

**THE QUESTION OF TIBET IN UNITED NATIONS
WITH REFERENCE TO INDIA'S ROLE /**

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P R E F A C E

The present work is an attempt to examine the question of Tibet in the United Nations during the years 1950-65 with special reference to India's role. It is based on the study of the news of different countries, in the United Nations, from 1950 onwards, when the question of Chinese invasion on Tibet was first raised by Ireland and Malaysia (the then Malaya).

The first chapter tells the story of Tibetian history and its international status; issues of Chinese suzerainty, human rights and domestic jurisdiction. The second, third and fourth chapters deal with the discussions in the United Nations and the various resolutions passed. In the last chapter, I have dealt with the question as to whether the United Nations has competence to discuss the question and also India's stand in the debate.

I should like to express my profound gratitude to my supervisor, Professor M.S. Rajan, Centre for International Politics and Organisation, School of International Studies, for the valuable guidance and

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Any shortcomings which may have been there inspite
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CHAPTER I

INTRODUCTION

Tibet is a vast country bounded on the west by Kashmir, on the north by Sinkiang and Tsinghai of China and on the east by the Szechwan. On the south are some parts of India, Nepal, Sikkim, Burma and Bhutan. It covers an area of about 469,294 square miles, about a third of the total area of India. From the very beginning, Indian interest in Tibet has been largely spiritual and emotional, while Chinese interest has been essential imperial.¹

The region is inhabited by a people distinct from the major component of China's population, the Hans. The Head of the Government was the Dalai Lama who was the spiritual head. For centuries past, the Tibetans had been trying to maintain their aloofness from the world, and at the same time, maintain friendly relations with neighbourly countries.

The Fifth Dalai Lama (1642-1682) is in a sense the maker of modern Tibet. To him Tibet owes its present secular and monastic institutions. In 1652, he paid a personal visit to Peking where he was received by the Chinese Emperor as an independent monarch.²

1 Chanakya Sen (Psued) Bhabhani Sen Gupta, ed., Tibet Disappears (Bombay, 1960), p.1.

2 Sir Charles Bell, Tibet Past and Present (Oxford, 1924), p.36.

Following the Great Fifth's death in 1682, there was a period of disorder and anarchy in Tibet, compounded, as usual in such cases, by foreign invasions. The end result of this internal dissensions and mutual bickerings was the establishment of a loose Chinese suzerainty over Tibet.

The second phase in the history of Tibet began towards the end of the 18th century, as the British imperial Power became firmly established in India. In 1788, a Gurkha army which invaded Tibet was completely defeated by the Chinese troops. But within fifteen years, the Chinese Empire declined. In 1854 when Nepal attacked Tibet and in 1856 when it imposed a treaty on Tibet, China was unable to give effective protection to it. In this treaty, both Tibet and Nepal declared: "We agree that both States pay respect as always before the Emperor of China and that the two States are to treat each other like brothers".³

In 1876, China gave Britain the right to send an officer to Tibet on a scientific exploration. Perturbed by the British penetration into the Himalayas, and aware of China's inability to render effective help, the Thirteenth Dalai Lama began in 1890 to sound Czarist

³ Ram Gopal, India, China, Tibet Triangle (Lucknow, 1964), p.9.

Russia for possible protection against the British.

The British Government in India chose to send in 1904 a military expedition to Lhasa since both Russia and Japan, then engaged in war, were unable to pay much attention. The expedition was led by Francis Younghusband. It began as a mission and ended in "a triumphant march on Lhasa in which an unknown number of Tibetans were shot down like partridges".⁴ The Dalai Lama fled to China. His representative signed with the British the Lhasa Convention of 1904.

A new chapter began in Tibet's history with the outbreak of the Chinese Revolution in 1911 -- the fall of the imperial system and the proclamation of the Chinese Republic. The thirteenth Dalai Lama had realised that Chinese suzerainty over Tibet was more a fiction than a fact. As soon as the news of the Chinese Revolution and the abdication of the Emperor reached Tibet's capital, a mutiny broke out in the garrisons and a reign of terror followed.

The Dalai Lama fled to Darjeeling (India) and was granted political asylum by the British. In 1912 he returned to Lhasa and issued a declaration of independence.

4 Sen, n.1, p.7.

The Dalai Lama initiated, for the first time, a Tibetan policy which was pronouncedly anti-Chinese.

As soon as the new Chinese Republic was able to settle down, it turned its attention to Tibet. The British Government pressed for a conference between Britain, Tibet and China to arrive at a settlement. The result was the Simla Conference of 1913. The Republic of China and Britain under this Convention agreed not to annex Tibet or any portion of it. The Convention also recognised the autonomy of Tibet and engaged to respect the territorial integrity of the country and to abstain from interference in the administration of outer Tibet. The most striking evidence offered by the convention relates, however, to the equal status which was accorded to Tibet at this Conference.⁵

From 1911 till 1950, Tibet enjoyed virtual independence. Tibetan attempts to get rid of China's suzerainty did not find international encouragement. Tibet held that its political connexion had been with only the Manchu Emperor, not the state of China. The connexion having snapped, it had nothing to do with China.⁶ High Richardson

5 Government of His Holiness the Dalai Lama, International Position of Tibet, (1959), p.14.

6 Bell, n.2, p.213.

points out that "when the Manchu dynasty collapsed in 1911, Tibet completely severed that link, and, until Peking's invasion in 1950, enjoyed full de facto independence from Chinese control".⁷

The outbreak of the Second World War weakened, the then President of China, General Chiang-Kai Shek's interest in Tibet. In 1940, the new Dalai Lama was inaugurated. Chiang's dreams remained unfulfilled and Tibet was not directly involved in the war.

When on 15 August 1947 India became independent the imperial basis of British India's Tibetan policy towards Tibet crumbled down. Two years later, the Kuomintang regime collapsed in the war with the Communist. The Communists proclaimed the inauguration of the People's Republic of China on 1 October 1949.

In the same year, the Tibetan Government made the last desperate attempt to declare its independence. The Komingtang Mission in Lhasa was pushed out and the Tibetan Government declared that Tibet was independent. The Chinese Communist Government then initiated the Tibetan policy slowly and cautiously. The Communist Revolution knocked at the gate of Tibet as well. The

7 ^{DAWA NORBU}
H. E. Richardson, Red Star Over Tibet (Delhi, 1959), p.8.

geographical barrier which had so far been in favour of Tibet's autonomy all throughout history collapsed. On 1 January 1950, the Communist Government announced that one of the "basic tasks" of the People's Liberation Army would be the "liberation" of Tibet.⁸

Tibet's only hope now was in getting foreign assistance for its independence. In April 1950, a seven-man mission appointed by the Dalai Lama's Government arrived in India on the way to China to make preliminary contacts with representatives of the Chinese Government with the aim of establishing better relations and settling the differences.

On 22nd May, Peking (now Beijing) Radio addressed an appeal to the Tibetan Government and the people calling on them to achieve the "peaceful liberation of Tibet". The broadcast declared that Tibet was part of Chinese territory and that its geographical remoteness would constitute no obstacle to the Chinese Liberation Army. The broadcast ended with a call to the Tibetan Government to send its plenipotentiaries to conduct peace talks in Peking.⁹

8 International Commission of Jurists, Tibet and the Chinese People's Republic, Final report of the International Commission of Jurists by its legal Inquiry Committee (Delhi, 1966), p.160.

9 Sen, n.1, p.18.

The Tibetan mission in Kalimpong (India) made arrangements early in June to fly to Peking Government, but the British authorities refused to grant visas (to Hong Kong) on the ground that negotiations might accentuate the present delicate situation.

Speaking in Peking on 30 September, the Prime Minister, Chou-En-Lai, announced his Government's determination "to liberate the people of Tibet and stand on guard at the Chinese frontiers".¹⁰ From August onwards, it had been reported on various occasions in the Indian Press and from Hong Kong that Chinese armies had invaded Tibet, but these reports lacked official confirmation. This confirmation came on 30th October.

In October, several Notes were exchanged between New Delhi and Peking over the Tibetan question. The first Indian Note regretted China's military action and pleaded for slower, but more enduring, methods of peaceful approach. In a quick and sharp retort, the Peking regime declared : "Tibet is an integral part of Chinese territory and the problems of Tibet is entirely a domestic problem of China"¹¹ - in effect, telling India

10 Sen, n.1, p.19.

11 H.E. Richardson, Tibet and its History (London, 1962), p.184.

that it should not intervene in Sino-Tibetan relations.

