

HUMAN RIGHTS IN TIBET: ACTIVISM IN DIASPORA  
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2. Shaping Indian history across times and regions: a select anthology, Paper Titled: RELIGIOUS MISSIONS AND DIPLOMATIC ENGAGEMENTS IN CONTEMPORARY TIMES: FROM LITTLE LHASA IN INDIA TO THE BUDDHIST REGIONS OF RUSSIA-AUTHORED BY M.N.Rajesh and Arnav K Anjaria (ISBN 13 No: 978-8183877817), Volume -1.

**B.** Presented in the following conferences:

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## Chapter 1- Introduction

### 1.0) Introduction

This thesis is an attempt to analyze the contemporary nature of human rights activism in the context of the several thematic backgrounds that help understand the nature and the purpose of the movement of the Tibetan people in Tibet and in Exile, across the globe for upholding the principles of the protection of Human Rights and Dignity of the Tibetan people inside Tibet.

Thus the contemporaneous era is largely influenced by the rise of the Information and Communications Technology (ICT) revolution<sup>1</sup>. Therefore, under this background, the articulation of ideas of liberty, equality and fraternity is not only mediated through a technological convergence but rather and what is of a larger relevance, especially in the context of this research is the influence of ICT upon the architecture that hosts and furthers the scope of the articulation of the above mentioned egalitarian ideas by activists, scholars and ordinary people across the globe.

There are certain complex issues which are inter-related as far as this dissertation is concerned. From a spatial perspective, this dissertation is a study of two different spatial attires. The idea of Tibet, Human Rights and Activism in the real space scenario and the reverence and the relevance of these same ideas in a virtual spatial setting. Therefore, this dissertation attempts to understand the convergence of the bit space and the byte space through a thematic inquiry on objective grounds. As a result of which what emerges are several layers of understandings of several key issues such as identity, audience, liberty, voice, discourse, culture, genocide, compassion, religion, ethics etc. All of which are looked into their operational grounds, in the bit and the byte space. Thus what innovative nature of this dissertation is the attempt to study the discourse across two different spaces and synthesise the findings to present a rather, larger holistic picture of the subject under study across the two different spatial attires.

It could also be asserted that this dissertation is an extension of the earlier MPhil research by the same researcher, which was conducted under the table guidance of the

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<sup>1</sup>Hanna, Nagy K. "Implications of the ICT Revolution." In *Transforming Government and Building the Information Society*, 27–65. Innovation, Technology, and Knowledge Management. Springer New York, 2010. doi:10.1007/978-1-4419-1506-1\_2.



same supervisor as well. But while the concern of the earlier MPhil dissertation by the researcher of this project was spatial in nature, where the dissertation was titled as “Tibet: Re-Imagined: Understanding the New Imagination of the Tibetan nation in the Cyberspace<sup>2</sup>”. Thus a spatial concern of the MPhil dissertation also dealt with the issue of Human Rights in Tibet and the larger Human Rights discourse, yet the present study is wider in its scope and this study rather widens the scope of the earlier dissertation as well. For the fact of the matter is that the MPhil dissertation looked into the idea of imagining Tibet in the cyberspace, from a theoretical perspective it looked into how nations are born and created in cyberspace and what are the boundaries and cartography of such a phenomenon and mechanism. This spatial concern is also an integral part of the present study, but what has been a new addition to this present study is the idea of Human Rights and expansion of the concern to look into the role of human rights First in the Tibetan movement, and how it helps understand the reality, and also how a certain consciousness about human rights has helped in the novel spatial convergence and also the basic nature of human rights in a medium or a space such as the cyberspace.

#### **1.1.0) Title of the Thesis**

This Thesis is titled as “Human Rights in Tibet and Activism in Diaspora”. The title is simple in nature and to a large extent it is self-explanatory whereby it explains what the central concern of the research are, this research also adheres to the title in much of its deliberations and there is little deviation from the title, as far as the scope of the thesis is concerned.

#### **1.1.1) Elements of the Title**

As the title suggests, there are certain key elements of the Title which seek to establish a discursive relevance and form a part of the key thematic modules of the dissertation. It should be hereby asserted as well that this dissertation is being authored or this research is being approached from an inter-disciplinary perspective. It

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<sup>2</sup>Anjaria, Arnav Keyur. “Tibet Reimagined: Understanding the New Imagination of the Tibetan Nation in the Cyberspace.” Unpublished, University of Hyderabad, 2014.

seeks to approach the issue of Human Rights in Tibet and the subsequent Activism in Diaspora from a holistic perspective by adopting theories from several disciplinary backgrounds and tradition, thus this research in no way endorses or adheres to any one single theoretical or philosophical tradition.

**a) Human Rights:**

Human rights, as a discursive field of study have a very vast scope since it deals with an omnipresent reality which is the reality in every given context. Within every context one can evoke a discussion on human rights and also the assertion of their rights, even the perceived Utopia exists only as an imagination for the violation of Human rights and freedoms are a potent reality, visible all around. Thus the conception of human rights is far and wide. Generally human rights are described in terms of protection of the most basic freedoms and liberties of people, beyond the realms of divisions such as nationality, ethnicity, social identities, gender or any other classification. Human rights are universal in nature and apply to all human beings. The conception or the classification of human rights can be considered as a set of norms that seek to protect the interests of people, irrespective of any bias.

Essentially this idea of Human Rights is also a key core element of the Title. The basis of this research emerges from the situation related to Human Rights of the Tibetan people inside Tibet. Therefore, Human Rights, as a part of the Title, are an inalienable aspect of this research and the larger deliberation. Therefore, a certain understanding has also been built upon by a thorough deliberation of the idea of Human Rights as a terminology, as a philosophical concept and as a discursive tradition of social and political discourse.

Thus, Firstly the term Human Rights is a set of two major words, first being Human and the second being Rights. While there is much clarity on who are humans? To put it scientifically, the 'Homo sapiens', scientific term coined by Carl Linnaeus to describe the Neanderthals, that we are and all those who form a part of the Human Race<sup>3</sup>. Thus while one understands the relevance of the term Human in the word Human Rights, the relevant word that is sought to be deliberated upon is rather the

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<sup>3</sup>Linnaeus, *Systema Naturae*. Tenth., 1758. Quoted in Wood, Bernard. *Wiley-Blackwell Student Dictionary of Human Evolution*. John Wiley & Sons, 2015, 194

word 'Rights' and what connotation does it hold. Thus primarily now the question is what are Rights?

As the opening lines of the Stanford encyclopaedia of Philosophy's article on Rights suggest that Rights are primarily the “entitlements (not) to perform certain actions, or (not) to be in certain states; or entitlements that others (not) perform certain actions or (not) be in certain states.”<sup>4</sup> Thus rights as mentioned here relate to the idea of action, and also what emerges from this description is the freedom to be free enough to perform any action according to the free will. Thus Rights as a concept is multi layered in nature and is interlinked with a set of several different connotations, again at the core of which, all linked with human nature and human behaviour. The right to perform an action is at times determined solely not by the individual human will or the collective will of the group but several other factors which are external to the concerned subject who is seeking to perform a certain given action. This action again is not independent nor does it contain certain legitimacy simply because it emerges as part of the human will but is subject to the idea of morality and legitimacy and so is also the idea of rights. Thus the freedom to commit an action is determined by how this action is perceived in the larger philosophical discourse of the morality of actions. Thus this rather relates to the conception of rights such as positive rights and negative rights as to how rights and the freedom to commit an action are viewed. Thus the action and the entitlement to perform a given action is not borne merely out of the individual or the collective will but rather from what one could refer to as the contractual agreements. Therein the human rights discourse is greatly influenced and also centres on the contractarian tradition of political philosophy.

Renowned American jurist Wesley Hohfeld dedicated much of his scholarly pursuits towards arriving at a thorough analysis and conception of the term Rights. His work has focussed on offering a clear framework and classification of Rights to help understand better, what Rights are and how the exegetical context of the term is established in accordance with the given social and philosophical reality.

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<sup>4</sup>Wenar, Leif. “Rights.” In *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, Fall 2015. Metaphysics Research Lab, Stanford University, 2015. <https://plato.stanford.edu/archives/fall2015/entries/rights/>.

Thus Hohfeldian analysis offers a more detailed deliberation of rights and it seeks to bring to the fore a further categorization of Rights, a fourfold categorization thus a fourfold analysis. Through his four stage analysis of rights, Hohfeld has presented a rather microscopic deliberation on the idea of rights and what the term and the concept entail. Thus the diagram below is a chart that is a part of the Hohfeldian analysis of rights and seeks to establish how right as an entity is expressed always as in a correlation with the other entity.

|        |           |           |            |
|--------|-----------|-----------|------------|
| Right4 | Privilege | Power     | Immunity   |
| Duty   | No- Right | Liability | Disability |

Thus as visible in the above diagram, according to Hohfeld, Right, Liberty, Power and Immunity are legal rights. Thus according to Hohfeld, Right correlates with Duty, and thus Hohfeld states that Right is a correlative term, rather it is always expressed as with a correlative. Thus as Hohfeld states that “A right is one's affirmative claim against another”

Thus right, according to Hohfeld is always expressed as in relation with another. Right of a person to perform a certain action is experienced in relation with another person who had the duty to allow the former person to perform the particular action.

On the other hand Privilege is what Hohfeld calls as “one's freedom from the right or claim of another” Thus essentially in juridical sense, Right is a claim for Hohfeld<sup>5</sup>.

Thus the above discussion of Rights represents an iota of the vast deliberation on the idea of Human Rights in western tradition. As an elementary component of the title of this Thesis, it should be noted that the Non-western perspective of Human Rights is also an essential component of this dissertation. The philosophy of the present Dalai Lama of Tibet, i.e.Tenzin Gyatso is a structure or a lens through which one offers a rather critical perspective of the situation inside Tibet. It may be seen as an adherence to a Cultural Determinist perspective, in order to understand this non-western Human Rights discourse, which essentially is set in a particular geographical setting which is Tibet.

Thus as Takashi Inoguchi and Edward Newman argue in their introductory paper titled as “Asian Values” and Democracy in Asia<sup>6</sup> that while 'societies or regions which embrace a common cultural heritage can be said to have evolved discrete systems of political and social arrangements distinct from - and sometimes in opposition to or in conflict with - the rest of the world'<sup>6</sup>, they assert this while first defining what are their basic constituent of Cultural Determinism. Thus taking a leap from their assertion, the title also refers to the geographical setting and thus placing Human Rights within that setting. While on one hand the critique of the violation of the Human Rights of the Tibetan people emerges from the indigenous Mahayana Buddhist perspective, the traditional discourse is also further deliberated upon and expanded by the Dalai Lama's own discourse which to a certain extent has also been interpreted by many authors as modern and cosmopolitan in nature, relating to the idea of Secular Ethics, Compassion and Holistic Development.

Thus as an element of the Title, Human Rights, the term has multiple relevance, and should not been seen nor is it established as at any point in the dissertation as simple a mere western or post enlightenment conception of Human Rights.

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<sup>5</sup>Hohfeld, William. “Fundamental Legal Conceptions.” In *Fundamental Legal Conceptions as Applied in Judicial Reasoning and Other Legal Essays*, 1919. Quoted in Wenar, Leif.“Rights.” In *The Stanford Encyclopedia of Philosophy*, edited by Edward N. Zalta, Fall 2015. Metaphysics Research Lab, Stanford University, 2015. <https://plato.stanford.edu/archives/fall2015/entries/rights/>.

<sup>6</sup>Inoguchi, Takashi, and Newman Edward. ““Asian Values’ and Democracy in Asia.”Hamamatsu, Shizuoka, Japan, 1997. <http://archive.unu.edu/unupress/Asian-values.html#INTRODUCTION>.

## **B) Tibet:**

Tibet for long has captured the public imagination for a long time, owing to its historical past and the dominance of the orientalist perception and the orientalist portrayal of Tibet in the public sphere. At times Tibet has been what Tibetan poet Tsundue describes as 'worlds sympathy stock'<sup>7</sup> and at times a charter of propaganda against totalitarian ideologies. At times it evokes the memoirs of a mystical civilization that existed in an isolation of its own making. The field of Tibetan studies thus presents itself with concerns that span across diverse fields and disciplines, Tibetan studies and Tibetology aren't confined to any one particular stream of social sciences or humanities and thus as this thesis is being authored under the disciplinary domain of human rights, it is deemed fit that an inter-disciplinary approach be adopted to do justice to this diverse field of deliberation as human rights in itself is also an interdisciplinary and approaching it from a single water tight disciplinarian approach would be an incomplete exercise. Thus amid the multitude of perspectives that one encounters while studying Tibet, the subject of this thesis remains to deliberate upon the condition of human rights inside Tibet and seeks to problematize the activism by the Tibetan Diaspora and Tibet supporters in exile. The past fifty-six years or so have witnessed large scale violation of human rights of the Tibetan people by People's Republic of China. It is just not a violation by the Chinese state but also by the ever changing reality of occupied Tibet. The arrival of the Chinese and the early consolidation of Chinese rule inside Tibet were faced with large scale uprising of the Tibetans inside Tibet. The events of 10th March 1959 stand testimony to the fact that the very beginning of the Chinese takeover of Tibet was marked by a brutal violation of basic freedoms and dignity of the Tibetan people. The manner in which the Chinese government suppressed the masses led large-scale nonviolent national uprising is considered as one among the most catastrophic event in Tibetan history. Thus the history of human rights violations of Tibetan people inside Tibet by the Chinese government begins from the day the Chinese set their base inside Tibet. The irony of it all is that it has been several decades since the adoption of the Universal Declaration of Human Rights by all member states of the United Nations, China also being one of the member, yet the world has rather been dormant on the tragedy inside

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<sup>7</sup>Tsundue, Tenzin. "My Tibetanness .. TenzinTsundue.com." *MY TIBETANNESS*. Accessed July 2, 2015. <https://www.Tenzintsundue.com/poems/my-Tibetanness/>.

Tibet, the core of the problem, i.e. the tragedy, is the mass violation of human rights. Time and again world leaders do express concern and shed what would at times be crocodile tears for the behaviour of the Chinese inside Tibet yet what has lacked is real action by statist forces against the human rights violation of the Tibetans. Indeed, one could also say that Tibetan movement enjoys widespread sympathy across several different countries, quite a few world leaders have also expressed their solidarity for the cause yet Tibet and the discussion of the Tibetan issue remains aloof from the agenda of the United Nations. China's growing economic clout is one reason that prevents the UN from talking about Tibet, but then the establishment of the United Nations promised a world without violence but it remains a mute spectator as Tibetans inside Tibet continue to suffer under grim conditions of torture and brutality. Thus it is this very reality of the Tibetans inside Tibet which has been the cornerstone of the resistance movement in Diaspora. Ever since the mass exodus of the Tibetan people from Tibet into India, Tibetans have sought to establish a consciousness of a nation, albeit in exile. Even though many Tibetans remain away from their cherished homeland, there is a very potent and an emphatic nationalist oriented identitarian consciousness among the Tibetan exiles as Tibetans who have been forced to flee from their home. This consciousness has helped keep alive the struggle for 6 decades or so and has also been the source of the information of the reality of Tibet. It was fourteenth Dalai Lama who established the Tibetan government in exile<sup>8</sup> which has served as the nodal institution concerned with the welfare of the Tibetan people in exile and as a quasi-official voice that has stood to raise the plight of the Tibetan people inside Tibet at various world forums. While the initial demand remained total independence from China, from the late 1980s onwards, the 14th Dalai Lama shifted his stance for genuine autonomy within the People's Republic of China<sup>9</sup>. The core element of Dalai Lama's proposal for autonomy has also been the restoration of freedom and dignity of the Tibetan people. And thus the Strasbourg proposal<sup>10</sup> which contains Dalai Lama's key standpoints on the genuine autonomy for the Tibetans offers several insights into why and how the Tibetan case for Human Rights theorists

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<sup>8</sup>“About CTA | Central Tibetan Administration.” Accessed July 2, 2014. <http://Tibet.net/about-cta/>.

<sup>9</sup>Lama, Dalai. “Strasbourg Proposal ADDRESS TO MEMBERS OF THE EUROPEAN PARLIAMENT BY HIS HOLINESS THE DALAI LAMA.” Tibet Justice Center, June 1988. <http://www.Tibetjustice.org/materials/Tibet/Tibet4.html>.

<sup>10</sup>ibid

and scholars is of particular relevance and contains a particularity of its own, something very different from other human rights issues. As the twentieth century has witnessed several different movements for human rights, the emergence of Michael Freire's Transformative Approach to Human Rights education<sup>11</sup> has marked a momentous change in the spread of Human Rights globally. The transformative approach as envisioned in the *Pedagogy of the Oppressed*<sup>12</sup> has helped usher in an era of heightened human rights consciousness and thus also emphatic and widespread activism against the violation of human rights. Individual scholars, professionals, policy makers, politicians, leaders, journalists consider themselves not only as individual actors but also seek to recognise the agency that they possess to be the agents of change. Human rights activism has witnessed a sea of change in its audience through the transformative approach, yet the transformative approach has several emancipatory potentialities and it has proved extremely viable in several different causes and issues it is still an incomplete approach as far as the situation inside Tibet is concerned, as it can be said that it is based on and emerges from the post enlightenment ideals. While Tibetan civilization has its own tradition of Human Rights discourse, found in the centuries old Tibetan Buddhist literature<sup>13</sup>. Yet to understand the growth of the Tibetan movement in Diaspora, the transformative approach of Freire remains a viable tool and medium of analysis as many of the organizations working to uphold the human rights of the Tibetan people, many activists of Tibetan origin contributing to the spread of the consciousness of people about Tibet are also a product of the enlightenment ideals but the reality inside Tibet isn't! And ultimately it is this reality that matters.

<sup>11</sup>Driks, John M. "Transformative Learning Theory in the Practice of Adult Education: An Overview." *PAACE Journal of Lifelong Learning* 7 (1998): 1–14.

<sup>12</sup>Freire, Paulo. *Pedagogy of the Oppressed: 30th Anniversary Edition*. Bloomsbury Publishing USA, 2014.

<sup>13</sup> A vastly detailed analysis of several aspects of Buddhist philosophies and Tibetan Buddhism in particular can be found in Kelley, Christopher Donald. "Toward a Buddhist Philosophy and Practice of Human Rights." Unpublished, Columbia University, 2015. [https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUKEwiHs4XdhOrUAhWJvo8KHQFnCVwQFgg-MAQ&url=https%3A%2F%2Facademiccommons.columbia.edu%2Fdownload%2Ffedora\\_content%2Fdownload%2Fac%3A186537%2FCONTENT%2FKelley\\_columbia\\_0054D\\_12597.pdf&usg=AFQjCN G7I3IR2t2MQFqaYct4zGQPrgVKiw](https://www.google.co.in/url?sa=t&rct=j&q=&esrc=s&source=web&cd=5&cad=rja&uact=8&ved=0ahUKEwiHs4XdhOrUAhWJvo8KHQFnCVwQFgg-MAQ&url=https%3A%2F%2Facademiccommons.columbia.edu%2Fdownload%2Ffedora_content%2Fdownload%2Fac%3A186537%2FCONTENT%2FKelley_columbia_0054D_12597.pdf&usg=AFQjCN G7I3IR2t2MQFqaYct4zGQPrgVKiw).



**c) Activism:**

““The philosophers have only interpreted the world, in various ways; the point is to change  
It”

Marx, Thesis on Feuerbach, number XI

As part of the title of the Thesis, the stress on the word activism signifies a certain major topical focus of the dissertation. If the terms Activism and Diaspora are, for a moment, clubbed together, they reveal a certain spatial dimension and a spatial perspective of the nature and space of activism which is under study. Generally, the observation that has been done and the analysis that this thesis seeks to highlight is of activism in Diaspora by the Tibetan exiles and the Tibet supporters worldwide, from diverse backgrounds and different nationalities. Another key aspect of the topical frame that Activism represents is the fact that the study of activism in Diaspora is also the study of technology which is again a core area that the thesis focuses upon. In particular stress has been laid on studying the activism of the Tibetan exiles and the Tibet supporters in the cyberspace. The questions deliberated upon are several, many relating to the emergence of the new forms of resistance and their adaptation in the Tibetan struggle and how they help articulate the concerns regarding human rights violations inside Tibet and how the testimonies that they highlight indicate a trend in the real space towards a certain state of exception with Tibet. The earlier MPhil dissertation authored by the same researcher focussed on the idea of cyberspace and the Tibetan activism in the cyberspace, the central argument of the dissertation remains that cyberspace as a spatial entity and as an imagination is not independent of the mainstream real space or the physical space essentially they are the values of the real space which shape, construct and also deconstruct the cyber spatial attire. Thus it is this idea of the values that make the real space that also leads one to deliberate on the question of ethics and activism and to what extent or what are the essential ethical values that influence or determine the nature of activism as far as the Tibetan cause or the Tibetan movement is concerned. The Marxist notion of activism characterizes activism as an exercise of power or an entity related to power, which is therefore influenced and inspired by several identities based interests. While the alternative notion of it within the interpretivist school looks at activism as an action related to the moral sensibility, and the idea of Ends. In such a scenario, there isn't one single

definition of activism that can be accorded as the most authentic. Rather as all social realities are, there are variants and perspectives that make and unmake the art of activism. From the Tibetan experience certainly the end and the means relate to a certain identitarian struggle, the interest of a certain identity, a Tibetan identity, interlinked with several issues that Tibetan activists highlight. The end that is seen as a cherished goal, is a certain situation where several other issues like human rights violations, cultural genocide, population control shall find their end, the end being an independent 'Free Tibet' or a Tibetan future under conditions of meaningful<sup>14</sup> and genuine autonomy under the Chinese rule. Thus as far as the ideological apparatus that guides the Tibetan activists and the idea of activism has two major points of difference, one being Rangzen<sup>15</sup> and the other being Umaylam or the Middle way policy, yet time and again several issues highlighted by both of these groups of activists find their end in the cherished goals of each of these groups. Essentially the ideological apparatus in this case helps understand the larger 'goals of global activism'<sup>16</sup>, essentially it has also been a constant question as far as this dissertation and this particular thematic category is concerned. What are the goals of Tibetan activism? This question has been deliberated in detail in the following chapters. While there is abundance of literature on activist pursuits and activism and on the Tibetan movement, there is little material that systematically approaches the issue through a framework such as the one adopted here. Thus essentially the actions of the activists, campaigns by the NGOs and the Tibetan government in exile, its functioning help us

<sup>14</sup> The reference to the word "word" is of particular relevance, the latest reference and the use of the word meaningful by the Dalai Lama in this news item reiterates a sea of change from the mere use of the word Genuine, whereby "meaningful" has a much larger political and philosophical connotation Kalital, Prabin. "Tibet Doesn't Want Freedom, but Autonomy, Says Dalai Lama - Times of India." *The Times of India*. April 6, 2017, web edition. Also highlighted are certain other news items which reflect a continuous and consistent transition from the word Genuine to Meaningful Dalai, Lama. "Meaningful autonomy is the only realistic solution." English, July 9, 2012. <http://www.thehindu.com/opinion/interview/meaningful-autonomy-is-the-only-realistic-solution/article3616701.ece>. Also see "Meaningful Autonomy for Tibetans Is Our Goal: His Holiness Tells FT | Central Tibetan Administration." Accessed July 2, 2016. <http://Tibet.net/2008/05/meaningful-autonomy-for-Tibetans-is-our-goal-his-holiness-tells-ft/>.

<sup>15</sup> Basu, Sudeep. "Interrogating Tibetan Exilic Culture: Issues and Concerns," Vol. IX. SAGE, 2014.

<sup>16</sup> WILLIAM S. LYNN. "Act of Ethics: A Special Section on Ethics and Global Activism." *Ethics, Place and Environment* 6, no. 1 (March 2003): 43–78.

determine the goals of the Tibetan activism, there is also an element of time which is associated with this framework, in terms of the goals being short term goals and the long term goals, in totality the goals have been problematized and tested upon the ethics and values that shape the nature and purpose of Tibetan activism. Albeit clearly Tibetan movement enjoys and operates on a higher moral ground, it enjoys widespread sympathies of the people, globally; therefore, the key question is what sort of mode of activism is it giving rise to? And how has the transition been from the old activism to the new activism in the era of the internet and real time messengers.

The classification between the old and the new is not of values or ideas but mainly based on the attire and apparatus, albeit it is also a fact that the newness is always omnipresent as far as activism is concerned since use of innovative methods of protests and resistance have always been used by activists to carry forward their message and agenda. In this case essentially the old and new is defined by what are the charters or carriers of information. What carries and conveys information, and within the context of the rise of the internet and the information age, activism is being studied and analysed. Information has always been a key component as far as activism is concerned, yet the information age is distinguished as a novelty for the newer forms of resistance it paves the way for by having made it easier for the propagation and carrying of information. It has certainly expanded the audience and the reach of the information and also engagement and involvement of the people with the cause. Thus here when we debate the ideas of old and the new forms of resistance and activism, the older norms and the nodes of the Tibetan society which have been possibly done away with in the new era, also reflect a certain disconnect with the Tibetan reality. The new idea of Tibet, or the Tibet of the new Tibetan mind is to a certain extent influenced by the post enlightenment ideals, a Westphalian entity, a progressive yet traditional Tibet, where there is a fine balance of modernity and tradition, in creation of such a new egalitarian and possibly a Utopian Tibetan nation, influenced by the ideas of the 14th Dalai Lama and key Tibetan thinkers and activists, what has happened is the declining role of the indigenous networks within the wider activist arena. Largely the current nature of Tibetan activism is modelled on the western tradition of activism, while the electoral framework of the CTA still follows and relies

on the indigenous regional networks, in terms of mobilization and election<sup>17</sup>. And therefore one hardly comes across explicit appropriation of Kham networks, or the Utsang or Amdo people's network, generally it is a unified Tibetan identity which is always on the forefront. This is a classical difference between the old and the new, whatsoever the organization is. And the widespread attendance in spiritual retreats and societal gatherings by the Tibetans, young and the old and also in the election is a reflection of how influential the old or the indigenous networks still are.

There are several classifications that help dissect and understand activism, one approach to understand activism is also to look into Laura Pulido's internal structure Of activism and also the exterior as well though as far as the exterior is concerned there has been much research that has focussed on the external structure of activism but what is being deliberated here is also the internal structure of activism<sup>18</sup>.

Within this wider domain of activism where the core argument revolves around the nature of the movement and its present attire yet the nature of activism within the Tibetan movement also reveals certain socially engaged Buddhism. Within the larger discourse on socially engaged Buddhism, the reverence for the tireless pursuits of the fourteenth Dalai Lama of Tibet is omnipresent, thus in that context the research seeks to look into how the wider Tibetan movement has co-opted socially engaged Buddhism and what is the role of Buddhist ethos in what can be widely described as a secular progressive movement for human rights and self-determination<sup>19</sup>.

#### **d) Diaspora**

The field of Diaspora studies is an ever widening ocean of ideas, there are several meanings and inter-linked ideas associated with the term Diaspora, yet in the most humble terms, Diaspora means "A dispersion of a people from their original homeland"<sup>20</sup>.

<sup>17</sup>"Elections | Central Tibetan Administration." Accessed May 21, 2016. <http://Tibet.net/about-cta/election-commission/#code0slide1>.

<sup>18</sup>The Interior Life of Politics, and LAURA PULIDO. "The Interior Life of Politics." *Ethics, Place and Environment* 6, no. 1 (March 2003): 46–52.

<sup>19</sup>Puri, Bharti. "Engaged Buddhism in the Modern World: A Study of the Dalai Lamas Worldview." Unpublished, Jawaharlal Nehru University, 2001. <http://shodhganga.inflibnet.ac.in/handle/10603/21058>.

<sup>20</sup>"Diaspora." *The Free Dictionary*, n.d.

Therefore, as the title of the thesis suggests, this research seeks to study the activism in 'Diaspora'.

And it is a known fact that Diaspora is a widely contested term, there are several inter linked social scenarios which are a part of the larger domain of Diaspora studies. A basic perusal of the history of Tibet reveals to the reader that Tibetans first sought what is an "Exile" in India. Their initial collective convergence with the outside world can be called as an exilic situation and even today they are referred to as Refugees. Rather they are considered as one among the most successful refugee community. In this context there has also been greater inquiry that has led the classification of the Tibetan community from exilic or refugees towards being called as a Diaspora. Fiona McConnell also made an attempt<sup>21</sup> to classify the Tibetans as a Diaspora in their initial assertion in the work on the Lhakar movement, which is a rather recent phenomenon. The parameters set to establish the Tibetans as a Diaspora in the article by McConnell are those by Safran and Dirlik accruing to the vibrant fostering of a certain Diaspora consciousness and also the sustenance of a linkage with their original homeland, through by being at a place far away from the cherished home, even though the nodes and the edges of this linkage maybe symbolic or performative in nature. As Nicoh Israel has also called Diaspora or the state of being in a Diaspora as performative in nature. Khachig Toololyana historicizes the evolution of the term Diaspora which has today emerged as a major category of analysis. He asserts that in the formative years of the emergence of the concept, it was widely used to refer to the Jewish and to a certain extent the Armenian and the Greek communities, while now, according to him the term connotes a wider application to situations such as 'immigrant, expatriate,

Refugee, guest-worker, exile community, overseas

Community [and] ethnic community'<sup>22</sup>. In the case of the Tibetans, their exodus from Tibet in 1959 is a case of forced migration as a result of the Chinese takeover of Tibet.

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<sup>21</sup>McConnel, Fiona. "Chapter 8 Reconfiguring Diaspora Identities and Homeland Connections: The Tibetan Lhakar Movement." In *Dismantling Diasporas: Rethinking the Geographies of Diasporic Identity, Connection and Development*. Routledge, 2016

<sup>22</sup> Khachig Tololyan. "The Nation State and Its Others: In Lieu of A Preface". *Diaspora* 1(1):3-7, 1991.

Diaspora's engagement with activism is not a new phenomenon, several Diaspora communities have engaged in different forms of activism to assert their rights and stand for their dignities and freedom. Apart from the Tibetans there are several Diaspora communities that are engaged in an active struggle to restore their rights in their cherished homeland and also help create awareness and build a consciousness about their own indigenous identity. Some of the prominent examples could be that of the Palestinian Diaspora<sup>23</sup>, which is spread across several countries in the world and continues to engage in a certain form of activism to speak up for the Palestinian cause, several Africa diasporas like the Eritrean Diaspora, Somali Diaspora are prominent examples of people who are settled in a foreign country and are involved and engaged in a struggle to restore what according to them is a more egalitarian future in their home countries. As far as Africa is concerned, the Save Darfur campaign<sup>24</sup> is a prominent example of a successful campaign that helped bring about a worldwide consciousness on the effects of the Genocide in Sudan, even the Tamil Diaspora from the northern part of Sri Lanka has been engaging widely to highlight the plight of the Tamils in Jaffna who have been suffering as a result of the civil war and the atrocities committed upon them by the Sri Lankan Army. Another prominent Diaspora community is that of the Uighurs from Xinjiang who have been seeking an independent Turkmenistan, and through an organization of the Uighurs globally, the Uighur movement flourishes in the Diaspora highlighting China's dismal human rights record in Xinjiang.

Therefore, there is a certain Diasporic discontent which plays a part in mobilization of the Diaspora for a certain cause or in the movement. Discontent is a major component for the mobilization of the Diaspora. The ideas of mobilization, movement and Diaspora are of particular relevance in the present context for the fact that in order to problematize and the nature of activism in Diaspora, it remains all the very important to look into the praxis of mobilization. Successful mobilization speaks about the success of the art of activism and its serves as a reckoner and a reference for the

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<sup>23</sup>“Palestine Refugees.”United Nations relief works and agency.UNRWA.Accessed February 21, 2015.<https://www.unrwa.org/palestine-refugees>. Also see Rempel, Terry M. “Who Are Palestinian Refugees?” *Forced Migration Review*, August 2006.<http://www.fmreview.org/palestine.html>.

<sup>24</sup>“Save Darfur - About Save Darfur.” NGO.*Save Darfur*. Accessed June 1, 2015. <http://savedarfur.org/about/>.

future adaptations or the activists involved in the movement. Thus as far as the Tibetans in Diaspora are concerned, there is little out migration from Tibet into Nepal or India as it used to be in the last decade or so, China's heightened border policing and adherence to violent means to stop the Tibetans from exiling in India are certain major cause that have brought about this change in the forced migration pattern of the Tibetans<sup>25</sup>.

The notion of Diasporic activism is also to a large extent influenced by individual actors and personalities, both Dalai Lama and Thich Nath Hanh are two prominent examples of influential personalities who represent a certain collective cause, while Dalai Lama's concern is for the situation in Tibet, Thich Nath Hanh's concern has been for the state of affairs in Vietnam. Some other names include that of Henry Olonga, the first black player to represent Zimbabwe at the international stage in Cricket, protested while playing a world cup game in South Africa in 2003, wearing a black ribbon along with another stalwart of the game, Andy Flower, since then both Andy Flower and Henry Olonga have sought asylum in England and Olonga continues to remain an emphatic voice, highlighting the plight of the victims of Robert Mugabe's regime<sup>26</sup>. The present state of affairs globally presents itself with complexities where activists have increasingly been in opposition to the state even in western democracies, a prominent example is that of Edward Snowden and Julian Assange, both of these individuals have sought political asylum, while Edward

<sup>25</sup>Tibet, International Campaign for. "Nepal Police Forcibly Return Three Tibetan Refugees across Border | International Campaign for Tibet," July 27, 2010. <https://www.saveTibet.org/nepal-police-forcibly-return-three-Tibetan-refugees-across-border/>.

Also see Tibet, International Campaign for. "A Fragile Welcome: China's Influence on Nepal and Its Impact on Tibetans | International Campaign for Tibet." Accessed April 2, 2016. <https://www.saveTibet.org/a-fragile-welcome-Chinas-influence-on-nepal-and-its-impact-on-Tibetans/>. Also see "China Trains Nepalese Police to Check Anti-Beijing Activities." *Phayul.com*. Accessed April 2, 2016. <http://www.phayul.com/news/article.aspx?id=28529&t=1>.

<sup>26</sup>Cannane, Steve. "Zimbabwean Cricket Rebel Henry Olonga Makes Operatic Debut at SCG." Text. *ABC News*, February 15, 2016. <http://www.abc.net.au/news/2016-02-15/henry-olonga-profile/7168968>. also see Batts, Callie. "'In Good Conscience': Andy Flower, Henry Olonga and the Death of Democracy in Zimbabwe." *Sport in Society* 13, no. 1 (2010). <http://www.tandfonline.com/doi/full/10.1080/17430430903377839?src=recsys&>. Also see Sydenham, Richard. "INTERVIEW - Henry Olonga so Proud of Protest Which Cost Him All." *News.Reuters*, March 11, 2011. <http://in.reuters.com/article/idINIndia-55497820110311>.

Snowden has been granted asylum by Russia, Assange until this day remains confined to the Ecuadorian embassy. Several members of the Burmese Diaspora have engaged in the struggle against the erstwhile Junta rule while Aung San Suu Kyi remained under house arrest, several Burmese Democratic Organizations continued to remain engaged with the people at large by being based outside Burma; they widely used the cyberspace to engage with the masses in the land of the Golden Pagoda. The 2008 saffron revolution was effectively coordinated through widespread use of the cyberspace and social networking systems.

Therefore, the reason to highlight several of these examples is to assert the fact that activism in Diaspora is a certain phenomenon which is a major influential entity within the larger domain of international relations and has emerged as a major concern as far as the non-state actors are concerned. The reference to the Saffron revolution relates to the newly emerged perspective on the classification of the Diasporas which is Digital Diasporas. Several Diaspora communities, as a result of their Trans cultural convergence and experience have sought to widely engage with the technological revolution. The technological revolution in the west has not excluded the Diaspora communities that hail from the not so very prosperous or developed nations, it has rather been inclusive to the extent that apart from the foreign policy of the host nation, their technological development has become their single biggest ally in their struggle for what they view as an egalitarian future for their homeland. As the renowned Tibetologist MN Rajesh asserts in his 2002 article<sup>27</sup> that Tibetans are embracing internet in a manner that they embraced and accepted Buddhism a few centuries ago in Tibet. These words reflect the popularity and the influence of internet upon the Tibetans. Thus they have risen to aptly be described as Digital Diasporas. As Nydia Swaby while borrowing from several theorists explains<sup>28</sup> the digital Diasporas as facilitating the communication between the migrant communities through the rise of internet and web based mediums of communication and social networking. Therefore, it is essentially within the purview and classification of Digital Diaspora that this thesis seeks to understand the activism of the Tibetan people. Internet has emerged as a prominent and possibly the most

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<sup>27</sup>Get reference from rajesh sir

<sup>28</sup>SwABY, nyDIA. "DIGITAL DIASPORA." The CoHaB Network, coordinated by the Chair of British Studies at the University of Münster, Germany, *DIGITAL DIASPORA*, October 21, 2013. <http://www.itn-cohab.eu/wiki/digital-diaspora>.



emphatic factor for the Tibetan activists, it has helped them transcend boundaries and geographies on one had to carry forward their message to the world at large, including several non-Tibetan supporters, it has also allowed them to connect with the Tibetans inside Tibet through the recent technological innovations and messaging apps such as WeChat and moreover it has also helped them be more assertive of their Tibetan identity, by uniting the disparate and displaced people across the Tibetan culture area, it has thus, as the researcher's MPhil thesis talks about, helped in the emergence of a Tibetan nation in the cyberspace.

The historical convergence of the Tibetan Diaspora with the cyberspace can also be historicised in terms of the changing nature and the attire of the cyberspace in totality. While the online presence first made its mark as bulletin boards and geocities websites and small html web pages, soon the Diaspora activism adapted to newer innovations in the sphere of internet, by sophisticated multimedia websites, several YouTube channels dedicated to the Tibetan cause<sup>29</sup> and the emergence of groups on social networking sites such as Facebook and erstwhile Orkut<sup>30</sup> in India and some other countries of Latin America.

Albeit it isn't merely a politically charged association with the internet for the Tibetans, rather internet technology has also brought them close to their family members inside Tibet. It is a fact that several families inside Tibet send their children to India to study in TCV run schools, and several children spend their entire lives away from their parents and family.

While earlier they could talk via phone calls, now the telephone has been replaced by internet based software such as Skype<sup>31</sup> and web based messaging apps such as WeChat<sup>32</sup> and Viber<sup>33</sup>.

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<sup>29</sup> The cited link shall display a large number of Youtube Channels on the Tibetan cause "Tibet - YouTube." Accessed July 4, 2015. <https://www.youtube.com/results?q=Tibet&sp=EgIQAg%253D%253D.->

<sup>30</sup> "Orkut." Social Network. Accessed August 25, 2016. <http://www.orkut.com/index.html>.

<sup>31</sup> "Skype | Free Calls to Friends and Family." Accessed July 21, 2014. <https://www.skype.com/en/>.

<sup>32</sup> "WeChat - Free Messaging and Calling App." Accessed July 21, 2014. <http://www.wechat.com/en/>.

<sup>33</sup> "Viber - Free Calls and Messages." *Viber*. Accessed July 21, 2014. <http://www.viber.com/>.

Therefore, the Diaspora that is widely referred to as Digital Diaspora is possibly a term which does not completely describe the nature and the usage of the internet by the Diaspora communities.

There is a greater need, as this thesis and research highlights to expand the vocabulary contours of the term Digital Diaspora and add the term Real Time Digital Diaspora as there several layers of interlinked meanings associated with this poignant phenomenon.

### **1.1.2) Central Concern of the dissertation**

‘I didn’t know,  
if I was there or here.  
I didn’t know,  
if I was here or there.’

Tenzin Tsundue, Personal Reconnaissance<sup>34</sup>

This dissertation is being authored under the disciplinary domain of human rights and primarily the concern of the dissertation and the overall research is to problematize the activism of the Tibetan people in Diaspora. While activism can be placed into several ideological frameworks and political lineages, this dissertation concerns itself more with the assessment of the state of affairs within the Tibetan movement.

It seeks to highlight key factors that influence the nature and purpose of the activism of the Tibetan people in Diaspora.

Thus borrowing from several disciplinary backgrounds the dissertation concerns itself with the idea of activism and its emergence in the internet era. Internet and cyberspace are closely interlinked with the nature of activism that this dissertation seeks to study.

Certain concerns that the dissertation is concerned with and also the concerns that the dissertation raises are based upon the idea of networks, and the appropriation and the ignorance of indigenous networks within the Tibetan movement. While several movements in the societies of the east are influenced by the western post enlightenment ideas, there is a certain relevance that indigenous networks also hold in terms of the causes that they cater to. Thus within the larger concern over the

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<sup>34</sup>Tsundue, Tenzin. “A Personal Reconnaissance ∴ TenzinTsundue.com.”Personal Website.*Tenzin Tsundue*. Accessed August 5, 2015. <https://www.Tenzintsundue.com/poems/a-personal-reconnaissance/>.

effectiveness and efficacy of mobilization, this dissertation refers to the nature of the mobilization and makes a certain suggestive intervention at different points during the research.

There are several aspects of Buddhism also which the dissertation has concerned itself with, the idea of socially engaged Buddhism is a dominant theme as far as the dissertation is concerned, and it is also upon the idea of socially engaged Buddhism that much of the activism of the Tibetan Diaspora relies upon. Thus to problematize is not to annihilate ideas and social phenomena but rather it also means the broadening of the horizons of its inherent meanings which are composed of several layers.

### **1.1.3) Problem to be Investigated and the investigation of the problem:**

The central problem that the thesis seeks to deliberate onto is the idea of human rights activism in Tibet and activism in Diaspora, and thus what are the spheres that influence the nature of activism in Diaspora? Is it merely the identity which is at the crux of the debate or are there larger issues interlinked with the newer attire of the activism in Diaspora?

While on one hand cyberspace has paved the way for broadening of horizons for the Tibetan movement, there is a tendency within the cyberspace, to imitate the existing networks of the real space into the cyberspace, to a far reaching extent.

Thus therefore if the newer attire of activism has to usher into a newer era of much greater hope, it should be reflective of the indigenous reality of the Tibetan society at large and the indigenous networks of mobilization.

To a far reaching extent the problem being investigated is the nature of the Tibetan networks and the imitation of the real space networks without the prospect of expansion of the network for the cause of inclusion and appropriation of the primordial network society.

The question and the problem relates to the grassroots reality of the Tibetan nation, for example the old Kham networks, of Khampas, created by several monastic institutions, or the network of Amdo wallas or that of the U-Tsang people. Tibet has always had a strong relevance of the regional identity as far as the matters of statecraft are concerned. Loyalties have historically been built upon the regional community based networks. Even today the Central Tibetan Administration and its elections take place in terms of the voters being divided on regional lines, this can be seen as appropriation of the indigenous loyalties and networks by the CTA, while on the other

hand, the idea of a single notion of Tibet and a single Tibetan identity is highly politically charged and ignores to a certain extent the nature of Tibetan polity, possibly the ignorance is an attempt to change this reality and build greater fraternity among the Tibetans, yet it has failed to accommodate and appropriate the regional identity on every way.

Possibly the relevance of regional loyalties and primordial networks does not seem very egalitarian or politically correct yet the fact of the matter remains that mobilization even in the information age depends a lot on the primordial loyalties and networks of influence.

Therefore, it's a problem of values on one hand and on the other hand it's a problem of imposition of a certain notion of Tibetan identity upon the Tibetans. Even the cultural area thesis relates to the primordial nature of the Tibetan identity, the reverence for the Dalai Lama of Tibet relates to the position of the office of the Dalai Lama within the domain of Tibetan Buddhism, across the Tibetan Culture Area. Therefore, the influence of the Dalai Lama upon the Tibetans and the Tibetanised people is the influence of the office of the Dalai Lama, whereas the impact off the influence of the Dalai Lama on the outside world of non-Tibetan western followers and admirers is that of Tenzin Gyatso, a philosopher of peace, compassion and secular ethics, a Nobel laureate and a simple Buddhist monk. Therefore, in a society which is largely enamoured by the west and its reverence for the Tibetans, the movement itself has shaped to uphold ideals of western modernity and secular ethics while ignoring the indigenous and primordial support networks which have historically been the agents of mobilization and mass influence.

At another level, the problem on hand is to also study the indigenous Tibetan Buddhist discourse of Human Rights and how human rights are envisioned by this philosophical school while there emerge several key contradictions between the Tibetan Buddhist discourse and the modern discourse on human rights.

#### **1.1.4) Notes on limitations and possibilities**

The limitations that this project faces are a few several ones, essentially the lack of freedom of expression and the lack of freedom of free internet usage inside Tibet and in China is a major concern that this thesis shares and faces as well. In the information age, while internet and the network society has emerged as an emancipatory force, opening newer enclaves of expression and solidarity it has yet been penetrated by forces of coercion and censorship.

There is a great degree of surveillance inside Tibet and free flow of information from inside Tibet is still obstructed, the larger concern is also with regards to the political economy of the internet itself. Who controls the internet? Thus many times internet no plays to the tunes of those who pay, making it extremely inconvenient for free and fair expression, expansion and analysis of information on the internet.

### **1.1.5) Themes:**

There are several thematic components which make a part of this dissertation. This thematic categorization is a certain lens with which the research builds a certain objective worldview of the subject under study. Several thematic categories help in the deliberation and the ascertaining of the nuanced nature of the reality under study and stand in conjunction with the central argument that the thesis seeks to present.

#### **a) Technology:**

As a thematic component of this research, the research seeks to approach the contemporaneous reality in its poignant attire. The present era is marked by the rise of a network society<sup>35</sup>, various scholars such as Castells have hinted at the rise of a society where Trans nationality has transcended the boundaries within the virtual sphere wherein the coming together of people has helped the larger project of consciousness building and larger affirmations of solidarity.

Therefore, when one is clearly deliberating upon the role of technology within the domain of human rights, the key question that emerges relates to what is the nature of Technology that is being appropriated by the human rights activists in

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<sup>35</sup>Castels, Manuel, and Gustavo Cardoso. *The Network Society From Knowledge to Policy*. Johns Hopkins Center for Transatlantic Relations, n.d.  
[https://www.umass.edu/digitalcenter/research/pdfs/JF\\_NetworkSociety.pdf](https://www.umass.edu/digitalcenter/research/pdfs/JF_NetworkSociety.pdf). Pg xx

the human rights movements worldwide, particularly in the case of the Tibetan movement. Therefore, what aspect of Technology are we talking about? Thus on one hand the rise of social media and easy access to the people is a revolutionary turn, the role of technology in conflict zones a more commendable aspect which deserves larger recognition as far as the perspective of those suffering during the conflicts is concerned.

Technology as therefore revolutionized the access to information and the availability of information and thus this is a significant standpoint, for the fact of the matter remains technology has been an integral part of every historical era, may it be the industrial age or the Stone Age or the Iron Age. Tools have always been invented and will continue to be invented to suit the needs to master the exploitation and the access to the most dominant factor in the mode of production. For now the present era has embarked into what is referred to as the information age and the present society is widely described as the Information society<sup>36</sup>, therefore the most important component of the production process today remains information, much of what we see around us, state of the art engineering technologies, are signposts of a world relying heavily a lot on theory, and becoming more and more theoretical in nature. After all, theory is by information. Thus the coming together of technology and information as marked a sea of change in the field of human rights activism.

In Tibet, and even outside Tibet, the issues concerning human rights violations inside Tibet suffered severe ignorance by the mainstream media. Several exiled Tibetan groups also had unleashed a campaign to support media freedom in Tibet. The issue is less critical now than before owing to the rise of social media through which propagation of information is much easier and secondly the rise of VPN technology which has facilitated the manipulation of the IP radars to send across the message bypassing the controls of the networked regime. The rise of Martus

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<sup>36</sup>Kearney, Fiona. "Information Society." *Irish Arts Review* 32, no. 3 (November 2015): 376–77. Also see Lyon, David. "FROM 'POST-INDUSTRIALISM' TO 'INFORMATION SOCIETY': A NEW SOCIAL TRANSFORMATION?" *Sociology* 20, no. 4 (1986): 576 , Rule, James B., and Yasemin Besen. "The Once and Future Information Society." *Theory and Society* 37, no. 4 (2008): 317–42.

Human Rights Bulletin System<sup>37</sup> is another key feature of software packages and apps which are useful in collection, propagation, and archiving of human rights violations information.

## **b) Networks**

Network has always been an omnipresent phenomenon. Thus network in its most simplistic understanding and also in accordance with several exegetical meanings would refer to a linking up of two parts, even the human body is a network of several anatomical components that keep the body as a whole, together. Therefore, for the body to function smoothly the body needs a proper networking of all its elements, how so ever different they may be from one another, they are linked by veins and the arteries with each other. In the social and political space also networks play a very crucial role in the very creation of the space itself<sup>38</sup>. As a thematic component of this dissertation, network as a theme is largely seen in the context of the real space Tibetan geography and role of indigenous networks built on spiritual and regional lines through several centuries that have shaped the political and the cultural geography of Tibet.

Post 1959, with the takeover of Tibet by the Peoples Republic of China, and the wave of cultural genocide on the name of patriotic re-education by the Chinese government and measures to curtail and contain the effects of religion in Tibet, have led to a massive destruction of the Tibetan culture inside Tibet, yet Tibetan culture in its native indigenous form has still survived in the Tibetanised regions which today are not a part of the modern Tibet, areas such as Tawang, Sikkim, Bhutan, Lahaul, Spiti, Mongolia, Buryatia, Kalmykia, and Tuwa. This is because of their age old association with several Tibetan monastic networks<sup>39</sup>. The sixth Dalai Lama was a Monpa tribal

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<sup>37</sup>Davenport, Christian. "Data from the Dark Side: Notes on Archiving Political Conflict and Violence." *PS: Political Science and Politics* 43, no. 1 (2010): 39. Also see "Martus / About Us." Accessed December 21, 2016. <https://www.martus.org/about.html>.

<sup>38</sup>Hafner-Burton, Emilie M., Miles Kahler, and Alexander H. Montgomery. "Network Analysis for International Relations." *International Organization* 63, no. 3 (2009): pp 561.

<sup>39</sup>Rajesh, Dr. M.N., and Arnav Keyur Anjaria. "Prospects for Indian Foreign Policy Initiatives in the Caucasus." *Center for Securities Studies-Logo of ETH Zurich Department of Humanities, Social and*

from the region of Tawang in what is now Arunachal Pradesh in India, while Dorzhiev<sup>40</sup>, a close aide of the Thirteenth Dalai Lama was a Buryat Mongol, a citizen of the Tsarist Russia. All these regions form what is widely referred to as a Culture Area, the making of the Tibetan Culture Area which this thesis argues is after all a networked reality. The Tibetan culture area itself is reflective of a vast network that kept adding to the erstwhile Tibetan empire.

On the other hand, within Tibet itself, there are solidarities which are built on regional lines, the Khampas, the Amdo walas and the Utsang people. The modern electoral system of the Kashag<sup>41</sup>, also follows the same pattern where voters are classified according to their regional origins within Tibet, albeit this system has been introduced to also put a check on the dominance of any one particular regional community, therefore a single vote by a member of a regional community with a smaller population in exile, would have a larger value as compared to the single vote of a member of a regional community which is greater in number, thus while it may seem unfair, it is still a fair system in order to equalise the influence of all regional communities. Yet the mobilization of people on regional lines is a reality in the modern era as well, as historically, Tibetans have always been divided on regional lines, with infighting between major regional monasteries. Therefore, larger mapping of this phenomenon is possible through a networked perspective in terms of how the identities form networks of their own which finally give rise to the idea of Tibet. Thus alongside the real space networks, in the past two and half decades or so, the trans cultural experience of the Tibetans and their convergence with modern technology such as internet has given rise to the emergence of widespread Tibetan networks in

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*Political Sciences*, December 10, 2011. <http://www.css.ethz.ch/en/services/digital-library/publications/publication.html/134872>.

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<sup>40</sup>Andreyev, Alexandre. "Soviet Russia and Tibet: A Debacle of Secret Diplomacy." *The Tibet Journal* XXI, no. 3 (1996): 4–34.

<sup>41</sup>"Legislature | Central Tibetan Administration." Accessed January 20, 2017. <http://Tibet.net/about-cta/legislature/>. Bhatia, Varinder. "How Exiled Tibetans Choose Their Leaders." *The Indian Express*, March 28, 2016. <http://Indianexpress.com/article/explained/how-exiled-Tibetans-choose-their-leaders/>. Palkyi, Tenzin. "Five Suggestions for Improving the Tibetan Electoral Process | Tibetan Review." *Magazine.Opinions*. Accessed July 2, 2017. <http://www.Tibetanreview.net/five-suggestions-for-improving-the-Tibetan-electoral-process/>.



the cyberspace, on the social networking site and also on several web based mobile applications. These networks in the cyberspace have facilitated the coming together of aspirations that seek a better future for the Tibetans inside Tibet. The Free Tibet movement is a techno savvy movement which has adapted to the newer forms of technology in the most apt manner, and has relied heavily in the mobilization of people in the Diaspora.

Therefore, these realities establish the relevance of network, as a significant perspective which helps understand the reality of Tibet in a much more nuanced manner.

### C) Buddhism

Buddhism remains one of the central themes of the dissertation. As Tibetan perspective of human rights and the consciousness of human rights is largely determined by the tenets of Buddhism which speak volumes about the welfare of all sentient beings. Therefore, Tibetan activism and the Tibetan perspective of human rights are also influenced by the Vajrayana form of Buddhist philosophy.

On the other hand, the thesis also seeks to place a strand such as socially engaged Buddhism as part of the larger concern of the Tibetan activism and seeks to assert onto how the nuances of Tibetan activism are impacted and influenced by the idea of socially engaged Buddhism which is so very vividly reflected in the writings of the Fourteenth Dalai Lama and the philanthropic work done by the members of the Tibetan clergy and alike. Secondly the Tibetan activism and the issue of human rights are intricately linked with Buddhism in terms of the response of the victims to the atrocities and the persecution from the oppressor. In several societies which are facing or have faced massive oppression have reacted in equally violent ways, though the resistance and response may lack the same amount of substance, yet there have been cases of the victims and the weaker sides resorting to the same tactics of violence. Therefore, since 1959, Tibetans have led a nonviolent struggle against the Chinese and have largely non-violently resisted against the Chinese government. In such a situation, it remains to be deliberated onto as to what is the role of Buddhism in adherence of the Tibetan people to the tenets of nonviolence. The role of Buddhism thus remains omnipresent and crucial as

a thematic reference for understanding the nature of human rights activism inside Tibet and in Diaspora.

#### 1.2.0) Approaches

This research has been attempted through an interdisciplinary framework of research and deliberative investigation. Though the core focus essentially remains the idea of human rights and at several instances the thesis also features a discussion on international law, Diaspora studies, feminism and spirituality, yet these topical inputs are a part of the larger base of approaches that help in further articulation of the argument and concern has been to assess its socio cultural impact on the human rights situation and the human rights discourse over and on a pastoral nomadic society such as Tibet.

Therefore, this research seeks to approach the problems and the questions more from a qualitative approach rather than a quantitative approach. One of the main reasons for adhering to qualitative approach rather than quantitative approach in totality is owing to the politics of statistics as far as human rights research is concerned and the nexus of politics surrounding the politics of human rights issues especially for a highly polarised and a contested reality such as that of Tibet. A situation analysis and conflict analysis approach mechanism seems more appropriate for the research rather than a purely quantitative approach though it should be asserted that statistics serve as an influential indicator of the nature of reality and primarily as a human rights indicator.

Events based analysis of data and the analysis of the testimonies of the victims is an important as far as the approach to the study is concerned. Rather than focussing on a sole hypothesis owing to the barriers as far as independent field work is concerned, inside Tibet, a qualitative approach helps understand the social and political reality through a micro study of the sentimental expressions of the victims. Therefore, the approach to this research is bottom up in nature, looking at the specification of the micro reality and then asserting upon the larger Meta reality.

Thus as stated earlier there is no single hypothesis that guides the research but rather during course of the research several insights and findings helps build a substantial theoretical justification. This research is in itself rather a

theorization of the reality of human rights inside Tibet and the subsequent activism in Diaspora.

Thus one is certainly not nullifying the role of the quantitative methods and approach as far as the research is concerned, but the concerns of the dissertation are more qualitative in nature and essentially these concerns determine the nature of the approach which ought to be adopted as far as the research is concerned. Certainly while researching on an interdisciplinary topic, which involves borrowings from several different disciplinary backgrounds and traditions, the most important custodian of academic spirit would be pragmatism. So a pragmatic approach helps as a guiding principle during the course of the research where every detail is investigated through its own merit and the approach that it warrants for investigation.

At times simply the task of arriving at an approach in research is and in itself a philosophical debate. Philosophical debates as a theoretical knowledge base serve the theoretical guidelines and help build a philosophical consciousness for the researcher but approaching the research through a pragmatic perspective helps in not getting entangled merely into the philosophical debates that largely relates to what approach ought to be adopted as far as the research is concerned.

Since in totality, there is no one single approach which fulfils all the needs of the study nor is a single approach holistic in nature to cater to the concerns completely, thus the holistic nature of the research is determined not by adherence to either simply a quantitative or a qualitative research approach and methods but rather from a confluence of several approaches in order to determine the exact nature of the reality under study and the subsequent theorization of the same.

Many times, as experience and plethora of literature on the research approach and methodology suggests, different approaches, howsoever different they maybe in the attire act as a compliment to the flaws and the incompleteness of the other approach thus in any given context, possibly, the quantitative and qualitative approach, are complimentary in nature<sup>42</sup>.

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<sup>42</sup>Ibrahim, Rafik. "Combining Qualitative and Quantitative Approaches in Research," December 3, 2014. <https://www.linkedin.com/pulse/20141203163542-69677968-combining-qualitative-and-quantitative-approaches-in-research>., YAUCH, CHARLENE A., and HAROLD J. STEUDE.

Thus triangulation is an important component of the research, it helps bridge the boundaries between the quantitative and the qualitative research and also helps in furthering the nuances of the research process by strongly adhering to the cause of the investigation into the pertinent reality.<sup>43</sup>

Thus the nature of triangulation of approaches which has been adopted in this research is more about a triangulation of the sources of data, whereby multiple sources of data are a part of the research, much of the sources include reports and articles by several governmental and nongovernmental organizations, including supra national organizations along with human rights groups and the testimonies of the affected communities, apart from the human rights data, the research also seeks to look into the nature of activism, and as far as activism in Diaspora is concerned, the social media analytics and data are of particular relevance. The analysis of Twitter and Facebook data serves as an important source of information both from a quantitative and a qualitative perspective to help understand the problem better.

Thus apart from triangulation of the sources of data another triangular pragmatic approach which has been adopted for this research is the triangulation of theory which largely accrues and relates to the reliance of the

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“Complementary Use of Qualitative and Quantitative Cultural Assessment Methods (PDF Download Available).” *Organizational Research Methods*, SAGE Publications 6, no. 4 (October 2003): 465–81. doi:<http://dx.doi.org/10.1177/1094428103257362>., Maxwell, Dan. “CAN QUALITATIVE AND QUANTITATIVE METHODS SERVE COMPLEMENTARY PURPOSES FOR POLICY RESEARCH? EVIDENCE FROM ACCRA, FCND DISCUSSION PAPER NO. 40.” Food Consumption and Nutrition Division, January 1998. <https://pdfs.semanticscholar.org/a86f/35384cda0141f76084ecdcc6949ddec1f7c8.pdf>. pp 13, Mashadi, Azam, and Christine Han. “Complementary, Not Contradictory: The Spurious Conflict between Qualitative and Quantitative Research Methodologies.” National Institute of Education (Nanyang Technological University), 1996.

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<sup>43</sup> Rothbauer, Paulette (2008) "Triangulation." In Given, Lisa (Ed.), "The SAGE Encyclopedia of Qualitative Research Methods." Sage Publications. pp. 892-894., “What Is Triangulation of Data in Qualitative Research? Is It a Method of Validating the Information Collected through Various Methods?” *ResearchGate*, December 25, 2013. [https://www.researchgate.net/post/What\\_is\\_triangulation\\_of\\_data\\_in\\_qualitative\\_research\\_Is\\_it\\_a\\_method\\_of\\_validating\\_the\\_information\\_collected\\_through\\_various\\_methods](https://www.researchgate.net/post/What_is_triangulation_of_data_in_qualitative_research_Is_it_a_method_of_validating_the_information_collected_through_various_methods)., Mertens, Donna M., and Sharlene Hesse-Biber. “Triangulation and Mixed Methods Research: Provocative Positions.” *Journal of Mixed Methods Research* 6, no. 2 (2012): 75–79.

research on more than one or several theoretical foundations and guidelines to understand a particular problem from multiple perspectives. This triangular approach stands directly in conjunction with the nature of the discipline of human rights itself, which is multi-disciplinary in nature.

Thus several theories from the field of human rights, Diaspora studies, social mobilization theories, cyberspace studies and international relations and also from linguistic form a part of the theoretical praxis that has sought to understand the research problem. For example, the Chinese perspective on Tibet is not only highlighted through a state centric approach but also through an analysis of the nuances of the nature of the language. The language of the Chinese perspective on Tibet largely highlights the power relations and the hegemony that the Chinese have sought to establish as far as Tibet is concerned. The hegemonic nature of the Chinese regime inside Tibet and the broad historical justifications that they seek to highlight in order to justify their actions in Tibetan be problematized through a human rights approach, through a careful application of liberal western theories of human rights, which would result in the understanding of the political reality as far as the state's actions upon the affected groups is concerned. An attempt has also been made to read into the situation inside Tibet through the application of Agamben's state of exception treatise which helps in understanding the parameters of human rights violations inside Tibet. And along with Agamben's, another major theory which helps in understanding the relations of the regional reality from a historical and area studies perspective is the notion of Zomia as a region which has been developed by James Scott, this further helps substantiate upon the arguments that the researcher is seeking to make. Therefore, along with the theory of the state of exception and Zomia, Halliday's critical discourse analysis as a theoretical framework also helps in the formulation of the theoretical argument and in furthering the understanding of the research problem.

It should also be highlighted that a part of the thesis and the core inspiration to embark upon a research of this nature and kind is the researcher's own association with the Tibetan refugees in their struggle. In recent times, participatory approach to research has been in operation across several disciplines in social sciences and humanities. Therefore, adherence and

appropriation of the participatory or advocacy into the research has largely been classified as a zeal on the part of the researcher to make a constructive change into the lives of the subjects under study<sup>44</sup>. Yet there always runs the risk of losing the objective spirit during the course of the research and the neutrality of perspective maybe compromised. In such a scenario participatory approach has been adopted but only in a limited sense to rather understand the nuances of Tibetan activism and to get a first-hand experience of how activism takes place. Since a participatory approach as far as activism is concerned is best suited for understanding the inner dynamics of mobilization. As far as the highly contested and polarised issue of the status of Tibet is concerned, the researcher has adopted a rather objective approach to argue for or against any particular point of view. The core concern of the thesis and also human rights activism is less about the political destiny and the political cause but rather more about the immediacy of betterment of the conditions for the affected people, though in case of Tibet the immediate resolution of the pertinent problems and violations is intricately linked with the ultimate political status of Tibet in general. The most formidable solution available on the ground remains the Middle Way Approach<sup>45</sup> which faces opposition from a section of both the Chinese government and also the Tibetan people. While on the other hand, the concern for human rights and the Tibetan idea of human rights is more holistic in nature which relates to all sentient beings rather than merely the obsession with only homo sapiens, and thus in that context environmental

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<sup>44</sup>Cornwall, A, and R Jewkes. "What Is Participatory Research?" *Social Science & Medicine* 41, no. 12 (1995): 1667–76 in Dover, Graham. "Participatory Research: Power and Problems." *Participatory Action Research & Organizational Change*, May 27, 2008. <https://participation.wordpress.com/2008/05/27/prdef2/>.

<sup>45</sup>"Umaylam." *Middle Way Approach*. Accessed September 08, 2015. <http://mwa.Tibet.net/>, Gyaltsen, Kelsang. "The Dalai Lama's Conflict Resolution in 21st Century." *EP Today*, September 29, 2014. <http://Tibet.net/2014/09/umaylam-the-middle-way-approach/>. , Tsering, Bhuchung. "What Is This 'Middle Way' the Dalai Lama Preaches?" *Middle Way Approach*. Accessed September 15, 2016. <http://mwa.Tibet.net/article/what-is-this-middle-way-the-dalai-lama-preaches/>., Lama, The 14th Dalai. "His Holiness's Middle Way Approach For Resolving." Text/html. *The 14th Dalai Lama*, July 2, 2017. <https://www.dalailama.com/messages/Tibet/middle-way-approach>.

studies and theories of environmental rights become important in order to approach the study of the problem under investigation.

