

# TIBET'S TRIAL BY FIRE OF THE CHINESE DRAGON: THE UNITED NATIONS' HUMAN RIGHTS CONUNDRUM

## *Abstract*

*The years following the World War II saw the dissolution of colonization of Africa and Asia. However, five decades on, Tibet continues to be the world's largest remaining colony. Close to 1.5 million Tibetans have perished in a span of over fifty years, and millions of Han Chinese have settled in Tibet as China's acts of cultural genocide and population transfer rages on unabated in blatant violation of international criminal law. Powerful nations like the United States which celebrates Tibet's culture and tradition, have neglected in pressing China to withdraw from Tibet. As the United Nations watches with inaction under China's pressure, the identity of Tibet is slowly being exterminated. In the same backdrop, the present essay discusses the wide scale human rights violations of China in Tibet as a part of its act of colonization and how the same has wreaked havoc on the Tibetan community. The essay further analyzes the United Nations' failure to prevent China from violating international criminal law or hold it accountable for the violations.*

**Keywords:** *colonization, Tibet, China, cultural genocide, human rights, United Nations*

## I. INTRODUCTION

*“We must make sure that [the United Nations’] work is fruitful, that it is a reality and not a sham, that it is a force for action, and not merely a frothing of words, that it is a true temple of peace in which the shields of many nations can someday be hung up, and not merely a cockpit in a Tower of Babel.”*

These prophetic words of Winston Churchill in his *Sinews of Peace* (the *Iron Curtain Speech*)<sup>1</sup> have regrettably come true. The United Nations (UN) despite its achievements in some areas like peace keeping, health care etc. has failed to accomplish many of its glorious avowed purposes like protection of human rights. The reasons for such failure of the UN on the human rights front are mainly the workings of the member states at cross purposes, politicking and diplomatic chicanery by delinquent states, and lack of any concerted efforts. No doubt, the UN through its various organs dealing with human rights, from time to time has taken some actions which at the best can be termed as knee jerk reactions to criticisms of non-action and mostly futile. As per Dore Gold<sup>2</sup> the UN’s founders, in the aftermath of World War II, established an organization dedicated to standing up to aggression, preserving peace, and defending human rights. But a fundamental problem was that a world society – which did not exist and had barely been organized – had (and still has) no common, agreed values. So far as protecting human rights is concerned the UN has not particularly been a champion of promotion of human rights and organizations like Amnesty International have left the UN far behind. In an address at the Time Warner Centre in New York on the International Human Rights Day, 2006, Kofi Annan the then Secretary-General admitted that the UN had often failed to live up to its responsibility to promote human rights. He said that he had tried to make human rights central to all of the world body’s work during his decade long tenure but was not sure how far he had succeeded or how much nearer we were to bringing the reality of the UN in line with his vision of human rights as its third pillar, on a par with development and peace and security.<sup>3</sup>

Tibet is today paradigmatic of the most blatant colonialism by China replete with oppression by use of brutal force, ethnic cleansing, demography change through influx of Han Chinese and

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<sup>1</sup> Winston Churchill’s Iron Curtain Speech delivered at Westminster College in Fulton, Missouri on March 5, 1946 available at <http://www.historyguide.org/europe/churchill.html>.

<sup>2</sup> Dore Gold, Tower of babble: How the United Nations has fueled global chaos, Crown Forum, New York, 2004.

<sup>3</sup> Annan says UN has often failed to deliver on protecting and promoting human rights, UN News Centre, December 2006, available at [www.un.org/apps/news/story.asp?NewsID=20911](http://www.un.org/apps/news/story.asp?NewsID=20911).

other overt and covert acts. All such violations of international criminal law, and human rights are carried out with total impunity of any reaction from the world community. Tibet's identity and aspirations for independent statehood are slowly slipping out of the firmaments of world diplomatic and political fora, including the UN, with the hegemony of China tightening its grip over Tibet and the world seemingly apathetic and unconcerned. Since its illegal and forcible occupation of Tibet in 1949, China has been systematically transferring its own population into Tibet in furtherance of its design of total annexation of Tibet by making Tibetans minorities in their own homeland.