On 8 October 1950, the United Nations forces in Korea crossed the 38th Parallel against strong diplomatic advice from New Delhi. The Indian Prime Minister, who was anxious to restrict the Korean war, was perturbed lest the Tibetan issue should get mixed up with the Cold War. Thus, when the actual invasion commenced, he firmly rejected a request by the Tibetan Government to raise the question of Tibet at the United Nations.

Negotiations between the Tibetan authorities and China began from April 1951 onwards. In a few weeks, the Tibetan mission, instead of arriving at Lake Success, New York (where United Nations was then located) repaired to Peking, largely through Indian persuasion, and signed a Seventeen-Point Agreement on 23 May 1951, with the Chinese People's Republic. Under this agreement, the Tibetan authorities accepted Tibet as an integral part of China, and in return, the former were assured full regional autonomy. The Chinese Central Government undertook not to interfere with Tibet's political institutions and internal administration.¹²

12 For the text of the Agreement, see International Commission of Jurists, The Question of Tibet and the Rule of Law (Geneva, 1959), p.139.

THE QUESTION OF SUZERAINTY

Before proceeding to the discussion of the United Nations' involvement in the question, it is necessary to have some background as to the issues that were raised. The first is the issue of "suzerainty".

The traditional relationship between China and Tibet had been described as one of suzerainty". The authorities on international law hold that suzerainty is by no means the same as sovereignty and that an autonomous State under the suzerainty of another is not precluded from having an international personality. During the 11th century, Chinese suzerainty was formally accepted by Tibet, but this did not imply the grant of any authority to the Chinese to interfere in the administration of the State.

Suzerainty is a feudal concept which implied that the vassal State derived its authority, both internal and external, from the Emperor, and therefore, it required the vassal to (1) pay homage and respect to the Emperor; (2) pay an annual tribute to him; (3) serve him with soldiers in times of war; and (4) the vassal was generally granted a subvention by the Emperor.¹³

13 The Preparatory Bureau of Afro-Asian Convention on Tibet and against Colonialism in Asia and Africa, A note on Sino-Tibetan Relations (New Delhi, 1960), p.5.

The 1876 Convention, concluded between Britain and China, recognised the right of China to enter into an international agreement in respect of Tibet, without the intervention of the Tibetan authorities. The Anglo-Tibetan Convention of 1904 was accepted and ratified by the Republic of China under the Anglo-Chinese Convention of 1906.

The following conclusions appear to be clearly established from a careful examination of these two treaties.¹⁴ Firstly, when China accepted the authority of the Government of Britain in regard to the external affairs of Tibet, the suzerainty of China over Tibet ceased to exist; secondly, the powers which the Government of Tibet transferred to the Government of Britain under the treaty of 1904 constituted a species of international guardianship of Britain over Tibet. Thirdly, Article IX of the Convention gave a clear recognition of the fact that the suzerainty claimed by China could not prejudice or impair the exercise of external authority by Tibet.

Under the 1907 treaty, Britain and Russia recognised the suzerainty of China over Tibet. This is the only document on which the Chinese right to suzerainty has

14 Dalai Lama, n.5, p.11.

been mentioned. In 1910, the Chinese army invaded Tibet and the Dalai Lama was compelled to take refuge in Indian territory. But this interregnum of Chinese authority did not last long, and before the end of 1911 when the Chinese Revolution broke out, the Dalai Lama returned to Tibet and issued a statement declaring the complete independence of Tibet.¹⁵

Article 2 of the Simla Convention (1912) stipulated that the Government of Britain and China recognising that Tibet is under the suzerainty of China and recognising also the autonomy of outer Tibet, engage to respect the territorial integrity of the country and to abstain from interference in the administration of Outer Tibet. By the failure of the Chinese to ratify the convention (initialled by the diplomatic representative), the Tibetans were released from the offer made under British persuasion to surrender part of their sovereignty, in return for Chinese guarantees of their autonomy and their joint frontiers. They were also freed from the implication of the note acknowledging Tibet to be an integral part of China.¹⁶

How far can the Chinese claim to sovereignty over Tibet be justified in accordance with the principle of

15 Dalai Lama, n.5, p.13.

16 Richardson, n.11, p.116.

International Law? It is almost universally recognised that the term sovereignty has a dual aspect. From the point of view of internal administration, it signifies the right of a State to exercise the functions within its territory to the exclusion of all their Powers. The second aspect includes the right of representation and of legation, the right to negotiate with other sovereign States and the right to conclude treaties and conventions. The answer given by the unquestionable facts of history is definitely in the negative. The political organisation of Tibet has been the same since the time of the Fifth Dalai Lama. The laws have been framed and promulgated by the Tibetan Government. The external sovereignty of Tibet was never delegated to China. Since the reign of the 13th Dalai Lama, the Government of Tibet has directly conducted its international relations.

THE QUESTION OF HUMAN RIGHTS

The second issue that needs to be discussed is the violation of human rights and fundamental freedoms. In any civilised society, the question of reforms must be governed by the question of fundamental human rights - the Universal Declaration which was approved by the General Assembly on 10 December 1948. In the absence

of an agreed covenant on human rights it had no binding force, but it is accepted as being declaratory of generally accepted standards of behaviour for any State, and to this extent can be considered as part of International Law.

It is true that People's Republic of China was not a member of the United Nations until 1971 and thus not a party to the Declaration also, but this did not absolve it or any nation from obligation under UN Charter and general international law to protect fundamental human rights because they are something which humanity has evolved over the centuries in its quest for progress, happiness and well-being.

Both in and outside the United Nations, people have considered the activities of the Chinese Republic a violation of the various provisions of the UN Charter and the Universal Declaration also. In the General Assembly in 1959 the Malayan and Irish representatives raised the question of Tibet as a human right question. They argued that the flagrant violation of human rights in Tibet by the People's Republic of China was a problem of far reaching implication - one that touched the conscience of mankind.

THE ISSUE OF DOMESTIC JURISDICTION

It is quite evident that because of the insertion of the domestic jurisdiction clause [Art 2(7)] in the Charter, the United Nations had considerable difficulties in functioning effectively. It was to be expected that the experience gained through the working of the League Covenant would help in avoiding pitfalls and serve as a guide in building the new World Organisation on a more firm and sound footing. But at San Francisco extreme reluctance was shown to the process of the progressive development of international law.

The concept of domestic jurisdiction came into limelight recently. However, it draws its substance from the centuries old idea of absolute sovereignty. All States are sovereign and independent under international law. There are two types of jurisdiction, that is, domestic and international jurisdiction. The concept of domestic jurisdiction propounds the thesis that States are not obliged to accept the jurisdiction of an international arbitral or judicial tribunal in connexion with any dispute which may arise out of matters within national jurisdiction. Matters within international jurisdiction are those which are capable of being regulated by international law.

Obviously, if all members are absolutely sovereign, international organization as such has no competence in matters within the domestic jurisdiction of a State. This is certainly not the case. The United Nations has ostensibly extensive jurisdiction to implement its broad purposes. Thus Article 2(7) only provides "Nothing contained in the present Charter shall authorise the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any State or shall require the members to submit such matters to settlement under the present Charter, but this principle shall not prejudice the application of enforcement measures under Chapter VII".

It would be surprising if UN Organs refuse to regard for instance, any colonial situation as a matter of domestic jurisdiction. It may be of course argued that discussion as such or recommendation could never constitute "intervention" and is therefore not prohibited by the Article certainly, a matter which becomes serious enough to threaten international peace and security would ipso facto, cease to be essentially "domestic", that is sufficiently recognised by the proviso of Article 2(7) regarding enforcement.

The Peoples Republic of China claimed that Tibet was an integral part of Chinese Republic. Thus, any problem about Tibet would become a domestic problem for China and the United Nations had no right "to intervene" in its domestic jurisdiction.

However, while violation of human rights in any State is ordinarily a problem of that State, when that violation occurred on a large scale, the matter would appear to fall within the jurisdiction of international organisation. Violation of Human rights in Tibet was on such a large scale that the nations of the world called the attention of the United Nations to them. Thus, a problem within a State, which is normally in its domestic jurisdiction may be referred to the United Nations when, for instance, there is a large scale violation of human rights.

