Chapter II

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China with its ancient civilization and history has aroused the curiosity and more often than not the dread of nations around the world since time immemorial. India and China are two largest Asian countries; these are neighbours having a long common boundary, sharing a border of 3,800 kilometers, whose combined population of above 2 billion constitutes one third of the world’s total. Both fall under the label of developing countries. Both are viewed as emerging giants in world economics of the future. Both have similar sociopolitical history. Both were infested with poverty and diseases in the past. But the major issue that is not yet solved is over boundaries. Since 1913-1914 tripartite Simla Conference, Sino-Indian border, as part of the issue of Tibet’s status has been a matter of dispute in the relations between two countries. However, the harsh reality is that in the 21st century the India-China relationship is bound to be one of the most important bilateral relationships in the global order. How they manage their relationship will have a tremendous impact on peace and stability in the regional and, increasingly on the world.

India-Tibet Historical Relations

Historically, apart from being physically inaccessible, Tibet had generally preferred to shun all external contact. Apart from its aggressive forays around the 8th century, it was only in times of distress that they would even turn to seek help from outside. Often whosoever was friendly, powerful and willing to respond to such sporadic requests for help was welcome though each of them developed vested interests and became a liability in the long-run. India was the only exception where contacts had never been temporal but only of cultural and commerce. Unlike both Russia and China, the favourable topography of Indo-Tibetan frontiers had greatly facilitated Indo-Tibetan interaction since the ancient times. Besides, Nepal was the birth place of Lord Buddha and India place of his nirvana which had guided their mutual perceptions.
Tibet emerges from darkness with the spread of Buddhism in the seventh century A.D., and it was during the regime of Emperor Srong-batsan Sage Po, in 633-698 A.D.; who is believed to have come from Ladakh. The Tibetan script which was invented during his regime was based on the Sanskrit script. During the next centuries Tibetans were able to keep up their widespread military activity under the long line of the Gampo Kings. They had good relation with Mongols; with China they have relation of equality. (Maxwell, 1970:2)

No doubt India’s links with Tibet had existed since ancient times yet, these contacts had remained confined to culture and commerce. These had become far more regular and stronger since 7th century AD when Buddhism was officially patronized as the religion of Tibetan Kings. Conversely, thanks partly to the physical terrain, China’s contacts were never as ancient as that of the Indian subcontinent yet they had been predominantly territorial, administrative, militaristic and political in their nature (in that order) with culture and commerce staying at the margins. (Swaran Singh, 2003: p.44). All this continued imperial attention on Tibet must have been there, at least, partly because of its strategic significance for these empires which kept unfolding as the modern technologies broke traditional barriers and made Tibet accessible to the outside world. (Swaran Singh, 2003: p.44).

More credible records of non-religious interactions between Tibet and South Asia go back to the 10th century AD king Skyeid Mgnon of second Sakya Dynasty had divided his kingdom amongst three sons leading to territorial demarcations between what is presently India’s Ladakh and Himachal Pradesh with Tibet. Later, during the 13th century, the Lamaism spread to Mongolia and powerful Mongols were allowed to assume the protectorate of Lamaist Buddhism and exercise their authority in Tibet through Sakya Pandita - a relationship which flourished following Khublai Khan’s conquest of China in 1279 but it gradually blurred with the decline of Mongolian empire.

The first recorded instance of Tibetans voluntarily inviting China’s military help was in 1724 when they invited Chinese forces against the Mongols. Then, in 1728, Tibet accepted Chinese Amban (resident) as also China’s military protection since 1728. As always, the Chinese presence soon begun to emerge as too powerful to handle and in 1733, the Chinese put an end to the institutions of king and combined both spiritual temporal authority of Tibet
under the Dalai Lama. The last time Chinese forces were voluntarily invited to Tibet in 1790 to deal with military aggression by the Gurkhi forces from Nepal.

Tibet had generally enjoyed autonomy and none had ever had absolute control over Tibet, definitely not for a longer period of time. The rise of Britain and Russia as colonial powers at the beginning of 19th century was to make China weak and vulnerable. Tibet again came to be the subject of attention for the Anglo-Russian power projections in Inner Asia. When in 1840 King of Punjab and Ladakh, Raja Gulab Singh, sent his general Zorawar Singh to conquer Tibet, there was no Chinese presence to be seen, through Tibetans managed to defeat these Indian forces. In fact, it was in face of China’s repeated failure to restrain Western powers’ influence that began from the second half of the 19th century, Tibet had to break from its self imposed isolation making a major shift by opting a policy of equidistance.

**India-Tibet Cultural Relations**

The culture intercourse between India and Tibet is described sometimes as Buddhist conquest of Tibet and sometimes as Tibetan preservation of Buddhism. The Dharma which was propagated and preserved in Tibet was the Mahayana Buddhism as expounded in Sanskrit. Most of the Sanskrit scriptures’ and commentaries are however lost and but for the famous Tibetan translations even the titles of Prajnaparamita Tantra literature would have been lost forever. Biographies of Indian saints and scholars like Nagarjuna, Dignaga and Santideva are today recovered from Tibetan literacy treasures. Indian saints who prorogated in Tibet are today remembered better in Tibet than in their homeland. Thus the names of Padmasambhava, hailing from western India Suvastu or Swat near Peshawar in Pakistan, and Atisa, hailing from eastern India (Vangala somewhere in Bihar or Bangladesh), are the most venerated household words in Tibet.

The word Brahmi, little known to Indian intelligentsia till James Prinsep read the Asokan edicts, was familiar to the monks and scholars of eighteenth century Tibet. Five centuries earlier when Firuz Shah Tughluq had the two Asokan columns from Ambala and Meerut transplanted to adorn his metropolis, no Indian scholar could read the inscriptions; even the name of Asoka was then obsolete in India. Tibetan historiography, which had come into its own much before Firuz Shah Tugluq became Sultan of Delhi (1351), however had set the
form that Asoka as the first and greatest Dharmaraja must be included in a history of Tibet. It was indeed a historic acknowledgement of the great truth that without Asoka the Dharma would have never spread outside its own homeland.

The story of the propagation of the Dharma is admittedly of interest to the specialist in ancient history, both of Tibet and India. The impact of an Indian religion on Tibetan mind is, however, of no less interested to the specialists in modern history.

For along with Buddhism the entire context of dharma pervaded down to our own times the life and thought of Tibet. In Tibetan memory while some times consume and cuisine or social customs and secular institutions might have come from east or the north, all moral and intellectual items came from India. In fact this total sentiment, rather than a list of numerous contributions from the land of Enlightenment, measures magnitude of Indian impact on Tibetan mind.

It is a well-known event of Asian history that when, in the first half of the seventh century, the Tibetans needed a script of their own they sent their scholars to India. A script modeled on the Brahmi characters of the Gupta period and an alphabet drawn from Sanskrit and adapted for Mongoloid phonetics are the lasting contributions of those scholars. Eventually the Indic medium revolutionized the context, the thought process and the mode of expression in the language of Tibet.

An American Sinologist, Carrington Goodrich, lments that for inexplicable reasons the Tibetans did not adopt Han ideograph for their uses and choose the Indic phonetic. Difficulties of adapting pictograph evolved in a foreign language are conveniently ignored by the Sinologists. The really inexplicable fact is 'why an Indic medium.' Sanskrit or Brahmi was not the only phonetic medium prevalent in Inner Asia in the seventh century. Tibetan acquaintance with several phonetic scripts like Kharoshthi is well known while the linguistic and morphological which determined the Tibetan preference for Brahmi are not known today. When one asks the monasteries of Tashilhunpo and Lhasa to the learned monks there the precise reason for Indic preference. The answer comes "as we got the sacred doctrine from the land of Enlightenment we naturally sought a writing medium from the Land of Enlightenment. There was no question of assessing the merits of the known scripts."
A greater blasphemy is that, however, Buddha was not of Aryan racial stock or that the republican Sakya tribe was of Tibeto-Mongoloid Stock. Instead of pleasing the monks and scholars of Tibet this statement hurt them grievously. For a Tibetan-monk or lay, learned or illiterate, rich or poor- the highest values of life are all from Aryabhtmi, as the subcontinent is described in honorific usage, and Buddha was Aryan par excellence.

Within century and a half of the first propagation of the Dharma and despite violent opposition by the priests and patrons of the native Shamanism (bon), a popular consensus in Tibet held that any objects or idea from the Land of Enlightenment would be ipso facto valid. The last decade of the eighth century in Tibet witnessed a doctrinal debate between India and Chinese exponents about the authentic mode of striving for Nirvana. As to extremely divergent views were disturbing the people’s mind a regular session of polemics was held; Pandit Kamalasila leading the Indian side and Hoshang leading the Chinese side while assembly of Tibetans were the judges. The Tibetans by an overwhelming majority voted for Kamalasila. Modern researches bear out that both views were correct and that both views had support in Indian Sanskrit literature. The Tibetans, it is now clear, supported kamalasila simply because he was from the Land of Enlightenment rejected Hoshang simply because he was not a native of the Land of Enlightenment. History records that the Tibetan expelled Hoshang from Tibet and proscribed for ever preaching of the dharma by any Chinese. Till the 17 point Agreement of 1951, the expulsion of Hoshang was a famous mystery play in the monasteries of Tibet. (Nirmal C. Sinha, 1975:14)

It is an extra-ordinary fact that though Buddhism as a distinct denomination came to an end in the plains of India, that though the Bodh Gaya temple and other pilgrimage spots, if not in Hindu hands, were uncared for and lying in ruins, and that though great centre of learning like Nalanda and Taxila were destroyed and dead by the twelfth century, mystic sages and even ordinary pilgrims from Tibet never ceased to visit the ruins and remains of India’s Buddhist past. We have trustworthy records that even in the region of Jahangir (1605-27) pilgrims from Tibet would not only visit Vajrasana (Bodhgaya) and Varanasi (Banaras) but would wander both in the northwest and northeast of the Moghul Empire in search of ancient of Tantra. This was more so in the region Shah Jahan (1628-58), whose son Shuja as Viceroy of Bengal had in1656 sent Muslim (Bengal calico) and other presents to the fifth Dalai Lama,
the great priest-king of Tibet. A century later when the East India Company gained a firm hold on Bengal Subah, the Fort William authorities prompted recognized the Tibetan customs of Pilgrimage and trade in India. To foster this tradition, the British readily complied with the (then) Panchen Lama’s request for a grant of landing Calcutta for building a monastery and rest house for the Tibetan visitors. The campus on the Howrah side of the river is still known as Bhothagan.

An equally extraordinary fact is that though during the period of successive minor Dalai Lamas an anti-British attitude had grown in Lhasa, India never lost its great attraction for all Tibetans, pilgrims or traders. In 1904 when the British Expedition reach Lhasa the Dalai Lama XIII fled to Mongolia, a ‘disciple land’ and an old protector of the Dharma. In 1910 when the Chinese occupied Lhasa the same Dalai sought refuge in India and lived here for about three years. In 1950-51 the Dalai Lama XIV, it is reported, looked for asylum in India but did not ask for it on reconsideration. The Sino-Indian Agreement (1954) affirming Chinese sovereignty over Tibet was in Tibetan opinion, India’s betrayal of Tibet’s title to independence. Yet in the Buddha Jayanti Year (1956) the Dali Lama led the Tibetan pilgrims to India in the teeth of Chinese opposition. The Dalai Lama, it is now admitted by all concerned, had sought asylum then and was refused. Yet in 1959 when forced to flee his country the Dalai Lama chose the “auspicious India” as the destination and eventually found refuge in India.

Irrespective of the states of Dharma in its home land and irrespective of the opinion of any government in India, the Tibetans considered India the Land of Refuge. Implicit faith in a neighbour is a rare phenomenon in international relations. But it is the Dharma responsible for this turn of mind.

If dharma is pronounced as the sole or prime cause for Tibetan’s attachment to India, one is at a loss understand why Myanmar (Bhutan) or Sri Lanka (Ceylon) or the Southern Buddhist countries in general never developed such attachment to India. On the other hand indifference, if not hostility, to the Land of Enlightenment has characterized the attitude of the Southern Buddhist countries in modern times. While the reasons for such attitude are not quite relevant here, a reference to this attitude is made to illustrate the thesis that cultural, religion or ideological considerations between nations.

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The considerations which caused good relations between Tibet and India in the past, in my submission belong to the history of materialism and not to the history of mysticism. In my finding, physical geography, social customs, occupational modes and political institutions of Tibet combined to keep Tibet away from China and nearer to India.

Tibet, in the tributes made trade with China uneconomical. Therefore Mongolia often sought trade opportunities in and through Russia, and Tibet built a regular and profitable outlet in and through the Land of Enlightenment.

For India from times immemorial the most prized pilgrimage was to cross the Himalayas, to have a bath in the Mansarovar or to have a sight of the Kailas. (Nirmal C. Sinha, 1975:14)

**The Forgotten Frontiers**

"Study of frontier wherein elements both of political as well as human geography have played significant roles is that of India's long and sprawling, land frontier divided, for convenience, into the north-west and the north-east. In sharp contrast to the western half, long-embattled and a troubled-spot down the ages, the eastern, remarkably quiescent for most part, has been called a 'neglected', and a 'forgotten', frontier". (Adhikari, 2002:188) To go no farther back than the middle of the nineteenth century, Lord Dalhousie, then British India's Governor-General, pronounced it to be 'a bore' while nearly fifty years later, his more pushful, if equally controversial successor, Lord Curzon categorically disclaimed any desire to develop 'a Northeast Frontier Province, policy or change'. For this he asked the Chief Commissioner of Assam to submit a comprehensive report regarding the 'undefined' territory of different tribes staying there. (Michael and Walt, 1987: 84). To define these frontiers Younghusband's expedition to Lhasa was sent. The emphasis was on look into frontiers of North-East and opening of trade with eastern Tibet.

"An initial, and by no means unimportant, step in the direction of dealing with tribes on the north-east frontiers of British India was the induction toward the end of 1882, of Jack Francis Needham as assistance political officer (APO) at Sadiya, not far from the bend of Brahmaputra, known here as Dihang. His appointment had followed in the wake of the British occupation, in 1881 of Bomjur and Nizamghat. The APO's principle task was to be political.
Placed in a subordinate capacity to the deputy commissioner of Dibrugarh, the latter was directed to issue, through Needham, orders on all matters relating to the Abhor, Mishmi and Singhpho frontiers. Beside,” (Mehra, 1974: 1)

arrangements regarding the location of all frontier posts, their supplies the patrolling between them, as well as the political relation with the Abors and Mishmi was to be carried on through him.

A little over a decade after his appointment, Needham faced, in November – December 1893, the incipient rebellion of the Bor Abors, the Passi Abors and the Mishmis. His views that sever punishment, and a blockade, be imposed on the erring tribes was overruled because of the Assam Chief Commissioner's rigorous limitation both in terms of men and money he could spare. With the latter view the Supreme Government broadly agreed for above all it was keen that operation be concluded, 'so far as possible', by the military police. (Mehra, 1974: 1)

Nor was that all, for Needham who had been in charged was accused too-of want of judgment and political foresight. All this, however was for the short run. Later, thank to the effectiveness of the blockade, the Abors of Membu, Dadu, Sillak and Bomjur soon anxious for peace and by the end of 1895, the lesson seems to have been driven home to some of the other tribes. Consequently, the blockade against the Passi Minyong Abors was lifted by end of the year, and against the Bebejiya Mishmis in 1896. The Bor Abors, however, had to face this ordeal for good five years before they realized their weakness for it was only in 1901 that they showed any willingness to resume normal relation with the assistance political officer at Sadiya. (Mehra, 1974: 5)

“Needham’s appointment as Assistant Political Officer, as has been briefly noted, was made in 1882 and his role was defined as that of ‘special adviser’ on all political questions relating to the frontier and its tribes. Before long Authority noted that his views were entitled to ‘considerable weight’ because of his intimate knowledge and complete familiarity, with his charge at a fairly early stage. Between December 1885 and January 1886 he had journeyed to the point very close to Rima, and was amongst the first European who had traveled this route.
without a mishap—his forebears on this journey Krick and Boury, back in 1854, had been killed by Mishmis in the Zayul valley. The main geographical interest of his journey lay in the confirmation it afforded to the narrative of A K Pandit of the Trigonometrically Survey of India who had made his way from the Tibetan side to Rima in 1882 and lived in the Zayul valley for some weeks. On the great mystery of the Tsangpo, Needham affirmed‘that no river in any degree comparable to the Sanpo in size joins it between Sadiya and Rima and consequently the Sanpo must pass into the Brahmaputra west of Sadiya, and my opinion is that it can be no other than the Dihong’. (Mehra, 1974: 4)

Needham’s zeal and enthusiasm about Rimas notwithstanding the Government of India’s response was far from encouraging. It was clear that for official expedition beyond the frontier Government prior sanction was necessary, nor was there any ambiguity about Calcutta’s considered view that without ‘clear evidence of their necessity and utility’, no such expeditions were called for.

Despite this ‘douche of cold water’ Needham, in 1888, visited the Hukong valley in the borders of Burma. This survey established that possibility of reaching Hukong by either of the two routes— one by Nongyond Lake and the other by way of Yogi, Phoong, Morang and Shangye. Three years later in 1891, Needham at the instance of the Government of Burma visited the Hukong valley again. The aim now was to join hands, from the Assam side with a column from Burma which was being sent to Mungkhom to subdue the tribes living north of Mogaung, between the Irrawaddy and the Hukong valley. In a long and detailed report on his journey, Needham was far from complimentary to the Burmese column or the arrangements made for their advice. (Mehra, 1974: 5)

In December 1898— a few weeks before Lord Curzon took over the Vice royalty of Chief Commissioner’s of Assam suggested that the blockade against the Bor Abors should be maintained, albeit other tribes in the north of Assam had been absolved from its rigours. The main reason of course, was the continually hostile attitude of the Abors who it was feared might in the event of the blockade being lifted, descend upon the Miris. Assam’s recommendation was agreed to by the Supreme Government. Later that year, an outrage was committed by the Bebejiya Mishmis on a hamlet at Mithagaon, nearly 16 miles to the north-east of Sadoya, necessitating the despatch of an armed expedition. Its objective was to arrest
and punish the perpetrators of the massacre and recover the guns and the children adducted. Apart from acquiring information about 'this unknown country', the gams of Aiyu Mimi village that, allegedly, were guilty of perpetrating the 1893 outrage, were to be arrested. Plainly the principle aim was punitive and the Commissioner noted that there was, (Mehra, 1974: 5) no question of annexation or of the permanent occupation of new territory for this hilly and inhospitable country is not only worthless to us from every point of view, but it is bounded in the far distance by the inaccessible mountain ranges which are the frontier of Tibet. We do not desire to have any close relation with the savage Mishmi tribes that we have at present.