## **II. THE BACKGROUND STORY: CHINA'S HUMAN RIGHTS VIOLATIONS IN TIBET**

There have been grave human rights violations like the Rwanda genocide of 1994 when the Hutus killed about a million Tutsi minorities or killing of about 8000 Bosnian Muslims by Serb forces in Srebrenica in 1995 or similar other violations in which the UN has failed to protect the human rights of the affected people. But these can be said to be sporadic and short lasting incidents. The most glaring violation of human rights which is continuously underplayed by the UN is the violations committed by China on the people of Tibet which is continuing even before the formation of the UN. Ironically China is considered to be a pioneer in drafting of the UN Charter in 1945 being on the sides of the Allies in the World War.

The settlement in territories, occupied as a result of armed conflicts, of people of same ethnic origin as that of the occupying power, usually coupled with forcible displacement of the local population, has been used by such powers from times immemorial as a method of solidifying a de-facto situation created by the force of arms and as a step towards annexation of the territory by the occupying power. This method of implanting settlers in occupied territories continued to be used throughout the 20<sup>th</sup> century.<sup>4</sup> Population transfer has been conducted with the effect or purpose of altering the demographic composition of a territory in accordance with policy objectives or prevailing ideology, particularly when that ideology or policy asserts the dominance of a certain group over another. The consequences of population transfer, particularly involving deepened ethnic conflict, environmental degradation, resistance and even secession,

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<sup>4</sup> LOUKIS G. LOUCAIDES, *ESSAYS ON THE DEVELOPING LAW OF HUMAN RIGHTS*, Brill Publication, 1995, 108

may ultimately affect the very foundation of the State itself. Second World War bears testimony to the full destructive potential that emerges from population transfers.

Population transfer is usually associated with ethnic cleansing of the occupied population by systematic forced removal of ethnic or religious groups from the occupied territory to make it homogeneous for the occupying group<sup>5</sup> by applying methods such as deportation, population transfer, mass murder, incarceration etc.

Colonization through transfer of civilian population transfer into the occupied territory by the occupying power is considered as a war crime and a crime against humanity under international criminal law. It was held in the Nuremberg Judgment that population transfers and colonization in occupied territory constituted both a war crime and a crime against humanity.<sup>6</sup> Transfer of civilian population by the occupying power into the occupied territory is prohibited under the Fourth Geneva Convention<sup>7</sup>, the Additional Protocol<sup>8</sup>, and the Statute of the International Criminal Court.<sup>9</sup> The aforementioned act is also prohibited under the domestic legislations of various States.

The United Nations Security Council also condemns the attempts of an Occupying country to alter the demographic composition of its occupied territory. The Security Council in 1992 hindered the attempts to alter the ethnic composition of the former Yugoslavian population. The United Nations General Assembly and the United Nation Commission on Human Rights have also condemned settlement practices.<sup>10</sup> The final report of the UN Special Rapporteur on the Human Rights Dimensions of Population Transfer, which also included the Implantation of

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<sup>5</sup> JAMES M. RUBENSTEIN, *THE CULTURAL LANDSCAPE: AN INTRODUCTION TO HUMAN GEOGRAPHY*, Pearson, 1983

<sup>6</sup> A number of Nazis were charged with these crimes and were hanged on October 16, 1946. The relevant indictments included ‘...the defendants forcibly deported inhabitants who were predominantly non-German and replaced them by thousands of German colonists.’ *Supra*, note 1.

<sup>7</sup> Deporting or transferring parts of a State’s own civilian population into the territory it occupies is prohibited. Convention (IV) relative to the Protection of Civilian Persons in Time of War, Geneva, 12 August 1949, International Committee for Red Cross, available at <https://www.icrc.org/ihl/WebART/380-600056>

<sup>8</sup> Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I), 8 June 1977, Article 85(4)(a), International Committee for Red Cross, available at <https://www.icrc.org/ihl/WebART/470-750111>

<sup>9</sup> The direct or the indirect transfer of the civilian population of the Occupying Power into one of its occupied territories constitutes a war crime under International Armed Conflicts. Rome Statute of the International Criminal Court, Article 8(2)(b)(viii), available at <http://www.icc-cpi.int/icedocs/PIDS/publications/RomeStatutEng.pdf>

<sup>10</sup> Res. 36/147 C, 37/88 C, 38/79 D, 39/95 D and 40/161D, United Nations General Assembly, available at <http://www.un.org/documents/resga.htm>

Settlers and Settlements, classified ‘implantation of settlers’ as unlawful and thereby attracting State responsibility and the individual criminal responsibility.<sup>11</sup> The 24th International Conference of the Red Cross in 1981 reaffirmed that the settlements of a country in its occupied territory are violative of Articles 27 and 49 of the Fourth Geneva Convention.<sup>12</sup>

### **III. PROTECTION OF HUMAN RIGHTS AND ACCOUNTABILITY UNDER INTERNATIONAL CRIMINAL JUSTICE: DETERMINING CHINA’S CULPABILITY**

The process of “internationalization” of criminal justice principles, once considered to be limited by national boundaries, brought with it the need to strengthen the pursuit of traditional United Nations goals in crime prevention and criminal justice.<sup>13</sup> However, enforcement of International criminal justice for violations through prosecutions or other accountability mechanisms has been few compared to the huge number of violations. It is because justice is more often than not is bartered away for political settlements.