It is also of relevance to understand the dynamics of power relationship as far as the Tibetans and the Chinese are concerned. For the Tibetans they remain as a Tibetan poet Tsundue says “worlds sympathy stock”<sup>46</sup> whereby several nations and people remain sympathetic to their plight while hardly supporting or granting any assistance to the political issue of Tibet. In that case a researcher’s role under such imbalanced power relationship is also to help facilitate the discourse of those who are considered as voiceless I the great game of power because after all an objective pragmatic study is a power in itself that adds to the power of the people to advocate and argue for their cause in a much more substantial manner. Thus while not compromising with the ethos of academia and the objective dynamics of earnest academic exercise, the research still appropriates and adopts a participatory approach to help understand what has largely been a closed society. Participatory approach also highlights the nature of the Tibetan society, access has never been easy in a tradition oriented society like that of the Tibetans, it is only through the years of association with the Tibetan people that there is larger access to understand the tectonics of the Tibetan collective, which ultimately has proven extremely useful in arriving at the conclusion for the same.

Another key factor that also warrants the need for a participatory approach to understand the question is the nature of the Tibetan activism. As societies globally have embarked into an information age, where even farfetched countries of West Africa also debate and determine their political destinies through a widespread use of the hash tag handouts, Tibet is not an exception in this regard. The transcultural experience of the Tibetan in exile, especially in the west facilitated also their convergence with the technological sphere. What began with just bulletin boards and geocities website has turned into a systematic activism arena for the Tibetans in the contemporaneous era. In that context, merely following and liking the posts on twitter or on Facebook on

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<sup>46</sup>Tsundue, Tenzin. “My Tibetanness .:. TenzinTsundue.com.” Accessed June 20, 2016. <https://www.Tenzintsundue.com/poems/my-Tibetanness/>.

Instagram may be considered as participatory as well. Thus the study of the technologically mediated activism of the Tibetans has largely highlighted the need for a participatory approach to the study of the research problem, thus it isn't merely the political affiliation or the orientation of the researcher which has been the sole determinant but also the nature of reality in itself.

Thus to conclude this section, the approaches that have been adopted as a part of this research reflect a confluence of several different approaches, both quantitative and qualitative in nature and the further methodological base of the research is also determined by the approaches that have been adopted as a part of the research praxis. The praxis of appropriation of triangular, pragmatic and participatory approaches along with quantitative and qualitative approaches is guided by the zeal and the vision to offer a complete and holistic understanding of the reality under study, in the world of hypertext the challenge for the researchers has become much more serious than ever before. The hypertext revolution has made the existence of multiple perspectives, side by side a reality, and any analysis that excludes a certain perspective and approach may be deemed as incomplete, though howsoever vast and thoughtful the research be, these are the challenges for researchers in the information age along with challenge these are also opportunities for furthering of the knowledge in order to understand a reality in totality, whereby the sources and means of information are no more a hindrance and it has become all the more easier to accommodate several different perspectives and methodologies in the research given the rise of the tools of information technology.

#### 1.2.1) Discursive Elements:

There are several discursive elements which form a part of the architecture and the nomenclature that guides the process of investigation and research for the subject under study. The discursive elements that form a part of the study largely relate to the reality under study, the spatial context which is Tibet and to a certain extent the cyberspace. Thus as stated earlier, one of the key concerns is to also understand the Tibetan discourse of human rights, the indigenous discourse and how socially engaged Buddhism through the



practice of Vajrayana Buddhism helps further the horizons of the Tibetan perspective of human rights. Within this context the discursive elements discussed here relate to the multitude of perspectives relating to Tibet and the Tibetan issue. Since the issue of human rights and civil liberties is intricately entwined with the status of Tibet which is a largely contested entity.

The orientalist discourse on Tibet is of prominence as far as this study is concerned. Since the times of theosophical society and the convergence of the western travellers in Tibet, the orientalist discourse has contributed significantly in facilitating greater research on Tibet. Albeit, it has also contributed to a certain orientalising of the Tibetan reality in the dominant public perception. On the other hand, as scholars such as Wang Hui, who is seen as representing the New Left perspective in China, assert that essentially it is in Tibet that the western and the Chinese orientalist converge. Therefore, orientalist discourse is as relevant as also the generic criticism of it. Apart from the Orientalist discourse, another major stream of thought which is of relevance is the Chinese discourse on Tibet.

Apart from the Chinese discourse on Tibet, the global human rights discourse is also an important component of the discursive framework for the thesis. The human rights discourse seeks to help in objectively understanding the parameters of human rights indicators and the evolution of the human rights consciousness.

Apart from the orientalist discourse and the Chinese discourse, a certain Tibetan discourse also forms a part of the study. The Tibetan discourse is divided between two major elements, one being spiritual and philosophical discourse that helps understand the nuances of the indigenous Tibetan idea of human rights and also the socio-political discourse that helps in acquainting the audience with the Tibetan perspective on the question of Tibet and how the Tibetans articulate and advocate their cause as far as the history of the conflict in Tibet is concerned.

a) Orientalist discourse:

Multiple perspectives emerging from the west by travellers, ethnographers, archaeologists, Tibetologists, novelists and writers at large on Tibet have sought to present Tibet, as an exotic entity. While many

perspectives have been critical of the Tibetan civilization and while others express a notion of amazement yet the exoticization is omnipresent in these narratives.

The early key contribution to the orientalist discourse on Tibet has been by the members of the theosophical society<sup>47</sup>. It is widely doubtful if ever Madame Blavatsky visited Tibet and whether if she ever saw what she wrote about the people and the place. Yet the writings of Blavatsky and the theosophists have contributed and influenced the several writings on Tibet which portray the land as a place dedicated to a certain idea of enlightenment in totality. As a mystic land, a certain spiritual utopia. This perception has rather flourished. In terms of the scholarly contribution to the field of Tibetan studies, the oriental spirit had also facilitated the inquiry into the spiritual and the theological aspects of Tibetan Buddhism. Tibetans were viewed not just as simple ordinary people but rather as some mystical beings, committed to the spiritual realm, the most.

Scholars such as Tshering Shakya have been critical of this imagery of Tibet and the dominance of the orientalist discourse with the field of Tibetan studies. In his book *The Land of the Snow Dragon*, Shakya laments at the lesser use of newer theoretical innovations from the field of critical studies in studying Tibet<sup>48</sup>. Yet while newer theoretical innovations from the domains of culture studies may not be in effect as far as Tibet is concerned, because of what Peter Hansen and other scholars

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<sup>47</sup>Dodin, Thierry, and Heinz Räther. *Imagining Tibet: Perceptions, Projections, and Fantasies*. Simon and Schuster, 2001., David Reigle. *Book of Dzian, "Theosophy in Tibet: The Teachings of the Jonangpa School."*Blavatsky Study Center. Accessed December 18, 2014. <http://www.blavatskyarchives.com/reigle04.html>, Price, Lesley. "MADAME BLAVATSKY, BUDDHISM AND TIBET."London, 2003. <http://blavatskyarchives.com/price.pdf>. , Brauen, Martin. "The Tibet Images of the Theosophists." *Alpheus Site For Critical History*, November 24, 2014. <http://www.alpheus.org/the-Tibet-images-of-the-theosophists/>.

<sup>48</sup>Shakya, Tsering. *Dragon In The Land Of Snows: The History of Modern Tibet since 1947*. Random House, 2012, Shakya, Tsering. "Who Are the Prisoners?" *Journal of the American Academy of Religion* 69, no. 1 (March 2001): 183–89.

call it as Tibetan Exceptionalism<sup>49</sup>, yet it could be a fact, as with regards to the lack of anthropological research in Tibet, as N Choedup asserts in his thesis<sup>50</sup>. The fluid nature of the Tibetan society and theology which has made sub Altern studies, an inapplicable entity for Tibet, a notion that has widely been rejected and critiqued by scholars patronizing the new field of sub Altern studies.

Yet as stated earlier, the nuances of orientalism in Tibet are such that it makes orientalism as exceptional, rather than Tibetan Exceptionalism, it would be apt to ascribe a status of Exceptionalism to the nature of orientalism in Tibet as exceptional in nature. Because Orientalism in Tibet was never part of an imperialist zeal or a part of a civilizing project, European orientalism per say. By thus viewing the European orientalist discourse in the same light as say the oriental discourse of the British raj in India, there is a certain marginalization of the distinctness of the fineness of the European convergence with Tibet. The attempt as part of the European orientalist and their discourse on Tibet was less about establishing an omnipresent cultural superiority of the west, paving way for an interventionist project but rather it was a study of something unique and distinct and equally fascinating for the west. Possibly a celebration of difference. In this context, Donald Lopez in his article New Age Orientalism<sup>51</sup>, asserts that in the times prior to the nineteenth century, the societies of Europe were in a way enamoured by the societies of East such as India, China and Tibet, for to them they represented all that the west lacked, though this perception of the east as built in the west has been called as a “fantasy” by Lopez. Therefore, in these differing contexts, criticisms and debates, the orientalist discourse has contributed significantly towards furthering the existing knowledge on Tibet and serves as a source to critique or to remain in awe of the existing reality.

<sup>49</sup> Hansen, Peter H. 2003. “Why is there no Subaltern Studies for Tibet?” *Tibet Journal* 28(4): 7-22

<sup>50</sup> Choedup, Namgyal, "From Tibetan Refugees to Transmigrants: Negotiating Cultural Continuity and Economic Mobility Through Migration" (2015). Arts & Sciences Electronic Theses and Dissertations. 643. [http://openscholarship.wustl.edu/art\\_sci\\_etds/643](http://openscholarship.wustl.edu/art_sci_etds/643)

<sup>51</sup>Lopez, Donald. “New Age Orientalism: The Case of Tibet.” *Tricycle*. Accessed March 7 , 2017. <https://tricycle.org/magazine/new-age-orientalism-the-case-Tibet/>.

While many critiques of orientalism<sup>52</sup> also assert that viewing the Tibetan history merely from an exotic or an oriental perspective is to deny the Tibetans a rightful place in the pages of history, and while there is a process of resurrection and revival that is taking place in exile and in the virtual sphere, orientalism remains a major source and lens for this study, as activism in Tibetan society in Tibet and in exile isn't merely a political phenomenon but rather the revival of the Tibetan culture is also a cultural phenomenon and remains a part of the strand of cultural activism. Albeit it should be asserted that the terms cultural activism and cultural nationalism are not synonymous with each other and in the case of Tibet they both have a different connotation. Essentially it is the Tibetan religion, i.e. Tibetan Buddhism, the role of religion in the Tibetan society and people's response to religion and the influence of religion on the culture of Tibet, the values of the people, ordinary, clergy and the elite and the reverence and influence of the Dalai Lama which are key parameters that determine the nature of perspective on the Tibetan society. Orientalist discourse has largely shed light on the primary Buddhist text on one hand and the role of Tibetan culture and values on the other. The post-colonial scholarship has also sought to look at the same categorizations and offer a perspective not only different from the orientalist discourse but has rather also sought to bring in newer theoretical to analyse the society by a discursive critique on one hand and an alternative narrative of history on the other. Yet in the case of Tibet, whether it be a subaltern peasant, in the language of the post-colonial scholars, or elite, the meeting point remained the larger above mentioned classifications which served as a meeting point for establishing what a Tibetan Exceptionalism is after all.

b) Chinese Discourse:

Chinese discourse on Tibet is largely influenced by an ideologically charged intellectual pursuit. Therefore, its tentacles on Tibet are largely influenced by, as John Powers suggests in 'History as Propaganda'<sup>53</sup>, the

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<sup>52</sup>Sperling, Elliot. "'Orientalism' and Aspects of Violence in the Tibetan Tradition." In *Imagining Tibet - Perceptions, Projections, and Fantasies*, 317–29. Boston: Wisdom Publications, 2001.

<sup>53</sup>Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004.

Marxist Leninist Framework<sup>54</sup>, because of which there is always a constant attempt to impose and invent the Marxist Leninist social categories in a pastoral nomadic society such as Tibet. There are also attempts within the Chinese discourse to present a picture of Tibet, in the present context as a harmonious socialist paradise and valorise the communist revolution. Thus the Chinese discourse is highly politically charged and seeks to annihilate and every criticism of the Chinese policy inside Tibet.

At every juncture in the Chinese argument on Tibet there is a reference to feudalism in Tibet. Thereby, China's involvement into the affairs of Tibet and the succeeding invasion of Tibet in 1951 was on the pretext of liberating Tibet from the clutches of feudalism. The exercise on the part of largely left leaning Chinese scholars has been to justify the Chinese notion of Tibetan society<sup>55</sup>. There is an utter ignorance of neutral sources on Tibet as far the Chinese discourse is concerned and thereby there is an appropriation of what could be termed as a foreign conception and perception of Tibetan society, the foreign being the Chinese. Historically Tibet has been portrayed as the "Other" in the Chinese version of Tibetan history. Orientalism as appropriated by the West, Chinese orientalism is also visible in Tibet. The medieval Chinese histories of Tibet portray the Tibetans as the barbarous other<sup>56</sup>. From the barbarous other that Tibet remained, the communist revolution in further ascribed the nature and status of the holistic Tibetan society as barbarously feudal. Several western academicians like Melvyn V Goldstein have contributed towards extending the knowledge on Tibetan society through extensive field based research<sup>57</sup> among the Tibetan Diaspora and in Tibet yet the findings have

<sup>54</sup> Ibid pp 12

<sup>55</sup> ibid

<sup>56</sup> Editors of China Reconstructs Press. Tibetans on Tibet. Beijing: China Reconstructs Press, 1988 in Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004 pp 19

<sup>57</sup> Goldstein, Melvyn C., and Gelek Rimpoche. *A History of Modern Tibet, 1913-1951: The Demise of the Lamaist State*. University of California Press, 1989, Goldstein, Melvyn C. *A History of Modern Tibet, Volume 2: The Calm Before the Storm: 1951-1955*. University of California Press, 2007, Goldstein, Melvyn C. "Serfdom and Mobility: An Examination of the Institution of 'Human Lease' in Traditional Tibetan Society." *The Journal of Asian Studies* 30, no. 3 (1971): 521-34.

been critiqued by several scholars as leaning towards justifying, partially the Chinese discourse on Tibet<sup>58</sup>. Chinese history also seeks to present, or rather rationalise the Chinese claims on Tibet. It delves into a historical debate surrounding the historical nature and status of Tibet asserting and justifying China's control of Tibet. To a large extent the purpose of historical sources that emerge from China by Chinese scholars relate to justifying Tibet's status as subordinate to China, as historically a part of China<sup>59</sup>.

While some sources assert that the rise of pro-imperialist government in China weakened China's control on Tibet, and thus it gave rise to feudal elements in Tibet. On the other hand, the government sources on Tibet, like the government's dedicated website on Tibet also seek to portray a harmonious picture of Tibet by speaking of the development marvel that has been unleashed in Tibet ever since the Chinese sought control of Tibet. The governmental discourse is little different from the works of the Chinese intellectuals, albeit largely highlighting a state centric approach. There is also a clear disregard for the Dalai Lama and the Tibetan government in exile<sup>60</sup>.

Thus therefore there three to four major themes that the Chinese discourse revolves around, first being the historical theme, or history as a theme itself. The Chinese version of history, as stated earlier, adopts a monolithic ideological framework on one hand, and a Chinese

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doi:10.2307/2052458, Goldstein, Melvyn C. "The Circulation of Estates in Tibet: Reincarnation, Land and Politics." *The Journal of Asian Studies* 32, no. 3 (1973): 445–55. doi:10.2307/2052683.

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<sup>58</sup>Coleman, William M. "Chapter 3: The Discourse of Serfdom in Tibet." In *Writing Tibetan History: The Discourses of Feudalism and Serfdom in Chinese and Western Historiography*. University of Hawaii, 1998.

<sup>59</sup>Li, Tiezheng. *Tibet: Today and Yesterday*. Bookman Associates, 1960 pp. ii, iii in Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004 pp.176

<sup>60</sup>"Tibet Online--People's Daily Online." Accessed November 5, 2015. <http://ChinaTibet.people.com.cn/>.

historiographical tool on the other to assert the Chinese claim on Tibet. Second major theme as far as the Chinese discourse is concerned has been the nature of Tibetan society in the pre-1959 Tibet. The dominant strand in asserting upon Tibet's "societal" has been on its feudal nature, and thus again an attempt to justify the Chinese intervention in Tibet and liberation of the serfs<sup>61</sup>. Another major theme in the recent years largely reflected in discourse of the Chinese state relates to the development in Tibet. Post 1959, the Chinese state media and governmental publications, in totality delve on the aspects of Chinese development in Tibet. They relate to the Chinese policy which according to them has helped the Tibetans usher in a socialist paradise, an era of prosperity. The Chinese development discourse in recent years has been used as a counter to critiques of the actions of the Chinese government in Tibet<sup>62</sup>. While this discourse largely ignores the ills of the Chinese development in Tibet which also stands against the nuances and the tenets of the vary progressive and emancipator ideologies that they seek to appropriate and espouse. Thus as part of the ideas that emerged from the Cultural Revolution, theory has always sought to take precedence over the facts in China and the Chinese development discourse on Tibet is the most apt example of it, which has largely ignored the fact of human rights violations, income inequalities between the Tibetans and the Han Chinese migrants and the mass eviction of the Tibetan nomads from their native land along with the demolition of the widespread monasteries, the latest being the demolition of the Larung Gar monastic complexes in Tibet. Though certain works by the critical Chinese scholars and Chinese activists have sought to present the nature of human rights violations in Tibet, but they largely relate it to the human rights situation in China as well. In a way there is little difference of opinion as far as the status of Tibet is concerned between them and the mainstream Chinese discourse. The recent self-immolations in Tibet have prompted more and more Chinese activists and scholars to assert upon the

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<sup>61</sup>Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004. pp. 110

<sup>62</sup>"Development and Progress of Tibet." Chinese Government website. Accessed July 2, 2017. [http://english.gov.cn/archive/white\\_paper/2014/08/23/content\\_281474982986550.htm](http://english.gov.cn/archive/white_paper/2014/08/23/content_281474982986550.htm).

situation inside Tibet yet there no or little critical reflection on the actual historical cause of the current happenings in Tibet<sup>63</sup>. Therefore, as far as this research is concerned, the Chinese discourse on Tibet and the Tibetan people serves as an emphatic counter narrative to the critical human rights discourse that has critiqued the nature of Chinese brutalities in Tibet and thereby reflecting the need for an ongoing academic activism in the west and in the Diaspora by Tibetans and non-Tibetans to counter the totalitarian nature of China's discursive extremities. As the thesis seeks study the nature of activism, academic activism is an integral part of the activism in Diaspora, owing to unequal power relationship between the Tibetans the Chinese, academia serves as the emancipatory force that seeks to highlight the plight of the Tibetan people inside Tibet.

c) Tibetan discourse:

Tibetan discourse on Tibet relates to several aspects of Tibet ranging from history, culture, politics and environment. Some of the key themes that the Tibetan scholars on Tibet highlight are issues of freedom, historical status of Tibet, contemporary nature of Tibetan polity under the Chinese occupation and the role of religion and theology. At times in some of the works there is a clear demarcation between religion and politics, several works on philosophy and theological aspects of Tibetan Buddhism do not relate and talk about politics in general while several works on the politics of Tibet do talk about religion as a category of analysis<sup>64</sup>. Thus as mentioned earlier, while the

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<sup>63</sup>Xia, Ming. "Self-Immolations and Chinese Intellectuals." *iSunAffairs Weekly*, December 13, 2002 in Xia, Ming. "Self-Immolations and Chinese Intellectuals." *India Seminar*, 2013. [http://www.India-seminar.com/2013/644/644\\_ming\\_xia.htm](http://www.India-seminar.com/2013/644/644_ming_xia.htm), *Chinese Scholars and the Self-Immolations in Tibet*. Accessed October 20, 2016. <https://www.voaTibetanenglish.com/a/1573980.html>.



Chinese discourse largely relates to justifying the Chinese rule inside Tibet by establishing and rationalising its age old territorial and political linkages between Tibet and China. Chinese version has sought to present an unbroken linkage of control on Tibet while the Tibetan sources of Tibetan history present a detailed historiographical account of Tibet's independent status since time immemorial. Thus while they counter the Chinese discourse facts by facts, the attempt is not merely to highlight the sovereign nature of the Tibetan nation pre 1959 but the historical accounts also serve as a major source for bringing to the fore the uniqueness of Tibetan culture which separates the Tibetans from the Chinese as a distinct collective of people. The History of Tibet by Shakabpa is a major documentation of several chronicles in Tibet's past. His book, *Tibet: A Political History*<sup>65</sup> is a major source that takes up the debate on Tibet's sovereignty and clearly draws out the paradigms that justify his position on Tibet as a sovereign nation. Some of the writers such as Tashi Tsering have also sought to highlight and present an emancipatory or a progressive perspective of Tibet, in which they have also criticised the nature of Tibetan clergy and their role in Tibetan politics<sup>66</sup>. While scholars such as Dawa Norbu in several of their works have highlighted a micro perspective of the life of a Tibetan in pre 1959 Tibet and what the idea of Tibet means to the ordinary people of Tibet. Though Norbu is a Tibetan and a widely acclaimed writer, he has not adhered to a staunchly nationalist perspective but has rather adopted and presented an experiential and pragmatic perspective relating to the power structures that operated in erstwhile pre 1959 Tibet and among the Diaspora in exile. Norbu's argument relates to the idea of primordiality, wherein highlighting key examples from several third world societies including Tibet, Norbu presents a clear idea asserting that neither Communism nor modernization could change the primordial elements of third world societies<sup>67</sup>. In his book *China's Tibet Policy*<sup>68</sup>, He further touches upon the

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<sup>65</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967.

<sup>66</sup>Goldstein, Melvyn C., William R. Siebensschuh, and Tashi Tsering. *The Struggle for Modern Tibet: The Autobiography of Tashi Tsering: The Autobiography of Tashi Tsering*. Routledge, 2015.pp. 200

<sup>67</sup>Norbu, Dawa. *Red Star over Tibet*. Envoy Press, 1987., Norbu, Dawa. *China's Tibet Policy*. Psychology Press, 2001.pp.95, Norbu, Dawa. *Culture and the Politics of Third World Nationalism*. Routledge, 2002., Dawa Norbu, *Tibet: The Road Ahead* (London: Rider, 1997), p. ix.

delicate nuances of the relationship between the Chinese government and the Tibetans. This book draws on to the historical nature of the Sino-Tibetan relations charting out the nature of change that took place over time, which resulted in declining freedom and liberty for the people of Tibet.

Another major contribution as far as the Tibetan discourse is concerned, is “The Dragon in the Land of Snows<sup>69</sup>” by Tsering Shakya which throws light on the world politics of the day when Tibet faced a tumultuous time in its history. The historical account that the book offers sheds much light on how Tibet remained in a delicate position when it came to articulating its stand on its own sovereignty. From the book what brings to the fore is also the larger ignorance of the Tibetan issue by world powers and the global media at large. To a great extent the resistance of the Tibetans against the Chinese in the early years of Chinese takeover has largely emerged from the folds of the archives, unlike other movements in South Asia or Middle East, news media reports on Tibetan resistance have been scarce, and this in-depth documentation of Tibetan resistance, including the case of the Mustang guerrillas is among those rare books that offers a space to the untold stories of the Tibetan resistance. Apart from the several books that he has authored, Shakya’s contribution to the Tibetan discourse has been that of as a critical intellectual who has keenly criticised the western fantasies about Tibet as well. The idyllic picture and image of Tibet that westerners carry has been a matter of criticism for Shakya who has commented widely through reviews and ‘rejoinders’ in *The Myth of the Shangri La*<sup>70</sup>.

Thus within the Tibetan discourse, poetry too plays a pivotal role, Tenzin Tsundue’s *Kora*<sup>71</sup>, a collection of his poems has been a widely popular book

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<sup>68</sup> ibid

<sup>69</sup>Shakya, Tsering. *Dragon In The Land Of Snows: The History of Modern Tibet since 1947*. Random House, 2012.

<sup>70</sup>Shakya, Tsering. “TIBET AND THE OCCIDENT The Myth of Shangri-La.” *Lungta*, 1991 in Shakya, Tsering. “The Myth of Shangri-La by Tsering Shakya | Tibet and the Occident.” Accessed July 2, 2017. [https://info-buddhism.com/Myth\\_of\\_Shangri-La\\_Tsering\\_Shakya.html](https://info-buddhism.com/Myth_of_Shangri-La_Tsering_Shakya.html).

<sup>71</sup>Tsundue, Tenzin. *Kora: A Story and Eleven Poems*. Choney Wangmo, 2002.

that speaks for ordinary Tibetans in exile. It is an account of the lives of Tibetans who yearn to go back to their cherished land, reflecting emotions of nostalgia, belongingness and a sense of anger towards the reality that surrounds them. Tsundue's poems are reflective to help understand the mentalities of the Tibetan Diaspora in exile which has been robbed of its primary identity as citizens of a nation. Social and political studies, seek to rationalise a situation and many times emotions and sentiments do not find a space in what is a rather dry discourse, yet poetry serves as a catalyst to reconnect with the inner soul that transpires the basic sympathy to undertake a research such as this from a participative or an emancipatory approach and Tsundue's poem essentially speak of the vary sentiment that drives the Tibetan struggle in exile. There also are two major strands within the Tibetan discourse with regards to the politics of Tibet. One being the 'Umaylam' or the middle way approach<sup>72</sup> which has been adopted by the Central Tibetan Administration or the Tibetan Government in Exile and another is the Rangzen. Umaylam seeks genuine and meaningful autonomy for the Tibetans inside Tibet while Rangzen seeks total independence for the Tibetans. Much of the literature by the Central Tibetan Administration relates to its demand and the policy of the Middle Way Approach. Three key personalities that stand by the Umaylam approach include the Fourteenth Dalai Lama, the spiritual and temporal leader of Tibet, Lobsang Sangay who is the President or the Sikyong of the Central Tibetan Administration and Samdhong Rinpoche. As part of the Middle Way Approach, the Central Tibetan Administration has vociferously published several books that critique the Chinese policy inside Tibet. Some of the Books such as "Tibet Under Communist China: 50 Years"<sup>73</sup> highlight the nature of Chinese rule from 1959 to 2001. This book serves as a chronological record of the events following the signing of the 17 point agreement and relate to the nature of Chinese oppression<sup>74</sup>. One of the major arguments that emerges from this book is the change in Tibet as a result

<sup>72</sup>"Umaylam." *Middle Way Approach*. Accessed July 5, 2016. <http://mwa.tibet.net>.

<sup>73</sup>*Tibet Under Communist China: 50 Years*. Department of Information and International Relations, Central Tibetan Administration, 2001.

<sup>74</sup> Ibid 110

of the change in China. The books delve largely on the transition that has taken place in China from what was a left leaning economy into a pro market reforms oriented economy<sup>75</sup>. The Central Tibetan Administration thus by highlighting the gruesome nature of private mining and exploitation of natural resources in Tibet asserts that the economic reforms in China have resulted in greater exploitation of the earthly resources that flourished in areas occupied by the Tibetans and the Uighurs<sup>76</sup>.

As stated earlier, China occupied Tibet under the pretext of liberating Tibet from imperialist forces, there is a certain counter to China's obsession with imperialism by the book also widely referring to China as an imperialist nation and also the book refers to Tibet as a colony of the Chinese<sup>77</sup>. Several issues such as large-scale migration of the Han Chinese into Tibet<sup>78</sup>, the wave of cultural genocide<sup>79</sup>, the cause of religious freedom in Tibet have been widely discussed and a thoughtful and sincere critique of China's actions in Tibet have been discussed here. On one hand, it would seem like merely a critique by an opponent, by an aggrieved party, yet on the other, a balanced look at the document finds a larger relevance of the issues with the Middle Way Policy of the Central Tibetan Administration and the present Dalai Lama. Several issues that the Chinese policy is being critiqued upon relate largely to the issues that the Central Tibetan Administration has risen in negotiating with the Chinese government. The book offers a sophisticated critique of the Chinese policy not merely as an outside observer but as an internal critique highlighting upon the nature of the Chinese polity at large, especially upon the economic aspect of China's changing policy in the then era of reforms.

Thus the central Tibetan administration remains the pivotal custodian of the Middle way discourse and several of its Publications have only contributed in abundance to substantiate and strengthen not only the existing nomenclature of ideas within the Tibetan discursive elements but also the Middle way discourse<sup>80</sup>. As far as this thesis is concerned, the Middle Way approach and

<sup>75</sup> Ibid V

<sup>76</sup> Ibid 55 ,

<sup>77</sup> Ibid pp. V

<sup>78</sup> Ibid pp. 11

<sup>79</sup> Ibid pp. 7

<sup>80</sup>“Publications | Content Types | Central TibetanAdministration.”Accessed October 9, 2016. <http://Tibet.net/posts/publications/>.

the succeeding discourse by the proponents of the Middle Way approach and those who adhere to it are of immense relevance as the Central Tibetan Administration represents a large section of Tibetan people along with several agencies of the Administration that are engaged in research on the Human Rights situation inside Tibet. One of the key demand and issue that the Central Tibetan administration has raised over time is the restoration of the basic human rights of the Tibetan people inside Tibet<sup>81</sup>. It has vociferously campaigned for the rights and the dignity of the people inside Tibet and has also reached to help the Tibetan Diaspora in need when their rights as refugees in a foreign land are being violated. While for many Tibetans Total independence from China remains the cherished goal. Total Independence or Independence for that matter in Tibetan is referred to as Rangzen. Thus the word stands for Independence. Several scholars and writers among the Tibetans staunchly articulate the Rangzen as a cherished goal. One of the key voices among the Tibetans who has widely contributed to the Rangzen discourse is Jamyang Norbu. Having once been a part of the Mustang guerrillas that continued an armed resistance against the Chinese even after the fall of Tibet, Jamyang Norbu has been an emphatic supporter of total independence for Tibet. He is an avid blogger who blogs very frequently to articulate his views that are largely linked with the independence of Tibet. Though he has settled in the United States, several of Jamyang Norbu's writings have been critical, like other critical scholars, of the west's fascination for the idyllic Tibet and Tibetan Buddhism. He has also been critical of the gross materialism of the western society Vis a Vis has advocated for a newer approach to secularise the nature of Tibetan society which according to him is staunchly conservative and orthodox in nature. Several of his essays have criticised the Middle Way policy by highlighting the oppression of the Tibetan people inside Tibet and highlighting that total independence seems to be the only solution to the crisis in Tibet. At one point

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<sup>81</sup>Dharpo, Tenzin. "CTA Pushes for Human Rights in Tibet at the UN." *Phayul.com*. Accessed October 13, 2016. <http://www.phayul.com/news/article.aspx?id=38611&t=1>., Römer, Stephanie. *The Tibetan Government-in-Exile: Politics at Large*. Routledge, 2008.

of time, Jamyang Norbu has also asserted that Dalai Lama's middle way is a failure. Several of his statements have invited much controversy and criticism from the Tibetan people at large. Thus Jamyang Norbu's writings still present a novel element of the Rangzen discourse and remain relevant for this research in terms of understanding the how human rights concerns are articulated through the Rangzen agenda<sup>82</sup>. Another influential voice among the Rangzen activists is that of Lhasang Tsering. In several of his interviews<sup>83</sup>, talks and articles he talks about the Independence as a cherished goal and a historical promise towards those who left Tibet and sought exile in India. Many of his articles also call for a global support for the Tibetans and Tibetan Independence. One of his popular article titled as India's Tibet throws light on several aspects of the Tibetan movement, offers a critique of the middle way policy and also seeks India's intervention on the Tibetan issue. Apart from India, Lhasang Tsering also advocates a possible intervention by the United States<sup>84</sup>. In a certain way, the title and advocacy for American or Indian intervention into the Tibetan struggle is, according to him, to counter China's repeated claims on Tibet when it continues to refer to it as China's Tibet. Highlighting the historical nature of Tibet's relationship with India, Lhasang Tsering rather prefers to call it India's Tibet or also advocates Tibet to be a state within the United States of America. This could be interpreted as a preference for the liberal democratic ideas that both the United States and India represent and also an indicator of the lack of basic democratic rights for the Tibetans inside Tibet. Thus democracy and the expansion of democracy is also intricately linked as far as the human rights of the Tibetan people inside Tibet are concerned.

<sup>82</sup>Norbu, Jamyang. "Shadow Tibet: Jamyang Norbu." *Shadow Tibet*. Accessed October 20, 2016. <http://www.jamyangnorbu.com/>, Norbu, Jamyang. "Shadow Tibet: Jamyang Norbu » Blog Archive » RANGZEN IN YOUR HEART?" *Shadow Tibet*, June 6, 2013. <http://www.jamyangnorbu.com/blog/2013/06/06/rangzen-in-your-heart/>.

<sup>83</sup>Sen, Suroraj. "In 1980 I Saw Evidence of Chinese Immigrants in Tibet: Lhasang Tsering." News website. *Tibet Post International*, June 19, 2017. <http://www.theTibetpost.com/outlook/interviews-and-recap/5573-in-1980-i-saw-evidence-of-chinese-immigrants-in-Tibet-lhasang-tsering>.

<sup>84</sup>Tsering, Lhasang. "India's Tibet: A Case for Policy Review." NGO. *Friends of Tibet*, March 17, 2000. <http://www.friendsofTibet.org/articles/India.html>.

d) Development Discourse

Development discourse is a keen relevance as far as the overall discourse of human rights in Tibet is concerned. As Tashi Nyima asserts in her paper on the discourse of development on the Tibetan plateau by the Chinese government, that development is seen by the Chinese as a solution to the crisis in China<sup>85</sup>, it becomes clearer that China's stress on rapidly developing Tibet is part of its program to integrate Tibet more into the mainstream Chinese discourse. Yet the paradox of development in Tibet is such that the mode of development has stood against the core values of Tibetan belief system. As the ideas of development as represented in the writings and the discourse of the Fourteenth Dalai Lama of Tibet indicate, a much nuanced articulation of the ideas of the fourteenth Dalai Lama and his Discourse of Development are found in the unpublished thesis of the Naga scholar Limakumla Imchen<sup>86</sup>. She offers a keen perusal of Dalai Lama and his works in form of his speeches, writings and lectures, and then compiles them to offer his perspective on the path of development. Therefore, instead of merely appropriating the Dalai Lama as the leader of the Tibetan people, this section of the thesis, discursively rather seeks to appropriate the ideas of Tenzin Gyatso, the individual and his own ideas on what is his cherished homeland. The ideas of Dalai Lama as far as development is concerned, reflect his role as a statesman who seeks to mitigate across highly contested realities in terms of articulating his concern for human rights for the people of Tibet and also, reflecting on the fact as to how the ideas of human rights and so closely knit with the ideas of development<sup>87</sup>. Dalai Lama's idea of development throw major light on the fact that development isn't merely about economic growth and prosperity but largely about collective and holistic happiness. In several discourses on Tibet, especially the politically

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<sup>85</sup>Nyima, Tashi (2010) Development Discourses on the Tibetan Plateau: Urbanization and Expropriation of Land in Dartsedo, *Himalaya* 30(1): 77–88.

<sup>86</sup>Imchen, Limakumla. "Discourse of Development in the Writings of the Fourteenth Dalai Lama." Unpublished Thesis, University of Hyderabad, 2014.

<sup>87</sup> *ibid*

charged discourses, the issue has been widely seen as a darling of the non-communist world, and is cited as a widely used example to critique the communist or the Marxist regimes. Yet it is the Dalai Lama himself who has asserted that to a large extent he does identify himself as a Marxist as well<sup>88</sup>. This was not in the Marxist sense, but in the sense of his appreciation of the egalitarian values that Marxism espouses and appropriates. Thus Chinese policy post liberalization has led to heavy mining in the Tibetan areas<sup>89</sup>, and has also built a railway line into Tibet<sup>90</sup> that connects Tibet with the mainland China. The resultant effect of the Chinese rail linkage with Tibet has been a voluminous increase in the migration of the Han Chinese people into Tibet resulting into a scenario where in some areas of Lhasa alone, Tibetans are a minority<sup>91</sup>. Thus the development discourse of the Chinese on Tibet is a blatant ignorance of

<sup>88</sup>Phillips, Catherine. “‘I Am Marxist’ Says Dalai Lama.” Accessed July 15, 2016. <http://www.newsweek.com/i-am-marxist-says-dalai-lama-299598>., Secular Talk. *Dalai Lama: “I Am A Marxist,”* n.d. <https://www.youtube.com/watch?v=YZh2E1s1A10>.

<sup>89</sup>“Stop Mining in Tibet | Tibet’s Resources Belong to Tibetans.” Accessed August 12, 2016. <http://stopminingTibet.com/>., Denyer, Simon. “Tibetans in Anguish as Chinese Mines Pollute Their Sacred Grasslands.” *Washington Post*, December 26, 2016, sec. Asia& Pacific. [https://www.washingtonpost.com/world/Asia\\_pacific/Tibetans-in-anguish-as-chinese-mines-pollute-their-sacred-grasslands/2016/12/25/bb6aad06-63bc-11e6-b4d8-33e931b5a26d\\_story.html](https://www.washingtonpost.com/world/Asia_pacific/Tibetans-in-anguish-as-chinese-mines-pollute-their-sacred-grasslands/2016/12/25/bb6aad06-63bc-11e6-b4d8-33e931b5a26d_story.html)., Smith, Warren. “CHINA’S EXPLOITATION OF TIBET’S MINERAL RESOURCES Based upon the Book SPOILING TIBET: CHINA AND RESOURCE NATIONALISM ON THE ROOF OF THE WORLD By GABRIEL LAFITTE A COMPILATION OF A SERIES OF ‘EXPERT ON TIBET’ PROGRAMS For RADIO FREE ASIA.” Radio Free Asia, n.d., Buckley, Michael. *Meltdown in Tibet: China’s Reckless Destruction of Ecosystems from the Highlands of Tibet to the Deltas of Asia*. St. Martin’s Press, 2014. pp. 138

<sup>90</sup>Wong, Edward. “China’s Money and Migrants Pour Into Tibet.” *The New York Times*, July 24, 2010, sec. Asia Pacific. <https://www.nytimes.com/2010/07/25/world/Asia/25Tibet.html>., AsiaNews.it. “TIBET - CHINA Beijing Sends a New Flood of Han Migrants to Lhasa: Tibetans Risk Disappearing.” Accessed February 15, 2015. <http://www.Asianews.it/news-en/Beijing-sends-a-new-flood-of-Han-migrants-to-Lhasa:-Tibetans-risk-disappearing-33294.html>, Narayanan, Raviprasad. “Railway to Lhasa: An Assessment | Institute for Defence Studies and Analyses.” *Strategic Analysis* 29, no. 4 (October 2005). [http://www.idsa.in/strategicanalysis/RailwaytoLhasaAnAssessment\\_rnarayanan\\_1008](http://www.idsa.in/strategicanalysis/RailwaytoLhasaAnAssessment_rnarayanan_1008).



the human rights of the ethnic minorities, as stated earlier as well, whereas the development discourse of the Dalai Lama is situated in form of an alternative that could help preserve the fineness of the Tibetan culture and can also help harmonise the relations between the Chinese and the Tibetans at the people to people level and also as two major collectives. A major reference of point of discord between the Chinese and the Tibetans has been upon the emphatic Chinese stand on failing to accord and individual space to the Tibetans as separate people. Even articulation of the concern for the Tibetan by Chinese scholars has been through an approach that seeks to integrate them into the Chinese fold. On the other hand, the Tibetans have been unwilling to give up their individuality, just as any other entity would also not be willing to do so. Thus in these context, Dalai Lama's discourse on development emerges as a pivotal reference point to engage with the Chinese in the era of globalization and liberalization. As Limakumla asserts, Dalai Lama's discourse is divided into two major strands, on one hand it deliberates on the individual and the cause of individual development wherein it stresses on cultivating mindfulness for individuals by being more compassionate, kind and loving all sentient beings. On the other hand, the discourse of the Dalai Lama also throws light on collective and community development, it talks about how communities can exist together in a more harmonious and egalitarian world by once again practicing the values of compassion and finding themselves responsible for the larger cause of a better world which may also include world peace and humanitarian empowerment<sup>92</sup>. Thus to a large extent as this thesis draws upon the tenets of Buddhism which act as the guiding force for a certain variant of Tibetan activism, these values of holistic development of all sentient beings relate to the ideas of socially engaged Buddhism. Though the idea of socially engaged Buddhism is a recent categorization but the roots of a socially engaged Tibetan Buddhism can be traced to the times of the spread of Tibetan Buddhism that promoted the same values on the lines of what is now described as

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<sup>92</sup>Imchen, Limakumla. "Discourse of Development in the Writings of the Fourteenth Dalai Lama." Unpublished Thesis, University of Hyderabad, 2014. Chapter 1

socially engaged Buddhism. As far as the tenets of socially engaged Buddhism are concerned, one of the major congregations of the Buddhists worldwide is the Kalachakra initiation. It is an age old practice linked with the tantric school of Tibetan Buddhism. As the thesis also delves into the Tibetan culture area and the larger Tibetan Buddhist world, the Kalachakra serves as the gathering of the adherents of the Tibetan Buddhist religion from Tawang in India to Kalmykia in Russia. The Kalachakra largely includes sermons and lectures by the Dalai Lama and it is considered as a prayer for world peace in its modern attire. A few Dalai Lamas in Tibet have been fond of the Kalachakra initiation and the present Dalai Lama is one among those. In the year 2017 the 34<sup>th</sup> initiation of the Kalachakra empowerment took place in Bodhgaya, Bihar<sup>93</sup>. As part of the Dalai Lama's fourteen-day long address to the people, much of the discourse stressed on the egalitarian values of the human world and the paradox of the growth centric development mode that the world has ushered into<sup>94</sup>. While on hand there is a bitter and radical critique on the rapidly growth centred mode of development from several quarters of anarchist and the left leaning world, the Dalai Lama's critique of the present mode of development is offered with a more plausible solution that seeks to bring about a change in the lives of the individuals and the society at large. In this sense, the stress on the individuals and also on the collective is a measure of Dalai Lama's non adherence to ideological extremes. While Marxism inspired ideologies such as Socialism seek to appropriate the collective over the individual, the liberal ideologies have sought to appropriate the individual over the collective. In this regard the ideas of the Dalai Lama on the idea of development seek to transpire into a meeting point for both of these polar opposites which in theory seek to ultimately attain human empowerment. In this regard Dalai Lama's stress on the idea of development keenly relates with the ideas of human rights

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<sup>93</sup>“Kalachakra Initiation Ends With Offering Long Life Ceremony to Dalai Lama.” *VOA*. Accessed May 2, 2017. <https://www.voaTibetanenglish.com/a/3679793.html>.

<sup>94</sup>“Kalachakra Is Led by Dalai Lama in Bodhgaya; Karmapa in Attendance.” *Lion's Roar*, January 10, 2017. <https://www.lionsroar.com/kalachakra-is-led-by-dalai-lama-in-bodhgaya-karmapa-in-attendance/>.

and the human rights protection. Rather than singling out human rights as a separate entity and then deliberating on the same as the western model does, the reference to human rights in the larger debate and discourse of development seeks to present the nature of an entwined reality. albeit even in socialist and communist societies human rights are not seen as separate entity but are rather seen as effects of the hegemony of the dominant classes, wherein the end solution lies in the emergence of a classless society while in the liberal world there is an abundant focus on the individual rights and the collective acquires a subordinate position. On the Sixtieth anniversary of the Universal Declaration of Human Rights , the Dalai Lama opined to assert that peace and the essence of freedom lie in the protection of human rights at large. In the sense that absence of human rights is also the absence of peace and freedom while also linking the idea of stability with oppression as its contradiction. This means that under oppressive circumstances, stability cannot be ensured. Similarly, while deliberating on the issue of human rights in Tibet, the Dalai Lama asserted upon his collective idea of development and collective activism whereby talking about how others should speak up for those who are suffering under oppressive conditions<sup>95</sup>. Thus it can be stated, Asher asserts further in his views on the human rights in that the human rights violations in Tibet are a result of the failure of the Chinese government to understand the holistic reality of the Tibetans. Thus the Dalai Lama is of the opinion that the Buddhist culture that the Tibetans practice ought to be meaningfully understood by the Chinese and then their actions in Tibet should be based on their understanding of the Tibetan Buddhist culture. The Ngaba protests of 2011<sup>96</sup> by Buddhist monks highlight the gruesome insensitivity of the Chinese government towards the Tibetan Buddhist culture when armed army men accompanied the monks in an anti-clockwise direction while the monks went around the Kora, reciting the

<sup>95</sup>Lama, The 14th Dalai. "Human Rights, Democracy and Freedom."Text/html.*The 14th Dalai Lama*, 2008. <https://www.dalailama.com/messages/world-peace/human-rights-democracy-and-freedom>.

<sup>96</sup>Ivor, Samuel, and Pema Tso. "Protest Continues in Ngaba Region of Tibet, Eight Detained." News website.*Tibet Post International*, March 30, 2011. <http://www.theTibetpost.com/en/news/Tibet/1574-protest-continues-in-ngaba-region-of-tibet-eight-detained>.

ritual prayers. Incidents such as these highlight the nature of the lack of awareness on the part of the Chinese as far as the Tibetan culture is concerned, which the Dalai Lama aptly deliberates upon. From a modern secular perspective, the Dalai Lama's stress on preservation of Buddhist culture and the monastic institutions in Tibet might seem as an exception, yet the secular modernity possibly fails to understand the nature of Tibetan religion and human rights that keeps the society together, it is essentially the Tibetan Buddhist religion which acts as the custodian of secular ethics in Tibetan society and ensures protection of the Tibetan human rights. While China's adamant stance on tampering with the Buddhist culture is only hampering the progress of peace and human rights inside Tibet.

### 1.3) Conclusion

Thus as far as this chapter is concerned, there are several major standpoints of reference that it deliberates upon. The core of the chapter deals with the major discursive approaches that guide the perspective of research. Of the key theme that emerges as far as a holistic perusal of the chapter is concerned is the fact that the approaches to research and the discursive elements intricately linked to the nuances of the way the discipline and the study of human rights has emerged. The discipline of human rights is interdisciplinary in nature and several perspectives and approaches contribute towards an inquiry into the research problem. The stress in the chapter has been laid on understanding the Tibetan culture and the setting of Tibet within the human rights discourse. In recent years, to understand Tibet, it is not merely the orientalist or the Tibetan discourse or possibly the so called western discourse which is adhered to but rather the Chinese discourse and development discourse has taken precedence over the other discourses. In some ways the development discourse through the perusal of the views of the Dalai Lama provides a view of the indigenous discourse of human rights within the Tibetan Buddhist religion. While there is a very strong western philosophical tradition that deliberates on the idea of human rights, which would be discussed in the next few chapters, yet in the societies of the east and the discourses of the

east, not only Buddhist but also Hindu, Sikh and Jain traditions, human rights and preservation of human rights are an integral part of the cultural traditions. In this sense, the core argument that the chapter presents are the nature of human rights in Tibet and how human rights of the Tibetan people are not only linked with the Tibetan culture but also the human rights discourse of the Tibetan people and the articulation of the human rights in exile and in Diaspora is also linked with the indigenous discourse of the Tibetan people and the people across the Tibetan culture area. Thus a human rights concern in general sense is the concern for the human beings at large, but from a Tibetan perspective, the concern for human rights is just one part of the concern for all sentient beings. This idea is appropriated in the thesis as a guiding principle for Tibetan activism at large. On the other hand, as far as the mobilization of the people for the movement of the Tibetan people is concerned, there is again an attempt to present a single cohesive identity of the Tibetans, while, the chapter delves into the several indigenous identities that make what is Tibet of today and argues that mobilization on indigenous lines can yield larger results in terms of the appreciation of the cause and the mass based support among the Tibetans in Diaspora and inside Tibet.

Therefore, this chapter is an attempt to present the reader with the basic building blocks of the thesis that then shape the overall nomenclature of the perspective at large, there is also a reference to the key standpoints within the Tibetan society which include the Umaylam which is the middle way and the Rangzen which stands for total independence. While both may seem as two different political ideologies, the mention of Umaylam and Rangzen is to understand their contribution to the overall Tibetan political discourse and the role of human rights within these ideologies.

## Chapter 2

### Tibet: The Emergence

#### 2.0) Foreword

Tibet's erstwhile sovereignty is a highly contested debate. While the chronicles of Tibetan history by Tibetan and western historians assert that Tibet remained a sovereign independent nation<sup>97</sup>, the Chinese historians and their histories of Tibet seek to delve into the same historical chronicles and seek to present a history of Tibet

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<sup>97</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967.

which thereby ascertains and concurs with Chinese supremacy over Tibet<sup>98</sup>. Yet as far as the larger nuances of the debate are concerned, there is a certain major common theme across both the version of the Tibetan histories, the Chinese and the Tibetans that it is essentially a state centric history. Both the versions of history in a way seek to appropriate a statist perspective which in the case of Tibet would be a certain understatement. For the Chinese there has been an obsession to arrive at the feudal character of the Tibetan society and then narrate the nature of oppression in the feudal old Tibet. Therefore, this chapter seeks to present a Tibetan history that transcends the boundaries of Tibet, as it stands today. It rather seeks to present a more nuanced understanding of Tibet by adhering largely to the contours of what can be called as the fruits of the Tibetan civilization. The key standpoint as far as this chapter is concerned is majorly the convergence of the Tibetans and Tibet with Buddhism and the emergence of the distinct and nuanced stream within the larger stream of Buddhist religion that is Tibetan Buddhism.

The tenets of Tibetan Buddhism are not only linked with the larger geographical and the cultural reality of Tibet but they also resonate with the ideas that guide the Tibetan perception of the world and the worldly politics. As far as the central concern of this thesis is concerned, which is Human Rights in Tibet, a perusal of the Tibetan Buddhist religion and its key central arguments also help in understanding the nature of the human rights doctrine as far as the Tibetans are concerned. In other words, the key constituent of discord between the western perception of human rights and the Buddhist perception of an entity like the human rights is the fact that while the word Human takes a centre stage in the western discourse, within the Buddhist view of human rights, it is essentially the idea of all sentient beings which occupies a more dominant position. By the term sentient beings, one refers to all living beings that are alive.

Thus the belief that every living being deserves and has a right to live on this planet with dignity and respect, something very much in accordance with the tenets that guide the idea of human rights today. This is not to assert that the western ideas do not care for living beings other than humans, but rather in the western tradition there is a clearer demarcation between the rights of the humans, animals, plants etc. Thus

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<sup>98</sup>Wang, Jiawei, and Nyima Gyaincain. *The Historical Status of China's Tibet*. 五洲传播出版社, 1997.

the western discourse is more streamlined in nature while the Buddhist discourse is more attuned to a holistic perception of the living beings in totality.

## 2.1) Songsten Gampo:

Tibet as it remained a part of the pastoral nomadic empires of central Asia, until the emergence of iconic Songsten Gampo. It was under the rule of Songsten Gampo (7th Century A D) that Tibet, from divisions that existed, was united as on nation. Thus it would be apt to state 7<sup>th</sup> century AD as the moment when Tibet was united as a nation<sup>99</sup>. The dominant stature of Songsten Gampo within Tibetan history at times relates to a sense that he was the first King of Tibet, which isn't correct, Songsten Gampo was the thirty third king of Tibet and before him, thirty two kings and their dynasties had prevailed in Tibet, none of which, before Songsten Gampo, could unite the Tibetans as succinctly as the Gampo could, as one Nation.

Thus while asserting that several kings had preceded Songsten Gampo, the focus of this chapter which tries to peep into Tibet's past largely relates and concerns itself with the history of Tibet from 7<sup>th</sup> century, when Songsten Gampo ushered as the ruler and up until 1959 when the fourteenth Dalai Lama sought exile in India.

Thus essentially it isn't just a political unification of Tibet which stands out as a major point of reference but rather the larger relevance of Songsten Gampo's contribution is that of introducing Buddhism in Tibet. Apparently the nature of Buddhism introduced by Songsten Gampo in Tibet was very different from the nature of the Buddha Dharma which remains in fruition in contemporary Tibetan society and the larger Tibetan culture area.

Songsten Gampo and his rise as the monarch of Tibet also find a mention in several Chinese chronicles and Chinese histories of Tibet. Apparently, the vary mention of Songsten Gampo in Chinese accounts also reflects the historical perception of the Tibetans among the Chinese. The Tibetans have largely been perceived by the Chinese as barbarous people who lacked the fineness and elegance which was according to the Chinese was present in their culture. For the fact that the largely the Chinese histories and chronicles valorise the greatness of Chinese culture and consider it to be the centre of the world whereby on the same lines, the Tibetans were

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<sup>99</sup>Shakabpa, Tsepon Wangchuk Deden. *One Hundred Thousand Moons: An Advanced Political History of Tibet*. BRILL, 2009.pp. 9



considered as inferior. This is more vividly visible in the marriage of Songsten Gampo with the Chinese princess Wenchang. This marital association between Songsten Gampo and Wenchang is considered by many Chinese histories and their historians as a part of the civilizing project to civilize the barbarous Tibetans. They considered that Wenchang's influence could change the Tibetans and help them mend their ways<sup>100</sup>. Songsten Gampo is also considered, by the Tibetans, as a reincarnation of the great Avalokiteswara, thus not only is Songsten Gampo a historical figure but is also considered as a godly figure and is also worshiped in many of the Tibetan temples and monasteries<sup>101</sup>. Also, it isn't just Songsten Gampo who is considered as a God and is worshipped, but even Wenchang, who, according to the Tibetans, is revered as a goddess, thus in Tibetan language and tradition, a female deity or a goddess is referred to as *Tara* and Wenchang has been given the title and the status of a *Tara*. It is also a fact that Songsten Gampo also married a Nepali princess who was from Newar. Thus he had several wives, and some were Tibetan as well, yet, the most popular among his wife in the legends of Tibet and in chronicles of history is Wenchang.

Therefore apart from his marriage and introduction of Buddhism into Tibet, it was under the reign of Songsten Gampo that one witnesses a large-scale interaction between the state and religion, and thus that paved the way for granting a state patronage to Buddhism in Tibet. The major breakthrough as far as the relations between the church and the state is concerned, in the case of Buddhism happened during the time of Songsten Gampo. In that context the fact that Songsten Gampo could unite majority of the areas that constituted what was then the Tibetan nation has larger underpinnings. It was in lieu of the unification process that Tibet also emerged as a pivotal and a prominent military empire in pastoral nomadic central Asia. The widespread imagination of Tibet in the west, as stated in the section on orientalist discourse, accrues the image of a peaceful Buddhist polity, committed to peaceful promotion of the dharma. In that context, Tibet's rise as a major military power in central Asia relates to and challenges the notion as propagated by the orientalist

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<sup>100</sup>Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004.pp. 31

<sup>101</sup>Dam-pa), Bsod-nams-rgyal-mtshan (Sa-skya-pa Bla-ma, and Per K. Sørensen. *The Mirror Illuminating the Royal Genealogies: Tibetan Buddhist Historiography : An Annotated Translation of the XIVth Century Tibetan Chronicle : RGyal-Rabs Gsal- Ba'i Me-Long*. Otto Harrassowitz Verlag, 1994 in Ibid pp: 37

writers. In some sense, even the discourse of the Theosophical society lacks historical accuracy and seems more mythical in nature, while even if Songsten Gampo was for once considered as a mythical figure yet his advances as a military ruler along with being a dharma king challenge the age old notions about Tibetan civilization.

Yet, apart from his military might, Songsten Gampo is also credited for taking up large scale academic activities, as a visionary ruler, he was also instrumental in paving the way for the development of a Tibetan script<sup>102</sup>. Much of the cultures in the Tibetan culture area and in the Himalayan region were largely a part of the oral tradition and lacked a written script. Thus Songsten Gampo, invested great resources in facilitating the education and travel of the Buddhist clergy Lama Sambhota , who travelled to India and studied at Indian universities such as Takshashila. Thus it was from India that Lama Sambhota gathered the nuances of the Prakrit script and then devised the Tibetan script which paved the way for the beginning of a systematic Tibetan written language tradition in Tibet. The newer linguistic innovation was aptly put to use by the ruler as soon as Lama Sambhota returned from India. It is believed that Songsten Gampo made much effort in learning the language and the script from the monk and then devised a written document, a set of rules, regulations and duties which became the first written constitution of Tibet<sup>103</sup>.

Therefore his pursuits in the spiritual, military and political arena, owing to his accomplishments in each, he is considered as a dharma king, a title accorded to him for his benevolent patronizing of the Buddhist faith.

### **2.1.1 ) Continuation of Dharmic Statecraft**

Tibet had a long tradition of the Bon religion before the introduction of Buddhism in Tibet. Bon has been a shamanic faith which believes in the worship of nature and in the worship of demons and gods other than those that form a part of Tibetan Buddhism. Though, systematization of the Bon worship happened only post 11<sup>th</sup> century in Tibet. Yet it can be well stated that the introduction of Buddhism into Tibet met its own opposition especially from the believers and the worshippers of the Bon

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<sup>102</sup>Hays, Jeffrey. "TIBETAN EMPIRE, SONGTSEN GAMPO AND PRINCESS WENCHENG | Facts and Details." Accessed May 10, 2015. <http://factsanddetails.com/China/cat6/sub32/entry-4422.html>.

<sup>103</sup>Shakabpa, Tsepon Wangchuk Deden. *One Hundred Thousand Moons: An Advanced Political History of Tibet*. BRILL, 2009 pp. 14

religion<sup>104</sup>. In these circumstances, Songsten Gampo had granted a state patronage to the Buddhist faith in Tibet. Thus after the death of Songsten Gampo, the state patronage and support for Buddhism continued, as the successor of Songsten Gampo also adhered to the promotion and propagation of the Buddha dharma as part of the statecraft. So, Songsten Gampo's successor was Trisong Detsen. As stated earlier, while Buddhism was keenly introduced in Tibet by Songsten Gampo, the nature of worship and the attire of the Dharma was very different from its present day manifestation. The nature of worship wasn't as institutionalized as it was so in the later years. Thus the institutionalization of Buddhism in Tibet can be said to have been initiated in Tibet during the time of Trisong Detsen. Thus Detsen's commitment to the preservation and the expansion of Buddhism in Tibet prompted him to invite the renowned scholar of Buddhism in India, Guru Padmasambhava to Tibet<sup>105</sup>. Thus Padmasambhava's invitation to travel to Tibet has the base in the tantric tradition of Tibetan Buddhism. According to the legend that surround Padmasambhava and his first convergence with Tibet states that Trisong Detsen, owing to his commitment to propagate the Buddha Dharma in Tibet had first accorded an invitation to the Buddhist clergy and scholar Shantarakshita, who was also an Indian and was then the Abbott of the Nalanda University. While Shantarakshita accepted the invitation accorded by the Trisong Detsen, he was later asked to build a monastery in Tibet<sup>106</sup>. Thus as stated earlier, Tibet was, to a large extent, before the introduction of Buddhism was under the influence of the Bon religion. The building of the monastery was a part of the larger zeal on the part of Trisong Detsen to spread the dharma. In such circumstances, this led to a large-scale resistance from the Bonpo gods, and the demons left no stone unturned to obstruct the construction of the monastery in Tibet which Shantarakshita was trying to build. Thus essentially then, Padmasambhava, the scholar and proponent of tantric Buddhism entered Tibet to counter the influence of the demons. He was not only successful in calming and taming the demons but it is widely believed that he could even turn them to believe in Buddhism. Thus such was the influence of Guru Padmasambhava. Thereafter, Padmasambhava and Shantarakshita remained stationed in Tibet for a longer period of time owing to the larger vision of the spread of Buddhism that Trisong Detsen had set for himself and

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<sup>104</sup> Ibid pp.15-16

<sup>105</sup> Ibid pp.111

<sup>106</sup> Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp. 36

Tibet. While Songsten Gampo had encouraged the development of a written language in Tibet during his reign which helped strengthen his administration with the enunciation of a written state law<sup>107</sup>, Trisong Detsen greatly encouraged a large-scale and widespread translation of the Buddhist texts and the sutras into the Tibetan language from Sanskrit and Pali<sup>108</sup>.

### 2.1.2) Translating the Dharma

Therefore, Shantarakshita and Padmasambhava then were accorded the task of translating the texts and the tenets of Buddhism into Tibetan. One of the major reference point as far as this instance in Tibetan history is concerned is the fact that, across the Tibetan culture areas, in societies that are Tibetanised and are not Tibetans, they follow Tibetan Buddhism yet among them, the religion and the religious scriptures have not been translated, many of the societies also do not possess a written script but many that do, lack a translation of dharma in their own indigenous language. This owes largely to the fact that many of these societies lacked a wisdom filled ruler such as Trisong Detsen.

Even as far as this research is concerned which concerns itself with Tibetan human rights, this moment in history is of pivotal importance. Since essentially it is this translation that paved the way for the emergence of a Tibetan Buddhist consciousness, since for the first time, the Tibetans had access to the tenets of the Buddha dharma in their own language. While this thesis articulates the fact that Tibetan Buddhism in itself is a discourse on human rights, yet the roots of Tibetan Buddhism lie in the erstwhile Buddhist tradition in India and it is essentially this tradition which has further facilitated the growth of newer theological and spiritual innovations in Tibet. Therefore, the consciousness and recognition of the world as that consisting of all sentient beings is a standpoint event which shouldn't go unnoticed. Thus this is in no way to assert or reduce the importance of the Tibetans within the Tibetan Buddhist realm, since in actuality, the real Tibetan Buddhism, indigenous to Tibet begins only after the translation of the basic tenets of Buddhist texts into the Tibetan language.

Therefore the translation project undertaken by Padmasambhava and Shantarakshita is possibly the single biggest contribution to Tibet and its civilizational destiny by

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<sup>107</sup> Ibid pp. 12

<sup>108</sup> Ibid pp. 48

Trisong Detsen. It was also during the time of Trisong Detsen that Tibet started to emerge as an alternative centre for learning. Though the present Dalai Lama has always reiterated the fact that India is the guru while Tibet is a disciple of India<sup>109</sup>. During the fieldwork for this research, the visit to Nalanda with hundreds and thousands of Tibetans who were also the devotees attending the Kalachakra revealed the reverence that the Tibetans hold for Nalanda and the Nalanda tradition. In the same context, Nalanda has acted not only as a centre for learning but also as a centre for India's age old diplomatic engagement with central Asia. In the same context, today Dharamsala serves as a place for India's diplomatic engagement with regions as far as Kalmykia and Buryatia in Russia and also the fact that Dharamsala has emerged as a centre for translating the Tibetan Buddhist dharma from Tibetan and Sanskrit into the English language<sup>110</sup>.

If one was to peruse the history of the relationship between the church and the state in the context of Tibetan Buddhism, then from Songsten Gampo up to Ralpachen who succeeded Trisong Detsen, it was essentially the Yarlung dynasty that is credited for having initiated a formidable association with the Buddhist religion in Tibet. All the three dharma kings, namely Songsten Gampo, Trisong Detsen and Ralpachen belonged to the Yarlung dynasty.

The reign of Ralpachen in Tibet was a very short lived one in terms of the fact that he was assassinated by his brother. As stated earlier, he was the last among the great Dharma Kings who ruled over Tibet. It was possibly during the reign of Ralpachen that the Tibetan empire reached its zenith in terms of the area that it covered because of which, for long periods of time, Tibetan armies stood to fight the Chinese and the Uighurs on different sides as part of the expansionist plans of Ralpachen, while militarily Ralpachen could win over several regions and principalities, he could not win over those who differed with him in terms of the religious belief and ultimately succumbed to their conspiracies in the end. He was murdered by his brother

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<sup>109</sup>Loiwal, Manogya. "India Is the Guru, Tibetans Are Disciples, Says Dalai Lama : India, News - India Today," April 11, 2017. <http://indiatoday.intoday.in/story/dalai-lama-says-india-is-guru-Tibet-is-its-disciple/1/925904.html>.

<sup>110</sup>Rajesh, Dr. M.N., and Arnav Keyur Anjaria. "Prospects for Indian Foreign Policy Initiatives in the Caucasus." *Center for Securities Studies-Logo of ETH Zurich Department of Humanities, Social and Political Sciences*, December 10, 2011. <http://www.css.ethz.ch/en/services/digital-library/publications/publication.html/134872>.

Langdharma<sup>111</sup>. While religious rivalry is cited as a major reason for the murder of Ralpachen, it has also been asserted in some historical accounts that Ralpachen introduced taxation in the kingdom, which was used to pay for the monastic institutions and the clergy. Therefore the reason for his murder can also be the resentment relating to his taxation policy.

Thus Ralpachen was succeeded by his brother Langdharma. He stood in opposition to Ralpachen and the two erstwhile Yarlung dynasty kings in terms of his religious belief. It was under the reign of Langdharma that the support and the patronage that was granted to the Buddha dharma in Tibet was withdrawn. Langdharma withdrew all benefits and facilities that were granted to the Buddhist clergy by Ralpachen. This marked the beginning of a strenuous period as far as the Buddhist religion in Tibet was concerned. On the other hand, it is also a fact that Langdharma received support from the adherents of the Bon religion for all his policies that aimed at reducing the influence and the impact of Buddhism in Tibet<sup>112</sup>. Under the reign of Ralpachen, Shantarakshita and Padmasambhava had also managed to bring people from the far off borderlands of Tibet under the ambit of the Buddha Dharma and had also tamed several Bon spirits to adhere to Buddhism. Thus there was a sudden reduction in religious activities, endorsed by the state. A neutral reading of the situation under Langdharma can also be understood as the emergence of a more secular environment where no single religion was given prominence or an importance that was omnipresent in nature during the reign of the Dharma kings.