"Needham who acted as the Political Officer of the expedition found it difficult to define accurately the physical limits of the country occupied by the Bebejiya Mishmis in contradistinction to their more pushful, if aggressive neighbours, the Chulikattas. The expedition also brought to the fore the question of defining more accurately the precise connotations of Inner and Outer Lines as indicated on maps, or observed in practice. Some of this pronouncements throw an interesting sidelight on controversies which were to rage, and violently, later. Thus the following comments regarding the Inner Line make interesting reading" (Mehra,1974: 11)

the Inner Line is really our administrative border....... Or again,

what was subsequently called the Inner Line is a line fixed for purpose of jurisdiction. Our Officers need not actively govern up to it, but they must not attempt to govern beyond..... The tribes beyond the Inner Line are required to work on local roads. Elephant 'Mahals' beyond the Inner Line are led on lease to Khamti and Sinappho gams, and a poll tax is levied for Bor immigrants who settled in the plains below the foot of the hills. Practically speaking, jurisdiction is exercised upto the foot of the hills, and all claims put forward by Abor and other tribes to plains, land as a portion of their territory have always been repudiated. In several agreements executed between the Deputy Commissioner of Lakhimpur and Abors in 1862, 1863 and 1866 it was recited that the British territory extended to the foot of the hills. It is for this reason that the Chief Commissioner has insisted on the payment of poll by all
settlers...and has allowed no misconception on their part in regard to this status when allowed to settle in the plains. The degree of protection is bound to afford to trans-Inner Line settlers is a matter which calls for determination when the question arises...

In 1899 the then Secretary of Foreign Department of the Government of India made it clear that the Outer Line on the map of Assam is only an imaginary boundary. Later his Deputy said that ‘the Outer Line .....has ever to be precisely defined’ it may not be easy for the information possessed by authority on this area was admittedly very vague. That the whole thing needed clear definition is evident from Lord Curzon’s somewhat terse noting:

We seem to do things in rather unscientific and haphazard manner (so far as boundary, authority and jurisdiction are concerned) upon the North-East Frontier. (Mehra, 1974: 9)

Again, by the time Younghusband was preparing to leave for Gyantse, the question of securing, at an early date, a definition of the physical boundaries of Tibet became a subject of considerable interest and was indeed driven to the fore. Thus in an annotation of 8 July 1904 the then Foreign Secretary of the Government of India urged that the matter be brought to the notice of HMG: (Mehra, 1974: 9)

Colonel Younghusband will probably be able to supplement our inadequate existing information on this point and all that would be required would be a written recognition by China and Tibet as to what these boundaries are.....

A development that was to focus considerable attention on the Frontier was a tour which Noel Williamson undertook between December 1907 and January 1908. His principle objective, apart from the general one of gathering more information about the country and its people was to explore ‘the practicability’ of a trade- route with South – Eastern Tibet. Unaccompanied by an escort and with a few companions, the farthest point Williamson reached was Sati, 35 miles south from Rima. His tour marks what may be termed the powerful impact, direct as well as indirect on this part of the frontier of Younghusband’s expedition to Lhasa. The emphasis on trade and the opening up of the eastern Tibet, which may be regarded as characteristic feature of this period, gradually gave way to a growing interest in the exploration of the tribal areas and of extending the government sphere of influence. The latter itself was a direct result of mounting, yet inexorable, pressures from the north. For China, in
the last decade of Manchu rule, had suddenly awakened to the power vacuum that was Tibet, and Mongolia. (Mehra, 1974: 14)

The Status of Tibet

"Tibet geographically is a high plateau in the centre of Asia. It lies roughly within the 28th and 36th parallels of north latitude and 79th and 99th of east longitude and has common frontiers with both China and India. It marches with "China Proper" (i.e. the 18 provinces) for some 1,400 miles along the border of Yunnan, Szechuan, and Kansu provinces and for some 1,300 miles more with Sinkiang. With India, Bhutan and Nepal it has some 2,000 miles of common borders. History and traditions show that Tibet lies within the scope of Russians expansion in central Asia. Hence here geography position has made her the political junction of Asia’s three largest land powers, China, India and Russia. Consequently she has played a significant role in the development of India-China relations during the period under review." (Maxwell, 1970:2)

Tibet’s Relation with British India

Bogle Mission of 1774

Before the signing of the Treaty of Nanking in 1842 British dealings with China were confined to trade at Canton. Hence, not surprisingly the 18th and the 19th century attempts were made to develop Anglo-Chinese relations across the Himalayan Mountains. In 1774, Hastings sent a mission, ostensibly a commercial one to the court of Panchen Lama under Bogle. He was instructed to enquire carefully into the relation between China and Tibet and the nature of the roads that linked the two countries together. Besides establishing a firm and mutual friendship between the sixth Panchen Lama and Bogle this mission from the political point of view was only a partial success. Bogle’s reading on the nature of the relationship between China and Tibet gave to the establishment of Anglo-Tibetan relationship a new significance. He concluded that the relationship of the Lama and the Chinese Emperor could be compared to that of the Pope and Medieval German Emperor.

"It must be mentioned here that towards the latter part of the 19th century Manchu authority over Tibet began to dwindle fast into decrepitude. The tottering edifice of Manchu imperialist
could no longer maintain its existence in the feverish competition with the rival imperialism of Britain and Russia. This sharp decline in China's power and authority gave opportunities to Great Britain to advance her interests in the "Roof the World". (Ghosh, 1970: 4)

**Macaulay Mission of 1885**

In 1885 the Macaulay Mission sent from India was intercepted by the Tibetan Government, because the Tibetans refused to recognize the treaty or allow the mission to enter into Tibet. The withdrawal of the mission was a concession to the Chinese with whom British was then engaged in the delimitation of the Burmese frontier. The Macaulay mission incident was the beginning of the weak and abortive policy which lost the British the respect of the Tibetans, and led to the succession of affronts and indignities, and which made the expedition to Lhasa (Younghusband expedition) inevitable in 1904. (Ghosh, 1970: 4)

**Anglo-Chinese Convention of 1890**

Constant dispute and difficulties arose in consequence, which eliminated in 1886 in the dispatch by the Tibetans of an armed force which crossed the Chumbi frontier by the Jelap La and occupied Lingta, a place some ten miles from the pass and well within recognised Sikkim territory. As armed clash between the British and the Tibetan troops seemed imminent, the Chinese Government immediately opened negotiations with the British Government, and after two years of fruitless discussion the Anglo-Chinese Convention was eventually signed at Calcutta on 17, March, 1890. Article I of the convention determined the boundary between Sikkim and Tibet, and by Article III both the Government "engaged reciprocally to respect the boundaries and to prevent acts of aggression from their respective sides of the frontier."

It has been argued that this agreement constitute an acknowledgement on the part of Great Britain of China's sovereign rights over Tibet, but this interpretation of the convention has no legal or logical foundation as the wording of the article clearly imply. The most remarkable provision of the convention is to be found in Article II which provided, "It is admitted that the British Government whose protectorate over the Sikkim state is hereby recognised has direct and exclusive control over the internal administration and foreign relations of the state, and through and with the permission of the British Government neither the ruler of the state nor any of its officers shall have any official relations of any kind formal or informal with any
country.” There was however no acknowledgement on the part of the British Government of China’s authority over Tibet. Therefore the utmost that can be deduced from the convention in favour of China is that it recognised the rights of China to enter into an international agreement in respect of Tibet without the intervention of the Tibetan authorities. This does not, however, imply that this was the sole and exclusive right of the Chinese Government and as such it could not be exercised by the Government of Tibet. (Ghosh, 1970: 6)

In the years following the conclusion of the Convention (1890) and Trade Regulations of 1893 the terms were not implemented by the China which did not have the power to implement them in Tibet and by Tibet herself which did not care to recognize the validity of the Convention and Trade Regulations, since she was not a signatory. Subsequently, events indicate that the Convention remains a dead letter, *ab initio*, and China’s capacity to conclude binding treaties on behalf of Tibet was at best a farce. Similarly, the 1893 Trade Regulations were still born and the Tibetans went to the length of informing the British Government that “as the Convention had been signed by the Chinese only, the Tibetan Government refused to recognize it as effective in Tibet”. (Ghosh, 1970: 6)

**Lhasa Convention of 1904**

A mission under Colonel Francis Younghusband, a close ally of Curzon, was quickly underway, and after a series of clashes with Tibetan forces and efforts to negotiate with representatives of the Dalai Lama, reached Lhasa on 4 August 1904. The Dalai Lama had fled earlier to Urga in Mongolia, (Sinha, 1975:18) but Younghusband rounded up a quota of representatives of the Tibetan government and the three leading monasteries with a sufficiently important official to affix the seal of the Dalai Lama. A convention was extorted on 7 September 1904 by Colonel Younghusband, C.I.E; British Commissioner, Tibet Frontier Matter, on behalf of his Britannic Majesty's Government; and by Lo-Sang Gyal-Tsen, the Ga-den Ti-Rimpoche, and the representatives of the council, of the three monasteries, Sera, Drepung and Ga-den, and of then ecclesiastical and lay officials of the National Assembly, on behalf of the Government of Tibet.(Aitchison,1909:348) The Chinese Amban (Chinese officer in Tibet), it would be noted, refused to sign the convention. The convention contained nine articles, which compelled such concessions and imposed such restrictions upon Tibet as
would ensure the predominance of British influence. An indemnity of £500000 was established and this was to be paid in seventy-five annual installments, commencing in 1906. The British government would occupy the Chumbi Valley until the indemnity was paid and until Tibetan trade marts were effectively opened for a period of three years, whichever date might be the later. No other state was to be allowed to intervene in Tibetan affairs, to send representatives or agents, or to obtain any concessions whatsoever without British consent. (Greenhut II, 1982: 22-23) The convention bound the Tibetans to refuse entry to the representatives or agents of any foreign powers other than Britain, and so, it seemed, ensured that Tibet would remain in what the British saw as the state of isolation. (Maxwell, 1970; 40) The convention provided for the establishment of trade marts at Yatung, Gyantse and Gartok and the promotion and encouragement of commerce between India and Tibet. A British commercial agent was station at Gyantse, and he was empowered to proceed, when necessity arose, to Lhasa.

By article VIII of the convention the Tibetan Government agreed to raze all forts and fortification and remove all armaments which might impede the course of free navigation between the British frontier and the town of Gyantse and Lhasa. (Aitchison, 1909:348)

Under article IX the Government of Tibet undertook that no portion of Tibetan territory shall be ceded, sold, leased, mortgaged or otherwise give for occupation, to any foreign power, no such power shall be permitted to intervene in Tibetan affairs, no Representative or Agent of any foreign power shall be admitted to Tibet, no concession for railways, roads, telegraphs, mining or other rights, shall be granted to any foreign power, or the subject of any foreign power. In the event of consent to such concessions being granted, similar or equivalent concessions shall be granted to the British Government, no Tibetan revenues, whether in kind or in cash, shall be pledged or assigned to any foreign power, or to the subject of any foreign power. (Aitchison, 1909:349)

Thus Convention opened Tibet to British trade. It secured to British direct influence over the external policy of Tibet. It eliminated the danger of the Russian bear grimacing at India from the roof of the world. It is significant that the treaty was concluded between Britain and Tibet without reference to China. It bears the seal of the representatives of Tibet and those of British
Government, but non seal of China. The conclusion of the treaty thus in a way provided that Tibet could act independently of China even in the matter of foreign policy (Aitchison, 1909:349).

The British entered Tibet by using official permission from Peking, which they obtain in their Chefoo convention of 1876 at the end of Opium Wars. But since, Tibet refused to honour permission granted by Peking, Britain followed with its now famous Younghusband expedition of 1904 which was followed by treaties of 1906 and 1908, making Britain Tibet’s *de facto suzerain* colonial power. The Dalai Lama meanwhile fled to Mongolia and the British succeeded in obtaining from Tibet unprecedented concession granting that:

No portion of Tibet territory shall be ceded, sold, leased mortgaged or otherwise given for occupation, to any foreign power;

No such power shall be permitted to intervene in Tibet affairs;

No concessions for railways, roads, telegraph, mining or other rights shall be granted to any foreign power, or the subject of any foreign power;

No Tibetan revenues, whether in kind or cash, shall be pledged or assigned to any foreign power, or subject of any foreign power; and

In the event of consent to any such concessions being granted to any foreign power similar or equivalent concessions shall be granted to the British Government.

British were perhaps least interested in annexing this ‘worthless’ piece of land. Instead, they wished to keep alive only the phantom of Chinese suzerainty which had a purpose in their great game-plan of imperial competition. Accordingly, they signed another British India-China agreement of 1906 there by obtaining further concessions to lay down telegraph lines connecting their trade centers in Tibet with India. And this time the British were in position to implement their mandate irrespective of Tibetan sentiment. For this unsought recognition the Chinese happily agreed to pay entire war indemnity of Rs. 75 lakh which the British had earlier imposed on Tibet. But soon this British recognition also resulted in China trying to regain control over Eastern Tibet and expeditions for this purpose begun from 1908-1909.
Anglo-Russian Convention of 1907

The Chinese never accepted the convention. British opened discussions with Russians related to Tibetan affairs and these talks resulted in one of the three parts that finally comprised the Anglo-Russian convention signed at St. Petersburg on 31 August 1907. Convention between Great Britain and Russia relating to Persia, Afghanistan and Tibet. Signed at St. Petersburg contains five Articles, Article I states that both Russia and Great Britain would not interfere in internal administration of Tibet and Article II states not to enter into negotiations with Tibet except through the intermediary of Chinese Government. Both agreed not to send representative to Lhasa. (Mehra, 1979: 5-6) This convention clarified Anglo-Russian positions towards Afghanistan, Persia and Tibet. (Greenhut II, 1982: 46) In this agreement, Britain entered into a joint undertaking to keep out of Tibet; to enter into no negotiations with the Tibetans except through the intermediary of China; 'to respect the territorial integrity of Tibet and to abstain from all interference in its internal administration. Thus, Tibet was set up, like Afghanistan, as a buffer state mutually accepted by Russia and Britain. The Anglo-Russian Convention of 1907 had set up Tibet as a buffer between the Russian and British empires: what was needed now was a parallel arrangement, which made Tibet serve a buffer between the Chinese and British. (Chakravarti, 1961: 22)

Chinese army invades Tibet in 1910

With the mounting tension in Europe, the British Government foreign office became preoccupied with European affairs. China found her opportunity and in 1910 again sent an invading army into Tibet. At this juncture, The Dalai Lama chose to undermine China's claims by turning to Britain for assistance which, however, was denied. This selective indulgence by the British, clearly undermined Tibet's policy of equidistance and, on the new year's day of year 1910, Chinese armed forces entered Tibet. This was the first time when Chinese forces had entered Tibet without invitation from Dalai Lama. Chinese forces captured Lhasa and pushing as far as Gartok and the border of Ladakh, occupied the whole country. The Dalai Lama who had returned to Lhasa, after years of wandering, in December, 1909, again fled, this time to India. The Chinese deposed him. Most Tibetans, however, just mocked at the deposition and continued to regard the Dalai Lama as their lawful ruler. "Chinese edicts and proclamation in Lhasa were torn down or plastered with dung by an
outraged population.” (Chakravarti, 1962:23) Thus in the beginning of 1910 the Chinese were effective power in Tibet, and Britain’s policy of keeping the Russian out had been rendered meaningless and it indeed had not been stultified. India had lost her buffer. (Peissel, 1972:42) The authorities in India, of course, needed no such warnings. Always sensitive to developments beyond the frontiers, they had watched the rapid reassertion of Chinese power in Tibet with mounting misgivings, and reacted with alarm when in May 1910 the Chinese occupied Rima, demanded taxes from the inhabitants, and gave orders for the cutting of a road through the tribal belt to Assam. By moving into the tribal belt, the Chinese would raise an immediate strategic threat to Assam, and here were no wastelands such as lay on the north-west frontier, but the spreading gardens of a rich British-owned tea industry, coalfields and other British economic interests. (Mehra, 1974: 103)

Chinese Revolution of 1911

On 10, October, 1911, a revolution started by a secret plot at Wuchang set the tumbrils of the revolution rolling in China. Before many months have passed, the c’ching dynasty, badly shaken by the Boxer rising of 1900-1901 and the death of Dowager Empress Tzu Hsi in 1908 seemed destined to be on the way out. But early in 1912, the Manchus called it a day and handed over to Yuan Shih-kai who, as leader of the New Army in North China, had by December 1911, maneuvered himself into a strong position. Later he was called upon to head the new Peking regime and seemed a rallying-point for all that could be salvaged in the then prevailing situation, perhaps the only choice. As the Imperial Edict of February 1912 declared:

“Yuan Shih-kai, having been elected sometime ago President of the National Assembly at Peking, is therefore, able at this time of change to unit the north and south, let him then with full powers to do, organise a provisional Republic Government, conferring thereon with the representatives of the Army, of the people, that peace be assured to the people whilst the complete integrity of the territories of the five races, Chinese, Manchus, Mongols, Muhammadans, and Tibetans, is at the same time maintained making together a great state under the title of the Republic of China (Chung Hua Ming Kuo).” (Mehra, 1974:103)
Due to internal strains to which it was exposed, the Republic faced a situation in the 'Outer Dependencies' that was none too comforting. In December 1911, Mongolia, under the Urga Huthukhtu (who was crowned 'Khan of all Khalkha, the ruler of Mongolia and the Great khan of the Empire'), proclaimed his country. (Mehra, 1974:104)

An independence state under a new government endowed with authority to manage its affairs independently of others, Mongolia shall obey neither Manchu nor Chinese officials, whose administrative authority is being completely abolished.