Whether in international or purely internal conflicts, the practice of impunity has become the political price paid to secure an end to the ongoing violence and repression.<sup>14</sup> In these bartered settlements, accountability to the victims and the world community becomes the object of political trade-offs, and justice itself becomes the victim of *realpolitik*.<sup>15</sup> As such stand by world community is an antithesis of the purpose and spirit of international criminal law the accountability for crimes against humanity should not be condoned and the victim should not be left remedyless in a non-reparative political maze.

A state’s duty to make reparations for its acts and omissions is provided in the conventional and customary law. For violations of international humanitarian law, the major conventions which regulate armed conflict provide individuals with the right to claim compensation against the state

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<sup>11</sup> UN Sub-Commission on the Promotion and Protection of Human Rights, *The human rights dimensions of population transfer, including the implantation of settlers : progress report / prepared by Awn Shaw[k]at Al-Khasawneh, Special Rapporteur.*, 30 June 1994, E/CN.4/Sub.2/1994/18, available at <http://www.refworld.org/docid/3b00f4404.html>

<sup>12</sup> *Supra*, note 7.

<sup>13</sup> M. Cherif Bassiouni, *Accountability for violations of International Humanitarian Law and Other Serious Violations of Human Rights.*, available at <http://www.sos-attentats.org/publications/bassiouni.violations.pdf>

<sup>14</sup> *Progress Report on the Question of Impunity of Perpetrators of Human Rights Violations*, prepared by Mr. Guissé and Mr. Joinet, pursuant to Subcommission resolution 1992/23, Sub-Commission on Prevention and Protection of all Minorities, 45th Sess., Item 10(a), (19 July 1993) E/CN.4/Sub.2/1993/6;

<sup>15</sup> M. Cherif Bassiouni, *Combating Impunity for International Crimes*, 71 U. COLO. L. REV. 409 (2000)

parties and requiring states to provide reparation for their breaches, like the Hague Convention Regarding the Laws and Customs of Land Warfare provides for the duty of a state to pay indemnity in case of violations of its regulations.<sup>16</sup> The Four Geneva Conventions of 1949<sup>17</sup> contain similar provisions with respect to the grave breaches of the convention, and Protocol I provides that a state party shall be liable “to pay compensation” for violations of the convention.<sup>18</sup>

One of the most alarming features of China’s present colonial policy is the large-scale, unprecedented transfer of Chinese population into Tibet. The real fear is that if the present Chinese policy becomes successful, Tibetans will be reduced to a small minority in their own country, in the same way as the Mongolians, Manchus and Turkish have been. The very objective of this policy is to resolve forcefully China’s massive territorial claims over Tibet by means of a irreversible population shift.

Since the Chinese occupation more than a million Tibetans, roughly one-fifth of the total population died under Chinese rule from execution, torture, and starvation, and similar causes. Natural resources of Tibet have been exploited. One of the most serious threats now facing Tibetans in their struggle to preserve their country and cultural identity is the systematic, organised effort to generate a massive population influx of Chinese into Tibet. This calculated policy is the Chinese Communist Party’s “final solution” to their problematic occupation.<sup>19</sup> The practice of populating Tibet with non-Tibetans is considered by Tibetans as the most serious threat facing Tibet. Dalai Lama in an interview with International Commission of Jurists expressed the same concern.<sup>20</sup> According to a recent article published by the China Tibet

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<sup>16</sup> Convention Respecting the Laws and Customs of War on Land, 2 AM. J. INT’L L. 90 (1908).