Yet as Karma would have it, Langdharma's reign as the ruler of Tibet was also a very short lived one, the reforms he introduced that aimed, as stated earlier, to annihilate the state patronage of Buddhist religion were not well received by the followers of the Dharma, especially the clergy. Therefore as a reaction to his anti Buddhist policies, Langdharma was murdered by a Buddhist monk<sup>113</sup>.

The murder of Langdharma meant that Yarlung dynasty had met its sad end in Tibet, a dynasty whose rulers had committed them to cultural and spiritual empowerment of Tibet and its people met its end in an unfortunate way. Murder of Langdharma marked the end of Yarlung in totality. The key reference in this regard are not just the acts of Langdharma but rather the status of Tibet and how Tibet as a military empire

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<sup>111</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967.pp. 51

<sup>112</sup> Ibid pp. 51-52

<sup>113</sup> Ibid

alleviated itself under the able leadership of the Yarlung kings. It can be asserted that the very idea of a Tibetan nation, the political idea a unified idea of a unified nation is a gift of the Yarlung kings to the people of Tibet. Thus while Songsten Gampo built and expanded the political and geographical contours of Tibet to make it as one of the most dominant empires in pastoral nomadic central Asia, Trisong Detsen contributed largely to spiritual and theological development as far as Buddhism is concerned and Ralpachen aptly carried forward the military and the cultural legacies of his predecessors.

Thus following the culmination of the rule of the Yarlungs, Tibet remained hugely stratified , socially, politically. The polity entered into a state of extreme delusion, without a singular central authority. The overall contours of the Tibetan empire itself went through large-scale changes as no single leader could exert an overall influence like the Yarlung kings did so. In such a state of affairs, neither religion nor the monarchy could save Tibet from an unstable future that was to follow. It became a victim of several invaders and their extremities, those kingdoms and tribes whom the Tibetans had once invaded, annexed and overthrown attacked Tibet all over again and gained considerable momentum and control and this led to the decline of the Tibetan empire after ascending to the zenith!

### **2.1.3) Atisa the savior:**

During the times as trying as they were after the culmination of the Yarlung dynasty, Tibet needed a restoration, a complete restoration of its culture, polity and most importantly unity of the people and the nation. From the experience of the Yarlung kings, Buddhism and its popularity and acceptance by the people had shown signs of how religion could bring about unity in Tibet. Yet, religion was one of the major reasons that brought down the dharma kings and then the Yarlung dynasty itself, in such a state of ambiguity, Atisa or as his Indian name suggests Pandit Dipankara was invited to Tibet<sup>114</sup>.

As historical chronicles of the then era suggest, Atisa was a prominent personality within the realm of Buddhism and Tantra in particular. He hailed from Bengal in eastern India, which was also the land of the tantra. Bengal's contribution to tantra in

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<sup>114</sup>Shakabpa, Tsepon Wangchuk Deden. *One Hundred Thousand Moons: An Advanced Political History of Tibet*. BRILL, 2009.pp. 4

Hinduism is unmatched and even the development of Buddhist tantra finds significant portions of origin in Bengal. Thus just as the historical Buddha that is Siddhartha Gautama was born into the royalty of Lumbini and was a prince himself, Atisa was also a royal, a Kshatriya by caste. It should also be noted that several of the Buddha's before Siddhartha Gautama were Brahmins. Thus Atisa was a worshipper of the Tara or the female deity, just as Bengal in general is attuned towards the worship of the Devi, may it be the Kali or the Tara as in Atisa's case.

Therefore a profound appearance of the Tara in the dreams of Atisa, who was given the name Chandragarba during his birth, inspired Atisa to converge with the ascetic realm<sup>115</sup>. In the formative years of asceticism he is believed to have been inspired by tantra and he practiced a form of tantra which largely was prevalent in Bengal, Hevajra. Later on at the age of about twenty eight, Atisa was ordained as a monk. He travelled far and wide for learning and also for the spread Of Buddhism and apart from his travel to Tibet, what is particularly well known are his travels to south East Asia and Sumatra. Sumatra today forms a part of Indonesia. Thus Atisa when he returned from Sumatra, he was made the Abbott of Vikramashila . Thus it was essentially at Vikramashila which was the centre for learning, especially for tantra and Buddhist philosophy that Atisa could meet several Tibetan scholars and monks from Tibet who came to learn the Buddha Dharma.

It was also a fact that while he was widely known across the world for his scholarly pursuits and spiritual wisdom, several Tibetan monks and laymen or nobles who came to Vikramashila also carried back the tales of his genius to Tibet. It was thus through these tales and praises that Tibetan visitors to Vikramashila showered in the court of the Tibetan kings, that finally the Tibetan king who ruled over Purang who invited Atisa to Tibet.

The king of Purang was related to the Yarlung dynasty which had always been on the forefront of promoting Buddhism in Tibet. Several missions were sent to India from Tibet to get Atisa to Tibet, the urgent need for inviting Atisa to Tibet was essentially to save Buddhism in Tibet which despite the death of Langdharma was facing several hardships to remerge into its yester glory as under the Yarlung dynasty. Thus many of the missions which were sent to India, essentially to Vikramashila were unsuccessful, some became victims of raiders and enemies, some of the members were also

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<sup>115</sup> Ibid pp.182



kidnapped by the enemies who demanded huge ransom for the release of the kidnapped person. The Tibetan king had sought to bribe Atisa or rather had thought to gift him with much gold, in order to lure him to Tibet, the news of the mission carrying large amounts of gold was known to raiders and thieves across the region and this resulted in several missions failing in their purpose.

At Vikramashila also, the missions were not allowed to enter, as it was known to the monks at Vikramashila that the missions had arrived to take Atisa to Tibet. Finally, it was the result of dream when the Tara appeared in Atisa's dream to convince him to visit Tibet and save the Dharma from decline. Atisa thus agreed to visit Tibet, for initially a period of three years, he also sought permission from Vikramashila to visit Tibet only for three years and also promised to return after three years. Thus began his momentous journey to Tibet, which wasn't easy at all.

During the course of the journey, several of his accomplice, could not survive the journey, finally through Nepal, Atisa entered into western Tibet. Upon his arrival in Tibet, Atisa was enamoured by the nature of the spread of Buddhism in Tibet. Even though the Buddhism that existed in Tibet during the time of Atisa was only a minor remnant of what it used to be during the reign of the dharma kings, yet it greatly inspired and fascinated Atisa who wholeheartedly complimented the monarch. One major aspect of Buddhism in Tibet that greatly caught Atisa's attention was the library of the Buddhist texts in Tibet. The voluminous and the plethora of Buddhist literature that was available and restored in Tibet was what Atisa found quite enchanting.

It should be thus noted at this point of time, that while Atisa was highly amazed at the plethora of the Buddhist literature in Tibet which existed, the voluminous nature was a result of the initiatives by the dharma kings- Trisong Detsen in particular, since much of the literature that was in the libraries of Tibet was a result of the translation by Shantarakshita, Padmasambhava and their students<sup>116</sup>.

Thus Atisa was about sixty years old when he first arrived in Tibet. Having entered Tibet through its western borders he, as stated earlier spent considerable time understanding the nuances of Tibetan Buddhism, with the rise in his popularity as a renowned scholar of Buddhism, Atisa could then make his way into Central Tibet where he finally set his base and also breathed his last. While there is great reverence

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<sup>116</sup> Ibid pp. 134

for the work done by Atisa in rejuvenating Buddhism in Tibet, to the extent that it never then declined from Tibet, it totally entwined itself with the Tibetan reality yet there are also some accounts that assert that within the Tibetan quarters, he wasn't very well received by some members of the clergy and some even dispute his contribution owing to their own facts that rejuvenation of Buddhism in Tibet was a result of the monks who had taken refuge in Amdo rather than merely the contribution of Atisa yet despite these varied claims, Atisa is recognized by Tibetan, Indian and Non Tibetan Historians as a monumental figure in the history of Tibet. The present Dalai Lama of Tibet also cites widely from the teachings of Atisa during several of his sermons and teachings, across the globe. One could very well assert that the emphatic nature of Tibetan polity and the people slowly gave space for a new kind of force on the lines of Buddhism and compassion. Tibetan civilization never really remained as ferocious and militarily emphatic as it was before the arrival of Atisa and the spread of Buddhism across the whole of Tibet.

Essentially, just as work of Padmasambhava and Shantarakshita, Atisa's contribution should also be viewed within the lens of human rights consciousness. the idea of sentient beings and the idea of hurting no living being is at the core of the Buddhist view of life and essentially if the life in Tibet was so vehemently influenced by these ideas at such a massive scale means that Atisa's work also relates to his role as a Human Rights activist, in the modern sense of the term, as some someone who tirelessly worked to build a world of respect, liberty and equality. Albeit, the spread of Buddhism across the nation marked the convergence of the people with emancipator and holistic egalitarianism and Tibet's success, historically as a Buddhist polity largely related to the preservation and cherishing and practice of these ideas in their daily lives.

In this context rather than looking Shantarakshita, Padmasambhava and Atisa as merely Buddhist monks and scholars, this thesis also seeks to look at them and recognize their contribution towards the spread of a certain kind of consciousness which is very much in accordance with the formative ideas of Human Rights and liberty. So in order to understand the Tibetan idea of human rights, it is also important to understand the role of these individuals.

Therefore this chapter isn't merely a historical account of Tibet's past but is also a reader into Tibet's past which then helps understand the nature of the present day crisis in Tibet.

After all Human rights are directly entwined with the idea of wellness and betterment of social, political, economic and human life. They relate to the larger idea of helping all live a life of dignity, respect and peace. In that context, human rights consciousness plays a major role by convincing the people, making them conscious about the basic Human fact.

Buddhism as a theory is widely considered as an egalitarian ideology, even the soviet Marxists had called Buddhism as an emancipator and an egalitarian ideology yet theory isn't just enough, when one is seeking to bring about constructive change on the ground, in the society and essentially it is this need for change, which acts as the splinter for promoting activism and activism is guided by this vary idea of changing the present, leading the present into a better future.

Within this context, the work of Shantarakshita, Padmasambhava and Atisa ought to be highlighted as a work of human rights activism,. They were, like several Tibetan monks the first human rights activist who contributed to not only empowering the theoretical doctrines of Buddhism but also worked tirelessly as activists who helped in the spread of the Buddha Dharma, across the vast stretches of the Tibetan plateau.

A key feature of Atisa's strategy in reforming and restoring Buddhism in Tibet was his focus on the monastic institutions. The nature of Buddhism was very different from the way Buddhism exists in Tibet in the contemporary times. Atisa aimed at initiating a strict disciplinary regimen for the members of the clergy who were a part of the monastic orders. This ensured that a systematic study and practice of Buddhism took place at every point of time from then on.

Thus while the thesis is viewing Atisa as one among the prominent Tibetan activists, his focus on monastic discipline speaks volumes about how he sought to revive the interest in the spread of Buddhism essentially because the locus of a Buddhist polity based on the tenets of Vajrayana Buddhism is the temple of the monastery, and therefore the nature of discipline and consciousness of the constituents of the monastic order also determines the nature of their work<sup>117</sup>. As far as Tibet's regional variations and geography is concerned, it is of relevance to understand that in every

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<sup>117</sup> Ibid pp. 174

regional hamlet, there is a particular monastery which takes the centre as far as that particular area is concerned. In the case of Tibet, the governance and also the unity of the nation also depended on several of these small monastic institutions which also acted as agents of social change. Several communities and social groups also identified themselves with the monastery and therefore at the centre of the Tibetan civilization lies the monastic institution. What is thus visible is a fine interaction of the church and the state in order to maintain order, discipline and peace in society.

In this context the nature of the institution, the polity and the spiritual institution, which developed later on, alleviates the work of Atisa not only as a scholar but also as a reformer and as an activist who helped in spreading egalitarian and emancipatory ideas. Though it would be apt to assert that possibly Atisa himself and also the people of the times that he lived in may not have viewed him as an activist or as a reformer and the very idea of an activist or a reformer is a rather modern conception, owing largely to nature of specialization that has emerged over time.

#### 2.1.4) Mongols at the Doorstep

Thus while Atisa after the collapse of the Yarlung dynasty could restore the Dharma in Tibet, it would be of relevance to peruse and deliberate upon the nature of the political chaos that Tibet had moved into after the collapse of the Yarlungs. Geopolitically Tibet is placed in a highly volatile area, lying between two great empires of the then era, the Chinese on one hand and the Mongols on the other. One of the reasons why Tibetans had mastered the art of war under the dharma kings was also the fact that they had ferocious neighbours on both sides of the border. Thus in lieu of such geopolitical reality and contestations, Tibet's borders were encroached upon in the Thirteenth century by Mongol invasions. As Tibet lacked a strong central authority and while several regional kingdoms and principalities had emerged within Tibet, the lack of unity clearly facilitated the invasion by the Mongols who then were possibly the most successful conquerors having conquered areas in regions as far as Europe and south Asia.

Another aspect of the Mongol invasion was the division that had taken place within Tibetan Buddhism. Over the period of time, the original Buddhism that was brought into Tibet first by Songsten Gampo and then by Guru Padmasambhava had undergone a massive change and by the time the Mongols invaded Tibet, several different schools of thought, philosophical and spiritual schools had emerged within Tibet. Invasion by the Mongols took place a time when the greatest Mongol ruler of all

times, the iconic Genghis Khan was the ruler of Mongolia. The ballads lauding the greatness of Genghis Khan are still sung today across the grasslands of Central Asia, whose greatness lay in rising up to unite the warring Mongol tribes and create a single Mongol state just as what Songsten Gampo had done so a few centuries back in Tibet. Yet the Mongols lost control over Tibet within a short period of time because Mongolia itself entered into a phase of political disunity following the death of Genghis Khan. The death of Genghis Khan left the Mongols in a state of chaos and Tibet gained freedom from the control of the Mongols. Yet this freedom from the Mongol rulers was also a short lived one for the Tibetans too, as the rise of Goddan Khan once again placed Mongolia at the military zenith. Goddan Khan had once again begun the process of rebuilding the Mongol empire and as a part of which the Mongols invaded Tibet. This second invasion of Tibet by the Mongols was uniquely different from the first. It was during this invasion that the Sakya school had a considerable hold over Tibet and thus it was the also the Sakya ruler who had to give up Tibet's sovereignty to the Mongols. But it was mere a giving away of Tibet but rather the beginning of a unique politico-religious relationship between the Mongols and the Tibetans, something which has not been witnessed elsewhere in the world<sup>118</sup>.

Apart from being a scholar and a clergy of the highest order, Sakya Pandita was also a gifted strategist, he aptly used his strategic wisdom to negotiate with the invading Mongols. The invasion yielded large damage to the monastic institutions in Tibet and several people also lost their lives yet Sakya Pandita, who was the head also of the Sakya school of Tibetan Buddhism, convinced the Mongol ruler about the wisdom of Buddhism leading to en masse conversion of the Mongols to Tibetan Buddhism. The Mongol ruler was also enamoured by the intellectual and spiritual fortitude of Sakya Pandita and having understood the message of Buddhism as a peaceful religion preaching compassion, the Mongols did not see Tibet as a threat to their military might and thus Tibet's control of its internal affairs was granted to the Tibetans to manage by themselves under the leadership of Sakya Pandita.

This relationship that later developed between the Tibetans and the Mongols during the times of Drogön Chögyal Phagpa has been called as the Cho Yon relationship which is translated as the priest patron relationship<sup>119</sup>. Here the priest is the Tibetan

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<sup>118</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp. 67

<sup>119</sup> *ibid*

while the patron of Tibet is the Mongol ruler. Thus it could be asserted that while within the political realm it was the Mongol ruler who had a greater say and a higher position within the hierarchy but within the religious realm it was the Tibetan lama who was revered by the Mongol ruler and thus a certain nuanced and unique kind of equality was established through the beginning of the Cho Yon or the priest patron relationship. The Sakyas were the majorly the ultimate beneficiaries from the Cho Yon. They enjoyed unmitigated powers and privileges because of the patronage that they received from the Mongol rulers. These powers also helped the Sakyas in once again working towards unifying Tibet through a strong religious institution that overpowered the might of several feudal intermediaries that had developed and exercised considerable control over smaller areas but were yet not powerful enough to control large areas or the whole of Tibet. Thus the military might of the Mongols clubbed with the spiritual wisdom of the Sakyas and the overall influence of the Dharma helped in establishing once again a unified Tibetan state.

Thus while the Sakyas exercised considerable influence on the people and the state, the strength of the Sakyas depended largely on the Mongols and their might. The politics of then era changed rapidly and the Mongol empire itself started to once again witness a sharp decline in its power and influence. It should be noted that when the Mongols had invaded and seized control of Tibet, it had also controlled China which remained under direct control of the Mongols and did not enjoy the significant autonomy that the Tibetans enjoyed. Though there were elements of Buddhism in the then Chinese polity as well yet the Buddhism that the Mongols followed was Tibetan Buddhism and not Chinese Buddhism thus the granting of patronage and privileges to only the Tibetans was very unique. Out of the several reasons that Chinese scholars on Tibet highlight, especially those who advocate Tibet's subordination to China, cite the example of the control of Tibet by the Mongols as a major reference point that indicates Tibet's subordinate status to China. The Tibetan claims on the other relate to the nationality of the rulers who were neither Tibetans nor Chinese but were Mongols, a separate nation and thus both the Chinese and the Tibetans were subordinate to the Mongols and this subordination of both the polities does not in any manner indicate or establish a claim in favour of the Chinese argument.

Therefore the decline of the Mongols once again left Tibet and the Tibetans to themselves. The Sakyas who under the Mongol patronage had left no stone unturned to garner influence, prosperity and power under the Mongols had also started to lose

control across several regions of Tibet. The sectarian divide and jealousies within sects had given rise to a new situation of uncertainty in Tibet whereby feudal lords in several regions across the pastoral nomadic region had established control and small principalities, just it was the case before the beginning of Cho Yon in Tibet.

This was a great period of uncertainty which continued until the control of Tibet was taken over by the members of the Kagyu school of Tibetan Buddhism. Thus the control of Tibet from the hands of the Sakyas now fell into the hands of the Kagyu rulers. It was essentially during the time of the rule of the Kagyus that Tibetan Buddhism once again witnessed an internal innovation within its philosophical domains and mode of worship. Thus this was the period which led to the emergence of what is today one of the most prominent school of Tibetan Buddhism i.e. Gelugpa sect. The Gelugpa sect is also the school within Tibetan Buddhism to which the Dalai Lama belongs to. Historically the title Dalai Lama is granted to the monk who is considered as the head of the Gelug school of Tibetan Buddhism<sup>120</sup>.

Thus it was only in 1569 that the Third Dalai Lama met the Mongol ruler Altan Khan<sup>121</sup>. Though the Mongol empire had relatively weakened, and while Tibet was passing through a period of internal strife yet the meeting between the Mongol ruler and the Dalai Lama is of immense relevance. The meeting led to the recognition of the Mongol ruler by the Dalai Lama as a direct reincarnation of the great Mongol ruler Kublai Khan, while the third Dalai Lama also declared himself as the reincarnation of Drogön Chögyal Phagpa who had succeeded Sakya Pandita in the Mongol court. Somehow this indicated a re-emergence of the days of the Cho Yon era where the reincarnations of those who propounded the Cho Yon were once again at the forefront of politics in Tibet and Mongolia, at least symbolically<sup>122</sup>.

Thus after the third Dalai Lama, the appointment of the Fourth Dalai Lama was clearly indicative of the growing influence of Tibetan Buddhism not just within Tibet but even beyond the borders of Tibet in Central Asia. The fourth Dalai Lama was not a Tibetan but was rather a Mongol the fourth Dalai Lama happened to be related to the Mongolian monarchy. Thus Yonten Gyatso, the Fourth Dalai Lama was the grandson of the erstwhile Mongol ruler Altan Khan. The appointment also reflected the prominence that the Gelugpa school of Tibetan Buddhism had gained over the

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<sup>120</sup> Ibid pp. 92,113

<sup>121</sup> Ibid pp. 93

<sup>122</sup> Ibid pp. 94

period of time<sup>123</sup>. Though there were several schools within Tibetan Buddhism like Shakya and Kagyu that had existed much before the Gelugpa order yet it did not take a long time for the Gelug School to emerge as one of the most influential school within Tibetan Buddhism.

### 2.1.5) Resurgence

The reign of the fourth Dalai Lama was a short lived one, historical accounts suggest that he was killed under mysterious circumstances and the correct cause of his death was not known. Thus after the reign of the fourth Dalai Lama, the Gelugpa school was led by an extremely influential Dalai Lama who is widely referred to, even today as the Great Fifth. The fifth Dalai Lama was Ngawang Lobsang Gyatso<sup>124</sup>. Thus under the reign of the Fifth Dalai Lama widespread reforms took place within the Tibetan society and more precisely within Tibetan polity. In that context, the fifth Dalai Lama laid special emphasis on the efficacies of administering the Tibetan nation. He charted out a plan and the dictums of his plan laid emphasis on the enunciation of a proper system of administration and governance. Therefore, it was due to the pursuits of the fifth Dalai Lama that the ‘Ganden Phodrang’ was born<sup>125</sup>. The emergence of Ganden Phodrang owes largely to the vision of the fifth Dalai Lama for Tibet, which was based upon having a system of government that would concern itself with the welfare of the people at large. The structure of the new governmental system was such that it was a confluence of the ethos and the principles of the Tibetan Buddhist religion which helped in managing the affairs of the state. Several historians have also called the Ganden Phodrang as the Lhasa State. Therefore, Ganden Phodrang and its emergence owes largely also to the help that the Fifth Dalai Lama received from the Mongol ruler Gushi Khan , largely because of the

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<sup>123</sup> Ibid pp. 96-97

<sup>124</sup>Shakabpa, Tsepon Wangchuk Deden. *One Hundred Thousand Moons: An Advanced Political History of Tibet*. BRILL, 2009 pp. 331

<sup>125</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp.91



influence and reverence for the Gelugpa sect in Mongolia. Thus the alliance of the Mongol ruler and the Dalai Lama is responsible for the emergence of the Lhasa State<sup>126</sup>. A fact that should also be highlighted while referring to the Mongol ruler Gushi Khan is that he belonged to the community of Oirat Mongols, apparently Oirat Mongols primarily hail from the Russian Buddhist region of Kalmykia. Thus in Kalmykia the Oirats are referred to as Kalmyk while in Mongolia they are called Oirats<sup>127</sup>. Thus in this sense, this also establishes a long standing relationship between the Russian Buddhists and the Tibetans in the art of state formation.

On the other hand, Ganden Phodrang also represents the trust that the Mongol ruler invested in the Dalai Lama of Tibet. Tibet under the Fifth Dalai Lama, after the emergence of the Ganden Phodrang enjoyed great levels of autonomy and the Dalai Lama was the sole ruler of Tibet who could, with the support of the Mongols, win over his rivals, primarily from other sects of Tibetan Buddhism. Majorly, the rivalry in Tibet was on the lines of the sects, each sect had sought to assume power and control over the whole of Tibet.

Thus the Ganden Phodrang remains in operation even today and till this day continue to manage the affairs of the Tibetan people. The Ganden Phodrang which was established in Tibet, had, after its emergence declared Lhasa as its Capital and the Fifth Dalai Lama had also initiated the building of the Potala Palace in Lhasa which then became the seat of the Dalai Lama and remains as the iconic architectural symbol of Tibet.

While 1959 was the last when Ganden Phodrang functioned from the Potala in Tibet because of the Chinese takeover of Tibet and owing to the fact that the 14<sup>th</sup> Dalai Lama had to seek exile in India, the arrival of the Chinese in Tibet through a violent annexation also brought down the Ganden Phodrang government. Yet, after seeking exile in India, the Dalai Lama had once again re-established the Ganden Phodrang government in exile in India in the small town of Dharamsala in India, which today also remains the seat of the Dalai Lama. While the Dalai Lama remained the head of the Kashag as it is alternatively known, the year of 2011 also witnessed a greater

<sup>126</sup>Gardner, Alexander. "The Fifth Dalai Lama, Ngawang Lobzang Gyatso." *The Treasury of Lives*, 2009. <http://treasuryoflives.org/biographies/view/Ngawang-Lobzang-Gyatso/6065>.

<sup>127</sup>"Oirat | People." *Encyclopedia Britannica*. Accessed August 9, 2015. <https://www.britannica.com/topic/Oirat>.

democratization of the Kashag in exile. There were elections that took place for the post of the Prime Minister or the Sikyong of the Kashag across several regions in the world where one finds the presence of the Tibetan Diasporas. Thus as a result of which Lobsang Sangay was elected as the first democratically elected leader of the Tibetan government in Exile or the Central Tibetan Administration<sup>128</sup>.

It has also been archived across several official sources that the Fifth Dalai Lama also sent representatives to the Mongol court and his empire had spread far and wide. Regions of Ladakh also became a part of Tibet<sup>129</sup> and even Tibetan Muslims were allowed to freely practice their faith in Tibet. Several Indian kings and their kingdoms had diplomatic relations with Tibet and thus as a dominant empire of its time, Tibet played a major role in the affairs of the regions in its vicinity. Even today the great Fifth as the Tibetans call him is widely revered by the Tibetans and it can be asserted that the Fifth Dalai Lama ingrained and introduced a certain variant of political modernity within Tibet's polity. The effective functioning and administering via the Ganden Phodrang relates to the idea of a proper legislative system in Tibet and this was the contribution of the Fifth Dalai Lama of Tibet. Thus up until the age of sixty-five, the Fifth Dalai Lama continued to rule over Tibet, strengthening the polity by leaps and bounds. Yet even after his death the political wisdom of the Dalai Lama was aptly reflected. His death was kept a secret by the members of the clergy and the Kashag for a long period of time. This policy of secrecy was pursued in order to avoid a situation of chaos and conflict in Tibet since historically Tibet had sunk into a situation of chaos and confusion during the phase of a political transition. Thus understanding this fact and having taken the lesson from the pages of history the Great Fifth, as the Tibetans call him, asked for maintenance of strict secrecy regarding his death until a newer leader was reincarnated. One can also view this in the context of the protection of the rights of the people, since during the time of a transition and chaos, several people are killed due to infighting and on several occasions in Tibet mostly smaller chieftains and tribal leaders have risen to take over the power from the ruling machinery, and Tibet as divided as it was on regional and sectarian lines, could have witnessed much greater violence following the demise of the Fifth Dalai Lama.

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<sup>128</sup>Enoki, Miki. "Stages of Democratization of Central Tibetan Administration." *Journal of the Japanese Association for South Asian Studies* 18 (2016): 144–66.

<sup>129</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp. 112

Thus post the Fifth Dalai Lama, Tibet was a more close-knit society and sectarian divisions had slowly given way for a pan Tibetan identity. The Fifth Dalai Lama's policy of build a fraternity of all Tibetans gave way for greater unity and stability for the Tibetan polity. In the years prior to the emergence of the Fifth Dalai Lama, Tibet had witnessed conflicts between the Bon religion and other sects of Tibetan Buddhism but the Dalai Lama and the fraternal nature of his rule was such that it paved way for more cordial relations between the Bon and the Buddha Dharma.

Thus following the death of the Fifth Dalai Lama, the next Dalai Lama hailed from Tawang in Arunachal Pradesh. He belonged to the community of Monpa tribals who are followers of Tibetan Buddhism. Even today they constitute among the sizable amount of people apart from the Tibetans who keenly adhere to the Tibetan Buddhist faith. Thus while the fourth Dalai Lama was a Mongol the Sixth Dalai Lama was a Monpa<sup>130</sup>. The vastness of the Tibetan culture area is reflective in the diversity of ethnic groups and nationalities that form a part of the Tibetan Buddhist realm, culturally and historically and thus the same is also reflected in the appointment of the Dalai Lamas.

One could possibly assert that the Sixth Dalai Lama, in terms of his worldview and pursuits was an exception as compared to his successors and his predecessors. The Sixth Dalai Lama whose name was Tsangyang Gyatso was a prolific poet and his poems reflected a certain romance of life and romance for life. About him, it is widely written that he was fond of women and alcohol and even after assuming the office of the Dalai Lama he continued to be engaged in the pursuit of material and worldly pleasures. His poetry reflected his own understanding of the philosophy and the real world, he was a poet of love and his poems at times also reflect a certain nostalgic longing that spoke of a void that he felt after being a monk. In many of his poems he writes about his home and the longing to be free, at times poems are an ode to his lovers speaking of a promise to unite as ordinary people in the next life. Thus some excerpts of his poems are below:

“If a man does not think of Death  
Even if he is so clever,  
He is like a fool in a sense.<sup>131</sup>”

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<sup>130</sup> Ibid pp. 128

<sup>131</sup>Gyatso, Tsangyang. “The Lyric Poems of the Sixth Dalai Lama.” *Yogichen*, n.d. <http://www.yogichen.org/cw/cw41/bk131.html>.

These lines from his poem are also reflective of his understanding of the philosophy of life and death. They easily related to the Tibetan perspective on death which largely relates to how people should get acculturated towards accepting the idea of death as we die a bit, every single day. In that sense the sixth Dalai Lama's poetry were subtle and nuanced in nature.

Some other lines from his poem are quite popular across Tibet and the surrounding areas. They speak of the internal conflict within his mind when he was the Dalai Lama, the lines read as follows:

*"White crane!*

*Lend me your wings*

*I will not fly far*

*From Lihang, I shall return"*

Apparently these lines by the Dalai Lama were written just days before his ultimate passing away under deplorable circumstances.

Thus the Sixth Dalai Lama apart from being a poet and an individual who lived a very liberal life, he was also later considered, after his passing away, an expert scholar of the tantra. Several of the poetic verses composed by him reflected his strong sense of understanding of the Tantra<sup>132</sup>.

So, after the death of the sixth Dalai Lama his reincarnation was inducted as the next Dalai Lama. After the sixth Dalai Lama the Dalai Lamas from the Tibetan culture areas have been nonexistent. All the Dalai Lamas including the fourteenth Dalai Lama have been natives of Tibet. Thus the sixth Dalai Lama was the last non Tibetan Dalai Lama of Tibetan Buddhism. Therefore, the seventh Dalai Lama was born in the region of Kham in Tibet. Traditionally the people of Kham have been ferocious warriors and even during the flight of the Fourteenth Dalai Lama from Tibet to India in 1959, he was safely escorted to India by the Khampa warriors, who though believed in the Dalai Lama continued their struggle, through the use of arms against the Chinese for a number of years following the exiling of the Dalai Lama and also laid down their arms also upon the request of the fourteenth Dalai Lama. Thus while the seventh Dalai Lama, i.e. Kelsang Gyatso was also considered as an expert of Tantra and the Sutra yet, he was also much like the Fifth Dalai Lama in bringing

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<sup>132</sup>Dhondup, K. "Tsangyang Gyatso, The Rebel Dalai Lama | Friends of Tibet (INDIA)." Accessed March 2, 2017. <http://www.friendsofTibet.org/main/songs.html>.

about reforms in the Tibetan society. He initiated further reforms in democratizing the power structure of governance within the Tibetan aristocracy that ruled over Tibet. For a long period of time, because of the Mongol involvement into Tibetan affairs, it had been a norm that the regent remained most powerful in Tibet. The regent had possibly more powers than the Dalai Lama as far as the administration was concerned as the Dalai Lamas also concerned themselves with the spiritual and religious pursuits. In lieu of such circumstances, the seventh Dalai Lama was against monopolizing of the power in the hands of a single entity. Thus he then initiated the establishment of the Kashag during his reign<sup>133</sup>. In modern political parlance, an understanding or translation of Kashag could be termed as what is the Executive. Even today within the exiled Tibetan polity in Dharamsala the Kashag remains in operation. Thus the Kashag is like the cabinet in any modern polity, in the contemporaneous era, the Kashag consists of the Kalons who are known as the Ministers while the Prime Minister is known as the Kalon Tripa or the Sikyong. The present Sikyong or the Kalon Tripa is, as stated earlier, Lobsang Sangay, who was re-elected as the Sikyong in 2016 general elections. The present Kashag consists of the Department of Health, Department of Justice, Department of Information and International Relations, the Department of Finance and the Department of Education and Religion<sup>134</sup>.

Therefore, the Seventh Dalai Lama was extremely popular among the Tibetan people. Unlike the sixth Dalai Lama whose actions invited widespread criticisms from the Tibetan clergy and the laymen, the seventh Dalai Lama due to his refined education was popular, as stated earlier and was widely admired by the people. He is also credited for taking keen interest in the life of the ordinary people and those who worked for his government. He also founded a school in Tibet to train the people in arts, aesthetics, literature and several different skills including calligraphy in order to impart holistic education to the people of Tibet and those who were meant to serve the people at large.

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<sup>133</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp. 150

<sup>134</sup>Roemer, Stephanie. *The Tibetan Government-in-Exile: Politics at Large*. Routledge, 2008, "Executive | Central Tibetan Administration." Accessed January 27, 2017. <http://Tibet.net/about-cta/executive/>.

As far as his achievements and contributions to the Tibetan polity and society are concerned, he is credited to have ordained thousands of people as monks. As per some of the statistics that are available in the public domain, it is estimated that the seventh Dalai Lama had ordained about 9774 monks and further on about 16, 993 monks were fully inducted into the monastery. From a secular perspective these achievements may seem largely theological or spiritual in nature but for a spiritual polity like Tibet, even becoming a part of the clergy meant being a part of the larger service to the society and the nation, since during that era the notions of service were very different as compared to the present era. In medieval Tibet, after the rise of the institution of the Dalai Lamas, the clergies in general acquired much greater prominence not just as representatives of the religion but also as foot soldiers and as agents for social change. Even recent events such as earthquakes and Tsunamis have witnessed the activism and social service of several Tibetan monks, travelling to places like Gujarat during the Bhuj Earthquake, Tamil Nadu during the Tsunami and the most prominent of the case being the Nepal earthquake of 2015<sup>135</sup>. This researcher himself interviewed and met up with several monks belonging to several different monasteries at the Boudha in Kathmandu. These Monks from several different monasteries, erasing the sectarian divides joined together to travel across several different regions in Nepal to help the victims in the far flung areas. This is a classic case of the nature of socially engaged Buddhism. Albeit after the much celebrated discourse by the Vietnamese Buddhist guru on what constitutes as socially engaged Buddhism<sup>136</sup>, there has been much greater interest and discussion yet in the case of Tibet or in the case of traditional sanghas, social engagement has been uniquely entwined with the monastic discipline<sup>137</sup>. In the same sense, while the critiques of Tibet's monastic system have

<sup>135</sup>“Tibetan Monks Visit Tsunami-Affected Nagai District - Latest Updates - Phayul.com.” Accessed September 13, 2015. <http://www.phayul.com/mobile/?page=view&c=1&id=8798>, Diehl, Keila. *Echoes from Dharamsala: Music in the Life of a Tibetan Refugee Community*. University of California Press, 2002 pg. 119, Hāṇḍā, Omacanda. *Buddhist Western Himalaya: A Politico-Religious History*. Indus Publishing, 2001.pp. 313,

<sup>136</sup>Hanh, Thich Nath. “The Fourteen Precepts of Engaged Buddhism.” *Lion's Roar*, April 12, 2017. <https://www.lionsroar.com/the-fourteen-precepts-of-engaged-buddhism/>.

<sup>137</sup>Khatoli, Khala. “A Study of Protest Movements in Tibet 1956-1990.” Jawaharlal Nehru University, 2003. <http://hdl.handle.net/10603/14979> pp. 134-163

criticized the monasteries as feudal institutions, is in a way a great misreading of the micro reality of Tibet's unique and diverse polity. Therefore the seventh Dalai Lama's reign marked a monumental shift of socio-political consciousness in the Tibetan polity. It ushered into an era of stability and a larger sense of democratization. For a polity such as Tibet which has since several centuries battled with itself to gain political unity and fraternity, a democratic reform and an overwhelming support for a leader such as the seventh Dalai Lama hinted at the changing nature of the Tibetan society and a rising national consciousness, the splinter of which was lighted by the fifth Dalai Lama. While Dawa Norbu asserts in his *Culture and Politics of Third World Nationalism*<sup>138</sup> that neither modernization nor socialism could dislodge the primordial self from the grounded reality in the same sense possibly, despite the centuries of political fragmentation, Tibetans seemed to have been united under every reformist leader, in this case, the seventh Dalai Lama. From the perspective of comparative politics, history has witness several leaders who have emerged in the medieval and the modern era who have sought to bring about positive reforms in the society but in many cases they have failed to draw the imagination of the people in their favour. In the case of the seventh Dalai Lama or the Dalai Lamas due to the engaged nature of the Tibetan clergy and the Tibetan Buddhist institutions, the people themselves accorded admiration and respect for all noble deeds and reforms. It should also be asserted that the word reform is largely used to simplify the understanding of the chain of events, since the word reform in the modern parlance has several wider connotations, some of which are also widely opposed by certain schools of thought. Therefore, the seventh Dalai Lama and his achievement symbolize the harmonious confluence of the Church and the state and how both of these institutions can contribute to the empowerment of the people at large.

Thus while Tibet witnessed several changes on the political front under the seventh Dalai Lama owing largely to his political wisdom, the next Dalai Lama after him was largely a clergy who confined himself to the affairs of the religion and the matters of spirituality and theology. In that context, Jamphel Gyatso was starkly different from his immediate predecessor. Under the seventh Dalai Lama, Tibet seemed to have been under the awe of an iconic leader while under the eighth Dalai Lama Tibet became a sought after land for its enemies. It was possibly one of the most turbulent phases in

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<sup>138</sup>Norbu, Dawa. *Culture and the Politics of Third World Nationalism*. London; New York: Routledge, 1992.

Tibet's history as far the number of attempted annexations that happened on Tibet's borderlands. The Gurkhas attacked Tibet twice during the reign of the Eighth Dalai Lama, the internal dynamics of Nepali politics and the emergence of Prithvinarayan Shah as the monarch of Nepal had unleashed a wave of emphatic military venture by the Nepalis across several areas that bordered Nepal. Prithvinarayan Shah, it can be said had ambitions of building a large Nepalese or a Gurkha empire and in that context the Gurkha armies also invaded Tibet. The invasions resulted in huge loss for the Tibetans and on some occasions they were also forced into an agreement to pay huge war indemnity money to the Nepalese. In the same context, another major reason for the Gurkhas to attack Tibet was to rob Tibet of its precious wealth, several of the monasteries in Tibet had abundant statues of the Buddha and the previous Dalai Lamas which were made of pure gold and the Gurkhas had tried to loot these monasteries. The perilous and worrisome nature of the situation also prompted or rather forced the Dalai Lama to come out from his spiritual hermit and play a rather more active role in the political affairs of Tibet. During the Gurkha conflict the Tibetan soldiers fought valiantly and according to some historical accounts, the Gurkhas were extremely pugnacious, at some level they were also supported or were expecting support from the British in India<sup>139</sup>. That left Tibet with little or no option but to seek help of the Chinese forces to drive out the Gurkhas from Tibet. The Chinese emperor also sent thousands of soldiers as part of the effort to drive the Gurkhas away<sup>140</sup>. On some occasions the Dalai Lama did display a resolute spirit, the famous case of his inspiring speech at the Johang temple is one such example. His speech and his words gave a semblance of the actual statesman that he was, and largely it was a convincing speech to boost the will of the people in Tibet in the midst of the Gurkha crisis. Thus still, the Dalai Lama preferred spirituality over politics, while some of the earlier Dalai Lamas who had preferred to reduce the power of the regent, the eight Dalai Lama administered his political duties only symbolically since the real executive during his reign remained the regents<sup>141</sup>.

<sup>139</sup>Shakabpa, Tsepon Wangchuk Deden. *One Hundred Thousand Moons: An Advanced Political History of Tibet*. BRILL, 2009 pp. 485

<sup>140</sup> Ibid

<sup>141</sup>Meher, Derek. "The Eighth Dalai Lama, Jampel Gyatso." *The Treasury of Lives*. Accessed May 1, 2017. <http://treasuryoflives.org/biographies/view/Eighth-Dalai-Lama-Jampel-Gyatso/2339>.



Therefore, the governance pattern of the eight Dalai Lama is in stark contrast with the way in which the seventh Dalai Lama governed Tibet. It is also quite easy to be judgemental while perusing the chronicles of history. On one hand the reforms introduced by the Seventh Dalai Lama would seem like quite revolutionary and greatly progressive and the system of regents would seem to be undemocratic in nature. On the other hand, the role of the regents in managing the crisis in Tibet in lieu of a period when the leader remained away from political affairs indicates how context and historical situations determine the nature of polity and also the changing nature of any polity. Many advocates of democratization would rather be more jubilant about the establishment of Kashag and the council of minister by the seventh Dalai Lama but it can be asserted that the nature of the institution largely depended on the nature of the leader and each Dalai Lama moulded the nature of the Tibetan polity according to their own wisdom and interest. In that sense, one can also not ignore the larger geopolitical reality of Tibet and its own unique location, in a region which is highly prone to several annexations and military ventures by different empires of the then era. Thus the present example of the two successive Dalai Lamas, highlights not only the impact of individuality on the collective future of a polity and the institution but also the impact of geopolitics and the external factors on the internal affairs of the state.

The debate and the discussion on this doesn't end here, because the thesis isn't merely about the state system in Tibet but rather about human rights in Tibet. thus if one was to draw a meeting point between the seventh and the eighth Dalai Lamas, in highly turbulent times, then certainly the meeting point is on the idea of human rights. When a lot changed as far as the state's policy is concerned, in between two starkly different leaders, what did not change was the Tibetan perspective on human rights and holism. There were no major changes on the Tibetan worldview and it continued on the same path of emancipation and reform.

Out of several historical sources that are available as far as this era is concerned, one is yet to come across any source which talks about the deterioration of the human rights norms in Tibet during these two Dalai Lamas since there is no evidence of any such happening for the fact that there was indeed no deterioration. The crux of it remains the fact that after the rise of the institution of the Dalai Lamas, Tibetan Buddhism had not only become the state ideology but it also resonated deeply with the traits and the attributes of its population that no leader or institution could go

astray. This is a major achievement which the Tibetans could achieve through their continued practice of spirituality and philosophical study. There was never an end nor a pause as far as their spiritual or theological pursuits were concerned and essentially that kept Tibet united as a nation that had completely devoted itself to compassion.

Also, as stated earlier that geopolitical factors or the external realities had immense impact on the Tibetan polity, as it also moulded its shape yet the core principles of compassion for all sentient beings could never be changed owing largely to the fact that the Dalai Lamas, howsoever great political leaders they would be, like the eighth Dalai Lama, never gave up on the spiritual for the sake of material or the political. Even in the present era, this remains a vital debate where the present societies find it a challenge to balance the both. In the case of Tibet, largely Tibetan Buddhism as a progressive and an emancipatory ideology and also as a worldview could help mediate and strike a balance between the political and the spiritual and essentially it is between these two major arenas or realms that lies the issue of human rights.

Thus after the Eighth Dalai Lama his reincarnation that was the Ninth Dalai reigned for a very less time as he died too soon before taking up fully the duties as a head of the state. His successor, the tenth Dalai Lama too passed away at an early age of twenty-two, yet during his reign, a vast survey of the taxation policy in Tibet which had been in place for more than half a decade or so was conducted. Yet it should be asserted that the tenth Dalai Lama like the sixth Dalai Lama hailed from a very humble background and was still appointed as the Dalai Lama. His social background speaks volumes about the inert mobility within the social, spiritual and the political structure of Tibet which has lead a few scholars to call it as “Tibetan Exceptionalism” while discussing about the question of why there are no subaltern studies in Tibet?

The Eleventh Dalai Lama was appointed as the Dalai Lama at the minor age of about Five years in 1842. He did not live long and passed away at the age of seventeen, yet what is known from the historical accounts is the fact that the reign of the eleventh Dalai Lama was also a chaotic phase for Tibet as far as its borders are concerned. Across the Tibetan plateau, forces were trying to capture smaller areas, like in Ladakh where the Tibetans had to fight a war, or the opium wars which also took place during the same period. Thus one of the major military conflicts that involved the Tibetans was the war with Nepal. Owing to the fact that the Chinese who had first helped the Tibetans in driving out the Gurkhas were passing through a crisis in China. On the other hand, the Nepalese were keen to seek revenge for the earlier war and also were

seeking to expand their empire once again, to the other side of the Himalayas. Thus in due course of time, the Nepalese attacked some of the areas in Tibet and also captured them. Though this annexation was only for a short period of time since within a year or so, the Tibetans recaptured these areas and the Nepalese were driven out. Thus what emerged clearly as far as the then geopolitical scenario is concerned is the fact that China no longer exercised the same degree of influence across central Asia and Tibet as it did not in decades before the starting of the chaos in China. Though the Chinese had the presence of the Ambans yet from the time of the eleventh Dalai Lama till the time of the fourteenth Dalai Lama, Chinese influence on Tibet was minimal in nature. Thus the twelfth Dalai Lama was appointed during this chaotic phase. As in the case of the previous Dalai Lamas, the Twelfth Dalai Lama also passed away, what can be called as, too early. He passed away at the age of eighteen. As the Europeans also had their eye on the Tibetan plateau and had slowly marched across the Himalayas to occupy Sikkim, Bhutan and also some areas of Nepal, Tibetans during the time of the twelfth Dalai Lama were extremely cautious of any possible European, mainly a British invasion into Tibet. At such a point in time, the entry of the Europeans into Tibet was restricted and mostly banned. Another major reason for this was also the emergence of the European missionaries in Tibet which the clergy was also seeking to contain.

Thus after the twelfth Dalai Lama, the Thirteenth Dalai Lama, Thubten Gyatso was considered as the reincarnation of the Twelfth Dalai Lama<sup>142</sup>. Hailing from the region of U-Tsang the reign of the Thirteenth Dalai Lama can widely be considered as an era that marked the display of eloquent political and diplomatic skills by the Tibetans. It was rather a little late, compared to his predecessors, as far as the assuming of the political responsibilities is concerned, since the Dalai Lama assumed political powers and also the political authority to administer over the affairs of Tibet only at the age of twenty. In the same context. It is of utmost relevance to understand that the Dalai Lama was a keen and an observant individual who largely first dedicated himself to the learning of the dharma. In this sense it also important to assume that the stress of religion as stressed by the Tibetan lamas owes largely to the fact of the understanding that, the Tibetan Buddhist religion in itself was placed at such a pedestal that it acted as the mediation and reference for administering the nation of Tibet since at the core

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<sup>142</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967. pp.192

of the idea of the Tibetan nation was Tibetan Buddhism and thus Tibetan polity could not be separated from the philosophical basis of the religion. Thus in that sense it is apt that the Dalai Lama spent great time in studying the theology and the philosophy. The first major conflict that required the Dalai Lama's mediation was the occupation of certain regions of Kham by the Chinese forces. While Tibet had long established diplomatic contact with the Chinese, the Thirteenth Dalai Lama rather preferred to directly negotiate with the Chinese emperor and sent a delegation, with utmost confidentiality, through the coast that bordered the Bay of Bengal. This strategy reaped rich benefits for the Dalai Lama whereby the emperor agreed to withdraw the Chinese armies from Kham and the territories were returned back to Tibet. This first major challenge proved the efficacy of the Dalai Lama as a skilful diplomat and a political strategist who could mediate through difficult situations with a nuanced tenacity<sup>143</sup>.

Meanwhile, Tibet's own internal divisions had slowly subsided but they had not totally disappeared at all. Several Dalai Lamas before the Thirteenth had lost their lives rather prematurely, and the Thirteenth Dalai Lama also became a victim of some rival groups in Tibet, within the and among the aristocracy in Lhasa, who had tried to murder the Dalai Lama through poisoning and the use of black magic. The culprits though were identified and dealt with in accordance with the law of Tibet.

The Thirteenth Dalai Lama's reign is most widely remembered for and through his friendship with the Buryat monk Dorzhiev. Agvan Dorzhiev was a Buddhist monk who hailed from the region of Buryatia which was under the control of the Russian empire. Certain regions of Russia, as stated earlier, have historically been the native lands of the Oirat Mongols along with Kalmyks, and Tuwans who have been the practitioners of Tibetan Buddhism. Thus Dorzhiev developed a very strong camaraderie with the Thirteenth Dalai Lama and also advised him on matters of politics and international relations<sup>144</sup>. Therefore while Tibet continued to face military advances from the Chinese forces, the other sides of the Tibetan frontier were also marred by the politics of great power games that were continuously taking place

<sup>143</sup>Rapgay, Lobsang. "Thirteenth Dalai Lama." *Bulletin of Tibetology* 2 (1977). [http://www.thlib.org/static/reprints/bot/bot\\_1977\\_02\\_cover.pdf](http://www.thlib.org/static/reprints/bot/bot_1977_02_cover.pdf).

<sup>144</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967. pp.205, Snelling, John. *Buddhism in Russia: The Story of Agvan Dorzhiev Lhasa's Emissary to the Tsar*. Vega Books, 2002.,

between the Russians and the British. Both the Russians and the British were seeking to establish a stronghold in Asia and Central Asia was the new enclave that the British were specifically looking to march into. Dorzhiev, apart from being closely associated with the Thirteenth Dalai Lama, was also well known with the Tsar of Russia. It was due to the efforts of Dorzhiev that Tibetan Buddhism was also recognized as a religion in Russia<sup>145</sup>. The Russians were extremely cordial in their dealings with the ethnic minorities such as the Kalmyks and the Buryat. Dorzhiev as a skilful and tactical diplomat had suggested to the Dalai Lama to establish contacts with the Russians in order to counter the Chinese and the British. The Thirteenth Dalai Lama was particularly sceptical of the Chinese involvement in Tibet and viewed it extremely aggressive in nature. Thus as Tibet sought to seek new allies, it greatly raised suspicions in the British camp who were apprehensive of Russian involvement in Tibet. Under Francis Younghusband the British launched a massive offensive to invade Tibet; the news of the British invasion alarmed the Thirteenth Dalai Lama who was then advised to seek exile in Mongolia. Thus until the war with the British went on, the Dalai Lama remained in Mongolia where he also met with the Russian representatives and when a solution to the British problem was reached upon whereby the British had negotiated trade and commercial access to Tibet, the Dalai Lama finally returned back to Lhasa. In the following years, there was also an attack by the Chinese which was much more strenuous for the Tibetans to bear and thus at this point of time the Dalai Lama sought exile in India. While the Tibetans were also highly suspicious of the Europeans and the missionary involvement in Tibet yet the politics of the day were such that taking refuge in India remained the only option. In that regards when the Dalai Lama sought exile in India, he then sought the help of the British to defeat the Chinese in Tibet<sup>146</sup>. While the British displayed no animosity towards the Dalai Lama yet they remained committed to the treaty they had signed with the Chinese after Younghusband's campaign that the British would no longer interfere in Tibet and its internal affairs. Thus while they remained bounded with the diplomatic instruments, though in international politic such diplomatic instruments

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<sup>145</sup>Rapgay, Lobsang. "Thirteenth Dalai Lama." *Bullein of Tibetology* 2 (1977).[http://www.thlib.org/static/reprints/bot/bot\\_1977\\_02\\_cover.pdf](http://www.thlib.org/static/reprints/bot/bot_1977_02_cover.pdf). pp. 27

<sup>146</sup>"The Thirteenth Dalai Lama, Tubten Gyatso." *The Treasury of Lives*. Accessed April 1, 2017. <http://treasuryoflives.org/biographies/view/Thirteenth-Dalai-Lama-Tubten-Gyatso/3307>.

hardly hold any reckoning if they do not meet the self interest of an actor in the international system. Thus the British government which then remained committed to a treaty that they signed with the Chinese on Tibet, lost all of their commitment and respect for the instruments of diplomacy in 2008 when they gave up their claim and recognition of the Shimla agreement which they and signed with the representatives of the Dalai Lama by calling it as a colonial legacy and then safely discarding it<sup>147</sup>. This was possibly the last instrument which remained in the hands of the Tibetans to vouch for their lost sovereignty, at international forums such as the United Nations and the international court of Justice. Thus the British could not help the Tibetan leader. Meanwhile the dynastic rule in China was slowly meeting its fade end with the emergence of the nationalist forces in China who were seeking to dislodge the emperor. In such circumstances the Chinese were occupied in their own backyard and the Tibetans made the most of this situation to once again gain control over Tibet, thus facilitating the return of the Thirteenth Dalai Lama to Tibet. The Dalai Lama also took advantage of the momentous opportunity to proclaim the independence for Tibet. The independence proclamation continued to focus on issues such as religion whereby the Dalai Lama sought to unify the entire Tibetan Buddhist practitioners irrespective of their sectarian divides and monastic affiliations, in order to practice the religion in its true form. This also indicated the political genius of the Dalai Lama, as one of the major cause for Tibet's disunity in the past had been because of the divisions between the different sects and schools of Tibetan Buddhism who were seeking to gain control and establish dominance. Another key feature of the declaration of independence was that it was also a very thoughtful document and instrument for the protection of human rights of the people. The Dalai Lama highlighted that there had been instances when capital punishments were served by the officials to the people and henceforth the declaration of independence had put a ban on serving capital punishment in Tibet. In several countries of the world there has been a debate on capital punishment but the declaration of the independence clearly reflected the humanist vision of the Dalai Lama. Albeit the prevalence of capital punishment in the Tibetan Buddhist nation would be a clear contradiction to the basic tenets that the nation had sought to uphold. Further on the declaration also declared a relaxation in the taxation, for the people for

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<sup>147</sup>Barnett, Robert. "Opinion | Did Britain Just Sell Tibet?" *The New York Times*, November 24, 2008, sec. Opinion. <https://www.nytimes.com/2008/11/25/opinion/25barnett.html>.

a period of three years. In this period the Dalai Lama asked, through the declaration to focus on cultivation of vast vacant land in Tibet in order to improve the economy of the Tibetan polity. Not only did the Dalai Lama in the declaration talk about duties of the citizens but also placed restrictions on the arbitrary behaviour of the bureaucrats and the administrators. The Dalai Lama called for a compassionate approach towards administration and to do away with arrogance and high headedness. And the declaration concluded by asking the citizens to be vigilant in case of any foreign interference and intervention across the borders or inside Tibet<sup>148</sup>.

Thus the declaration of independence reflected great degree of political maturity in dealing with the idea of a future Tibetan nation. It not only sought to unite the people but also it had embarked on specifying clear terms and conditions for those who were serving the state as well. Largely such declarations could be mere valorisation of the ruling elite but this declaration instead reflected a deep concern from the needy and the poor in the Tibetan society and charted out a clear plan for their upliftment. In this sense the Thirteenth Dalai Lama is remembered as one of the foremost statesman of his times. He passed away at the age of seventy-seven.

#### **2.1.6) Fourteenth Dalai Lama**

The fourteenth Dalai Lama of Tibet, Tenzin Gyatso, is widely seen as the apostle of nonviolence and peace across the globe. He was awarded the Nobel peace prize in 1989. The fourteenth Dalai Lama took control of the political responsibility of the Tibetan nation at the age of fifteen. Unlike the Thirteenth Dalai Lama, the present Dalai Lama thus took up the responsibility quite early in the year of 1950. Altogether after assuming the office and taking over the political leadership of the Tibetan people, he could spend only 9 years in Tibet as the Dalai Lama since in 1959 he had to seek exile in India and continues to remain in exile without ever returning back to Tibet. Thus the major reason for the Dalai Lama to be handed over the political responsibility was the fact that the communist revolution in China, led by Mao Zedong had finally started to make inroads into Tibet. Mao's call for reunification of several different nationalities back into the motherland, led the Red Army to march into Tibet, to occupy the Buddhist nation. In such a scenario the Tibetans were

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<sup>148</sup>Shakabpa, W. D. *Tibet: A Political History*. Yale University Press, 1967 pp. 245

left with no great strength to counter the Chinese aggression and the assault on their sovereignty.

Thus the push towards Tibet by the communists met with little or no resistance. The Chinese occupied Tibet, at least militarily, while some degree of authority still rested with the Dalai Lama. Thus one year after the invasion the Dalai Lama sent his representatives to negotiate with the Chinese government. While Negotiation was only for the namesake per say the actual situation as described by the Tibetan participants was such that they were coerced into accepting the Chinese demands with force and were left without the option of consulting Lhasa before signing the agreement. The representatives of the Dalai Lama protested against the agreement citing them not having the authority and the will to take a decision on such key issues yet their protests went in vain. Thus the signing of the 17-point agreement<sup>149</sup> by the Tibetans and the Chinese, as stated earlier, under suspicious circumstances has been enormously valorised by the Chinese to justify what they describe as the so called ‘peaceful liberation’ of Tibet. The major consequence of the 17-point agreement was the fact that it annihilated Tibet’s sovereignty and called Tibet as an integral part of China. Thus the 17-point agreement dealt with issues such as the long communist minded Chinese claims of imperialist presence in Tibet. Essentially a major reason for the Chinese to invade Tibet was on the pretext of driving out imperialist forces from Tibet and this finds a mention in the 17-point agreement. Albeit Tibet remained a closed ever since the end of the Great Game and there was largely any presence of outsiders in Tibet and there are numerous accounts asserting upon the punishment that was meted out to outsiders. In the mainstream, popular discourse, the film *Seven Years in Tibet*, based on the true story of the German mountaineer Heinrich Hairer, tries to depict how problematic it was for foreigners to enter Tibet, in the scene where Heinrich Hairer escapes from a prisoner of wars camp in British India, treks into the unknown terrain of Tibet. At the border he and his accomplice are met with tiresome resistance from the Tibetan border guards who tried to prevent Hairer and his friend to enter into Tibet. This was a part of the policy of the Tibetan government to prevent outsiders from entering into Tibet. Essentially this isolationist policy also was the

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<sup>149</sup>“Seventeen-Point Plan for the Peaceful Liberation of Tibet.” THE AGREEMENT OF THE CENTRAL PEOPLE’S GOVERNMENT AND THE LOCAL GOVERNMENT OF TIBET ON MEASURES FOR THE PEACEFUL LIBERATION OF TIBET, 1951.



major reason for Tibet to ultimately be a friendless in the time of a major tragedy such as the invasion by the Chinese. Thus in this regards China's claims of imperialist presence have been proved flawed by several historical studies yet the big power politics and the hegemony of the powerful prevailed over the Tibetans, who were and still remain Voiceless. Though while critiquing the 17-point agreement, a keen perusal of it also reveals that it had sought to grant the basic autonomy to the people of Tibet which also remains a key demand of the Dalai Lama, and it was in accordance with the idea of autonomy that the Chinese had envisioned that the Dalai Lama could continue to exercise certain degree of autonomy. Yet it cannot be fully asserted that the Chinese stood true to their claims in totality as far as the very idea of autonomy is concerned and essentially the violation of this major clause of the seventeen point agreement is also the reason for the emergence of China's Tibet problem. While today the Chinese leadership refers to the Dalai Lama as a clique which means a gangster, the 17 point agreement had in words affirmed to protect the indigenous institutions of Governance in Tibet. Rather the agreement seemed to be committed on also protecting the titles that were granted by the office of the Dalai Lama to several monks and nuns and the nobles in Tibet. So the Chinese as far as the 17 point agreement is concerned had sought to seek the consent of the Tibetans on the basis of respect for its unique culture and civilization yet the events that then unfolded, heralded Tibet into a severely contradictory state of affairs where almost every single major principle of the 17 point agreement. While the Chinese communists remained against the very idea of Religion, according to the 17 point agreement the Tibetans were granted the right and the autonomy to preserve and practice their own religion. Some of the clauses seem extremely harmonious in nature and a distant observer of it would possibly be confused between the rhetoric and the reality. And essentially, as stated earlier, the reality is in itself contradicting with the rhetoric propagated by the Chinese government.

The Chinese had also called the monastic institutions and the so called Old Order as repressive and feudal in nature. It was also the rhetoric of feudalism in Tibet which the Chinese had vociferously propagated to seek a certain ideological and emancipatory justification for invading in Tibet. Yet the 17 point agreement makes the mention of the monastic institutions by seeking to not interfere or intervene as far as the mechanism of the revenue is concerned for the monasteries in Tibet. Thus there

seems a clear difference between the propaganda and the politics of the Chinese in Tibet.

In 1959 when the Dalai Lama sought exile in India, in a reference to the 17 point agreement, he called as a document which was forced on Tibet and the Tibetan people and did not express or carry the free consent of the people. Thus another reference that the Dalai Lama drew to the actual happenings when the document was signed, asserted that his representatives were forced to sign the agreement without theirs or his own consent and the basic reason behind agreeing to forcefully and unwillingly accept the agreement was, according to him the fact that he was seeking to protect and preserve Tibet from the wrath of “destruction”. Therefore, while several accusations of manipulation have been laid against the Chinese in the contemporaneous era, even then the Dalai Lama had stated in his statement that the Chinese had managed to manipulate and make a fake official seal of his which was later imprinted on the seventeen point agreement thus in reality even the seal that marked the consent and the authenticity of the Tibetan government wasn’t authentic in nature.

Thus the signing of the 17-point agreement and the events that lead to the enunciation of the seventeen point agreement reflect a torrid phase in the life of Tibet and also in the life of the Fourteenth Dalai Lama.

In the later years some of the basic demands of the Tibetan delegation that has sought to negotiate with the representatives of the Chinese government has sought to ask for, to a large extent, for the same rights that the seventeen point agreement had clearly promised for, to the Tibetan government and the Tibetan people. In 1959, eight years after the signing of the 17 point agreement and after a miraculous escape by the Dalai Lama into India, he also referred to the Chinese in meaning to say that the Chinese had themselves enunciated the 17 point agreement and had also been the primary actors in violating the vary pillars of the seventeen point agreement. The succeeding years of the Chinese policy inside Tibet have also substantiated upon these claims of the fourteenth Dalai Lama by a wave of massive human rights violations and severe attempts to annihilate the Tibetan Buddhist faith which remains at the core of the cosmology of the Tibetan world view inside Tibet and in Diaspora.

Meanwhile in 1954 the Dalai Lama also had one and the only meeting with Mao Tsetung. The meeting did not yield any great positives while Mao remained adamant on his stand against religion. During his conversation with the Dalai Lama, Mao called religion as poison. Meanwhile the Chinese continued to strengthen their

presence in Tibet and point by point every reference to the seventeenth point agreement was being slowly eradicated by an emergency like situation which was slowly emerging in Tibet, leading to a massive discontent among the Tibetans towards the Chinese, especially in areas such as Kham and Amdo.

Thus in 1959, the discontent among the people grew to an enormous extent that it took the form of an uprising on 10<sup>th</sup> March 1959. Thus from 1951 itself, sectorally, across several different areas as the stream of discontent was slowly flowing, although for some time it remained largely regional in nature and took a while to turn into a populist revolt. Thus before 1950, what Tibetans lacked was a common platform to unite and express their discontent, to organize and mobilize popular discontent against the Chinese. The forums or the platforms that united the Tibetans in general were largely monastic institutions or the sects as a forum. But largely, the monastic institutions were engaged in spiritual and theological pursuits and not in politics. Yet within the class of the clergy as well, the discontent against the Chinese policies inside Tibet was slowly rising.

Thus in this context the year of 1954 when the Dalai Lama met Mao Zedong, as stated earlier, also saw the emergence of a movement in Tibet called as the Mimang Tsundue movement. It was a short lived movement according to some records, which was later disbanded by the Tibetan government, due to the pressure of the Chinese. Yet Mimang Tsongdu as a social movement was seeking liberation from the Chinese and aimed at preservation of the Tibetan culture which was facing from the Chinese who were militarily strengthening their forces in Tibet after establishing a military headquarter.

The Mimang Tsongdu movement was a collective of primarily those people who were not a part of those who were associated with the Tibetan or the Chinese government. It was a rather an assemblage or an assembly of people from several different directions of Tibet's socio-political compass. It was a unique and a novel movement which comprised of ordinary citizenry of Tibet and primarily Lhasa, who stood at the forefront to protect and restore the lost rights of the Tibetans. One could say not all was lost at the time when the Mimang Tsongdu emerged, yet from what was visible, as things proceeded, after the signing of the 17 point agreement, they were indicative of the harsh times that were waiting for the Tibetans under the Chinese occupation. It was also in the aftermath of the enunciation of the Preparatory Committee for the Autonomous Region of Tibet that accelerated the need for a forum or a movement

such as Mimang Tsongdu<sup>150</sup>. This committee was established by the Chinese, with the Fourteenth Dalai Lama as its chairman, was created to look into the matter of development as far as Tibet was concerned. Now, for centuries and since the emergence of the Dharma kings, Tibet had its notion of development and empowerment, and had continued to flourish on that path, as very vividly researched upon in the unpublished thesis of Limakumla<sup>151</sup>. The thesis has sought to present the views of Development in the writings of the Fourteenth Dalai Lama of Tibet and also presents a historical review of the stages of development in Tibet and how Tibet emerged as a unique polity as far the global development discourses are concerned. The thesis ends with the argument and a case study of Bhutan which appropriates the idea of Happiness as one of the key indicators of development and how this idea is influenced and is related to the ideas of development as envisioned by the Fourteenth Dalai Lama of Tibet.