“Situation in Tibet was no better, by the end of November (1911), Chinese garrisons in Yatung and Gyantse were becoming mutinous; by December, troops in Lhasa had deposed the Amban Lien Yu and replaced him by the ambitious General Chung Ying, commander of Chao Erh-feng’s flying column to the Tibetan capital. Meanwhile the rebellious Chinese soldiers in Pomed, ill-clad and ill-fed and badly mauled in the fighting, began its slow trickle back into Lhasa. The news of the October Revolution released them from the few restraints of discipline and orderly conducted that they had hitherto accepted. What was more, Lhasa’s political climate, with Amban Lieu Yu besieged by Chung Ying’s men and an unfriendly, if not a hostile, Tibetan Government in power, acted as a further spur in unleashing them to indulge in an orgy of loot and pillage.” (Mehra, 1974:105)

British anxieties related to Chinese expansion in the Assam Himalayan frontier area were, of course, greatly relieved by the outbreak of the Chinese Revolution in November 1911. (Greenhut II, 1982: 27) After the 1911 revolution Tibet had issued a declaration of independence. (Rao, 1968:84-85) The power that Chao Erh-feng (Chinese Governor in Tibet) had tried to build through years of military campaigns received a sudden setback. Tibet, taking advantage of the Chinese revolution of 1911, rose in revolt, expelled the Chinese troops, and issued a declaration of independence. Attempts made by the new Republican Government of China to reassert its authority evoked sharp reaction both from the Tibetan and the British Governments. (Rao, 1968 :85) In a Memorandum dated 17 August 1912 the British Government made it clear that it would not tolerate any further attempts by the Chinese Government to change the political status of Tibet from what had been stipulated in the treaties of 1904 and 1906. Article II, of 1906. Convention, says, the Government of Britain engages not to annex Tibetan Territory or to interfere in the administration of Tibet. The
Government of China also undertakes not to permit any other foreign state to interfere with the territory or internal administration of Tibet. Article III, says, that the concessions which are mentioned in article 9(d) of the convention concluded on September 7th 1904 by Great Britain and Tibet are denied to any State or the subject of any State other than China, but it has been arranged with China that at the trade marts specified in article 2 of the aforesaid Convention Great Britain shall be entitled to lay down telegraph lines connecting with India. (Greenhut II, 1982:28). So British were farm on that and they do not want change in political status of Tibet.

The 1911 revolution destroyed one of the most meaningful bonds between the Manchus and the Dalai Lamas; that of the patron-priest relationship. The Chinese, either imperial or republican, did not have such a concept of empire, and in April 1912 the new republic declared Mongolia, Sinkiang, and Tibet to be the equivalent of Chinese provinces and thus integral parts of the Chinese state. The Tibetans did not recognize the President of China, Yuan Shih-kai as a successor to the Manchu emperor, and while they did recognize some suzerain relationship with the Emperor, they never recognized this in the Chinese state. This interesting distinction provided them with their best case for independence. (Greenhut II, 1982:29) History and international Law have been summoned to argue that Tibet for most of its history was a state separated from China with a distinct personality of its own; that in 1913 Tibet and Magnolia jointly declared an end to the traditional tributary relationship with Manchu emperors after the Qing Dynasty collapsed. (Bhattachjieria, 1996: 354)

The collapse of Chinese power in Tibet in 1911-12 which converted Lord Hardinge (Viceroy and Governor General in India) to the forward school of thinking over the north-west frontier with Tibet and Sinkiang seemed to open an opportunity to take steps to avert future threats along India’s north-eastern boundary. (Maxwell, 1970: 46) On June 5, Hardinge wrote to the Dalai Lama requesting that he send a delegate to India for such talks. A few days later Hardinge appointed Sir Henry McMahon, the Indian Foreign Secretary, as British representative. The Dalai Lama appointed the Lonchen Shatra as his representative, and the Chinese appointed, after considerable difficulties with the British, Chen I-fan, who had recently been Councilor at the Chinese Legation in London. (Man Singh, 1998: 251) The British were quick to grasp the opportunity presented by the decline of Chinese power in
Tibet and pressured the Republic of China to agree to a definition of the Chinese status in Tibet. On August 17, 1912, Sir John Jordan, the British Minister in China, presented a memorandum to the Chinese government which clearly stated British policy regarding Tibet. (Mehra, 1979: 66) It states that Tibetan question could be easily settled by friendly negotiations. (Woodman, 1969: 178)

In 1913, the Chinese Republic of Yuan Shih-k'ai made every attempt not to respond to British insistence that direct talks should be held between Tibet and China. Finally, the British Minister Sir John Jordan in Peking threatened that: (Rao, 1968: 84)

His Majesty’s Government (HMG) will regard the Anglo-Chinese Convention of 1906 as no longer holding good, and will hold themselves free to enter into direct negotiations with Thibet. Moreover, should Chinese troops enter Thibet; they will be prepared to give active assistance to the Thibetans in resisting their advance and maintaining Thibetan independence. (Sic). The Chinese Government at first refused to accept this position. However later, as it became increasingly clear that conditions both in China and Tibet had made a reimposition of Chinese authority in Tibet practically impossible, found in the terms offered by Britain a convenient means of keeping up, in theory, at least a semblance of authority which it had found itself unable to assert in practice (Rao, 1968:85) The then Central Government of China, eager to re-establish their connections with Tibet, agreed to attend the tripartite Simla Conference and the British feared for the peace of the Indian borders and with the view of settling the Tibetan question by peaceful negotiation, (Chand, 1981:13) designated there plenipotentiary to attend “jointly” with the Tibetan plenipotentiary and to negotiate with him and the British Indian representative on terms of equality. The Chinese Government conferred full powers on their representative, what was even more significant; China accepted without any reservation the credentials of the Tibetan representative, China vested with full powers in the name of the Dalai Lama. He was authorized who was to function as an equal plenipotentiary with those of China and India and settle all matters pertaining to Tibet. Thus it was the Chinese Government of the time, which accepted a procedure, which, under diplomatic usage, is normally
adopted only at international conferences of the representatives of sovereign countries. (Chand, 1981:13)

**Simla Convention of 1914**

The British representative, Sir Arthur Henry McMahon, was the foreign secretary to the Indian Government and had to step down so as to take up his new appointment. He brought to his assignment a rich experience of the frontier, more particularly in the north-west. Since 1911, he had to deal direct, and at the highest level, with the problem of Chinese incursion into the Assam Himalayas and the aftermath of the October Revolution in Tibet. (Ministry of Information and Broadcasting, Government of India, 1963)

Ivan Chen, or more correctly Chen I' Fan, the Chinese representative, had a varied, and rich experience. He had before 1911, a long innings as Secretary Counselor of the Chinese Legation in London where, apart from a good knowledge of the language, he had acquired among his British colleagues a reputation for sobriety and reasonableness. Rated an adept diplomat, he took part in opium agreement. He was Commissioner for Trade and Foreign Affairs at Shanghai. It was from this post that reluctantly, and perhaps against his own better judgement, he was persuaded to go to Simla. (Ministry of Information and Broadcasting, Government of India, 1963:289)

The Tibetan delegate to Simla was Shatra Palijor Dorje Kalon, more simply Lonchen (viz. Minister) Shatra. He had been to Darjeeling towards the close of the century where he acquired a shrewd understanding, and at first-hand knowledge of British power and authority. He was a strong advocate of a peaceful settlement with the British in regard to the Sikkim frontier and other trading rights. In 1907, in the course of his 'wandering' far from home, the Dalai Lama, while at Sian-fu in China, is said to have written to the authorities in Lhasa to appoint Shatra as Lonchen (The Tibetan title 'Lonchen' may be regarded as equivalent to the British 'Minister') so that he, in close liaison with the Regent, may look after the country's

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1 Sir Arthur Henry McMahon, who was born in 1862, had joined the Indian political Department in 1890. In 1891-93, he was Political Agent, Zhob; later he accompanied the Durand Mission to Kabul as Political Officer. In 1894-96, he demarcated the boundary between Baluchistan and Afghanistan, and from 1899-1901 acted as Political Agent Dir, Swat and Chitral. He was British Commissioner, Seistan Mission, 1903-5 and Agent to the Governor General and chief Commissioner, Baluchistan, 1905-11. After the Simla Conference, McMahon became Britain's first High Commissioner in Egypt, 1914-16. It may be noted here that he was last of the Foreign Secretaries who held the combined charge of the Foreign and Political Department of the then Government of India; after him the Political Department became a separate charge. No biography of him exists nor are his papers if there are any, easy top locate. For a brief sketch, and a portrait by John Collier, see Lt Col E H Cobb, 'A Frontier Statesman' the Piffer (London) 1963. Also see Dictionary of National Biography, *Who Was Who and Sir Ronald Storrs*, (London: Orientations), 1943.
administration. Lama confirmed him to new post so, he, at Simla Conference had great powers.

Between 13 October 1913, when it formally convened, and 3 July 1914, when it dispersed, the Simla Conference held eight formal sessions. The first two took place at Simla on 13 October and 18 November respectively; the next three at Delhi, on 12 January, 17 February and 11 March (1914); and the last three again at Simla, on 7 and 22 April (re-convened on 27 April) and 3 July. Thus the Conference met both at Simla and Delhi.

The Chinese, never easy to deal with, proved singularly unyielding on the boundary question. But McMahon, strongly backed by Hardinge, stood firm on ground mainly basing him upon intelligence reports. Peking or his own conversations with Ivan Chen concluded that the Chinese were playing at a game of bluff. The best way to reach it, he argued would be to sign with Tibet. Peking would then fall in line sooner than expected. The key to the final round of the Simla Conference thus lay in McMahon's persistent demand that the convention be concluded by a definite date with China and Tibet, if possible; without China, but with, Tibet, if necessary. (Ministry of Information and Broadcasting, Government of India, 1963:289)

On the day the convention was initialed at Simla, in the teeth of what McMahon had called Ivan Chen's most vigorous resistance to any final settlement. It was true that Peking's disavowal did not come as a surprise to McMahon and yet it made an early signature impossible. Before getting to draft Convention eight weeks time was taken to modify in some details, was signed by the British and the Tibetans, to the exclusion of the Chinese. (Ministry of Information and Broadcasting, Government of India, 1963:290) And all this while China and the Chinese dominated the scene.

McMahon's explanation for Chinese action was two-fold. Primarily he suspected, it was Lu Hsing-chi's spies, on Chen's staff, who had prevailed upon Peking to disavow the Chinese Plenipotentiary's action. Secondly, and of greater import, was Peking's proverbial disinclination to meet final issues. The British Plenipotentiary's mind, however, was made up. Everything that could be abandoned, he noted, without injustice to Tibet and determent to ourselves, had been conceded to propitiate Peking. Moreover, he had reasons to believe that the Chinese have, as a result of the Conference, obtained everything which they really required and far more than they had originally expected. One that the Chinese accepted
without much ado the whole Convention barring Article IX, relating to the boundary settlement between Inner and Outer Tibet. Two, they were not prepared to take the responsibility for bringing the negotiation to an end.

At the stage of the proceedings, Ivan Chen declared that his government would not recognize any treaty or similar document that might 'now or here-after be signed between Great Britain and Tibet. To which the Lonchen countered by saying that he 'deeply' regretted Chinese action and that in the light of it, his country 'felt bound' to take steps 'to defend' its interests. When the Lonchen and Sir Henry McMahon proceeded to conclude the agreement, Ivan Chen was present briefly. He had made it clear, however, that his presence did not imply his 'recognition' of the conclusion of an agreement between Britain and Tibet.

The convention was initialed by Sir Henry McMahon and signed by the Lonchen, both at the end of its text of eleven articles as also at the conclusion of the schedule and the notes exchanged, which were the then on same on 3 July. (Aitchison, 1929:43) Significantly enough, the maps attached to the convention bore the signatures as well as the seals of both the Tibetan and British Plenipotentiaries. And finally on the same day 3 July, both Sir Henry McMahon and the Lonchen signed and sealed the new Trade regulations between India and Tibet. The de facto independence of Tibet was given a tacit inter-national recognition at the Simla Conference in 1913-14 which was attended by the Tibetan representatives in equal footing with the Chinese. In October 1913, a tripartite conference was held in Simla to define the status of Tibet and to demarcate Tibet's boundary with China on the one hand and India on the other. The British had taken the initiative with a view to settling the dispute between China and Tibet, to secure Tibet against Chinese pressure and to consolidate British influence in Tibet. (Mehra, 1979: 86)

**Partition of Tibet**

The motives of the British Government was well understood by the Chinese who submitted the following proposals, Tibet should be regarded as an integral part of China, China, would not however, convert Tibet into a province. The British Government should undertake not to annex Tibet or any portion of its territory, a Chinese resident should be stationed at Lhasa with 2000 soldiers of whom 1600 were to be posted in such localities as the Resident should
deem fit. The foreign and military affairs of Tibet should be conducted under the Chinese direction; Tibet should not enter into negotiations or agreements with any foreign country except through the Chinese Government. The provision for the British Trade Agents as per Article V of the Lhasa Convention of 1904 was permitted. The Tibetan boundary with China should be fixed at Giamdo, as it was suggested by Fusung- Mu after Chao Erh feng’s conquest (1908). The reaction of the British plenipotentiary, Sir McMahon, was expressed in the following proposals:— (Aitchison, 1909:43)

Tibet was to be divided into two parts, Inner and Outer Tibet. Inner Tibet was to be under China but Outer Tibet was to be fully autonomous. The administration of Outer Tibet was to be in the hands of the Tibetan Government at Lhasa. The selection and installation of the Dalai Lama should also be under the authority of the Tibetan Government. China should withdraw all troops from Outer Tibet. The number for any Chinese official was not to exceed 300 men. The boundary between Outer and Inner Tibet was to be shown in a map tabled at the Conference. The map also showed the boundary line between India and Tibet and was approved by the Tibetan British officials prior to the session. This boundary line was subsequently known as the McMahon line. (Mehra, 1979:91)

After exchange of a series of notes on the proposals and counter proposals, the Chinese representatives accepted the following terms:—

Tibet was to be under the suzerainty of China but the autonomy of Outer Tibet was to be recognized. The territorial integrity of the country was to be respected by both British and the Chinese. The Tibetan Government of Lhasa was to have complete authority to run the administration in Outer Tibet including the selection and installation of Dalai Lama; whereas, in Inner Tibet China could exercise her administration except in ecclesiastical matters, which were under the Dalai Lama’s power. No Chinese troops or officials other than a Chinese Resident of Lhasa with 300 escorts could remain in Outer Tibet. (Mehra, 1979:92)

**McMahon line India’s legal boundary**

In the Simla Convention of, 3 July, 1914, between Great Britain, China and Tibet, though the Chinese Plenipotentiaries were present there, Chinese actually did not sign it. It has eleven Articles and three schedules and notes exchanges are attached to it.
The Article I says that provisions of the agreement will be binding on contracting parties.

Article II is the most important one, which states that both India and China Government recognized that Tibet is under suzerainty of China and recognized the autonomy of outer Tibet.

Article III says that China should not send troops into outer Tibet nor to station civil or military officer in Tibet and not to establish Chinese colonies in outer Tibet. Article V says that no one should go for agreement regarding Tibet with another power. Article IX states borders of Tibet, and the boundary between Outer and Inner Tibet shall be shown as in red and blue respectively in the map attached to this. Dealing with the schedule conventions of 1890, 1904, 1906 should be look into. Notes exchange important one is that outer Tibet shall not be represented in the Chinese Parliament or in any other similar body. (Aitchison, 1929:43)

After these conventions of 1914 the British Government began propagating that the McMahon line was indeed India's legal boundary, claiming it to be legitimized by a formal assent of Tibet and China. But thereafter China argues that the Dalai Lama's declaration of independence in 1912 was unilateral; it could have only been valid if accepted by the other party. They further argue that if the country were truly independent, why its plenipotentiary accepted the 1914 treaty which inter alia recognized Tibet as a part of China and accepted the latter's suzerain rights over the land. (Mehra, 1990:151) Tibet's international status was made clear in the tripartite Simla Convention of 1914 in which she participated as a separate and independent state. Thus in the light of these argument, it is difficult to sustain the plea that China's suzerainty has continued after the declaration of independence by Tibet in 1911.

During the time when Simla conference was in progress fighting was going on between Chinese and Tibetan forces on the border of eastern frontiers of Tibet and Tibetan army recovered the territory seized by China. It means that survival of the de facto independence achieved by Tibetan depends on weakness of China. So Simla convention failed to solve fundamental issues, it appeared that the convention was a compromise solution. China continued to assert suzerain rights in Tibet. (Ghosh, 1977: 196-197)
China's Arguments on Simla Convention

Regarding the Simla Convention, the Chinese side has repeatedly pointed out the following facts: (1) The Simla Convention itself has no legal validity. The Chinese Government not only refused to sign this treaty, but also formally declared at the Conference and to the British Government that it would not recognize this Agreement and other similar documents signed between the British Representatives and the representatives of the Tibetan local authorities. Since then, all the successive Chinese Governments have persisted on this stand. (2) The Simla Conference only discussed the boundaries between the Tibetan region and the rest of China and the dividing line between so called Inner and Outer Tibet; it never discussed the question of the boundary between China and India. In the entire records of proceedings of the Conference, and the text and attached map of the Simla Convention, no mention about the India-China boundary can be found. The Indian assertion that the Simla Conference not only discussed but also formally delimited the India-China boundary to the east of Bhutan is without factual basis. Since the Simla Convention has no legal validity and does not concern India-China boundary question, then of course, it cannot be possibly a treaty basis for the India-China boundary as the Indian side asserts. (Ministry of External Affairs, Reports of the officials of the Government of India and the People's Republic of China on the Boundary Question, 1963:185)

As for the secret letter on the so called McMahon line exchanged between the British representatives and the representatives of Tibet region behind the back of the representatives of the Chinese Central Government on March 24-25, 1914, at the time of but outside the Simla Conference their illegality and invalidity are obvious. The fact that the British representatives and the representatives of the Tibet local authorities had to exchange letters on the so called McMahon line on the back of the representatives of the Central Government of China in a secret way shows most clearly that these letters were illegal and unpresentable. The Chinese Government explicitly declared during the Simla Conference that it would not recognize any treaty or similar document that might then or thereafter be signed between Britain and Tibet. This further confirmed the illegality of the letters exchanged. The British Indian Government did not publish these letters until more than ten years after 1914 (1929), and it was another eight years afterwards that is around 1937, when the Chinese War of
Resistance against Japan broke out before it declared to draw the so called McMahon line on Indian maps. These facts show that the British Indian Government itself also for a long time doubted the legality and validity of the so called McMahon Line. (Ministry of External Affairs, Reports of the officials of the Government of India and the People’s Republic of China on the Boundary Question, 1963:159)

**McMahon Line Chinese inconsistent position: China-Burmese Agreement of 1960**

Indeed the Indian position regarding the McMahon Line as coinciding with the traditional boundary has found support, where the China-Burmese sector of the McMahon Line boundary is concerned, in the China-Burmese Agreement of 1960. In other words, Chinese arguments against the McMahon Line Agreement are proof of the fact that, with regard to the position of Tibet before 1950, they accept what suits them and reject what is not in consonance with present Chinese claims.