CHAPTER II

THE CHINESE INVASION AND THE TIBETAN
APPEAL TO THE UNITED NATIONS

With the establishment of the People's Republic of China in October 1949, the Tibetans feared that the old Chinese urge for expansion would be given a new impetus. The Tibetans, therefore, politely asked the Chinese Nationalist (the Chiang-Kai-Shek) Mission and all merchants suspected of communist sympathies to leave Tibet. This move was denounced by the Chinese Communist Government. On October 1950 the New China News Agency announced that a "political mobilisation directive had been issued ordering Chinese Communist forces to advance into Tibet to liberate three million Tibetans".¹

As soon as rumours of the attack reached the Government of India, a note was dispatched to the Chinese Government expressing India's concern, and suggesting that resort to force would injure the prospects of the admission of the new Government of China to the United Nations. On 26 October 1950, after official reports of the invasion had appeared in the Chinese Press, a further Indian note informed China of the "deep regret" of the Government of India that the frequent Chinese promises to employ peaceful methods towards Tibet had been belied by the use of force.²

1 Committee for Solidarity with Tibet, Tibet : A Few Facts (New Delhi, 1960), p.10. (Hereafter cited as Solidarity Committee).

2 H.E. Richardson, Tibet and its History (London, 1962), p.184.

The reply from Beijing set the tone for future Chinese Communication on the subject of Tibet. It brusquely, almost rudely, declared the People's Regime claim that Tibet was "an integral part of Chinese territory" and that the matter was "entirely a domestic problem of China and no foreign interference will be tolerated". The Chinese reply to the Second Note expressed the view that China possessed sovereign rights in Tibet and accused India of "blocking a peaceful settlement" in Tibet in order to "prevent the Chinese Government from exercising its sovereign rights" in that country.³

When the actual invasion commenced, Lhasa had requested New Delhi to sponsor its case before the United Nations. India replied that Tibet could appeal to United Nations directly.⁴ It was understood **that** New Delhi would support the case to the extent of censuring China for using force against Tibet. The Tibetan Government thereupon cabled on 7 November directly to the United Nations its complaint against the Chinese aggression.⁵

Only the Republic of El Salvador had the precipience and the courage to move forth the condemnation of the

3 Ibid.

4 Solidarity Committee, n.1.

5 For the text of the cablegram from Kashag see Document UNGAOR, A/1549 Annexes V Agenda Item 8. 24 November, 1950, pp.17-18.

"unprovoked aggression" by the Beijing regime. The Chairman of the Salvadorian delegation had addressed a letter dated 17 November to the President of the General Assembly requesting the inclusion of an additional item in the agenda of the Fifth session.⁶ He also submitted a draft resolution seeking to condemn this act of "unprovoked aggression" against Tibet and to appoint a Committee to study measures to be taken by the Assembly and to submit its report to the Assembly's current session.⁷

In his supporting memorandum and before the General Committee,⁸ the delegate of El Salvador requested that all possible communications and documents sent by non-member states should be distributed to members of the United Nations. When the members were called upon to take an important decision, Tibet was to be considered a sovereign state, "autonomous and independent from China". While the Tibetan Government desired to negotiate peacefully its differences with the so-called "People's Republic of China", said the representative of El Salvador, "the Peking Government" had sent an army into Tibet and had occupied certain parts of its territory.

6 UN Doc. A/1534, p.16.

7 Ibid., pp.16-17.

8 GAOR, Sess 5, Genl. Cttee. pp.17-18.

Admitting that information on Tibet was scarce, the El Salvador delegate said that as an independent State, Tibet had participated as a full-fledged member of international conferences. The United Nations could not shut its door to the delegation of Tibet which was on its way to New York; nor could the General Assembly ignore this "act of aggression" on the pretext that consideration of that question would complicate still further the present item. He also quoted Article I, paragraph 1 of the UN Charter and said that peace should be maintained throughout the world.

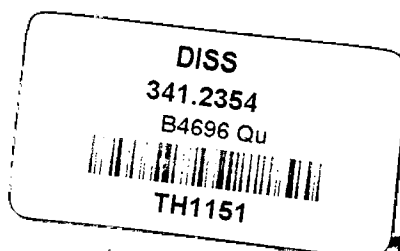
Kenneth Younger of the United Kingdom wanted more time for considering the matter, information on which, he pointed out, was scanty. But this did not mean that it was attempting either to shrink from its own responsibilities or to prevent the United Nations from assuming its full responsibilities. The legal position too was obscure, he said. Moreover, there was still hope that the existing difficulties could be settled amicably by agreement between the parties concerned.

Speaking for India, Maharaja Jam Saheb of Nawanagar said that it was a matter of vital interest to both China and India. India was the country most interested in a peaceful settlement of the problem. He said his Government

was certain that the Tibetan question could still be settled by peaceful means and that such a settlement could safeguard the autonomy which Tibet had enjoyed for several decades, while maintaining its historical association with China. And the best way of obtaining that objective, in Indian delegation view, was to abandon for the time being the idea of including that question in the agenda of the General Assembly.

This was also the view of the delegate of Australia. Agreeing to postponement, the Soviet delegate maintained on the basis of numerous official documents that Tibet was an inalienable part of China and its affairs were the exclusive concern of the Chinese Government. Chinese sovereignty over Tibet had been recognised for a long time by the United Kingdom, the United States of America and the Soviet Union. That being so, he said, his delegation would vote for adjournment of discussion of the request submitted by Salvador, and even for its outright rejection.

The delegate of Nationalist China did not object to postponement, but he wished the question to be discussed as part of the Chinese charges against the Soviet Union. The "Communist invasion" of Tibet was part of the Soviet



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design on China, he said. There could be no justification for that invasion which was prejudicial to the interests of China, since it would leave a heritage of hatred between the Tibetan branch and the other branches of the Chinese family and harm the good relations between India and China. The measures taken by the Chinese Communists had already had deplorable repercussions on India. It was a threat to the peace in Asia.

Tibet, the Chinese delegate argued, had played little part in international disputes, but the action taken by the Chinese communists again made the Tibetan question a pressing one. An attempt was being made to turn Tibet into a base for carrying out the imperialistic plans of the Communists.

The General Committee unanimously decided to adjourn consideration of the inclusion of the item proposed by El Salvador in the agenda of the General Assembly. Explaining his vote, the United States delegate said that he had voted for postponement in view of the Indian statement that there was still hope for peaceful settlement. The delegate of Venezuela said his vote for postponement did not prejudice the question of the competence of the General Assembly.

After the failure of the appeal to the United Nations,

exchange of messages started between the Beijing and the Tibetan authorities. A Tibetan delegation arrived at Beijing for negotiations with China. These negotiations ended in the signing of a Sino-Tibetan Agreement on 23 May 1951, for the "peaceful liberation" of Tibet. Under this agreement, Tibet became an integral part of China and was in return assured full regional autonomy. The Chinese Central Government undertook not to interfere with Tibet's political institutions and internal administration.⁹

The Chinese authorities began to prepare the ground for introducing far-reaching political and economic changes in Tibet. In 1952, they took two important steps to integrate Tibet into China. Firstly, they divided Tibet into three administrative zones and established a separate military area for Tibet. Secondly, the Chinese began to open up Tibet for settlement by the Hans (Chinese).¹⁰

On 10 February 1952, the Tibet military district of the Communist Chinese Army was formally established in Lhasa. On April 28, the Chinese candidate for Panchan Lama entered Tibet and proceeded via Lhasa to the Lama's traditional monastery at Shigatse. There he was enthroned

9 Richardson, n.2, p.184.

10 Chanakya Sen (Psued.) Bhabhani Sen Gupta, Tibet Disappears (Bombay, 1960), p.22.

as the tenth Panchen Lama and the Chinese began a campaign to build up the Panchen up politically, and so weaken the authority of the Dalai Lama.¹¹ During 1953, the Communist Chinese authorities continued their cautious moves for integration of Tibet with the rest of China, with emphasis on indoctrination of the country's youth and attempts to win over high officials.