Thus as Warren Smith Jr Argues in his paper relating to Tibetan autonomy and the Chinese Rule<sup>152</sup> that while the Chinese had granted extensive autonomy to the Tibetans, their ultimate goal was to eradicate the indigenous institutions of governance and administration in Tibet. Thus as part of the strategy to realize this ulterior motive, primarily the Preparatory Committee for the Autonomous Region of Tibet was established. It was essentially a step forward for the Chinese to create conditions for the flourishing of Marxist Leninist ideology. According to Smith, as far as the Chinese perspective and the discourse on Autonomy and self determination is concerned, Smith is assertive of the fact that, successive Chinese governments, whether they be the nationalists led by Sun Yat Sen or Komintern led by Chiang Kai Shek or the hardliner communists under Mao, they singularly believed in the idea of self determination as the notion of equality within the Chinese nation state. Thus this argument by Smith, thus for any observer of Chinese history and its ethnic complexion, relates to a larger understanding of the dominance and the obsession of the Han Chinese ethnicity in China. Rather, a certain perspective such as the one

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<sup>150</sup>Powers, John. *History As Propaganda: Tibetan Exiles versus the People's Republic of China*. Oxford University Press, 2004 pp. 121

<sup>151</sup>Imchen, Limakumla. "Discourse of Development in the Writings of the Fourteenth Dalai Lama." Unpublished Thesis, University of Hyderabad, 2014.

<sup>152</sup> Smith, Warren Jr. 2004. "China's Policy on Tibetan Autonomy", East-West Center Washington Working Papers. October. <http://www.eastwestcenter.org/fileadmin/stored/pdfs/EWCWwp002.pdf>

presented by Smith through his extremely well researched papers for the East West centre and also for his Book, *The Tibetan nation*, is more reflective of the omnipresent accusation of Han Chinese chauvinism. Though Smith, in his analysis has further deliberated on the nuances of the Marxist Leninist idea of self-determination and autonomy, in asserting that within the ideological framework of the former Soviet Union and the tenets of which a certain section of Chinese communists, during the 1930s also adhered to, believed in the rights of the nationalities to self-determination, yet not only was this perspective discarded after the emergence of Mao but the structural belief of the Chinese communists has largely been one based on assimilation rather than secession. Smith provides clear articulation of the reasons why the 17 point agreement could never find a place in its proper locations that is in Tibet! Owing largely to the Chinese apprehension and the belief of culture as a signpost of the nation and a fuel for the spread of nationalist sentiments. Even in the case of Soviet Russia, which was more than just a nation of the Russians, the nationality question was of great prominence. Lenin in some of his articles, did not support even the idea of separate schools, which the Jewish community of Russia then was in favour of<sup>153</sup>. He considered it as segregatory in nature by citing the example of the segregation on the basis of ethnicity in the United States. Thus Lenin sought to highlight the case of United States in order to justify, what could be a forced assimilation of people into a one dimensional system which Marxist Leninism proposed. These debates of nationality and autonomy are of particular relevance as far as the historical period of Tibet is questioned. Post 1949, since the takeover of Tibet by the Chinese, what has been visible, primarily with the signing of the seventeen point agreement and the creation of the Preparatory committee for the autonomous region of Tibet, is the fact that the Chinese had sought to gradually and meticulously eliminate the idea of Tibet and the Tibetan identity, firstly by completely erasing the sovereign status of Tibet on the pretext of what they called it as “peaceful liberation of Tibet’. The ploy and also the policy of the Chinese in Tibet and their actions had always sought for an ideological justification, to not only justify their actions but also to propagate and valorise a regressive and ideologically charged “political

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<sup>153</sup>Lenin, Vladimir. “Lenin: Once More on the Segregation of the Schools According to Nationality.” *Proletarskaya Pravda* 9 (December 17, 1913). <https://www.marxists.org/archive/lenin/works/1913/dec/17.htm>.

correctness". Also this attempt is visible in their understanding of the Tibetan society which many Chinese sources call it as feudal or the other larger pretext of the presence of the imperialists. The ideological justification essentially helped the Chinese to reduce the democratic space for the Tibetans, the leader of whom was then the Fourteenth Dalai Lama, and despite his retirement from politics, continues to remain the face of the Tibetan struggle and the spiritual leader of Tibet. thus in this context, the creation of the committee, while had the Dalai Lama as its head, it reduced the Dalai Lama to the stature of a titular ruler where the major power was exercised by the Chinese Communist Party and apart from the Chinese Communist Party, the Peoples Liberation Army was also granted several powers which helped the army to interfere in the affairs of Tibet. Thus the widespread presence of the Chinese military forces in Lhasa, followed by the gradual reduction in the overall freedom that people enjoyed, the reaction to it was the emergence of a movement such as Mimang Tsongdu. Thus the movement witnessed widespread support from what the Chinese would call them as the "proletariat" of Tibet. According to some sources, the effective mobilization by the leaders of the Mimang Tsongdu involved the show of symbolic gestures of protests against the Chinese army in Lhasa. The Mimang Tsongdu movement also enjoyed widespread support from the Tibetan clergy and the activists of the movement also used prayers as a means to mobilize public opinion and protests. Although the movement lasted for only a year, it could be considered as the first major organized voice of dissent against the occupying Chinese forces. While the current scenario in Tibet leaves no space for a protest of the kind that Mimang Tsongdu organised, simply for the fact that the Chinese attitude in Tibet in the initial days of occupation and in the present times has also undergone a sea of change. Largely the Chinese under Mao for the initial period of time had sought to not use force against the Tibetans but had rather sought to win them over in order to assimilate them completely into China through what they referred to as "peaceful" means. In that context, people were not targeted by the Chinese forces during the emergence of the Mimang Tsongdu movement and only its leaders were subjected to governmental action. The Mimang Tsongdu movement also protested with the Kashag and the Dalai Lama's government for the restoration of the rights of the Tibetans but gradually the Kashag and the Dalai Lama disbanded the Mimang

Tsongdu<sup>154</sup>. Also what is of relevance is the fact that the gradual discontent which was rising in Tibet included the areas of Kham. The Khampas were already up in the arms against the Chinese occupation of Tibet, moreover the Chinese had earmarked certain areas as Tibet which did not include Kham and thus the Chinese policy of docile behaviour, as to what they called as gradual assimilation wasn't in place as far as Kham was concerned. Furthermore the Tibetans were used to pay taxes for the use of the land to the monasteries; one of the major reforms which the Chinese brought about in Tibet was the introduction of the new taxation system whereby the ordinary people were forced to pay taxes to the Chinese. The nature of taxation lead to further discontent among the people as now the sentiment that had built among the Tibetans was that of paying taxes to a foreign occupier who had not only occupied their land but was also extorting and extracting needful financial resources from them. In the years after 1954, the Chinese were taking a toll on the local economy of Tibet. Agriculture in Tibet was scarce, and famines were not rare in, thus vast tracts of land in Tibet still remained uncultivated and thus the foremost reason that the Thirteenth Dalai Lama had emphasized on cultivating the lands for agricultural usage. Thus the Chinese army increased in strength and the number of Chinese soldiers had a direct impact on the then available food resources which lead to a massive increase in the prices of the food items inside Tibet. Therefore the scarcity of the basic food items for minimal sustenance and the increase in their prices fuelled greater discontent among the Tibetans. Despite what was comparatively a gradualist policy of the Chinese, the structural conditions of the Tibetan terrain and the failure of the Chinese government to cater to the pressing need for affordable food was slowly contributing to a growing resistance against the Chinese in areas such as Kham. There were already certain guerrilla groups which had started to organize themselves against the Chinese. Slowly, the situation in Kham remained extremely volatile and massive protests had broken out. Therefore as a result of the volatile and the emphatic protests by the Tibetans, the Chinese too organized and reacted in a similar manner. The Chinese armies resorted to heavy shelling upon the Tibetans and the Chinese retaliation specifically targeted the monasteries and public places. The Chinese army also ordered mass mobilization of several thousand troops from different regions of Tibet

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<sup>154</sup>Khatoli, Khala. "A Study of Protest Movements in Tibet 1956-1990." Jawaharlal Nehru University, 2003.<http://hdl.handle.net/10603/14979>. pp. 13-34

to Kham. Thus the number of soldiers of the Peoples Liberation Army in Kham was suddenly increased, following the protests by five or six times the number of soldiers who were initially stationed. In this context, the Chinese army also considered the monasteries as the breeding grounds for the popular discontent which had swept the region of Kham, they considered the monasteries as the source of nationalist education and the hermit for reactionary elements which they then sought to destabilize. In that context, several sources that have chronicled the events of the Chinese takeover of Tibet and the worsening of the tensions in Tibet assert that several members of the clergy and influential voices in Kham were arrested by the Chinese forces. There was massive crackdown on the freedom of the people and the local people also reacted in a more volatile by vehemently opposing the Chinese in every possible manner. Meanwhile as tensions rose in the region of Kham and has the Chinese tried desperately to consolidate their position through successive military offensive, large number of people in Kham became victims of the war which was taking place. Thus hundreds and thousands of people from Kham made their way towards Lhasa in order to seek refuge and escapes from the perils of the violent conflict which had begun.

In that context the areas surrounding Barkhor square in Tibet were flooded with the migrants from Kham. Many had brought the stories of Chinese aggression in Kham. While the Chinese, as stated earlier maintained rather a policy which was comparatively docile in nature as compared to their present actions inside Tibet and also more moderate when compared to the strong military reaction to the growing dissent in Kham<sup>155</sup>. Thus the stories of Chinese atrocities spread across Lhasa and several citizens of Lhasa who were not acquainted with the reality of the Chinese rule and their oppressive nature became more conscious of what had actually ushered in Tibet and what was specifically happening in Tibet.

While Lhasa on the other hand had remained comparatively peaceful yet it was also the home of the already disbanded Mimang Tsongdu, and so despite being banned in the public eye, the seeds of the popular discontent had already been sown in the minds of the people by the movement. Thus the splinter of aggressive discontent against the Chinese by the Tibetans which was lighted in Kham was slowly but systematically

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<sup>155</sup>McCarthy, Roger E. *Tears of the Lotus: Accounts of Tibetan Resistance to the Chinese Invasion, 1950–1962*. McFarland, 2006. pp.116



spreading in Lhasa. The Khampa refugees who arrived in Lhasa also shared stories of the public torture and humiliation that several of the clergy and noted resistance leaders had faced as a result of the Chinese offensive against the resistance. The Chinese had resorted to measures such as public torture and humiliation of the people in order to frighten the larger populace at large. Rather than being intimidated by the Chinese actions the brave Tibetans were slowly organizing themselves to unite and rise against the Chinese. The structural conditions of the food shortages in Tibet were on the other taking a toll on the life of the people, even the Chinese found it difficult to supply the necessary requirements for the troops owing to the harshness of the terrain in Tibet.

Thus what started with the Mimang Tsongdu movement in Lhasa spread to Kham and the resistance of certain guerrilla forces also began in the region of Amdo. The zenith of the Tibetan resistance was the 10<sup>th</sup> March uprising of Tibet in Lhasa and across several different regions of Tibet<sup>156</sup>.

#### 2.1.7) The Tenth March Uprising

Several scholars of Tibet assert different reasons for the outbreak of the tenth march uprising. A chronological reading of the events surrounding the tenth march uprising of 1959 suggests to the reader that it was a massive revolt of the people against the Chinese with the immediate cause being the rumour that spread in Lhasa of the Chinese ploy to kill the Dalai Lama. Yet the immediate cause only added splinter to the already existing discontent among the Tibetan people against the Chinese across Tibet. what was surprising for the Chinese was the spread of the discontent in Lhasa for the fact that, as stated, earlier it was a region which was spared from the socialist reforms that the Chinese had sought to bring into Tibet.

Thus as Lhasa was filled with people from the regions of Kham and Amdo which had witnessed massive armed resistance against the Chinese forces, the atmosphere in Lhasa was largely heading towards an eruption of a massive peoples movement against the Chinese, the experience of Mimang Tsongdu was all the more a reason for people to have faith in their participation in the movement against the Chinese forces. On the other hand, one of the major reason that was responsible for the outbreak of the March tenth Uprising was the failure of the Chinese to understand the very idea of Tibet and its cultural and spiritual ethos. While the Chinese viewed several of its

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<sup>156</sup>Dawa Norbu, *The China Quarterly* No. 77 (Mar., 1979), pp. 74-93

neighbouring regions as merely landmasses which were to be occupied and its people to be merely assimilated into the Chinese nation, this basic thinking on their part resulted into a massive misreading of the situation in several places such as Tibet<sup>157</sup>.

Therefore, as the earlier pages of this chapter indicate and as successive chapters would also assert, Tibetan Buddhism is deeply linked with the geography, the idea of Tibet is on one hand a geographical idea and the constituents of this idea are several elements, one of them being the Tibetan Buddhist religion, another being pastoral nomadism. Thus in areas such as Lhasa and in U-Tsang one could find greater traits of one of the major constituent of the idea of Tibet, which was essentially, Tibetan Buddhism. As Lhasa remains the centre of Buddhist learning, since the times of the Dharma kings, it was home not only to the Potala palace but also to several different great libraries of learning and several different monastic institutions which propagated the Tibetan Buddhist religion and the major fact that it was historically the seat of the Dalai Lama. Thus in this context, Lhasa echoed the cultural and the spiritual values of the Tibetan civilization. On the other hand, while if Lhasa represented the spiritual values and remained as an important core of the sacred geography of Tibet, on the other hand, Pastoral Nomadism also remained an equally important component of the Tibetan civilization. The Chinese perception of Tibet was not only flawed but was largely a gross miscalculation. In that context, the regions of Kham and Amdo were largely pastoral nomadic regions. These regions were inhabited by the nomads of Tibet who are an important part of the Tibetan civilization. Thus these regions were the signpost for Tibet to be called as one among the major pastoral nomadic empires of Central Asia. Kham and Amdo and their geography is such that they are home to vast stretches of land, which were lush grasslands on which grazed the cattle of the Tibetan nomads. The Tibetan nomads were not merely wanderers who wandered across the grasslands with their families and cattle but rather they also owned patches of land in Kham and Amdo.

Thus as Kham and Amdo were regions largely comprising of the Tibetan nomads, historically the nomads of Tibet have also been ferocious warriors, since much of their activities involve wandering across newer pastures for food and manure. Therefore according to scholars such as Miller<sup>158</sup>, from the times of Songsten Gampo

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<sup>157</sup> Ibid pp. 85

<sup>158</sup> Miller, Daniel J. "The World of Tibetan Nomads." Vajra Publications, 2008.

the nomads have also been mobilized by the Tibetan kingdom to be a part of the Tibetan army. Therefore the Khampas and the Amdo walas have had a long tradition of taking the initiative to fight for their nation during trying times. Further on the reasons that Miller cites for the flourishing of Tibetan pastoral nomadism is the fact that agriculture wasn't predominant in Tibet and mostly the vast grasslands of Tibet were virgin, in the sense that they had not been encroached upon. In that sense thus, the presence of the Chinese in the early 1950s and the land reforms that they were seeking to introduce and had already tried to implement in areas of Kham and Amdo, stood in stark contrast to the future of pastoral nomadism in Tibet since the vacant lands which in the perspective of a Tibetan nomad were a lifeline for the economy, were for the Chinese an object of ideological assertion with the policy of redistribution of land and state controlled planned agriculture.

Some of the people whom the researcher interviewed during the course of the research, who are in their youths but were born in Tibet also talked about how their grandparents and parents used to tell stories of how their family of nomads were forced to pay taxes to the Chinese in terms of either money or in kind in accordance with the amount of land that they owned. They found it extremely strange because they considered the Chinese as foreigners in their own lands and while they controlled the land, which was integral to their way of life, they also taxed them for what belonged to them in totality.

Thus it was essentially the failure on the part of the Chinese to not understand the larger historical antecedents of the Tibetan society in terms of the fact that separating Kham from Tibet was a gruesome error yet it was also a part of their own expansionist policy to disable and disband Tibet of its original geography. But geography isn't merely a construct of manmade boundaries of political decision making but rather has much greater structural connections which are primordial in nature. The region of Tibet as the Chinese called it and several autonomous prefectures which they later created, some of which they forcibly merged into Chinese provinces as well, was an organic entity that remained united in mind and in spirit despite the perils and the praxis of annexation. As Dawa Norbu, asserts in the context of Third World societies which remained under the influence of socialism, or rather those societies on which socialism was imposed, that, socialism was a short lived experiment where ultimately the primordial elements always regained the dominance

and the foothold<sup>159</sup>. It was not only in Tibet but also in a place like Mongolia where after the collapse of communism, the old aura and legacy of Genghis Khan was restored and almost every single entity in Mongolia was related back to Genghis Khan since the roots of the Mongol society are rooted in their centuries old tribal culture, which were united as a nation by Genghis Khan<sup>160</sup>.

So the reasons for the spread of the discontent in Kham and Amdo were not merely immediate in nature and not only related to the then recent actions of the Chinese but were also historical and structural in nature where the very existence of a culture seemed intimidated and threatened because of the foreign invaders that the Chinese remained to them. In such a scenario, the Dalai Lama who was stationed in Lhasa at the Norbulingka Palace had little control on the resistance warriors who had taken a massive initiative against the Chinese. Meanwhile many people from Kham and Amdo united in Lhasa with the local population of Lhasa, when the Chinese army headquarters invited the Dalai Lama to attend a cultural show, the letter stated that the Dalai Lama should attend individually, without his bodyguards. Such a demand that the Chinese made, became known to the large number of people who had gathered around Barkhor square in Lhasa and those who had surrounded the Norbulingka palace. The protestors demanded that the Dalai Lama should refrain from attending the cultural evening at the Chinese military headquarters. On March 10<sup>th</sup> according to some statistics the number of Tibetan protestors who had gathered around the Norbulingka from all the regions of Tibet increased to about 300,000 Tibetans. The large scale mobilization of the people, which was rare ever since the Chinese takeover of Tibet, paved way for echoing of the inert sentiment which was strongly growing among the Tibetans, to drive the Chinese out of Tibet. People raised slogans and demanded that the Chinese leave Tibet. Meanwhile due to the Chinese pressure the Dalai Lama also urged the crowds of protestors to withdraw the protest and head back to their respective homes. Yet the protestors did not bulge and they continued their

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<sup>159</sup>Norbu, Dawa. *Culture and the Politics of Third World Nationalism*. London; New York: Routledge, 1992.

<sup>160</sup>He, Nicholas D. Kristof; Nicholas D. Kristof is chief of The New York Times's Beijing bureau, and his colleague Sheryl WuDunn were awarded this year's Pulitzer Prize for international reporting. "Where Genghis Khan Is In." *The New York Times*, May 27, 1990. <http://www.nytimes.com/1990/05/27/magazine/where-genghis-khan-is-in.html>, Makinen, Julie. "Genghis Khan Reigns Anew as Mongolia Replaces Communist-Era Statues." *Los Angeles Times*, July 28, 2015. <http://www.latimes.com/world/la-fg-mongolia-statues-20150727-story.html>.

protests even more vigorously. In the days after March tenth, the Chinese army made more stringent preparations to counter what was a largely non violent uprising of unarmed protestors. The Chinese deployed more number of armed soldiers with sophisticated artillery weapons. Meanwhile the Chinese fired shells at the Norbulingka palace, and within two days as the situation became more volatiles, the Dalai Lama, dressed as an ordinary person, in disguise, left Lhasa and began a long journey to India to seek asylum in India. He was escorted throughout his journey by Khampa warriors who had continued an armed resistance against the Chinese. Thus by the Nineteenth of March 1959 an all out armed conflict broke out in Tibet. the Chinese soldiers mercilessly fired upon the Tibetans and they were also resisted by an army of Tibetans. But for the fact that Tibet under the fourteenth Dalai Lama never really went to war with any nation and has almost isolated itself from the outside world thus the Tibetans lacked advanced weapons to counter the Chinese extremities. The Chinese on the other hand, mercilessly targeted the Tibetan protestors. Several members of the clergy were also executed during the course of the events. The news of Chinese reaction also spread like wild fire across the whole of Tibet and people in almost every nook and corner of Tibet had risen in protest against the Chinese<sup>161</sup>.

The horrifying statistics of the Chinese aggression against the Tibetans suggest in a single day, since the Tibetan uprising started, about 87,000 ordinary Tibetans were killed by the Chinese. These actions of Chinese were largely directed against unarmed protestors who in the modern parlance can be described as civil rights activists. Even as far as the history of human rights violations inside Tibet is concerned, the Chinese action on the Tibetan protestors goes down as the most gruesome act of human rights violations inside Tibet. Possibly the defenders of the world's proletariat that the Chinese claimed so, acted against that population, the majority of which consisted of those who through every lens of sub Altern studies are classified as sub-alterns, the Tibetan nomads.

Therefore apart from the loss of lives and forceful disappearance of the people that happened inside Tibet, the Chinese armies also inflicted huge damage to major monastic institutions inside Tibet. monasteries like Sera were severely damaged due to the shelling by the Chinese. The Chinese, as stated earlier, had always considered the monasteries as the centres that promoted the growth of the discontent against the

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<sup>161</sup>Norbu, Dawa. *Culture and the Politics of Third World Nationalism*. London; New York: Routledge, 1992 pp. 92

Chinese among the Tibetans and as part of their long standing policy of cultural genocide, the monasteries had remained prime targets.

#### **2.1.8) Exile**

Thus as Tibetans continued to suffer inside Tibet, the major point of reference needs to be revisited as the section deliberates upon the exiling of the Dalai Lama into India. One of the major reasons that lead the protestors to become more agitated and volatile as the tenth of March neared was their reverence for the Dalai Lama. As the earlier sections clearly deliberate upon the role and the nature of the institution of the Dalai Lama, and its place in the life of an ordinary Tibetan, the Dalai Lama thus was safely escorted through a secret and treacherous route into India while the people inside Tibet continued to suffer as a result of the Chinese extremities. Yet what remained the only positive for the people inside Tibet was the fact that the Dalai Lama remained safe, even though in Exile<sup>162</sup>.

Thus on the 30<sup>th</sup> March the Dalai Lama, after a long journey crossed into India. He was received by the border guards who were posted at the Check post and on 18<sup>th</sup> April the Dalai Lama reached the city of Tezpur in the north-eastern state of Assam<sup>163</sup>. After spending some time in Tezpur, the Dalai Lama was stationed in what was then a small hermit in the Indian Himalayas, the city of Dharamsala. From Dharamsala the Dalai Lama announced the setting up and establishment of the Tibetan Government in Exile which is today known also as the Central Tibetan Administration. The purpose of setting up the Tibetan Government in Exile has been to restore the lost identity of the Tibetans in Exile and to continue the struggle for regaining the lost rights of the Tibetan people at the hands of the invading Chinese. In the larger context of human rights and civil liberties of the Tibetan people, the Tibetan Government in Exile has published several documents related to the human rights violations inside Tibet and the subsequent torture of the Tibetan people by the

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<sup>162</sup>“BBC ON THIS DAY | 31 | 1959: Dalai Lama Escapes to India.” Accessed May 1, 2015. [http://news.bbc.co.uk/onthisday/hi/dates/stories/march/31/newsid\\_2788000/2788343.stm](http://news.bbc.co.uk/onthisday/hi/dates/stories/march/31/newsid_2788000/2788343.stm).

<sup>163</sup>Arpi, Claude. “The First Days of the Dalai Lama in India.” Accessed July 2, 2017. <http://claudearpi.blogspot.com/2015/10/the-first-days-of-dalai-lama-in-india.html>.

Chinese. The institution in exile has also been a vociferous campaigner at the international level against the atrocities of the Chinese. Thus a major fact which ought to be noted is the fact that along with the Dalai Lama, initially more than 80,000 Tibetans also sought refuge in India. The Indian government then under the leadership of Prime Minister Jawaharlal Nehru extended every possible assistance to the Dalai Lama and the Tibetan people, living up to its age old tradition of Vasudeva Kutumbakam<sup>164</sup> which is translated as The World is a Family.

#### 2.1.9) Conclusion

Thus several sections of the chapter indicate at the nature of the Tibetan polity and the chapter also seeks to draw parallels with the contemporary reality of Tibet in order to present the connection between Tibet's past and its present. A clear image which emerges through this thorough deliberation on Tibet's history is the fact that the roots of the Tibetan issue is historical in nature and the history of Tibet also is indicative of the failure of the Chinese to understand the nuances of how unique the polity of Tibet has always remained. On the other hand, as far as the issue of human rights is concerned, which is also the primary focus of research, at several instances during the course of the historical narrative, a reference is drawn to how human rights are so deeply entwined with the emergence of the Tibetan nation in general. The convergence of the Tibetans with Buddhism and the emergence of the unique variant of Buddhism which is Tibetan Buddhism is not only a religion but a way of life which in totality ensures safeguard for the rights of all sentient beings. Tracing the emergence of the Tibetan nation from the first Dharma King Songsten Gampo till the fourteenth Dalai Lama,. A major connection which can be drawn at the end of this long discussion is the fact the human rights and the perception of human rights for the Tibetans and among the Tibetans historically has been very different from the modern notion of human rights. The idea of holism and welfare of all beings in integral to the Tibetan society for the protection of the basic values of human rights which are also enshrined in the major human rights documents such as the universal declaration of human rights. The chapter also delves onto the contribution of Indian saints and scholars such as Padmasambhava and Atisa, their role in Tibet is not only viewed

merely as members of a clergy or as Buddhist missionaries but as human rights activists who contributed to the overall consciousness building exercise in Tibet.

Thus the idea of Tibet represents a strong human rights consciousness which lies at the core of the Tibetan Buddhist religion. What the chapter seeks to present is also the fine balance between religion and politics and the role of religion in politics. A secular reading of the erstwhile relations between the church and the state would not be able to grasp the meticulous nuances of this relationship which have been finely deliberated upon during the course of the chapter for the fact that while power corrupts and politics is centred upon the idea of power, the alliance of the church and the state or so to say a church centric polity ensured a certain check and balances on the very exercise of power itself.

Therefore a major conflict which has emerged since last several decades is the ideological manoeuvring by the Chinese as far as the Chinese writing of the Tibetan history is concerned. The Chinese have sought to largely author Tibetan history from a Marxist Leninist framework which authors such as John Powers have extensively worked upon. The Chinese polity to invent a base and the super structure has failed to take into the account the nuances of a unique polity which remained committed to the idea of emancipation which was in every possible way, more peaceful than the proletarian ideas that Chinese sought to appropriate.

As far as the last section of the chapter is concerned which features a discussion on the reason for the Tibetan uprising, this section once again puts the need for the Chinese to investigate into an authentic history of Tibet and the organic nature of Tibetan polity. Nations are an organic entity and can never sustain if they are turned into an entity created of an imposition, and the history of Tibet essentially highlights the nature of Tibetan reality and its preservation of values of human rights and dignity since the birth of the Tibetan nation.



## Chapter – 3

### Human Rights: Discursive Evolution

#### 3.0) Preface

It could be well asserted with great modesty that historicizing the very idea of human rights in order to understand the emergence of what is possibly one among the most poignant realm for socio political activism, is an inquiry into the evolution of the idea of collective human consciousness. As several scholars of human rights have asserted and continue to assert upon the idea of human rights as being directly linked with the nature of development. In such a scenario the need to understand the history of human rights in the context of the present thesis is to establish a linkage between several ideas of human rights and their multiple connotations and their application in order to understand the nature of human rights violations inside Tibet and the subsequent activism by the Tibetans in exile. It is no doubt that the larger idea of human rights is in itself not an appropriation of any one single right but rather a confluence of several notions of rights and duties, the central to the concept of human rights being the notion of natural rights which was the way human rights were interpreted and referred to before the second world war, as they constituted was called as the rights of man. Yet with the founding of the United Nations and the Adoption of Universal Declaration of Human Rights , the term natural rights, since then, has no longer remained in circulation to refer to the Human Rights, for the fact that, according to Burns Weston, the term natural rights originally finds its roots in the idea of natural law which was long cherished by the catholic church, as the Church associated the idea of a legal instrument and the sought to justify the legality on the basis of morality which in later years was rejected with the rise of legal positivism and emergence of a more secular perspective on the idea what is today referred to as human rights<sup>165</sup>.

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<sup>165</sup> Weston, Burns H. "Human Rights." *Human Rights Quarterly* 6, no. 3 (1984): 257–83. doi:10.2307/762002.

### 3.1.0) Emergence and Historical Roots

Thus today as far as the universality of human rights is concerned, a document that stands as the citadel of human rights and their articulation is the Universal Declaration of Human Rights, adopted by the United Nations and its members states in 1950<sup>166</sup>. Yet the historical roots of the tradition human rights discourse are vividly visible in this monumental document which serves today as an international adjudicator between what is a Human fact and what isn't. thus the first four articles of the Universal Declaration of Human Rights, find resonance are adapted from the Cyrus Cylinder which was composed by the first king of the Persian Empire, known as Cyrus the Great. The Cyrus Cylinder was adopted in the year 538 BC. Inscribed in clay in Akkadian language, the Cyrus cylinder in its original shape was a document which consisted of laws as dictated by Cyrus the Great which talked about the freedom of religion whereby allowing his subjections the spiritual and the devotional freedom to worship gods and goddesses and religions of their choice. Albeit it should be asserted that the idea of religion in the pre Christian era could have been much different from the way the modern institution of religion has developed. The cylinder also deliberates upon the freeing of the slaves that were captured by the army during the conquest of Babylon. While Babylon occupies the centre as far as the Persian civilization is concerned, the conquest of Babylon was rather a very peaceful one and involved no armed violence against any person or community. The act to free the slaves by Cyrus was a rarity in an era when the capturing of slaves was considered as a symbol of occupation and claim towards a Martial status<sup>167</sup>.

Apart from the freedom and religion and the freeing of slaves, Cyrus Cylinder also advocated equality of all people, irrespective of their ethnic lineages<sup>168</sup>. In a region as diverse as Persia or the Middle east was, with large incumbents of people from Africa and also Central and South Asia the pronouncement of ethnic and racial equality is considered as a truly progressive action on the part of the ruler<sup>169</sup>. Thus while human

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<sup>166</sup>“History of the Document,” October 6, 2015. <http://www.un.org/en/sections/universal-declaration/history-document/>.

<sup>167</sup>Ghasemi, Shapour. “History of Iran: The Cyrus the Great Cylinder.” Accessed July 2, 2017. [http://www.iranchamber.com/history/cyrus/cyrus\\_charter.php](http://www.iranchamber.com/history/cyrus/cyrus_charter.php).

<sup>168</sup> Ibid

<sup>169</sup>Lyon, D. G. “The Cyrus Cylinder.” *Journal of the Society of Biblical Literature and Exegesis* 6, no. 1 (1886): 139–139. doi:10.2307/3268761.,

rights consciousness and the spread of human rights is considered as a sign of development yet while the ancient and the medieval era upheld several provisions protecting the rights of the people, modern societies like the Americas and South Africa continued to allow practices such as Slavery, which was rampant in the pre Lincoln United States of America and the Apartheid which was prevalent till about 1992 in South Africa, only ending with the rise of Nelson Mandela and his historic non violent struggle against the apartheid regime. In this context Cyrus the Great and his Cyrus cylinder truly stands a testimony to the fact that from a progressive era, the world moved into an era of deterioration. The United Nations in 1971 declared the Cyrus Cylinder as the preliminary document that charted the documentation and articulation of Human Rights. In fact it has been widely translated in several different languages and as part of the initiatives by the United Nations, it was fully translated into six different languages which are also the six official languages of the United Nations, while the Cyrus Cylinder finds a place and has been displayed at the headquarters of United Nations in New York.

### **3.1.1) Magna Carta**

Thus the instruments of Human Rights are an important source to understand the evolution of Human Rights as a form of practice which has guaranteed a life of dignity and security to the human beings, around the globe because of its universality, by universality of human rights, one largely refers to the idea of a basic global consensus, acceptance and implementation of laws and belief, guaranteeing, as stated earlier, dignity, security and respect to the human beings. Thus any action or a law or a policy or even an utterance that seeks to contradict this basic belief is considered also as a violation of the values of human rights or as a human rights violation if the action involves the committing of an act against these principles and values.

Thus in this context, the first ever written charter that sought to grant the basic rights and also has sought to protect these basic rights is the Magna Carta<sup>170</sup>. Magna Carta is a long document with over 63 articles that relate to several social, political, religious and personal aspects of daily life in England. The roots as far as the adoption of the Magna Carta is concerned essentially lie in the conflict that happened between the Church and the State in England during the reign of King John. While

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<sup>170</sup>Aitken, Robert, and Marilyn Aitken. "Magna Carta." *Litigation* 35, no. 3 (2009): 59–62.

King John was seeking to establish firmer control on the Church, through arbitrary appointment of the Bishop of the Canterbury, this was largely opposed by the clergy who had then sought an intervention of the Pope. Though the Pope did not favour the appointee of the group of clergy in Canterbury as well, he also did not support the nominee of the King and instead appointed a person of his own choice. The move by the English king, was also resented by the French who were seeking to invade England, thereafter the King of England declared the Pope to be subordinate to him. Meanwhile the conflict between England and France grew in proportion, yet it is of significance to assert that, the actions of King John were not fully endorsed by the English people as well. The Nobles in England stood in opposition to the policies of the John and were united against him. Thus in the war with France, King John was defeated by the French Armies and he was thus forced to sign the charter granting greater rights to his people<sup>171</sup>.

Thus one of the major provision of the Magna Carta was to grant freedom and liberty to the religious institution, freeing itself from the clutches of the ruling monarchy. Yet the Charter is the beginning of the enunciation of the Magna Carta and is not the Magna Carta in itself. Magna Carta took form only in 1217, after the death of King John and during the reign of his son, Henry III. Though the Magna Carta in its present form has undergone several changes over the period of time as all constitutions do, changing with the needs of the time. Yet certain rights such as Habeas Corpus are gift of the Magna Carta and they are provisions such as these that make the Magna Carta a pivotal document as far as the Human Rights discourse is concerned. It has also served as an inspiration for the writing of the American constitution and charter of declaration of America<sup>172</sup>. While Magna Carta grants power to the people against the arbitrary actions of the state, as was visible during the times of King John, it also appropriates the basic idea that no single entity, an individual or an institution or a group of people are above the dictums of the law, leading to the scenario where the law acts supreme. While there are several monarchies in the world, England for centuries had been a unique system, referred to as a constitutional Monarchy. Thus despite being a Monarchy, with a King or a Queen as the supreme ruler, yet the

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<sup>171</sup> Ibid pp. 60

<sup>172</sup>Howard, A. E. Dick. "Magna Carta Celebrates Its 750th Year." *American Bar Association Journal* 51, no. 6 (1965): 529–33.

Monarch was not above the law. Thus in this context, the role of Magna Carta as a framework to follow has been as that of a citadel of Liberalism.

On the other hand while Magna Carta has largely been valorised in several sources related to human rights and constitutional democracy, Britain based scholar Shami Chakraborty asserts that the Magna Carta has failed to help the ordinary people against the arbitrary use of power against them<sup>173</sup>.

Thus despite the critiques of Magna Carta, some which increased following the stern measures that the government of United Kingdom took in the aftermath of 9/11, the document in its historical setting and context had paved the way for a democratic future and through its enunciation, a roadmap was prepared for the global community to embark on the path of democracy by cherishing liberal values and conventions. Thus apart from the Bill of Rights and the American Declaration of Independence, even the Universal Declaration of Human Rights , borrows much from the Magna Carta. Therefore the stress and the importance of Magna Carta is primarily on the role of the Government and imposing apt checks and balances on its actions and pursuits, for the at the core lies the belief and the commitment to protect the people of the State. Possibly this belief of Magna Carta which also includes several sections and laws dealing with land and land related conflicts reflects the experience of the people during the reign of King John. In that context it is of relevance to assert that the values enshrined in the Magna Carta are reflective of the mind-set of the then constitution makers and their foresight to chart out a document that would guide the polity and ensure protection for the basic liberties of the people, irrespective of the rulers and the people in power. It also reflects a certain basic perception of power as well, as how acquiring or concentration of power with one single entity such as an individual, institution or a family leads ultimately to greater restrictions on basic liberties and rights of the people. In accordance with such a belief, ultimately the Magna Carta places greater faith in rules and laws as permanent edicts for protections of human rights and civil liberties. And thus the Magna Carta is one of the first document to extensively deliberate upon the nature and nuances of a legal system, whose source of adjudication lies in written laws in a charter rather on the will and the whims of a ruler as was the case in several monarchic institutions of the time when Magna Carta

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<sup>173</sup>Chakraborty, Shami. "Magna Carta and Human Rights." *The British Library*. Accessed October 21 2015. <https://www.bl.uk/magna-carta/articles/magna-carta-and-human-rights>.

came into being. The charter of Magna deals with the idea of justice in detail, not just as what constitutes Justice and the philosophical tentacles of it but rather on the delivery of justice. The judicial system then largely lacked a proper mechanism on how pleas would be heard and a large population lacked the right to make a plea. The Magna Carta thus liberated the people from unjust legal practice which was a major source of violation of their basic rights and liberties. The institution of Monarchy across several states arbitrated upon the cases also as a means to profit from adjudication rather than to judiciously serve the people and therefore the Magna Carta calls for adjudicating justice for the cause of freedom and integrity and not profit.

Further on the Magna Carta also delves upon who should adjudicate over the cases and what are the qualifications of the one who adjudicates over the petitions. The Charter of Magna Carta also called for the enunciation of a council, which largely consisted English Nobles or Barons, as they were called to keep a check on the power of the King and his actions. The task ahead for the council which was a result of the clause 61 of the Magna Carta was to look into the conduct of the King and to equate his actions with the dictums of the charter<sup>174</sup>. The council, according to the Magna Carta was empowered with the power to depose the ruling monarch in case it was found that the King or the Queen had violated the charter and seemed to go against the constitution. As the earlier conflict had already revealed that the Barons, even though did not form a part of the royal family or the monarchy yet were powerful enough and possessed equal or greater military strength to counter the British monarch and thus even their powerful stature in the English Polity is reflected in the Magna Carta and the power it grants to them.

On the other hand, it could also be asserted that the Magna Carta reflected the rivalry of two major groups in England, mainly the monarchy on one side and the Barons on the other, and that the charter just created a greater space for one more power block to emerge and counter the monarchy. Yet, in the conflict between the monarchy and the Barons, it is no less a feat, and of relevance, that the common people of England got much greater rights than ever before, albeit also the fact the Barons became much more powerful as well.

Also as the history of legal reforms in Tibet indicates, especially during the times of the Great Fifth and the Thirteenth Dalai Lama that there was stress on checks and

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<sup>174</sup>Aitken, Robert, and Marilyn Aitken. "Magna Carta." *Litigation* 35, no. 3 (2009): 59–62

balances as far as the exercise of power was concerned. No single institution, either that of the clergy or the political institution of Kashag was allowed to become Omnipotent by the mechanism and the nature of polity. Thus in that sense, checks and balances instead of water tight compartmentalization and centralization are allies in the larger preservation of human rights in general. As the next few chapters' highlight, a situation such as a state of exception is in stark contrast to the basic philosophy of liberalism and respect for liberty which is intricately ingrained in the Magna Carta.

### **3.1.2) Bill of Rights 1689**

The Bill of Rights of 1689 Is essentially a result of the tenacious polarization within English society on religious grounds. While the Magna Carta had brought about substantial reforms as far as the royalty and its administering of the nation was concerned, yet by the seventeenth century, the English people were starting to feel that under James James II of England, the ruling monarchy was vehemently heading towards arbitrary rule.

The roots of the passing of the Bill of Rights in 1689<sup>175</sup> lie in the Glorious revolution of 1689<sup>176</sup> by which James II was deposed as the ruler and was replaced by his daughter Mary and her Husband William. The Glorious revolution and certain major cause for the outbreak of the revolution was largely religious in nature. While England has a very strong influence of Protestantism, the then Monarch of England, James II was a committed Catholic. He was an influential Catholic ruler of England at such a point in time when all over across Europe there was an ongoing rift between different Christian denominations for exercise and extension of greater influence of their respective belief systems. Essentially the Catholics and the Protestants were primarily engaged in a battle across the whole of Europe. For the believers in Protestantism in England James II was a thorn in the eye. There was a large-scale discontent which was brimming in England against the dictums of James II. Several

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<sup>175</sup>“Bill of Rights 1689.”*UK Parliament*. Accessed March 7, 2017. <https://www.parliament.uk/about/living-heritage/evolutionofparliament/parliamentaryauthority/revolution/collections1/collections-glorious-revolution/billofrights/>.

<sup>176</sup>Vallance, Edward. *The Glorious Revolution: 1688 - Britain's Fight for Liberty*. Hachette UK, 2013, Miller, John. *The Glorious Revolution*. Routledge, 2014.

high ranking appointments by the ruling Monarch were made in favour of the Catholic candidates including some at the Oxford University, which were resisted by the people and those who opposed James II<sup>177</sup>.

Thus outright while it would seem to be a religious conflict, the major grievance that people held against James II was the fact that he strongly adhered to the granting of Indulgences and was a staunch believer in the idea of the Divine Rights of the King to rule over his people.<sup>178</sup> At the onset, while the people were well aware of his beliefs they were still subdued in their opposition and were less panic stricken for the fact that James's daughter was married to her cousin, William who was a protestant and thus Mary too was a protestant, which meant that according to the hereditary succession, Mary would be a natural heir to the throne of England and that in gradual succession, a protestant would succeed a Catholic believer. But despite the fact that Mary was a natural heir to the throne, some Catholic sections within England had started to argue for the appointment of a Catholic heir to the throne of England instead of Mary. Thus during these deliberations and chaotic times, James II became a father to a son, Edward. The birth of a Son immediately created a panic in the minds of the people who became more insecure from the fact that the Catholic domination of England would be prolonged with the birth of a son to the King and that Mary, who was the elder child, would be side-lined in favour of Edward who would take up his father's faith.

Meanwhile, as stated earlier, King James had not only started to make arbitrary political appointment, appointing Catholics at all levels of governance but was also seeking to raise army. The army seemed very active even at a time when England wasn't at war with any of the powers. This further created greater distrust among the people and also the parliament. James II had been extremely inefficient in consulting the parliament which was sign of ignorance of the voices of the people at large. In such a situation, some influential elements within England contacted William who

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<sup>177</sup>Weston, John R. *Monarchy and Revolution. The English State in the 1680s*. Blandford Press, 1972.

<sup>178</sup>ForesiBlogger, Tiffany. "'The Absolute Right to Rule' – The Divine Right of Kings." *Royal Central*, November 25, 2014. <http://royalcentral.co.uk/blogs/the-absolute-right-to-rule-the-divine-right-of-kings-40465>., Burgess, Glenn. "The Divine Right of Kings Reconsidered." *The English Historical Review* 107, no. 425 (1992): 837–61, an alternative perspective on it can be found in "Thoughts on the Divine Right of Kings." *The Belfast Monthly Magazine* 10, no. 56 (1813): 197–202.



was the head of the Dutch provinces. William was an efficient military strategist and was also a committed protestant who was engaged in weakening the influence of France in Europe. While James II maintained very close and cordial relations with France, William stood in direct opposition to the affinity between England and France.

Thus as a result of which William marched with his armies into England to depose the British monarch. This marked the beginning of what was referred to as the Glorious revolution. The British army offered little or no resistance and according to several accounts of the revolution this was largely a bloodless revolution and had involved loss of no or not many lives. One of the reasons was the fact that during the midst of the march of the armies of William into England, James II had fled to France. The fleeing of James II marked a tipping point in the revolution when William and Mary took control of England. It was at this point of time when the Parliament was convened again and the charter of the Bill of Rights of 1689 was passed. Also during the same time, William and Mary were declared as the monarchs of England while James II was deposed completely of all honours and privileges as the Monarch of England.

Thus one of the key agreements as part of the enunciation of the Bill of Rights of 1689 was the fact that Catholics were barred from becoming the monarchs of England. The Bill also proposed for a stronger Parliament and the monarchs were bound to adhere to the advice of the Parliament as far as the decision making was concerned. Apart from that, even the sale of indulgences as part of the granting of Justice was totally prohibited. The bill also proposed for periodic elections to the British parliament at an interval of every three years. One of the major reasons for the growth of dissent against King James II was his clamping down upon those who spoke against him. There were several parliamentarians who opposed his will and also several other nobles in lieu of which the Bill of Rights enshrined the Freedom of Speech as an inalienable right and accrued a certain immunity to the speeches that were delivered in the Parliament which meant that people would no longer face trial or sedition for their speeches in the Parliament<sup>179</sup>.

The Parliament thus acquired superior powers over the British monarch and possibly the monarchy was reduced to being titular heads, according to the reforms introduced

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<sup>179</sup>“English Bill of Rights 1689.” Accessed August 5, 2016. [http://www.constitution.org/eng/eng\\_bor.htm](http://www.constitution.org/eng/eng_bor.htm).

by the Bill of Rights in 1689. The major crux of the Bill was to strengthen the power of the people which was articulated through the parliament and essentially the parliament acquired an omnipresent say in the affairs of England. A certain downfall of the Bill of Rights was the fact that Catholics were not allowed to even vote and this continued for more than a century. Even taxation was considered as a major subject for deliberation as it had also been as far as the Magna Carta was concerned, and thus according to the newer reforms in the Bill of Rights in 1689, no taxes were to be imposed without the consent of the Parliament. Thus a major philosopher of the time who influenced the creation of the Bill of Rights. John Locke is rather well known for the Social Contract theory which he proposed in several of his works, major one being the Second Treatise of Government in 1690. John Locke was a strong defender of the rights of the people and completely opposed the dominance of the ruler as a divine entity. As a defender of the natural rights of men, Locke and his ideas argued for the fact that the social contract which emerged between the King and the People was a result of the consent which people accrued to the ruler for being governed. Largely the divine rights theory of the earlier Kings stood against the contractarian tradition that Locke had sought to establish<sup>180</sup>. The divine rights theory rather imposed the rule of the Monarch upon the people, a supporter of which was Hobbes, who through his social contract had projected a very regressive view of the people at large as those who failed to govern on their own and thus they required a ruler from above who would rule over the them. While the ideas that Locke expressed stood in favour of a central concern which was the idea of rights. The protection of rights lay in the centre of the Lockean ideas and thus the idea of a social contract was essentially to protect these natural rights. The institution of parliament was thus the institution of the people meant to be a collective which designated the powers to the rulers as a custodian of the rights to protect the people. The three major rights or entities that influenced the people to unite and form a collective for collective security of all were essentially, private property, their own personal life and the basic freedoms and liberties which they deserved. Thus one can thus assert that Lockean social contract in a way grants greater legitimacy to the idea and the also the institution of the Parliament,

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<sup>180</sup>Schwoerer, Lois G. "Locke, Lockean Ideas, and the Glorious Revolution." *Journal of the History of Ideas* 51, no. 4 (1990): 531–48. doi:10.2307/2709645.

considering it as a natural institution with deeper roots and possibly the formation of which was organic in nature.

Thus the Glorious revolution ushered in an era with the hope that ultimately the people had the collective right to depose the government, which according to Locke did not carry their consent. Even the deposition of James II by the British Parliament was not arbitrary in nature, they highlighted twelve key causes for his deposition from the throne which clearly indicated the fact that he acted in an arbitrary manner and did not thus carry the legitimacy of the people, the immediate cause being his fleeing away to France.

Therefore, the glorious revolution paved the way for emerging as an example for people worldwide who were struggling for the basic rights. It is an irony that while today the Bill of Rights and the Magna Carta are cherished by the people and valorised as some of the most iconic documents that have sought to preserve the rights and the liberties of the people, yet the successive generations of the same rulers who too cherished the rights enshrined in the Magna Carta and the Bill of Rights had colonized almost half of the planet and had denied the same freedoms which they had sought to achieve through the so called Bloodless Revolution. Thus as far as the issues of human rights are concerned, there has always existed a contradiction between the theory and the reality, which the theory or the discourse may be articulating a certain historical context, the uniform application of it across several eras of Time and geographies has been a concern as also highlighted in the treatment of the Tibetans by the Chinese after the signing of the seventeen point agreement. The seventeen point agreement instead of granting the basic rights and freedoms to the Tibetan people rather resulted in furthering the unjust cause of Chinese colonialism inside Tibet which continues even today, till this day.

### **3.1.3) Social Contract Theories**

Thus as the evolution of the bill of rights indicates, that people as a collective and their collective consciousness has been the major splinter for the Glorious revolution in England which gave birth to a document which in the true spirit cherished the protection of the rights and the liberties of the people. The glorious revolution also remains pivotal in the larger discourse of political theory and political philosophy. Philosophers such as Hobbes and Locke vigorously supported their own ideological positions through a detailed analysis of societies of their times and by providing a

certain hypothesis for justifying their ideological position. Thus as stated earlier, Locke had sided with the parliamentarians and had sought to justify the dominance of the parliament on the monarchy, Hobbes on the other vigorously sided with the King and discerned that the basic human nature did not allow for the kind of democratic institution of the polity that the revolutionaries were seeking to build<sup>181</sup>.

Thus one of major discussion as far as social contract theories and their relation with Human Rights is on the distinction between the natural rights and the legal rights. Natural rights are those inalienable rights which cannot be, under any circumstances be taken by any institution may it be a state, family or a non state actor<sup>182</sup><sup>183</sup>. While legal rights are those rights which are granted to the people through what would be called as a social contract. At the onset, the social contract theories of Hobbes and Locke are in stark contrast. Hobbes highlights the idea of state of nature where man is extremely selfish and is seeking to protect his own natural rights, the state of nature is permanently also in a state of competition and essentially this leads to the violation of rights for the people leading the people to finally give up some of their natural right to the sovereign who rules over them and in turn grants them protection<sup>184</sup>.

Both Hobbes and Locke in their framework of the Social Contract historicize the society through the notion of the State of Nature. And essentially it is from the State of nature that begins the discourse of social contract where in the end they seek to justify the nature of authority that governs the people.

As far as the state of nature is concerned, Locke has a more favourable view or an optimistic view of human beings in the state of nature. He considered humans to be essentially good. He asserts in the Two Treatises on Government that men lived peacefully with a rational bent of mind, and the state of nature lacked any divine ruler who ruled over them. Thus there is a tilt towards rationality in an era where divinity was still an influential idea that guided the actions of the people. Essentially in the

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<sup>181</sup> O'Toole, John Winfred. "The Right of Revolution: An Analysis of John Locke and Thomas Hobbes' Social Contract Theories." Boston College University, 2011. <http://hdl.handle.net/2345/1940>.

<sup>182</sup> Pound, Roscoe. "Legal Rights." *International Journal of Ethics* 26, no. 1 (1915): 92–116.

<sup>183</sup> Hamburger, Philip A. "Natural Rights, Natural Law, and American Constitutions." *The Yale Law Journal* 102, no. 4 (1993): 907–60. doi:10.2307/796836.

<sup>184</sup> Hobbes, Thomas. *Leviathan: With Selected Variants from the Latin Edition of 1668*. Hackett Publishing Company, 1994. pp. 77

state of nature, the people enjoyed great degree of freedom, there also did not exist any amount of discrimination between people thus there was a great degree of equality and each individual was independent in his or her own right to exercise his action according to his own rational will<sup>185</sup>.

On the other hand, Locke and his analysis of the state of nature isn't presented merely as a hypothesis but rather as a clear framework wherein there is a certain belief that evokes in its real life relevance though no clear examples have been cited.

As far as Hobbes and his conception of the state of Nature is concerned, Hobbes associates humans with negative values such as greed and selfishness and thus asserts that in the state of nature, humans are highly obsessed with their own natural rights and for the same right they are constantly in a state of conflict since every individual is seeking to maximize his or her own right and freedom. Therefore in the state of nature for Hobbes, Humans display a certain degree of brutishness which paves the way for a ruler who would take away some of their natural rights and in return grant them certain legal rights which would thus assure the security of all in the society. One of the key sentiment that Hobbes highlights, which is pertinent and prevails across all people in the state of nature is the gross distrust among people at large. It is essentially because of the distrust between people that there is abundance of conflict as every single actor in the state of nature is insecure. To a certain extent, a certain interpretation can be that the abundance of freedom and the exercise of natural rights has such a consequence which leads to a scenario where the people unite to relinquish their natural rights in favour of security. The emergence of the sovereign ruler isn't a cause of concern as far as a peripheral reading of the Hobbesian social contract is concerned, but it has several layers of understanding and assertions which generate greater questions on the issue of civil liberties and the rights of the people. According to Hobbes, owing to the fact that people in the state of nature cannot efficiently govern themselves, thus the sovereign who seeks to govern across all people is the custodian of ultimate authority, the authority and the power of the sovereign is unquestionable and no entity can challenge the might of the sovereign ruler since, through the contract, the people have already give away their rights to the sovereign.

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<sup>185</sup> Simmons, A. John. "Locke's State of Nature." *Political Theory* 17, no. 3 (1989): 449–70, Locke, John. *Two Treatises of Government*. for Whitmore and Fenn, and C. Brown, 1821 pp.189-99

Though there is also a provision of freedom for the individuals in those realms of the society where the sovereign does not interfere. In such arenas the people exercise their natural rights and freedom.

As far as the state of Nature for Locke is concerned, it is more an optimistic perspective of human beings and their instincts. Locke conceptualizes humans in the state of nature as peaceful and while they enjoy several greater natural rights in the State of Nature they yet continue to be obligated to each other and do not violate the rights of others. Yet as it is a characteristic feature of human existence, there are also conflicts that happen between them and thus there felt the need to arbitrate over these conflicts in a non partisan manner. The recourse to non partisan adjudication in the matters of conflicts was sought through a collective organizing of all who formed a part of the society in the state of nature to come together to form a civil society or a commonwealth. Thus the civil society was formed as part of the need for a Judge, who could adjudicate and impartially grant justice since to the core of Locke's idea laid the stress of life, property and liberty. Thus the formation of a civil society or a civil government wasn't a direct need of the people but rather was a result of the greater need to protect life, property and liberty since improper and partial adjudication can lead to increase in conflicts and thus further damage to the these vary freedoms and rights which are natural. Of course after the formation of the civil government or the civil society, in return for the several natural rights that the people gave away, many rights and freedoms were granted back to which can be termed as Legal rights yet the what preceded the; legal rights, according to Locke are the natural rights and the entire discourse of Lockean social contract is dedicated to the protection and the cherishing of the natural rights.

Thus apart from Locke, a major and one of the most prominent exponents of the social contract theory has been Jane Jacques Rousseau. The very mention of Rousseau is reminded one of the famous words "man is born free, but everywhere he is chains"<sup>186</sup>. Thus as one of the key influential personality who also influenced the French Revolution, Rousseau also contributed to the idea of the Social Contract. In his famous work titled as the Social Contract<sup>187</sup> itself, Rousseau based his observations and hypothesis on his justification of institutions and the reasons for the

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<sup>186</sup>Rousseau, Jean-Jacques, and G. D. H. Cole. *On the Social Contract*. Courier Corporation, 2003.

<sup>187</sup> Ibid

people to grant their consent for several obligations that they adhered as part of the social contract.

Thus as far as Locke and Hobbes are concerned, as stated earlier, the stress is largely on the state of nature while for Rousseau and his conception of the social contract, the stress is laid on the idea of the General Will. Essentially it is on the basis of the General will of the people that they have agreed onto that the State of the ruler finds the legitimacy. Thus one can say that the general will is the custodian of the legitimacy which the people grant to the ruler.

While the idea of General Will finds resonance in several of his works as a category of analysis yet it has been closely deliberated upon in his work *The Social Contract*. Rousseau as a thinker is seen as a strong defender of the freedom and the liberty of the people who are oppressed under conditions of inequality and social stratification. The very idea of Liberty saw its emergence during the time of Rousseau thus in that context, Rousseau and his discourse remains pivotal for the overall emergence of the Human Rights discourse. Therefore in Rousseau's work also one finds the framework of the State of Nature being employed to analyze the human nature, as individuals, or rather as group of individuals, in Rousseau's state of nature, the individuals are still in a harmonious state where they enjoy a kind of freedom which is beyond the bounds and the chains of any authority. There are layers of understanding, as far the notion of freedom for the individual in the state of nature is concerned. On one hand Rousseau provides an insight into what can be called as the exterior freedom which is inclusive of the social and the political freedom, where the institution or any kind of stratified entity has not embarked onto. This freedom is a general theme in the social contract theories of Hobbes and Locke and even in contemporary times the exterior freedom that Rousseau talks about is the central concern for the civil society activists, world government, non state actors and also philosophers of the idea of freedom and liberty<sup>188</sup>. Yet, the uniqueness of the social contract theory of Rousseau is reflected in the second notion of freedom. Rousseau delves upon the idea of a certain holistic freedom that Man enjoys in the state of nature, the holistic freedom comprises of interlinked arenas, which constitute the total idea of freedom. Thus for Rousseau, the source of true freedom is internal to the human mind and not merely external that

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<sup>188</sup> Dent, Nicholas. Review of *Review of Rousseau's Theory of Freedom*, by Matthew Simpson, November 9, 2006. <http://ndpr.nd.edu/news/rousseau-s-theory-of-freedom/>.

relates only to the exterior realms of human action and expression<sup>189</sup>. The internal roots of the holistic freedom, as one may call it lie in the individual attaining freedom from the material pleasures and pursuits of life. Thus this notion of freedom is related in some ways to the Buddhist idea of freedom which also seeks to liberate man from attachments and greed. Rousseau also deliberates on a similar idea though he does not offer a religious explanation as the Buddhist philosophy does so<sup>190</sup>. Therefore to a certain extent, Rousseau asserts that Man in the state of nature enjoyed great degree of freedom because man was capable enough to liberate himself from the attachments in life, it was essentially because of the unlimited wants and the subsequent material and bodily needs that Man and his existence remain chained in the clutches of coercion and slavery. Ultimately Rousseau's core focus in his theory of the social contract has been on the framework for the emergence of a society which cherishes nothing but the idea of freedom. Rousseau in the social contract also offers a fourfold classification of freedom, he asserts that there are four types of freedom and upon realization of all the four notions of freedom a society or the collective of the people is free, these four freedoms include the idea of natural freedom, the notion of democratic freedom, the idea of civil freedom and the moral freedom. This notion of freedom also has certain negative connotations, one of them being the prevalent belief that natural freedom is largely about freedom, that man or the individual has to pursue his actions according to his free will. The state of nature lacked any authority or any force to put any restrictions on the natural freedom that man enjoyed. Thus when the contract in the social contract is reached upon, it is reached in a way that the people agree to surrendering the natural and the unbounded freedom that man enjoyed. The freedom without any bounds is given away for what could be described as a certain legal right which grants greater degree of liberal space or liberty to the individual. Thus essentially in the realm of natural freedom, the second stage in the process of the evolution of the post contract society is the coming of bounds yet those which grant liberty, thus liberty replaces freedom or one could say the vast arena of freedom

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<sup>189</sup> Yenihançer, Çağlar. "The State of Nature: Thomas Hobbes and Jean Jacques Rousseau." Accessed January 6, 2016. [http://www.academia.edu/3531858/The\\_State\\_of\\_Nature\\_Thomas\\_Hobbes\\_and\\_Jean\\_Jacques\\_Rousseau](http://www.academia.edu/3531858/The_State_of_Nature_Thomas_Hobbes_and_Jean_Jacques_Rousseau).

<sup>190</sup> Perkins, Jean A. *The Concept of the Self in the French Enlightenment*. Librairie Droz, 1969. pp.117



acquires certain bounded nature and is bounded into a certain juridical-spatial conception.

In Rousseau and his larger conception of freedom one finds, as the earlier paragraphs indicate on the idea of second freedom that a great deal of stress had been laid on the introspective self<sup>191</sup>. Man in Rousseau's social contract in general is possibly portrayed as a thinking individual who possesses a conscience which also shapes his internal and the external worldview. It is essentially from the self within that emerges the idea of the Will. In modern parlance, the dominant perception surrounding the idea of will largely relates to a legal document asserting a right to an entitlement, in Rousseau's idea of the General Will, the notion of individual will seems more like a dialogue between the inner and the external self. Thus the General will is the sum total of all individual wills, the individual will is the one where the individual has offered his consent through his own individual will to abide by the dictums of the law of the land. The willingness on the part of the individual is easier to attain simply for the fact that the General Will is reflective of the individual's will as well. Thus the general will may not reflective every single issue that every individual has raised in his or her own will yet it relates largely to the collective will of the people and society at large. Thus the resultant legislation that emerges in any society which has conceived a General Will shall automatically be borne out of the General will itself. As all contractarian theories have been, the idea of the General Will also is more a hypothesis than an entity with any practical applicability or significance for the fact that Rousseau imagines people as part of the collective as extremely harmonious beings who are welcoming of the general will in totality, because after all as diverse as human are, so are their aspirations, ideas and ambitions and thus no single document can ever fully represent will of every citizen or no single agenda can be considered as the agenda relating to all people in society though one can concede that possibly right to life, that is one's own right to life is the only agenda which could be part of the general will that applies to all in the society. Thus the idea of General Will also echoes the hypothetical nature of Rousseau's theorization. Yet Rousseau sought to offer a realistic alternative to the polity of his times and in doing so he made every

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<sup>191</sup> Abbs, Peter. "The Full Revelation of the Self: Jean-Jacques Rousseau and the Birth of Deep Autobiography | Issue 68 | Philosophy Now." Accessed February 7, 2017. [https://philosophynow.org/issues/68/The\\_Full\\_Revelation\\_of\\_the\\_Self\\_Jean-Jacques\\_Rousseau\\_and\\_the\\_Birth\\_of\\_Deep\\_Autobiography](https://philosophynow.org/issues/68/The_Full_Revelation_of_the_Self_Jean-Jacques_Rousseau_and_the_Birth_of_Deep_Autobiography).

attempt to make his discourse practically applicable, and thus in order to generate an all encompassing general will that is holistically reflective of all individual wills, he in some his works also suggested certain methods of socialization that would create greater fraternity amongst the people that would help in the creation of individual wills which would echo the same or similar concerns relating to all people in the society which would then be accommodated in the General Will, thus solving the problems of division with regards to the acceptance of the general will since due to the socialization methods, a certain consensus based society and polity has already been created.

Thus the argument that Rousseau seeks to put forward is the fact that it is through the appropriation of the General will by the state in the law making that is leading to the constitutional and legal empowerment of the citizenry since the law makers in the social contract theory of Rousseau are essentially the people themselves.

Thus the schema of how the general will is created and how every actor in the social contract has a role to play, can be interpreted in terms of the fact that the generation of the general will and the emergence of a will is a constant process of what can be referred to as the consciousness building exercise.

Thus as Affeldt asserts in his long article on Rousseau and his notion of freedom that The Social Contract as a theory does not merely focus on the end which is emergence of an egalitarian society on Rousseauan paradigm but rather also on the “process” that’s leads the society and the people to this stage. Rousseau rather offers a clear framework of how the transformation happens<sup>192</sup>.

Thus the social contract theories in general and especially those of Hobbes, Locke and Rousseau clearly articulate a certain vision of a society where to the core lie the protection of the rights and the liberties of the people. In all the three conceptualizations of the social contract, namely by Hobbes , Locke and Rousseau there is a general stress on the idea of Natural rights and Natural freedom and how while entering into the contract, in some form or the other, depending upon the philosophical articulation, are given up for attainment of civil or legal rights in return.

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<sup>192</sup> Affeldt, Steven G. “The Force of Freedom: Rousseau on Forcing to Be Free.” *Political Theory* 27, no. 3 (1999): 299–333.

### **3.1.4) Declaration of Rights of the Man - 1789**

Thus another major document which is referenced as a pivotal discursive instrument as far as the history of human rights discourse and its implementation is concerned, is the French Bill of the rights of man and the citizen. Hence as the social contract theories of Locke, Hobbes and Rousseau in particular deal and deliberate with the idea of the Natural right which is universal in nature irrespective of any or every context, in the same light, the French constitution cherishes these very basic natural rights and prioritizes in their protection. The Bill of the rights of man and citizen in a way accrues a legal and juridical legitimacy to the idea of the protection of the natural rights of man.

However the idea of the legality of natural rights remains a dominant theme as far as the document is concerned and along with the legality of the rights and granting of the legal protection to the natural rights, the declaration is also influenced by the ideas of the Enlightenment era. French Enlightenment philosophers included Voltaire, Rousseau and Montesquieu.

So while Rousseau through his social contract helped to imagine an ideal world where the men themselves gave the consent to be free and where the state apparatus is a result of the will of all men, Montesquieu as a revolutionary philosopher of the French enlightenment era sought for a distribution of powers within the state. Thus the theory of the separation of powers is a result of Montesquieu's work on the idea of freedom and how it can be best protected when the power itself is separated across several different institutions rather remaining in the hands of any one single sovereign ruler who exercises enormous control over the people.

