tibétaines,
2011) 155–74.
32 Kapstein, Tibetans, 243.
internal fight over power between two regents, Reting and Takdra, and the monks of Sera monastery caused several years of political upheaval in Lhasa with standoffs, imprisonments, coup attempts, and rebellions. With the victory of Mao Zedong in China, the teenage Dalai Lama was confirmed as head of state in 1950. The ensuing negotiations with the Chinese leadership continued through the decade as the intentions of the stronger state became clear. On March 10, 1959, riots broke out in the streets of Lhasa against the Chinese Communist Army that began to shell the capital a week later. The Dalai Lama fled under cover of night for India.

The power politics that play out at the upper reaches of a political system often do not tell us much about the daily practice of legal administration. In Tibet in the 1940s, it was a blend of customary law practices, some from early times, with ordinary bureaucratic decision-making, codified law, government administrative regulations, local politics, and some embedded Buddhist concepts. The Tibetan government had a longstanding formal system of legal documentation, both private and public, with detailed requirements related to language, script style, length and sections for each part of a deed, contract, disposition, decision document, or appeal that was being drafted. They included standardized phrases such as "as long as the precious Buddhist doctrine will remain existent!" Monks and staff trained in drafting these documents were available throughout Tibet and sought after for their services.

The processes of decision-making had likewise been established for a long time from the lowest level of consensus decision-making in a rural village to the central courts of Lhasa. Tibetan refugees interviewed in the 1980s described four different legal processes that were typical in the 1940s-1950s in Lhasa. The first three were: internal dispute settlements that could take many forms, including oaths, ordeals and dice (sho); a conciliation (bar 'dum) between two parties using a conciliator (bar mi); and lastly, showing respect by visiting a judge at home with a present or bribe. A case involving dice recounted by a Tibetan from this period follows:

A Nepalese man... had married a local Tibetan woman and he had thereafter made a false loan document stating that he had given money to four or five families. All the people of the area knew the loan was false... Finally, as this was becoming a big dispute, the families asked the man to play dice in front of the community.... All the other families got a higher number than he did and the case was decided against him.33

33 See French, *Golden Yoke*, 135. Divination, casting of lots, oaths, and ordeals were also used, see 130–34.
The fourth type – official legal proceedings – also took many forms, of course, but had a ritual structure that was generally followed. The space in which the decision was to be made was divided into a judge’s area, a place for a clerk, and an area for a third person to sit. Monks, monk-officials, local leaders, and government officials were all referred to as “judges” (khrims dpon) when engaged in deciding a legal case. Court procedure took place against the backdrop of formal monastic debate practices (rtsod pa) and the use of customary proverbs and sayings. One former official said this about the use of law codes:

Although there was no law code provided in our office at that place, I had my own copy from my father and I used it in my office in Changra. Actually I had two of them.... Officials in the government all knew that there was a standard code and that when they were sent out to a district, they must know the code.

Conclusion

This chapter has looked at some of the periods in Tibetan history in terms of the movement of Buddhism into society, local customs, politics, law, and government practices that influenced aspects of Tibetan law. On a practical level, a form of Tibetan Buddhist legal consciousness developed from these constant interactions and the natural interdependence between monks, nuns, laypersons, and local authorities. Buddhist holidays and rituals became central to Tibetan society (for example, the sixty-year cycle of the Buddhist Kalachakra Tantra calendar was adopted in 1027), reincarnation allowed for transfer of spiritual as well as legal power, and ideas of fairness and legal actions in the Buddhist literature such as the Jātaka tales – former lives of the Buddha – began to appear in dramas, art, and other aspects of Tibetan culture. All of these influenced Tibetan legal consciousness.

In conclusion, a few major points bearing on the relationship between Buddhism and law can be gleaned from these four periods and their themes. First, the importance of Buddhism in Tibet was not questioned after

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35 See French, *Golden Yoke*, 103 for an outline of court procedure and this comment about the importance of monastic debate in court: "The vigorous questioning and response of judges and petitioners, analysis by factoring, outlining the arguments, truth by consonance, the uniqueness of the case – each of these aspects of the Tibetan legal system reflected monastic recitation and debate. Tibetan[s] often spoke of debate training as the most important factor in their choice of a monk as a legal representative, conciliator or judge, for debate sharpens mental skills, requires a quick wit and trains one in logical analysis."
approximately the twelfth century and it remained the majority religion on the plateau without real competition from any other philosophy or religion. While the state never banned or banished Buddhism or worked to suppress it until the second half of the twentieth century, different Tibetan sects did try to gain control over others and acquire assets through political power. Second, Tibet was never colonized by a foreign power with a different religion or anti-Buddhist position until 1950. This is a long period of time. Third, the central political ideology was a dyarchy, the patron-priest relationship that was sometimes conflated into one person. Religion and the state were understood as fused through this dyarchy into a single, harmonious entity with different but complementary roles. Fourth, Tibet had a massive amount of its population dedicated to religious institutions. Monasteries were not entities to be regulated by the state as in China and Korea. Instead, monasteries were full players in politics – often the major players and sometimes pitted against each other. Fifth, no ruler of Tibet tried to use the Buddhist Vinaya as a template for creating a secular law code as far as we know. Sixth, a wide variety of legal issues arose in Tibet – inheritance questions, boundaries, land disputes, tax issues, criminal punishments, contracts, religious property, guarantees, loans, and so forth – with respect to both lay and religious institutions and many were handled by both formal and informal legal processes. And finally, law itself was not an honored subject, a respected profession, or a proper subject matter for extended treatises as it created conflict and did not bring about merit.