China’s description of the McMahon Line as ‘illegal’, and the consequent staking of territorial claims against India amounting to 32,000 square miles in NEFA, is opportunistic. It follows the well-known imperialistic expansionist pattern. *(The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 7)*

*How arbitrary the Chinese attitude is can be seen from the fact that China has accepted the McMahon Line elsewhere, vis-à-vis Burma.* There is a Burmese section of the McMahon Line. At the time of the 1914 Simla Conference and until 1935, the British jointly administered Burma and India. The Chinese have accepted the Burmese section of the McMahon Line without the slightest modification, and recognized it as the traditional and customary line. *(The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 7)*

China’s recognition of the McMahon Line in Burma was incorporated in the Sino-Burmese Agreement signed in January 1960. By recognizing the McMahon Line in Burma in one breath and refusing to recognize it in the contiguous territory of India’s North-Eastern frontier in the next, China’s illogical and opportunistic position stands self-exposed. India has several
times confronted China with this inconsistency without being able to elicit a reply, much less explanation. (The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 7)

**China on Tibet’s status and the treaty-making power**

The Simla Conference of 1914 was a part of the British plan to separate Tibet from China, make Tibet an independent State and bring it completely under Britain’s control. The aggressive intentions of Britain towards Tibet are given out in Lord Curzon’s letter dated 11 June 1901 addressed to the Secretary of State for India and the British Memorandum of the British Government proposing a tripartite conference was presented, China expressed her regret and dissatisfaction with it. (The Sino-Indian Boundary Question, Peking Report, 1962:2) These aggressive intentions of Britain were recognized by Prime Minister Nehru also in his statement of 30 March 1959.

On 15 April 1914, the Chinese representative objected to Tibet being given an equal status with China in the preamble to the draft Simla Convention. As such, the question of China accepting Tibet’s equal status did not arise. The 26 June 1913 communication from Great Britain to China should not be regarded as indicating acceptance by China of Tibet’s status since it was a position forced on China by Great Britain.

China enjoys sovereignty over Tibet. The Chinese representative made it clear on 30 October 1913 that Tibet was an integral part of Chinese territory.

Tibet had no right to conclude treaties with foreign countries, independently of the Chinese Central Government unless authorized by and consented to by the Chinese Central Government. The Treaties of 1842, 1856, and 1904 were all entered into with the prior or ex-post-facto approval of the Chinese Central Government. The March 1914, the July 1914 Convention and the 1914 Trade Regulations are illegal. (The Sino-Indian Boundary Question, Peking Report, 1962:6) These aggressive intentions the delimitation of the Indo-Tibetan boundary in NEFA is a problem concerning a major internal administrative division of China and no agreement made without China’s explicit concurrence can be valid. (Notes, Memoranda and letters exchanged between the Government of India and China, September-

The Simla Conference did not deal with the question of the India-China (i.e., Indo-Tibetan) boundary. The Chinese representative did not agree to any discussion between the British and the Tibetan representatives regarding the Indo-Tibetan boundary. No part of these discussions on the Indo-Tibetan boundary was reported to the Chinese representative. The only map which was presented to the conference showing the Indo-Tibetan boundary, showed all of Tibet’s external boundaries and not those with India alone. Even this map was not referred to in the 25 March 1914 Agreement or the 3 July 1914 Convention.

The 3 July 1914 Simla Convention signed between India and Tibet were invalid. China made clear that the Convention would not be recognized by her in statements made on 21 April 1914; 3 July 1914; and 7 July 1914.


Tibet herself had repudiated the validity of the 1914 Agreement, as emphasized by the letter dated 18 April 1945, to the Political Officer, Sikkim, regarding withdrawal of British troops from Kalkatang and Walong. (Notes, Memoranda and letters exchanged between the Government of India and China, September-November 1959 and *A Note on the Historical background of the Himalayan Frontier of India. White Paper no. II, Ministry of External Affairs, Government of India, 1959:4*)

The equivocal nature of the Simla Agreement of 25 March 1914 can be seen from the fact that the British Government did not dare publish till 1929, either the letters or the map constituting
the Agreement. Since the McMahon Line was widely at variance with the traditional customary boundary, Great Britain was not competent to change it unilaterally.

**The British diplomatic and military interventions after 1914**

The British diplomatic and military interventions were particularly successful in propping up new concepts like "suzerainty" and "autonomy" with which they kept playing both China and Tibet against each other thus obtaining more and more concessions. The significance of these concepts, however, was not perhaps fully understood by either Tibet or China (or even Britain) at that time and, for long, these concepts continued to have different meanings for different parties. Secondly, British diplomatic and military interventions during this period had also resulted in creating a wedge amongst the Tibetans by formalizing the division of Tibet into inner Tibet under China and outer Tibet under Dalai Lama. Thus superimposition of Western ideas and vision was to rattle Asian minds forever thus rising mutual apprehensions and anxiety levels.

Traditionally, Tibet had neither been one unified 'nation' nor had the Chinese king ever exercised 'sovereignty' over Tibet in the Western sense of these concepts. successive Chinese rulers had never directly ruled non-Chinese people and always allowed the local administrative structures to function under symbolic Chinese 'patrons', and the military presence was kept only occasional and minimal. Similarly, the Tibetans had never been so fastidious about 'autonomy' or 'independence' and remained contended with some sort of isolation the nature of which kept changing depending on their power equations with the powerful kingdoms at the given point of time. To begin with, the legal identification of "suzerainty" was not quite off-mark from existing realities of Sino-Tibetan relations. However these legal distinctions become important as old conventions gradually gave way to the emerging new international legal systems and in the context of their changed political equations.

**Charles Bell Mission to Tibet in 1920**

The British had also been involved in arming the Tibetan resistance. A mission led by Sir Charles Bell in 1920-21, had signed an agree to Tibet 10 mountain guns, 20 machine guns and 10,000 rifles with ammunitions. The Chinese had already the taste of British imperialism
since their Opium Wars and British influence in Tibet was bound to make Chinese extremely suspicious of British motivations. Later, when the 13th Dalai Lama died on the 17 December 1933, the Chinese succeeded in putting a pro-Chinese Abot, Ro-dreng Hutukhtu, as the official Regent in January 1934 and he was authorized to rule Tibet until 14th Dalai Lama obtained majority. And since Abot Hutukhtu had the full support of Tibet’s ruling elite, this statement between Britain and China allowed Tibet to assert its policy of equidistance again. For example, when the Japanese had captured and closed the Burma Road during the World War II, Tibet did not allow its territory to use for supplies between China and British India.

India on the Status of Tibet

The Chinese were not intimidated into joining the Simla Conference. China was willing and eager to commence negotiations with Tibet. She took full and whole-hearted part in the proceedings. The British Memorandum of 17 August 1912 had envisaged Tibet taking part in the Simla Conference as an equal partner with China. This was reiterated, among other occasions, on 25 May, 28 July, and 25 August 1913 and was accepted by China on 30 January 1913. China also recognized Tibet’s right to participate on equal basis in the Simla Conference in accepting the credentials presented by the Tibetan representative. One of the causes for convenes the Simla 'Conference was the Chinese Government’s anxiety to re-establish her relations with Tibet. (Notes, Memoranda and letters exchanged between the Government of India and China, September-November 1959 and A Note on the Historical background of the Himalayan Frontier of India. White Paper no, II, Ministry of External Affairs, Government of India, 1959:4)

Long before the Simla Conference, Sino-Tibetan relations had virtually ceased to exist. The Tibetans had issued a declaration of independence and resisted China’s attempts to re-establish her authority. (Notes, Memoranda and letters exchanged between the Government of India and China, September-November 1959 and A Note on the Historical background of the Himalayan Frontier of India. White Paper no, II, Ministry of External Affairs, Government of India, 1959:4). During 1940-1944, Tibet even refused the combined requests of China, Britain and America to allow Indian military supplies for China to pass through Tibet. The fact that in 1950 the Chinese Government considered it necessary to ‘liberate’ the Tibet region was a further proof that the areas contiguous with the Indian frontier were parts of

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Tibet and the power to confirm the boundaries of Tibet rested with the Tibetan Government in Lhasa.

**Tibet as Sovereign Power**

Tibet was competent to settle her own boundaries with India and Chinese adherence or recognition of the British India-Tibetan Boundary Agreement of March 1914 or British India-Tibetan Convention of July 1914 was not relevant to the formalization of the Indo-Tibetan boundary. Tibet had signed with Kashmir the treaties of 1684 and 1842. The Chinese had themselves agreed that Tibet was competent to sign a ‘non-aggression pact’ in 1853. The treaty-making power of Tibet, as different from that of China, is seen in the inability of China to enforce the 1893 Anglo-Chinese Convention concerning Tibetan trade. This convention had in fact to be renegotiated all over again with Tibet. China had accepted the treaty-making powers of Tibet by including the 1904 Anglo-Tibetan Convention in the Anglo-Chinese Convention of 1904 and by abrogating the Nepal-Tibet Treaty of 1856 in the China-Nepalese Treaty of 1956. Extra-territorial rights, as in the Treaty of 1856, can be conferred only by sovereign nations. The Tibet Trade Regulations of 1914 signed independently of China were also operative till their abrogation in 1954. Tibet’s competence to settle her own boundary with India, without consulting China, is further evident from the negotiations on her southern border, which Tibet held with India in 1921, 1924 and 1926. (Notes, Memoranda and letters exchanged and Agreement signed between the Government of India and China, 1954-1959, White Paper, Ministry of External Affairs, Government of India, 1959: 9)

The preliminaries to the Simla Conference discussed relations not only between Tibet and China but also between Tibet and India. The proceedings of the Simla Conference leading to the March 1914 Agreement and the July 1914 Convention were attended by India, China and Tibet. On 18 November 1913, the British representative pointed out that the territorial limits of Tibet should be defined before her political status could be discussed. As a result, the Indo-Tibetan frontiers in the eastern region were shown in maps presented of the Conference on 17 February 1914 and 22 April 1914. If the Indo-Tibetan boundary shown in these maps was not discussed at the plenary session among all the three representatives, it was because the problem concerned India and Tibet only and not China. (Notes, Memoranda and letters...

Under international law, failure of ratification by one of the parties to a multilateral treaty cannot affect its binding value on other parties or the validity of the obligations assumed by them. Throughout the proceedings of the Simla Conference and in the subsequent diplomatic communications from China, no objection was made by China to the boundaries between India and Tibet as shown in the maps presented to the Conference. (The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 26-27)

Her objection was always regarding the delineation of the China-Tibetan boundaries or 7 March 1914; 19 March 1914; 20 April 1914; 27 April 1914; 1 May 1914 and 13 June 1914.

The Chinese representative at the Simla conference, were fully aware of the McMahon line boundary between India and Tibet. This particular line was discussed between the Tibetan and British Indian representative, but when the draft convention emerged from the conference was presented on the 22nd April, 1914 for signature by the British Indian, Tibetan and Chinese representatives it had attached to it a map showing the McMahon line boundary as well as the boundaries between Inner Tibet and China, and Inner Tibet and outer Tibet. Later, the Chinese foreign office in a memorandum, date the 25th April 1914, listed a number of objections to the boundaries between Inner Tibet and Outer Tibet and Inner Tibet and China. It did not raise any objection to the boundary between Tibet and India as shown in the map attached to the tripartite Simla convention. Thereafter, on the 27th April, the Chinese representative initialed both the convention and the map without any objection. Subsequently, in their memorandum, dated the 13th June 1914, the Chinese made fresh proposals regarding the boundaries of Inner Tibet and Outer Tibet. It is significant that no mention was at all made in this memorandum of the boundary between Tibet and India. Almost five years later on the 30th May 1919; the Government of China again suggested some modifications of Simla convention with a view to reaching a final settlement. These modifications related only to the boundaries between Inner Tibet and China and Inner Tibet and Outer Tibet. No reference at all was a made to the boundary between Tibet and India (McMahon line). Looking into the old papers, we find that the convention for several years in the hope that there would be an
agreement about the status and boundary of Inner Tibet. The Simla convention was published in the 1929 edition of Aitchison's Treaties and the Mahon line was shown in official maps from 1937 onwards. These maps were circulated widely but neither they nor subsequently did the Chinese raise any objection. (The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 27)

Tibet's frontier Tribes

It is wrong to say that the frontier east of Bhutan as shown on Chinese maps is traditional frontier. On the contrary, it is the McMahon line, which correctly represents the customary boundary in this area. The water-parting formed by the crest of the Himalayas is the natural frontier which was accepted for centuries as the boundary by the peoples on both sides. The tribes inhabiting the area south of the McMahon line- the Monbas, Akas, Daflas, Miris, Abors, and Mishmis- are of the same ethnic stock as the other hill tribes of Assam and have no kinship with the Tibetans. The Tibetans themselves regard these tribes with contempt and group them all together as "Lopas". It is true that the boundary of two adjacent countries is not determined by the ethnic affiliations of the people living in these countries. Some sort of cultural intercourse between the people living on both sides of the frontier is also not uncommon. All the same it is significant that the tribes mentioned above have not been affected in the slightest degree by any Tibetan, influence, cultural, political or other, and this can only be due to the fact that the Tibetan authorities have not exercised jurisdiction at any time in this area. On the other hand, India administration gradually moved up to these areas. Agreements were signed with the Akas in 1844 and 1888, the Abors in 1862-63 and 1866, and with the Monbas in 1844 and 1853, extending the authority of the Government of India over them.

It was the British Government's policy generally to leave the tribes more or less to look after themselves and not seek to establish any detailed administration of these areas such as was to be found in the rest of British India territory. All the same British political officers visited these areas for settling disputes and such like purposes. Finally, the Sadiya Frontier Tract, approximately 10,000 square miles in area, was formed in 1912, and the Balipara Frontier Tract also comprising about 10,000 squares mile, was formed in 1913, i.e.; before the Simla
Conference met. The atlas of the Chinese Empire, published in London by the Chinese Inland Mission in 1906, shows as the frontier in this area an alignment, which is almost identical with what was settled at Simla in 1914. The area was extensively surveyed in 1911-13. The Lohit area was surveyed by the Mishmi Mission in 1911-12. The Dibhang valley was surveyed in 1912-13 and the Abor area in 1913. Captain Bailey carried out extensive survey of the southern limits of Tibetan jurisdiction in the whole area in 1913-14. It was on the basis of all this detailed information that the boundary was settled between India and Tibet in 1914. It is clear, therefore, that the McMahon line was not an arbitrary imposition on a weak Tibet by the Government of India. It formalized the natural, traditional, ethnic and administrative boundary in the area. (Letter from the Prime Minister of India to the Prime Minister of China, 26, September 1959)

Tibet’s Treaty-Making Powers

The treaties around which discussion of Tibet’s treaty making powers has revolved which certainly are not the only ones signed by or even concerning Tibet as autonomous and sovereign state thus are:

Treaty of 1684 between Tibet and Kashmir after the Ladakh war, actually Ladakh was an Independent state but in 1664 came under the suzerainty of the Mughal Empire. The treaty of 1684 it was signed as result of the end of Ladakh-Tibet war in which frontier between Ladakh and Tibet were determined. The final “delimitations” of the boundary line was approved by the treaty which was signed by the King of Ladakh Skyed-Ida-Ngeema-Gon and Mee-Pham-Wang-Po the Tibetan Plenipotentiary. (Sali, 1998: 43)

Treaty of 1842 between Tibet and Kashmir (Ladakh) following Raja Zorawar Singh’s expedition into Tibet, after the treaty of 1684 the boundaries of Western sector were again confirmed by the treaty of 1842. The demarcation of this border were confirmed by this treaty of 1842. The treaty was signed on 16 and 17th September, 1842 A.D. The parties of the treaties were on the one hand, Shri Khalsaji and Shri Maharaja Sahib Bahadur Raja Gulab Singh and on the other hand the Emperor of China and the Lama Guru of Lhasa; by this treaty the traditional boundary Ladakh and Tibet was reaffirmed. (Richardson, 1962: 28)
Treaty of 1852: This agreement was signed between the two Garpons or provincial Governors appointed by the Dalai Lama and the representatives of Maharaja of Kashmir. The ancient demarcation of boundary between Ladakh and Tibet was once again reaffirmed by this treaty.

“The boundary between Ladakh and Tibet will remain the same as before. No restrictions shall be laid by the people of Rudak on the export of salt and woolen goods and import of barley flour and barley.” (Richardson, 1962: 28)

Further:-

“Both parties shall adhere strictly to the agreement thus arrived at between Tibet and Singpas (Kashmir) and the two frontier officers shall act in perfect accord and co-operation.”