Therefore the bill of rights as a document largely articulates the values of the enlightenment era whereby the enlightenment was marked by the rise of a belief in the idea of rationality and human intelligence. The major stress as far as the social and the political thought of the enlightenment era are concerned was on the institution of religion and its relationship with the state. The enlightenment according to many authors was also a reaction against the religious dogma that had plagued the European societies and the culmination of it marked the beginning of greater faith in reason and human spirit rather than the dominance of the divinity and the clergy. As the state was no longer a "march of the god on earth"<sup>193</sup> and the ruler no longer had a divine

consent to rule over the people, and essentially in such a scenario France was faced with a similar challenge in terms of the bourbon family continuing its dynastic rule over the people, the monarch being Louis XIV.

Thereby among the several works that emerged during the Enlightenment era, *The Spirit of Laws* by Montesquieu was one among the most prominent. The book reflected Montesquieu's ideas on the nature of laws and essentially how laws should be framed by the states in order to govern<sup>194</sup>. While some other major influential political philosophers of the Enlightenment era were those who based their discourse on the contractarian tradition, Montesquieu was not essentially a contractarian philosopher, he rather stressed more on the nature of state apparatus, the rule of law and the idea of liberty and freedom. In this sense, Montesquieu deliberated largely on the rationale reality of liberty and freedom and how they could be best ensured, while in comparison, Rousseau offered rather a hypothetical vision of a utopian society in terms of a society guided by General Will, and the elaborate process of the emergence of the general will itself. This is not visible in the ideas of Montesquieu and also in the bill of rights which appropriated Montesquieu's idea. Thus as far as the Bill of Rights is concerned, the nature and its attire is reflective of the French society which was up in the struggle in the French Revolution. It is also an undeniable fact that the extremities of the French revolution cannot be ignored and are a blot on any civil society, yet the success of the French revolution can also be measure by the emergence of the bill of rights that stood to protect the rights of the people essentially by incorporating the theory of the separation of powers as devised by Montesquieu. Therefore, in the spirit of laws, Montesquieu argued for a complete separation of powers and was not in favour of there being only one single institution that would assume complete power in the society. He clearly sought to challenge the centralization of the exercise of power<sup>195196</sup>. Thus after the glorious revolution in England, the English constitution underwent several changes. The English monarchy saw the reduction of powers and the English parliament became more powerful than before. In that context, Montesquieu was largely influenced by the English model, he

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<sup>194</sup> Montesquieu, Charles de Secondat, Baron de. *The Spirit of Laws*. Library of Alexandria, 2015.

<sup>195</sup> Krause, Sharon. "The Spirit of Separate Powers in Montesquieu." *The Review of Politics* 62, no. 2 (2000): 231–65.

<sup>196</sup> Montesquieu, Charles de Secondat, Baron de. *The Spirit of Laws*. Library of Alexandria, 2015. Chapter 20.

considered it an ideal form of government and governance in terms of the fact that there existed proper checks and balances between the several institutions. No single institution was allowed to become all the very powerful. While Montesquieu's favourable view on England was also largely influenced by his own experience of living under the despotic French regime of Louis XIV and Marie Antoinette<sup>197</sup>. So while Montesquieu was against the supremacy of any one single institution, he also opposed the purposeful weakening of any one single institution as well, for he believed that every influential institution in the state apparatus kept a check on the exercise of power and thus institutions should not be weakened but should only be strengthened. He also argued for the relevance of the local conditions as far as the preparation of the laws was concerned, it is widely clear that he also admired the societies of the east and thus certain aspects of laws which were considered as regressive or incomprehensible were according to Montesquieu, shaped by the local conditions and the laws were such that they had adapted to the local conditions.

Therefore, the French bill of Rights has sought to embark upon the ideas of Montesquieu also by assuring the protection of rights and granting of freedom to the people in a limited sense, one can say, as far as Montesquieu and his views are concerned because, even while Montesquieu is not considered as a contractarian philosopher yet his ideas of liberty also emerge from his view and perception of the state of nature. In the state of nature, according to Montesquieu, man exercised great degree of freedom which was boundless freedom and thus man resorted to killing one and the other for seeking greater benefits power and control. Thus the state of nature according to Montesquieu was characterized by a state of war wherein people largely remained in a state of conflict with each other. Thus because of the traumatic effects that the state of nature and the extreme exercise of freedom had on the people that they decided to be a part of the collective in order to acquire several legal rights which would in turn help them in protecting themselves from the state of war. Thus for Montesquieu, the idea of Liberty is about the predominance of the laws which guide human conduct and in turn protect the people from violence. It could be asserted as a negative notion of Liberty for the fact that Montesquieu has built the notion of Liberty on a negative perception of human nature in the state of nature. Yet if one looks into the extreme form of violence that took place during the French revolution one could

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<sup>197</sup> Montesquieu, Charles de Secondat, Baron de. *The Spirit of Laws*. Library of Alexandria, 2015. Book IX, Chapter 6

well assert that the theme of violence and the transition from a violent society to a peaceful liberal society through the supremacy of the laws in the works of Montesquieu remains relevant and his ideas are rightfully justified. Chronologically also, the Bill of Rights was adapted after the French Revolution, after the grim phase of the violence that guillotine committed on the people and its opponents thus in that sense, the emergence of the Bill of Rights of Man justifies the doctrine of Montesquieu.

Hence the major stress as far as the Theory of Separation of Powers is concerned, revolves around major institutions such as the Legislature, Executive and Judiciary. The difference in the role of the Executive and the Legislature is of relevance in terms of the duties that they perform<sup>198</sup>. Montesquieu held the view that if the legislative and the executive powers are concentrated in the hands of any one single organ or an institution then there is a risk of the emergence of a tyrannical government which would seek to undermine the liberty of the people. This largely relates to the protection of human rights of the people that if the law maker and the guardian of the freedom are one, then in the case of conflict a person may be left with no viable option to challenge the unjust laws and actions of the state. On the other hand, the major institution that seeks to protect the rights and the liberties of the people against adjudicates in case of conflict between and among people, or between the state and the people in the judiciary. In an ideal democracy the Judiciary is vested with the power to interpret laws, and offer judicial guidance and review and acts as the custodian of the laws yet in the spirit of laws, Montesquieu asserts that if the Judicial and the Legislative powers are rested with one single entity, then again that would be a compromise and an annihilation of the rights and the liberties of the people for the fact that in such a scenario, there would remain only a marginal difference between the institution or the individual that makes laws and the one who interpret it. In many cases, several ordinances passed by the executive or some laws passed through an arbitrary legislative tenor have been declared unconstitutional by the Judiciary, in countries like the United States the Supreme Court has declared several legislations and the orders by the government as unconstitutional on several occasions. On the other hand it may also happen that the power to arbitrate over the disputes and also the power to administer and execute the laws are rested with on single person on an

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<sup>198</sup> Krause, Sharon. "The Spirit of Separate Powers in Montesquieu." *The Review of Politics* 62, no. 2 (2000): pp. 237

organ of the state in such a scenario the exercise of protecting the rights of the people again suffers a major setback. Since those who implement the law also become those who arbitrate over the disputes concerning the implementation of the law. In several cases concerning the civil liberties of the people and activists in particular, in authoritarian regimes, it is the military tribunal which hears cases of human rights violation by the armed forces and this leads to blatant denial of proper justice to the people. Under the imposition of the martial law in Tibet, the Peoples Liberation Army remains the law enforcer and also the arbitrator ultimately denying the basic legal rights to the people inside Tibet. Ultimately Montesquieu also deliberates upon the situation wherein all the three powers mainly the power to make laws, the execution and the implementation of the laws and the power to arbitrate over the laws being rested in the hands of any one single organ or the institution, this leading to a scenario where totalitarianism flourishes. Thereby, the authority of the institution of the organ or any entity within the state, a collective or the individual that usurps such indefinite and boundless powers is infinite in nature. Therefore from Montesquieu's framework, various insights into what constitutes authoritarianism are derived. Separation of powers and its integral association with the idea of human rights is thus highlighted by the grim nature of all the three situations which have been discussed above and essentially the need for separation of powers is highlighted in terms of the tyrannical standpoint that the state may take, in case of the absence of the same.

Albeit, taking a rather practical and realist perspective, Montesquieu also deliberates on human nature and the use of power, he largely believes in the synonymous coexistence of the use and the abuse of power. Thus one who ushers into a position of power is sure to also abuse it and thus the check on the abuse of power is only through the balancing of power. Thus while this section deliberates largely on Montesquieu, it should be asserted that as a philosopher of Liberty, his ideas have greatly helped in taking forward the cause of the human rights discourse and thus it remains important to throw light on his ideas while deliberating upon the emergence of human rights. The association between the Bill of Rights and the philosophy of Montesquieu is an interesting one since it is an appropriation of philosophical thought for practical governance and guidance. Thus at a time when critiques are questioning the relevance of philosophy and the philosophical discourses and in an era where the funding for humanities is on the decline, globally, documents such as these speak volumes about the continued research in the field of philosophy and humanities.

Another major influential philosopher who also influenced the ideational framework of the French Bill of the Rights of Man was Voltaire. He was a French philosopher and was considered as a thinker and a writer who supported the cause of civil liberties of the people and a strong advocate of religious freedom.

Voltaire's writings have largely been satirical in nature, despite being a strong advocate of social reform and a critique of the dogmas in the society, he also criticized the philosophical optimism of Leibniz in his works<sup>199</sup>, Leibniz was a strong advocate of theology and his philosophical optimism acted as an apologist for the problems that man faced in the world, in his writings, Leibniz through his philosophical optimism sought to defend the world as it existed and as a strong believer in the existence of God asserted that this was the world created by God<sup>200</sup>. It was thus in 'Candid' that Voltaire remains at his satirical best to critique philosophical optimism at large<sup>201</sup>. Thus rather than merely a philosopher, his works fall under the larger strand of Polemy, whereby it largely deliberates on the nuances of the relationship between religion and society in an extremely vociferous manner. Voltaire is best known for his fierce support for the freedom of religion and is also thought to have opposed the dominance of the catholic religion during his time. Major rights that Voltaire strongly endorsed for included certain civil and religious rights such as the right to worship any god as per the choice of the people, and he also considered judiciary as an important component of the state and for that he argued for the right of the prisoner and all citizens for a fair trial. As a writer and especially as a polemist he largely talked about controversial issues which would upset the ruling elite, the class of the clergy and the aristocrats and thus he exercised at will his freedom of expression, through his writings and thus he also laid stress on the granting of the same freedom to the people at large and making freedom of expression as an integral right.

Voltaire argued for the establishment of a constitutional monarchy. His notion of an ideal included an enlightened Monarch who would act upon the advice of enlightened philosophers. Though Voltaire is seen to be a defender of the freedoms of the people, yet, he necessarily did not favour the idea of the establishment of a democracy.

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<sup>199</sup> Voltaire. *Memnon, the Story of a Young Philosopher's Folly*, 1931.

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<sup>201</sup> Voltaire. *Candide*. Simon and Schuster, 2014.



There were two occasions when Voltaire had to seek exile in England. Thus as Montesquieu admired the inherent separation of powers in the British constitution, Voltaire also admired the British institutions, though the major cause for admiring the British for his was the presence of great degree of freedom of expression in England. The Tolerance Act of 1689 allowed greater freedom of expression to all citizens including politicians, writers and artists. Thus this aspect of the lack of censorship in Britain captured Voltaire's imagination to the extent that he is today known as one of the most emphatic defender of the freedom of expression. It should also be noted that Voltaire had faced several charges of sedition while he was in France for his emphatic writings that criticized the state of affairs<sup>202</sup>.

And thus as stated earlier, he also opposed the dominance of the Catholic religion in France and his critique was further strengthened by his experience in England. In England he witnessed the existence of a multi faith society where no single denomination dominated though Catholic religion faced several challenges in England after the Glorious revolution. Thus the diversity of religions in England also appealed to Voltaire and he became a strong adherent of religious freedom of the people, which he believed was missing in France. It was thus his experience of England which strengthened his polemical outlook.

Thus like in the works of Rousseau, one finds a strong dislike for the existence of the class system, as far as Voltaire is concerned he too opposed the existence of class based stratification in the French society and was a critique of the French aristocrats who exploited the other classes along with the monarchy. Therefore, the Bill of the Rights of Man essentially also reflected the ideas that Voltaire endorsed. As a charter of rights, the Bill granted great degree of freedom of religion to the citizens and also removed the obstacles to the freedom of expression that existed in the French society before the French revolution.

<sup>202</sup> Davidson, Ian. *Voltaire: A Life*. Pegasus Books, 2012., "Voltaire (François-Marie Arouet) > By Individual Philosopher > Philosophy." *The Basics of Philosophy*. Accessed August 28, 2016. [http://www.philosophybasics.com/philosophers\\_voltaire.html](http://www.philosophybasics.com/philosophers_voltaire.html)., "Voltaire." *Biography.com*. Accessed July 10, 2016. <https://www.biography.com/people/voltaire-9520178>.

Thus for the French, the Declaration of the Rights of Man meant what James Harvey Robinson describes as a document which formulated the principles of government, which were much needed for the regeneration of the nation<sup>203</sup>.

Hence the principles that it laid down, as authored by Marquis de La Fayette who played a key role in the American revolution, and who sought inspiration from the Declaration of Independence of America, authored by Thomas Jefferson. Therefore the very first principle of the French Declaration resonates with the ideas of Jefferson where it seeks to assert to say as per Article 1 that ‘All men are born free and remain equal in rights<sup>204</sup>’. This single clause of the article expresses the immense belief that Le Fayette had in Thomas Jefferson and in the American Revolution where the French involvement was hugely instrumental. It is also believed that La Fayette’s closeness with the American revolutionaries was such that he considered George Washington, the first President of the United States of America as his Father. Therefore the first clause also eliminates the class distinctions that existed in the pre revolutionary France by asserting upon that fact that no social divisions should exist unless they ensure the general good of all.

The second article of the charter also seeks to assert upon the idea of human rights in a rather strongly worded phrase asserting that the rights of man are ‘imprescriptible’ which means that they are subject to no negation at any point of time. The second article also asserts that all association that takes place of the collective with a political aim, the central concern of them should be the protection of the rights of man. This clause puts the idea of the protection and the legitimacy of the human rights at the core of not only the juridical exercise but also it places the rights as the central concern for the statecraft<sup>205</sup>.

Another major article of the Declaration which directly deliberates on the notion of natural rights and preservation of them is the Article Four of the Declaration. It describes the idea of Liberty in seeking to assert that Liberty is Freedom. Hence it is considered as that freedom which is the freedom to act without any coercion and also the tentacles of the action being limited in the sense that the act should not in any

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<sup>203</sup> Robinson, James Harvey. “The Tennis Court Oath.” *Political Science Quarterly* 10, no. 3 (1895): 460–74. doi:10.2307/2139955.

<sup>204</sup>“Avalon Project - Declaration of the Rights of Man - 1789,” 1789.[http://avalon.law.yale.edu/18th\\_century/rightsof.asp](http://avalon.law.yale.edu/18th_century/rightsof.asp). Article 1

<sup>205</sup> Ibid Article 2

manner hurt any other entity. Within this scope and arena, one could exercise endless freedom and act upon their will. Essentially the arena means what the constitution describes as the law which sets limits to the exercise of this freedom or liberty<sup>206</sup>.

The sixth article of the declaration draws parallels with the ideas of Rousseau. It refers to the idea of the General Will the article asserts that the law is after all an expression of the General Will, a direct borrowing from the ideas of Rousseau in his social contract, as discussed above. The article further asserts that every citizen is equal before the law and the law also views them all equally, this is another major reference to the ideas of Rousseau and Montesquieu who stood against the class system that existed in France in the pre-revolutionary era<sup>207</sup>.

As far as the rights of the people from arbitrary arrest are concerned, the Article seven of the article also asserts upon it by stating declaring arbitrary arrest as illegal while also stating In clear terms that when the citizen is warranted for an arrest, the surrender is the duty of the citizen as the declaration considered that the opposition in a situation during an arrest will be considered as illegal<sup>208</sup>.

The major reference to Montesquieu's idea of religious tolerance is found in the article 10 of the constitution<sup>209</sup>. The great defender of secularism that Montesquieu remained, article grants full protection to the people as far as their religious belief and opinions are concerned. Hence another prominent idea that Montesquieu cherished was essentially on the freedom of expression for the activists, intellectuals, artists, authors and the press and thus the article 11<sup>th</sup> of the constitution aptly seeks to protect the freedom of expression of the people by guaranteeing them of the fact that no people would be arbitrarily harassed or targeted by the state for the sake of their opinions which they express<sup>210</sup>. Similarly the article also contends that those who opine shall also be held responsible for that they assert and the freedom to expression would be limited and directed by the law. So one still finds a certain involvement of the law in mitigating what is expressed as far as the act of expression is concerned.

One of the major reason for the outbreak of the French revolution was the exorbitant taxes that were being levied upon the people by the monarchy, this created a massive discontent and unrest among the people who then revolted against the monarchy, thus

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<sup>206</sup> Ibid Article 4

<sup>207</sup> Ibid Article 6

<sup>208</sup> Ibid Article 7

<sup>209</sup> Ibid Article 10

<sup>210</sup> Ibid Article 11

even as far as the enlightenment thinkers are concerned, they too opposed the arbitrary taxation that was imposed on the people by the monarchy, and therefore the article fourteen of the declaration asserts to levy taxes only as per the capacity of the people and not arbitrarily, what taxes and the quantum of the taxes was to be decided by the people in accordance with the law.

Thus one of the most important lines that form a part of the declaration are supposedly a part of the article sixteen of the constitution which assert that “a society in which observance of law is not assured nor the separation of powers defined, has not constitution at all<sup>211</sup>”. These lines essentially echo the sentiments of the French Revolution and the very need for the revolution where the erstwhile system was replaced with a declaration such as this. It also captures the imagination of philosophers such as Montesquieu, Voltaire and Rousseau in order to ensure a state that would embark on the path of enlightened constitutionalism.

### **3.1.5) Anti Slavery and Slave Trade Acts**

One of the grimmest aspects of society at large, in the west and in the east has been Slavery. Since ancient times the practice of slavery has been omnipresent in several different societies. Thus this section presents an overview of several different legislation that have contributed to the abolition of slave trade and slavery globally . Slavery can be considered as one of the single largest form of human rights violations which has continued across the ancient, medieval and modern era. Several forms of human rights violations over time, with the passage of development have been eradicated, for example the practice of Sati in India, where the widow would be set on fire along with the deceased husband during the funeral was abolished through the emphatic activism by Raja Ram Mohan Roy and the British Indian Government, who introduced the Anti Sati laws<sup>212</sup>. Thus it was a practice that had been continued since ancient time in the Indian sub continent. Similarly the context and the setting determines the nature of slavery, slavery has several different forms, and largely the continent of Africa and its people have been the worst victims of slavery. Though in

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<sup>211</sup> Ibid Article 16

<sup>212</sup> Bayly, C. A. “RAMMOHAN ROY AND THE ADVENT OF CONSTITUTIONAL LIBERALISM IN INDIA, 1800–30.” *Modern Intellectual History* 4, no. 1 (April 2007): 25–41. doi:10.1017/S1479244306001028.

parts of Asia and Latin America, slavery has had been in practice. Thus one of the first anti slavery or anti slave trade legislation was introduced by Gaius Poetelius Libo Visolus in 313 BC in Ancient Rome. The form of slave trade which was abolished is widely referred to or has been described as Nexum. The system of Nexum essentially included a contract between two people, the person who lended the money or the wealth to the debtor and as per the terms agreed upon it meant that in an event of the debtor failing to repay the borrowed loan, then in lieu of the money that the debtor owed to the moneylender, the debtor would extend labour for the same. Thus the only critical inference that ought to be drawn as far as the nature of abolition is concerned is the fact that while the system of Nexum was abolished, the borrowers who were serving the moneylender as slaves were not liberated; they continued to slavishly labour for the moneylenders<sup>213</sup>. Apart from the example from the western world, there are instances from the east as well, where at varied points of time, anti slavery legislations or orders were passed by the ruling dynasties. Namely the Maryann Dynasty<sup>214</sup>, Qin dynasty and the Xin dynasty had taken steps to ban the practice of slave trade though in entirety they could not abolish slavery at large. Several countries then had different provisions that kept limiting the practice of slavery but it was only until the late eighteenth century that the anti slavery movement finally expanded as a major transnational movement that articulated the concerns for the oppressed people who continued to laboriously labour under the wrath of the slave owners<sup>215</sup>. Even the French revolution had an impact on the abolition of slavery in France. The National Convention briefly abolished slavery in 1794<sup>216</sup>. Britain which

<sup>213</sup> Long, George. "LacusCurtius • Roman Law — Nexum (Smith's Dictionary, 1875)." Accessed February 5, 2016. [http://penelope.uchicago.edu/Thayer/E/Roman/Texts/secondary/SMIGRA\\*/Nexum.html](http://penelope.uchicago.edu/Thayer/E/Roman/Texts/secondary/SMIGRA*/Nexum.html), Bradley, Keith, and Paul Cartledge. *The Cambridge World History of Slavery: Volume 1, The Ancient Mediterranean World*. Cambridge University Press, 2011. Chapter 15

<sup>214</sup> Ghoshal, U. N. "ON A RECENT ESTIMATE OF THE SOCIAL AND POLITICAL SYSTEM OF THE MAURYA EMPIRE." *Annals of the Bhandarkar Oriental Research Institute* 40, no. 1/4 (1959): pp.64

<sup>215</sup> Drescher, Seymour. "British Emancipation." In *Abolition: A History of Slavery and Antislavery*. Cambridge University Press, 2009.

<sup>216</sup> Schmidt, Nelly. "Slavery and Its Abolition, French Colonies, Research and Transmission of Knowledge," Vol. Collective Volume. Benin:1994. [http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Nelly\\_Schmidt\\_Eng\\_01.pdf](http://www.unesco.org/fileadmin/MULTIMEDIA/HQ/CLT/pdf/Nelly_Schmidt_Eng_01.pdf).

had occupied several territories across the globe as major colonizer, abolished slavery across all of its colonies in the year 1807 through the enunciation of the Slave Trade Act in the British Parliament<sup>217</sup>. Thus after the Slave Trade Act, another major legislation which helped in completely abolishing slavery in Great Britain and across all the regions that formed a part of the British Empire was the Slavery Abolition Act of 1833<sup>218</sup>. The Act prohibited the practice of slavery in all territories, except some places such as Sri Lanka and those which were controlled by the East India company, though even these geographies which got no respite in 1833, were liberated from the clutches of slavery ten years later in 1843 when the exception was removed from the legislation.

Thus the difference between the 1807 legislation and the 1833 legislation is in terms of the fact that while the earlier legislation prohibited slave trade, it did not bring relief to those who were already working as slaves, while the 1833 legislation then prohibited slave trade and also the practice of slavery in totality. Even the British Navy contributed to the movement against the practice of slave trade from 1807 onwards by its thorough scrutiny of the oceans where British ships carried the slaves from the African coast. The provisions of the 1807 act were such that it banned the use of any British vessel as far as the transport of slaves was concerned. The 1833 Slave Trade Act was preceded by the Slave Trade Act of 1824, though the act of 1824 was similar to the earlier acts that prohibited slave trade yet one of the major revision to the punishments which the act prescribed was a death penalty for those who engaged in the practice of slave trade. The punishment and the nature of punishment reflected, to a certain extent the effect of the abolitionism which was on the rise in the United Kingdom and it sought to severely pressurize the state to ban slave trade. The movement for abolition of slave trade was led by William Wilberforce. In his speech in the British parliament calling the slave trade as most wicked by asserting to say that “I confess to you sir, so enormous so dreadful, so irremediable did its

<sup>217</sup>“The National Archives | Exhibitions & Learning Online | Black Presence | Rights.” Accessed January 23, 2016. <http://www.nationalarchives.gov.uk/pathways/blackhistory/rights/abolition.htm>.

<sup>218</sup>“Slavery Abolition Act, 1833.” Accessed March 3, 2017. <http://www.irishstatutebook.ie/eli/1833/act/73/enacted/en/html>.

wickedness appear that my own mind was completely made up for the abolition<sup>219</sup>.” Thus in order to strengthen the then existing legislation on slave trade and slavery the Slave Trade Act of 1807 was passed by the British parliament. Finally the British parliament repealed the Slave Trade act of 1807 and added the Article 4 of the European convention of human rights in the British constitution.

Thus essentially slavery is linked to the imposition of material value to a human being. It can be described as the most extreme form of objectification for the extraction of labour from the human being. The expansion of sugar industry and other labour intensive industries in Europe and North America and some parts of South America which were under colonial occupation led to a massive demand for labourers who were forcefully captured in the African continent by some of the native African kings, Arabs and the European slave traders. While Arabs, Europeans and African slave traders have been largely criticized, as the novel ‘Dariyalal’<sup>220</sup> in Gujarati by Gunwant Rai Acharya reflects upon, even minor slave traders from the coast of Saurashtra and Kutch were involved in the capture of slaves in the east African coast, and this aspect of minor Gujarati colonialism remains an untouched area of research till this day apart from few novels such as Dariyalal.

In North America, the continent was largely divided between the North and the south, and as far as the abolitionist movement is concerned, there were two major ideological strands. One group of abolitionists identified and agreed to the views of Abraham Lincoln who advocated a slow and step by step abolition of slavery and on the other hand were those who demanded a radical and immediate end to slavery and slave trade. The early abolitionist movement in North America was dominated by those who had themselves keenly engaged in the practice of slavery. Some of the slave owners who also advocated for the ending of slavery are also considered one among the great libertarian thinkers of the time whose ideas of liberty and freedom are still in circulation. Hence one of the major voice for the ending of slavery and slave trade in north America was that of Thomas Jefferson who also influenced the writing of the French Declaration of the Rights of Man. Yet it is a grim fact that Jefferson

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<sup>219</sup> ‘Debate on Mr. Wilberforce’s Resolutions respecting the Slave Trade’ in William Cobbett, *The Parliamentary History of England. From the Norman Conquest in 1066 to the year 1803*, 36 vols (London: T. Curson Hansard, 1806-1820), 28 (1789-91), cols 42-68.

<sup>220</sup> Acharya, Gunvantrai Popatbhai. *Dariyalal*. Dictum, 2000.

himself was someone who had once owned slaves in his personal capacity<sup>221222</sup>. When he assumed office as a congressman and as an elected leader Jefferson's stand on slave trade and the practice of slavery was largely softened and less radical as compared to his stand during the time when he was a fearless activist who spoke eloquently against the slave trade and sought reforms to ban the practice. It is also believed that Jefferson while drafting the Declaration of American independence, had sought to ban slavery in the draft but it was not accepted by an influential section of the American revolutionaries and thus the ban on slavery does not find place in the original draft of the declaration.

It can thus be understood or asserted that human rights and the articulation of the cause for human rights by elected political leaders is largely dependent on their own political compulsions and not always the belief in the universality of human rights in every single context. Essentially the political class in states globally are entrusted with the power to govern the people and the cause of ensuring the rights and the duties of the people, sadly the nature of democracy is largely dependent in democracies on several factors other than merely the ideals of emancipation. Jefferson's stand on the issue of slavery in turn reflects the dominance and the influence of the American agrarian lobby which primarily had employed the slaves on their large farms, these groups of farmer's also exercised great degree of influence as far as the political mobilization was concerned along with the finances that they had hoarded. Several generations of American leaders feared the brutal collapse of the American farming industry if forced labour i.e. slavery was abolished. The nature of arming practice in America was such that it required large number of people to work on the vast farmlands, and in a country like the United States it was not possible to domestically fulfil this huge demand for labour so the way out was the trans-Atlantic slave trade. Though in the defence of Jefferson it can be said that he treated his slaves much better than other slave owners, and though he did own slaves, he still remained committed and vocal against the practice of slavery, consistently. Thus as William G. Merkel refers to David Konig in asserting that Jefferson appeared in the court as a lawyer

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<sup>221</sup> Finkelman, Paul. *Slavery and the Founders: Race and Liberty in the Age of Jefferson*. M.E. Sharpe, n.d. pp.192

<sup>222</sup> Wiencek, Henry. "The Dark Side of Thomas Jefferson." *Smithsonian*, October 2012. <http://www.smithsonianmag.com/history/the-dark-side-of-thomas-jefferson-35976004/>.



representing slaves who were seeking freedom on about six occasions. Thus as a jurist also, Jefferson continued to remain committed for the cause of abolishing slave trade and slavery<sup>223</sup>. Thus in 1807 Jefferson signed the Slave Trade Abolition Act. Though critiques of Jefferson assert that Jefferson did nothing for the rehabilitation of the freed slaves, neither were they granted full freedom to live as equal citizens in the united states and nor were they sent back to Africa. The act was not completely successful in ending the slavery in totality<sup>224</sup>. Yet in his speech during the passing of the act, Jefferson described slavery and the practice of slave trade as “violations of human rights”. Thus as far as the discourse of human rights is concerned, the passing of the legislation and these strong words by Jefferson indicate the grave nature of this phenomenon which had gone unaddressed for several centuries. Even while the enlightenment had a great impact on the discourse of human rights, the enlightenment thinkers never seemed vocal against the practice of slavery though it remained omnipresent across Europe and North America.

Amidst much of a polarized environment, between the Northern states of United States where abolitionism had gained considerable ground and the southern states of the United States of America where the Agrarian lobbies had consolidated to form a strong union in favour of the slave trade. During the time of Abraham Lincoln, America was polarized at the zenith where the southern states even declared to break away from the Union while the Northern states had started to ban slavery<sup>225</sup>. It took the iconic leadership of Abraham Lincoln to suppress the revolt in the south and in turn declare all slaves who slavishly laboured in the ten states that had started the revolt against America as free beings through the emancipation proclamation<sup>226</sup> which was directly ordered and passed by the President.

### 3.1.6) Geneva Convention

<sup>223</sup> Merkel, William G. “Jefferson’s Failed Anti-Slavery Proviso of 1784 and the Nascence of Free Soil Constitutionalism.” *Seton Hall Law Review* 38, no. 2 (n.d.).

<sup>224</sup> “The Act of 1807 - U.S. Constitution and Acts - The Abolition of The Slave Trade.” Accessed March 13, 2016. [http://abolition.nypl.org/essays/us\\_constitution/5/](http://abolition.nypl.org/essays/us_constitution/5/).

<sup>225</sup> Klinkner, Philip A., and Rogers M. Smith. *The Unsteady March: The Rise and Decline of Racial Equality in America*. University of Chicago Press, 2002. pp.20

<sup>226</sup> Lincoln, Abraham. “Emancipation Proclamation (1863),” January 1, 1863. <https://www.ourdocuments.gov/doc.php?flash=true&doc=34>.

The preliminary recipient of the Nobel Peace Prize was Henry Dunant, an entrepreneur who through his writings advocated for the cause of those soldiers who were wounded in wars. He sought for the establishment of a supra national mechanism that would act as an organized group which would help serve the soldiers who were affected because of the war.

Thus essentially Geneva Convention occupies a pivotal place in the history of human rights and humanitarian law. Several different conventions relating to war crimes and the rights of the citizens during the war like conflicts or the rights of health workers have been agreed upon by nations and these form a part of the Geneva Convention.

Thus Geneva Convention<sup>227</sup> is a conglomerate of a set of laws which form a part of the International Humanitarian Law. As stated earlier, the law designates certain key rights to the persons involved in the act of war. One of the major concerns that Geneva Convention raises is on the status of those who are wounded during the war or are captured by the enemy. While much of the discourse surrounding human rights is imagined in situations of peace and the protection of human rights is largely dominated by the state centric discourse where it is largely about how a state ensures human rights for its own citizens, yet the nature of concern that the Geneva Convention raises relates to an exceptional situation where there is a possibility of widespread human rights violations. The experience of the Second World War led to the enunciation of the Geneva Convention in order to protect the life and the dignity of the wounded soldiers and all those individuals who are involved in the war. This can be seen as one of the most extreme and pragmatic form of human rights protection. Apart from deliberating upon the treatment that should be meted out to the soldiers during the instance such as war or armed conflict, the Geneva convention also grants rights and proscribes the procedure of what the kind of treatment and decorum that ought to be observed while dealing with civilians during the times of war to ensure that innocent and ordinary civilians are not ill treated by the forces during the armed conflict.

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<sup>227</sup>“The Geneva Conventions of 1949 and Their Additional Protocols.” *International Committee of the Red Cross*, March 8, 2016. <https://www.icrc.org/en/document/geneva-conventions-1949-additional-protocols>.

Thus the history of the signing of the first Geneva Convention dates back to 1864<sup>228</sup>. The concern that the first ever treaty raised was with regards to the injured armed forces personnel's during the war. The signing of the first Geneva Convention took place essentially after the formation of the International Committee of Red Cross in 1863<sup>229</sup>.

Thus since the first Geneva convention was signed, in the years to come, it was ratified several different times in Geneva and also in Hague and finally the Geneva convention which remains operational today in the convention which was adopted in the year 1949. Hence there are four major conventions which form a part of the Geneva convention, each of which deal with different aspects of the protection of the human rights of the sick, injured and the ordinary people during the times of armed conflicts. During the signing of the first Geneva Convention, only land based armed conflicts were included, thus thereafter the first convention was amended and ratified to also include the naval conflicts.

Thus the first convention of the Geneva conventions<sup>230</sup> throws light on the rights of primarily injured soldiers and health volunteers who are in some way a part of the conflict, thus when they are injured or are into the war zone as health volunteers, the Geneva convention protects their rights by prohibiting the warring parties from attacking or committing violence against any of these personnel. While most importantly the Geneva convention even during an armed conflict which is very near to what can be ascertained as armed anarchy established a rule of law, a set of legal protection for those who are most vulnerable.

The second convention<sup>231</sup> that forms a part of the Geneva conventions argue for the protection of the soldiers who have been dislodged from their respective ships as

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<sup>228</sup> "Laws of War : Amelioration of the Condition of the Wounded on the Field of Battle (Red Cross Convention)," August 22, 1864. [http://avalon.law.yale.edu/19th\\_century/geneva04.asp](http://avalon.law.yale.edu/19th_century/geneva04.asp).

<sup>229</sup> Willemin, Georges, Roger Heacock, and Jacques Freymond. *The International Committee of the Red Cross*. BRILL, 1984. pp.19

<sup>230</sup> Willemin, Georges, Roger Heacock, and Jacques Freymond. *The International Committee of the Red Cross*. BRILL, 1984.

<sup>231</sup> "II GENEVA CONVENTION FOR THE AMELIORATION OF THE CONDITION OF WOUNDED, SICK AND SHIPWRECKED MEMBERS OF ARMED FORCES AT SEA OF 12 AUGUST 1949," August 12, 1949. [http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.31\\_GC-II-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocities-crimes/Doc.31_GC-II-EN.pdf).

result of the damage that may have happened to their host ship in case of a conflict at sea. Since the first convention was essentially about land based conflicts, the second convention ratified to include the rights of the naval forces. Therefore, the second convention also includes the rights of those ships which would carry health workers during the times of a naval conflict, prohibiting the warring parties from attacking the ships carrying medical supplies and medical personnel.

The Third convention<sup>232</sup> that took place in Geneva in 1949 is of monumental importance as far as the rights of people associated with an armed conflict such as war is concerned. For the first time, the third convention seeks to include the rights of the Prisoners of War. Thus while deliberating upon the nature of treatment that must be meted out the Prisoners of war, the Geneva Convention firstly deliberates upon defining the notion of who is considered as a Prisoner of War, essentially it seeks to assert an internationally agreed upon meaning to the term Prisoner of War. Thus according to the third convention, a Prisoner of War is:

- 1) Those people who belong to the army of the entity which is a party to the conflict. It also includes armed insurgents who maybe a part of an armed supra national organization and also health volunteers who are posted in the conflict zone by the respective army.
- 2) Those people who may belong to armed insurgency or rebel groups or those people who maybe volunteers from civil society organizations or those members who are a part of an organization that is leading a struggle against the warring party. These people may be functioning in the conflict either in their own territory, yet they ought to fulfill certain requirements in order to be called as Prisoners of war, these requirements include
  - 1) They have a recognized leader who takes the responsibility for the actions of his subordinates.

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<sup>232</sup> “III GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF 12 AUGUST 1949,” August 12, 1949. [http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.32\\_GC-III-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.32_GC-III-EN.pdf).

- 2) They should possess symbols which are such that they can be deciphered from a distance.
  - 3) They should openly carry arms and not secretly,
  - 4) And that they should have fought the war in tandem with the legalities that guide the conduct of war and armed conflicts.
- 3) Another major classification of a person as a prisoner of war relates to those members of the armed forces who adhere to any particular government.
- 4) The Geneva convention also recognizes those people who are a part of the armed forces as support staffers who are not soldiers by training or by profession but are rather engaged in non combatant works such as automobile repairers, cooking, communication line managers, health workers etc. if these workers possess the required authorization then they may be considered as prisoners of war, and the rightful treatment ought to be meted out to them.
- 5) The convention also recognizes those people who take up arms to fight against the army which is seeking to invade their territory, these may not be formal members of the army of the state but they still seek to defend the state. Thus the Geneva Convention seeks to protect such people as well.

Thus as per the third convention, the rights that it grants to the prisoners of wars include:

- a) In case of a person being captured as a prisoner of war, the interrogation by the captor should be formal and the Prisoner of war has the right to not reveal any information to the interrogators except his or her name, age, rank and service credentials.
- b) Utmost amount of respect should be granted to the prisoners of war and they should not be treated in an inhuman manner.
- c) They are allowed to inform their friend or a relative about them being taken as a prisoner of war by the opposing forces. The convention also grants the right to the prisoner of war to inform the Supra national agency which is designated to coordinate the matters concerning the protection of

the rights of the Prisoners of War, it is widely known as the Central Prisoners of War Agency and this function is largely performed by the International Red Cross. Thus as far as this clause of the convention is concerned, it certainly alleviates the status of International Red Cross as the most poignant agency engaged in the protection of human rights during the times of armed conflicts such as war.

- d) The convention also asks the captors of the Prisoners of War to regularly supply the Prisoners with food and relief. The right to food of the Prisoners of War has been given a very serious consideration in this clause.
- e) The convention also consider the access to healthcare as one of the most important right for the prisoners of war and thus the captors are bounded by the convention to extend this right to the prisoner of war.
- f) Many times the prisoners of war are engaged by the captors in performing laborious tasks, in such cases, whenever the prisoners of war have been engaged into a laborious task, the captors are bound to remunerate them for the labor that they extend.
- g) On the other hand, the convention also clearly asserts that, the prisoners of war should not be under any circumstances being forced to perform any task that concerns military affairs.
- h) Most importantly, the convention also designates the captors to provide the prisoners of war with a separate space and strictly prohibits the captors from putting the prisoner of war in a solitary confinement.

Thus the definition of a prisoner of war has several layers of classification which make it a holistic framework that seeks to guard the basic human rights and dignity of the people in a situation such as war. When one compares this scenario with a situation such as state of exception, where people lose all their basic rights, one would seek to ponder on the enunciation of an internationally recognized convention for the rights of the people living under a state of exception, though for that there needs a larger consensus between the state parties on what exactly, according to their own perception, constitutes as a State of Exception.

Thus after raising several different concerns on the status of rights of the prisoners of war during the time of an armed conflict, another convention which forms a part of

the Geneva Convention was adopted in August 1949. The fourth Geneva Convention raises concerns and deliberates upon the rights of the civilians during a conflict such as war. Hence the convention known as the ‘**Geneva Convention relative to the Protection of Civilian Persons in Time of War**<sup>233</sup>’ the notion of a civilian that the fourth convention puts forward is that of all those individuals who are not a part of the army, have not participated in the conflict in any capacity and yet they are captured by the enemy or the opposing forces of the territory that they belong to.

Therefore some of the basic rights and the protection that the fourth convention grants to the civilians who are in the midst of the armed conflict include:

- a) The convention prohibits the captors from inhumanely treating the civilians when they are held by them. The captors should also refrain from insulting the civilians.
- b) The convention also grants them the freedom to practice their religion and cultural belief and the captors cannot violate these beliefs under any circumstances.
- c) The convention places special importance on the children who fall below the age of fifteen years and pregnant women and those who are suffering from ailment. According to the dictums of the convention the civilians are eligible for proper medical care and all other facilities.
- d) Freedom of circulation of personal information regarding their captivity to their kin and family members is granted to the civilians by the guidelines of the convention.
- e) When families are under captivity fourth convention asserts that the family should be kept together and should be granted separate accommodation and the normal family life should not be disturbed under any circumstances by the captors.
- f) The convention also prohibits the captors from forcefully extracting information from the civilians and thus the civilians who are captured by the enemy, have a right to not pass on any information at all.

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<sup>233</sup>“Convention (IV) Relative to the Protection of Civilian Persons in Time of War. Geneva, 12 August 1949,” August 12, 1949. <https://ihl-databases.icrc.org/ihl/385ec082b509e76c41256739003e636d/6756482d86146898c125641e004aa3c5>.

- g) The convention also grants protection to the civilians by prohibiting the captors from using the civilians as human shields during combat.
- h) Special protection has been granted to the sick people by the convention by which they should be placed under the direct observation of the Red Cross or the Red Crescent.
- i) The convention also takes notes of the crimes that happen against women and girls during the wars and thus the convention in the strongest possible words, prohibits the captors and the armies from ill treating the women are under captivity and prohibits the captors from forcefully involving the women into immoral acts such as prostitution. Even rape of a woman during the war is considered as a violation of the Geneva Convention.

Essentially, the Second World War and its grueling effects paved the way for a large-scale consensus among nation states to ratify and agree with the provisions of the Geneva conventions which were adopted in 1949<sup>234</sup>. Thus apart from the four major provisions, over the years, four other major protocols were added to the Geneva Convention. The four protocols deliberate on the same issues that the conventions deal with but there are greater restrictions which are imposed on the nations as far as the prisoners of wars are concerned. Among the four major protocols, what stands out as an article which is relevant across all the other protocols Article Three of the Geneva Convention<sup>235</sup>. Thus this article essentially recognizes the internal armed conflicts also as part of the list of conflicts as recognized in the four major conventions of the Geneva Convention. The treatment that is prescribed for the prisoners is primarily in conjunction with the proscriptions of the Geneva Convention.

There have been several conflicts since the adoption of the Geneva Convention, and on several occasions there is news in the media of the

<sup>234</sup> Schindler, Dietrich. "Significance of the Geneva Conventions for the Contemporary World." *International Review of the Red Cross*, no. 836 (December 31, 1999). <https://www.icrc.org/eng/resources/documents/article/other/57jq6t.htm>.

<sup>235</sup> III GENEVA CONVENTION RELATIVE TO THE TREATMENT OF PRISONERS OF WAR OF 12 AUGUST 1949," August 12, 1949. [http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.32\\_GC-III-EN.pdf](http://www.un.org/en/genocideprevention/documents/atrocity-crimes/Doc.32_GC-III-EN.pdf).



violations of the convention as well by the warring parties. Yet in an era marked by heightened violence, Geneva Convention still holds relevance as a document which stands by the victims in the most troubled times.

### **3.1.7) League of Nations and Human Rights**

While it is widely contended that the League of Nations as a supra national organization was a failure, it failed to protect the values that the founding fathers of it enshrined in the covenant yet the League of Nations remains a pivotal organization as far as the history of the Human Rights discourse is concerned.

It was in 1919 that the League of Nations came into fruition, in the aftermath of the First World War. In its bud stage the idea of the League of Nations first finds a mention in the Fourteen points speech by the American president Woodrow Wilson<sup>236</sup>. Thus in an era marked by gruesome violence across several places in Europe and Asia, the League of Nations paved the way for an international dialogue and deliberation on the cherished goal of world peace and human security. While it has been seen as an alliance of nations and many times it has been compared with the United Nations where the general perception that emerges is that the United Nations is more successful then the League of Nations. Yet as far as human rights are concerned, in the history of the supra national organizations and international politics, the League of Nations emerges as the first organization to prioritize human rights as part of some of the core issues which are raised in its formative and preliminary core charter. Thus the charter of an organization essentially determines also the purpose of the organization and thus the appropriation of the values of certain rights by the founding members of the League of Nations makes it as the first ever international organization to assert the protection of human rights as one of its main purpose.

Hence as Pamela Bromley states that the League of Nations was a result of the adamancy on the part of Woodrow Wilson who desperately was seeking to build an organization that would reach out to all nations, with the purpose of

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<sup>236</sup> Woodrow Wilson, "Woodrow Wilson's Message to the Congress" (speech, Washington, DC, January 8, 1918) Records of the United States Senate; Record Group 46; National Archives, <https://www.ourdocuments.gov/doc.php?flash=true&doc=62>

spreading democracy<sup>237</sup>. Thus Wilson remained an emphatic supporter of Democracy and through the formation of the League of Nations he was seeking to spread the idea of democracy to those states which were still not fully democratic.

Among the major discussions that happened primarily between the leaders of countries like France, United States, Japan, United Kingdom, Australia and Italy and several other nations related to their own vested interests. Yet within these discussions, according to Pamela, one also finds a mention of the future role of the League Of Nations in the protection of human rights of minorities, women and labor. Yet as the final charter reads, the League of Nations ultimately included only the rights of women and laborers as part of its core goals that it had sought to cherish, several other issues such as religious rights, minority rights, rights of immigrants and other vulnerable groups were avoided since major countries which were a part of the founding of the League of Nations were colonizers, such as the United Kingdom, as a result of which, even while the Japanese leaders had sought racial equality to be one of the key concern, yet it was mildly ignored as it would have several volatile consequences for the colonizers<sup>238</sup>. On the other hand, as far as the Universal Adult Franchise is concerned, women in several parts of the globe were still ineligible to vote, and thus the League of Nations failed to uphold the universal rights of women to vote as one of the core issue. Still it was vocal about the rights of women laborers and several different provisions were added to the charter in order to protect the rights of the women laborers. Yet another major issues that the League of Nations had raised strong objections to was the practice of Slavery and the prevalence of Slave trade.

The recognition of the grim nature of the reality that surrounded slave trade and acknowledging the goriness of slavery by the League of Nations was in itself a momentous event that paved the way for bringing to the fore, on an official platform, the ill doings of such an organized 'legitimate' crime to which most nations had turned a blind eye. Thus as Renee Colette Redman

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<sup>237</sup> Bromley, Pamela. "Human Rights and the League of Nations: How Ideas about Human Rights Came to Be Included in the Charter and Work of the League of Nations." San Diego, California, 2008. pp.1-26

<sup>238</sup> Ibid

asserts, that for “the first time an international body had attempted to make international law regarding' the rights of individuals”<sup>239</sup>.

Thus in 1924 the League of Nations established the Temporary Slavery Commission, the commission was essentially set up to eradicate and eliminate an evil such as slavery and slave trade<sup>240</sup>. Though as Jean Allen asserts, that while the initial recommends of those who formed a part of the Temporary Slavery Commission hinted at a very radical and a strongly worded draft of the anti slavery provision, arguing for [complete abolition] yet by 1925 the draft was rather seeking a gradual and “progressive” application of the laws so the nations could then apply it to their domestic realities. Therefore the ideas which formed a part of the report of the 1924 Slavery Commission ultimately find resonance and implementation and a careful consideration in the provisions of the 1926 Slavery commission. This convention is also referred to as the Convention to Suppress Slave Trade and Slavery. The several articles that the Convention adopted are of immense relevance as far as human rights are concerned, and more prominently as far as the internationalization of Human Rights issues is concerned. The first article of the convention has primarily defined Slavery. It defines slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised”<sup>241</sup>. Further it also seeks to define Slave Trade, which is the root as far as the crime of slavery is concerned, thus the definition of the Slave Trade according to clause 2 of the first article is that it “ includes all acts involved in the capture, acquisition or disposal of a person with intent to reduce him to slavery; all acts involved in the acquisition of a slave with a view to selling or exchanging him; all acts of disposal by sale or exchange of a

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<sup>239</sup> Redman, Renee. “The League of Nations and the Right to Be Free from Enslavement: The First Human Right to Be Recognized as Customary International Law - Freedom: Beyond the United States.” *Chicago-Kent Law Review* 70, no. 2 (December 1, 1994): pp.765.

<sup>240</sup> “The Definition of ‘Slavery’ in General International Law and the Crime of Enslavement within the Rome Statute”-Jean Allen

<sup>241</sup> “Slavery Convention, Signed at Geneva on 25 September 1926,” March 9, 1927. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>.

slave acquired with a view to being sold or exchanged, and, in general, every act of trade or transport in slaves”<sup>242</sup>.

Therefore the definition of slave trade essentially ascribed slave trade as an action involving the capture of a human being subsequent selling of that human being and the final purchase of that human being, all these action thereby being referred to as an act while the definition of slavery essentially characterizes condition of imposition of ownership upon a human being other than one’s own self as slavery. Therefore the key values that the definition seeks to uphold is the value of freedom, and thereby to be free, as an anti thesis to the condition of slavery could be to not be under imposition of any external power and to not be owned by any entity other than one’s self which essentially means that man owns his or her own self and nobody else can claim ownership over any other human being. On the other hand, there are certain precautions which must be levied while perusing the definition of slave trade, while the definition calls the capture of a human being as an act, yet not every action that involves the capturing of any other human being can be ascertained as slave trade because what is important is, and the stress is levied on the “intent”. Thus it is essentially the “intent to reduce him to slavery” that constitutes as slave trade. So the convention does not prohibit capture of individuals, as it may be required in case of armed forces or police capturing or arresting thieves or anti social elements. Yet the macro understanding that emerges is the fact that slavery and slave trade are a result of a regressive and corrupt mindset within, since the idea of intent relates to the internal realm of human self.

Hence while the first article characterizes slavery and slave trade the second article relates to the application of the convention in those countries which are signatories to the convention on slavery. It seeks to assert that the states which are a signatory shall take steps to suppress the existing slave trade which is or which may be taking place in their respective countries, or even in those territories which fall under their control, elsewhere.

The article does not end at merely asking the parties to initiate steps but also induces an element of time, in the realization of the goal, by asserting through

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<sup>242</sup> Ibid Article12

the clause B of the second article that the countries should “bring about, progressively and as soon as possible, the complete abolition of slavery in all its forms”. Thus the demand from the drafter of the convention in the second article reveals a larger notion of slavery, for the fact that the second clause ends with the phrase “forms of slavery” which is reflective of the scenario then whereby there were prevalent, different kinds of slavery and not merely the widely discussed “trans-Atlantic” slave trade.

While several scholars have indicated to assert that the League of Nations could not completely abolish slavery, yet the language of the second article, as reflected in the phrase “as soon as possible<sup>243</sup>” highlights the urgency of the issue and the also urgency with which the drafters of the convention were seeking to bring about a solution which was the complete abolition of slavery in all forms.

While the success of the abolitionist movement in the early 1800s in the United Kingdom had largely led the British Government to ban the British vessels from the transport of slaves, the British Navy also patrolled the waters under its jurisdiction to prevent the same, in the same light the article three of the convention relates to the transport of slaves in international and domestic waters. Thus it seeks to not only prevent the transport of slaves from the respective territories of the signatories to the treaty but also asks the signatories to prevent the vessels from allowing the “embarkation and disembarkation” of the slaves into the vessels. The jurisdiction and the right to act on a vessel are determined by the flag which the vessel may carry, and the signatories, according to the article are advised to act of those vessels which carry their flag<sup>244</sup>.

Thereby while the second and the third articles deliberate on the duties of individual signatories in order to prevent and abolish slave trade and slavery in their own respective countries, the fourth article of the convention seeks to build a larger international coalition based on cooperation between the

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<sup>243</sup> Ibid Article 2

<sup>244</sup> Loosemore, Jo. “Sailing against Slavery.” News, March 20, 2007. [http://www.bbc.co.uk/devon/content/articles/2007/03/20/abolition\\_navy\\_feature.shtml](http://www.bbc.co.uk/devon/content/articles/2007/03/20/abolition_navy_feature.shtml).

signatories in the order to successfully adapt and apply the provisions of the convention<sup>245</sup>.

Thus article asks the signatories to cooperate with the fellow signatories in the application and the implementation of the provisions of the convention. On one hand it tries to build, as stated earlier and international collation as far as the action of abolition is concerned but on the other hand, the clause also reflects the nature of the trade itself which international in nature and related to geographies across several nations and continents.

The fifth article<sup>246</sup> seeks to differentiate between forms of slavery and deliberates on one of the major causes in several societies which leads to slavery, thus the fifth article asks the signatory countries to prevent from developing a condition of Forced Labor. Essentially forced labor is defined by the International Labor Organization as “all work or service which is exacted from any person under the menace of any penalty and for which they said person has not offered himself voluntarily.”<sup>247</sup>

Thus despite asking the signatories to prevent the condition of forced labor, the fifth article adds an exception as far as the public purposes are concerned, it states that forced labor may be allowed in the case of a work or a task that relates to the public purpose while all other forms of forced labor shall not be allowed by the signatory parties. Further the article also lays down the conditions under which forced labor for public purpose may take place, and thus one of the major conditions that it places on the signatories is of remuneration. It seeks to ask the signatory countries that allow for forced labor for public purpose to pay to the laborers whatever for whatever labor that they provide to the state. It also seeks to prevent the relocation of the laborers from their domestic residences, thus the forced labor which maybe allowed is allowed through the imposition of very strict dictums on the signatory countries which the countries must follow.

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<sup>245</sup> “Slavery Convention, Signed at Geneva on 25 September 1926,” March 9, 1927. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx> Article 3

<sup>246</sup> Ibid Article 5

<sup>247</sup>“Convention C029 - Forced Labour Convention, 1930 (No. 29) Convention Concerning Forced or Compulsory Labour,” 1930. [http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C029](http://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C029).

While most international treaties have an international relevance, many times the relevance and the significance of an international treaty withers away because of ineffective implementation by the signatories or because the violation of the provisions do not involve a punishment. The sixth article of the convention<sup>248</sup> seeks to make the overall convention much more effective as far as the implementation and the adherence to it is concerned, therefore it asks the signatories to enunciate legislations in their respective countries and for territories under their control which would levy and impose punishments on those who violate the provisions of the convention on slavery.

Therefore the demand for seeking greater and effective implementation on the part of the signatories through an effective punitive mechanism in case of the violations of the clauses indicates the how important the issues of human rights and prevention of slavery was as far as the league of nations and its mitigation of the problem is concerned.

Thus in addition to the punitive action which the article six demands, the seventh article of the convention<sup>249</sup> introduces a system of coordination of constant dialogue between the signatories and the secretary general of the League of Nations as far as the implementation of the convention is concerned. Therefore it asks the signatories to constantly inform the League of Nations with regards to the legislations they may enact, domestically for the better implementation of the convention. The supervision of the implementation of the convention hints at the nuanced manner in which the supra national organization is keenly connected with the grass root reality.

The drafters of the convention thereby also seem mindful of the nature of the slave trade and the effects that the convention may have as far as the relations between the signatories are concerned. Since slave trade is a trans national phenomenon and relates to and affects more than one country, and also as certain provisions demand a collective action on the part of the signatories, the article eight of the convention rather introduces the mode of adjudication and arbitration in case the implementation of the convention leads to conflict between the signatories to the convention.

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<sup>248</sup> "Slavery Convention, Signed at Geneva on 25 September 1926," March 9, 1927. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx> Article 6

<sup>249</sup> Ibid Article 7

The eighth article designates the Permanent court of international justice as an institution which can be approached by the conflicting parties in order to seek a resolution<sup>250</sup>.

Thus despite the sincere efforts that the convention seeks to make as far as the abolition of slavery is concerned, yet the ninth article of the convention<sup>251</sup> seeks to introduce certain provisions which can be interpreted as threatening the universal implementation of the provisions of the convention. The ninth article of the convention thus asks the parties to declare information on those places or regions where the signatory party cannot implement and apply the provisions of the convention. Therefore despite several major claims for abolition that the convention seeks to uphold, the ninth article emerges as a very poignant hindrance to the cherished goal of abolition of slavery since it recognizes a partial implementation of the convention in the respective countries.

This clause largely ignores the geographical spread of slavery and slave trade in many different countries. In several countries where slaves were forced to work, the problem was largely regional or provincial in nature, as in the United States. Mostly the slavery was widely prevalent in those regions of a country which had labor intensive industry and agriculture and thus by allowing the countries to not fully implement the convention would hint at the non seriousness on the part of the drafters as far as the implementation is concerned though it may seem as a pragmatic solution in order to gain consent of most nations.

Thus the convention through the tenth article<sup>252</sup> places the procedure for the signatories in case they do not wish to implement the convention in their respective territories.

Therefore despite some of the clauses of the convention which bail out certain regions from the effective implementation of the convention, the slavery convention highlights the single largest role of the League of Nations in

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<sup>250</sup> Ibid Article 8

<sup>251</sup> Ibid Article 9

<sup>252</sup> Ibid Article 10



upholding the clauses of human rights and dignity in what was then one of the most pressing issues of the time.

Slavery and Slave trade also find a resonance in the Christian faith and in several countries the practice had acquired a rather legal sanctity<sup>253</sup>. The grim nature of the practice of slave trade was such that it had lead to the destructions of several generations of many communities in the African continent.

Also while criticizing the League of Nation for its rather softer stand as far as certain provisions of the convention are concerned, one should also seeks to contextualize the challenges in then era as far as the effective implementation of the charter was concerned. Several countries that were signatory to the convention were also colonizers that had occupied several territories in Asia, Africa and Latin America. The colonizers had engaged into the practice of slave trade to a large extent by transporting people one colony to the other in order to meet the demand for labor that was required for large scale agriculture. In places like Fiji in the pacific oceans and in the island countries of the Caribbean, several Indians were transported from India as indentured laborers, this system of indentured labor also in certain settings, took form of forced labor<sup>254</sup>. In that case the convention as the first major instrument on slavery , as stated earlier, was a revolutionary document that helped in what can be described as consciousness building exercised by making the nations at large more aware about the grave nature of the problems of slave trade and slavery. One can also assert that the provisions of the convention also relate to recognizing the problem of slavery as a global and an international problem and not as a sectoral phenomenon.

Therefore in that context, while several major human rights were ignored by the charter of the league of nations because of the complex geo political scenario and the widespread opposition from the member countries in implementation of them yet, the role of international law was alleviated by the

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<sup>253</sup>Glancy, Jennifer A. *Slavery in Early Christianity*. Oxford University Press, 2002. pp.3

<sup>254</sup> Ghoshal, Devjyot. "The Forgotten Story of India's Colonial Slave Workers Who Began Leaving Home 180 Years Ago — Quartz," November 3, 2014. <https://qz.com/290497/the-forgotten-story-of-indias-colonial-slave-workers-who-began-leaving-home-180-years-ago/>.

Slavery convention which truly made the convention of international law much more relevant than ever before as far as the most needy and vulnerable sections of the society are concerned,. The convention also served as an inspiration for several other major international and national treaties and conventions that related to the rights of the people. Though the league of nations in the public eyes may have failed yet its legacy in establishing the framework for how a global collective can together rise for securing human rights and dignities of all people seems widely visible today in the contemporaneous era.

While today there is much greater consciousness on issues such as minority rights and the immigrant rights yet slavery in some forms remains in practice. Even in Tibet ever since the occupation by the Chinese forced labor camps have been established where Tibetans are forced to work without remuneration and against their wishes by the Chinese government. In such a scenario the stand on slavery adapted by the League of Nations can serve as an inspiration. The enunciation of the slavery convention can also serve as an inspiration for the Tibetan movement. As further chapters will highlight as to what relevance Tibet holds for the world at large, yet the Tibetan movement If shaped on the lines of abolitionism then can reap rich benefits as far as the articulation of the concern for the human rights of the people inside Tibet are concerned.

### 3.1.8) Universal Declaration of Human Rights

The Universal Declaration of Human Rights was authored in the aftermath of the Second World War owing to a larger consciousness on the part of the world leaders to create a universal standard for the implementation and protection of human rights globally. The Second World War and the crimes committed against humanity is a blot for the human race. The holocaust and the genocidal nature of the Nazi rule in Germany shook and dislodged the very the pillars upon which stood the idea of humanity. According to estimates, about 6 million Jews were killed due to the Holocaust in Nazi Germany<sup>255</sup>. These included women, children and also the elderly. About 25% of the deaths

<sup>255</sup>“Documenting Numbers of Victims of the Holocaust and Nazi Persecution.” *United States Holocaust Memorial Museum*. Accessed April 6, 2017. <https://www.ushmm.org/wlc/en/article.php?ModuleId=10008193>.

that took place due to the Holocaust were Jewish children. Thus apart from the Jews, even the Romany Gypsies suffered as a result of the Nazi ideology and the policy of Euthanasia, which to exterminate children and people with physical and mental disability also led to widespread deaths.

The rise of Adolf Hitler also paved the way for the rise of a vehemently ethno nationalist ideology, which had sought to unite the German people by inventing a perceived enemy within the German society, which were the Jews. The Nazi ideology essentially appropriated the Germanic people as the descendants of the original Aryans and considered them superior to all other ethnic groups<sup>256</sup>. While the idea of Race has today been replaced by the term Ethnicity, it was in practice in the era that one is deliberating upon. Therefore, the articulation of the Nazi ideology and its policy of marginalization and extreme exclusion sought its juridical legitimacy in the enunciation and the issuance of the Nuremberg laws of 1935<sup>257</sup>.

Primarily the Nuremberg Laws disrobed the Jewish populations of Germany from their citizenship rights. The laws declared the Jews to subjects of the State while the German people were considered as the citizens of the Reich. As Article 4 of the Nuremberg Law declares that the Jews were barred from even displaying the flag of Germany, as they were not considered as the citizens of the German nation. And if they violated the law and flagged the German flag, then they were subjected to a year long imprisonment and also very high financial penalties.

Hence the very first article of the Nuremberg law prohibited the marriages between the Jews and the German citizens; apart from marriage it had also forbidden an extramarital affair between the Jews and Germans. This directly related to the position of the Jews in the German society and aimed at marginalizing them from the larger social fabric and also to strengthen and legitimize the idea of “pure Aryan blood” which meant that marriage between a German and Jew would lead to impurity.

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<sup>256</sup> Gobineau, Arthur. *The Inequality of Human Races*. London: William Heinemann, 1915. <http://archive.org/details/inequalityofhuma00gobi>.

<sup>257</sup> “The Nuremberg Race Laws.” *United States Holocaust Memorial Museum*. Accessed November 3, 2016. <https://www.ushmm.org/outreach/en/article.php?ModuleId=10007695>.

While the Nuremberg laws were passed in 1935 which specifically aimed at annihilating the Jews from the larger German social fabric, the authoritarian and inhumanly dictatorial dictums of the Fuehrer had begun by 1933 itself with the passing of the Enabling Act<sup>258</sup>. While Germany remains a democracy with the constitution that existed of the Weimar republic, the rise of Hitler and his craving for the centralization of all power led to the Enabling which blatantly undermined the supremacy of the German constitution.

Therefore the passing of the Enabling Act of 1933 granted immense legislative powers to the Government led by Adolf Hitler. The dictums of the Enabling Act almost nullified the existence of the legislature i.e. the Parliament in Nazi Germany and henceforth laws were legislated by the Fuehrer himself without ratification by the parliament or by the president of the Republic. Thus the passing of the Enabling Act ultimately resulted in the German State acquiring ideological attire. The Anti Jewish standpoint of the Nazis and Adolf Hitler in particular finds a resonance in the subsequent legislation that took place in the pre war Germany. Another major legislation that was passed during the pre war period was the Restoration of the Professional Civil Service. The passage of this law further alienated the Jewish community as the Jews who were a part of the government machinery were further alienated and excluded from the service. Rather their services were systematically terminated.

Therefore as the German government began its systematic persecution of the Jews, there was also a rise in the Anti-Semitism across Europe. As William Brustein notes that before the holocaust itself, several countries declined to offer refuge to the Jews from Germany and Austria. In fact England had gone to the extent of deliberating upon the closure of Palestine for the German Jews. The United States too refused to increase the quota for the Jewish refugees. The regressive attitude of the world's most powerful towards the plight of the Jews in Germany could have also strengthened the morale of the Nazi Germany, as even the Evian Conference of 1938<sup>259</sup> could not yield any

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<sup>258</sup>Russell, Jesse, and Ronald Cohn.*Enabling Act Of 1933*.

<sup>259</sup> Kalb, Marvin. "Refugee Crises and the Sad Legacy of the 1938 Evian Conference | Brookings Institution." *Brookings*, November 30, 2001. <https://www.brookings.edu/blog/order-from-chaos/2015/09/23/refugee-crises-and-the-sad-legacy-of-the-1938-evian-conference/>.

positive results. The reason for organizing the Evian conference was to discuss the rehabilitation of the German Jewish community yet the reluctance on the part of the participating countries yielded no progressive result, 1938 was also the year when Hitler had given the option to the Jews to migrate to other countries.

The situation in Germany in 1938 had deteriorated to a great extent, the Nazis also presented the Jewish youths and children from attending the university from as early as 1933 itself with the passing of the law against Overcrowding of the Schools and Universities in 1933<sup>260</sup>. The government also restricted the Jews from being a part of the mass media organization. Thus the legislations were ultimately narrowing the spheres of influence and engagement for the Jews in Germany.