The most important political development of 1954 was the summoning of the Dalai Lama and Panchen Lama to Peking. There the Chinese authorities made plain to the Grand Lamas that they, and not the Tibetans, nor the Lamas, were ruling Tibet. In 1954, the authorities created a third local political unit, the Panchen Kunpu Council, at Shigatse. This not only cut the Dalai Lama's power further but over-represented the smaller Shigatse areas in Tibetan local affairs.

On 29 April 1954, the Sino-Indian Treaty was signed in New Delhi. The central provisions of the Agreement were of comparatively little significance. They dealt with the number, places and regulation of trade markets and procedure for trade and pilgrims between India and the "Tibetan region of China" as Tibet was there described.

11 Bureau of Afro Asian Convention on Tibet and Against Colonialism in Asia and Africa, Truth About Tibet (New Delhi, 1960).

So far as the status of Tibet was concerned, the most important part of the agreement was the acceptance by the Indian Government, in the preamble and in frequent references to "the Tibet Region of China", of the position that Tibet formed an integral part of China.¹² What the Indian Government secured (so it believed), in return for its concessions and withdrawals, was the right to retain representation in Tibet and the belief that the Five Principles (Panchsheel) guaranteed Chinese good neighbourliness and acceptance of the McMahan Line frontier (in north east India) and the other existing frontiers between India and Tibet.

In December 1955, the Chinese Communist Party decided to introduce land reforms in Tibet. New forms of taxation were introduced on land, cattle and houses. Large estates were confiscated and redistribution of land followed.

It was the land reforms measures which sparked off the first major revolt during the spring of 1956. An active guerilla force quickly came into being in all parts of the country.

In 1956 both the Dalai Lama and Panchen Lama visited India and their visit was made to synchronise with that of Prime Minister Chou-En-Lai. The Dalai Lama put forward

12 Richardson, n.2, pp.196-97.

four requests before Chou-En-Lai : the removal of Chinese troops from Tibet; the restoration to the Dalai Lama of the Status existing at the death of the 13th Dalai Lama; the reinstatement of the Chief Minister dismissed in 1952 at Chinese instigation; and the abandonment of the Communist programme of reform.¹³ The Chinese Prime Minister assured Prime Minister Nehru that it was Peking's intention to allow Tibet full internal autonomy. "Tibet is not Chinese", he said, although it part of China.¹⁴

By the end of 1957, the Chinese Communist leadership appeared to intensify the drive for reforms in Tibet. From this time on, a certain stiffening of the Chinese attitude came to be noticed, and it may be assumed that Tibetan resistance also intensified. In 1958, it was reported that Nehru had expressed a wish to visit Tibet, but the Chinese Government asked him to postpone his visit indefinitely. On his return to Delhi after a seventeen day visit to Bhutan in September 1958, Nehru observed that from such reports as he had heard, "obviously conditions in Tibet are not normal".

13 Richardson, n.2, p.203.

14 Sen, n.11, p.23.

CHAPTER III

THE UNITED NATIONS DEBATE -I (1959)

Having annexed Tibet by invoking an outworn, "Imperialist" formula, without any serious opposition or even a protest from the non-Socialist world, China felt free to slow down the implementation of its plan to destroy completely Tibet's distinct religious and social personality. Contrary to the provisions of the Sino-Tibetan Agreement, it took steps to undermine the Dalai Lama's position. It sought to erode the authority of the Dalai Lama, both secular and ecclesiastical, and that of the Kashag (the Tibetan Parliament) especially after 1956. In the name of introducing reforms, it interfered in everything in matters of religion as well as administration. This led to periodic flare ups of violence and sporadic armed uprisings throughout 1956, 1957 and 1958, which were all suppressed with a firm hand.

About the end of 1958, the resistance to Chinese rule became strong enough to take the form of a regular uprising. The great rebellion broke out on 10 March 1959. The first Chinese announcement of the Tibetan uprising came on 28 March when the Chinese Government announced that it had "completely smashed" the revolt and had installed the Panchen Lama as the acting head of the new regime.¹

1 Chanakya Sen (Psued), Bhabhani Sen Gupta, Tibet Disappears (Bombay, 1960), p.26.

The Dalai Lama issued a statement on 30 August announcing his decision to refer the Tibetan issue to the United Nations "for the verdict of the peace-loving and conscientious nations of the world".² On 9 September the Dalai Lama formally appealed to the United Nations to take action over the problem of Tibet. He submitted the request in a letter to Secretary-General, Dag Hammarskjold asking for immediate "intervention" by the United Nations and consideration by the General Assembly on its own initiative of the Tibetan issue.³

On 29 September, representatives of the Federation of Malaya and Ireland requested that the question of Tibet be included in the agenda of the fourteenth session of the General Assembly.⁴ In an explanatory memorandum accompanying the request, they stated that in asking for the inscription of this item, their governments were convinced that under its Charter the United Nations could not ignore the present situation in Tibet. After a study of the materials available, they said that there was prime facie evidence of an attempt by the People's Republic of China to destroy the traditional ways of life

2 H.E. Richardson, Tibet and its History (London, 1962), p.218.

3 Bureau of his Holiness the Dalai Lama, Tibet in United Nations 1950-1961 (New Delhi, 1961), pp.17-19.

4 GAOR, Annexes XIV, Agenda Item 73, UN DOC. A/4234 p.1.

of the Tibetan people and the religious and cultural autonomy as well as a systematic disregard for human rights and fundamental freedoms. In such circumstances, they maintained, the General Assembly had both a moral obligation and a legal right to discuss the situation, as well as a duty to call for the restoration of the religious and civil liberties of the people of Tibet.⁵

On 9 October the General Committee debated whether or not the matter should be recommended for discussion in the General Assembly. The sponsors of the resolution, the representatives of Malaya and Ireland,⁶ said that there existed prime facie evidence of an attempt by China to destroy the traditional ways of life, the religious and cultural autonomy and the human rights and fundamental freedoms. The Malayan delegate referred to the Dalai Lama's statement in India captioned "Reign of Terror in Tibet". The United Nations could not ignore these facts while one of its aims was the promotion of human rights.⁷

Opposing his move, the Soviet delegate Kuznetsov,⁸ said that "the non-existent Tibetan question has been fabricated in order to worsen the international atmosphere

5 GAOR, n.5, p.1.

6 GAOR, Session 14, Genl. Cttee, pp.3-12.

7 For other views on this argument, see (United States, Sweden, Belgium, Guatemala, Philippines), n.7, pp.12-15.

8 GAOR, n.7, p.15.

in the General Assembly". He expressed regret that the Assembly was being asked to deal with something which constituted a provocation. When the attention of the General Assembly should be focussed on important and momentous issues, the United States was pushing with all available means to worsen the atmosphere which appeared to be improving. The Soviet Union, he said, must take note of the fact that an attempt was being made to utilise the United Nations to intensify the Cold War. To raise this question in the United Nations was utterly illegal and at variance with the explicit provisions of the UN Charter. Those who supported the inclusion of the item in the agenda had tried to cover their intentions which were hostile to China, by talk of civil and religious rights.⁹

The Representative of China (Formosa regime) pointed out that Tibet was part of China and that the whole Chinese people remained faithful to its traditions and condemned the atrocities committed in Tibet by Chinese Communist troops. The General Assembly could examine the question of Tibet without contravening the provisions of Article 2(7) of the Charter.¹⁰

9 For more statements on the argument, see (Czechoslovakia, Indonesia, Romania) GAOR, n.7, pp.13-15.

10 GAOR, n.7, p.13.

The British delegate, Sir Pierson Dixon,¹¹ said that the request for inscription on the General Assembly's agenda raised certain legal problems which the British Government had carefully considered. He added, it might not be possible to conduct a full investigation into the events in Tibet, but there could be no doubt in the mind of anyone that a terrible human tragedy of historic proportions had unfolded itself in Tibet. Britain, he said, could not commit itself to vote in favour of any particular draft resolution which might be submitted if the item was inscribed. Still, the United Kingdom thought it right that the United Nations should be given an opportunity to take cognizance of what had happened in Tibet and to express its opinion.

The representatives of South Africa, Morocco and France said that their delegation would abstain when the vote was taken by the General Committee.

The General Committee decided by 11 votes in favour to 5 against with 4 abstentions to recommend the inclusions of the item in the General Assembly's agenda.¹²

By another vote, the Committee decided to recommend to the Assembly that the item should be considered directly by the Assembly in Plenary session.