<sup>17</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, 12 Aug. 1949, 6 U.S.T. 3114, 75 U.N.T.S. 31; Geneva Convention for the Amelioration of the Condition of the Wounded, Sick and Shipwrecked Members of the Armed Forces at Sea, 12 Aug. 1949, 6 U.S.T. 3217, 75 U.N.T.S. 85; Geneva Convention Relative to the Treatment of Prisoners of War, 12 Aug. 1949, 6 U.S.T. 3316, 75 U.N.T.S. 135, at art. 68; Geneva Convention Relative to Protection of Civilian Persons in Time of War, 12 Aug. 1949, 6 U.S.T. 3516, 75 U.N.T.S. 287, at art. 55, available at <https://www.icrc.org/en/war-and-law/treaties-customary-law/geneva-conventions>

<sup>18</sup> *Supra*, note 8.

<sup>19</sup> Viktoria Gy Duda, The Legal Status Of Tibet, available at [http://www.viktoriaduda.com/uploads/1/7/0/0/17001902/duda\\_-\\_legal\\_status\\_of\\_tibet.pdf](http://www.viktoriaduda.com/uploads/1/7/0/0/17001902/duda_-_legal_status_of_tibet.pdf)

<sup>20</sup> ‘The most serious threat to survival of the Tibet Culture and national identity is presently China’s population transfer program, which is reducing the Tibetans into an insignificant minority in their own land at an alarming rate.’ Annex 1. ICJ Interview with the Dalai Lama: Tibet: Human Rights and the Rule of Law; ICJ, 1997 available at <http://icj.wpengine.netdna-cdn.com/wp-content/uploads/1997/01/Tibet-human-rights-and-the-rule-of-law-thematic-report-1997-eng.pdf>

Information Centre, the number of Han Chinese currently residing in Tibet is more than 25 million.<sup>21</sup> China in 1994 admitted that the cornerstone of Chinese policy in Tibet was colonization.<sup>22</sup>

The report UN Special Rapporteur also stated that the transfer of civilians under the guise of economic development has only resulted in grave and tragic violations of human rights of the Tibetan community. Tibet is facing famines, desertification, under nutrition in the women and children population and many other economical, social and cultural hindrances, according to the report.<sup>23</sup>

In general Chinese actions in Tibet constitute acts of genocide and by 1960 there was no article of the Universal Declaration of Human Rights that had not been violated by Chinese authorities.<sup>24</sup> The violations by the Chinese has not abated but continues in variegated forms of oppressions, and victimizations.<sup>25</sup> According to a recent article published by the China Tibet Information Centre, the number of Han Chinese currently residing in Tibet is more than 25 million.<sup>26</sup> China is guilty of perpetrating such crime for more than half a century with impunity, which creates doubts about the efficacy of international criminal justice system and accountability under it.

#### **IV. THE CONTRADICTION STANDARDS OF THE UNITED NATIONS IN THE PROMOTION & FAILURE TO PROTECT HUMAN RIGHTS: IN LIGHT OF THE CHINA-TIBET CONFLICT**

The foundational treaty of the UN of 1945, the Charter of the United Nations, declared to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small and to establish conditions under

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<sup>21</sup> Yeshe Choesang, Chinese Colonisation: How many will China transfer to Tibet? The Tibet Post International, 2015 available at <http://www.thetibetpost.com/en/outlook/opinions-and-columns/4405-chinese-colonisation-how-many-will-china-transfer-to-tibet>

<sup>22</sup> *A Golden Bridge Leading Into a New Era- Material to Publicise the Spirit of the Third Forum on Work in Tibet*, TAR Communist Party Propaganda Committee, TAR People's Publishing House, 1994

<sup>23</sup> *Supra*, note 11.

<sup>24</sup> International Commission of Jurists Report on Tibet and Chinese People's Republic, Geneva, 1960, available at [http://www.tibetpolicy.eu/wp-content/uploads/173\\_1959-1960\\_The-Question-of-Tibet-and-the-Rule-of-Law.pdf](http://www.tibetpolicy.eu/wp-content/uploads/173_1959-1960_The-Question-of-Tibet-and-the-Rule-of-Law.pdf)

<sup>25</sup> The Chinese regime in Tibet was described by A. Solzhenitsyn as "more brutal and inhuman than any other communist regime in the world" (Address delivered in Tokyo, 9 Oct. 1982).