By 1938 and 1939 several of the arbitrary laws had made the Jews completely handicapped. The economic effects of the Nazi legislations were such that it left majority of the Jews impoverished as certain legislations ultimately dragged the Jews to completely withdraw from the economic activities. By 1938, the properties of several thousands of Jews were confiscated, while Anti Jewish extremities of the Nazi party received a major boost after the passing of the Nuremberg laws.

Meanwhile before the Nazis started the Holocaust and the concentration camps, the Nazi government had also contemplated on resettling the Jews in Germany to a distant place. Thus the Nazis had proposed the Madagascar Plan which sought to resettle the German Jews to the Island of Madagascar on the Southern West Coast of the African Continent. The Germans had defeated the French and had thus gained control of Madagascar. According to estimates, the Nazi government had planned to send about 1 million Jews annually from Germany to Madagascar. The plan failed from taking off because of the firm control that the British navy had acquired over the waters in the Indian Ocean and the Arabian Sea. Thus the final campaign that the Nazis started to eliminate the Jewish question is widely referred to as the Final Solution to the Jewish Question.

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<sup>260</sup>“The Nuremberg Race Laws.” *United States Holocaust Memorial Museum*. Accessed November 3, 2016. <https://www.ushmm.org/outreach/en/article.php?ModuleId=10007695>.

The program to eliminate all Jews from Germany and the territories under its occupation began in 1941. Thus the program was first implemented in the occupied territory of Poland where the German police gunned down almost the entire Jewish community. This was the first phase of the Final Solutions pogrom. Therefore after the first phase where mostly the police and the armed agencies of the Nazis were employed, the second phase witnessed a rather mass killing of the Jews from all areas of German occupation. It is also visible that until 1940 the attitude of the Germans was to deport the Jews from Germany to other places in order to build a pure Aryan nation, yet from 1941 the policy suddenly turns extremely ghastly. The only solution that the Nazis thus envisioned was a complete genocidal murder of the entire community.

Therefore, in the second phase of the Final Solutions program<sup>261</sup>, Jews from entire territories which were under the Nazi control were forcefully transported by trains to several of the Extermination camps. There was a difference between the concentration camps and the extermination camps. The concentration camps were created to imprison and jail the Jews and the subjects of the state who violated the articles of the Nuremberg laws and other Nazi legislations. The concentration camps mostly involved hard labor but the exterminations camps were different from the concentrations camps. The extermination camps were largely created to exterminate or eliminate the chores of Jews who arrived via the railways. These camps were located near the railway lines and the Jews were forced to march into the gas chambers. Poisonous gases were then releases in the gas chambers as a result of which mass murders and killings of the Jews took place.

The idea of extermination camps and the mode of killing the people in the extermination camp was inspired from the experience of Euthanasia, a program which was earlier implemented by the Nazis to completely eliminate the mentally and physically challenged people from the German nation. Thus on the same lines the extermination camps were created. Secret photos of the extermination camps highlight the plight of the people who were killed, in the aftermath of the world war 2, mass graves were recovered since in the initial

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<sup>261</sup> Browning, Christopher. *The Origins Of The Final Solution*. Random House, 2014, Chapter 10, pp 424

days and months and years of the exterminations camps, the dead bodies were largely buried into the ground but later on the policy over the burial changed and the bodies of the victims of the extermination camps were burnt in order to not let the world know about the holocaust that was taking place.

The Jews of Germany and of territories controlled by the Germans found themselves in the most pitiable condition, neither could they escape from the situation that they were forced into nor did they have an ally in Europe or in North America because of the rise of the Anti Semitism. Thus according to estimates about 3,115,000 to about 3,215,000 people were killed in the extermination camps<sup>262</sup>.

Therefore these gruesome atrocities ignited the need for the emergence of an internationally accepted human rights charter that would lay down the norms for the basic guarantee of the human rights for the people. Thus on 24<sup>th</sup> October 1945 the Human Rights commission was set up which helped in drafting the declaration which was then adapted on 10<sup>th</sup> December 1948. A key personality who was keenly involved in the drafting and in building a global consensus on the ratification of the Declaration by world leaders was Eleanor Roosevelt. When the Declaration was passed she described it as the “Magna Carta for all mankind”<sup>263</sup>.

While the Universal Declaration of Human Rights remains a pivotal document as far as the contemporary Human Rights discourse is concerned, many of the provisions in the several of the articles are influenced by erstwhile juridical instruments from the ancient, medieval and the early modern era. Even the Cyrus cylinder and some of its provisions find a mention in the Declaration. On the other while most of the countries of the world have ratified the Declaration, and while it also occupies the position of a seminal text as far as Human Rights are concerned, yet it is not binding, the articles of

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<sup>262</sup>“Killing Centers.” *United States Holocaust Memorial Museum*. Accessed June 5, 2017. <https://www.ushmm.org/wlc/en/article.php?ModuleId=10007327>.

<sup>263</sup> “United Nations, Universal Declaration of Human Rights, History: United for Human Rights.” Accessed June 20, 2017. <http://www.humanrights.com/what-are-human-rights/brief-history/the-united-nations.html>.

it act only as a set of guidelines for the countries to follow as far as the domestic protection of Human Rights is concerned.

Thus some of the major issues and concerns that several of its articles raise are as follows:

Primarily as the preamble of the Declaration reads, the opening lines talk about the relationship between human dignity and equality when it seeks to assert that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world<sup>264</sup>” therefore the relevance of the very idea of human dignity is ensured through the protection and granting of human rights of all member of human fraternity. Thus as Doron Shultziner deliberates<sup>265</sup> on the several ideas of Human Dignity by asserting to say that the usage of the word Dignity in the context of the declaration and several other documents of the world’s largest supra national organization essentially places the idea and the meaning of Dignity at the Zenith. And in turn it is from the, as stated earlier, roots of the idea of dignity that human rights evolve. Thus with the relevance of the idea of dignity being more keenly asserted and reinforced by the Declaration, Shultziner further asserts that after the passing of the Declaration, about thirty seven countries have used the term in their respective constitutions in the period between 1945 and 1997. The notion of dignity is also a result of the rise of rational thinking which a product of the Enlightenment era. The contribution of Enlightenment as far as the Human Rights discourse and the protection of Human Rights are concerned is the spread of consciousness on the idea of Human Rights. Enlightenment marked a shift from the idea of divine rights and essentially conceived the idea of Natural Rights. Kant, an enlightenment philosopher himself has also deliberated and has accrued great importance to the idea of Dignity, in his works, by considering it as an entity which is beyond the realism and reach of material comparison and connotation. It is a notion by itself, which ultimately

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<sup>264</sup> “Universal Declaration of Human Rights,” December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>.

<sup>265</sup> Shultziner, Doron. “Human Dignity: Functions and Meanings.” *Global Jurist Topics* 3, no. 3 (2003): 1–21.



is borne out of what he further calls as “Human Agency by which humans are empowered for the fact that they are human, to do what they seek to do so<sup>266</sup>. Thus the notion of rights as those that emerged in the Enlightenment era are widely described as “inalienable” rights which mean they are universal in nature and cannot be taken away under any circumstances. The very birth as a human being grants the basic natural rights to people which remain unaffected owing to the constraints of time and space.

Thus the First Article of the declaration essentially also resonates with the idea of natural rights by meaning to assert that by being born as a human being, the birth as a human itself accrues certain inalienable rights to the individual; it also resonates with the famous words of Rousseau when he asserted that “man is born free”. The word dignity also finds a mention in the first article and dignity in the first article is equated with equality whereby it is rather reflective of the universal nature of the rights enshrined in the declaration, the universalizing of rights has been critiqued by several scholars yet the universality of rights can also be interpreted as a form of equality of all humans who should be treated with equal respect and dignity. Further the article also essentially characterizes the characteristics of humans by describing them as those who are provided with the ability to think rationally and apply their own reason. The article also stresses on inner conscience of beings, after all it is the conscience within which is the most potent adjudicator of what is right and what isn’t and further on in the article one finds the notion of the ideal society that the drafters of the declaration envisioned while drafting the declaration by seeking to build a sense of brotherhood between people. The sense of brotherhood essentially transcends the divisions that stand as an obstruction to the solidarity between people that the declaration seeks to build and thus this sense can be achieved only through reason, whereby humans see each other as fellow humans and just as human beings.

The Second Article of the declaration also essentially refers to the differences that exist between man in terms of ethnicity , gender, culture and also geographical differences and also linguistic differences. Political differences

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<sup>266</sup> Darwall, Stephen. “Review :Dignity : Its History and Meaning by Michael Rosen.”*Harvard University Press*, 2012, pp. 176.

are also keenly considered in the second article as a major reason for creating divisions between people, yet, as the second article asserts that despite the differences, every human being is entitled to the “rights and freedom” which the declaration cherishes. Thereby the second article clearly articulates the non discriminatory tone of the declaration along with offering a subtle critique of all the discrimination that has been happening in the world because of the diverse facets of human existence. Apart from the differences between humans, the second article also recognizes the differences between the nations, and thus asserts that despite the differences, these differences shall not come in way as far as the access and the right to the rights and freedoms enshrined in the declaration are concerned, irrespective of which country or region the person may belong to. Thus in a world largely dominated by the statist perspective, where the nation states are the most dominant actors, the second article and its assertions on the status of the nations and territories emerges as a charter of hope for the stateless people such as Tibetans since several millions of Tibetans since 1959 live as refugees, as people without citizenship rights. Access to citizenship rights grants protection from the respective state against the violation of several rights and freedom. Hence in this context, it isn’t the political status of an individual or a group which determines his or her access to freedoms and rights enshrined in the declaration but rather merely the identity as a human being grants them these freedoms.

The Third article of the Declaration asserts that every person has a “right to life, liberty and security”. Thus according to Peter Danchin, the third article and mention of the three prominent aspects of human existence relate to and resonate with the influence that the Holocaust had on the drafting of the Declaration<sup>267</sup>. Thus the Holocaust and the Nuremberg laws and the crux of the Nazi ideology reflected a strenuous nexus of how the totalitarian forces acquired a preeminent power and dominance over the individual where the individual, his dignity and his own existence was subordinated to the state. Thus Danchin , in the context of the third article and the effects of Holocaust, further asserts that the “organic view” that Hitler had of the state, which meant

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<sup>267</sup> Danchin, Peter. “The Universal Declaration of Human Rights.”Educational.*Universal Declaration of Human Rights*.Accessed June 21, 2017. [http://ccnmtl.columbia.edu/projects/mmt/udhr/article\\_3.html](http://ccnmtl.columbia.edu/projects/mmt/udhr/article_3.html).

that he envisioned the state as a “living organism” an example of which can also be lebensraum, led to a “breakdown of the dividing line between individuals and their state”.<sup>268</sup> And thus therefore the third article thus prevented the state and any collective or any individual from denying human being the right to his or her own life which essentially means that none has the power and right to take away anyone’s life, that is one of the reason why many countries have banned capital punishment and in many other countries there is an ongoing debate on whether capital punishment should be awarded or not. Several authoritarian countries which are economically prosperous are critiqued by scholars, civil society and liberal thinkers for denying liberty to their people. Thus the declaration essentially makes liberty and the right to liberty as one of the most prominent right that is enshrined in the constitution. In the context of the present thesis, essentially the third article is of particular relevance for the fact that under the Chinese rule, Tibetans have been denied the most basic human rights along with the right to liberty. There are several numerous cases involving how the Chinese government since 1959 has systematically denied the freedom and liberty to the Tibetan people inside Tibet, moreover apart from denying liberty at the onset it has also encroached into those arenas of Tibetan life where there existed a certain degree of liberty and where Tibetans found solace, such as religion. Following the Cultural Revolution even the liberty with which the Tibetans followed their religion has been severely encroached upon by the Chinese government.

Hence as article Three contextualizes the importance of access the right to liberty for a human being, in the similar manner, the Fourth article strictly prohibits the practice of slave trade and the condition of slavery. The major definition of slavery which has largely been in practice ever since its conceptualization has been the definition as defined by the Slavery Convention of 1926. Even as the report of the Office of the United Nations High Commissioner for Human Rights<sup>269</sup> states that “in the international legal

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<sup>268</sup> Ibid

<sup>269</sup> Weissbrodt, David, and Anti-Slavery International. “Abolishing Slavery and Its Contemporary Forms.” United Nations New York and Geneva, 2002.

context it (definition) has not been altered substantially since 1926<sup>270</sup>”. Therefore the 1926 Slavery Convention defines Slavery as “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised” <sup>271</sup>. Slavery remained a major world problem until the 18<sup>th</sup> and the 19<sup>th</sup> century and it took a major Abolitionist movement and an international consensus to bring about an elimination of slavery. Thus the fourth article reaffirms faith in the struggle against slavery which began in the late eighteenth century and also for the fact that with the world war 2 leading to massive casualties, leaving lakhs of people homeless and without means of sustenance, newer forms of slavery also evolved such as forced labor, as it was the case in the labor camps of Soviet Union in places such as Siberia and several other soviet republics. So while on one had the article recognizes the global movement against Slavery, on the other hand it takes a strong position against forced labor which was prevalent in several of the communist societies. In contemporary Tibet also, forced labor is a reality where several thousands of people have been forced into labor camps. The most recent Larung Gar evacuation plan also has raised fears of the members of the clergy, mainly the nuns being transported to forced labor camps inside Tibet which are being run by the Chinese government. The practice of slavery also involved great degree of cruelty that was inflicted upon the slaves. The capturing of the slaves itself was an extremely brutal act and many scholars such as Chinua Achebe have vociferously criticized and condemned the methods and the very practice.

In the similar way, article fifth also relates to Cruelty and torture by prohibiting cruelty and torture being inflicted upon people. On the other hand this article also reflects the influence of the holocaust and the atrocities committed upon the people in the Nazi concentration camps whereby it asserts to protect people from torture and an inhuman treatment. Afterall as the preamble and the first few articles suggest, the declaration lays great stress on

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<sup>270</sup> ibid

<sup>271</sup> “Slavery Convention Signed at Geneva on 25 September 1926,” March 9, 1927. <http://www.ohchr.org/EN/ProfessionalInterest/Pages/SlaveryConvention.aspx>.

the idea of dignity, in some of the article it essentially endorses and adherence to the preservation of Human Dignity.

Further the Article sixth of the Declaration places great importance on legality and legitimacy. While the declaration relates to the global human fraternity at large, the sixth article seeks a global consensus on the recognition of the basic “Human Fact”. Therefore while the Sixth article uses the term ‘Person’, when it seeks to assert that “Everyone has the right to recognition everywhere as a person before the law<sup>272</sup>”. Here one can interpret the equation of synonymy of the notion of Person with the term Human Being. Therefore it is essentially the human being irrespective of any other characteristic features associated with his or her persona, who is thus granted the right to be recognized before the law. Within the realms of Philosophy, from Plato to Descartes to Locke, there are several debates on what constitutes as a Person and what is meant by personhood. Yet even the sixth article can be related as an anti thesis to the Nuremberg laws that derecognized the Jews in the Third Reich German state and thus this gave immense power to the Nazis to commit massive atrocities on the Jews thus in that sense, the sixth article could be interpreted as a prohibitory measure that prevents states from such derecognition of people as people.

The Seventh Article of the Declaration also relates to the issue of legality and identity. It states that “All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination<sup>273</sup>.” This clearly relates to nature of legal system that countries may have as far as the people are concerned. As the Nazi legal system was explicitly discriminatory and the very act of discrimination had itself acquired a certain legal basis, just as the pre civil rights situation in the United States or the Apartheid era in South Africa. Therefore the seventh article also emerges as a guiding principle for jurists, world leaders, civil society member and elected public representatives who are

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<sup>272</sup> “Universal Declaration of Human Rights,” December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 6

<sup>273</sup> Ibid 7

engaged as stake holders in the law making process. Thus therefore in accordance with the article seven of the declaration, any law that seeks to adopt a partisan attitude in discriminating against people as far as their access to justice is concerned can be considered as a violation of the Universal Declaration of Human Rights. the article also prohibits any action by any individual or a collective that forces a person to violate the provisions or any provision of the Universal Declaration of Human Rights as a violation of the Declaration as well.

Therefore the seventh article seems to be closely related with the second article of the Declaration.

Thus the role of law in the life of an individual as a protector against the violation of his or her right remains a dominant theme and concern in the eighth article as well which asserts on the idea of fundamental rights. while the first seven article deliberate largely on the provisions that are enshrined in the Universal Declaration and speak of the protection which should be granted to them from the violation of the rights cherished in the declaration, the eighth article<sup>274</sup> essentially talks about the fundamental rights which are enshrined in the domestic law of the land of the respective countries, it thus places pivotal importance firstly on the provision for there being fundamental rights being enshrined in the respective constitutions and secondly it also seek for the protection from the violation of the fundamental rights, thereby relating to the need for the enunciation and a provision for a proper grievance redressal mechanism that grants justice to the people whose fundamental rights are violated. Thus the declaration does not seek to threaten the legal sovereignty of the states nor can this article be seen as an intervention into the affairs of any state and its constitutional process and machinery but rather the declaration through this affirmation rather seeks to uphold its core concern which relates to the most basic rights of the people which are fundamental for a dignified existence as a human being. And thus in that context the fundamental rights which are enshrined in the respective constitutions keenly echo and resonate with the concern raised by the provisions and the preamble of the Universal declaration.

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<sup>274</sup> Ibid Article 8

In the context of the present thesis, the article nine of the declaration is of immense relevance. The article asserts that “no one shall be subjected to arbitrary arrest, detention or exile<sup>275</sup>. Thus in the contemporary era according to the statistics around 65.3 million people have been a victim of some or the other kind of forced migration, where many cases are that of exile. In Tibet alone, since 1951, ever since the Chinese invaded and occupied Tibet a large section of Tibetan population has sought exile in countries such as India, Nepal and the Western Nations. Thus primarily a massive violation of the human rights of Tibetan by the Chinese is reflected in the number of Tibetan refugees in the world who see little or no hope of going back to Tibet. Next chapter will highlight and deliberate on the issue in greater detail.

The next article in the Declaration also relates to the procedures related to the function of the judicial system and the access to justice for those who are charged by the state for violating the law. Just as the Geneva Convention grants several different rights to the prisoners of war in the same manner those who are imprisoned or are under the baron of the law should have impartial access to the institutions of justice and they be allowed to express their perspective to the court of law. The article also highlights the values which form a part of the hearing that the person has a right to, which should be “independent and impartial”. In this sense the Universal Declaration of Human Rights stands for all people and their rights, including those who are charged for violating the law. Thus the article states that “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him”<sup>276</sup>.

Justice and the delivery of Justice is greatly prioritized as far as the Declaration is concerned, since the acts of violations of rights and claims of violation of rights both require an efficient and impartial adjudication and thus in the same context article eleven of the Universal Declaration of Human Rights relates to Presumption of Innocence. Thus in accordance with this principle, any person who has been charged by the state for the violation of any law shall not be considered as guilty until he or she has been proved guilty by an impartial court of law. Therefore, the famous phrase

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<sup>275</sup> Ibid Article 9

<sup>276</sup> Ibid Article 10

“innocent until proven<sup>277</sup>” is a legacy of the English Jurist William Garrow, who advocated for the right of the prisoners for a fair trial and during the course of the trial the accused shall not be considered as guilty. The eleventh article thus also resonates with the ideas enshrined in the French declaration of the Rights of Man and Citizen<sup>278</sup> which has also cherished this right. The second part of the article eleven deliberates on the punishment and the passage of time. Thus there are certain acts which are not considered as a crime since the constitution lacks a proper mechanism or the mere awareness of its criminality and therefore at a certain historical point of time they are not considered as a crime but over time nations develop the required legal mechanism to deal with such acts and thus they are then deemed as criminal acts or the engagement or performance of such an action is then considered as a violation of the law, therefore in such a scenario the second part of the article asserts that any person who has been accused of a crime for which had the law not been in place when the act was committed then such a person cannot be considered a criminal or cannot be charged for the action since the person is unaware of the consequences of the action that he or she was to commit and it wasn't illegal at that point of time. While also as far as the punishment and the penalty is concerned, the declaration adopts a similar time based perspective whereby only those norms of punishment which existed when the act was committed shall apply for the crime. In a way this clearly reflects the foresight of those who drafted the declaration, as the era after the second world war was that of a rapidly changing world as far as the socio political scenario was concerned as several different countries were becoming independent as the second world war also brought to an colonial domination of the societies of Latin America, Africa and Asia by some of the major European powers such as Great Britain, France and Portugal. Hence immediately after seeking independence several countries had been in the process of drafting their own respective constitutions and in that context, article eleven offers a major insight on adjudication of cases which were already pending in the courts of law in such countries.

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<sup>277</sup>Ranjan, Sudhanshu. *Justice, Judocracy and Democracy in India: Boundaries and Breaches*. Routledge, 2014. pp.311

<sup>278</sup>“Declaration of the Rights of Man - 1789,” [http://avalon.law.yale.edu/18th\\_century/rightsof.asp](http://avalon.law.yale.edu/18th_century/rightsof.asp).



Hence apart from the public sphere, the declaration also deliberates and accrues importance to the private sphere of the individual in a similar manner as the Geneva convention does when it grants privacy to the families when they are captured as the Prisoners of War whereby families ought to stay as family and the convention asks for separate accommodation for the family in a related manner, the twelfth article of the declaration also seeks to grant protection to the people from intervention by any person or agency or any collective into his or her private sphere of life including the personal reputation. Thus practices like character assassination can be considered as a violation of the Universal Declaration of Human Rights along with the fact that several constitutions of the world including that of India grant the constitutional protection to the people from disreputation, the citizens thus have the right to approach the court and demand compensation for the dishonor meted out to them as a result of the disreputation by any agency or individual.

Thus after the juridical deliberations on the mode and the delivery of justice, the 14<sup>th</sup> article<sup>279</sup> grants the freedom of movement to the people within the borders of their own countries though it can be stated this article of the declaration depends upon the context and the geographical particularities of the place where the individual is in. In several countries this article and the provisions of its are only partially accrued to the citizens as certain areas of several countries have restricted access or are protected zones. The second clause of the article is a direct anti thesis to many of the totalitarian communist societies which had emerged after and during the Second World War which had banned the foreign travel of its citizens. Thousands of Soviet nationals had to flee the Soviet Union from the fear of persecution and did not return back to their native land. The second clause of the article also considers the right to return as the basic right which the people should have access to. In the context of Tibet, since 1959 the representative of the Chinese government and the representatives of the Dalai Lama have been discussing on the issue of the return of the Dalai Lama to Tibet. The Chinese government has been adamant in its stand leaving little space for any breakthrough and progress on this issue making it impossible for the Dalai Lama to return to Tibet while also violating the twelfth article of the declaration. Several

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<sup>279</sup> “Universal Declaration of Human Rights,” December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 14

scholars have associated the article 14 as being inspired by the Nazi atrocities upon the Jews, yet it ought to be mentioned that the urgency of the article 14 of the declaration is highlighted by the chain of events that culminated during the time when the German Jews were given the option to seek refuge in other places and after which the Evian conference<sup>280</sup> took place to decide upon the fate of the German and the Austrian asylum seekers who were Jews. The conference yielded no positive result apart from the fact that the Jews were denied asylum in most places on several different pretexts. Therefore the countries that were instrumental in drafting the declaration could have played much greater role in granting asylum to the German and the Austrian Jews before the beginning of the Final solutions campaign and in turn could have prevented a tragedy such as the Holocaust.

On the other hand the article fifteen<sup>281</sup> reflects the influence of the Nazi era upon the declaration in terms of the fact that it prohibits the states from depriving any subject or the citizen of the state from his or her nationality. Thus it is a reference to the Nuremberg Laws which denied the Jews of their Nationality in the Nazi Germany and they were reduced to a condition of being stateless in their own land. The Nuremberg laws which reflected vehemently racist and ethnocentrist nuances of the Nazi ideology had reduced the Jews to be the subjects of the state whereby the Nazi state had acquired total control over their life and destiny and they were left with no freedom and privileges as those enjoyed by their German counterparts who were also citizens of the same nation and possessed citizenship rights. While the declaration puts restrictions on actions of the state yet in the previous article it offers a caveat in those cases where the prosecution takes place when crimes have been committed that violate the provisions of the Declaration. Therefore criminal who is proved guilty for a crime that violates also the provisions of the Declaration cannot thus seek asylum in any foreign country, the article also make a major differentiation between prosecution and persecution.

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<sup>280</sup> Kalb, Marvin. "Refugee Crises and the Sad Legacy of the 1938 Evian Conference | Brookings Institution." *Brookings*, November 30, 2001. <https://www.brookings.edu/blog/order-from-chaos/2015/09/23/refugee-crises-and-the-sad-legacy-of-the-1938-evian-conference/>.

<sup>281</sup> "Universal Declaration of Human Rights," December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 15

Thus even article sixteen of the declaration<sup>282</sup> relates to the Nazi atrocities upon the Jews. Primarily the Nuremberg Laws restricted the Jews from marrying with the larger German population, such marriages were not recognized by the State and those who were already in such marital relationship were derecognized by the Nazi state since the Nazis believed in the pure Aryan race and did not support the inter mingling of the races since according to them it would lead to impurity. Therefore the provisions of the sixteenth article grant the right to marry to the people based on mutual consent. The neither nationality nor ethnicity or a difference of class can prevent two consenting adults to marry with each other. One of the prime examples can be the marriages that continued to take place between Indians and Pakistanis despite the long standing political tensions between the two countries. The marriages are an example of how effective the rights enshrined in the article were granted to the people by the respective governments. Apart from the marriage, the declaration also lays special emphasis on the institution of family, It also asserts that the family is the “natural and fundamental group unit of society” and based on this assertion the declaration seeks utmost protection for individual families and the institution of the family in general.

Hence after deliberating on legality, society and family, the article seventeen of the declaration deliberates upon the rights of the individuals to own a property. On one hand it reflects the libertarian ideals of philosophers like John who argued in favor of individuals to own private property and considered it an important right. While on the other hand it is also reflective of the situation in Nazi Germany when the Jews were dislodged from their private property due to the severe legislations by the Nazis. Thus the right to property also is mentioned with the declaration prohibiting the deprivation of the property holders from their property.

Therefore apart from right to property the declaration also considers religion as an integral part of human existence for which the article eighteen grants protection to protect the freedom of belief of the people. The French Declaration of the Rights of Man and Citizen having been inspired also by the ideas of Voltaire granted the freedom of belief to the people and a similar clause finds a mention in the eighteenth article of the declaration. Even the Cyrus cylinder deliberated on the idea of the

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<sup>282</sup> Ibid Article 16

religion and freedom of belief and it is also argued that Cyrus cylinder also had an influence on the drafting of the declaration. Thus the article grants the freedom the practice one's own religion and also the freedom to change the religion, according to Johannes Morsink, when the article nineteen was being voted upon, especially the clause on the right of the people to change their religion, the representatives of Saudi Arabia had abstained from voting on this article<sup>283</sup>.

The Nineteenth article of the declaration thereafter grants the freedom of expression to the people, even much before the passing of the declaration, the Magna Carta had keenly enshrined the rights to freedom of expression in the English constitution after the Glorious revolution, thus as stated earlier, even Voltaire appreciated this aspect of the English constitution. Therefore, according to the nineteenth article, freedom of expression wasn't merely confined to the lack of censorship of the media but also the freedom for the individuals to have an opinion of their choice. The article also grants the freedom to seek information from any source, and thus violation of it would be a violation of the declaration.

Thus thereafter the twentieth article of the declaration<sup>284</sup> relates to the idea of a strong civil society. The article grants the freedom to people everywhere to form an association based on their own belief or opinion and nobody can be barred from the act of assembly or forming an association. Though it must also be asserted that on many occasions the freedom of assembly has been violated by the states in several different contexts and sometimes the freedom of assembly has been withdrawn from the people in order to protect the very rights that the declaration grants them. While in Tibet, the Chinese government has systematically violated the freedom of assembly of the Tibetan people on numerous occasions which include even the banning of certain religious congregations. On the other hand it has also taken measures to forcibly make people a member of the communist party which while also is an association but the act of forcing people to become a member of the party is a gross violation of the

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<sup>283</sup> Morsink, Johannes. *The Universal Declaration of Human Rights: Origins, Drafting, and Intent*. University of Pennsylvania Press, 2010. pp.333

<sup>284</sup> "Universal Declaration of Human Rights," December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 20

clause 2 of the twentieth article which prohibits the state and the individuals from forcibly making people a part of an association against their consent and wishes.

The twenty first article of the declaration<sup>285</sup> relates to the democratization of the state and the idea of the universal adult suffrage. It asserts that every individual has the “right to take part in the government of his country, directly or through freely chosen representatives” while it further asserts by saying that “the will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures”. Therefore the article adopts a major standpoint in its assertion of democracy as the most appropriate means not only of governance but also for ensuring the freedoms and rights of the people. It also negates the total centralization of power in the hands of one single individual like the way it remained so in Nazi Germany and rather it places the state and its functioning in the hands of the people whereby the exercise of power and the decision making reflects the will of the people.

The twenty second article of the declaration<sup>286</sup> then delves into the economic aspects of the human life by seeking to assert that every person should have the right to social security. It rather has a pragmatic view on it since the text of the article also contains what can be called as a caveat which largely relies on the resources of the state as far as the granting of these rights are concerned. The access to social security is a major feature of the developed countries of the west, even countries like India have had a very strong social security system yet several countries which ratified the declaration have not been economically prosperous enough to reach out to grant major social security benefits to the people yet the declaration does set out a vision for these countries to embark on a path where in the future its citizens can receive these benefits.

The twenty third article<sup>287</sup> further deliberates on the rights of man to livelihood through the means of his or her own choice. It grants the right to employment and further it speaks out against discrimination at the work place and the also speaks for

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<sup>285</sup> Ibid Article 21

<sup>286</sup> Ibid Article 22

<sup>287</sup> Ibid Article 23

the quality of pay to all people who are engaged in the same kind of work. Thus it can also be interpreted as a dictum against totalitarianism whereby the state cannot dominate over what kind of work should a person do but rather the individuals should by themselves determine the kind of work they seek to do and then determine their profession. While the article twenty four<sup>288</sup> also relates to work and profession by asserting upon the right of the laborers to leisure. To a certain extent this article seeks to draw a balance between work by specifically seeking leisure time and the required holiday for the laborers who were employed by the industries. Thus therefore denial of a holiday and leisure time to a worker is thus also a violation of the Declaration.

Article twenty five<sup>289</sup> of the declaration rather presents a vision of the society which for many developing countries could have been a utopia. It deliberates upon a minimum standard of living along with amenities like food and clothing for the families and for individuals,. Several countries are not prosperous to grant these rights though they may have ratified the declaration. Further on the declaration also lays special emphasis on the rights of women and children whereby it seeks to assert that Mothers and children should receive special care. Thereafter the next article i.e. article Twenty Six of the declaration<sup>290</sup> also concerns itself with the right to education and considers it as one of the most fundamental right to which every person should have an access to. The right seeks to make elementary and formative education as fundamental in every state and while the declaration deliberates much on freedom and free will yet it accords a special place to the parents as far as their children's education is concerned and grants them what it calls as the "first right" to determine what forms of education suits best for their children.

Further on, the article twenty seven of the declaration<sup>291</sup> seeks to protect the cultural rights of the communities and the people by asserting upon the fact that every person has the right and the freedom to participate in their cultural activities. While the second clause of the article relates largely to intellectuals and inventors and grants them protection from plagiarism of their work and ideas by asserting to say that "Everyone has the right to the protection of the moral and material interests

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<sup>288</sup> Ibid Article 24

<sup>289</sup> Ibid Article 25

<sup>290</sup> Ibid Article 26

<sup>291</sup> Ibid Article 27

resulting from any scientific, literary or artistic production of which he is the author”<sup>292</sup>.

Thus a summation of realization of all the rights enshrined in the declaration appears in the twenty eighth article of the declaration<sup>293</sup> which deliberates on the creation of an international order wherein the rights enshrined in the declaration can be realized to their best potential. Thus the declaration therefore speaks and offers a vision of the kind of world order that it seeks to build or would seek to contribute towards. Several of the rights in different geographical, religious and cultural context stand violated, yet the twenty eighth article remains as the signpost for the world leaders to lead the society into. It can very well be a utopia yet it cannot be seen as one for the fact that the rights enshrined in the declaration are very basic rights, and yet the irony remains that people across the globe are in conflict over the denial of also that which is after all most basic.

Thus while the whole declaration up till article twenty eight is a discussion on the various rights which people ought to possess and which the states should grant, article twenty nine of the declaration<sup>294</sup> then deliberates on the duties that individuals and people should perform. It asserts that an individual has a duty towards the community and this is part of his or her holistic personality. While it also offers an extremely pragmatic perspective on the need for a balance between the rights and the duties and limitations that the states may impose on people, yet when it deliberates on the limitations that the states may impose, it also asserts that the limitations may be accrued only if they help in the realization of all the rights which are enshrined in the Universal Declaration of Human Rights .

And finally the thirtieth article<sup>295</sup> asserts that no state or individual or a collective shall engage in destruction of any entity that would lead to the destruction of any rights which are enshrined in the declaration.

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<sup>292</sup> Ibid

<sup>293</sup> “Universal Declaration of Human Rights,” December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 28

<sup>294</sup> Ibid Article 29

<sup>295</sup> Ibid ARTICLE 30

Thus the Universal Declaration of Human Rights is a charter that speaks on behalf of the people of the world in one voice, and it can also be asserted that given the nature of the world today, and the condition of human rights and rising instances of human rights violations, the Declaration today seems more radical and revolutionary than what its founding fathers may have thought upon.

### **3.1.9) European Convention on Human Rights**

The Second world war was largely fought on the European soil along with Asia and North America. Yet the world wars left Europe more divided than ever before and the beginning of the Cold War immediately after the Second World War polarized the options that the Europeans power had as far as the rebuilding of Europe and European fraternity was concerned. Thus upon the vision of Winston Churchill, first proclaimed in 1943<sup>296</sup>, that the Council of Europe took shape in 1953 in London through the Treaty of London<sup>297</sup>.

There were ten countries which were initial founders and the signatory to the treaty, these countries included the United Kingdom, Norway, Sweden, Denmark, Belgium, Italy, Ireland, France, Netherlands and Luxemburg.

One of the prime concern with which the Council of Europe was set up was to protect the Human Rights in Europe and device a mechanism which can ensure the welfare and the protection of human rights across all the members of the Council of Europe.

Thus the founding members enunciated the passing of the European Convention on Human Rights in 1953<sup>298</sup>. Hence, there are several international conventions which have been signed and ratified by several nations across the globe. Many conventions

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<sup>296</sup>“Winston Churchill and the Council of Europe.” *Documents, Records and Archives*. Accessed June 11, 2017. <http://www.coe.int/web/documents-records-archives-information/winston-churchill-and-the-ce>, Sy-Wonyu, Aïssatou. *The “special Relationship.”* Publication Univ Rouen Havre, n.d. pp.35

<sup>297</sup>“Winston Churchill and the Council of Europe.” *Documents, Records and Archives*. Accessed June 11, 2017. <http://www.coe.int/web/documents-records-archives-information/winston-churchill-and-the-ce>.

<sup>298</sup> Europe, Council of. “European Convention on Human Rights,” 1953. [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf).



have wide ranging article that relate to the grim issues surrounding the domestic realities. Yet the international conventions which are signed by the nation states between and among them are rarely binding. Most of the conventions at the international level that are signed between the states are obligatory, which are subject to the integrity of the members on how far they remain true to the promise that they have endorsed for.

Therefore in such a scenario when international treaties have largely become diplomatic tokens, the European Convention on Human Rights stands out as one treaty whose provisions have a binding effect on the nations that are signatories to the convention. The convention on one hand proscribes several different articles with different clauses and provisions that relates to the protection of the human rights of the people in Europe and on the other the convention has established the European Court of Human Rights by which cases relating to the violation of the rights of the people are adjudicated upon.

Therefore as the opening remarks of the Convention asserts that primarily the convention seeks to protect and cherish that freedom which are enshrined in the provisions of the Universal Declaration of Human Rights, passed in 1948, as stated earlier. From the preamble of the convention, as one may call it, though the text of the convention does not explicitly call it as the preamble, it is easy to decipher that the concerns and the agenda that the convention seeks to put forward is neither merely regional nor sectoral but rather it seeks to put forward a universalist agenda on the path of the Universal Declaration of Human Rights which has universalized the minimum standards for the countries for the protection of the Human Rights of the citizens of their state and also all members of the Human fraternity.

The further vision that guides the enunciation of the European convention on Human Rights is more specific in the fourth paragraph of the preamble whereby it clearly specifies on the purpose of the setting up of the Council of Europe, which has been to build “greater unity” amongst the nations that are a member of the Council of Europe, while the document further asserts that, the crux of unity , as far as the Council of Europe is concerned, lies in ensuring Human Rights protection across all member states. It also asserts that the protection and “ensuring” of the “Fundamental

Freedoms” is the cornerstone of the Unity that the Council of Europe is seeking to build.

Hence, as the fifth paragraph of the preamble of the convention suggests that essentially the council places significant importance to the fundamental freedoms and values that are central to these fundamental freedoms which are Justice and peace and rather so entwined is the relationship between freedom and these two values that essentially through the protection of these freedoms can only justice and peace be achieved. Therefore, the question is about what path should the council embark onto, in order to achieve these freedoms and thus the paragraphs further deliberate on the priorities for the council through which this can be achieved, the first being the promotion of democracy across European member states and secondly through a significant consensus on the “understanding of Human Rights<sup>299</sup>” across all European States. Therefore, the Convention one can assert is a charter of this understanding between the several member states of the Council of Europe. And thus on the same lines, the idea of democracy, justice and peace can thus be achieved, according to the convention, through attainment of common consensus on the protection of Human Rights across Europe. Thus as Robertson asserts in his research on the Council of Europe that the values that influenced the making of the Council of Europe and its overall worldview was largely influenced by “Greek Philosophy, Roman Law, the Western Christian Church, the humanism of the Renaissance and the French Revolution<sup>300</sup>.”

Therefore the last paragraph of the preamble thus delves upon the common history and legacy of the European nations and thus considers the convention as “first step(s) for the collective enforcement of certain of the rights stated in the Universal Declaration<sup>301</sup>”.

Thus conventions are divided into three major sections. The rights that are enshrined in the convention form a part of the first 18 major articles which are a part of the first section. While the second section is of importance as far as the implementation of the

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<sup>299</sup> Ibid pp.5

<sup>300</sup> Robertson, Arthur Henry. *The Council of Europe: Its Structure, Functions and Achievements*. Praeger, 1961. pp.11

<sup>301</sup> Europe, Council of. “European Convention on Human Rights,” 1953. [http://www.echr.coe.int/Documents/Convention\\_ENG.pdf](http://www.echr.coe.int/Documents/Convention_ENG.pdf). pp.5

rights are concerned, since it is in the second section of the convention that the European court for Human Rights is established. And thus then the last section of the convention deliberates on several provisions that form a part of the convention.

Thus as the preamble of the European Convention on Human Rights asserts that it is drawn largely from the Universal Declaration of Human Rights and the Declaration has been discussed in detail in the earlier section, yet what is of greater relevance as far as the Convention is concerned is the provision for the European Court of Human Rights.

Hence as far as supranational legislations are concerned, the European Court of Human Rights<sup>302</sup> holds a very prominent position. It seeks to adjudicate and arbitrate upon cases brought to it involving private individuals or organizations against the member state of the Council of Europe and also hears cases between the member states. Its jurisdiction applies to the territories of all member states. Thus essentially it is the article nineteen of the second section of the European convention on human rights which enunciates the creation of the Court of Human Rights while article twenty of the convention deliberates upon the number of judges who should hold the office in the court<sup>303</sup>. The number is not fixed but largely as per the direction in the article twenty, the number of judges is synonymous with the number of the members of the Council of Europe. Thus though the judges hail from the countries which are a member of the council of Europe yet when they hold the office as the judge of the Council of Europe which is again a result of their qualifications, and reputation, they are directed by article twenty one of the convention to act independently through their own self, irrespective of any bias or discrimination<sup>304</sup>.

Therefore the European Court of Human Rights serves as the guardian of human rights of the people across Europe, and remains a model for several regions to embark upon, in terms of the practice and the protection of human rights, whereby mere lip service is not offered but in the true sense a consensus is build upon for the protection of human rights through firstly at an ideational understanding which shapes the notion of human rights in terms of what constitutes a human rights and secondly in terms of

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<sup>302</sup> Ibid pp. 14

<sup>303</sup> Ibid pp.15

<sup>304</sup> Ibid

execution as the nations seeks to protect the human rights of the people through common minimum standards where failing to do so leads to being reprimanded by the supra national court which acts as the most poignant watchdog of human rights in Europe.

### 3.2.0) American Convention of Human Rights

When Grenada in 1978 ratified the American Convention of Human Rights<sup>305</sup>, the convention which had earlier been ratified by several different countries since 1969, finally came into force. The signatories that have ratified the Convention are the members of the Organization of American States, whereby the Organization is a supra national organization that consists of those countries which form a part of the American continents, the North and the South.

As the preamble of the Convention reads, the convention seeks to systematize the basic mechanism within the American continent as far as the protection of human rights of the people are concerned. Secondly a major assertion that the convention makes is on the status of people and to whom should the rights be granted to, thus it therefore seeks to assert that the access to rights and liberty shouldn't be justified and granted merely on the basis of the nationality of the individual but rather, as the universal declaration also asserts, be based on the mere fact that he or she is a human being.

And thus thereafter the Preamble of the convention specifies the priorities of the Convention which is to essentially create an environment for the protection of human rights across the continent through a systemic mechanism that resolves to uphold the values of liberty and equality.

Thus the first article of the convention can be interpreted as resonating with the diversity of the two continents in terms of economies of the nations, class, ethnicity, culture and religion. It seeks to highlight these differences to assert upon the non discriminatory nature of the system which the convention seeks to build whereby the

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<sup>305</sup> "American Convention on Human Rights," November 22, 1969.  
<http://www.cidh.oas.org/basicos/english/basic3.american%20convention.htm>.

barriers of nationality, ethnicity, class or any other identity or classification shall not remain a hindrance for the people for the preservation of their human rights and liberty. While there is, as stated during the discussion on the Universal Declaration of Human Rights, a wide ranging debate and deliberation within philosophy on what constitutes as a person and personhood, the draft of the Convention is rather aptly clear in its definition of a person which is used in the first clause of the first article whereby in the second clause it asserts that "'person" means every human being<sup>306</sup>." Therefore the second article also hints at the systemic approach that the convention has adopted in terms of applying the ideational nomenclature of the across the geographies that form a part of the nations which are signatories to the convention. While the third article stands in conjunction with the provisions of the Universal Declaration and the European convention whereby it grants legality to the status of a person, and grants the right to legality as a basic human right.

The distinct nature of the American convention is thus visible in the fourth article of the convention, while it seeks to preserve the right to life, the further provisions of the article hint at the influence of Catholicism in the Latin American countries since the article further extends the right to life by asserting that the right to life "shall be protected...from the moment of conception<sup>307</sup>". The relations to conception directly hits at the abortion debate which is widely deliberated upon in the United States and which is widely supported in Latin America. For centuries the Catholic Church has voiced its views against abortion and has called its opposition to is as the Right to Life which albeit relates to different sensibilities. Canada continued to oppose this provision and in many countries though the convention has been ratified, it hasn't been implemented over the differences of opinion on the right to life. Further the article also deliberates upon the notion of capital punishment and several provisions are discussed upon. Though in entirety the article does not prohibit capital punishment but the provision for capital punishment is made highly contextual and is related to the seriousness of the crime. One of the major assertions that the article makes is the fact that in case of political offences, death penalty cannot be issued as a punishment.

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<sup>306</sup> Ibid Article 1

<sup>307</sup> Ibid Article 4

Article five isn't much in contract with the Universal Declaration and the European Convention on Human Rights; it also argues and seeks for a humane treatment for the people, while the sixth article strongly prohibits Slavery. The sixth article<sup>308</sup> is of immense relevance as far as the slave trade and the Trans Atlantic slave trade is concerned since a large number of slaves from the African continent were primarily brought to Latin America to work in the fields that were under the control of the European colonizers, especially the sugar fields. Therefore the convention thereby prohibits slavery in strong words and also provides a detailed description of what constitutes as slavery in the modern parlance.

Thus the articles seven to seventeen mostly relate and resonate with the Universal Declaration and the European convention of Human Rights while article eighteen then deliberates on the right to a name. In the other charters of human rights, this is specified as a right to an identity, while article eighteen associates the right to name with the name and surname given to the person by his or her parents. While article nineteen deliberates on the rights of the child<sup>309</sup>. The rights of the child are not directly enshrined in the Universal Declaration as they are in the American Convention since the United Nations altogether as a different and separate convention on the rights of the child.

While the article twenty stands in tandem with the right to nationality as enshrined in the Universal Declaration of Human Rights just as articles twenty two, twenty three, twenty four and twenty five. While what is of interest is the fact that within Latin America, there has been an deep influence and prospering of Socialist ideology, and thus article twenty one deliberates on the Right to Private Property<sup>310</sup>. Thus thereafter the second part of the convention provides for the establishment of the Inter American court of Human Rights<sup>311</sup> and the Inter American Commission on Human Rights. The articles thereafter describe in detail the functions of the seven member commission which are extensive in nature. Therefore, the commission is the active link between all states which maintains surveillance on the human rights scenario across the two continents and in case of a conflict the conflicts are adjudicated by the

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<sup>308</sup> Ibid Article 6

<sup>309</sup> Ibid Article 19

<sup>310</sup> Ibid Article 22

<sup>311</sup> Ibid Part 2, Chapter VI, Article 33

court of human rights. The court consists of seven judges who hail from the members states. The council of judges shall not have two individuals belonging to the same state.

The major difference between the European court of human rights and inter American court of human rights is the fact that the inter American court of human rights take a strongly state centric perspective whereby only the states and the human rights commission are allowed to approach the court whereas in the case of the European court of human rights, even private parties are allowed to approach the court and till this date several cases between a state and private party have been adjudicated upon the European court.

Thus the American continent since the Second World War has been the battleground for the covert wars between the USSR and the United States. Several instances such as the Cuban missile crisis highlight the polarized nature of the polity on the continent and in between such trying times the convention stands as the vanguard, atleast in theory for the protection of the human rights of the people. Yet it can also be critiqued as being ardently state centric as most times the human rights violation cases involve private individuals versus the state, the private individual has little or no say as far as the recourse to supra national justice is concerned and this in a way undermines the individual agency in the larger domain of international relations and diplomacy.

### 3.2.1) African Charter of Human Rights

The African Charter of Human Rights is a supra national charter of human rights drafted on the lines of the Universal Declaration of Human Rights , the European Convention of Human Rights and the Inter American convention of Human Rights. Thus majority of the rights enshrined in all of these charters have been reinforced in the African charter and further the African charter also seeks to adopt a systemic approach to universalizing the consensus within the African continent on the protection of human rights and human dignity. In some sense while majority of the

rights enshrined in the charter are similar to that of the other instruments, the uniqueness of the African charter of human rights is visible in the section of the charter that defines the duties of people in terms of what is expected of them as citizens of the African continent. Generally the long standing debate within the domain of human rights education has been on the dichotomy between the rights and the duties, state centric forces have sought to stress on duties rather than rights.

A significant part of the human rights consciousness in Africa and the need for a supra national instrument for human rights in Africa is a result of Africa's collective experience of colonialism. No continent on the planet has witnessed as deadly and gruesome violations of human rights of its people as Africa has done so, first as a result of the trans Atlantic slave and secondly as a result of European colonialism. Therefore just as the European charter delves upon the common historical heritage of the European nations as a guiding force for the human rights protection and the need for enunciation of a human rights system, similarly the same applies for the African nations. Thus apart from the historical factors, as Makau Makata asserts "the atrocities of some of the most brutal dictatorships the African continent has ever known heightened the urgency for a regional human rights system"<sup>312</sup>.

Another categorical feature of the African charter of Human rights is the importance it accords to the group rights. Essentially the group rights relate to the communitarian nature of the social system in Africa. As a civilization the African continent was dominated largely by tribal cultures, mostly tribal groups and villages and small hamlets were dominated by one or the other tribal community. Therefore while the Colonial project and the coming of Christianity tried to bring about rapid changes in the African society, just as Jomo Kenyatta stated in the context of the missionaries that when the missionaries arrived the Africans had the land with them while the missionaries had the bible in their hand and when the colonizers and the missionaries left, they had the land and the tribals had the bible in the hand, thus while the colonialists could rob the Africans of their land and their resources they still couldn't annihilate the ancient tribal cultures of Africa which in the modern era took form of

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<sup>312</sup> Mutua, Makau. "THE AFRICAN HUMAN RIGHTS SYSTEM A Critical Evaluation." United Nations website. *UNDP*, n.d. <http://hdr.undp.org/sites/default/files/mutua.pdf>.



groups and communities. Richard Kiwanuka means to assert that the notion of an individual in African society is deeply ingrained into the larger community and therefore both are deeply entwined together. Thus in that sense, the provision for group accords several rights such as the right to self determination, rights over the natural resources, the right to development among other rights. These are rights which are accorded to the entire group and the community at large<sup>313</sup>.

Yet while the African charter offers a novel and an innovative perspective to the global human rights discourse through the enunciation for group rights yet the provision for duties can be critiqued as establishing certain statist hegemony on the people. The duties and their roles remain ambiguous to the extent that when the charter asks people to not compromise with the national security, it leaves a space for harassment of the people on the name of national security as it continues to happen in places such as Tibet.

Therefore, while duties and rights are always in a constant engagement with each other and there are no water tight compartments that distinguish between rights and duties since most essential duty that other instruments such as the Universal Declaration of Human Rights , European convention of human rights and the American convention place upon all people is to contribute towards the protection and preservation of human rights in every and any setting or context and thus the explicit defining of duty paves way for marginalization of the liberal space which in entirety the charter is seeking to create.

### 3.2.2) Conclusion

Thus this chapter largely focuses on the discursive evolution of the human rights discourse. There are two major perspectives that emerge within the chapter as far as the human rights discourse is concerned. The chapter does not merely concern itself with the philosophical ideas that have paved the way for the building up of the human rights consciousness or those which have contributed to the larger idea of humanism but also seeks to present a juridical perspective of human rights by highlighting the

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<sup>313</sup> Brems, Eva. *Human Rights: Universality and Diversity*. Martinus Nijhoff Publishers, 2001. pp. 97

instruments of human rights protection globally. The rationale to present is essentially to ascertain the role and applicability of abstract philosophical ideas in the real life scenario.

Over a keen perusal of the several instruments it becomes rather clear that several ideas which have emerged over time as a result of the enlightenment and as a result of several other social and political movements such as abolitionism, civil rights or the anti apartheid movement remain relevant till this day and so do also the ideas as cherished by and enshrined in the several instruments of human rights protection. A major conclusion is the fact as far as human rights discourse is concerned the holocaust remains a pivotal moment in history and has influenced the human rights discourse in a monumental manner. While the holocaust and its effect on the human rights is a major theme which has been deliberated upon by several scholars yet a certain critical question which needs to be raised in the context of the Evian conference of world leaders on the Jewish question is what is the role of human rights in international relations and diplomacy. The failure of the western nations due to the rise of anti Semitism to accommodate the Jews ultimately shakes the conscience of any believer in the idea of diplomacy as a means for conflict resolution. And therefore in the context of the present thesis, if the plight of the Jews could not be understood by any major power and while they were left to languish in Germany, what about the stateless people such as Tibetans? Or human rights activism their only resort? Those who initiated the drafting of the universal declaration and the European convention of human rights thus have a larger role to play in the conflict that today surrounds Tibet. No amount of adherence to the UDHR can bear fruits till the situation inside Tibet continues to remain the way it is, as the next chapter highlights.

## Chapter 4

### Human Rights in Tibet

#### 4.0) Introduction

This chapter essentially seeks to present an insight on the situation of human rights inside Tibet since the takeover of the Tibet by the Chinese in 1959. The 17 point agreement<sup>314</sup> signed by the Chinese government and the representatives of the Dalai

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<sup>314</sup> Chief Delegate: Li Wei-han (Chairman of the Commission of Nationalities Affairs);, Delegates: Chang Ching-wu, Chang Kuo-hua, Sun Chih-yuan, Delegates with full powers of the Local Government of

Lama essentially granted several basic cultural, political rights to the Tibetans which in the years to come were severely violated by the Chinese leading to the ultimate exiling of the 14<sup>th</sup> Dalai Lama of Tibet and along with him over the last few decades also of thousands and lakhs of Tibetan people who have been recognized as refugees. A forced exile is in itself a violation of the article 9 of the Universal Declaration of Human Rights<sup>315</sup> and the grim nature of violation is reflected in the number of people who have fled persecution inside Tibet. In this context, this chapter illustrates the nature of the human rights violations inside Tibet over the past several decades and also seeks to present the nuances of the activism by the Tibetans the civil society groups in Diaspora.

Thus apart from deliberating upon the nature of violations and the subsequent activism that articulates the concern with regards to the human rights, the chapter also highlights the socially engaged nature of Tibetan activism inside Tibet and in Diaspora which is largely influenced by the tenets of Buddhism and stands in conjunction with what is classified in the contemporaneous times as “socially engaged Buddhism’.

The writings of the Fourteenth Dalai Lama reflect his world view and his views on several issues concerning Tibet and also those issues that have emerged as a challenge for the Tibetans reflect the nuances of what exactly constitutes as socially engaged Buddhism. Several instances in Diaspora such as the Nepal earthquake and natural calamities in India have also witnessed a widespread mobilization of support and resources by the Tibetan clergies and this aspect of the Tibetan monastic order reflect the Tibetan Vajrayana Buddhist worldview towards all sentient beings.

While the chapter also discusses in the context of Tibet the several major instruments of Human Rights such as the Universal Declaration of Human Rights , the charter of the League of Nations and the European Convention on Human Rights, these are largely those instruments which reflect a certain notion of western modernity, the

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Tibet., Chief Delegate: Kaloön Ngabou Ngawang Jigme (Ngabo Shape), and Delegates: Dzasak Khemey Sonam Wangdi, Khentrung Thuptan, Tenthar, Khenchung Thuptan Lekmuun Rimshi, Samposey Tenzin Thondup. “Tibet Justice Center - Legal Materials on Tibet - China - Seventeen-Point Plan for the Peaceful Liberation of Tibet (1951) [p.182],” May 23, 1951. <http://www.Tibetjustice.org/materials/China/China3.html>.

<sup>315</sup>“Universal Declaration of Human Rights,” December 10, 1948. <http://www.un.org/en/universal-declaration-human-rights/>. Article 9

concerns of which from a Buddhist perspective are narrow in nature while the concern for the Tibetan Buddhist is wider in terms of the basic belief in the welfare of what is described as “all sentient beings<sup>316</sup>” whereby the humans are just a part of the larger planet inhabited by all species including the animals, plants, flora and fauna and therefore in that context there emerges a larger need for the scholars of human rights to broaden their understanding of holism and how holism applies to the larger discourse of human rights and why it isn’t merely an ideational and theological creation but rather has several practical connotations which are not only being revered but are put into action by the Tibetans inside Tibet and the Tibetans in Diaspora. Thus before deliberating on the situation inside Tibet after the takeover by the Chinese, the chapter presents a detailed discussion on Feudalism in Tibet. Which remains a pivotal focal point as far as any debate or discussion on the issue of human rights in Tibet is concerned.

#### 4.1.1) Feudalism Debate and Tibet

China invaded Tibet on the pretext of the liberating the Tibetan people from the clutches of Imperialism. The Chinese became wary of imperialist presence and thus claimed to have entered Tibet to liberate the Tibetans who were suffering. This initial pretext and the pretence of liberation from imperialism were later supplemented with a widely echoed slogan of liberating Tibet from the clutches of feudalism.

As most socialist regimes echo the language of resisting feudal and imperialist elements, the Chinese have been no different. Understanding the nuances of the closely entwined nature of Tibetan Buddhism with the life of the Tibetan people, across all classes, and owing to the large-scale poverty which prevailed in Tibet during the pre 1959 era, the Chinese essentially blamed it on the feudal nature of the Tibetan society.

Many scholars such as Barnett<sup>317</sup>, Coleman, Saklani and Miller have argued against the imposition of a nomenclature such as Feudalism upon the Tibetan society. Yet an extremely detailed account and what can also be considered as an advocacy for the

<sup>316</sup> Rinpoche, Lama Zopa. *Cherishing Others: The Heart of Dharma*. Lama Yeshe Wisdom Archive, 2015.pp.31

<sup>317</sup>Blondeau, Anne-Marie, and Katia Buffetrille. *Authenticating Tibet: Answers to China’s 100 Questions*. University of California Press, 2008. Question 19

existence of feudalism in Tibet has been presented by Melvyn Goldstein in his successive works which have also involved widespread fieldwork inside Tibet.

In his article *Serfdom and Mobility*, Goldstein begins with a satirical note on the pro Tibet commentators by asserting that “the literature on Tibetan society suffers from chronic religious indigestion<sup>318</sup>” while lamenting upon the then academic scenario which had only scarcely focused on the tentacles of the Tibetan society.

Further he seeks to assert that the existing literature on the Tibetan society has only peripherally explored the actual situation and thus claims to have conceived a solution to what he views as a major problem in the field. Thus asserting to characterize the Tibetan society within what he calls as a “matrix of hereditary and pervasive serfdom<sup>319</sup>” thereby links the notion of serfdom which is largely a European creation with the indigenous socio religious institutions of Tibet. This would in common parlance mean that essentially the traditional Tibetan society and the dominant institutions within the society were the cornerstones of its feudal character.

Though his characterization of serfdom that Goldstein seeks to offer is based on a category of Serfs who are referred to as the “Mi-Bogs or human lease<sup>320</sup>”. Thus as the Marxist methodology also seeks to predominantly invent two major classes in any society, in the same manner Goldstein also analyses the Tibetan society from a class based approach, whereby asserting that the Tibetan society in the pre 1959 was largely divided into two major classes which included the Lords or the aristocrats who were the Sger Pa<sup>321</sup> and the second class being that of the Serfs who are referred to as the Mi-Ser<sup>322</sup>.

Essentially the Serf in Tibet possessed what Goldstein describes as a “legal identity” and this identity had no relation as such with that of the owner of the land who was the Lord. Thus several Chinese sources according to John Powers paint the picture of Tibetan feudalism as a violent and present the situation as extremely derogatory<sup>323</sup>. Apart from Powers, Arif Dirlik in his resourceful article on Feudalism and Chinese

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<sup>318</sup> Goldstein, Melvyn C. “Serfdom and Mobility: An Examination of the Institution of ‘Human Lease’ in Traditional Tibetan Society.” *The Journal of Asian Studies* 30, no. 3 (1971): 521–34. doi:10.2307/2052458.

<sup>319</sup> Ibid 521

<sup>320</sup> ibid

<sup>321</sup> Ibid p.522

<sup>322</sup> Ibid

<sup>323</sup> Hsi, Ch ‘ang-hao, and Yün-mei Kao. *Tibet Leaps Forward*. Foreign Languages Press, 1977.

Historiography asserts that “the concept (feudalism) was incorporated into the study of China's past in the early twentieth century, as Chinese intellectuals began to reconceptualise that past in accordance with a European model of historical development. It was not until the 1930's, however, when Marxist interpretations became dominant, that the term was "naturalized" in Chinese historiography<sup>324</sup>”.

Therefore in that sense Goldstein does not paint such a grim picture and neither does he equate serf and the lords relationship with slavery, since he argues that the major difference between a serf and slave is the issue of identity on one hand where the slaves lack a legal identity or their only identity is that of being a property of the slave owner. The discussions on slavery and slave trade and the Trans Atlantic slave trade in particular reflect the nature of relationship that existed between the slaves and the slave owners and thus in Tibet such a relationship did not exist, according to Goldstein<sup>325</sup>.

It is also ironical that in Goldstein's analysis of the Tibetan society he has sought to divide the whole of the Tibetan society only in between two major classes and these two divisions of classes represent the entire Tibetan society, it is rather difficult to comprehend with such a description. Yet for the ease of establishing the nature of Tibetan feudalism the two part classification of the Tibetan society may prove helpful. The essential feature of the Tibetan feudalism which emerges from the work of Goldstein is the fact that the Tibetan serf owed allegiance or was connected with the land that he tilled or worked on rather than with the owner. This assertion of uniform and static or rather bounded nature of association between the land and the serf is one of the key characteristic of Goldstein's Tibetan feudalism.

Further Goldstein also makes a distinction between the variants of serfdom. There were certain serfs among the Meta class of serfs who were “obligated” to pay taxes for the land they tilled on and there were known as the “Khral Pa<sup>326</sup>” and there were also Serfs who were obligated to pay no taxes and these were “Dud Chung”<sup>327</sup>. Also the feature of the taxation system was the fact that it was mandated by a set of rules

<sup>324</sup> Dirlik, Arif. “Social Formations in Representations of the Past: The Case of ‘Feudalism’ in Twentieth-Century Chinese Historiography.” *Review (Fernand Braudel Center)* 19, no. 3 (1996):pp. 227

<sup>325</sup> Goldstein, Melvyn C. “Serfdom and Mobility: An Examination of the Institution of ‘Human Lease’ in Traditional Tibetan Society.” *The Journal of Asian Studies* 30, no. 3 (1971): 521–34.  
doi:10.2307/2052458.pp.522

<sup>326</sup> Ibid pp.524

<sup>327</sup> Ibid pp. 523

and in adhering to these rules, the Lord of the Land was not allowed to tax the Serf arbitrarily which means the rate of tax was not “floating” in nature and it could not be changed in an arbitrary manner<sup>328</sup>.

The nature of restrictions that Goldstein highlights in caricaturing Tibetan highlight the politico-juridical nature of Tibetan feudalism whereby Goldstein is seeking to establish a state sanctioned Tibetan feudalism where the State or the Centralized authority acted as the bigger Lord of the Land. Further Goldstein in his characterization of the serf also accords certain rights to the Serfs by asserting that the Serfs could also initiate legal actions against the Lords if they violated the rules and the dictums of the central authority<sup>329</sup>. Thus while this caricature on one hand emerges as a more rationale arbitration by the state, without any major reference Goldstein then characterizes the Lords as dominant class of people who unofficially exerted great degree of influence based on their powerful socio-economic status and thus this in turn marginalized the Serfs despite their being what can be described as a systematic legal framework. Thus as Goldstein asserts, without referring to any clear source that “the general pattern of life in Tibet tended to be one of broad domination of lords over their serfs<sup>330</sup>”. It can thus be also asserted that the “general pattern” that Goldstein talks about is a very general “generalization”. These lines also reflect a rather vicious attempt to downplay a progressive aspect of a juridical reality with dominant and ideologically charged rhetoric since while Goldstein acknowledges the inert feature of upward mobility within Tibetan society, by referring to the families of the Dalai Lama yet offers a caveat by asserting that “such events were extremely rare<sup>331</sup>”. Such statements clearly undermine the ingrained ground reality of the rules, laws and the customs of a society such as that of Tibet. It neither does justice to the cause of a civilization which is extremely unique nor does it aptly stand in tune with the philosophical nuances which were so very deeply linked with the larger mindset of the Tibetan people as the practice of compassion in everyday life which also affected their perception of the other and their own people. Goldstein’s bias is reflected in his obsession with positivism and empirical methodologies instead of philosophical anthropology which can explain the problem in a much apt manner. The preliminary lines of the article itself highlight the platform that Goldstein stands on as

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<sup>328</sup> Ibid pp. 522

<sup>329</sup> Ibid pp. 523

<sup>330</sup> Ibid pp. 523

<sup>331</sup> Ibid pp. 523

far as indigenous Tibetan philosophy is concerned. The basic distinction that he seeks to make through his assertion that there is a certain degree of obsession with religion which has led to the ignorance of the social system of Tibet itself speaks about his own obsession with the annihilation of the “indigenous” element of Tibetan society, the roots to its understanding lie more in philosophy than in statistics. And therefore negating the research on Tibetan religion and theology as not being related to society and its organization rather reflects a clear lack of foresight and deep thinking. Essentially as Dawa Norbu clearly asserts in his *Culture and Politics of Third World Nationalism* that the primordial element cannot be erased from the Third world societies and all projects of creating a new man in the third world have failed for the fact that Old or the Primordial has risen in new forms and articulation<sup>332</sup>.