11 Ibid., p.14.

12 GAOR, n.7, p.17.

Commenting on the decision of the General Committee to inscribe the item on United Nations agenda, Krishna Menon of India said that a debate on Tibet could not lead to any constructive action. It would bring in the Cold War issue and create an unfavourable atmosphere for talks on other questions.

On 12 October, the General Assembly decided by a roll call vote to debate the situation on Tibet, overriding Soviet objections that the issue was being brought in as a Cold War provocation.¹³

During the general debate, the sponsors of the proposal, the representatives of Malaya and Ireland¹⁴ said that they were concerned only with the issue of the violation of human rights and fundamental freedom in Tibet, and had no intention of turning the matter into a controversial political issue. They welcomed all efforts leading to improved international relations, but felt that such an improvement could not be considered healthy and enduring if it was to be used as a pretext for stifling debate on actions such as those committed by the People's Republic of China in Tibet. The statements of the Dalai Lama had clearly shown the extent to which the fundamental human rights of the Tibetans had been

13 GAOR, Session 14, 826 Plen. mtg., p.459.

14 Ibid., 831 Plen. mtg., pp.469-474.

violated. His charges had been supported, in "no uncertain terms" by the report of the International Commission of Jurists.

They also maintained that, in such circumstances, their draft resolution represented the minimum assertion of international morality below which the Assembly could not fall, without being untrue to the principles to which it was pledged.

Much of the debate^{centered} around conditions in Tibet, then and in the past. Many countries¹⁵ welcomed the initiative taken by the Federation of Malaya and Ireland in bringing the Tibetan question before the United Nations. They maintained that there was enough evidence to show that fundamental human rights had been violated in Tibet. Many of them cited the statements of the Dalai Lama and the International Commission of Jurists in their support. In their view, the General Assembly would fail in its duty if it were not to raise its voice in protest.

The first representative to declare that he would vote against the draft resolution was that of the Soviet Union,¹⁶ who charged that the Tibetan item had been brought before the United Nations for the purpose of

15 GAOR, Session 14, 832-834 Pln, mtgs.

16 Ibid., 831 Plen. Mtg. n.15, pp.475-59.

pushing the United Nations back to the darkest days of the Cold War. The inclusion of the Tibetan item in the agenda was "a gross attempt to interfere in the internal affairs of the People's Republic of China and consequently is an illegal move in violation of the basic principles of the United Nations Charter", he observed.

Answering the accusations that China had violated the religious and cultural autonomy of Tibet, he said, instead, these were strictly respected by China. The People's Government of China had been cautious in carrying out any measures there. However, the "reactionary clique" in Tibet did not want democratic local autonomy to be put into effect. The sponsors of this enterprise wanted to hamper the positive and constructive efforts, recently made to improve international relations, he charged. The delegation of Malaya and Ireland "merely expressed here the will of these circles and performed an unseemly role in a shameful force staged by those who wish to aggravate the international situation", he said. The East European countries¹⁷ supported the Soviet delegation's view. They argued that the report of the International Commission of Jurists, on which certain representatives had based their charges, was not trustworthy, since the "so-called commission" was, in fact, established to serve the purposes of the Cold War, as was evident from all its activities hitherto. The

17 For some more views on this argument, See views of Albania, Czechoslovakia, Hungary, Poland, Romania, n. 16.

representatives argued that social and economic improvements in Tibet had been introduced and were being introduced by the People's Republic of China, in an effort to change the "feudalistic" society in which peasants were kept in "slavery" by a small minority of landlords. Statements of the Panchen Lama, saying that this was a forward movement which could not be altered by "the fuss" raised in the United Nations by "imperialist elements", were quoted by the East European delegates. They regretted that, at a time when efforts for improving relations between States were taking place and when the Assembly's agenda was heavy with important items, a question which in fact had no existence had been imposed on the Assembly. Such manoeuvres were likely to poison the international atmosphere and undermine the authority of the United Nations.

Another main point at issue was the legal and political status of Tibet. The East European members maintained that Tibet was an integral part of China and that the adoption by the Assembly of any resolution on Tibet would therefore be illegal as, in their opinion, it would violate Article 2(7) of the United Nations Charter.

Other representatives, while not necessarily agreeing that Tibet was an integral part of China, expressed the

view that there was an element of doubt in the determination of this status and autonomy of the region. They felt that Article 2(7) of the Charter prevented the United Nations from taking any action on the question. Among the members who expressed doubts on the competence of the United Nations in this matter and which therefore abstained from voting were Belgium, Ethiopia, France, Spain, the Union of South Africa and the United Kingdom.¹⁸

The United Kingdom,¹⁹ while maintaining its stand on Article 2(7) of the charter, felt that the United Nations should take cognizance of the question, but should not act on it in the form of a resolution. The representative of Ethiopia questioned the competence of the United Nations to deal with the Tibetan question, adding that the information so far available on Tibet was not only one sided but also contradictory. He also maintained that the so-called violation of human rights on Tibet bore no relation to the kind of violation of rights perpetrated on the peoples of Africa and Asia under colonial domination.

Different interpretations of Article 2(7) were given by delegates from China (Formosa), Cuba, the United States

18 GAOR, n.16.

19 GAOR, Session 14, 834 Plen. mtg. pp.513-15.

and Venezuela. They maintained, however, that the United Nations was competent to deal with the question of Tibet. They pointed out that the interest and concern of the United Nations for human rights and fundamental freedoms were set forth in Article 55 of the Charter and the United Nations had exercised its authority in that respect on several occasions in the past. The Cuban representative held the view that the question of human rights was not a matter which fell exclusively within domestic jurisdiction. The United States representative said that the General Assembly was competent in the light of the Charter and precedents, to express a view on "serious violations of human rights", and to appeal for the observance of liberty. The Chinese delegate thought that the Article should not be ignored or violated but that interpretation should be "liberal". Venezuela stated that although the article precluded intervention in domestic matters, it did preclude an expression of moral condemnation when a violation of human rights had occurred.

Another major focal issue of discussion was whether an Assembly debate would be beneficial or harmful. Delegations from the East European countries contended that the "illegal" debate would aggravate the Cold War, whereas Ethiopia, Finland, Nepal, India, Indonesia, questioned the usefulness of the discussion and possible adoption

of a resolution on Tibet, especially at a time when efforts were being made to improve international relations. The representative of Ethiopia thought "the time is not opportune to discuss questions which have other practical value than to raise the somewhat relaxed tension".

The representative of Nepal and Finland,²⁰ felt that, in the absence of a representative of the People's Republic of China, the debate was contrary to the spirit of the United Nations Charter and was, in fact one sided and purposeless. The representative of Nepal also said that, to accept the charge that fundamental human rights of the Tibetan people had been violated, it would be necessary to establish first the human rights which the Tibetan people had enjoyed through the centuries. Even Tibet had to be viewed in the context of the new, changing revolutionary Asia.

V.K.K. Menon of India²¹ reviewing the history of Tibet said that Tibet had for a long time been under Chinese suzerainty. He said, however, he had no desire to raise the question of domestic jurisdiction and the applicability of Article 2(7), as the General Assembly had a right to

20 GAOR, n.15, pp.474-75.

21 GAOR, n.20, pp.517-21.

discuss the matter. But he added, in the view of his delegation, discussion did not mean intervention. Changes in Tibet must take place peacefully and with less cruelty, but he added : "One cannot argue non-interference by interfering". It would not be contended, he continued, that his country had shown indifference to the events in Tibet. India had given refuge to the Dalai Lama and thousands of other Tibetans. India had no desire to interfere in Tibet and wanted to maintain friendly relations with China, but India had great sympathy with the Tibetan people. He rejected the allegations that India had in any way promoted the revolt in Tibet or had served as its base of operation. Menon went on to say that his Government considered that the agreement of 1951, "still stands" and India did not recognize any independent Government of Tibet.

As Prime Minister Nehru had said, this question could come before the United Nations only in two ways : "as a violation of human rights or as aggression. However, complaints about violation of human rights could be raised only against those who were present [(in Tibet)], those who had accepted the declaration". And aggression applied only to conflicts between sovereign states and Tibet was not one", Menon observed. Obviously, nobody is going to send an army to Tibet or China",

he remarked. All that could happen would be an expression of strong opinion by some, denied by others, which would lead to a strong reaction by China. It would "bring no relief to the Tibetan people but something the reverse of it". Certainly, India was not going to heighten the deadlock or to add to it, he continued. Accordingly, the delegation of India would be unable to support the resolution as a whole or any part of it, and would abstain in the vote in the interest of reconciliation and because of a feeling that the resolution could lead to nothing constructive.