<sup>26</sup> *Supra*, note 21.

which justice and respect for obligations arising from treaties and other sources of international law can be maintained.<sup>27</sup> The watershed document on recognition and observance of human rights is the Universal Declaration of Human Rights adopted and proclaimed by the UN General Assembly on December 10, 1948 as a common standard of achievement for all peoples and all nations and to secure their universal and effective recognition and observance, both among the peoples of member states themselves and among the peoples of territories under their jurisdiction. It defined fundamental human rights in widest latitude and for the first time declared fundamental human rights to be universally protected.<sup>28</sup> This was followed by several instruments like the International Convention on the Elimination of All Forms of Racial Discrimination, Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights, Convention on the Elimination of All Forms of Discrimination against Women, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment etc., and several optional protocols to supplement them<sup>29</sup>, all with the avowed purpose of protecting human rights in its broadest meaning. But the ground reality is the conspicuous failure of their implementation in actually protecting human rights. Even the organs or bodies established to further the cause of protection of human rights like the Commission of Human Rights (1946-2005), the Human Rights Council (2006-present), The Human Rights Committee, the Office of the High Commissioner of Human Rights (since 1993)<sup>30</sup> have been criticized for partisanship, bias, and selectivity in their functioning.

China's policy of occupation and colonization has resulted in gradual destruction of Tibet's national independence, culture and religion, environment and the universal human rights of its people. The fate of Tibet's unique cultural, national, and religious identity is seriously violated by the Chinese. Due to influx of Han Chinese for settlement in Tibet the indigenous population has been marginalized and faces to become a minority.

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<sup>27</sup> The Charter of the United Nations and the Statute of the International Court of Justice, United Nations Organization, 1945, available at <https://treaties.un.org/doc/publication/ctc/uncharter.pdf>

<sup>28</sup> The Universal Declaration of Human Rights, United Nations Organization, available at <http://www.un.org/en/universal-declaration-human-rights/>

<sup>29</sup> The Core International Human Rights Instruments and their monitoring bodies, United Nations Human Rights, Office of the High Commissioner, available at <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CoreInstruments.aspx>

<sup>30</sup> Human Rights Bodies, United Nations Human Rights, Office of the High Commissioner, available at <http://www.ohchr.org/EN/HRBodies/Pages/HumanRightsBodies.aspx>

The most disturbing aspect of China's violations of the International Criminal Law is that the UN, despite being aware of such violations which are no less atrocious than the Nazi Germany's actions, does not take a proactive stand. It is germane to point out some actions of world bodies and different countries to show that the issue of Tibet is alive but asleep for them. Soon after the invasion by China the Tibetan Govt. appealed to the UN to intercede and restrain Chinese aggression. The move was scuttled by India.<sup>31</sup> In 1959 the first resolution was passed in UN after escape of Dalai Lama to India, calling for respect for the fundamental rights of the Tibetan people and for their distinctive cultural and religious life.<sup>32</sup> In 1961 Resolution 1723 (XVI) was passed renewing its call for cessation of practices which deprive the Tibetan people of their fundamental human rights and freedoms, including the right to self-determination.<sup>33</sup> The third resolution was passed in 1965 when the tortures and brutalities by China peaked once again renewing the call given earlier, reaffirming the earlier resolutions.<sup>34</sup> In the UN Commission on Human Rights in 1991 passed a resolution asking China to respect fundamental human rights of the Tibetan people. After the protest of 2008 by the Tibetans, a joint statement was issued by UN Human Rights Experts in 2008 expressing concern on the crackdowns against the protestors.<sup>35</sup> This was all that could be done by the UN in respect of China's brutal occupation and colonization of Tibet. To the present day, the UN's half-measures towards Tibet remain one of its most longstanding acts of omission.

International Commission of Jurists published its first report in 1959 on the question of Tibet and the Rule of Law, and on the basis of evidences found prima facie case of acts contrary to Article 2(a) and (e) of Genocide Convention of 1948 and of a systematic intention by such acts and other acts to destroy in whole or in part the Tibetans as a separate nation and the Buddhist religion in

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<sup>31</sup> Ambassador in India to the Secretary of State, 20 November 1950, *Foreign Relations of the United States, 1950*, vol. VI, 578.