Sincha La Pass Treaty of 1865 A.D:- Bhutan is a protectorate state of the government of India and enjoying a degree of autonomy under the Indian authority. According to the treaty of 1910 which was signed between the Bhutan and British India, the latter would be the sole spokesman for Bhutan’s external affairs. This treaty was supplemented in 1949 where under India appears to be the only competent authority to regulate the external affair of Bhutan. The Indo-Bhutanese boundary had developed as a result of the Sincha La Pass treaty which was concluded in 1865. The boundary alignment has been demarcated by stone pillars. (Sali, 1998: 46)

Anglo-Chinese Convention of 1890:– The boundary of Sikkim with Tibet extends from a distance of about 225 kilometers. In 1890 Great Britain and China concluded a Treaty. The conventions laid down the boundary between Sikkim and Tibet as the crest of mountain ranges separating the water flowing into the Ma Chu of Tibet. This treaty was signed in Calcutta on March, 1890 and was demarcated in 1895. There is no dispute concerning Sikkim’s boundary with Tibet as it was jointly demarcated on the ground in 1895 AD. (Sali, 1998: 46)

The 1853 Agreement between the Monpa chiefs of Kameng and East India Company, Treaty of 1856 between Nepal and Tibet, following the Nepalese expedition into Tibet, The Anglo-Chinese Convention of 1890 ending the 1888 Anglo-Tibetan war regarding Sikkim’s border, Tibet Trade Regulations of 1893 signed between China and Great Britain, The Anglo-Chinese
Convention of 1906 between China and Britain confirming the provisions of the Lhasa Convention of 1904 (Mitter, 1976: 9). The Anglo-Chinese Convention of 1906 between China and Britain confirming the Anglo-Chinese Convention of 1906, The 1908 Trade Regulations signed by Great Britain, China and Tibet, confirming the Anglo-Chinese Convention of 1906, The exchange of notes on 24-25 March 1914 between Great Britain and Tibet regarding the Indo-Tibetan boundary in the eastern sector, The Simla Convention of 3 July 1914 between Tibet and Britain. (This Convention had been initialed earlier on 27 April 1914 by the Chinese representative but has been repudiated by China.), The Anglo-Tibetan Trade Regulations of 1914 signed between Tibet and Britain. These treaties signed by Tibet confirm that Tibet was sovereign state to decide on polices related to all its internal affairs. Even on merits, Tibet’s right to sign the Simla Agreement cannot be questioned. Tibet had in the past entered into a number of treaties which were not only considered as valid by the parties concerned, but were in actual operation for decades Even on merits, Tibet’s right to sign the Simla Agreement cannot be questioned. Tibet had in the past entered into a number of treaties which were not only considered as valid by the parties concerned, but were in actual operation for decades. (Mitter, 1976: 9)

In so far as the Convention sought to place a limit on the extent to which China could not interfere in the internal administration of Tibet, it was certainly of some importance to the Indo-Tibetan border. But of far greater importance than the Convention, for this purpose, was the Indo-Tibetan Agreement of March 1914, which laid down in clear terms the Indo-Tibetan boundary in a map on scale 1": 8 miles. The Chinese later contended that this agreement was concluded behind the back of the Chinese representative and that they were not bound by it. This latter part of the contention seemed to be an unnecessary argument on their part, for in the circumstances, in which the Simla Conference was held, Chinese approval or adherence to an agreement entered into between India and Tibet was entirely redundant. At no time before 1951 had Tibet relinquished her right to have independent dealings with other powers or of entering into treaty relations with them. The draft Convention of 1914 had recognized this by empowering Tibet to conclude a separate treaty with Britain in regard to Indo-Tibetan trade regulations. (Rao, 1968: 85)
McMahon Line was an enthusiastic believer in the buffer concept. He equated “frontier” with “buffer” and defined each as a tract of neutral territory separating two potentially antagonistic neighbours. A “boundary” to McMahon was a specific line; either delimited by precise map description or demarcated on ground surveys. (Rowland, 1967: 48)

India-China Correspondence after 1946

The correspondence during 1946-48 between Nationalist China and the Government of India regarding India taking over the former British responsibilities in Tibet shows that the then Government of China accepted the validity of the arrangements made in 1914 and since enforced. The present Chinese Government is the Successor State to the Governments in power in Tibet during 1914-1950. They have therefore to accept the obligation imposed on Tibet by the 1914 Treaty. The present Chinese Government is similarly the Successor State in respect of the Nationalist Government of China and should not repudiate the actions of the Nationalist Government, just because it does not suit its present purpose. (The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 7)

The Indian Government announced publicly on several occasions during 1946-1950 that it regarded China as continuing to accept the validity of the McMahon Line.

The Tibetan Foreign Office wrote to the Indian Government on 18 April 1945 reiterating its continuing adherence to the 1914 boundary agreement. The Simla Agreement and the Simla Convention of 1914 were not kept as secrets. The boundary line accepted in those agreements was the same as that shown in several maps presented at the Simla Conference. The Agreement and the Convention were published in the very first edition of Aitchison, issued after they were signed. (The Sino-Indian Dispute: Questions and Answers, Publication Division, Ministry of Information and Broadcasting, Government of India, 1963: 7)

The Indo-Tibetan boundary in the eastern sector has been settled by the boundary Agreement of 25 March 1914 and the Simla Convention of 3 July 1914. The Agreement formalized the natural, customary, traditional boundary in this sector and did not set up a new boundary.
As, Nehru stated in his letter, "I am particular surprised by your statement that " the so called McMahon line was product of the British policy of aggression against the Tibet region of China ". You further state that the agreement in regarding to the frontiers between India and Tibet was concluded between the British representative and the representative of Tibet local authorities and that it has never been recognized by any Chinese Central Government. From this you draw the conclusion that the agreement is illegal. The fact, however, are otherwise. The arrangements for the Simla Conference were made with the full knowledge and consent of the government of China. The foreign Minister of China wrote to the British representative on the 7th August 1913, that the Chinese plenipotentiary would proceed to India "to open negotiations for treaty jointly " with the Tibetan and British plenipotentiaries.

It is clear from the proceeding of the conference that not only did the Chinese representative fully participate in the conference but that the Tibetan representative took part in the discussion on an equal footing with Chinese and the then British Indian representative. Not only were the frontiers of India with Tibet discussed at the conference, but also the boundaries between inner Tibet and China and inner Tibet and outer Tibet. At no stage either then or subsequently did the Chinese government object to the discussion on the boundary between India and Tibet at the conference. In the circumstances the agreement, which resulted from, the conferences in regard to the McMahon line Boundary between India and Tibet must, in accordance with accepted international practice, be regarded as binding on both China and Tibet. In fact this was not the first occasion when Tibet concluded an agreement with other countries. In 1856, Tibet concluded an agreement on its own with Nepal. The Convention signed by Britain and Tibet in 1904 was negotiation by the British and Tibetan representatives with the assistance of the Chinese Amban in Tibet." (Letter from the Prime Minister of India to the Prime Minister of China, 26, September 1959)

The British Mission in Lhasa and the Trade Agencies at Gyantse, Yatung and Gartok with the attendant rights and obligations were taken over by the new Government of India after the transfer of power from British to Indian hands on August 15, 1947. Nehru, however, recognized that whatever the exact political and constitutional relationship between Tibet and China, independent India could not justifiable hold on to the extra-territorial rights that she had acquired in Tibet as successor to Britain. At the same time, India could not ignore the
fact that Tibet had in the past asserted and enjoyed the fullest autonomy in internal affairs and indeed had virtually assumed an independent status since 1912. India’s main interest was to maintain trade and cultural connections with Tibet but any revision of the arrangement then existing had to wait until the emergence of a suitable central Government in China. Meantime, Tibetans themselves did not remain inactive. When Chiang Kai-shek’s Government was disintegrating in mainland China, the Dalai Lama’s Government requested the Nationalist Chinese to leave Lhasa. They also made some fitful efforts to secure arms from India for self defence. When the first Indian political officer in Sikkim, H. Dayl, visited Lhasain1949, the Tibetan formally requested to him for arms and ammunition from Delhi. The Government of India not keen on getting involved in Tibet’s affairs and showed no interest in the proposal.

India-Tibet Relations after 1947

India’s attitude towards Tibet’s status in relation to China was clarified by Nehru at Press Conference in London in November, 1949. India, he said, had always recognized suzerainty over Tibet but considered Tibet to be an autonomous unit. The new Government of China under Mao Tse-tung lost little time in declaring its own intention. On 1st January, 1950, barely 48 hours after India’s recognition, the new Government announced that the liberation of Tibet was one of the basic goals of people’s liberation army. Unnerved by this announcement the Tibetan Government sent delegations to India, Nepal, the United Kingdom and the United States with appeals for support. The Government of Peking promptly denounced these delegations as illegal.

China’s warning about intervention in the Korean War almost coincided with the advance of the Chinese army towards eastern Tibet in October 1950. Rumours about the Chinese invasion of Tibet were started by an article published in The Statesman (Calcutta) on 12 October 1950. As referred to earlier, H.E.Richardson, the last British Agent in Lhasa, whose service was continued even after the transfer of power in 1947, was responsible for the publication of this article. Richardson was a champion of Tibetan independence and also a supporter of the Tibetan Government’s irredentist border claims against China in the eastern region as presented at the abortive Simla Conference in 1914. (Karunakar, 1987:118).
The foreign Governments to whom the Tibetan had addressed their appeal were not too anxious to oblige them. The Government of India advised Dalai Lama's to try to reach and understanding with Chinese new Government by peaceful negotiations. The Tibetans were not willing to negotiations but wanted the discussion to take place in a neutral place and sought facilities from India to proceed to Hong Kong. The British who had in the meantime recognized the new Government in Peking did not wish to place themselves in an embarrassing situation and delayed granting visa to Tibetan delegation for Hong Kong. In these circumstances, the delegation carried on some preliminary negations at New Delhi with General Yuan Chung-Shien, the first Ambassador of the Chinese People's Republic in India. The Government of India on their own advised the Peking Government not to do anything that could be used by powers unfriendly to new China to prejudice her case in the U.N. they also advised the Tibetan delegation to precede to Peking without delay and open negotiations with the authorities. On 25th October, 1950, the Peking Radio announced the process of liberating Tibet had begun. A large Chinese force crossed the Sino-Tibetan border on the east and began moving towards Lhasa. (Gupta, 1987:119).

The news of the Chinese military action in Tibet roused feelings of deep anger in India. Nehru described the Chinese action as a surprise onslaught. On 26th October 1950 the Government of India addressed a note to Peking conveying its regrets and protests at the action to which the Chinese Government had restored. The note reminded the Chinese Government of their assurance to Ambassador Panikkar that they intended to solve the problem peacefully. The invasion which the Chinese Government had launched could not be in the interest of peace. “In spite of friendly disinterested advice repeatedly tendered”, the note added, “China decided to seek solution of the problem of their relations with Tibet by force, instead of the slower and more enduring method of peaceful approach”. To this note Peking sent an angry reply on October 30, 1950, saying that Tibet was a domestic problem of China and no foreign interference would be tolerated. It also alleged, without any basis whatsoever, that the Tibetan delegations had delayed their departure under outside instigation and that Indian opinion had been affected by foreign influences hostile to China.

The Chinese reply was deeply resented in India. Delhi issued a protest note on the following day repudiating the Chinese allegation. “India”, the note said, “had no political or territorial
ambition in Tibet. It was only interested in a peaceful solution of the problems concerning her neighbours". The Government of India's suggestions, the note pointed out, were well intended and they still hoped that it would be possible to adjust the legitimate Tibetan claim to autonomy within the framework of Chinese suzerainty. The Government of India made it clear that they had no political or territorial ambition in Tibet, nor did they seek any privileged position for themselves or for their relations with Tibet, but they had certain rights which had grown out of usage and agreement, natural between neighbours with close cultural and commercial relations. These relations had found expression in the presence of the Agents of the Government of India at Yatung and Gyantse for over 40 years. The Government of India was anxious that these establishments which were to be the mutual interest of India and Tibet and did not detract in any way from Chinese suzerainty over Tibet should continue. The new Chinese Government was not convinced. They replied on 16th November that China had sovereign rights over Tibet and accused India of obstructing them.

When the Chinese invaded Tibet, the Dalai Lama assumed full powers, but within a month he fled from Lhasa and proceeded towards the Chumbi valley in the south. In desperation the Lhasa Government requested India to sponsor her case before the UN. Nehru was anxious not to create further difficulties in the way of peaceful settlement and the Tibetans were advised that if they wanted to take the case to the UN they should do so direct. On 24th October, 1950, the Political Committee of the UN General Assembly took up the Tibetan appeal on a request by El Salvador which submitted a draft resolution to establish a committee for studying appropriate measures that the General Assembly should take against the Chinese act of unprovoked aggression. Britain which was an anxious as India not to annoy the new Chinese Government moved that the consideration of the question should be postponed. The move was strongly supported by the Indian delegation, the Jam Saheb of Nawanagar, who asserted 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 maintain its historical association with China.

The misunderstanding between India and China caused by the Tibetan controversy did not last long. Nehru continued to plead for the admission of new China to the UN. He repeated stressed that Chinese nationalism was a more potent force in Chinese policy than
communism. In his view the Western policy of containing, China was forced to take complete dependence on the Soviet Union. So far as India was concerned, Nehru did not feel that Peking represented a threat to Indian interest in the foreseeable future. China, he said, would be too preoccupied with her internal problems of economic, development, social change and agrarian reform to venture upon any foreign aggression. The Chinese leaders also apparently wanted to keep the controversy with India over Tibet within limits. On 26th January, 1951, at a reception given by Ambassador Panikkar in Peking celebrating the first Anniversary of the Indian Republic, Mao Tse-tung himself proposed a toast for India. He said, “It is a great day. The Indian people are a fine people. There have been thousands of years of friendship between the peoples of India and China”. According to Panikkar’s report, Mao Tse-tung spoke in warm terms about Nehru and expressed the hope that he would see Nehru soon in China.

A very favorable impression was created in India when early in 1951 China offered one million tons of food grains to India in exchange of a wide range of commodities. India was then facing an acute food shortage and desperately searching for food supply in all parts of the world. Welcoming the Chinese offer the Indian food Minister announced in Parliament on 7th April, 1951, that 50,000 tons of food grains had been requested immediately and this request has been accepted by the Chinese Government. This was followed by an official announcement on 4th July, 1951, that India was importing 80,000 tons of rice and 1,50,000 tons of wheat from China. It was some months before the formal agreement was concluded but the Indian public did not fail to notice the contrast between the alacrity with which the Chinese made the offer and the opposition which the Indian request for a wheat loan met in the United States. (Hindu, 5th July 1951)

Panikkar in February, 1952, meet Chinese Vice-Foreign Minister regarding Indian interests in Tibet. He later met Chou En-lai who assured him that there would be no difficulty in safeguarding the economic and cultural interests of India in Tibet. Reporting this Panikkar told the Government of India that he had not alluded to the question of the frontier nor did Chou En-lai. As a friendly gesture the Government of India quietly renamed the Indian Political Agency in Lhasa as Consulate General in September, 1952, thereby emphasizing that India had no political interest in Tibet.
The Foreign Office at New Delhi carefully considered whether the problem of the frontier between India and Tibet over which small disputes had arisen in the past between the Government of India and the Tibetan Government in Lhasa should be raised during the negotiations’ with the Chinese Government. Bajpai advised that opportunity should be taken to get the Chinese formally to recognize the traditional boundary between India and Tibet in the East- the so called MacMahon Line so that all outstanding questions between India and Tibet would be definitely and finally settled. On the contrary, Panikkar advised Nehru that India should not raise the question of the border and Nehru accepted this advice. Nehru saw no reason why India on her own should raise the question. So far as India was concerned, the border was well-established and well-understood. If the Chinese wanted to raise any question, it was for them to do so.

**China’s Seventeen-point Agreement with Tibet**

On 23rd May, 1951, Peking announced that a 17-point Agreement had been signed by the Chinese and Tibetan representatives who provided, *inter alia*, that China would deal with all external affairs relating to Tibet but Tibet’s autonomy and its peculiar political system would not be interfered with. The Tibetan delegation was led by Ngabo, Governor of Chamdo in outer Tibet, whom the Chinese Army had captured in their west ward march towards Lhasa. The authorities in Lhasa had no option but to accept the Agreement.

**The Panchsheel Agreement of 1954**

Formal negotiations between the two sides commenced in Peking in December, 1953. at the very first meeting which took place in the presence of Chou En-lai, the Chinese Premier said that relations between China and India would become close every day and discussions would settle the questions “which were ripe for settlement”. In reply Ambassador Raghavan remarked that there were some small questions between India and China, but he wished to see nothing big or small remaining outstanding between two countries. Chou En-lai rejoined that two large countries like India and China with a common frontier were bound to have some questions but all these could be settled smoothly. During the negotiations neither side refer to the border problem. Ultimately agreement was reached on all points discussed. This agreement was signed in Peking on 29th April 1954. ( Dutt, 1977: 87-88).
As soon as the Communists had established their powering Pecking in October 1949, ‘liberation’ of Tibet became the priority issue on Chairmen Mao’s agenda. The year 1950 was officially designated as the year of Tibet’s liberation. Though this was not the first time for Tibet to hear such threats yet, in April 1950, Tibet appointed a seven-member mission, charging them to establish contacts with new Government in Peking. Especially, after the falloff Chamdo.

To the troops of Mao’s People’s Liberation Army (PLA), the 14th Dalai Lama took over full responsibility on 17 November 1950 and, at the age 15; he shifted his seat to Yatung on the Indo-Tibetan border. Also, no longer sure of the Peking’s response to their peace overtures, Dalai Lama’s seven member mission decided to settle pre-luminaries in India instead of Peking and, if possible with the aid of Government of India. (Times of India, 18 November, 1950)

All this to make Peking suspicious of external influence and bring back memories of British India’s role in earlier such instances. Radio Peking continued to warn Tibet against inviting any outside intervention and press was already reporting about China’s military mobilization. All protests by other states including India and Pakistan were rejected by China as interference in China’s internal affairs. Tibet’s complaint to the United Nations showed how Chinese forces had crossed Dre Chu river on several points from October 7, 1950. Chinese captured the Tibetan Governor of Chamdo and took him to Peking where he signed historic “17-point Agreement” on 23 May 1951. Through, Dalai Lama later described it as signed under military duress; this agreement was to become the basis of all future actions by Peking. Apart from usual platitudes about the preservations of Tibet’s culture, autonomy and so on, it clearly re-established China’s paramount over Tibet in the following provisions: (Hindu, 25 May 1951)

The local Government of Tibet shall actively assist PLA to enter Tibet and consolidate the national defense;

Tibetan people have the right to exercising national regional autonomy under the unified leadership of the Central People’s Government;
The Central People’s Government shall conduct the centralized handling of all external affairs of the area of Tibet; and

In order to ensure the implementation of this agreement the Central People’s Government shall set up Administration of Civil and Military Affairs in Tibet.

This agreement had clearly put an end to the Indian presence and this was put into practice with immediate effect without any further discussion with India though no direct use of force was involved. China spent next few years in consolidating its position and in trying to pacify anti-China sentiments amongst the Tibetan. However, in search of legitimacy for its control over Tibet, China gradually opened negotiations with India and succeed in concluding the Panchsheel Agreement of April 1954 following which China began to ‘reform’ Tibet’s socio-political structures. In November 1956, both the Dalai Lama and Panchen Lama visited India in connection with celebrations of the Buddha Jayanti and were reported having asked Prime Minister Jawaharlal Nehru if they could take asylum in India. (Singh, 2003:50-51)

Prime Minister Chou En-lai had synchronized his visit to Delhi with that of the Dalai Lama and Panchen Lama and, on Chinese assurance, both Lamas returned to Lhasa. This was followed by Mao postponing all structural reforms in Tibet and keeping land reforms at abeyance which gave impression as if Peking’s was genuine about keeping its promises. In reality China, was still extremely paranoid about Tibet’s future and was only buying time to consolidate its existing position. Nevertheless, continuing local resistance especially during the later 1950s was to really harden China’s attitude again and make its vision of Tibet security-centric making fortification of Tibet China’s agenda for next two decades. (Singh, 2003:50-51)

Modern India’s notion of China as a Buddhist country till the Communist Revolution is as wrong as her reading of Communist China’s response to Buddha Jayanti. Oblivious Chinese loyalties to their native religion we thought much of Chinese celebrations about Buddha, Kalidasa, Nalanda and Ajanta. We accepted the gift of Hsuan-Tsang’s skull for enshrinement in Nalanda and never felt that adoration of the relics of a Buddhist “long since dead and decomposed” would be against both Confucian and Marxist morals. Profession of moral or spiritual affinities however could not for long deny the logic of material interests. Invasion of
Ladakh and NEFA in 1962 and the advance towards Gilgit from 1965 where in the logic of history when China became definitely and truly the next door neighbours of this subcontinent. China became our neighbour only when Tibet became Tibet Region of China.