Menon concluded by saying that most of the Tibetan people had remained in Tibet. He hoped that the Dalai Lama would be able to place his services at their disposal and would return to them in dignity and peace. If India could offer any assistance towards reconciliation, he added, that would be his country's role as part of the United Nations.

The debate concluded with brief replies from the representatives of Malaysia and Ireland who reemphasized their independence in bringing the item before the Assembly. The former said that he would not like the opportunity to pass without expressing deep regret at their questioning the sincerity of the motives of the sponsors. The

delegation of Malaya, he said, had been motivated solely by an earnest desire to ensure that the Charter, and in particular respect for human rights and fundamental freedoms, were upheld.²²

The General Assembly adopted the draft resolution presented by the Republic of Malaya and Ireland by a roll call vote of 45 votes to 9 with 26 abstentions.²³ The Draft Resolution is as follows : --

The General Assembly,

"Recalling the principles regarding fundamental human rights and freedoms set out in the Charter of the United Nations and in the Universal Declaration of Human Rights adopted by the General Assembly on 10 December 1948,

"Considering that the fundamental human rights and freedoms to which the Tibetan people, like all others, are entitled include the right to civil and religious liberty for all without distinction,

"Mindful also of the distinctive cultural and regional heritage of the People of Tibet and of the autonomy which they have traditionally enjoyed,

"Gravely concerned at reports including the official statements of His Holiness the Dalai Lama, to the effect that the fundamental human rights and freedoms of the people of Tibet have been forcibly denied them,

"Deploring the effect of these events in increasing international tension and in embittering the relations between peoples at a time when earnest and positive efforts are being made by

22 GAOR, 834 Plen. mtg. n.20, pp.526-27.

23 Ibid., p.528.

responsible leaders to reduce, tension and improve international relations,

" 1. Affirms its belief that respect for the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights is essential for the evolution of a peaceful world based on the rule of Law;

" 2. Calls for respect for the fundamental human rights of the Tibetan people and for their distinctive cultural and religious life."

After the voting was over a number of delegates explained their votes. The representative of South Africa said that all the evidence had pointed to the fact that Tibet was subject to the sovereignty or suzerainty of an outside power, and although his country was sympathetic towards the Tibetan people, it could not be a party to the violation of Article 2(7). Representatives of Turkey, Guatemala and Israel said they had **voted** for the resolution because in their opinion, it fell within the provisions of the Charter.

Thus, the discussion not only left the status of Tibet in uncertainty; it also produced no support for the hope which the Tibetans had voiced that a United Nations Commission should be sent to Tibet to inquire into the facts. Several speakers, while appealing to the moral conscience of the world, had regretfully admitted that no resolution of the United Nations could produce an immediate practical allevia-

tion of the plight of the Tibetan people; and it was, unfortunately obvious that, in existing conditions, the idea of a United Nation Commission of Inquiry was impracticable.

Nevertheless, for four days, Tibetan affairs had received more international attention than ever before. Speakers from various countries expressed sympathy with the Tibetans in their sufferings and in their aspirations for freedom to live their own way of life; and opposition to the resolution had been confined to the nine members of the Soviet Bloc. For the Tibetans all that was only a partial success and a source of hope that it was the beginning of a process of international enlightenment.

CHAPTER IV

THE UNITED NATIONS DEBATE - II
(1960-1965)

When the situation in Tibet continued to deteriorate in spite of the resolution 1353(XIV) passed in 1959 for the restoration of fundamental human rights, the delegates of the Federation of Malaya and Thailand requested the inclusion in the agenda of the fifteenth (1960) regular session of the General Assembly the "Question of Tibet".¹ In the explanatory memorandum, they stated that despite the solemn appeal contained in that resolution, the fundamental human rights of the Tibetan people continued to be disregarded. The report of the International Commission of jurists gave a clear confirmation of a continuing attempt by China to destroy the traditional and distinctive way of Tibetan life. They were deeply convinced that the United Nations had an obligation and duty to address itself to this question and pave the way for the restoration of the religious and civil liberties of Tibetans.

Though repeatedly rebuffed, the Dalai Lama appealed to the United Nations for the third time to take appropriate measures to get China vacate its "aggression" in Tibet.² Expressing his happiness at the inscription of the question of Tibet on the agenda at the instance of Thailand and Malaya, he said, "I do hope that all peace-

1 UN Doc. A/4444.

2 Bureau of His Holiness. The Dalai Lama, Tibet in United Nations 1950-1961 (New Delhi, 1961), pp.232-38.

loving countries will heed the voice of my people". He quoted historical evidences to prove that Tibet was independent since 1912. After the efforts of the Tibetan Government to get the help of the United Nations had failed, Tibet was compelled to sign with China on 17-Point Agreement on 23 May 1951. He referred to the findings of the International Commission of Jurists that the Chinese authorities had been guilty of genocide in Tibet. ~~As~~

Referring to the request for inclusion of the item in the agenda, the Soviet delegate said in the General Committee that charges of suppression of the Tibetan people were fabricated and what had occurred in Tibet was a "reactionary mutiny". He urged that the Committee should reject the proposal.³

On the other hand, the delegates of Malaya, Thailand, United Kingdom and United States⁴ said that the question continued to be a matter of grave concern. There had been reports of continued "violent and cruel suppression". It was "one of the most grievous examples of the denial and one where the Assembly must bring in its influence". And it was morally and humanly impossible for the United

3 GAOR, Session 15, Genl. Cttee., p.5.

4 Ibid., n.3, pp.5-7.

Nations to remain impotent and turn the other way when the fate of people was at stake.

The voting on the draft resolution to inscribe the item in the Assembly's agenda was 11 votes to 5, with 4 abstentions.

In the Plenary session of the Assembly, the delegates of Indonesia, Soviet Union and Romania⁵ objected to the inclusion of the question and referred to Article 2(7) of the Charter. Since (according to them) People's China was not a member of the United Nations issues involving that Government could not be settled in the latter. As a justification the sponsors of the resolution were trying to take member nations back to the worst days of the Cold War to slander the People's Republic of China and to use the United Nations in a manner harmful to peace and security. Answering the allegations of the sponsors, the Romanian delegate said when the traditional way of life in Tibet was serfdom, then, what had serfdom to do with the Universal Declaration of Human Rights. Nothing could be more absurd than the United Nations action upholding the restoration of serfdom in the name of freedom.

The representatives of New Zealand, El Salvador and Ireland⁶ supporting the inclusion of the item hoped

5 GAOR, Session 15, 898 Plen Mtg., pp.606-610.

6 Ibid., pp.607-611.

that the previous resolution had some effect in easing the sufferings of the Tibetan people. They sympathised with the Tibetan people in the cruelty and repression they were enduring. The violation of human rights of the Tibetan people was a legitimate matter for the Assembly's consideration, they said.

The item was placed on the agenda by the Plenary session of the Assembly by 49 votes to 13 with 35 abstentions.

However, the question was not discussed in that session General Assembly, presumably due to lack of time.

In the following year, the question of Tibet was again proposed by the Federation of Malaya and Thailand. In an explanatory memorandum, they stated that the situation in Tibet still remained a source of grave concern and hoped that the General Assembly would take more effective measures at this time.⁷

The representatives of Czechoslovakia and the Soviet Union⁸ strongly opposed the discussion of the questions in the General Committee as (according to them) it violated Article 2(7) of the Charter. The insurrection of a "reactionary clique" in that region had been supported

7 UN Doc. A/4848.

8 Ibid., pp.11-12.

by the "imperialists" to make Tibet secede from China. The proposal, they said, tried to revive the Cold War and to divert attention from more important questions.

On the other hand, the representatives of China, Cyprus, Malaya and Thailand argued for the inclusion of the question. If the United Nations wanted to fulfil its principles and ideals and wished to extend its efforts, they said, it could not remain silent in the face of atrocities committed by the "Communists" in Tibet.

The Committee decided by 15 votes to 3 with 2 abstentions to recommend to the sixteenth session of the General Assembly the inclusion of item 83 in the agenda.