In his analysis of the Sangha<sup>333</sup>, Goldstein asserts that when a Serf became a monk, it was only a temporary upward mobility though this did not erase his original identity as that of a serf. And thus if a person disrobed, they would once again be considered as a Serf. Even this interpretation by Goldstein is rather a gross misreading of the tenets of the Buddhist philosophy and the act of renunciation. For the fact of the matter remains that the Historical Buddha that is Siddhartha Gautama, was neither a Serf nor did he hail from a poor family but was rather an aristocrat born into the royalty. His renunciation of the mundane materialistic life was a result of a metaphysical experience and realization and the inert call for embarking on the Bodhisattva path, a phenomenon which neither Marxism nor scientific rationalism can explain but also a dominant phenomenon which it also cannot ignore. Therefore the larger discursive dichotomy that emerges from this analysis is the larger question of a certain philosophical bias and disbelief, for scholars who identify with Marxism in terms of the fact that if Marxist philosophy can be found to exist say in Soviet Russia or in Cuba or in Communist China, the scholars fail to recognise in case of Tibet, the existence and the practice and adaptation of Buddhist philosophy in their everyday practice which Dawa Norbu thus highlights. The classification of a belief as a philosophy isn't merely a titular phenomenon but has larger underpinnings which

<sup>332</sup> Norbu, Dawa. *Culture and the Politics of Third World Nationalism*. London; New York: Routledge, 1992.

<sup>333</sup> Goldstein, Melvyn C. “Serfdom and Mobility: An Examination of the Institution of ‘Human Lease’ in Traditional Tibetan Society.” *The Journal of Asian Studies* 30, no. 3 (1971): 521–34. doi:10.2307/2052458. pp.523



Goldstein's analysis fails to grasp through an extremely rationalist and materialist conception of Tibetan society. Also Goldstein's analysis may be anthropological in nature it fails to grasp the roots of Tibetan Buddhism which essentially lies in India. The same institution of the clergy or the Sangha which has been hailed by the likes of Goldstein and his pro Chinese western counterparts and the Chinese themselves as being feudal and oppressive fail to recognize that several left leaning and advertently pro-Chinese scholars have hailed Buddhism in India and the rise of Buddhism as an emancipatory phenomenon while the Buddhism in Tibet was also brought by Indian Buddhist monk Padmasambhava. It can be further stated that while Tibet was largely isolated yet it remained an integral part of the larger Buddhist world despite the uniqueness of Tibetan Buddhism, the attendance of the 14<sup>th</sup> Dalai Lama at the celebration of the 1000 years of the Buddha at Bodhgaya upon the invitation of the Mahabodhi society further proves the point. Therefore Goldstein's argument as far as the religious institution and upward mobility are concerned is largely ignorant of the basic pillars of the institution itself.

In deliberating about the type of land use pattern in Tibet which defined the relationship between the Serf and the Lord, Goldstein asserts that the manorial estate which remained prevalent in Europe was also found in Tibet. Thus the manorial estate thus included certain areas in which the Serfs cultivated the produce which solely met their needs for sustenance whereas the adjoining area of the same manor on which they cultivated, the produce of which was meant for the land owner that is the Lord. Such manors were owned not only by rich families but also by the government and by the clergy or the religious institutions<sup>334</sup>.

Thus essentially the type of serf that Goldstein's conception of feudalism concerns itself with is the Dudchung<sup>335</sup> who is the non taxpaying serf. Obligation to taxation is essentially a prerogative of, according to Goldstein of those serfs who are bound to a particular piece of land whereas the non taxpaying serfs are not bound to any piece of land or an estate.

This human lease that Goldstein talks about was essentially free to choose his Lord and was also free to decide as what he ought to plant, and ultimately the only obligation on him was to pay to the Lord.

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<sup>334</sup> Ibid pp.523

<sup>335</sup> Ibid pp.524

These non taxpaying serfs actually relied on what Goldstein ascribes as a competitive market phenomenon because of the lack of labour resources, thus the non taxpaying serfs could then work essentially for the highest bidder. Therefore the Serfs who became non taxpaying serfs required permission from the Lord in order to be free, and Goldstein then in detail explains the procedure for acquiring this permission. While doing so he refers to draws a difference between a ruthless lord<sup>336</sup> and a liberal lord which is again an aspect that relates to human nature and the soul within. While on hand Goldstein stands extremely critical of the institution of religion and also of the research in the field of religion and theology, which again hints and reflects his gross misunderstanding of the role and the concern of Tibetan Buddhism. Self purification, compassion and kindness are not merely preaching but the role of the clergy was to promote them in a way that people imbibe them in their actions. Several accounts of the travellers to Tibet ascertain the basic fact these were in practice, therefore if freeing the serf was easy for a liberal lord and difficult for a ruthless lord, essentially the goal of the institution was to make people less ruthless, the absence of police and an army as Goldstein also indicates also reflects this strand away from the ruthlessness of other societies. Goldstein only seeks to recognize the geographical particularity of the Tibetan experience in terms of the nuanced nature of the 'dud chung' who remained free which was unlike the European serf, but fails to grasp the ideational values that guided the society at large, his conception is still guided by seeking to model the Tibetan reality on the lines of European feudalism and European serfdom, his entire discourse while highlights several primary sources does not take Buddhism and the values of Buddhism into account at all. It seems more like an analysis of a robotic society conceived in a Marxist study circle and lacks an organic view which can reflect on the society from a holistic perspective.

It should also be highlighted that the positive perception of Tibet which is also responsible for the rise of orientalism and exoticism on Tibet is not merely shaped by what remains in theology and theory as far as Tibetan religion is concerned but more by the impact and articulation of theory in the everyday practice by the Tibetan people. Unpublished thesis by Naga scholar Limakumla essentially reflects the relationship between theory, philosophy and everyday practice in the life of the not only the Tibetans but also other constituents of the Tibetan culture area. The very idea

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<sup>336</sup> Ibid pg 531

of Gross National Happiness which Limakumla argues relates to the discourse of development in the writings of the fourteenth Dalai Lama is reflective of the crux of the life in Tibet was to embark on cultivating happiness by also recognizing the flaws of mundane human existence<sup>337</sup>. While even the critics of orientalism who argue that Tibet was not as the way it has been perceived by the orientalist scholars yet even the criticism, in its zeal to offer an extremely polarized view of Tibet fails to adhere to grasp the inherent pragmatism of the Tibetans which prevailed since the establishment of Buddhism in Tibet.

Thus a caveat must be added that over time Goldstein has denied the existence of Feudalism in Tibet but has only endorsed the prevalence of Serfdom.

Thus while Goldstein seems to offer a vocabulary and linguistic justification of the identity of the Serf and their English translations which relate to the larger Marxist terminology associated with feudalism and serfdom a rather poignant critique that almost annihilates Goldstein's analysis is Franz Michael's work<sup>338</sup> on the Tibetan polity of the pre-1959 era. Michael's view also seems to stand in conjunction with that of Arif Dirlik on the issue of feudalism. What emerges in Franz's article is a standpoint where he rejects the feudalism thesis on Tibet by asserting that "In order to fit Tibet into the Marxist-Leninist straitjacket of the unilineal doctrine of history according to which all human social existence must undergo the same stages of development from primitive through slavery, feudal and capitalist societies to arrive at the socialist and communist millennium, Tibet had to be "feudalistic", described as a cruel, barbaric system of exploitation, and the Chinese "liberation" of the Tibetan people from these alleged "feudal" bonds, was supposedly to introduce them into a more advanced stage of development, the stage of socialism<sup>339</sup>". Thus Michael firstly hints at asserting that Mi Ser which Goldstein refers to as a Serf was rather a "generic" term and does not in any manner relate or signify a condition of Serfdom. In fact he further asserts that Mi Ser included a large group of people who were engaged in different occupations and among these group a certain group of people called Tral Pa were those who were obligated to pay taxes for the land that they tilled on but they

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<sup>337</sup> Imchen, Limakumla. "Discourse of Development in the Writings of the Fourteenth Dalai Lama." Unpublished Thesis, University of Hyderabad, 2014

<sup>338</sup> Michael, Franz. "Traditional Tibetan Polity and Its Potential for Modernization." *The Tibet Journal* 11, no. 4 (1986): 70–78.

<sup>339</sup> Ibid pp. 72

were also wealthy and their condition in no way can be related to that of serfdom. Michael calls it as a “comfortable economic position<sup>340</sup>”.

Further while referring to the “Mi-Ser”, Michael in very clear words asserts that “these were not “serfs,” but constituent members of a society that provided them with ample opportunity to find their place in a socially mobile and open environment.”<sup>341</sup>

Thus Michael ascribes a status of a “rural organization” to this phenomenon of social organization in the pre-1959 Tibet while considering the same very organization as the crux and the fulcrum of order in the society. His claim is further substantiated by him asserting the fact that “there have never been “peasant rebellions” or upheavals against the system of its religious leadership”<sup>342</sup>. Thus Franz Michael’s analysis which is also anthropological in nature is inclusive of a philosophical inquiry into the social organization of Tibet, an aspect which is missing from Goldstein’s work. Michael offers insights from the Tibetan Buddhist philosophy in order to justify his standpoint and does not derogate the influence and relevance of Buddhist philosophy in the everyday life of the Tibetan people. Rather Goldstein has launched a biased attack on the religious institutions of Tibet especially the Gelugpa sect and present a monolithic authoritarian picture of the institution of religion though he may claim to not support the prevalence of feudalism in Tibet. Whether there existed feudalism in Tibet or not maybe a different question, what largely matters in that social organization in the societies of the East is largely based on socio religious philosophies. Since they are also considered as a religion, the Marxist Leninist adherents have found it easier to discard them completely without any substantial inquiry, which if done so, would reveal their potent structural existence. The Tibetan monastic institutions have also traditionally engaged in banking and have promoted enterprise which further facilitated the Tibetans in all aspects of their economic life and the collection of funds was also easy for the institutions. The Fourteenth Dalai Lama himself also initiated reforms for the redistribution of land in Tibet and as stated in Michael’s work, eliminated or abolished the very categorization of Mi-Ser.

Thus Franz Michael’s analyzes the social organization of the Tibetan society on the same parameters as Goldstein does so, but seeks to offer a more pragmatic picture of Tibet which could be relevant for any society of the East, in doing so, he also is

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<sup>340</sup> Ibid pp. 74

<sup>341</sup> Ibid pp. 74

<sup>342</sup> Ibid pp. 75

mindful of how many westerners would find it difficult to comprehend with the prevalence of a system such as that of Tibet in a polity of the East and thus it can be asserted that it is their disbelief which results in the type of analysis that Goldstein offers which is reflective of a certain euro centrism which is also asserted by Coleman in his article where he seeks to critique Goldstein and his conception of Serfdom in Tibet<sup>343</sup>.

Coleman refers to Goldstein and his usage of the parameters of analyzing feudalism as stated by Sweezy who has asserted that though a society may not be feudal in nature yet there can be some traits and elements of feudalism. Essentially this is also the argument of Goldstein, who does not consider himself as an advocate of Feudalism in Tibet yet Coleman goes further to cite Bak, who also adheres to the same school of thought that Sweezy does, Marxism, that Serfdom cannot exist without Feudalism<sup>344</sup>.

Thus Coleman echoes the same concern and draws a similar submission as Arif Dirlik does that feudalism and serfdom are interrelated as far as the Chinese Marxist-Leninist historiography is concerned. In fact the tentacles of Goldstein's analysis of a manorial estate and the subsequent land relations are reflective and synonymous with the analysis of that of Zhou society<sup>345</sup> by Tao Xisheng who happened to be a Kuomintang Marxist Leninist scholar. The nuances of the analysis are vividly presented by Arif Dirlik whereby what Goldstein asserts with regards to the manorial estate where a part of land was for the Lord and a part of it was allocated for the Serf (perceived), in the same way in the Zhou society, a part of the land was divided among the serfs and rest was the public land. The free serf who did not pay any tax is also visible in the Zhou society, according to Tao. In the same analysis of the Zhou society, Tao essentializes agriculture and cultivation as the prime economic activities with no reference to other prevailing industries, just as Goldstein also does so in his classification of Serfdom while Michael offers a rather detailed analysis of several

<sup>343</sup> Coleman, William M. "Chapter 3: The Discourse of Serfdom in Tibet." In *Writing Tibetan History: The Discourses of Feudalism and Serfdom in Chinese and Western Historiography*. University of Hawaii, 1998.

<sup>344</sup> Ibid pp.11

<sup>345</sup> Otto, Bernd-Christian, Susanne Rau, and Jörg Rüpke. *History and Religion: Narrating a Religious Past*. Walter de Gruyter GmbH & Co KG, 2015, pp.318, Byres, T. J., and Harbans Mukhia. *Feudalism and Non-European Societies*. Psychology Press, 1985.

other occupations that prevailed in pre 1959 Tibet and does not appropriate or seem to endorse agriculture and cultivation as the prime economic activity. Though Goldstein does ascribe a status of serfdom to the occupational relations between different groups of people, from Michael's analysis it also becomes widely clear that the society did not carry the four major traits that can accord the status of feudalism to any given society<sup>346</sup>. Like Michael, Coleman also further problematizes the conception of the meaning that Goldstein accords to the term Mi Ser through an intensive deliberation upon the various Tibetan English dictionaries and their reference to the term Mi-Ser among which the prominent remains the dictionary by Sarath Chandra Das<sup>347</sup> whose meaning of the term Mi Ser stands in a close tandem with that of Franz Michael.

Therefore, while Coleman's critique features to a large extent an exegetical analysis of Goldstein's theorization of Serfdom it differs from the parameters upon which Franz Michael seeks to critique not only Goldstein but the overall discourse that seeks to impose Feudalism on Tibet. One could thus also assert that even Coleman's analysis misses the philosophical analysis of the indigenous philosophy which was at play and influenced the social and the economic relations in Tibet, which has been fairly deliberated upon by Michael. Certain family histories of Goloks which would be presented below in the subsequent sections reveal the structural nature of how Tibetan lives in a Buddhist polity through a Buddhist way of life which was largely philosophical in nature and how the supreme belief in compassion rather than in blind religiosity influenced their actions and worldview. This in itself emerges as the bitter anti thesis to the Chinese discourse of alleging religion and the Tibetan Buddhist religion in particular as superstitious in nature.

Therefore one of the prime reasons to systematically present these scholarly deliberations on feudalism in Tibet which are largely polarized in nature and understandably lack a synthesis of the views is the fact that since 1959 the Chinese government has used the rhetoric of Feudalism as a counter narrative to the critique of its record of human rights violations inside Tibet. Several documents and media reports published by the people Republic of China seek to sing laurels of Chinese

<sup>346</sup> "Glossary of Terms: Fe." Accessed June, 20 2017. <https://www.marxists.org/encyclopedia/terms/f/e.htm>.

<sup>347</sup> Coleman, William M. "Chapter 3: The Discourse of Serfdom in Tibet." In *Writing Tibetan History: The Discourses of Feudalism and Serfdom in Chinese and Western Historiography*. University of Hawaii, 1998.pp.15

development policy in Tibet, and the kind of socialist paradise that they have sought to create with a major thrust on the fact they have eliminated Feudalism in Tibet through their development policy. The bandwagon of the rhetoric of Feudalism in Tibet has also helped China in justifying several policies inside Tibet which have sought to annihilate the indigenous Tibetan culture and monastic institutions. The gruesome penetration of the Chinese industries into the Tibetan economy and the redistribution of land in Tibet have had erroneous impact on the lives of the ordinary Tibetans. The same people whom Goldstein seeks to speak for, the nomads, have been the worst suffers as a result of this intellectual pogrom that has justified a brutality of such nature. As some of informants from inside Tibet have informed the researcher that even the erstwhile Tents that the Nomads used to use for the purpose of shelter during their travelling and herding expeditions have been replaced by Chinese tents. The transition to the China made tents is a result of firstly the free distribution of China made tents and then slows penetration into the nomadic economy by the Chinese.

Thus before deliberating upon the Chinese actions inside Tibet it is of relevance of attend to the Chinese criticism of the pre-1959 Tibet. The reference to the critique of the discourse of feudalism in Tibet also stands related to some of the major concerns of the dissertation which firstly is to highlight the role of Buddhist philosophy in the lives of ordinary Tibetans and how it shapes their notion of human rights which is starkly different from the western conceptions of human rights and secondly to reaffirm faith in the relevance of indigenous philosophical roots of any society in the emergence of a collective social organization. In recent anthropological discourse many such cultural traits which have deeper philosophical roots have been designated as myths by researchers of indigenous communities and these vary “myths” also need a re-examination by re-establishing the lost relevance of philosophy in the understanding of human behaviour and human nature.

#### 4.1.2) Human Rights in a State of Exception

The enunciation of the Universal Declaration of Human Rights as stated earlier was a momentous occasion which led the world to believe in the idea of future where human rights and liberties would be guaranteed to all citizens across the divisions of class, creed, race region, ethnicity, gender, culture etc.

Yet this hope and the vision would seem a fallacy when one looks at the nature of the situation of human rights of the people in several different countries in the post second world war era. Essentially the nation state has equipped itself to be ever more powerful and has left no stone unturned to eradicate any dissent that stands against its hegemonic power. The solution to contain the power of the “Sovereign<sup>348</sup>” has been the recourse to greater democratization of societies globally. Thus the end of colonialism gave birth to several dictatorial states in Asia and Africa while it also gave birth to several democratic states such as India. In such a scenario, whether it been the colonial era or the post colonial era, human rights violations have been on the rise.

The juridical and the philosophical understanding of human rights aligns to agree that human have certain basic rights and these rights , most important among them being the right to life ought to be protected under any and every circumstances irrespective of the status of the person. Therefore any act which is aimed against this belief and results in intends to inflict damage to the human being against the idea of human rights can be classified as a human rights violation. Thus violation in this context can mean to act against the basic set of rules and laws that guide and demand a certain form of conduct in order to protect the rights of all.

The most poignant example of human rights violations is that of the Holocaust where the Jews were brutally murdered through a Genocide that was unleashed by the Nazis. Therefore in the context of Tibet, the larger discourse on violation of human rights of the Tibetan people by the Peoples Republic of China essentially refers to the attempt by the Chinese state to deny the basic rights to the people to live in Tibet with dignity and liberty. Human dignity as discussed in the earlier chapter is intricately linked with the larger idea of human rights and therefore several of the major human rights conventions relate to the protection and the preservation of the dignity of all human beings. An act of violence or a discriminatory policy, results in what is the violation of the basic dignity of the human being. Similarly dignity and culture are also intricately linked together.

Therefore referring back to the earlier argument on how democratization can preserve and protect human rights this section of the chapter seeks to present the ideas of Giorgio Agamben in light of the situation inside Tibet since the beginning of the

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<sup>348</sup> Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Stanford University Press, 1998. pp.18



Chinese intervention and subsequent invasion of Tibet in 1951. Agamben is widely revered for his theory of a state of exception which he has widely borrowed from the work of Carl Schmidt. Thus therefore as the title of the section suggests, “Human Rights in a State of Exception” refers to the methodology that had been adopted to justify the use of Agamben’s in the context of Tibet by highlighting the grave nature of the human rights violations inside Tibet.

Thus the reason to assert that there exists a permanent state of exception in Tibet owes largely to a visible phenomenon which began in 1951 when the Tibetans were blatantly denied the right to self determination by the Chinese government. According to Warren Smith Junior, the right to self determination of the minority nationalities was respected by the Kuomintang communists who dominated the Chinese communist party at that time, but with the rise of Mao Zedong as the supreme leader of the Chinese communist party, the right to self determination was discarded completely and the new narrative largely focused on the fact that Tibet was always a part of China and thus self determination was out of question. Thus as Smith asserts that for the Chinese, the invasion of Tibet is after all “a natural expansion of culture<sup>349</sup>.” Thus the reference to Mao that Smith draws in terms of his influence on the Communist party and its stand on Self Determination exposes a certain degree of contradiction in Mao’s own ideological moorings. Because as two anonymous authors highlight in their paper “China and the Principle of Self-Determination of Peoples<sup>350</sup>” that before Mao became a member of the Chinese Communist Party, in the September of 1920, he has been quoted as opposing the “national unification<sup>351</sup>” campaign of the erstwhile Chinese government, and also advocated for the sovereignty of each individual provinces that formed the Chinese including those of the minority nationalities<sup>352</sup>. Yet as the authors further assert that in 1931, the Communist party did not completely follow Mao’s views on independence for all provinces within China yet the constitution of the party, did allow for the right to self determination for

<sup>349</sup> Smith, Warren Jr.2004.“China’s Policy on Tibetan Autonomy”,East-West Center Washington Working Papers. October.<http://www.eastwestcenter.org/fileadmin/stored/pdfs/EWCWwp002.pdf>

<sup>350</sup>Anonymous, Anonymous.“China and the Principle of Self-Determination of Peoples.”*St Antony’s International Review* 6, no. 1 (2010): 79–102.

<sup>351</sup> Ibid pp 80

<sup>352</sup> Hunan Da Gong Bao, September 3, 1920 as referred to in “China and the Principle of Self-Determination of Peoples,” *St Antony’s International Review* 6, no. 1 (2010): pp. 96.

all minority nationalities that were then a part of the Chinese nation. As the article 14 of the Communist constitution asserts that

“It recognizes the right of self-determination of the national minorities, their right to complete separation from China and to the formation of an independent state for each national minority, while Tibet, Sinkiang.”<sup>353</sup>

Thus despite a clear indication and intent of the Communist party as indicated in its own constitution to grant the right to the people to determine their own destiny yet as in 1944 the communist party and its stand on self determination for the minority nationalities underwent a massive change owing to the change in Mao’s own perspective on the granting of the right and the minority regions<sup>354</sup>. Hence by 1949 from an ardent defender of the Right to Self Determination, Mao now advocated from assimilationist standpoint considering the minority areas an integral part of the Chinese territory.

Therefore the roots of the conflict between the Tibetans and the Chinese lie in the denial of Self Determination to the Tibetan people. This isn’t merely a juridical debate but rather primarily relates to the wider idea of Human Rights. According to the Chinese logic and the popular perception, self determination is perceived as independence, which is not the case<sup>355</sup>.

There are also scholars such as Michla Pomerance who ascribe the view that Self Determination is not a right, as Lea Brilmayer, suggests that “Michla Pomerance, for example, doubts that there is a "right" to self-determination.”<sup>356</sup> While further quoting H.Wilson, the author further asserts that “that right to self-determination exists but not to support a right of secession.”<sup>357</sup>

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<sup>353</sup>Brandt, Conrad, John K. Fairbank, and Benjamin Schwartz.*A Documentary History of Chinese Communism*.1 edition. London: Routledge, 2008.

<sup>354</sup> “China and the Principle of Self-Determination of Peoples,” *St Antony’s International Review* 6, no. 1 (2010): pp. 81

<sup>355</sup> Ibid

<sup>356</sup> M. POMERANCE, SELF-DETERMINATION IN LAW AND PRACTICE 71 (1982) “The suggestion that self-determination is a principle of jus cogens is thus seen to be without any firm legal foundation”) as stated in Brilmayer, Lea, "Secession and Self-Determination: A Territorial Interpretation" (1991). Faculty Scholarship Series.Paper 2434. [http://digitalcommons.law.yale.edu/fss\\_papers/2434](http://digitalcommons.law.yale.edu/fss_papers/2434)

<sup>357</sup> , H. WILSON, INTERNATIONAL LAW AND THE USE OF FORCE BY NATIONAL LIBERATION MOVEMENTS 78 (1988) as stated in Brilmayer, Lea, "Secession and Self-Determination: A Territorial Interpretation" (1991). Faculty Scholarship Series.Paper 2434.[http://digitalcommons.law.yale.edu/fss\\_papers/2434](http://digitalcommons.law.yale.edu/fss_papers/2434)

Hence, Independence essentially is a choice that the people who exercise their right to self determination via a plebiscite or a national referendum may make; on the other hand they may also opt to remain within the state. As far as the Tibetans are concerned, there are divergent views on what stand the Tibetans should adopt as far as the status of Tibet concerned, two major strands that dominate the public, political and the ideological discourse concern either with Umaylam<sup>358</sup> or Rangzen<sup>359</sup>. Umaylam refers to the Middle Way policy of the Fourteenth Dalai Lama of Tibet which is also the official policy, standpoint, perspective and ideological base for the Dharamsala based Central Tibetan Administration which is widely referred to by its erstwhile name which is the Tibetan Government in Exile.

Thus within the domain of international law, the right to self determination is of premier importance and has been treated with utmost urgency. The roots of a viable right to self determination primarily first finds a mention in the United Nations charter that emerged after the Second World War and in other covenants of United Nations on Human Rights. Thus self determination can also be said to be a part of the larger program of decolonization of several territories which were under occupation by the major European powers. In the same context, even after the first world war, there were deliberations between the world leaders of the time over a plausible enunciation of the Right to Self Determination in the charter of the league of Nations, which ultimately could not come into fruition, just as several laws with regards to labour. As Burak Cop and Doğan Eymirlioğlu assert that post first world war “self-determination was “the touchstone for peacemakers at Versailles”<sup>360</sup>.

Thus the deliberations among the nations found no real takers as far as the final blue prints of the major international treaties and charters were concerned. Hence the Dumbarton Oaks conference in 1944 which was the first major coming together of world powers at a time when the second world war was nearing its fag end. Hence the United States, Nationalist China, Great Britain, and Soviet Russia met to chart out the

<sup>358</sup>“About CTA | Central Tibetan Administration.”We.*Central Tibetan Administration*.Accessed June 20, 2016. <http://Tibet.net/about-cta/>.

<sup>359</sup> Basu, Sudeep. “Interrogating Tibetan Exilic Culture: Issues and Concerns,” Vol. IX.SAGE, 2014.

<sup>360</sup>COP, Burak, and Doğan EYMİRLİOĞLU.“THE RIGHT OF SELF-DETERMINATION IN INTERNATIONAL LAW TOWARDS THE 40th ANNIVERSARY OF THE ADOPTION OF ICCPR AND ICESCR.”*Perceptions*, no.Winter (2005). <https://sam.gov.tr/the-right-of-self-determination-in-international-law-towards-the-40th-anniversary-of-the-adoption-of-iccpr-and-icescr/>.

possibilities for a supra national organization on the lines of the League of Nations which had failed to live up to its cherished vision, as visible in the outbreak of the second world war and the widespread destruction and the loss of lives.

The conference while could build a consensus on the prospect of the need for the establishment of a world organization , where every nation finds a representation which would seek to build greater cooperation and promote peace among nations while also seeks to ensure mutual development of all nations. The future organization was also envisioned by the world leaders to play a leading role in the resolution of disputes among the nations with greater amicability.

Thus the outcomes of the conference that highlight the purpose, as stated above, yet they largely relate to the common concern with regards to international disputes and the impending search for a peaceful path to resolve them. Yet at this juncture, Self Determination was largely ignored. Therefore, from a comparative perspective, even while within China there were discussions on self determination as a right for the minority nationalists as highlighted above with reference to the early writings of Mao and the constitution of the Communist party, while even scholars such as Rosa Luxemburg had highlighted and upheld the cause of the rights of the peoples for self determination, the world leaders at the official forum remained mute. It can also be argued, that greater degree of discussion on the prospects for the furthering of the right to self determination to the people were largely a by product of the rise of communism in several areas of the world including China. Thereafter Soviet Russia remained committed to ensuring the right to self determination for people across the globe, and upon its adamant request, the next major conference of world powers made amends to the purpose of the future organization, United Nations, which they had earlier drafted. The purpose as stated in the outcomes of the Dumbarton Oaks conference read as “To develop friendly relations among nations and to take other appropriate measures to strengthen universal peace”<sup>361</sup> which was later redrafted as “to develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures

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<sup>361</sup>“DUMBARTON OAKS Washington Conversations on International Peace and Security Organization. October 7, 1944 Documents Pertaining To American Interest In Establishing A Lasting World Peace: January 1941-February 1946.” Book Department, Army Information School, Carlisle Barracks, May 1946. <http://www.ibiblio.org/pha/policy/1944/441007a.html>.

to strengthen universal peace<sup>362</sup>”. Hence, though Self Determination is enshrined as one of the major purpose of the United Nations in its charter, it does not find a mention in the Universal Declaration of Human Rights.<sup>363</sup>

Thus until 1951 within the domain of international law the Right to Self Determination had not yet attained far reaching recognition. Hence in 1952, the United Nations adopted the resolution which added the Right to Self Determination to the International Covenants on Human Rights. Thus the first article of the International Covenant on Economic, Social and Cultural Rights states that “All peoples have the right of self-determination, including the right to determine their political status and freely pursue their economic, social and cultural development<sup>364</sup>.” Therefore in the context of the adaptation of the Right to Self Determination, Zubeida Mustafa asserts that “self-determination as a "right" rather than a "principle" gained recognition and was reaffirmed as such in various United Nations resolution<sup>365</sup>”. It is also thus an irony that while the right to Self Determination was keenly adapted into the covenants on Human Rights, when the United Nations had sought to adapt the Right to Self Determination on the Granting of Independence to Colonial Countries and Peoples, major world powers, from the western world had “abstained” from voting on the Resolution while all other members of the United Nations had voted In favour of the Resolution. The countries that abstained from voting on the resolution were largely those who had been involved in the Colonial project<sup>366367</sup>.

Thus as referred to, earlier, the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights<sup>368</sup>, both passed in 1966 finally secured the rightful place that self determination ought to have been accrued much before within the domain of international law. Hence Anna

<sup>362</sup>“CHARTER OF THE UNITED NATIONS AND STATUTE OF THE INTERNATIONAL COURT OF JUSTICE.”United Nations, 1945. <http://www.un.org/en/sections/un-charter/un-charter-full-text/>.

<sup>363</sup> MUSTAFA, ZUBEIDA. “The Principle of Self-Determination in International Law.”*The International Lawyer* 5, no. 3 (1971): pp.480

<sup>364</sup> General Assembly Resolution 545 (VI), 5 February 1952

<sup>365</sup> MUSTAFA, ZUBEIDA. “The Principle of Self-Determination in International Law.”*The International Lawyer* 5, no. 3 (1971):pp.481

<sup>366</sup> [Australia](#), [Belgium](#), [Dominican Republic](#), [France](#), [Portugal](#), [Spain](#), [Union of South Africa](#), [United Kingdom](#), and [United States](#)

<sup>367</sup>[United Nations General Assembly](#) Session -1 *Resolution 1514*. [A/RES/1514\(XV\)](#)

<sup>368</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200 A (XXI) of 16 December 1966

Batalla in her paper on “The Right of self-determination – ICCPR and the jurisprudence of the Human Rights Committee”<sup>369</sup> provides a detailed analysis of the interpretation of the Right to Self Determination as enshrined in the two covenants on Human Rights, where she means to assert that the right to self determination is a peoples right and not an individual right similar to Zubeida Mustafa who also asserts that “This right stands in a class by itself, as compared to the other substantive rights enumerated, in the sense that it applies to collectives and not to individuals, as in the case with all other economic and political rights. Self-determination cannot be applied to individuals, but has been understood as being exercised either by whole peoples of a territory seeking freedom from colonial rule, or by substantial groups markedly distinguished from the remainder of the community in which they live by virtue of their physical characteristics, habitual language, religious belief or political affiliation<sup>370</sup>”.

Several of the rights as mentioned in the ICPR as individual rights as compared to which refers to a rather collective rights of the people. She also further asserts that the right in the covenant has been secured as a functioning right as part of positive law and not merely as a principle<sup>371</sup>. She refers to a comment by the human rights committee which asserts that, “the right of self-determination is of particular importance because its realization is an essential condition for the effective guarantee and observance of individual human rights and for the promotion and strengthening of those rights<sup>372</sup>”. Essentially this particular comment by the human rights committee , it should be noted, refers also to the case of Tibet and the argument that this chapter is seeking to arrive to, whereby the core of the state of exception which has emerged in Tibet since 1951 is manifested through the grave nature of the human rights violations that have taken place, the staggering statistics and the qualitative literature speak of it,

<sup>369</sup> Symposium on “The Right to Self-Determination in International Law” Organised by Unrepresented Nations and Peoples Organization (UNPO), Khmers Kampuchea-Krom Federation (KKF), Hawai’i Institute for Human Rights (HIHR) 29 September – 1 October 2006 The Hague, Netherlands

<sup>370</sup>MUSTAFA, ZUBEIDA. “The Principle of Self-Determination in International Law.”*The International Lawyer* 5, no. 3 (1971): pp. 482

<sup>371</sup> Symposium on “The Right to Self-Determination in International Law” Organised by Unrepresented Nations and Peoples Organization (UNPO), Khmers Kampuchea-Krom Federation (KKF), Hawai’i Institute for Human Rights (HIHR) 29 September – 1 October 2006 The Hague, Netherlands

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<sup>372</sup> CCPR General Comment No. 12 [21]: The right to self-determination of peoples (Art. 1), adopted on 13 March 1984, para. 2.

while the base of these human rights violations is essentially the right to self determination which has been denied to the Tibetan people<sup>373</sup>. On one hand it is reflective of the Han Chinese chauvinism which is visible in the early statements of Mao and the communist party which considered all nationalities to be a part of China and thus sought no need for them to assert the claim to self determination<sup>374</sup> and on the other hand it also reflects their lack of faith in democracy and the free will of the people. Thus in the same analysis, the author further asserts that “no clear definition of self determination has been brought to the fore by the human rights committee<sup>375</sup>”, She calls this as “regrettable<sup>376</sup>”, thus paving way for a great degree of ambiguity when it comes to its interpretation<sup>377</sup>.

In order to further deliberate into reaching a definition of the self determination by the UN agencies, the author then highlights the comments by the Committee Against Racial Discrimination has shed some light on this issue by identifying and defining two aspects of the right to self-determination:

“The internal aspect, that is to say, the rights of all peoples to pursue freely their economic, social and cultural development without outside interference. In that respect there exists a link with the right of every citizen to take part in the conduct of public affairs at any level (...) The external aspect of self-determination implies that all peoples have the right to determine freely their political status and their place in the international community based upon the principle of equal rights and exemplified by the liberation of peoples from colonialism and by the prohibition to subject peoples to alien subjugation, domination and exploitation<sup>378</sup>.” The author further cites another

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<sup>373</sup> The Case Concerning Tibet, Tibet Justice Center ,TIBET’S SOVEREIGNTY AND THE TIBETAN PEOPLE’S RIGHT TO SELF-DETERMINATION, by Tibet Justice Center (Andrew G. Dulaney and Dennis M. Cusack) and Unrepresented Nations and Peoples Organization (Dr. Michael van Walt van Praag) for The Tibetan Parliamentary and Policy Research Centre June 1, 1998 Update added by Tibet Justice Center February 13, 2013

<sup>374</sup>Smith, Warren W. *China’s Tibet?: Autonomy Or Assimilation*. Rowman & Littlefield, 2009. pp.26

<sup>375</sup>Symposium on “The Right to Self-Determination in International Law” Organised by Unrepresented Nations and Peoples Organization (UNPO), Khmers Kampuchea-Krom Federation (KKF), Hawai’i Institute for Human Rights (HIHR) 29 September – 1 October 2006 The Hague, Netherlands pp 1

<sup>376</sup> Ibid pp 2

<sup>377</sup>MUSTAFA, ZUBEIDA. “The Principle of Self-Determination in International Law.”*The International Lawyer* 5, no. 3 (1971):pp. 481-2

<sup>378</sup> As in Symposium on “The Right to Self-Determination in International Law” Organised by Unrepresented Nations and Peoples Organization (UNPO), Khmers Kampuchea-Krom Federation (KKF), Hawai’i Institute for Human Rights (HIHR) 29 September – 1 October 2006 The Hague, Netherlands from CERD General Recommendation No. 21: Right to self-determination, adopted on 23 August 1996, para. 4

comment by the Committee which asserts that “article 1 (3) imposes specific obligations on States parties to respect and to promote the realization of the right of self-determination, not only in relation to their own peoples but also vis-à-vis all peoples which have not been able to exercise or have been deprived of the possibility of exercising that right<sup>379</sup>.”

Thus in the case of Tibet, the right to self determination can be said to have been violated and denied in official terms from 1951 itself when the representatives of the Dalai Lama were forced to sign the 17 Point Agreement. Hence RM Clark considers the signing of the 17 point agreement as “illegal” and highlights several reasons that seek assert as to why the agreement “should not be binding<sup>380</sup>”. Therefore the reasons that she cites relate to the basic principles of international law which guide the jurisprudence of international law and also what can be described as the parameters of contractual engagement between two parties. Therefore the reasons include:

- a) “it was signed while the armies of the People's Republic of China occupied Tibet”<sup>381</sup>
- b) “the Tibetan representatives did not have authority to sign an agreement on behalf of the Tibetan people”<sup>382</sup>
- c) “the Agreement was signed under the threat of possible military action”<sup>383</sup>
- d) “If a treaty is imposed **by** force or a country is threatened **by** the use of force into signing an agreement, then the agreement is void and is not binding upon the parties to the agreement”<sup>384</sup>.

The nuanced arguments by Clark relate to the provisions of the Vienna Convention on the Law of Treaties<sup>385</sup> which has enshrined several provisions in the Convention for the preservation of the rights of parties who enter into treaties in order to protect them from force and coercion. As article 52 of the convention reads that “A treaty is void if its conclusion has been procured by the threat or use of force in violation of the

<sup>379</sup> CCPR General Comment No. 12, op.cit., para. 6. As in *ibid* page 3

<sup>380</sup> Regina M. Clark, “China’s Unlawful Control Over Tibet: The Tibetan People’s Entitlement to Self-Determination” in (2001-2002) 12 *Ind. Int’l & Comp. L. Rev* pp 300

<sup>381</sup> *Ibid* pg 301

<sup>382</sup> *ibid*

<sup>383</sup> *ibid*

<sup>384</sup> *ibid*

<sup>385</sup> Vienna Convention on the law of treaties (with annex). Concluded at Vienna on 23 May 1969 Registered ex officio on 27 January 1980. <https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>



principles of international law embodied in the Charter of the United Nations”<sup>386387</sup>. Thus in a very well argued section, Clark contextualizes the signing of the seventeen point agreement not only in terms of its legal framework and the rhetoric of it but rather in its historical setting where she deliberates upon certain facts such the lack of access to the representatives of the Dalai Lama to consult him or the Kashag before the signing of the agreement. The author also highlights the threat of violence which was omnipresent in Tibet and was one of the major reason to force and coerce and rather subjugate them into the signing of the seventeen point agreement, all of which relate to , in accordance with the provisions of the international law a violation of the norms and the procedures. Though it should also be asserted that the Vienna convention on the Laws of Treaty was passed only in 1980 while the seventeen point agreement was signed in 1951. Yet whatsoever be the chronology of events and the chronology of jurisprudence, the fact remains that the passing of the Vienna Convention on the Laws of Treaty is an helpful asset in strengthening the case for nullifying the seventeen point agreement and its unequal provisions. While The seventeen points in the agreement<sup>388</sup> read as follows:

- 1.” The Tibetan people shall be united and drive out the imperialist aggressive forces from Tibet; that the Tibetan people shall return to the big family of the motherland--the People's Republic of China.”
- 2.” The Local Government of Tibet shall actively assist the People's Liberation Army to enter Tibet and consolidate the national defences.”
3. “In accordance with the policy towards nationalities laid down in the Common Programme of the Chinese People's Political Consultative Conference, the Tibetan

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<sup>386</sup> Ibid Article 52 pg 344

<sup>387</sup> Also footnote number 94 page 301 Regina M. Clark, “China’s Unlawful Control Over Tibet: The Tibetan People’s Entitlement to Self-Determination” in (2001-2002) 12 Ind. Int’l & Comp. L. Rev

<sup>388</sup>**Seventeen-Point Plan for the Peaceful Liberation of Tibet (1951) [p.182]** THE AGREEMENT OF THE CENTRAL PEOPLE'S GOVERNMENT AND THE LOCAL GOVERNMENT OF TIBET ON MEASURES FOR THE PEACEFUL LIBERATION OF TIBET<sup>23</sup> MAY, 1951- signed between Chief Delegate: Li Wei-han (Chairman of the Commission of Nationalities Affairs);Delegates: Chang Ching-wu, Chang Kuo-hua, Sun Chih-yuan Delegates with full powers of the Local Government of Tibet: Chief Delegate: Kaloon Ngabou Ngawang Jigme (Ngabo Shape) Delegates: Dzasak Khemey Sonam Wangdi, Khenchung Thuptan, Tenthar, Khenchung Thuptan Lekmuun Rimshi, Samposey Tenzin Thondup Legal Materials on Tibet- <http://www.Tibetjustice.org/materials/China/China3.html>

people have the right of exercising national regional autonomy under the unified leadership of the Central People's Government.”

4.” The Central Authorities will not alter the existing political system in Tibet. The Central Authorities also will not alter the established status, functions and powers of the Dalai Lama. Officials of various ranks shall hold office as usual.”

5.” The established status, functions, and powers of the Panchen Ngoerhtehni shall be maintained.”

6. “By the established status, functions and powers of the Dalai Lama and of the Panchen Ngoerhtehni is meant the status, functions and powers of the 13th Dalai Lama and of the 9th Panchen Ngoerhtehni when they were in friendly and amicable relations with each other.”

7. “The policy of freedom of religious belief laid down in the Common Programme of the Chinese People's Political Consultative Conference will be protected. The Central Authorities will not effect any change in the income of the monasteries.”

8. “The Tibetan troops will be reorganised step by step into the People's Liberation Army, and become a part of the national defence forces of the Central People's Government.”

9. “The spoken and written language and school education of the Tibetan nationality will be developed step by step in accordance with the actual conditions in Tibet.”

10. “Tibetan agriculture, livestock raising, industry and commerce will be developed step by step, and the people's livelihood shall be improved step by step in accordance with the actual conditions in Tibet.”

11.” In matters related to various reforms in Tibet, there will be no compulsion on the part of the Central Authorities. The Local Government of Tibet should carry out reforms of its own accord, and when the people raise demands for reform, they must be settled through consultation with the leading personnel of Tibet.”

12. “In so far as former pro-imperialist and pro-KMT officials resolutely sever relations with imperialism and the KMT and do not engage in sabotage or resistance, they may continue to hold office irrespective of their past.”

13. "The People's Liberation Army entering Tibet will abide by the above-mentioned policies and will also be fair in all buying and selling and will not arbitrarily take even a needle or a thread from the people."

14. "The Central People's Government will handle all external affairs of the area of Tibet; and there will be peaceful co-existence with neighboring countries and the establishment and development of fair commercial and trading relations with them on the basis of equality, mutual benefit and mutual respect for territory and sovereignty."

15. "In order to ensure the implementation of this agreement, the Central People's Government will set up a military and administrative committee and a military area headquarters in Tibet, and apart from the personnel sent there by the Central People's Government it will absorb as many local Tibetan personnel as possible to take part in the work. Local Tibetan personnel taking part in the military and administrative committee may include patriotic elements from the Local Government of Tibet, various district and various principal monasteries; the name list is to be prepared after consultation between the representatives designated by the Central People's Government and various quarters concerned, and is to be submitted to the Central People's Government for approval."

16. "Funds needed by the military and administrative committee, the military area headquarters and the People's Liberation Army entering Tibet will be provided by the Central People's Government. The Local Government of Tibet should assist the People's Liberation Army in the purchases and transportation of food, fodder, and other daily necessities."

17." This agreement shall come into force immediately after signatures and seals are affixed to it."

Thus as the several of the points indicate that Tibetans have been clearly denied the right to self determination by the Chinese Government which while recognizing the Tibetan people and the region of Tibet as a distinct nationality, still failed to accrue to the right to self determination that minority nationalities have a rightful claim onto. The preamble of the agreement leaves no scope for treating the status of Tibet as a contested issue since the Chinese government that drafted the agreement, from the onset i.e. in the Preamble itself asserts to say that Tibet has been a part of China. This

is a classic contradiction and a sea of change in the standpoint of the Communists who have otherwise been the champions of the rights to self determination of several people across the globe. Yet more blatantly the dictums of the 17 point agreement can be said to be endorsing and legitimizing the policy of human rights violations in Tibet. Hence, the Fourteenth Dalai Lama, in his appeal to the United Nations<sup>389</sup>, described the so called “Peaceful Liberation” of Tibet as “a clear case of aggression” further stating that “the people of Tibet are compelled by force to become a part of China against their will and consent”. The statements of the Dalai Lama also related to the gross violation of several principles of the Universal Declaration of Human Rights and by calling the incorporation of Tibet into China as an act of aggression, the case further relates to a gross violation of the Article 52<sup>390</sup> of the Vienna Treaty laws, as stated earlier. In the same light it is of relevance to assert that the signing of the seventeen point agreement by the Chinese can be considered as a strategy to gain a certain juridical legitimacy which stands annihilated owing to widespread public support and mobilizing of the public opinion in favour of the Tibetan people. Apart from the juridical methods of approaching several supra national organizations, the greater convergence of the Tibetan people with the outside world has also helped the Tibetan people in asserting their right to Self Determination and also in highlighting their plight of also being denied the same very right.

Thus as stated in the second chapter, the conditions under which the Fourteenth Dalai Lama was forced to flee from Tibet and seek exile were extremely coercive with blatant threat of the use of force. Considering the Dalai Lama as the head of the state, he still remains no exception as far as the Universal Declaration of Human Rights is concerned. Forceful exile of any individual person is considered as a violation of the article 9 of the Universal Declaration of Human Rights and thus the events of 1959 reflect a major violation of the article by the Chinese Government. In the same context, one can also associate the violation of the article 9 of the Universal Declaration of Human Rights with the emergence of the large number of Tibetan Diaspora. As several accounts of the Tibetan refugees indicate, they have fled from

<sup>389</sup> **Appeal by His Holiness the Dalai Lama of Tibet to the United Nations (1950)** [p.5] U. N. Document A11549-11 November 1950, Kalimpong - Legal Materials on Tibet-  
<http://www.Tibetjustice.org/materials/un/un2.html>

<sup>390</sup> Vienna Convention on the law of treaties (with annex). Concluded at Vienna on 23 May 1969  
Registered ex officio on 27 January 1980.  
<https://treaties.un.org/doc/publication/unts/volume%201155/volume-1155-i-18232-english.pdf>

Tibet in order to flee from oppression and persecution and more importantly to live as “Tibetans” at a time when several policies of the Chinese government such as the patriotic education campaign, the Great Leap forward, and the Cultural Revolution have led to a greater annihilation of the Tibetan culture, religion and identity. Several testimonies of the self immolators inside Tibet also relate to various aspects of Tibetan identity and the Tibetan life which continue to be violated by the Chinese inside Tibet. Though a caveat maybe applied here in the context of the ongoing deliberation on the idea of exile and the usage of the term Diaspora that Exile and refugee are forms of or result of a migration or “dispersal of a people from its original homeland”<sup>391</sup>. Diaspora identity, yet over time, in the contemporaneous scenario Diaspora has been widely used to refer to several social groups who are a part of the mass movement of the people. As Kim Butler, a recognized authority on Diaspora Studies asserts that there exists an element of “mass movement” as far as the larger notion and construction of Diaspora is concerned. While he also asserts that the “act of dispersion may or may not be diasporization”<sup>392</sup>. Yet the Tibetans have emerged as a Diaspora owing to their restoration of culture, identity and religion which faces a genocidal threat inside Tibet.

Therefore such have been the atrocities of the Chinese inside Tibet that in 1959 the United Nations General Assembly adopted a resolution that clearly states that “Considering that the fundamental human rights and freedoms to which the Tibetan people, like all others, are entitled include the right to civil and religious liberty for all without distinction, Mindful also of the distinctive cultural and religious heritage of the people of Tibet and of the autonomy which they have traditionally enjoyed, Gravely concerned at reports, including the official statements of His Holiness the Dalai Lama, to the effect that the fundamental human rights and freedoms of the people of Tibet have been forcibly denied them, Deploring the effect of these events in increasing international tension and embittering the relations between peoples at a time when earnest and positive efforts are being made by responsible leaders to reduce tension and improve international relations,

<sup>391</sup> Butler, Kim. “Defining Diaspora, Refining a Discourse.” *Diaspora: A Journal of Transnational Studies* 10, no. 2 (Fall 2001). pp 189

<sup>392</sup> Ibid

1. Affirms its belief that respect for the principles of the Charter of the United Nations and of the Universal Declaration of Human Rights is essential for the evolution of a peaceful world order based on the rule of law;
2. Calls for respect for the fundamental human rights of the Tibetan people and for their distinctive cultural and religious life<sup>393</sup>.”

Hence as far as the tone of the language is concerned, the resolution presents with several layers of understanding, primarily, it is assertive of the right of the Tibetan people to the fundamental rights which have been enshrined in the Universal Declaration of Human Rights. When the Universal Declaration of Human Rights was passed, Tibet remained an independent state but it also remained isolated from the outside world. thus in that context, the resolution refers to “autonomy” and it is essentially here at this juncture that the United Nations too seems to have been endorsing the Chinese claims on Tibet by meaning to assert that Tibetans have enjoyed autonomy rather than a claim which has been widely contested. Thus despite this contradiction, the resolution remains committed to the idea of preservation of the Tibetan people and stands as a testimony of the nature of the harshness of the Chinese intervention in Tibet. According to the estimates of the Central Tibetan administration, the revolt of the Tibetan people on 10<sup>th</sup> March 1959 inside Tibet was brutally crushed by the Chinese which resulted in a loss of more than 87000 Tibetan lives in one single day. It is essentially the March 10<sup>th</sup> incident which brought to the fore the grave human rights situation inside Tibet which had already started to deteriorate in Kham and Amdo where the Chinese policies were implemented in a more vehement manner.

Further on in 1961 the UN General assembly adopts a resolution expressing its concern on the nature of Chinese rule “Violation of the fundamental human rights of the Tibetan people and the Suppression of the distinctive cultural and religious life which they have traditionally enjoyed”. Also the resolution takes the note of “Large scale exodus of Tibetan refugees to the neighboring countries” Thus indicating that

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<sup>393</sup>**United Nations G.A. Resolution 1353 (XIV) on Tibet (1959) [p.7] UNITED NATIONS GENERAL ASSEMBLY RESOLUTION 1353 (XIV) NEW YORK, 1959**  
<http://www.Tibetjustice.org/materials/un/un3.html>

the Chinese government has violated several different rights that are enshrined in the various article of the Universal Declaration of human rights. The resolution specifically asserts upon the right to self-determination and considers it to have been violated and expresses its solidarity for the granting of the right to self-determination to the Tibetan people.

Four years later the general assembly adopts another resolution, just one year before the Cultural Revolution in China, expressing its concern for the massive human rights violations inside Tibet. Thus despite the calls by the United Nations for the respect of the rule of law which intricately relates to the preservation of the people yet the Chinese Communist Party launched the Cultural Revolution in 1966 which led to massive destruction of Tibet's age old cultural heritage and spiritual legacy as Tashi Phuntsok asserts that in Tibet the Cultural Revolution began rather in 1959 itself when Chinese invaded Tibet and started destroying its culture, so the Cultural Revolution was reflective of the communist ideology which considered religion as superstitious and dogmatic and tried to annihilate the institution from its roots. Several temples, monasteries were looted and plundered, according to certain estimates around 1,73,000 Tibetans died in custody<sup>394</sup>. Several of the Tibetans were sent to forced labour camps as one of the informants, Sonam D informs during an informal interview with researcher that even his father was sent to a forced labour camp in Tibet, he further asserts that every family from his village was expected to send at least one member to the forced labour camp, it is essentially this kind of hardship against their will that ultimately forced Sonam and his father to seek exile in Nepal, they travelled on foot through the harsh terrain of the Himalayan mountains to finally reach Nepal<sup>395</sup>. As Gangs Phrug asserts in a Modern Golok Tibetan Family History<sup>396</sup> that during the Cultural Revolution even prayer beads and the chanting of sacred verses was also prohibited on the name of destroying the "old culture". The author further asserts that government employees in Tibet during the Cultural Revolution and after its end acquired enormous powers. This is the narrative of the

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<sup>394</sup> Phuntsok, Tashi. "Revisiting the 'Cultural Revolution' in Tibet | Central Tibetan Administration," October 31, 2016. <http://tibet.net/2016/10/revisiting-the-cultural-revolution-in-tibet/>.

<sup>395</sup> Anjaria, Arnav Keyur. Interview with Sonam D, June 2015.

<sup>396</sup> Phrug, Gangs. *A Modern Golok Tibetan Family History*. Memories, 2015. pp.26

life of Tibet as narrated by Gangs Phrug's grandmother after the cultural. Another volatile moment in Tibet's history was witnessed in 1987 when Tibetans once again rose against the actions of the Chinese government and protests broke out across Tibet. Thus in 1989 the Chinese government imposed Martial Law in Tibet which further deteriorated the human rights situation. While talking to media in 1990 Tenzin Tethong went to assert that while the Martial law may have been lifted in 1990 Tibetans have been under the martial law since several decades, this particular statement by Tethong speaks about how China has suspended the basic rule of law that would impartially guard the human rights of all people. The lifting of the martial law has had little or no effect as far as the basic rights of Tibetan people are concerned<sup>397</sup>. Just as the 1991 UN human rights commission on minorities' resolution asserts asking China "to fully respect the fundamental human rights and freedoms of the Tibetan people<sup>398</sup>", Despite several claims by Chinese there is hardly any break through that has been achieved as far as the improvement in lives of ordinary people of Tibet are concerned. Thus as several excerpts from successive reports and deliberations of **The EU-China Human Rights Dialogue indicate.**<sup>399400401402</sup>

**Thus** Supra national deliberations on Tibet reveal a subtle critique of China's policies inside Tibet which also speak of how Human Rights of the Tibetan people remain suspended under the Chinese Rule since 1951. While the Cultural Revolution and the great leap forward were two major epochs in the history of human rights violations inside Tibet, which led to massive loss of lives on a scale that it can be described and

<sup>397</sup> Kristof, Nicholas D., and Special to The New York Times. "MARTIAL LAW ENDS IN TIBET'S CAPITAL." *The New York Times*, May 1, 1990. <http://www.nytimes.com/1990/05/01/world/martial-law-ends-in-tibet-s-capital.html>.

<sup>398</sup>"Commission on Human Rights: Sub-Commission Resolution 1991/10: Situation in Tibet COMMISSION ON HUMAN RIGHTS SUB-COMMISSION ON PREVENTION OF DISCRIMINATION AND PROTECTION OF MINORITIES E/CN.4/Sub.2/1991/10," 1991. <http://www.tibetjustice.org/materials/un/un7.html>. pp.12

<sup>399</sup>"Human Rights and Democracy in the World Report on EU Action." European Union, July 2008, pp.157

<sup>400</sup>"Human Rights and Democracy in the World Report on EU Action." European Union, June 2012. pp.242,243,315,319

<sup>401</sup>"Human Rights and Democracy in the World Report on EU Action." European Union, June 2014. pp.141,298-299.

<sup>402</sup>Human Rights and Democracy in the World Report on EU Action." European Union, 2014, pp.236,237,238,



it can be contextualized within the realms of Butler's "Precarious Life"<sup>403</sup>. Along with Agamben, *Precarious Life* speaks of the voices of those Tibetans who have disappeared without being heard or if they are heard they appear in the statistics and what is robbed is their existence in any form as a result of the "Banality of the Evil".

Therefore China's campaign such as strike hard campaign and the imposition of the martial law in Tibet to handle the splittist activities relate to a larger politico-juridical phenomenon in place. While the Chinese government may claim to have in place a rule of law in accordance with dictums of the Chinese constitution yet the thesis hereby argues through the presentation of the above critiques of the Chinese actions inside Tibet the fact that the kind of scenario which has been built upon exactly relates to what Giorgio Agamben describes as a State of Exception.

In his state of exception thesis, written after the 9/11, the Italian political philosopher argues that in the modern era, nation has become so Omni-powerful that even while it may claim to be a democratic state, at several junctures it disbands the rule of law on the name of tackling a perceived threat and on the pretext of protecting its people from these threats<sup>404</sup>. Agamben uses the notion of Bio politics while conceptualizing the state of exception. Agamben argues that State of Exception is a reflection of the way the Modern Government has emerged, "imperfect nihilism". The functioning of the Modern Government is largely reflective and adheres to the nomenclature of a state of exception where the executive is supra powerful with little or no checks and balances upon the exercise of power by the sovereign. In several constitutions of the world, including that of India, the constitutions carry emergency laws or the laws of war according to which they guide the actions of the state and its population during the times of crisis, what Agamben seeks to argue is the fact that the State of Exception is not about enunciation of any "exceptional" law to deal with the circumstances but rather it is the suspension of the law itself.

As Agamben asserts in the context of classifying a state of exception that the state of exception is a certain spatial connotation and a reality where the relevance of the law remains without or with the suspension of the law<sup>405</sup>. Thus which essentially relates to a fact that while the exercise of brute power would seem in accordance with the way

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<sup>403</sup> Butler, Judith. *Precarious Life: The Powers of Mourning and Violence*. Verso, 2006.

<sup>404</sup> Agamben, Giorgio. *State of Exception*. University of Chicago Press, 2005. pp.53,2,

<sup>405</sup> Ibid pp.23

in which power is exercised as carrying the juridical legitimacy but the such is the exercise of power and the dominance of the executive without a counter reflection mechanism that ultimately there is a greater suspension of law itself and on the name of law there is only the exercise of power.

In the context of Tibet as well one can argue that there is a far greater suspension of the rule of law then the Chinese government would acknowledge. While it had claimed to have lifted the martial law in Tibet in 1990, and has Tethong's statement as mentioned earlier reflects, its actions have aimed at a mere exercise of brute power to deny the basic rights of the people and the legal sanctions within Tibet as enunciated by the Chinese government indicate a phenomenon where the laws are enacted to deny the most basic fundamental rights to the people of Tibet.

There is a dominant perception of several supra national and universal instruments of human rights that they are merely customary and basic in nature and many such as Universal Declaration of Human Rights are not binding in nature. Yet the larger idea of the a universal charter such as the UDHR relates to as an advisory for all nation states and members of the international system to grant the most basic freedoms and rights to its people at any and every juncture. China is also a signatory to the Universal Declaration of Human Rights and several human rights accords, and in that case, there is always a dual framework of laws which is in practice in every state. Since several of the states have effectively cherished the values of the universal declaration of human rights in their constitutions, the boundaries between the two fold framework seem blurred or nonexistent since the national law and the basic rule of law is supra dominant in the protection and granting of the basic human rights to the people.

Yet in the case of China the boundary between the supra national, or international humanitarian law and its actions inside Tibet is more vividly visible owing largely to the way in which China has ignored and denied the cherished articles of the human rights laws to the people inside Tibet. The violations of the basic human rights of the people of Tibet, at its core lies the right to self determination, essentially deals with a rather suspension of laws in Tibet on the name of exercise of law and in trying to tackle what China perceived as "splittism" in Tibet. In a very apt statement, Agamben describes such a situation as "Indeed, the state of exception has today reached its maximum worldwide development. The normative aspect of law can thus be obliterated and contradicted with impunity by a governmental violence that—while

ignoring international law externally and producing a permanent state of exception internally— nevertheless still claims to be applying the law<sup>406</sup>” thus ever since the takeover of Tibet by the Chinese government, it has violated the cultural and religious rights of the Tibetan people, closing down Tibetan schools, even banning the imparting of education in the Tibetan language and has widely infiltrated into the monastic institutions and has turned them into, one hand, a theme park and on the other hand, a military camp.

Agamben also uses the examples of the Nuremberg laws and the final solution in Nazi Germany to highlight the plight of the Jews, in several of his writings Agamben has deliberated on the nature and the nuances of the Nazi state and its brutal exercise of power<sup>407</sup>. In the same there is a parallel between the Nazi state and its treatment of the Jews and the Chinese state and its treatment of the Tibetans. In 2011, the researcher had interviewed the Prime Minister of the Central Tibetan Administration, Dr Lobsang Sangay, during the interview the Prime Minister made a very poignant remark by asserting that what the Tibetans are asking for are mere human rights in accordance with the Chinese constitution but they have been specifically denied these rights because they are Tibetans. Essentially the Chinese have sought to marginalize the Tibetans in their own land on the name of the rule of law which according to the Chinese government is perfectly valid but is hazardous in the eyes of the international law.

Thus Agamben isn't the only theorist who has theorized the State of Exception but has been inspired largely by Carl Schmitt and Walter Benjamin and one can concede that it stands as one of the most realistic description of the political order in modern societies especially in the context of the geographies of resistance such as Tibet.

As several testimonies of the self immolators indicate<sup>408</sup>, the primary demand of the self immolators and the reason for Self Immolation has been the lack of and denial of freedom in Tibet. As one of the youngest self immolator, Chagdor Kyab shouted while self immolating himself that “we want freedom<sup>409</sup>”. This is a dead man's

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<sup>406</sup> Ibid pp.87

<sup>407</sup> Agamben, Giorgio. *Homo Sacer: Sovereign Power and Bare Life*. Stanford University Press, 1998. pp.181

<sup>408</sup>“International Campaign for Tibet | Self-Immolations by Tibetans.” Accessed May 23, 2017. <https://www.savetibet.org/resources/fact-sheets/self-immolations-by-tibetans/>.

<sup>409</sup> Ibid

testimony which is indicative of the extent to which freedom and most basic human rights have been denied to the Tibetans inside Tibet. The self immolations inside Tibet reflect the most grim nature of the state of exception inside Tibet where Tibetans have been dragged to self immolate in order to speak out against the actions of the Chinese government while highlighting their plight and the ultimate truth of Tibet.

#### 4.1.2) Statistics on Self Immolators

The following tables provide an insight into the nature of self immolations inside Tibet and investigate into the ethnographic backgrounds of the Self Immolators.

Table 1.0) Gender wise Analysis of Self Immolators<sup>410</sup>

| Sl.No | Location   | Gender |      |       |
|-------|--|--------|------|-------|
|       |  | Female | Male | Total |
| 1     | <b>Gansu</b>                                       | 2      | 22   | 24    |
| 2     | <b>Kanlho</b>                                      | 0      | 2    | 2     |
| 3     | <b>Lhasa</b>                                       | 0      | 1    | 1     |
| 4     | <b>Mongolian and Tibetan Autonomous Prefecture</b> | 0      | 1    | 1     |
| 5     | <b>Rebkong</b>                                     | 0      | 2    | 2     |
| 6     | <b>Amdo</b>  | 0      | 1    | 1     |
| 7     | <b>Barkham</b>                                     | 0      | 3    | 3     |
| 8     | <b>Beijing</b>                                     | 1      | 0    | 1     |
| 9     | <b>Bora</b>  | 0      | 1    | 1     |
| 10    | <b>Chamdo</b>                                      | 0      | 1    | 1     |
| 11    | <b>Chentsa</b>                                     | 0      | 1    | 1     |
| 12    | <b>Damshung</b>                                    | 0      | 1    | 1     |
| 13    | <b>Driru</b>                                       | 0      | 1    | 1     |
| 14    | <b>Dzogchen Monastery</b>                          | 1      | 1    | 2     |
| 15    | <b>Gannan</b>                                      | 0      | 1    | 1     |
| 16    | <b>Gansu</b>                                       | 2      | 0    | 2     |
| 17    | <b>Golog</b>                                       | 0      | 4    | 4     |
| 18    | <b>Kangsta</b>                                     | 0      | 1    | 1     |
| 19    | <b>Kardze</b>                                      | 3      | 5    | 8     |
| 20    | <b>Kham</b>  | 1      | 1    | 2     |
| 21    | <b>Kyegudo</b>                                     | 1      | 0    | 1     |
| 22    | <b>Lhasa</b>                                       | 0      | 1    | 1     |
| 23    | <b>Luchu</b>                                       | 0      | 1    | 1     |
| 24    | <b>Malho</b>                                       | 2      | 2    | 4     |

<sup>410</sup> Ibid

|       |                    |    |     |     |
|-------|--------------------|----|-----|-----|
| 25    | <b>Nagchu</b>      | 0  | 3   | 3   |
| 26    | <b>Ngaba</b>       | 10 | 46  | 56  |
| 27    | <b>Nyagrongkel</b> | 0  | 1   | 1   |
| 28    | <b>Qinghai</b>     | 1  | 3   | 4   |
| 29    | <b>Rebkong</b>     | 3  | 6   | 9   |
| 30    | <b>Serthar</b>     | 0  | 1   | 1   |
| 31    | <b>Sichuan</b>     | 0  | 1   | 1   |
| 32    | <b>Trindu</b>      | 0  | 3   | 3   |
| 33    | <b>Tsoshar</b>     | 0  | 1   | 1   |
| 34    | <b>Yulshul</b>     | 0  | 1   | 1   |
| 35    | <b>Yushu</b>       | 0  | 1   | 1   |
|       |                    |    |     |     |
| Total |                    | 27 | 121 | 148 |

**Table 1**

| Sl. No | Location                                    | Profession |        |              |               |           |            |       |     |         |         |        | Total |
|--------|---|------------|--------|--------------|---------------|-----------|------------|-------|-----|---------|---------|--------|-------|
|        |   | Clergy     | Farmer | forest guard | Former Clergy | housewife | lay person | nomad | Num | Student | unknown | writer |       |
| 1      | Gansu                                       | 2          | 1      | 0            | 1             | 0         | 15         | 2     | 0   | 2       | 1       | 0      | 24    |
| 2      | Kanlho                                      | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 1       | 0       | 0      | 2     |
| 3      | Lhasa                                       | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 4      | Mongolian and Tibetan Autonomous Prefecture | 1          | 0      | 0            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 1     |
| 5      | Rebkong                                     | 0          | 0      | 0            | 0             | 0         | 2          | 0     | 0   | 0       | 0       | 0      | 2     |
| 6      | Amdo  | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 7      | Barkham                                     | 3          | 0      | 0            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 3     |
| 8      | Beijing                                     | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 9      | Bora  | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 10     | Chamdo                                      | 0          | 0      | 0            | 1             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 1     |
| 11     | Chentsa                                     | 0          | 0      | 0            | 0             | 0         | 0          | 1     | 0   | 0       | 0       | 0      | 1     |
| 12     | Damshung                                    | 0          | 0      | 0            | 0             | 0         | 0          | 1     | 0   | 0       | 0       | 0      | 1     |
| 13     | Driru                                       | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 14     | Dzogchen Monastery                          | 2          | 0      | 0            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 2     |
| 15     | Gannan                                      | 0          | 0      | 1            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 1     |
| 16     | Gansu                                       | 0          | 0      | 0            | 0             | 1         | 1          | 0     | 0   | 0       | 0       | 0      | 2     |
| 17     | Golog                                       | 3          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 4     |
| 18     | Kangsta                                     | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 19     | Kardze                                      | 5          | 0      | 0            | 0             | 0         | 2          | 0     | 1   | 0       | 0       | 0      | 8     |
| 20     | Kham  | 2          | 0      | 0            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 0      | 2     |
| 21     | Kyegudo                                     | 0          | 0      | 0            | 0             | 1         | 0          | 0     | 0   | 0       | 0       | 0      | 1     |
| 22     | Lhasa                                       | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 23     | Luchu                                       | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 24     | Malho                                       | 2          | 0      | 0            | 0             | 0         | 1          | 1     | 0   | 0       | 0       | 0      | 4     |
| 25     | Nagchu                                      | 2          | 0      | 0            | 0             | 0         | 0          | 0     | 0   | 0       | 0       | 1      | 3     |
| 26     | Ngaba                                       | 26         | 0      | 0            | 7             | 5         | 14         | 3     | 1   | 0       | 0       | 0      | 56    |
| 27     | Nyagrong kel                                | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 28     | Qinghai                                     | 2          | 1      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 4     |
| 29     | Rebkong                                     | 0          | 0      | 0            | 0             | 1         | 7          | 0     | 0   | 0       | 1       | 0      | 9     |
| 30     | Serthar                                     | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 31     | Sichuan                                     | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| 32     | Trindu                                      | 1          | 0      | 0            | 1             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 3     |
| 33     | Tsoshar                                     | 0          | 0      | 0            | 0             | 0         | 1          | 0     | 0   | 0       | 0       | 0      | 1     |

|                       |                |    |   |   |    |   |    |   |   |   |   |   |         |
|-----------------------|----------------|----|---|---|----|---|----|---|---|---|---|---|---------|
| 34                    | <b>Yulshul</b> | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1       |
| 35                    | <b>Yushu</b>   | 0  | 0 | 0 | 0  | 0 | 0  | 1 | 0 | 0 | 0 | 0 | 1       |
| T<br>o<br>t<br>a<br>l |                | 51 | 2 | 1 | 10 | 8 | 59 | 9 | 2 | 3 | 2 | 1 | 14<br>8 |

Table 2.0) Profession Wise Analysis of the Self Immolations Data<sup>411</sup>

The above table indicates the background of the self immolators. About 51 out of the 148 self immolators both males and females, were a part of the Sangha or the clergy, serving different monasteries. Among the 51 clergies who self immolate, 26 hail from Nagaba monastery while other 25 monks who hail from different places in Tibet. There have also been 2 farmers who have self immolated where one hails from Gansu while the other hails from Qinghai. A forest guard has also self immolated, hailing from Gannan. Apart from those who were serving the Sangha, there were also about 10 self immolators who had formerly been a part of the Sangha and had then disrobed and were leading the lives as lay people. These have been indicated in the data analysis as former clergies since their testimonies are also reflective of their former association of the Buddhist Sangha.