On 23 May 1951 Tibet concluded a treaty, known as 17-point agreement, with the people’s Republic of China agreeing to” return to the big family of the Motherland.” The treaty laid down “Measures for Peaceful Liberation Army from China was already in Tibet.

All countries friendly to People’s Republic of China accepted this treaty and there by acknowledged Chinese sovereignty over Tibet. India, because of her ancient and live links with Tibet and China, because of her newly acquired status in Tibet, concluded a treaty Known as ‘Agreement on Trade and Intercourse between Tibet Region of China and India’ on 29th April 1954. In diplomatic diction ‘Tibet’ became ‘Tibet Region of China’.

Significantly, enough, pilgrims and pilgrimage constituted the central theme of this agreement on trade and intercourse between Tibet Region of China and India. Of its six Articles, two described the Trade Agencies and Trade Marts in the two countries, one described the pilgrims and pilgrimage sites in the two countries, two described the routes and travelling facilities available to both traders and pilgrims and one laid down the period of the treaty’s validity.

The Article (III) about pilgrims read thus: The High Contracting Parties agree that pilgrimage by religious believers of the two countries shall be carried on in accordance with the following provisions: (1) Pilgrims from India of Lamaist, Hindu and Buddhist faiths may visit Kanga Rimpoche (Kailas) and Mavam Tso (Manasrovar) in Tibet Region of China in Accordance with custom. (2) Pilgrims from Tibet Region of China of Lamaist and Buddhist faiths may visit Banaras, Sarnath, Gaya and Sanchi in India in accordance with custom. (3) Pilgrims customarily visiting Lhasa may continue to do so in accordance with custom.

One may notice the ubiquitous occurrence of expression, “custom”, “customarily” or “in accordance with customs” in this treaty. That is, though from summer 1954 pilgrimage or travelling for trade would be a matter of treaty right; such right flowed out of ancient historic customs.
The preamble of this Sino-Indian Agreement was and is still celebrated as having defined and spelt out *Panchsheel*, through the Prime Minister of India very rightly, a year later, ruled out any Buddhist association with the five principles of conduct enumerated in the preamble. The Prime minister’s warning was lost sight of as also the basic fact that this agreement was for trade and intercourse with Tibet region of China and not with China. The earlier part of the Preamble and, in my submission, the essential part of the Preamble is the description of the objective of the Agreement. I quote this essential part. “Being desirous of promoting trade and cultural intercourse between Tibet Region of China and India of facilitating pilgrimage and travel by the peoples of China and India….”the expression” people of China” so far as pilgrimage and customary trade was concerned meant the people of Tibet as is clear from Article III, IV and V. The expression “people of China” however was necessary to enable the Chinese traders at Kalimpong or Calcutta to avail of the facilities of travel and trade “in accordance with custom”.

Pilgrimage and other items of cultural intercourse between India and Tibet had grown into customary rights, and such customary rights had acquired a sort of legal sanctity in many parts of Asia down to modern times. In 1907, Great Britain and Russia concluded a treaty, known as Anglo-Russian Convention of St. Petersburg, by which the two High Contracting Parties “clearly understood that the Buddhist subjects of Great Britain or of Russia may enter into direct relations on all strictly religious matters with the Dalai Lama and other representatives of Buddhism” (St. Petersburg Convention: Arrangement concerning Tibet, Article 2). Curiously enough the two High Contracting Parties “admitted the principle of suzerainty of China over Tibet” and yet entered into such arrangement for pilgrimage into Tibet without China’s signature to the Convention. Obviously inter-state customary laws of Asia gave authority to the High Contracting Parties who otherwise agreed not to send tourists and explorers into Tibet. In 1954 the People’s Republic of China readily admitted such customary law if only to enable the Han traders to claim the right of customary Tibetan traders.

I do not proposed not to describe here the gains of China or the losses of India though the operating of Sino-India Agreement for eight years (1954-1962). Instead of moving forward from 1954 to pursue the consequences of the Agreement, I would move backward into
medieval and even ancient times to trace the origins of the cultural intercourse between India and Tibet.

I may however point out here that Chinese anxiety to invest a proposed treaty right with the sanction of medieval usage was matched by the Indian anxiety to divest established treaty rights of its modern juridical character.

**Table 1**

**Tibet Issue: A Comparison between 1914 Agreement under British India and 1954 Agreements under Independent India**

<table>
<thead>
<tr>
<th>1914 Agreement (Simla Convention)</th>
<th>1954 Agreement (Panchsheel)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The signatories to this Agreement were Great British and Tibet. But China was member to it. It was signed on 3, July, 1914.</td>
<td>1. It was signed by Republic of India and People’s Republic of China. On 29’April, 1954 at Peking.</td>
</tr>
<tr>
<td>2 Tibet was represented by Lonchen Ga-den Shatra representative of Dalai Lama.</td>
<td>2 Tibet did not have any representative and was represented by China.</td>
</tr>
<tr>
<td>3 Article II says that, “The Government of Great Britain and China recognizing that Tibet is under the suzerainty of China, and recognizing also the autonomy of Outer Tibet, engages to respect the territorial integrity of the country, and to abstain from interference in the administration of Outer Tibet (including the selection and installation of the Dalai Lama), which shall remain in the hands of the Tibetan Government at Lhasa.”</td>
<td>3“The Republic of India and The People’s Republic of China on Trade and Intercourse Between Tibetan Region of China and India.” It implies that India Recognizes that Tibet is part of China.</td>
</tr>
</tbody>
</table>
"The Government of China engages not to convert Tibet into a Chinese province. The Government of Great Britain engages not to annex Tibet or any portion of it."

In this agreement Tibet is divided into two zones, Outer and Inner. Outer be Headed by Dalai Lama and Inner under the Control of China. It means that India got a buffer zone between India and China.

4 Article V states that, "The Government of China and Tibet engage that they will not enter into any negotiations or agreement regarding Tibet with one another, or with any other Power, excepting such negotiations and agreements between Great Britain, Tibet and China."

5 "The notes exchanged in these Convention states that the selection and appointment of all officers in Outer Tibet will rest with the Tibetan Government at Lhasa and Outer Tibet shall not be represented in the Chinese Parliament or in any other similar body."

It gives full right to China on both Outer and Inner zones of Tibet. In implies that India loses Tibet as the buffer zone between India and China.

4 This Agreement presents five Principles to resolve all the issues. The five principles are

(1) "Mutual respect for each other's territorial integrity and sovereignty,
(2) Mutual non-aggression,
(3) Mutual non-interference in each other's internal affairs,
(4) Equality and mutual benefit, and
(5) Peaceful co-existence."

5 India accepts that Tibet is internal part of China so it will be represent in all the Government Bodies.

As the Republic of India as a successor of the British Empire in this subcontinent inherited and exercised certain extra-territorial rights in Tibet, e.g. posts, telegraphs and military escorts. The Government of India surrendered these on the same date as the India-China Agreement by exchange of Notes (29 April 1954) but did not refer to the documents which provided the legal basis of those extra-territorial rights. The principle documents were the two agreements between Great Britain and Tibet: the Lhasa Convention of 7th September 1904 and the Simla Convention of 3 July 1914. The Government of India, progressively enough but precariously too, considered these Conventions, along with the posts, telegraphs and military escorts, as relics of British imperialism in Asia and omitted any reference to the documents in the Sino-Indian Agreements and the Notes exchange on 29th April 1954. Five years later the People’s Republic of China questioned the validity of the Simla Convention which inter alia demarcated India-Tibet borders in the east Known as the McMahon Line. I would only repeat what I have written earlier that the extra-territorial rights in Tibet as well as the Simla Convention were quit lawful and fully active till 1954, that is, for seven years after the British Empire went out of this sub-continent. On this later on 1962 war took place.

**Tibet’s Relations with China**

**Early history**

Although the history of the Tibetan state started in 127 B.C. with the establishment of the Yarlung Dynasty, the country as we now know it was first unified in the 7th century A.D. under king Song –tsen Gampo and his successors. Tibet was one of the mightiest powers of the Asia for the three centuries that followed, as a pillar inscription at the foot of the Potala Palace in Lhasa and Chinese Tang histories of the period confirm. A formal peace treaty concluded between China and Tibet in 821/823 demarcated the borders between two countries and ensured that, “Tibetans shall be happy in Tibet and Chinese shall be happy in china.”(Bell, 1927:173)

**Mongol Influence**

As Genghis Khan’s Mongol Empire expanded towards Europe in the West and China in the East in the 13th century, Tibetan leaders of the powerful Sakya school of Tibetan Buddhism concluded an agreement with the Mongol rulers in order to avoid the conquest of Tibet. The Tibetan Lama promised political loyalty and religious blessing and teachings in exchange for
patronage and protection. The religious relationship became so important that when, decades later, Kublai Khan conquered China and established the Yuan Dynasty (1279-1378), he invited the Sakya Lama to become the Imperial Preceptor and supreme pontiff of his empire. (Bell, 1927:173)

The relationship that developed and continued to exist into the 20th century between the Mongols and Tibetans was a reflection of the close racial, cultural and specially religious affinity between the two Central Asian peoples. The Mongol Empire was a world empire and whatever the relationship between its rulers and Tibetans the Mongol never integrated the administration of Tibet and China or appended Tibet to China in any manner.

Tibet broke political ties with the Yuan emperor in 1350, before China regained its independence from the Mongols. Not until the 18th century did Tibet again come under a degree of foreign influence.

In 1717 Turkistan invaded Tibet to replace the puppet Dalai Lama with the “true” incarnation. Tibetans appealed to the Chinese Emperor for help. The army sent by China was badly defeated. But continued sending troops at last in 1720 Chinese army captured Tibet and victory assured the Manchus Suzerainty over Tibet. It is to be noted that Chinese influence in Tibet between 1720 and 1912 ebbed and flowed with the changing fortunes of the Manchu dynasty in China proper and what is more interesting is the fact that the Chinese Ambans were able to exert some amount of influence in Tibet only during the minority of Dalai Lama’s or during the interregnum periods between the two Dalai Lamas. (Pathak, 1971:155)

**Relations with Manchu, Gorkha and British neighbors**

Tibet did not develop ties with the Chinese Ming Dynasty (1386-1644). On the other hand, the Dalai Lama, who established his sovereign rule over the Tibet with the help of the Mongol patron in 1642, did develop close religious ties with the Manchu emperors, who conquered China and established the Qing Dynasty (1644-1911). The Dalai Lama agreed to become spiritual guide of the Manchu emperor and accepted patronage and protection in exchange. This “priest-patron relationship (known in Tibetan as Cho-Yon), which the Dalai Lama also maintained with some Mongol princes and Tibetan nobles, was the only formal tie that existed between the Tibetan and Manchus during the Qing Dynasty. It did not, in itself, affect Tibet’s independence. (Richardson, 1962:82)
On the political level, some powerful Manchu emperors succeed exerting a degree of influence over Tibet. Thus, between 1720 and 1792 Emperors Kangxi, Yong Zhen and Qianlong sent imperial troops to Tibet four times to protect Dalai Lama and the Tibetan people from foreign invasions by Mongol and Gorkhas or from internal unrest. These expeditions provided the Emperor with the means for establishing influence in Tibet. He sent representatives to the Tibetan capital, Lhasa some of whom successfully exercised their influence, in his name over the Tibetan Government, particularly with respect to the conduct to foreign relations. At the height of Manchu power, which lasted a few decades, the situation was not unlike that which can exist between a superpower and a satellite or protectorate, and therefore one which though politically significant, does not extinguish the independent existence of the weaker state. Tibet was ever incorporated into the Manchu empire, much less China, and it continued to conduct its relations with neighbouring states largely on its own. (Shakabpa, 1948:22)

Manchu influence did not last long. It was entirely ineffective by the time the British briefly invaded and concluded a bilateral treaty with Tibet, the Lhasa Convention, in 1904. Despite his loss of influence the imperial government in Peking continued to claim some authority over Tibet, particularly with respect to its international relations, and authority which the British imperial government termed ‘suzerainty’ in its dealings with Peking and St. Petersburg. Imperial armies tried to reassert actual influence in 1910 by invading the country and occupying Lhasa. Following the 1911 revolution in China and the overthrow of the Manchu empire, the troops surrendered to the Tibetan army and were repatriated under a China-Tibetan peace accord. The Dalai Lama reasserted Tibet’s full independence internally, by issuing a proclamation, and externally, in communication to foreign rulers and in a treaty with Mongolia. (Shakabpa, 1948:22)

**Tibet in the 20th Century**

Tibet’s status following the expulsion of Manchu troops is not subject to serious dispute. Whatever ties existed between the Dalai Lama and the Manchu emperor of the Qing Dynasty were extinguished with the fall of that empire and dynasty. From 1911 to 1950, Tibet successfully avoided undue foreign influence and behaved, in every respect as a fully independent state.
Tibet maintained diplomatic relations with Nepal, Bhutan, and British India and later with independent India. Relations with China remained strained. The Chinese waged a border war with Tibet while formally urging Tibet to “join” the Chinese republic, claiming all along the rest of the world that Tibet already was one of the China’s “five races.” (Bell, 1927:23)

In an effort to reduce China-Tibetan tensions, the British convened a tripartite conference in Simla in 1913 where the three states met on equal terms. As the British remained his Chinese counterpart, Tibet entered the conference as “an independent nation recognizing no allegiance to China. “The conference was successful in that it did not resolve the difference between Tibet and China. It was, nevertheless, significant in that Anglo-Tibetan friendship was reaffirmed with the conclusion of bilateral trade and border agreements. In a joint declaration Great Britain in bound themselves not to recognize Chinese suzerainty or other special rights in Tibet unless China signed the draft Simla convention which would have guaranteed Tibet’s greater borders, its territorial integrity and full autonomy. China never signed the convention, however, leaving the terms of joint declaration in full force. (Mehra, 1970: 12)

Tibet conducted its international relations primarily by dealing with the British, Chinese, Nepalese and Bhutanese diplomatic missions in Lhasa, but also through government delegations travelling abroad. When India became independent, the British mission in Lhasa was replaced by an Indian one. During World War II Tibet remained neutral, despite strong pressure from the U.S., Britain and China to allow passage of raw materials through Tibet. (Mehra, 1970: 12)

Tibet never maintained extensive international relations, but those countries with whom it did maintain relations treated Tibet as they would any sovereign state. Its international status was in fact no different, say, than that of Nepal. Thus, when applied for membership to the UN in 1949, it cited its treaty and diplomatic relations with Tibet to demonstrate its full international personality.
China-Tibet Seventeen-point Agreement and Invasion of Tibet

In 1951, following the defeat of the Tibetan army and the occupation of much of Tibet by the PLA, a Tibetan negotiating team left for Beijing where it open talks with Chinese officials in April. The Tibetan delegates were authorized to negotiate but were not empowered to sign any agreement without first consulting their government.

From all the accounts of the Tibetan negotiations it appears that they were put under tremendous pressure to sign an agreement prepared by Chinese which would incorporate Tibet into China while only granting regional autonomy in return. The negotiators claim they were threatened personally and were not allowed to contact their government for instructions. The Chinese officials allegedly threatened an immediate military advance to Lhasa and the unilateral dictations of terms if they did not sign. (Lama, 1962: 87-88)

On May 30th, the Seventeen-Point Agreement for the Peaceful Liberation of Tibet was signed, without the approval or knowledge of the Tibetan Government. Tibetan negotiators claim that, because they had not been given government seal with which to conclude agreements, the Chinese fabricated Tibetan seal which were affixed to the treaty. (Union Research Institute, Tibet: 1950-1967, 1968: 19-23).

The Seventeen-Point Agreement authorized the entry of Chinese forces and effectively incorporated Tibet into the China. China agreed not to alter the existing political system in Tibet and not to interfere with the established status, functions, and powers of the Dalai Lama or the Panchen Lama. China further agreed to give the Tibetan people regional autonomy and to respect their religious beliefs and customs. In addition, the agreement provided that internal reforms in Tibet would only take place after consultations with Tibetan leaders. As soon as the Tibetan Government learned of the agreement, it sent instructions to the Tibetan delegation to inform the Chinese Government that its terms were unacceptable (1951 US Foreign Relations, vol.7, Henderson to Secretary of State, 11, June 1951:1707-1708). With over 40,000 Chinese troops in control of more than half of the country, however the Dalai Lama and his government had effectively lost their freedom to accept or reject the agreement. The Tibetan Government objected to agreement and never formally ratified it, but under the circumstances, it was obliged to abide by it. On the first occasion the Dalai Lama had to
express himself freely concerning the agreement— which came only after his flight to India in 1959. He declared in an official statement.

“The agreement which followed the invasion was thrust upon its people and government by the threat of arms. It was never accepted by them of their own free will. The consent of government was secured under duress and at the point of the bayonet …

…while I and my government did not voluntarily accept the agreement, we were obliged to acquiesce in it and decided to abide by the terms and conditions in order to save my people and country from the danger of total destruction”. (Statement issued by Dalai Lama at his first press conference, Mussoorie, 20 June 1959).

Vienna Convention, on the Law of Treaties

The law governing international agreements is based, as is contract law, on the universally recognized principle that the foundation of conventional obligations is the free and mutual consent of contracting parties and that, conversely, freedom of consent is essential for the validity of agreements. An “agreement” imposed on a weaker party by correction consequently lacks validity.