During the debate in the Plenary, the representatives of the Soviet Union and Indonesia both spoke against its inclusion while the representatives of Japan and Malaya spoke in favour of it. The item was placed on the agenda by 48 votes to 14 with 35 abstentions.⁹

The representative of Malaya, speaking in the Plenary meeting said he agreed that the Tibetan issue was controversial, but that was no reason for the Assembly to turn a blind eye to the events in Tibet.¹⁰ The General Assembly

9 GAOR, Session 16, 1014 Plen. mtg. pp.72-74.

10 Ibid., 1084 Plen. Mtg., pp.115-18.

was justified in considering a question involving colonialism, self-determination and observance of human rights. The question of Tibet represented an unmistakable case of a systematic and large scale oppression of a people whose only crime was to struggle in defence and for the preservation of their rights. Ever since the occupation of Tibet by the People's Republic of China, Tibet had known no peace and the Tibetan people no freedom.

The representative of Nationalist China (the Formosa regime) said that the General Assembly had again reached a most serious challenge to the principles of the Charter and to the moral authority and prestige of the organisation.¹¹

A diametrically opposite viewpoint was expressed by the representatives of the Soviet Union, Czechoslovakia and Albania¹² who contended that the Assembly had no right even to consider the question of Tibet which was an integral part of China, and the People's Republic of China had legitimately put down an armed rebellion of a handful of feudal landlords instigated by the forces

11 For more views on this argument, (El Salvador, United States, Ireland, Australia and Thailand), See Ibid., pp.118-28.

12 GAOR, Session 16, 1085 Plen. mtg.pp.1134-37.

of "national reaction" against the Legal Government of the People's Republic of China. They also denied reports of conditions in Tibet and declared that the Government of People's Republic of China had embarked on a vast programme of social and economic reforms. The "hypocritical" interest in Tibet on the part of "imperialist" circles represented nothing but flagrant interference, they contended.

The representative of France while sympathising with the intentions inspiring the sponsors of the draft resolution said he would abstain in the voting because some of the provisions in the text did not have sufficient foundation in the Charter, to dispel doubts which might arise about the Assembly's competence to deal with a matter falling essentially within the domestic jurisdiction of a member state.¹³

On 20 December 1961, the General Assembly adopted a four power draft resolution by a roll call vote of 56 to 11 with 29 abstentions as resolutions 1723 (XVI). According to this resolution, the General Assembly, among other things, would (1) reaffirm its conviction that respect for the principles of the United Nations Charter and of the Universal Declaration of Human Rights was essential for the evolution

13 Ibid., pp.1137-38.

of a peaceful world order based on the rule of law;
(2) solemnly renew its call for the cessation of practices depriving the Tibetan people of their fundamental human rights and freedoms; (3) express their hope that member states would make all possible efforts as appropriate towards achieving the purposes of the present resolution.

X X X X

When condition in Tibet still continued to deteriorate in spite of the two resolutions passed in 1959 and 1961, respectively, the question of Tibet was again raised in 1964. The Government of El Salvador, Nicaragua and Philippines requested on 30 October 1964 that the item be included in the agenda of the General Assembly's nineteenth session.¹⁴ In the attached memorandum, they states that notwithstanding the 1961 resolution's call, human rights and freedoms were still being forcibly denied in Tibet, the religious and civil liberties of the Tibetan people were still being suppressed and the situation in Tibet remained a source of grave concern to all members.

No discussion of this item took place during the first part of the nineteenth session of the General Assembly which

14 UN Doc. A/5765.

recessed on 18 February 1965. The Assembly's President noted that with regard to certain agenda items proposed by member states, the sponsors might wish to propose them for inclusion in the agenda of the twentieth session, if the nineteenth session was unable to consider them.

✓ On 7 June 1965 the representative of the Philippines, ✓ drawing attention to a letter of 30 October, 1964 from El Salvador, Nicaragua and the Philippines, proposed that an item entitled "Question of Tibet" be included in the agenda of the twentieth session.¹⁵

The General Committee decided by 10 votes to 3 with 11 abstentions, to recommend to the General Assembly the inclusion of the item in the agenda.¹⁶

The delegate of Philippines quoted the reports of the International Commission of Jurists which referred the brutal repression practised on the people of Tibet. According to him, the question of Tibet had a human rights aspect and a political aspect. There had been a tendency to de-emphasize the political aspect. But he said, unless the political aspect was solved, the human situation would be difficult to alleviate.¹⁷ On the eve

15 UN DOC. A/5931.

16 GAOR, Session 20, Genl. Cttee, p.3.

17 . GAOR, Session 20, 1394 Plen. mtg., pp.1-5.

of the Chinese invasion in 1950, Tibet was independent. Thus, the historical facts concerning the political status of Tibet served merely to reinforce the argument based on humanitarian concern for the fundamental freedom of the people of Tibet. He wished that the Assembly by adopting the draft resolution and reaffirming its previous recommendations on behalf of the people of Tibet would be fulfilling the universal trust.

✓ The representative of India said that the question of Tibet was raised from time to time, but his delegation abstained because of the Chinese assurances of a peaceful settlement. However, the situation in Tibet had worsened. He quoted the appeal of the Dalai Lama to the Secretary-General warning the Organisation that the Chinese, if unchecked, would resort to still more brutal means of exterminating the Tibetan race and religion. They had given a final blow to the special status of Tibet by depriving the Dalai Lama of the Chairmanship of the Preparatory Committee for the Autonomous region of Tibet. Supporting the draft resolution, he hoped on behalf of the United Nations that there would soon be an end to the reign of misery and oppression in Tibet and that the Tibetans would enjoy human rights.¹⁸

Those speaking in favour of the joint draft resolution in the debate included the seven co-sponsors and Australia

18 Ibid., pp.5_6.

China, Costa Rica, Guatemala, New Zealand, Norway and the United States. It was maintained particularly by the co-sponsors, that the hope engendered by the previous resolutions of the General Assembly remained unfulfilled. The findings of three inquiries conducted by the International Commission of Jurists had shown in 1959 and 1960 that the Chinese authorities were committing acts of genocide, and in 1964 that the Tibetan people were being subjected to a brutal suppression of their religious life and to persecution designed to obliterate the Tibetan people as a distinctive ethnic group. The spokesman for the Philippines said that the Assembly, with its history of struggle against the policy of apartheid, could not turn a deaf ear to the appeals of the Tibetan people. The other delegates referred to United Nations documents on human rights and to the Assembly's declaration on the Granting of Independence to Colonial Countries and Peoples. The constitutional relationship between Tibet and the People's Republic of China was not at issue, they said, and that Articles 55 and 56 of the Charter were applicable. Only by exerting moral pressure could the United Nations induce the People's Republic of China to reconsider its policies.

The representative of China (the Formosa regime) expressed respect for the traditions of Tibet and its

right to self-determination. The United States delegate asserted that the term "autonomy" governing the relationship between Tibet and the People's Republic of China, was meaningless because there was no freedom of action for the Tibetans, no freedom to reject the "directions from Peking", no freedom from the armed aggression of Chinese Communist military forces.¹⁹

Those opposing the draft resolution were the delegates of Albania, Algeria, Bulgaria, Congo, Cuba, Czechoslovakia, Guinea, Hungary, Poland, Romania and the Soviet Union. They said that Tibet was an integral part of the People's Republic of China. Since Article 2(7) of the Charter precluded "intervention" within the domestic jurisdiction of any state, the General Assembly lacked competence to deal with the matter. Moreover, the submission of the item was merely intended, they alleged, to postpone the imminent restoration of the right of the People's Republic of China (to be represented) in the United Nations. They also stressed the economic and social progress of the Tibetan people, which (in their view) constituted a great advance over the feudal system prevailing in Tibet. Further, the human rights issue was merely a "hypocritical subterfuge" to divert the attention from United States' aggression in Vietnam and the Dominican Republic. Certain countries which had supported the 1959 rebellion in Tibet

19 GAOR, Session 20, 1394, 1401 Plen. mtgs., pp.1-13.

wished to detach it from the People's Republic of China and to use it as a strategic base for aggression.

The draft resolution was orally amended by the sponsors by deleting a request that States "take all measures to achieve the purposes of the resolution". The revised text merely appealed to States "to use their best endeavours to achieve the purposes of the present resolution".