The tragedy of the lack of freedom and the denial of the most basic rights in Tibet has been that parents have been forced to part themselves with their beloved children in order to give them a better education whereby they can maintain their Tibetan identity, and several families have sent their children to India where they have sought exile. Along with that, women have also been on the forefront of the struggle for seeking basic human rights and freedom, and among the 148 total self immolators, about 8 of them have been married housewife who self immolated them asking for basic freedoms in Tibet and also for the return of the Dalai Lama to Tibet.

The largest group of the people who have self immolated include the lay people who are neither farmers, nor are they nomads nor a members of the Sangha, in case of lay women, those who form a part of this categorization are those women who are neither married and nor they hail from a nomadic community. Thus the count off the lay persons who self immolated is about 59 out of 148 self immolators.

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<sup>411</sup> Ibid



One of the worst affected groups of people as a result of the Chinese policies inside Tibet are the group of nomads whose very existence stands threatened. While the number of nomads who self immolated are about 9 people, it should also be noted that several people from the monastic community and also from the community of lay persons and farmers have formerly been nomads but have had to give up their traditional occupation given the constraints imposed on their livelihood by the Chinese government.

There have also been 2 nuns who have also self immolated themselves. While there is 1 writer as well who has self immolated while the background of 2 self immolators remains unknown.

| <b>Gender</b> | <b>Year Wise Incidents</b> |             |             |             |             |             |             |             |              |
|---------------|----------------------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|--------------|
|               | <b>2009</b>                | <b>2011</b> | <b>2012</b> | <b>2013</b> | <b>2014</b> | <b>2015</b> | <b>2016</b> | <b>2017</b> | <b>Total</b> |
| female        | 0                          | 2           | 13          | 5           | 2           | 4           | 1           | 0           | 27           |
| male          | 1                          | 10          | 72          | 22          | 9           | 3           | 2           | 2           | 121          |
| <b>Total</b>  | <b>1</b>                   | <b>12</b>   | <b>85</b>   | <b>27</b>   | <b>11</b>   | <b>7</b>    | <b>3</b>    | <b>2</b>    | <b>148</b>   |

Table 3.0) Gender and Year Wise distribution of Self Immolation incidents

The above table presents an analysis of the self immolator's data since 2009 and tries to offer insights in terms of time. Thus as the data indicates, self immolations inside Tibet began in the year 2009 and in 2011, following the protests largely in Ngaba and Chinese Government's increased persecution of the Clergy, the number of self immolations rose to about 12 with two females and 10 male self immolators. In 2012 there was a rise in the number of self immolations inside Tibet as far as the female self immolators are concerned, as the number increased to about 13 female self immolators, while the number of self immolations by men increased to about 72 self immolations while the total number of self immolations numbered at 85. Thus 2012 has been the most volatile year in the recent history of Tibet as far as self immolations are concerned; the Chinese government has viewed the clergies as the core of the Tibetan identity which continues to ask for meaningful human rights such as the freedom of religion. The clergy has also redefined the nuances of activism inside Tibet by appropriating socially engaged Buddhism as the way forward. There was a significant decline in the number of self immolations in the year 2013, with the number of self immolations that were reported ranged at 27. Further in the year 2014,

the number of self immolations that have been reported have further declined to about 11 reported self immolations while in 2015, 16 and 17 as the statistics indicate, the number of reported self immolations have drastically reduced. One of the major reasons that can be attributed to this is the more stringent crackdown on several minor monasteries in Tibet by the Chinese government and reduction in the spaces of protest. The Dalai Lama in 213 asserted that he was not sure about how far were the self immolations having an impact and influence on the Chinese government since the persecution and the denial of freedom continued while the repression had increased. While in 2011, Dalai Lama had asserted that the reason behind the self immolations was the cultural genocide which the Chinese government has unleashed in Tibet since its takeover of Tibet.

| Profession    | Year |      |      |      |      |      |      |      | Total |
|---------------|------|------|------|------|------|------|------|------|-------|
|               | 2009 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 |       |
| Clergy        | 1    | 6    | 27   | 10   | 4    | 2    | 1    | 0    | 51    |
| Farmer        | 0    | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 2     |
| forest guard  | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 1     |
| Former Clergy | 0    | 4    | 5    | 0    | 1    | 0    | 0    | 0    | 10    |
| housewife     | 0    | 0    | 3    | 3    | 0    | 1    | 1    | 0    | 8     |
| lay person    | 0    | 0    | 37   | 12   | 3    | 4    | 1    | 2    | 59    |
| nomad         | 0    | 0    | 6    | 1    | 2    | 0    | 0    | 0    | 9     |
| Nun           | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 0    | 2     |
| Student       | 0    | 0    | 2    | 0    | 1    | 0    | 0    | 0    | 3     |
| unknown       | 0    | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 2     |
| writer        | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
|               | 1    | 12   | 85   | 27   | 11   | 7    | 3    | 2    | 148   |

Table 4.0) Profession and year wise self immolations in Tibet

As table 4.0 indicates, largely the clergy and the key people have been on forefront of self immolations protests inside Tibet, out of 51 total self immolations by the members of the Clergy, 27 self immolations happened in the year 2012. While the number of self immolations by the clergy reduced to about 10 in 2014 and has further

reduced to 4 in 2014 , 2 in 2015 and 1 in 2016. Thus in the same year when the largest number of clergies had self immolated, the number of lay people who self immolated were about 37 and in the same year the highest number of nomads also self immolated with the number of self immolations by the nomads being about 6. Thus by far, 2012 has been the grimmest moment for the Tibetan people when several of the innocent lives were lost as a result of their protest for seeking freedom and liberty. It was also in 2012 itself that a Tibetan writer also self immolated.

| Location                                    | Year |      |      |      |      |      |      |      |       |
|---|------|------|------|------|------|------|------|------|-------|
|   | 2009 | 2011 | 2012 | 2013 | 2014 | 2015 | 2016 | 2017 | Total |
| Gansu                                       | 0    | 0    | 15   | 7    | 2    | 0    | 0    | 0    | 24    |
| Kanlho                                      | 0    | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 2     |
| Lhasa                                       | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Mongolian and Tibetan Autonomous Prefecture | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Rebkong                                     | 0    | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 2     |
| Amdo  | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 0    | 1     |
| Barkham                                     | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 0    | 3     |
| Beijing                                     | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Bora  | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Chamdo                                      | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 0    | 1     |
| Chentsa                                     | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Damshung                                    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Driru                                       | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Dzogchen Monastery                          | 0    | 0    | 2    | 0    | 0    | 0    | 0    | 0    | 2     |
| Gannan                                      | 0    | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 1     |
| Gansu                                       | 0    | 0    | 0    | 0    | 0    | 2    | 0    | 0    | 2     |
| Golog                                       | 0    | 0    | 2    | 1    | 1    | 0    | 0    | 0    | 4     |
| Kangsta                                     | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Kardze                                      | 0    | 3    | 0    | 1    | 1    | 1    | 1    | 1    | 8     |
| Kham  | 0    | 0    | 0    | 0    | 2    | 0    | 0    | 0    | 2     |
| Kyegudo                                     | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Lhasa                                       | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Luchu                                       | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |
| Malho                                       | 0    | 0    | 2    | 0    | 2    | 0    | 0    | 0    | 4     |
| Nagchu                                      | 0    | 0    | 3    | 0    | 0    | 0    | 0    | 0    | 3     |
| Ngaba                                       | 1    | 8    | 27   | 14   | 3    | 2    | 1    | 0    | 56    |
| Nyagrongkel                                 | 0    | 0    | 0    | 0    | 0    | 0    | 0    | 1    | 1     |
| Qinghai                                     | 0    | 0    | 2    | 1    | 0    | 1    | 0    | 0    | 4     |
| Rebkong                                     | 0    | 0    | 9    | 0    | 0    | 0    | 0    | 0    | 9     |
| Serthar                                     | 0    | 0    | 1    | 0    | 0    | 0    | 0    | 0    | 1     |

|         |   |    |    |    |    |   |   |   |     |
|---------|---|----|----|----|----|---|---|---|-----|
| Sichuan | 0 | 0  | 0  | 0  | 0  | 1 | 0 | 0 | 1   |
| Trindu  | 0 | 0  | 3  | 0  | 0  | 0 | 0 | 0 | 3   |
| Tsoshar | 0 | 0  | 0  | 1  | 0  | 0 | 0 | 0 | 1   |
| Yulshul | 0 | 0  | 1  | 0  | 0  | 0 | 0 | 0 | 1   |
| Yushu   | 0 | 0  | 0  | 1  | 0  | 0 | 0 | 0 | 1   |
| Total   | 1 | 12 | 85 | 27 | 11 | 7 | 3 | 2 | 148 |

**Table 5.0) Year wise and Location wise Incidents**

Table 5.0 offers a detailed analysis of the location wise distribution of the self immolations incidents. Thus as visible in the table, Gansu which has the second highest number of self immolations, did not witness any instances of self immolations in 2009, 2010 or in 2011, but the wave of self immolations in Gansu began in the year 2012 which recorded the maximum self immolations, about 15 instances, while 2013 recorded 7 instances and 2014 recoded 2 incidents, leading to about 24 self immolations in total. Ngaba which has had the highest number of self immolations witnessed the most number of self immolations, about 27 in the year 2012 as well while the total number of self immolations in 2012 ranged at about 85. Therefore even an year and region wise analysis of the data reveals that nagaba and Gansu have witnessed the most vociferous protests in Tibet in 2012 and it indicates the sentiment in Tibet in the year 2012 after the crackdown on Ngaba monastery by the Chinese in 2011.

| Location                                    | Profession |        |              |               |            |            |       |     |         |         |        | Total |
|---|------------|--------|--------------|---------------|------------|------------|-------|-----|---------|---------|--------|-------|
|   | Clergy     | Farmer | forest guard | Former Clergy | house wife | lay person | nomad | Nun | Student | unknown | writer |       |
| Gansu                                       | 2          | 1      | 0            | 1             | 0          | 15         | 2     | 0   | 2       | 1       | 0      | 24    |
| Kanlho                                      | 0          | 0      | 0            | 0             | 0          | 1          | 0     | 0   | 1       | 0       | 0      | 2     |
| Lhasa                                       | 0          | 0      | 0            | 0             | 0          | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| Mongolian and Tibetan Autonomous Prefecture | 1          | 0      | 0            | 0             | 0          | 0          | 0     | 0   | 0       | 0       | 0      | 1     |
| Rebkong                                     | 0          | 0      | 0            | 0             | 0          | 2          | 0     | 0   | 0       | 0       | 0      | 2     |
| Amdo  | 0          | 0      | 0            | 0             | 0          | 1          | 0     | 0   | 0       | 0       | 0      | 1     |
| Barkham                                     | 3          | 0      | 0            | 0             | 0          | 0          | 0     | 0   | 0       | 0       | 0      | 3     |

|                    |    |   |   |    |   |    |   |   |   |   |   |     |
|--------------------|----|---|---|----|---|----|---|---|---|---|---|-----|
| Beijing            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Bora               | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Chamdo             | 0  | 0 | 0 | 1  | 0 | 0  | 0 | 0 | 0 | 0 | 0 | 1   |
| Chentsa            | 0  | 0 | 0 | 0  | 0 | 0  | 1 | 0 | 0 | 0 | 0 | 1   |
| Damshung           | 0  | 0 | 0 | 0  | 0 | 0  | 1 | 0 | 0 | 0 | 0 | 1   |
| Driru              | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Dzogchen Monastery | 2  | 0 | 0 | 0  | 0 | 0  | 0 | 0 | 0 | 0 | 0 | 2   |
| Gannan             | 0  | 0 | 1 | 0  | 0 | 0  | 0 | 0 | 0 | 0 | 0 | 1   |
| Gansu              | 0  | 0 | 0 | 0  | 1 | 1  | 0 | 0 | 0 | 0 | 0 | 2   |
| Golog              | 3  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 4   |
| Kangsta            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Kardze             | 5  | 0 | 0 | 0  | 0 | 2  | 0 | 1 | 0 | 0 | 0 | 8   |
| Kham               | 2  | 0 | 0 | 0  | 0 | 0  | 0 | 0 | 0 | 0 | 0 | 2   |
| Kyegudo            | 0  | 0 | 0 | 0  | 1 | 0  | 0 | 0 | 0 | 0 | 0 | 1   |
| Lhasa              | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Luchu              | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Malho              | 2  | 0 | 0 | 0  | 0 | 1  | 1 | 0 | 0 | 0 | 0 | 4   |
| Nagchu             | 2  | 0 | 0 | 0  | 0 | 0  | 0 | 0 | 0 | 0 | 1 | 3   |
| Ngaba              | 26 | 0 | 0 | 7  | 5 | 14 | 3 | 1 | 0 | 0 | 0 | 56  |
| Nyagrongkel        | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Qinghai            | 2  | 1 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 4   |
| Rebkong            | 0  | 0 | 0 | 0  | 1 | 7  | 0 | 0 | 0 | 1 | 0 | 9   |
| Serthar            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Sichuan            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Trindu             | 1  | 0 | 0 | 1  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 3   |
| Tsoshar            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Yulshul            | 0  | 0 | 0 | 0  | 0 | 1  | 0 | 0 | 0 | 0 | 0 | 1   |
| Yushu              | 0  | 0 | 0 | 0  | 0 | 0  | 1 | 0 | 0 | 0 | 0 | 1   |
|                    |    |   |   |    |   |    |   |   |   |   |   | 148 |
|                    | 51 | 2 | 1 | 10 | 8 | 59 | 9 | 2 | 3 | 2 | 1 | 8   |

Table 6.0) **Location and profession wise incidents**

As Table 6.0 indicates, further analysis of the self immolations data has been done on the basis of profession and region, since every region in Tibet has a certain geographical particularity, and several professions are associated with distinct regions such as the Nomads are largely present in Amdo and Kham. Therefore according to this model of analysis, the most number of self immolations by the clergies have taken place in Ngaba, as many as 26 Monks have self immolated themselves in Ngaba. While the number of farmers who have self immolated are about 2, one from

Gansu and another from Qinghai. The lone forest guard who self immolated was in Gannan. Even as far as former members of the monastic institutions are concerned, the maximum self immolations by such individuals have also taken place at Ngaba where the number of resident clergies have self immolated the most, as stated earlier. As far as the housewives are concerned, the maximum number of self immolations have happened at Nagaba itself, number ranging to 7 self immolations. As far as the lay people are concerned, 15 lay persons have self immolated in Gansu while 14 laypersons have self immolated in Nagaba. The number of self immolations by nomads have largely happened in Gansu and Nagaba, 3 and 2 respectively along with some other places. Even non monastic students have committed self immolations while 2 students committed self immolations in Gansu, 1 student committed self immolation in Kanlho.

Thus as per the data that tables are seeking to analyze, a clear picture that emerges is the fact that 2012 has been the most volatile year as far as the self immolations are concerned, owing largely to China's crackdown on the religious institutions in Tibet. Religious freedom lies at the core of the worldview of the Tibetan people and the Chinese attempts to penetrate into monasteries have resulted in such widespread protests from all sections of Tibetan society.

#### **4.1.3) Activism in Diaspora**

On 28<sup>th</sup> April 1959 the Dalai Lama set up the Tibetan Government in Exile. The headquarters of the Tibetan Government in Exile are located in Dharamsala, India and it continues to function as a governmental agency but stands committed to its stand that it would be dissolved once the solution to the Tibetan issue has been reached upon.

The Tibetan Government in Exile remained the torchbearer of resistance against the Chinese, seeking a solution to the Tibetan issue. The Dalai Lama occupied a position of prominence under the structure of the Tibetan Government in Exile while until recently in 2011 he announced his retirement as the political head of Tibet and transferring his duties to the newly elected Kalon Tripa or the Prime Minister who is now referred to as the Sikyong.

While the cause of Tibet and resistance was propagated by the Tibetan Government in Exile, 1970s witnessed the emergence of the Tibetan Youth Congress. TYC was a group of radical youths seeking total independence for Tibet from China. The founding members of the TYC were Tenzin Geyche Tethong , Lodi Gyari, Sonam Topgyal and Tenzin N. Tethong. While Tenzing Geyche Tethong was elected as the founding president of the TYC<sup>412</sup>.

While the Dalai Lama changed his stand on Tibet from Independence to Genuine Autonomy for Tibet within the Peoples Republic of China, first made public during the Strasbourg Proposal<sup>413</sup>. The Strasbourg Proposal was a successor of the Five Point Peace Plan<sup>414</sup> for Tibet made public by the Dalai Lama at the Congressional Human Rights Caucus in Washington, D.C. On September 21, 1987. This Plan included:-

- 1) Transformation of Tibet into a zone of peace
- 2) Abandonment of China's population transfer policy which threatens the very existence of the Tibetans as a people;
- 3) Respect for the Tibetan people's fundamental human rights and democratic freedoms;
- 4) Restoration and protection of Tibet's natural environment and the abandonment of China's use of Tibet for the production of nuclear weapons and dumping of nuclear waste;
- 5) Commencement of earnest negotiations on the future status of Tibet and of relations between the Tibetan and Chinese peoples.

Thus following the Five Point Peace Plan... The Strasbourg Proposal further in greater detail laid the foundations of the Dalai Lama's Middle Way Policy. Apparently since 1987, the Middle Way has also remained the Central Tibetan Administration's

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<sup>412</sup>“Tibetan Youth Congress | About TYC.” Accessed June 20 2017.  
<http://www.tibetanyouthcongress.org/about-tyc/>.

<sup>413</sup> Lama, Dalai. “Strasbourg Proposal ADDRESS TO MEMBERS OF THE EUROPEAN PARLIAMENT BY HIS HOLINESS THE DALAI LAMA.” Tibet Justice, June 15, 1988.  
<http://www.tibetjustice.org/materials/tibet/tibet5.html>.

<sup>414</sup>Lama, Dalai. “Five Point Peace Plan,” September 21, 1987.  
<http://www.tibetjustice.org/materials/tibet/tibet3.html>.

(formerly the Tibetan Government in Exile) official policy on Tibet for negotiations with the PRC.

Therefore the Strasbourg proposal included a unification of the regions of U-Tsang, Kham and Amdo as one single “political entity” which would govern for itself under a local government. Apart from the boundary of the political unit which the Dalai Lama envisioned, the Strasbourg proposal also included major concessions towards the PRC from the Tibetans, it asserted that the 'Peoples Republic of China could remain responsible for Tibet's foreign policy', thus a further inching towards what was later described as Genuine Autonomy for Tibet within the PRC.

While the proposal also asked for the protection of the indigenous Tibetan culture and religion and ratified as the duty of the Tibetan government to take steps to protect and preserve the same along with this proposal also asked for a halt to the population transfer policy unleashed by the Chinese government into Tibet.

In the preceding years following the adoption of the Middle Way approach by the Dalai Lama and the CTA, it was met with severe opposition from groups like the Tibetan Youth Congress which as stated earlier continue to remain committed to the idea of Total Independence<sup>415</sup>.

Despite rapid concessions being granted to the People Republic of China by the Dalai Lama, there reached a certain stalemate in the negotiations during the early nineties since the Chinese continued to accuse the Dalai Lama of not giving up the demand for Total Independence. This is in a way reflected the attitude of the PRC on the statements and proposals of the Dalai Lama, this attitude of the PRC was ignorant in nature and chauvinistic in character.

While the stalemate continued till 1993, the following year witnessed the emergence of an organized campus based support Tibet support group, Students For A Free Tibet (SFT). In August 1994, as a project under the auspices of the U.S. Committee on Tibet and the International Campaign for Tibet. Organizations like the SFT reflect the trans cultural experience of the Tibetan Diaspora following the exodus of the Tibetan

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<sup>415</sup>Puri, S Gopal. “Tibetan Youth Congress Divided over Autonomy Issue - Times of India,” June 3, 2013. <http://timesofindia.indiatimes.com/india/Tibetan-Youth-Congress-divided-over-autonomy-issue/articleshow/20400929.cms>.



people in 1959 along with the Dalai Lama. Since SFT's membership is not only open to Tibetans but also to people of other nationalities. While SFT is also credited for embracing the digital frontier into the Tibetan movement by creation of email groups, chapter blogs and regular email newsletters which provided up to date information on the state of the movement, Opinions of leading activists and intellectuals, news from inside Tibet and information on ongoing and future campaigns, including campaign reports.<sup>416</sup>

Along with International Campaign for Tibet, Students For A Tibet has been successful in channelizing the sympathies in the West for the Tibetan cause into a large network of young activist of diverse nationalities who participate in large gatherings, protests and demonstrations, making petitions to their respective legislators and dignitaries and organising innovative events in order to propagate the cause of Tibet. This has marked a paradigm shift within the Tibetan resistance. The rise of New Media and social networking sites as a result of the Information age and the rise of the network Society on the Internet, the idea of Tibet has not only gone online but the digital frontier has paved the way for integration of imaginations and energies of groups, individuals, activists that speak the language of resistance against the Chinese dragon. Thus while historicising the resistance of the Tibetan people in the post 1959 scenario, SFT is just one such example, and the unique nature of SFT's mode of action is as mentioned earlier its grasp of the digital reality. What ought to be understood in analysing the Tibetan resistance in the post 1959 era is that apart from the Tibetan Youth Congress, The CTA , Tibetan Women's Association, other organizations, many of them registered as NGOs were set up in the west, their strategy reflects the technological proves of the West and it is indeed technology that has and continues to bring Tibetans spread across the globe much closer to each other and to the idea of the Tibetan nation then one would have actually anticipated.

An important component of the Tibetan resistance in Diaspora is the Tibetan Women's Association<sup>417</sup>, officially recognised by the CTA in 1984 it has been

<sup>416</sup> "Reports & Publications — Students for a Free Tibet." *Students For A Free Tibet*. <https://www.studentsforafreeTibet.org/Plone/about-us/reports-newsletter>

<sup>417</sup> [www.Tibetanwomen.org](http://www.Tibetanwomen.org)

functioning in exile since 1959. Tibetan Women's Association is a story of how Tibetan women in exile have politically organized themselves to mobilise not only support for the Tibetan cause but also as part of an effort to challenge the age old structures that would have restricted women's participation from mainstream politics. A considerable section of Tibetan women are nuns and the Tibetan Women's Association has actively engaged with the Nuns in various nunneries across South Asia to educate the nuns with technology and also spread greater political consciousness. One of the major objective of the TWA is to promote the social, political, and economic equality of Tibetan women, in Tibet and in Tibetan exile communities. Thus not only is it leading a struggle for the Tibetan women against the Chinese but it is also leading a movement for social transformation and social change within the exiled Tibetan polity. Amidst strenuous Chinese control and highly restricted political freedom, there are several reports of the atrocities of the Chinese Army on the ordinary Tibetan women and nuns and Tibetan Women's Association has been a vociferous campaigner against these brutalities. It has sought to “address the drastic human rights abuses committed against Tibetan women in Tibet – including rape, physical violence, and the denial of fundamental reproductive, religious, and political freedoms – and to address other cases of gender-based discrimination in the Tibetan exile communities”.<sup>418</sup>

In terms of its agenda and the concern that the TWA has raised ever since its re-establishment in exile it stands out not just as a classical political activist organization that only talks about the women in family or in the political space but rather the TWA has offered a few dimension to the feminist struggle, it has sought to raise major concerns on the reproductive rights and the state policy. Overpopulation in General is a concern, not only for the Chinese but also for major nations in the Indian Sub-continent. Thus from what is deciphered from their concern and agenda is that sterilization and coercive abortion techniques are not only for women but have larger political social implications, especially for ethnic minorities.

Thus TWA as an activist organization has helped expand the peripheries of the human rights struggle, asserting that the struggle is just not about Genuine Autonomy or Total Independence but rather it is also a struggle for Gender equality, what is quite

<sup>418</sup>

“Aime & Objectives” <http://Tibetanwomen.org/aims-objectives/>

visible from TWA's struggle or activism is its strong preservation of the Tibetan identity.

Much of TWA's daily work happens in the Tibetan language, and one of its publication claims that its members are advised to profoundly communicate in “pure Tibetan”. TWA members in their offices are also mostly dressed in their traditional Tibetan attire. Thus its overall functioning is also reflective of its strong resistance against, as mentioned above, the cultural genocide which is underway inside Tibet, which according to many, seeks to wipe out the Tibetan identity. A certain context that is established here now as a result of TWA's work is the fact that Tibetan women are an integral part of the Tibetan struggle in exile, they no longer are merely the caretakers of the household but they rather display a much stronger activist zeal and have helped widened the horizons of the issues and ideas that make the struggle.

Many of the former members of the Tibetan Women's Association have also been elected to the Tibetan parliament in exile<sup>419</sup>.

Thus Tibetan resistance movement does not merely reflect the male centric worldview but is rather reflective of the gender perspective also. TWA reflects the progressive nature of the Tibetan resistance where women play a key role in determining the destiny of their fellow citizens inside Tibet.

Apart from Students For A Free Tibet, Tibetan Youth Congress and the Tibetan Women's Association the resistance is also carried forward by a leading Tibetan NOG known as the Friends of Tibet. As the website states “Friends of Tibet is a people's movement to keep alive the issue of Tibet through direct action. Our activities are aimed at ending China's occupation of Tibet and the suffering of the Tibetan people. Friends of Tibet supports the continued struggle of the Tibetan people for independence. Friends of Tibet is also one of the principal organisers of World Tibet Day around the world.”

A leading activist of Friends of Tibet has been Tenzin Tsundue. Tsundue is a popular figure within the Tibetan resistance movement; being a poet he published his set of

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<sup>419</sup>Anjaria, Arnav Keyur, and Atoosa Bahadoori. “Cyberspace in Exile; a Comparative Study of the Exiled Iranian and Tibetan Women's Activities in Cyberspace.” Hyderabad: Unpublished, 2014.

poems titled as the Kora<sup>420</sup> which received resounding success from the Tibetans and the supporters of the Tibetan cause across the globe. Tsundue was also involved in unfurling a banner with the words FREE TIBET banner in the Oberoi towers where the Chinese Premier Zhu Rongji was addressing a group of Indian Businessmen<sup>421</sup>.

Friends of Tibet has been on the forefront of the resistance movement, in 2007 it launched a campaign called the World With Tibet wherein a world map was released by the organization showing Tibetan as an independent nation on the world map while this map also highlighted Inner and outer Mongolia as one nation, Turkistan and Manchuria as also Independent nations respectively.<sup>422</sup>

Campaigns such as these have helped spread greater awareness on the Tibetan issue. A major campaign for decades has been for the release of the Panchen Lama of Tibet. According to the Free Tibet activists and the official website of the Free the Panchem Lama campaign, The seat of Panchem Lama within the Gelugpa sect of the Tibetan Buddhism is considered to be of highest prominence after the Dalai Lama. Thus in 1995 the 14<sup>th</sup> Dalai Lama named Gedhun Choekyi Nyima as the 11<sup>th</sup> Panchem Lama and thereafter he and his families were arrested by the Chinese authorities, since then Panchem Lama, appointed by the Dalai Lama has been missing. Free The Panchem Lama has gained rapid support in various social networking sites like Facebook and twitter. One of the actions prescribed according to the campaign has been to change the profile picture or the cover photo of one's profile to the photo of the Panchem Lama<sup>423</sup>. Large sections of Tibetan users and Tibetan supporters have responded to this campaign.

Apart from the Panchem Lama campaign, some of the major campaign include the 10<sup>th</sup> March protest which takes place across the globe wherever there are Tibetan people and supporters of the Tibetan cause. 10<sup>th</sup> March is observed as the Tibetan National Uprising. Every 10<sup>th</sup> March is accompanied by a statement from the Dalai Lama. In 2008, there was a rise in the campaigns as part of the resistance movement,

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<sup>420</sup>Tsundue, Tenzin. *Kora: A Story and Eleven Poems*. Choney Wangmo, 2002.

<sup>421</sup> "Friends of Tibet- Global." Accessed June 3, 2015. <http://www.friendsoftibet.org/tenzin/>.

<sup>422</sup> "World with Tibet," December 10, 2007.  
[http://www.friendsoftibet.org/sofar/bombay/world\\_with\\_Tibet\\_dec\\_10\\_2007.html](http://www.friendsoftibet.org/sofar/bombay/world_with_Tibet_dec_10_2007.html).

<sup>423</sup> International Tibet Network. "Do More! | Free the Panchen Lama." Accessed August 4, 2016.  
<http://www.freepanchenlama.org/resources/>.

since 2008 was the year when the city of Beijing was suppose to organise the Olympics. In the same year, 10<sup>th</sup> March onwards, the streets of Lhasa were witness to widespread rioting and protests against the Chinese rule. Even the Dalai Lama appealed for calm. , as the president of the International Campaign for Free Tibet also called for a boycott of the Beijing Olympics.As a measure of opposition against the Chinese policies inside Tibet.<sup>424</sup> In Beijing, activists of SFT unfurled a large banner carrying words from the official slogan of the Beijing Olympic “One World, One Dream” adding the words “Free Tibet” to it.

Thus the year 2008 paved the way for heightened resistance activities across the globe against the Chinese government. Thus the Olympic boycott also gave a glimpse of the character which the movement had acquired over time, owing to new media and internet and the way it helped mobilise people at the grassroots across major cities of the world.

In a way a reflection of the new transcultural experience as mentioned earlier.

Thus as the incidents of the Self Immolations inside Tibet highlight and as does the activism of the Tibetan Diaspora in Exile, Human Rights under Tibet continue to be violated through the extension of the powers of the Chinese states, highlighting a clear unequal power relationships between the ruler and the ruled. The case of Tibet and the situation of human rights on one hand thus highlights that globally world powers need to accrue a more serious thought to the right to self determination of the people and device a more nuanced approach to adjudicate over conflicts that would yield concrete results and a betterment of the situation on the ground, for now, as the data, literature and the testimonies indicate, the situation on the ground remains grim.

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<sup>424</sup> <http://www.saveTibet.org/media-center/ict-press-releases/the-international-campaign-Tibet-marks-one-year-countdown-beijing>

## Chapter 5

### Conclusion

#### 5.0) Introduction

Tibetan cyber spatial activism is reflective of the trajectory of the development of the internet and the cyberspace at large. Cyberspace as a concept and as a spatial phenomenon has a much larger connotation as compared to the popular imagination. There are schools of thoughts within the domain of cyber culture studies that seek to distinguish between the bit space and the byte space and essentially the debates range on what constitutes as the cyberspace<sup>425</sup>. Thus both the bit space and the byte space seem complimentary to each other for the unchallenged and effective functioning of the computer mediated virtual world which can be contextualized into the real space and is as real as the real space itself. Thus one of the first scholars apart from Barnett who deliberated on the cyber spatial activism of the Tibetan people is MN Rajesh who has meant to assert that Tibetans are embracing the internet as fondly as they embraced Buddhism a few centuries ago<sup>426</sup>. In the same context, the convergence of the Tibetans with the cyberspace is a result of their Trans cultural experience with the wider western world following their exodus from Tibet in 1959.

The present chapter reflects upon the massive human rights violations that have happened inside Tibet and the declining of the free liberal space which has sought to narrow the impartial public sphere in which Tibetans inside Tibet can freely express themselves. Several of the tourism websites and travel accounts of tourists visiting Tibet are also reflective of the censorship inside Tibet and the filtering of the discourse that happens on the internet inside Tibet.

It can also be thus argued that the appropriation of cyberspace as one of the effective means for the articulation of the concern for the Tibetans is not a result of a technologically determinist perspective where the researcher vies the cyberspace and the technology as the end in itself but rather for the fact that given the era and age that the world has ushered into, cyberspace has become the core component of the

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<sup>425</sup>Cohen, Julie. "Cyberspace As/And Space." *Georgetown Law Faculty Publications and Other Works*, January 1, 2007. <http://scholarship.law.georgetown.edu/facpub/807>. pp.212

<sup>426</sup>Rajesh, MN. "Tibetan Human Rights and Internet." *Indian Journal of Human Rights* 7, no. 1–2 (December 2003): 169–76.

information age. The classification of age<sup>427</sup> is essentially done by analyzing the major components and tools that dominantly form a part of the production process, starting from the iron age and the stone age and the metal age, the dominant factor or component of the production process has been either stone or metal or iron and in the same context, the present era has been classified as the information because of the fact that major component of the mode of production is information.

The poignant role of information in the political struggles is reflected in the several movements that have taken place across several different places in the world; largely it is the spread of consciousness and the maneuvering of information which has resulted in the constructive political change on the ground. For example, the movement led by Lech Walesa in Poland essentially relied on the Photo Copy machines that could make it easier for the spread of the pro democracy propaganda in Poland and help in the success of the revolution<sup>428</sup>. While another example on the same lines can be that of Ayatollah Khomeini who used cassette players for the propagation of his message to the people<sup>429</sup>. Thus whether it be the cassette players or Xerox machines, whether it be paper or plastic, these have been the carriers of information that help in the spread of the message. In the information age, the reception and the broadcast of message have been of critical importance and essentially the criticality of it accrues the omnipresent importance to the cyberspace as far as the political struggles across the world are concerned.

As Michael Batty has sought to assert that cyberspace is to a large extent related and entwined with the real space, so one can say that the cherished dream of Barlow<sup>430</sup>

<sup>427</sup>Rowley-Conwy, P. *From Genesis to Prehistory: The Archaeological Three Age System and Its Contested Reception in Denmark, Britain, and Ireland*. Oxford University Press, 2007.

<sup>428</sup>Saxonberg, Steven. *The Fall: A Comparative Study of the End of Communism in Czechoslovakia, East Germany, Hungary and Poland*. Routledge, 2013, Soros, George. "Soros: In Revolutionary Times the Impossible Becomes Possible - CNN.com," November 4, 2009. <http://edition.cnn.com/2009/WORLD/europe/07/27/aoc.soros.opensociety/index.html>., Scheeres, Julia. Lech Walesa: Tech Freedom Fighter. Website, September 16, 2002. <https://www.wired.com/2002/06/lech-walesa-tech-freedom-fighter/>.

<sup>429</sup>"Small Media, Big Revolution: Communication, Culture, and the Iranian Revolution." *Foreign Affairs*, January 28, 2009. <https://www.foreignaffairs.com/reviews/capsule-review/1995-05-01/small-media-big-revolution-communication-culture-and-iranian>.

<sup>430</sup> John Perry Barlow, A Declaration of the Independence of Cyberspace, Feb. 8, 1996, at <http://homes.eff.org/~barlow/Declaration-Final.html>

during the emergence of the Cyberspace was rather a fantasy. Therefore in the same context, networks have been a part of the human societies since time immemorial, there have been networks on the lines of trade, religion, community, societies, ethnicities, regions etc. in the same lines cyberspace is also a network of computers where each computer and the end user serve as a node and an edge. As far as the Tibetan cyber activism is concerned, it is also reflective of the same networked phenomenon. As the researcher's Mphil thesis<sup>431</sup> dealt with the emergence of the Tibetan region in the cyberspace where I argue that the Tibetan cyberspace is confluence of several different imaginations of Tibet which is largely shaped by the several discourse of Tibet. It is a result of the convergence of the Tibetans with the west, as stated earlier but it is largely Tibetan in nature and at several enclaves it is reflective of a secular modernity, which is also highlighted by the Dalai Lama who is one of the foremost thinkers on the idea of secular ethnics. Therefore, the Tibetan cyberspace offers the only opportunity for incumbents of the vast Tibetan culture area to come together as Tibetans and be assertive of their civilizational identity.

The early bulletin boards and web pages which were appropriated by organizations such as Students For a Free Tibet, Tibetan Youth Congress and the Friends of Tibet may no longer seem visible as several of these organizations have made rapid transition to newer innovations on the internet with the rise of the social media networks such as Facebook, Twitter, MySpace, LinkedIn and several other small and medium scale social networks. Several of the Tibet support organizations have large-scale presence on the internet whereby for example, Students For a Free Tibet has several pages and groups on Facebook based on its several hundred chapters across the globe. Almost every chapter of the Students For A Free Tibet has a Facebook page through which they propagate critical information on their perspective of the situation inside Tibet and also on the larger political movement in Diaspora. One of the key features of the Students For A Free Tibet is the fact that as an organization it has an equal participation of Tibetan and Non Tibetans. And thus the diverse nature of its political mobilization makes it as one of the most dominant stakeholder within the Tibetan cyberspace.

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<sup>431</sup> Anjaria, Arnav Keyur. "Tibet Reimagined: Understanding the New Imagination of the Tibetan Nation in the Cyberspace." Unpublished, University of Hyderabad, 2014.



Another major component of the Tibetan cyberspace includes the WebPages of the International Campaign for Tibet. Its website [www.saveTibet.org](http://www.saveTibet.org) has been on the forefront of spreading information on the plight of the Tibetan people inside Tibet and the organization has made sincere efforts in collating the large-scale information on the self immolations inside Tibet. With a regular updating of the website, the international campaign for Tibet provides critical information with geographical base on the happenings such as Self Immolations. The maps created by the International Campaign for Tibet help in further understanding the trajectory of the self immolations inside Tibet and micro level situation and status of freedom and liberties which are being denied to the Tibetans, the result of which are the self immolations.

Yet static web pages largely serve as archives for the scholars and activists to understand the reality of Tibet in a much more nuanced manner, while over time with rapid improvements in information and communication technology, the element of time has acquired much greater relevance. The contemporaneous nature of the Tibetan cyberspace largely appropriates the element of real time. Real Time technology is largely a part of social networks such as twitter, Facebook, WeChat and Instagram and the live feature of Facebook and Instagram has made the resistance of the Tibetan people which articulates their concern for human rights much more lively and pragmatic than ever before.

The present version of the internet has liberated the feature of live broadcast of the grassroots reality from the clutches of large media and television organizations. The Facebook and Instagram live feature is widely being appropriated within the Tibetan movement to connect the Tibetan Diaspora across several farfetched geographies. Thus the Tibetan cyberspace is a reflection of the aspirations of the Tibetan people which is to emerge as a much more cohesive unit despite the barriers of distance and highlight the grim nature of the reality inside Tibet.

On the other hand, while political activism and the appropriation of the internet for political mobilization is an important aspect of the Tibetan cyberspace, another aspect is the interaction that the rise of internet based apps such as WeChat has made it possible. WeChat is widely used by Tibetans inside Tibet and by Tibetans in India. Through the use of WeChat Tibetans are now able to freely communicate with their relatives inside Tibet and several Dharma and friendship networks and groups also exists on the WeChat networks that make the interaction much more easier. Yet the extensive use of WeChat by the Tibetans inside Tibet is also keenly monitored by

China's cyber army<sup>432</sup> which censors any messages which are of political nature. Several websites such as tripadvisor.in<sup>433</sup> also speak about how the tourists travelling to Tibet should mark their conduct as far as their online interaction and expression of opinion is concerned. One of the most vocal cyber activists and writer Woesser, remains under house arrest in Beijing and has not been allowed to travel to Tibet. She continues to spread information on Tibet through her blogs and articles and her writings are one of the rare independent sources emerging from China which have not been fully censored, owing also to the fact that she recognized worldwide and major governments such as that of United States have lauded her efforts for raising concern on the nature of the reality inside Tibet. There have also been reported cases of how Tibetans have been arrested and questioned by the Chinese police inside Tibet for echoing politically sensitive messages on the internet through WeChat.

Yet the widespread use of VPN inside Tibet has helped in the broadcast of messages from inside Tibet to the outside world, especially the information on the self immolations inside Tibet and also the broadcasting of protest videos from Tibet. The rise of VPN technology helps in filtering through the smart surveillance of the Tibetan cyberspace by the Chinese government and from inside Tibet itself, Tibetans can access banned websites such as Facebook and Twitter. During the course of this research, the researcher also came across several profiles and pages of Tibetan from inside Tibet who use Facebook, the names of which cannot be revealed owing to the constraints inside Tibet.

The relevance of cyberspace as an effective tool in articulating the human rights concern is further established by contextualizing the current happenings inside Tibet and the resistance of the Tibetans in Tibet and the cyberspace through the lens of Judith Butler's *Precarious Life*<sup>434</sup>. In *Precarious Life*, Butler contextualizes her thesis

<sup>432</sup>Diplomat, Gary Brown and Christopher D. Yung, The. "Evaluating the US-China Cybersecurity Agreement, Part 2: China's Take on Cyberspace and Cybersecurity." *The Diplomat*. Accessed February 1, 2017. <http://thediplomat.com/2017/01/evaluating-the-us-china-cybersecurity-agreement-part-2-chinas-take-on-cyberspace-and-cybersecurity/>.

<sup>433</sup>"Facebook/Internet Access in Tibet - Tibet Forum - TripAdvisor." Accessed June 26, 2017. [https://www.tripadvisor.in/ShowTopic-g294222-i6446-k9454712-Facebook\\_internet\\_access\\_in\\_Tibet-Tibet.html](https://www.tripadvisor.in/ShowTopic-g294222-i6446-k9454712-Facebook_internet_access_in_Tibet-Tibet.html), Censorship, Index on. "Chinese Tourists Are Inadvertently Reporting on the Tibetan Struggle." *Index on Censorship*, March 25, 2014. <https://www.indexoncensorship.org/2014/03/tibet-china-tourist/>.

<sup>434</sup>Butler, Judith. *Precarious Life: The Powers of Mourning and Violence*. Verso, 2006.

in the post 9/11 America where the Bush administration widely penetrated into the public sphere in order to support its propaganda of war on terror. Butler reflects on how those who opposed the American government were silenced by the Bush administration. Butler highlights the plight of the precarious lives which had been silently gone unnoticed and only those lives which stood with the state, their stories were highlighted in the public sphere. In her opening chapter, Butler argues for greater openness of the American perspective on dissenting views and those ideas that dared to differ from the state sponsored propaganda, she speaks for greater deliberation of engagement with the dissenting views since a critical examination and expression of the policy would only help the people in the broader sense<sup>435</sup>. The relevant argument that Butler makes which deems applicable and relevant for the situation inside Tibet is the fact that Butler talks about the phenomenon of how people condone and mourn the death of a being, largely a human being<sup>436</sup>. Even the mourning and the public acceptance of the mourning is determined by the State and its antecedents. She highlights how those who lost their lives as a result of America's war on terror, namely the Middle Eastern people were not mourned by the media as they would mourn the death of any other person who stands on their side. This perception of the enemy and of the people has according to her robbed these lives from their human existence, it has rather "dehumanized" them<sup>437</sup>. She refers to the ignorance of the American media to not highlight the casualties of the Iraqi people. In the same context, China's crackdown in Tibet, the grave loss of lives during the great leap forward and the Cultural Revolution has largely and purposely gone unnoticed. Before the rise of the cyberspace the lives that were lost were largely dehumanized and the Chinese government was successful in hiding the facts from truth on the violation of human rights and freedoms of the Tibetan people.

Therefore as the later analysis of the data would suggest, the widespread use of internet by the Tibetans inside Tibet is preventing Tibet from becoming a crematorium of precarious lives. It is a constant resistance in the cyberspace where the lives of those in their everyday struggle inside Tibet are not forgotten. Tibetan cyberspace is beyond merely the social media for pleasure which people widely

<sup>435</sup> Butler, Judith. *Precarious Life: The Powers of Mourning and Violence*. Verso, 2006. pp.15

<sup>436</sup> Ibid pp.19

<sup>437</sup> Ibid pp.34

abuse; it rather serves as a lifeline for a people who continue to suffer under the dictums of an oppressive regime which has left no stone unturned to violate several humanitarian laws which form the basic crux of any civilized society.

#### 5.1.1) Data Analysis

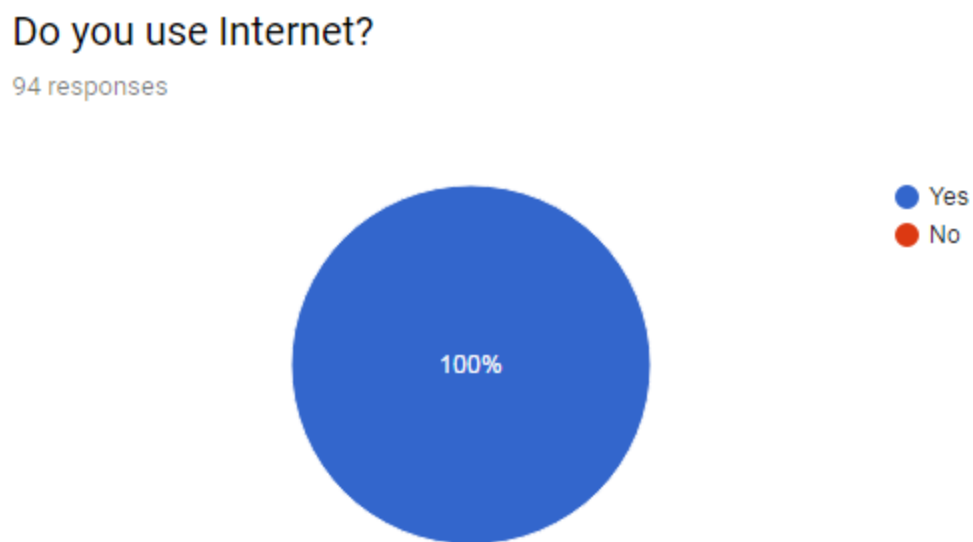


Figure 1

As figure 1 indicates, out of 94 respondents who answered this question, all of them agreed to the fact that they are aware of what they have converged onto, the Internet. The purpose of this most basic question is to check the basic awareness on the technology and its relevance.

## How do you use Internet?

93 responses

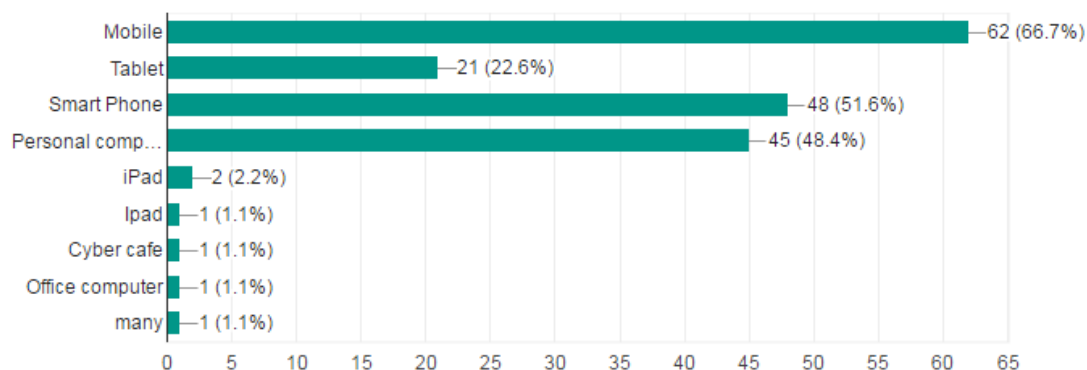


Figure 2

As figure 2 reflects the question on they use the internet, the most dominant device which the Tibetan use to connect to the internet is the mobile, which can be with a tablet or a Smartphone or a phone itself. Thus the preference they give to is to mobility as far as their usage of internet is concerned. The personal computer and its use are largely limited as far as the internet usage amongst the Tibetans is concerned. As visible in the graph.

## Does the use of Internet keep you more connected with the news from inside Tibet?

94 responses

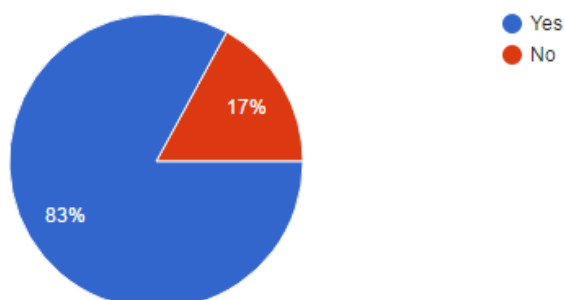


Figure 3

As figure three relates to the role of internet in facilitating interaction between the Tibetans in exile and the Tibetans inside Tibet. About 83% of the respondents felt that through the use of internet they feel more connected with the news that comes from inside Tibet, since Tibet and news from Tibet are largely ignored by the mainstream media.

### Which among these social platforms do you use the most?

94 responses

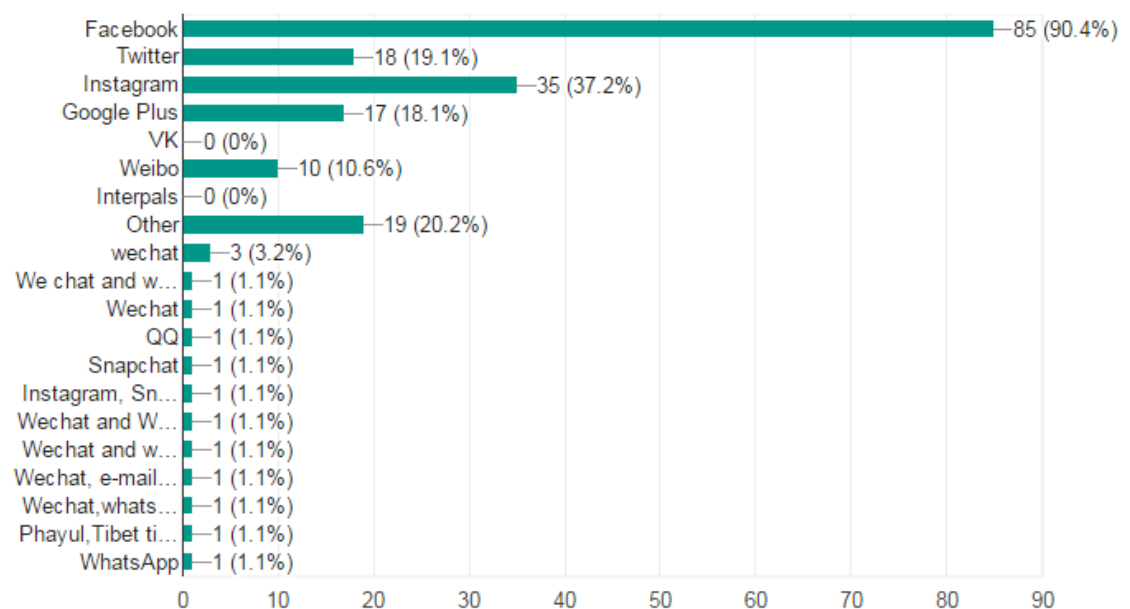


Figure 4

As figure 4 indicates, the most popular platform which the Tibetans in Diaspora use, amongst the respondents is Facebook. About 90.4% of the respondents indicate that they use Facebook the most as a social media platform.

### Does Facebook help you in helping create awareness about your Tibetan identity?

95 responses

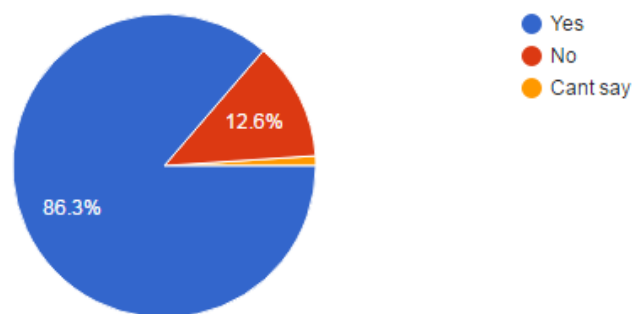


Figure 5

The next question relates to the question of virtual identity and the role that a social media platform like Facebook plays in helping the Tibetans in exile creates awareness about their identity through movements such as the Lhakar movement. About 86.3% of the respondents agree to the assertion that Facebook does help them in creating greater awareness about their Tibetan identity.

### Are facebook, wechat and twitter better mediums for information on Tibet and the Tibetan movement as compared to newspapers?

94 responses

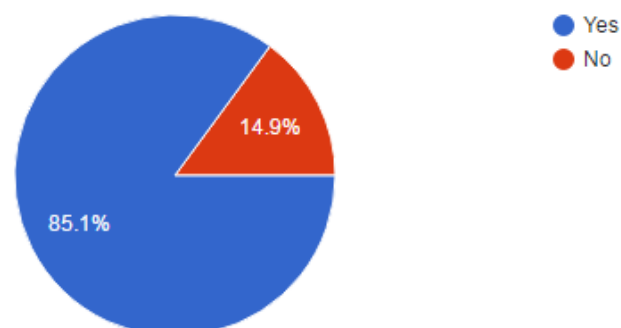


Figure 6

Another major assertions that majority of the respondents make is the fact that social media websites such Facebook and twitter and messaging apps such as WeChat are a

much more relevant sources and mediums for the information on Tibet and the Tibetan movement at large.

Do you use the internet to raise concern regarding the situation inside Tibet?

95 responses

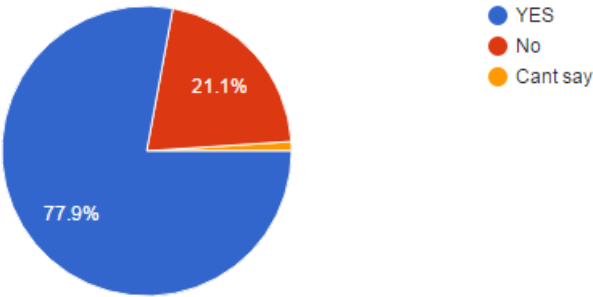


Figure 7

The answers to this particular question reflect the perspective of the Tibetans on their role in the Tibetan movement for raising concern for the situation inside Tibet. A large section of the Tibetans, about 21.1 % have asserted that they do not use the internet for a political purpose while 77.9 %, though a much greater chunk, assert that they use the internet for raising concern on the situation inside Tibet.

How do you make people aware about the issue of Tibet via the internet?

84 responses

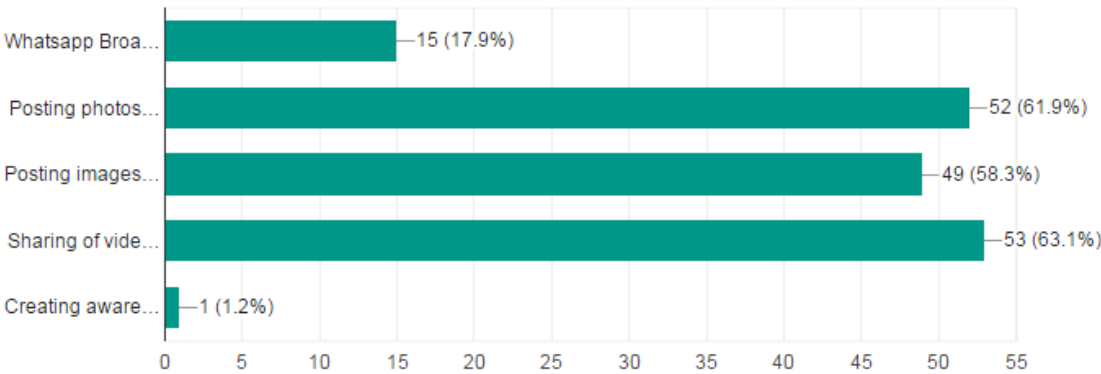




Figure 8

As far as the tools for activism are concerned, there is a significant variation on the preferred medium for the Tibetans for the spread of information on Tibet. Sharing of videos received directly from Tibet enjoys a penchant of popularity over posting images from inside Tibet and the photos of protests. Thus therefore rather than text messages, videos and photos serve as a much poignant resources for spreading information on Tibet.

#### Which app helps you remain in touch with your people the most?

95 responses

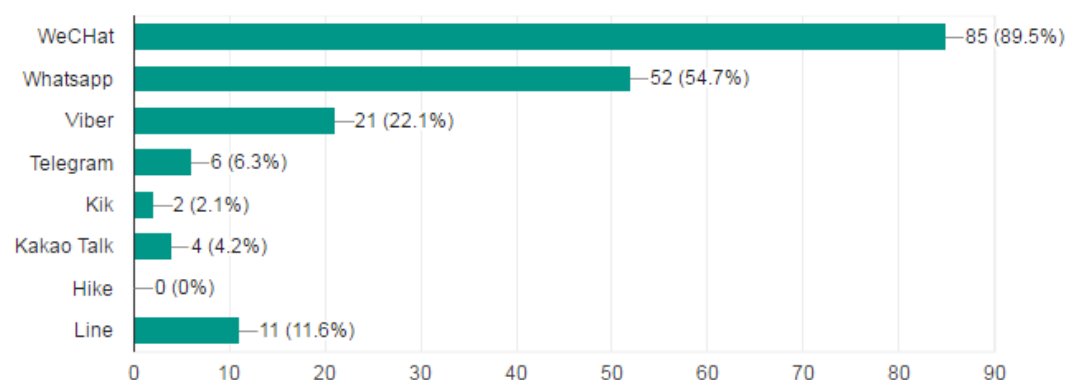


Figure 9

As the statistics indicate, WeChat remains the most preferred and widely used app which helps the Tibetans remain in touch with each other in Diaspora and with the people inside Tibet.

Thus the Tibetan cyberspace reflects the daily needs of the Tibetan people inside Tibet for communication and for interaction which could be largely apolitical and it also reflects the political need of the Tibetan people to highlight the urgency of the situation inside Tibet.

To conclude the thesis, it would be apt to contextualize the discussion across several chapters with the discussion on the cyberspace whereby the basic problem of Tibet is historical in nature where the Chinese historians have largely tampered with the history of Tibet for an ideological agenda which has helped in justifying the Chinese actions inside Tibet. On the other hand, the third chapter which traces the evolution of the human rights discourse emerges as direct anti thesis to the Chinese actions and

propaganda and presents the universalist perspective of what constitutes as the basic rule of law, central to which lies the cause of protection of human rights and dignity of the people. In the fourth chapter the case for self determination is presented in terms of how the right lies at the centre of the human rights situation inside Tibet and how it has been historically denied to the Tibetan people. And ultimately the conclusion chapter deliberates on the role of cyber spatial activism in upholding the struggle for ensuring the rights of the people inside Tibet, which goes on.

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## Appendix

7/5/2017      Questionnaire

Please kindly answer this questionnaire. This is completely private and confidential.

\*Required

1.      Name
2.      Name
3.      Gender \*

Female

Male

Other

4.      Born in Tibet ? Mark only one oval.

Yes

No

Other:

5.      Current Place of Residence \*

6. If born in Exile, born in Mark only one oval.

India

Nepal

Bhutan

NORTH AMERICA

Europe

Australia

Other

Other:

7. Age \*

Mark only one oval.

10-15 years

16-25

26-35

35-45

45-55

55-65

66-75

76-86

86-100+

Option 10

Other:

8. Education level Mark only one oval.

Primary school level

Secondary school level

Higher Secondary school level

graduate

post graduate

Monastic education

No formal education

9. Where are you or your family originally from? \* Mark only one oval.

Kham

U-Tsang

Amdo

Other:

10. Do you use Internet? Mark only one oval.

Yes

No

11. How do you use Internet? Tick all that apply.

Mobile

Tablet

Smart Phone

Personal computer

Other:

12. Does the use of Internet keep you more connected with the news from inside Tibet? Mark only one oval.

Yes

No

13. Which among these social platforms do you use the most? Tick all that apply.

Facebook

Twitter

Instagram

Google Plus

VK

Weibo

Interpals

Other

Other:

14. Does Facebook help you in helping create awareness about your Tibetan identity? \* Mark only one oval.

Yes

No

15. Are facebook, wechat and twitter better mediums for information on Tibet and the Tibetan movement as compared to newspapers?

Mark only one oval.

Yes

No

16. Do you use the internet to raise concern regarding the situation inside Tibet? \*  
Mark only one oval.

YES

No

17. How do you make people aware about the issue of Tibet via the internet? Tick  
all that apply.

Whatsapp Broadcast messages of updates from Tibet

Posting photos of protests and demonstrations in exile

Posting images and photos of the situation inside Tibet

Sharing of videos from Tibet

18. Do you use messaging apps? Mark only one oval.

Yes

No

19. Which app helps you remain in touch with your people the most? \* Tick all  
that apply.

WeCHat

Whatsapp

Viber

Telegram

Kik

Kakao Talk

Hike

20. Have apps like wechat become a more important source of information compared to news websites and facebook posts and twitter updates? \*

Mark only one oval.

yes

No

21. do you think creating awareness online can really help the Tibetan cause? \*

Mark only one oval.

Yes

No

22. Do you like to participate in demonstrations and protests that take place near you for the Tibetan issue? \*

Yes

No

23. Through the Internet and social media we had revolutions in several Arab countries, does it make you more hopeful that with increased internet usage even Tibet will see a change in the situation? \*



Mark only one oval.

Yes

No

24. Which of these websites do you refer to for information on Tibet? Tick all that apply.

Voice of Tibet

Radio Free Asia

Phayul

CTA's Website

website of International Tibet Support network

other

25. Do you think it is important for everyone to highlight the human rights situation inside Tibet via the internet and their social media accounts? \*

Mark only one

Yes

No

26. Do you think it is much more easier now to talk with friends and families inside Tibet with the rise of new mobile messaging apps like wechat? \*  
Mark only one .

Yes

No

## Human Rights in Tibet: Activism in Diaspora

### ORIGINALITY REPORT

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SIMILARITY INDEX

%6

INTERNET SOURCES

%3

PUBLICATIONS

%2

STUDENT PAPERS

### PRIMARY SOURCES

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|---|---|-----|
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| 3 | <a href="http://eilfe.com">eilfe.com</a><br>Internet Source   | <%1 |
| 4 | <a href="http://archiv.ub.uni-marburg.de">archiv.ub.uni-marburg.de</a><br>Internet Source   | <%1 |
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