The International Law Commission, in their commentary to what is now Article 52 of the Vienna Convention, on the Law of Treaties, found:

While the covenant (of the League of Nations) and the pact of Paris there began to develop a strong body of opinion which held that treaties (brought about by the threat or use of force) should no longer be recognized as legally valid. The endorsement of the criminality of aggressive war in the charters of allied tribunals for the trial of axis war criminals, the clear-cut prohibition threat or use of force in article 2(4) of the charter of UN, together with the practice of the UN itself, have reinforced and consolidated this development in the law. The commission considered that invalidity of a treaty procured by the illegal threat or use of force is a principle which lex lata in the international law of today. (Vienna Convention, on the Law of Treaties, 1980:205)
Article 52 of the said Vienna Convention is an accurate statement of the modern law governing international agreements. (Vienna Convention, on the Law of Treaties, 1980:205) it provides:

A treaty is void if its conclusion has been procured by the threat or use of force I violation of the principles of international law embodied in the charter of UN. The China is not a signatory to this convention but has consistently held that all treaties imposed by the threat or use of force are invalid, even those concluded in previous century. (Vienna Convention, on the Law of Treaties, 1980: 207)

If a treaty has been procured by force, the “victim state” is never stopped from alleging its invalidity. (Vienna Convention, on the Law of Treaties, 1980: 208) a state may invoke two types of invalidity: relative and absolute. Relative nullity may be invoked if the state has been the victim of errors, fraud, or corruption, or if its representative acted ultra vires; express agreement or subsequent acquiescence cures relative nullity. (Vienna Convention, on the Law of Treaties, 1980: 209) in contrast, absolute nullity voids an agreement entirely where a state’s representative was coerced into signing the agreement or where the state itself was coerced by the threat of use force into concluding it. (Vienna Convention, on the Law of Treaties, 1980: 210) thus an agreement imposed on a on a state by another state whose superior armed forces have or are in the process of occupying, invading or threatening the territory of other state in violation of international law is ipso facto procured by the illegal threat or use of force and is consequently without any legal effect. (Vienna Convention, on the Law of Treaties, 1980: 211)

**Tibet made to sign the seventeen point agreement**

The condition under which the Tibetan was made to sign the seventeen point agreement amounted the coercion in the sense discussed above. The following considerations are especially relevant in reaching this conclusion:

On the opening of negotiations on April 29, 1951, at least 40,000 Chinese troops had entered Tibet and an equal number of reinforcement were on their way, they had already defeated the small Tibetan army, killing over half the latter’s troops, and captured the important provincial capital of Chamdo. By the time Tibetan and Chinese delegates met in Beijing, most of Amdo
and Kham were under Chinese occupation. At the same time, proclamations had been and were still being issued by Chinese authorities declaring their intention to take control of all of Tibet, by force if necessary. (Vienna Convention, on the Law of Treaties, 1980: 212)

The terms of settlement presented to the Tibetan negotiators, whereby the Tibetan government was to “actively assist” the Chinese army to enter and occupy Tibet (Article II), were more in the nature of an ultimatum than a basis for a negotiated agreement. This is evident from the accounts of negotiations and from the fact that the principle terms had already been unilaterally proclaimed by Chinese five months before the starts of talks. (Vienna Convention, on the Law of Treaties, 1980: 213)

There is little reason to disbelieve the claims by the members of the Tibetan delegations that their Chinese counterpart threatened them with an immediate advance on Lhasa if the terms proposed by them were not agreed to. This was wholly in keeping with the uncompromising stand that the Chinese authorities took on the question of the “reunification” of Tibet with China throughout that period. (Vienna Convention, on the Law of Treaties, 1980: 214)

At any rate, the position the Tibetans found themselves in was one in which consent could not be assume to have been freely given. The Dalai Lama formulated the choice the Tibetan faced as being essentially that between the more or less orderly occupation of the country with maintenance of some form of autonomy provided by the Beijing agreement, and the immediate and forceful advance of Chinese armies to Lhasa with the unilateral imposition of even harsher terms by the occupiers.

That it was totally controlled by the Chinese and that the people of Tibet would never recognize it. Up his arrival in India, the Dalai Lama declared: “where I am, accompanied by my government, the Tibetan people recognize us as the Government of Tibet.”(Dalai Lama, Press conference, Mussoorie, 20 June 1959)

**Chinese Constitution in Tibet**

Since 1959, Tibet has come directly under the administration of the Central Government of Beijing. A large part of Tibet has been incorporated in the Chinese provinces of Yunnan, Sichuan, Gansu and in Qinghai and, in 1965, the “Tibet Autonomous Region of China” was
formally inaugurated in an effort to further integrated the administration of Tibet in the administrative system of the China.

The Constitution of the China stipulates its preamble that the “People’s Republic of China is a unitary multinational state built up jointly by the people of all its nationalities. (Constitution of the Peoples Republic of China, adopted 4 Dec. 1982:27). The “autonomy” of the region represents no more than a limited delegation of governmental authority from the Central Government in Beijing to the local authorities in Lhasa.

The Chinese presence is felt throughout Tibet. Virtually all position of power are occupied by Chinese military and Communist Party officials and only few prominent Tibetans have been appointed to positions of nominal importance. All policy decisions are made or approved by the Central Government and the army’s authority is felt everywhere.

The assertion of Chinese authority has gone unchallenged in Tibet. Following the suppression of the 1959 rebellion, Tibetan guerrilla units continued to battle the Chinese army. Almost every year since 1959, reports have reached India of popular revolt in Tibet. In 1972, for instance, a revolt affecting over two-thirds of Tibet broke out, claiming the lives of 12,000 Tibetans. (The Statesman, 17 September, 1973)

In exile, guerrilla forces regrouped and set up their main base of operations in Mustang, a small dependent principality of Nepal, on the Tibetan border. From there raids were regularly carried out on Chinese convoys and military bases. (Patterson, 1962: 123-125). Under strong pressure from China, Nepal forced the Tibetans to abandon their Mustang base in 1974. (Norbu, 1974: 19-23). Although these were important setbacks, they did not end all guerrilla activity in Tibet.

After the death of Mao, in 1976, China’s new leadership have followed a more moderate and pragmatic course towards Tibet. New policies have included some liberalization to stimulate the economy and a temporary tax exemption for farmers. (Martin, 1982:28) This policy has undeniably had some positive effects, as Tibetan in exile admit, especially in Lhasa and other major cities. (The Telegraph, Calcutta, 1,May 1983). It has not diminished the population’s opposition to Chinese rule, however.
According to some Tibetans, the liberalization has merely served to encourage the public articulation of anti-Chinese sentiments and there are indications that underground organizations, some of which have contacted with the Tibetan Youth Congress in India and with the government-in-exile, are better organized and more extensive than before. (Ali, 1983:27). In 1979 and 1981, widespread unrest was reported in Tibet and a year later over one hundred demonstrators were arrested in the southern city of Shigatse. (Times of India, 31 January 1981). In 1983 an estimated 3,000 persons were arrested, many of whom were executed between August and November. (Office of Tibet, New York, “30 October 1983). Visitors to Lhasa have reported seeing official posters throughout the city warning against armed subversion. (Weisskopf and Liu, 1981: 229).

An indication of the extent of continuing resentment of the Chinese presence in Tibet is provided by the overwhelming military presence throughout the country. Although the exact number of Chinese troops is unknown, estimates vary between 15,000 to 600,000 and most put the number 300,000 in Tibet Autonomous Region alone. Visitors to Tibet frequently comment on the overbearing presence of the military in Lhasa and other cities. (Desshpande, 1969:511)

In 1978, a dialogue was opened between the Tibetan Government-in Exile and the Chinese Government this led to the visit to the Tibet in 1979, 1980 and 1985 of four fact finding delegations from the Dalai Lama’s Government. They were received everywhere in Tibet by population with an outpouring of emotions and open demonstrations of support and loyalty to Dali Lama. The second delegation’s visit was cut short by Chinese authorities because, in their opinion, these demonstrations were getting out of hand. (Dorjee, 1980: 3-21)

Exile Government of Tibet

The Dalai Lama has established an effective government in exile at Dharamshala, India. The government consisted of a cabinet, the Kashag, with six portfolios: Home Affairs, Foreign Affairs, Regional and Culture Education, Finance and Security. A bureau was opened in New Delhi to serve as the link with Indian Government, foreign diplomatic missions, and the various relief agencies. Offices were subsequently opened in New York, Geneva, Kathmandu, Gangtok and later in Tokyo and London, to act as unofficial embassies for the government-in-exile. (Office of Dalai Lama, Tibetans in Exile 1959-1969: iii-x.) In 1960, the Dalai Lama
called the first democratic elections for a newly created representative body, the Commission of People’s Deputies. A year later he announced the outline for a new democratic constitution, and on March 10, 1963, the Dalai Lama promulgated the “constitution of Tibet,” an instrument combining principles of Buddhism with those of popular democracy. (Constitution of Tibet, 10 March, 1963). The constitution is called a “draft pending the Dalai Lama’s return to Tibet, at which time it is to be given final shape in accordance with the wishes of the Tibetans there. (Constitution of Tibet, 10 March, 1963). The constitution, in its Preliminary Articles, specifically recognizes the supremacy of international law, the UN Charter, and the Universal Declaration, of Human Rights, and renounces the use of force.

Whether one accepts a broad or more limited interpretation of the prohibition of the use of force, the facts of the present case necessarily lead to that Tibet was coerced into concluding the Seventeen-Point Agreement in 1951. That agreement was consequently devoid ab initio of any legal effect. The Dalai Lama could at any time legitimately allege the invalidity of the treaty imposed by force. This he did in publicly in 1959.

This only reinforced by the fact the Tibetan delegates to the negotiations were not even authorized by their government to sign the agreement, let alone affix any official seals to it, and that they declared that they were unable to bind Head of State or governments. (Constitution of Tibet, 10 March, 1963)

**China’s Implementation of the Seventeen Point Agreement**

Following the imposition of the Seventeen-Point Agreement, the Chinese military and political authorities set up new government and communist Party organs alongside the existing Tibetan institutions in Tibet, and vested them with the “real” power, there by undermining Tibetan Governmental. In 1954, the Chinese State Council adopted the “Resolution on the establishment of the Preparatory Committee for the Autonomous Region of Tibet” to further the integrations of administration of Tibet with that China. The Preparatory Committee was to function as the central administration of Tibet. The Dalai Lama made chairman, but had no real authority in the government, whose subordinate administrative agencies were dominated by Chinese personal. (Lama, 1959:133)
It has been argued by some jurist that a treaty imposed by coercion can acquire validity if the legitimate government of the coerced state subsequently expressly accepts the treaty and that this acceptance is unquestionably a free expression of consent. Under no circumstance, however, can the mere fact that a state enforces the terms of an illegal and void agreement by means of force or the threat of force validate such a treaty:

The de facto enforcement of such a treaty does not change its de jure invalidity. As situations must be brought back to the state which existed before the treaty was put into operations: (Nazari, 1980: 286.)

The Seventeen Point Agreement, void its inception, did not acquire legal validity at any time thereafter. Between the time of its conclusion and its public repudiation by the Dalai Lama in 1959, nothing occurred to given it validity.

Firstly, the state of coercion by which the treaty was imposed on Dalai Lama and the Tibetan Government continued throughout that period, so that the Dalai Lama and his government were at no time in a position to freely express their expectancy rejection of the terms of seventeen Point Agreement. Chinese enforcement of those terms by continued threat and use of force cannot have legitimized that was originally an illegal act and a void treaty. The Dalai Lama's conduct in seeking a compromise and avoiding confrontation could not validate the treaty by estoppels by conduct. International law does not oblige a wronged state to use violence to assert its claims.

Secondly the Tibetan Government and people's opposition to the imposition of Chinese control in Tibet and their rejection of the terms of the agreement were well known to the Chinese authorities throughout. (Chinese statements indicating strong Tibetan opposition—particularly by government officials and the Dalai Lama, Selected Works of Mao Tse-tung, 1965:75). The imposition of social, political, and agrarian reforms, as well as the frequent attacks on religious personages and monasteries, led to increasingly violent reactions by Tibetans. In 1956 rebellion broke out in various parts of Tibet and culminated in open fighting in Lhasa in March 1959. The Chinese put down the revolt in a relatively short time. Approximately 90,000 Tibetans were killed, as many fled the country and tens of thousands
of Tibetans were imprisoned. (Hindustan Times, 19 July 1959). The Lama and most of his ministers managed to escape on the night of March 17, to India.

Establishment of Chinese Authority in 1959

On 28 March 1959, as soon as the Chinese forces had regained control over Lhasa, Premier Chou En-lai issued an order of State Council. (Order of State Council of the People’s Republic of China, New China News Agency (NCNA), Beijing, 28 March, 1959) dissolving the Government of Tibet. The order stated in part that “(i) In order to safeguard the unification of the country and national unity, in additional to enjoining the Tibet Military Area Command of the Chinese People’s Liberation Army to put down the rebellion thoroughly, the decision is that from this day the Tibet Local Government is dissolved...”

The Dalai Lama and his ministers, en route to the Indian border, reacted promptly: they formally in inaugurated a provisional government in Lhuntse Dzong, to be the sole legitimate government of independent Tibet. (Lama, 1962: 211-212) As for the new administration in Lhasa, the Dalai Lama claimed as an instrument of national policy. The main body of the documents provides for a system of government not unlike a constitutional monarchy, with the executive power vested in Head of State, the Dalai Lama and the Kashag (the cabinet), the legislative authority vested in the elected National Assembly, and the judicial authority in an independent Supreme Court.

In exile, there is no separate Tibetan judicial system, and a smaller elected body, the Commission of People’s Deputies, essentially fulfills the function of a parliament in exile. Below the Kashag, the government functions are now organised under the following departments: the Council of Home Affairs, for religious and Cultural Affairs and for Education, the Finance office and the Departments of Security, Information (including International Affairs), Health, Service Management, and of Audit. The government is financed primarily by a voluntary tax from Tibetan refugees around the world and from Tibetan business originations, as well as by small enterprises run by the finance office. The Tibetan Government-in-exile also established or encouraged the establishment of a number of institutions to preserve and promote the Tibetan heritage and to enhance the exile community’s cultural life. (Lama, 1980:1-14) The Tibetan Government in Exile effectively
administers all affairs pertaining to refugees in India and, to a lesser extent, elsewhere. Furthermore, the Dalai Lama's Government enjoys a special status in India. For example, the Indian Government refers all matters relating to Tibetan refugees to Dharamsala or at least handles them in consultation with the exile government. (Lama, 1980: xii). More importantly, the Dalai Lama's Government is looked upon by the Tibetan people as their only legitimate government, and the once representing their interests.

The Dalai Lama's objective, to reconstruct a viable and even successful community in exile, has successes remarkably well. Indeed, the Tibetan have been called “the worlds most well settled refugees.” (Telegraph, 23 June 1983) Professor Michael concluded that, “In India, the Tibetan polity settlement, its enterprises, and its religious-political structure have not only flourished but have transformed and developed from the prototype in Tibet into an active part of the modern world.” (Michael, 1984:12)

Tibetan Government in Exile is not a new body established outside the territory of Tibet, but the continuation of the legitimate and recognized government of Tibet in Lhasa. In exile, that government has functioned, and still functions, effectively to the extent that this is possible on the foreign soil and without official political recognition. At the least, the Dalai Lama’s presence in exile and the functioning of his government there, act as a continuous challenged to the legitimacy of the Chinese administration in Lhasa. The successful reconstruction and advancement of the exile community as a whole, moreover, presents a tangible and viable alternative to the highly unsuccessful and tragic attempt at transformation of the Tibetan plateau. Both these elements constitute the dynamic aspect of the continuity of the Tibetan state. The efforts on Tibet’s status of the establishment of Chinese administrative organs, the exercise of authority by the government of the China and the overwhelming Chinese military presence in Tibet, on the one hand, and of the existence of a Tibetan Government in Exile and the continuing Tibetan opposition to the Chinese presence, on the other, should be assessed by applying the law to the events of the past decades.
Tibet’s Conquest and Annexation and International law

International law is a system developed and enforced by independent states in order to protect their interests. Its most fundamental function is the protection of those states’ very existence. Consequently, the extinction of a state should neither be easily presumed nor lightly accepted.

Once established, the statehood of a political entity is buttressed by strong presumption in its favour, despite sometimes very extensive loss of actual authority. A state’s formal independence is therefore not lost unless and until the source or validity of its government has indisputably been transferred from that state to the government of another state. Similarly, actual independence is not lost unless the effective governmental authority of the independent state has been totally extinguished and replaced by that of the controlling state. (Schwarzenberger, 1957: 119-123). This presumption is reflected in the central place given to the independence of state in the *UN Charter, Article-II, Para, 7*, protecting a state’s territorial integrity and independence. The International Court held in the Lotus Case that, while the independence of states may be considered as a general principle of international law, “restriction upon the independence of states cannot therefore be presumed.” 1927, (Brierly, 1963: 147-148). Where as in the past conquest was generally considered among the valid forms of acquisition of territory, the traditional doctrine was merely a corollary to the attitude towards war, which the law was obliged to tolerate as a method of settling disputes. (Brierly, 1963:147-148).

Post 1945, international law view lacks both moral, logical, and legal validity. Jennings summarizes these points in the following words: “To brand as illegal the use of force against the “territorial integrity” of a state, and yet at the same time to recognized a rape of another’s territory by illegal force as being itself a roof of legal title to the sovereignty over it, is surely to risk bringing the law into contempt. For it is not simply a question where it is possible to allow a title which cannot be pleaded without incidentally exhibiting the illegality. Nor is it merely a question of the limits of the maxim *ex injuri jus non oritur*. The question is whether an international crime of the first order can itself be pleaded as title because its perpetration has been attended with success. (Jenning, 1980: 54)
He concluded that "one is driven to accept the position that conquest as a title to territorial sovereignty has ceased to be a part of law.

This supports the Declaration of Principles of International Law Concerning Friendly Relations and Cooperation among States in Accordance with the Charter of the UN. (UN General Assembly in 1970), which proclaims: "The territory of a state shall not be the object of acquisition by another State resulting from the threat or use of force shall be recognized as legal."

It is, nonetheless, often argued that an action, illegal as it may be when committed, may under some circumstances bring about a legal effect over time this argument derives principally from the need to reconcile tensions between the law and facts, for there is a limit to the legal system’s ability to tolerate significant discrepancies between the two. In the case of illegal use force and invasion of another state, the tension is between the illegality of the aggressor’s action and the effectiveness of his control over the territory she occupies over time. The conflict between the two principles, in concrete situations is most difficult to reconcile where the international which regulates a particular area of interstate relations is no longer in accordance with the general practice of states or in areas which ought to be regulated by international law but are not. Where an area of international relations is regulated by international law and the general practice of states is in accordance with the legal principles, concrete situations “can be judged on the grounds of clear objective slandered.” (Bouchez, 1962:151-159). The starting point in that situation should be to accord no legal consequences to the illegal act:

“Territorial claims contrary to really valid rules of international law ought to be rejected. Rejection should be maintained even if the claim is supported by effective exercise of sovereignty by the claiming state. For the effective exercise of an act contrary to international law by no means justifies the existence of a right. It remains a claim but does not become a right by virtue of the effective exercise of state authority.” (Bouchez, 1962:151-159)

The question of prescription nevertheless arises, when a situation which is clearly contrary to such objectives standards of international law persists. It is contended that legal effects may eventually result from an illegal act by virtue of the fact that the factual situation has been
maintained over a long period of time and that it is undisputed by the other states :( (Bouchez, 1962:151,159)

“The application of _ex injuria jus non oritur_ is limited to the area in relations to which an obvious agreement about what is valid exists among states, while (the criterion _ex factis jus oritur_) is of greater importance with regards to areas where such objectives standards are absent. Finally, _ex factis jus oritur_ can even be applied if a state violates an objective slandered of international law on condition that the claiming states maintained its claim (after the violation) and the other states acquiesced in it. In this way the latter criterion contributes to legal security among nations. Consequently, it is impossible to state in general whether _ex injuria jus non oritur_ or _ex factis jus oritur_ is the right criterion. Rather, the attending circumstances are relevant in deciding what criterion has to be applied”. (Bouchez, 1962: 151-159)

It was shown above that the illegal use of force by a state to acquire a part or the whole of the territory of another state is regarded as a supreme violation of international law by the international community as a whole. What is more, a clear and objective standard exists in international law in this regard.