The seven power draft resolution as orally amended by the sponsors was adopted by the General Assembly by a roll call vote of 43 votes to 26 with 22 abstentions as resolution 2079 (XX).

By the operative part of the resolution the General Assembly would (1) deplore the continued violation of the fundamental rights and freedoms of the people of Tibet; (2) reaffirm that respect for the principles of the Charter and of the Universal Declaration of Human Rights was essential for the evolution of a peaceful world order based on the rule of law; (3) declare its conviction that the violation of human rights and fundamental freedoms in Tibet and the suppression of the distinctive cultural and religious life of its people increased international tension and embittered relations between peoples; (4) solemnly renew its call for the cessation of all practices which deprived the Tibetan peoples of the human rights and fundamental freedoms which they had always enjoyed and (5) appeal to all States to take all measures and use their best endeavours to achieve the purposes of the present resolution.

CHAPTER V .

C O N C L U S I O N

A major issue that arises in the discussion of the subject is the competence of the United Nations to deal with the question - whether or not the United Nations has jurisdiction to discuss this question. Was it a legitimate question to be discussed in the United Nations? Most of the countries that opposed the discussion of the Tibetan question in the General Assembly, based their arguments on the ground that Tibet was an integral part of China and that, therefore, whatever happened within Tibet was a matter within the domestic jurisdiction of China, in which the United Nations could not intervene because of the prohibition of United Nations "intervention" under Article 2(7) of the Charter.¹ Did Questions concerning human rights generally or even with respect to particular member States do not fall essentially within the domestic jurisdiction of states?

In view of the provisions of the Charter, the Universal Declaration of Human Rights, the two Covenants on Human Rights and certain other conventions, members no longer consider human rights as falling essentially within the domestic jurisdiction of states or excluding them from United Nations jurisdiction, and, therefore, action. This makes it clear that human rights as such

¹ See e.g. UN DOC. 140 Plen. Mtg., p.4, Albania; Ibid., p.32, Romania; Ibid., p.48, USSR.

are matters of international concern and interest and therefore matters of international - not domestic - jurisdiction.²

The fact that the promotion of human rights is a purpose of the United Nations and furthermore, that the Charter refers to it more often than any other subject mentioned in the Charter is an additional justification. Consequently, member nations feel that they have an obligation under the Charter to respect and observe human rights. Any concern shown or action taken by United Nations organs is not, therefore, a transgression of domestic jurisdiction of States.

The practice of the United Nations too has amply proved that the General Assembly can exercise jurisdiction over situations involving a breach of human rights. Such violations affecting the maintenance of international peace and security was a convincing argument in ignoring the plea of domestic jurisdiction and insisting on the exercise of United Nations jurisdiction. The claim of domestic jurisdiction as a "reserved domain" is untenable in regard to issues of international concern, in particular those involving large scale and

2 M.S. Rajan, The Expanding Jurisdiction of the United Nations (Bombay, 1982), pp.187-218.

systematic suppression of human rights. It is a legal right as well as a moral duty to concern itself with the issues of fundamental human rights.³

Every member state of the United Nations has pledged to promote, in co-operation with the United Nations, universal respect for and observance of human and fundamental freedoms for all without distinction as to race, sex, language or religion.⁴ The United Nations could not have remained indifferent to an attempt at destroying the international rights of the unique Tibetan race. It is not only therefore an item, "which the Assembly could properly discuss", but also "involved one of the most important issues confronting the United Nations on the solution of which the future of the organisation itself would to a large extent depend."⁵

So far as the powers of the General Assembly to adopt these resolutions are concerned, Articles 10 and 55 of the Charter confer a clear authority upon the General Assembly irrespective of whether there was some sort of dependent political status involved in the case or not even where the matter was claimed to fall within the

3 UN DOC. 1401, Plen. Mtg. p.42 - United States. See also UN DOC. Gen. Cttee. 136 Mtg. p.15, Guatemala.

4 GAOR, 14 Sess., Plen. mtg., p.171, Venezuela.

5 GAOR, Gen. Cttee., 136 mtg. 16 Sess., India.

domestic jurisdiction of a state. Thus, the General Assembly exercised jurisdiction with respect to matters involving violation of human rights in colonial and self-governing territories, and even where the matter fell within the traditional scope of domestic jurisdiction of a State.

The argument that People's China not being a member of United Nations until 1971 nor a party to the Universal Declaration of Human Rights, is not bound to abide by the resolution of the General Assembly, is untenable. Although, People's China was not represented in the United Nations until 1971, how could it have been oblivious of the obligations under general International Law (of which the UN Charter and the Universal Declaration of Human Rights had become apart). Condemnation of flagrant violation of human rights does not depend upon whether the state responsible is a member of the United Nations or not. Any violation is a matter of concern to the United Nations. Article 55 of the Charter specifically refers to the promotion of the "universal and fundamental freedom" implying that the obligation extends beyond the membership of the United Nations. Likewise, the Universal Declaration of Human Rights (1948) although having no binding force, is recognised to be declaratory of generally accepted standards of behaviour for all states. The universality of the principles has never been disputed. The Bandung

Declaration (1955) for instance reaffirmed the fundamental principles of human rights as set forth in the United Nations Charter and in the Universal Declaration of Human Rights. It also affirmed, only a year before the Tibetan uprising began, that the subjugation of peoples and exploitation constitutes denial of fundamental freedom, is contrary to the Charter of the United Nations and is an impediment to the promotion of world peace and co-operation. The United Nations concern and involvement on the Tibetan question was certainly more legitimate than that of the so-called "humanitarian intervention" under traditional international law.

Of course, the United Nations was unable to remedy the situation in Tibet or to protect the cultural rights of Tibetan people. That was due to the inherent limitation of the powers of the organisation - in particular of the General Assembly - which can normally only recommend, advise, appeal or request member nations to do, or not do, certain things unless the situation or dispute called for action under Chapter VII of the Charter, there is little else United Nation organs can do for the rest; one can rely only on the interplay of diplomacy or world public opinion.

What role did India play and why was its pattern of behaviour different on different occasions? Right from 1950, the Indian attitude towards Tibet was marked by intense sympathy for the Tibetans in their grim struggle to maintain their cultural distinctness. In the United Nations General Assembly discussions on Tibet in 1959 and 1961, India abstained on the plea ~~that~~ its participation might queer the pitch for a possible Sino-Tibetan reconciliation. However, in 1965 there was a shift in the policy of the Government of India and it decided to vote in favour of the United Nations resolution deploring the continued violation of the Fundamental Rights and Freedoms of the people of Tibet.

What role did India play in the debates? It was one country most vitally interested in Tibetan fortunes; also, one which had a series of agreements with the Tibetan Government bearing on Tibet's status. Yet the leader of the Indian delegation in the United Nations, V.K. Krishna Menon, preferred to play an evasive role in the General Assembly debates. Menon raised a number of other issues without clinching them, but the main burden of his song was that the disturbances and tribulations of Tibet were "a part of the great changes that were taking place in the world", and that, although India would have liked

"those changes take place more peacefully ...with the least degree of violence, there was no point in stressing them so much" because we think that the welfare of the people concerned and their future depends on some extent upon the restraint that can be exercised". Menon concluded by saying that "the only hope of the future lay in reconciliation between the Tibetans" some reconciliation would come about and that this sorry chapter of history would then be forgotten and be a past chapter. It was in this confidence that the Jam Saheb of Nawanagar had pleaded for adjournment of the discussion of the Tibetan question in 1950; and Menon, despite the violation of solemn pledges by China and the tragic incidents that had followed, considered it expedient to sing the same tune over again.

It is relevant here to underline the contrast between India's attitude on the question of Tibet and the active role that it played when question of a similar nature came up for discussion in the United Nations. Often in the past, Nehru had been among the first in denunciation of actions and policies which smacked of imperialism, colonialism or racial discrimination. The question of apartheid in South Africa, as also the Suez Crisis in 1956, had stirred India to the use of the strongest language of protest.

Why was then India's pattern of behaviour on the question of Tibet so different? Menon's participation

in the debates made it clear that "the Government of India does not approve, does not support the discussion of this question in the United Nations". It seems he said, this keeping in view Nehru's broad policy of maintaining friendly relations with China.

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