One can certainly accept the proposition that where the lapse of time brings about the adual acceptance of the new situation by the government or population of a conquered state, fact, illegal in its origin, may thus gradually be legalized. This might conceivably occur if the conquered government or people consider that the benefits of the new state of affairs, for example in terms of economic advancement or increased long-term security, outweighs the advantage of a restoration of the status quo ante. (Fiore, 1918:431-432). Similarly, there can be little point in withholding title to sovereignty over conquered territory where the lapse of time has eliminated or virtually eliminated any challenged to the conqueror’s claim, above all, by the conquered. (Fiore, 1918: 431-432)

Where the lapse of time has not had either of these effects, the illegal use of force against a state can in general nor result in the transfer of the legal title. The maintenance of a claim and the exercise of a measure of effective control are in themselves inconclusive where the claim
is challenged and the possession is not peaceable or the degree of control is brought into question.

The use of violence against the conqueror is not the only means of interrupting this peaceful possession and therefore impending a claim by prescription. As early as 1910-1911, the Arbital Tribunal in the Chamizal Arbitration between the United States and Mexico held that the decision to desist from action which might lead to violence cannot be held against the state threatened by a prescriptive claim. The state against which the claim is being made, the Tribunal held, "cannot be blamed for resorting to milder forms of prost..." (Chamizal, 1911:782-833). The US claim title to the Chamizal, inter alia, on the ground of prescription. The arbitrators were unanimous in holding on this point that the claim of the US failed simply because the possession had not been undisturbed, uninterrupted and unchallenged since 1848.

History is replete with examples of conquests and annexations of entire states which, regardless of their acceptance or continued challenge, have permanently transformed international political boundaries. States practice since the coming into force of the UN Charter, however, confirmed the legal norm which rejects the acquisition of title over territory following the illegal use of force.

Repeatedly, in the debates and resolutions of the UN Security Councils and General Assembly on this question, the member states have reaffirmed that no territorial acquisition resulting from the threat or use of force shall be recognized. (Resolutions and Decisions of the General Assembly and the Security Council Relating to the Question of Palestine, 1976: 183).

Even those states which have used force for the purpose of territorial aggrandizement or political expansion have deliberately avoided claiming title to invaded territory on the basis of conquest or of protracted effective control. On the contrary, invading states either claim the existence of a prior title to the territory in question as the basis for their action or they limit such action to the securement of the victim state's political and military allegiance. The latter type of action most frequently results in the establishment of a so-called satellite relationship. In neither case is a claim to title by conquest advanced. (In fact, the annexation of Jerusalem by Israel has been defended on historic grounds, while that of the Baltic States by the USSR
was presented as a voluntary merger. In other cases actions have been taken ostensibly in order to redress unjust colonial situations).

We draw from the scarce state practice World War II is that claims to territory based solely on the effective use or threat of force claims to territory based solely on the effective use or threat of force are rejected by the overwhelming majority of states as contrary to modern international law. Furthermore, the time which has elapsed since World War II has proved to be insufficient in itself to create any title to invaded territory by prescription.

What effect a longer period of time might have in closing the gap between law and fact cannot be established from recent practice. (Crawford, 1979:420). Some states, notably China, take the view that no amount of time can legitimize illegal acquisition of territory, so that conquered states can never be deprived of the legal title to sovereignty over their territory. This view was reiterated on numerous occasions with regards to China's "resumption of sovereignty" over Hong Kong. ("Joint Declaration of the Government of the People's Republic of China and the Government of the United Kingdom of Great Britain and Northern Ireland on the Question of Hong Kong," 1984:17)

As the analysis shows, contemporary international law is extremely reluctant, at best to consider conquest, even where this is followed by subjugation and annexation and by the exercise of effective control over a period of time, to be a valid mode of acquisition of territory. International law is even less willing to accept the proposition that such illegal action can effectuate the extinction of a whole state.

**Existence of the Tibetan Governments-in-Exile**

The existence and activity of an exiled government or state represents the "dynamic aspect of the continuity of the occupied state. (K. Marek, 1986:86) This was first tangibly demonstrated during the First World War, with the physical existence on foreign soil of the governments and armies of occupied states, such as those of Belgium, Serbia, and Montenegro. It was confirmed on a greater scale during the Second World War, when a large number of governments of states incorporated into the German and Italian empires, including those of the Netherlands, Norway, Yugoslavia, and Greece, continued their activities in London.
Sir Arnold McNair formulates the accepted view thus. (Nair, 1984:357-358). “The mere fact that a foreign Government has been deprived on the control of a part or the whole of its territory by an enemy in no way invalidates legislations passed or other acts of sovereignty done by it outside its normal territory... There is no principle of international law which says that a Government cannot act validly upon foreign territory with consent of the local sovereign.”

Scholars have repeatedly emphasized the irreverence of the removal of a seal of government to foreign soil, (Marek, 1942: 90-91). Arguing that government-in-exile “can only be conceived as organs of their state, acting on the basis of their own legal order whose continuity is unbroken by belligerent occupation”. (Marek, 1942:91). This continuity necessarily presupposes the prior proper constitution of a government in its own country, so that the government merely transfers its activities abroad. (Marek, 1942:97).

Further proof that exiled governments continue to be state organs is reflected in the acts of sovereignty that they carry out. (Marek,1942:94). Governments in exile negotiated and treaties and maintained diplomatic and consular relations with foreign states. (Marek, 1942: 100). similarly, they have conducted the legislative, administrative, and judicial functions of the routine concerns of operating in exile, the legislative and judicial functions have been designed to affect the home countries. (Marek,1942: 100-101).

From the foregoing review of post-1949 development and the analysis of law on the subject a number of relevant facts emerge which allow certain conclusion on Tibet’s extinction or continued existence.

First, and perhaps foremost, it is clear that nether the Tibetan Government, in Lhasa until 1959 and in exile since then, nor the people of Tibet have accepted the imposition of Chinese rule over Tibet. To this day, the Dalai Lama and his government challenged the legitimacy of the Chinese presence in Tibet and claim to the sole legitimate government of that country. Indeed, their desire for the restoration of Tibet’s independence is not diminished. This stand is not only support by the exile community, but, more importantly, by the overwhelming majority of Tibetans in Tibet.

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Secondly it is admittedly difficult to ascertain the extent of support the Dalai Lama and his government enjoy in Tibet today with any degree of accuracy, under the present circumstances. Nevertheless, the evidence presented above, especially the dramatic display of loyalty and support witnessed by the Dali Lama’s delegations to Tibet in 1979, 1980 and 1995, leaves little doubt as to the night universal devotion to the religious ideal of rangzen, the popular Tibetan term for freedom and independence, which he represents. (Daily Telegraph, 10 August 1983). It is in fact, not possible to separate the religious from the political sentiments in Tibet, for the distinction is rarely made by the Tibetans themselves, who regards the Dalai Lama as the ultimate symbol of both. Professor Franz Michael’s conclusion effectively represents the opinion of most observers and visitors to Tibet:

Recent events have clearly demonstrated that the large majority of the six million Tibetan at home has not abandoned its faith or its loyalty to the Dalai Lama, who has come to personify more than ever the Tibetan religious-political order and national identity. (Michael, 1985:744).

The opposition to Chinese Communist rule in Tibet is widespread. The Tibetan’s disidentification with the Chinese have historical roots, which the Communist invasion in 1949 only aggravated. The Chinese communists are regarded by the Tibetan as an alien and atheist people with whom they have hardly anything in common. Most importantly, the invasion of Tibet and especially the subsequent attempts to suppress the Tibetan identity was greatly resented: Tibetans believe they have experience little benefit from the Chinese presence in Tibet, while they have had to endure much hardship under their rule.

Thirdly beyond establishing the fact that the rule Tibetan people and their government clearly do not accept but, instead, continue to reject the Chinese presence in Tibet, the evidence presented here even casts doubt on the degree of effectiveness of control of china’s regime in Tibet. The guerilla operations, which declined after 1974, and the underground resistance movements, which have expanded since then, do not, most observers feel pose a serious threat to Chin’s physical hold on the country. Nonetheless, the threat is serious enough to warrant a massive military presence in Tibet. At the very least, this counting opposition represents a constant challenge to Chinese authority in Tibet, it is a source of grave embarrassment to
Beijing and it constitutes no uncertain reminder to the Tibetan population and the Chinese authorities that the struggle is not over.

Fourthly the overall position of the Chinese in Tibet is, consequently, far from stable, undisputed or peaceable. In the absence of conclusive evidence of the acquiescence of the Tibetan people the total extinction and incorporation of Tibet into the China cannot be presumed.

Fifthly in the Tibetan state has not been extinguished by the imposition of Chinese authority in Tibet, the continuation of the Tibetan state is affirmed by the continued existence and activity of the Tibetan Government in Exile.

**International Reaction**

The present analysis would not be complete without a review of the international reaction to events in Tibet.

In determining the status of political entities recognition, it was pointed out earlier, is only against recognizing states themselves. Recognition by a third state, far from being a legal act based on legal criteria, is an act of policy: it cannot bring about the extinction of a state, just as it cannot create a new one. Acquiescence by third state is therefore incapable in itself of legalizing an illegal use of force and a subsequent occupation. No recognition similarly only indicates, at most, the disapproval of individual states. (Marek, 1942: 269-368) having said that, the conduct of states remains a factor to be taken into account when determine the status of political entities especially where it represents a high degree of uniformity.

Few countries have recognized China’s annexation of Tibet, and international reaction to the events of 1959 was extremely sympathetic to the Tibetans. (Reaction from countries as diverse as the United States, Thailand and Yugoslavia, Tibet Fight for Freedom, A White Book, 1960:125-161). However, no government has formally recognized the Tibetan Government in exile.

The Government of India adopted an ambiguous stand during and immediately following the Chinese invasion of Tibet. Shortly after the Dalai Lama’s arrival in India, Prime Minister Nehru informed him of the Indian Government’s inability to extend recognition to his
government. (The Statesman, 8, July, 1959). In communications to the Chinese Government and in response to questions raised in Parliament, the Prime Minister acknowledge China’s suzerainty over Tibet and at times referred to Chinese sovereignty over that country. (Statement in Lok Sabha, 30 March, 1959, Ministry of External Affairs, Prime Minister on Sino-India Relations, vol.1, 1960:8). Furthermore, in 1954 the Indian and Chinese Governments signed the Agreement on Trade and Intercourse between the Tibet Region of China and India on 3 June 1954. The negotiation of that agreement certainly implied Indian recognition of the status quo in Tibet. India’s maintenance of a consular official in Lhasa, accredited to the Beijing Government, further confirmed India’s recognition of China’s responsibility for the conduct of Tibetan’s external relations.

In 1959, however, the Government of India voiced strong support for the Tibetans: On December 17, 1959, Prime Minister Nehru declared: “it is not right for any country to talk about its sovereignty or suzerainty over an area outside its own immediate range... According to principles (the Chinese Government) proclaims and the principles I uphold, the last voice in regards to Tibet should be the voice of the people of Tibet and nobody else. (Prime Minister’s address to Lok Sabha 17 December 1959)

The Sino-Indian treaty of 1954 expired in 1962. It was not renewed and the Indian Consulate in Lhasa was closed.

Nepal was in much the same position as India. Nepal has established diplomatic relations with the China in 1955, and year later India concluded a “trade and inter-course agreement” with China. (China-Nepal Agreement to Maintain Friendly Relations and on Trade Intercourse, 1955) under the agreement all previous China-Nepalese and Tibet-Nepalese treaties were abrogated.

The British Government reiterated its long-standing position that it only recognized China’s suzerainty over Tibet on the understanding that Tibet was autonomous. In 1959, the British felt compelled to reconsider any such recognition, for the British still regarded the Dalai Lama to be the head of the Tibetan Government.

The United States strongly condemned China’s intervention, her ruthless repression in Tibet and the dissolution of the Tibetan Government. The States Department rejected Chinese claim
to sovereignty over Tibet, reiterating the position that the US. "now and always" regarded Tibet as an autonomous state under Chinese suzerainty. (Chicago Tribune, 11 November, 1959)

Most other non-Communist governments and political parties also condemned the Chinese action. (Egyptian President Nasser (U.A.R Information Department, publication, quoted in Times of India, 21 April 1959) support for Tibet was further voiced at the Afro-Asian Convention on Tibet and Against Colonialism in Asia and Africa Convened in New Delhi by the Afro-Asian Council in April 1960. (Report of the Afro-Asian Convention, 1960).

The question of Tibet was discussed on numerous occasions at the UN and three resolutions were passed in 1960, 1961 and 1965 by the General Assembly denouncing Chinese human rights abuses in Tibet and affirming the Tibetan people's right to self-determination. (U.N.G.A, 14th Session, Document A/4234 (1959), U.N.G.A, 15th Session, Document A/4444(1960)).

In the course of the UN Assembly debates non-Communist Government made statements which reflected their view of Tibet’s pre-1951 independent status. Thus, delegates referred to the “military aggression” and “invasion” of Tibet by foreign force and denounced the 1951 Seventeen-Point Agreement as having been imposed on Tibet by force. (UN Documents on Tibet, UN, 1950-1960)

The Philippines Government referred to Tibet “as an independent nation” and voiced support for the Tibetan people’s “fight against foreign domination, it is clear the delegate from the Philippines declared, “That on the eve of the Chinese invasion in 1950, Tibet was not under the rule of any country. “She stated that China’s occupation of Tibet confirmed to “the worst type of imperils, and colonialism past or present. (U.N.G.A. A/PV.1394 (1965)'2-25, 37) The Nigerian representative spoke for outer governments also when he stated: “the people of America, born in freedom, must obviously repelled by an act of aggression...and particularly when it is perpetrated by a large state against a small and weak one.” (U.N.G.A. A/PV.1401, 1965:52-55), the representative from Thailand similarly remained the Assembly that the majority of states “refute the contention that is part of China.”(U.N.G.A. A/PV.1394, 1965:52). during the debates in the General Assembly, the United States, which had earlier
denounced the 1951 agreement and Chinese claim to sovereignty over Tibet also condemned Chinese “aggression” and their “invasion” of Tibet. (U.N.G.A. A/PV.1401,1965:42-50)

The Irish representative, Mr. Aiken, express his country’s indignation at the oppression Tibetans were being subjected to, “Tibet has fallen into the hands of China for the last few years”, he point out, but “for thousands of years, or for a couple of thousand years at any rate, it was as free as fully in control of its own affairs as any nation in this Assembly, and a thousand times more free to look after its own affairs than many of the nations here.” (U.N.G.A. A/PV.898, 1960:52). In 1965 Mr. Aiken repeated his government’s position and specified that “Tibet can rightly claim to be historically an independent country.”(U.N.G.A. A/PV.1394, 1965:61). El Salvador, which sponsored the inclusion of the item “invasion of Tibet by Foreign Forces” in 1950, maintained that “the question of Tibet has not been finally settled simply because Communist China has succeeded in achieving domination over small country of Tibet.” (U.N.G.A. A/PV.898, 1960: 46).

During the General Assembly debates on the subject, the Soviet Union and eastern European countries supported the Chinese position regarding the status of Tibet. They have subsequently abandoned this position and have expressed support for the Tibetans. (Times of India 5 May, 1980)

For this brief review it is evident that the attitude of third states of China’s claim is inconclusive. He initial reaction of the non-communist states to the events of 1959, though, on the whole, politically noncommittal, was undividedly sympathetic. In recent, years statements of policy on the question have been avoided, (19 Tibetan Review, 1984: 4)) so that today after many years later, the position taken by most states is still noncommittal.

The Present Status of Tibet

The analysis contained in this memorandum reveals that Tibet was on independent state in fact and law prior to the intervention by the China in 1949; and that the China cannot have obtained a legal title to sovereignty over Tibet on the basis of its military invasion of Tibet nor of its subsequent exercise of a measure of effective control there.
The continued support for the Dalai Lama among the overwhelming majority of the population and the active resistance to Chinese rule in Tibet, the successful development of the Tibetan polity in exile and the functioning of a government in exile are all factors which contribute to the continuity of the Tibetan state. On the other hand, in view of the illegality of China's invasion of Tibet and the nullity of the Seventeen Point Agreement, neither the degree of effective control China has been able to exercise in Tibet through the maintenance of strong military presence there, nor the amount of time which has elapsed since the invasion are sufficient to permit the conclusion that China has legally acquired the territory of Tibet.

To the present time, nothing has occurred which, according to generally accepted norms of international law, can justify the conclusion that the state of Tibet has been totally extinguished and legally incorporated to form an integral part of the China. It is significant in this regards to note once again that the Chinese Government does not itself recognized the validity of conquest, annexation or prescription as modes of territorial acquisitions. (Fu, 1983: 26) yet, a historical analysis conclusively demonstrates that prior to the invasion of Tibet, in 1949-59, no such title existed and Tibet was an independent state.

It must be concluded, therefore that the state of Tibet still exists as an exile government in Dharamsala, to represent it. The continued Chinese presence in Tibet is, violation of international law.

"Let India be and remain the hope of all the exploited races of the earth, whether in Asia, Africa or in any part of the world"

Mahatma Gandhi (Delhi Diary: .31)

"If I want that freedom for my country, I would not be deserving of that freedom if I did not cherish and treasure the equal right of every other race, weak of strong, to the same freedom"

Mahatma Gandhi (Young India, 1.10.31)

India should help Dali Lama to solve the Tibetan problem in a peaceful manner so that Indian can be reduced of the many refugees who have made India their home. India must keep the movement for Tibetan independence alive so that India can have a better bargaining power on the boundary question. Secondly we must undertake that the Tibet question be brought
before the UN. India should recognize the government of the Dalai Lama as a government in exile. That the Dalai Lama should be given travel and broadcasting facilities both at home and abroad. Tibetans in India should be allowed for cultural offensive against Chinese-occupied Tibet.