<sup>32</sup> UN General Assembly Resolution, 1354(XIV), 21 October, 1959, available at <http://www.un.org/documents/ga/res/14/ares14.htm>

<sup>33</sup> UN General Assembly Resolution 1723 (XVI) of 1961, available at <http://www.un.org/documents/ga/res/14/ares14.htm>

<sup>34</sup> UN General Assembly Resolution 2079 (XX) of 1965, available at <http://www.inpatnet.org/resourcecenter/united-nations-tibet-related-documents/>

<sup>35</sup> UN human rights experts call for restraint and transparency as mass arrests are reported in the Tibet Autonomous Region and surrounding areas in China, United Nations Press Release, 2008, available at <http://www.unhcr.ch/hurricane/hurricane.nsf/view01/04E93C974F48F850C1257427002D7EAD>

Tibet.<sup>36</sup> The second report of the International Commission of Jurists on Tibet and China was submitted in 1960, with findings that in addition to genocide China violated almost all codified human rights.<sup>37</sup> The International Commission of Jurists in December, 1997 published another report on Tibet, in which apart from other violations it was reported that there was population transfer by China as a part of its policy on Tibet.<sup>38</sup>

Similarly other countries like the US, UK, Australia, Germany and European Parliament passed many resolutions, reports and conventions on Tibet. The US even enacted Tibetan Policy Act, 2002, codifying its policy on Tibet. All these paper works were of no consequence to China, which pursued its policy of total colonization of Tibet unhindered.

According to Rosa Freedman, almost seventy years on from its creation, the UN has failed to protect human rights and continues to do so, despite the billions of dollars spent every year on efforts to achieve those aims. Ever-increasing amounts of time and expertise – in UN bodies and in field missions – is devoted to addressing human rights, yet very many violations continue to be perpetrated with impunity. And those gross and systemic abuses occur across the world.<sup>39</sup> As per her although the UN may be justified at developing and promoting rights, it is utterly hopeless at protecting them. To make matters worse, this is a failure that is built into the very structure of the organization: “Promotion activities rely on politics and diplomacy, on cooperation and engagement, on discussion and dialogue. Those same strengths that are needed for promoting rights are weaknesses when it comes to protecting rights.”<sup>40</sup>

In the words of E. Steinerte, the International Human Rights instruments are addressed to the contracting states and do not bestow the rights on individuals through these states.<sup>41</sup> Thus it up to the contracting state to make its domestic laws compliant with the human rights standards in the

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<sup>36</sup> ICJ Report on the Question of Tibet and the Rule of Law, International Court of Justice, 1959, 342, available at <http://www.tibetjustice.org/materials/govngo/govngo1.html>

<sup>37</sup> ICJ Report on Tibet and China, International Court of Justice, 1960, 346, available at <http://www.tibetjustice.org/materials/govngo/govngo2.html>

<sup>38</sup> Tibet: Human rights and the Rule of Law, International Court of Justice, December, 1997, available at <http://www.tew.org/icj/icj.exec.html>

<sup>39</sup> Rosa Freedman, Human Rights Protection: Ought the United Nations to have an increasing or diminishing role?, Cicero Foundation Great Debate Paper, No.14/06, July, 2014.

<sup>40</sup> ROSA FREEDMAN, FAILING TO PROTECT: THE UN AND THE POLITICISATION OF HUMAN RIGHTS, Oxford University Press, 2015.

<sup>41</sup> E.Steinerte, R.M.M. Wallace: United Nations Protection of Human Rights: Study Guide prepared for the University of London.

human rights instrument. The objective of human rights treaty system being implementation of human rights protection at the national level the problem arises in ensuring its compliance with the individuals who are entitled to the rights and not the states. If a state defies the treaties and continues with human rights violations there is little that the world body could do, more so if such state is a military and economic power and a member of Security Council, like China. As a matter of fact, the UN has been selective about its actions regarding issues and causes depending on the status of the delinquent nations and populist nature of the cause. Rosa Freedman in her celebrated book writes that the General Assembly is great at taking up populist causes such as ending apartheid in South Africa and returning occupied land to the Palestinian people, but rarely discusses less fashionable conflicts.<sup>42</sup> It deliberately underplays abuses committed by USSR, America, Australia, China or New Zealand. This as per Freedman is due to the fact that intergovernmental bodies, like the UN, are by their very nature political and when an institution becomes grossly selective, disproportionately scrutinizes some countries and altogether ignores others, and demonstrates a complete lack of even-handedness, then politicization undermines the body's credibility and ability to fulfill its mandate.

Therefore, it can be said that the very constitution of the UN is the delimiting factor in protecting human rights. This is also the reason why the UN lacks the capability of enforcement in the case of violations of human rights by member states.

## V. CONCLUSION

While China purportedly embraces international human rights paradigm by being party to a number of treaties on human rights, it has a different agenda of human rights. China has consistently promoted a hierarchy of rights in which social and economic rights are privileged over civil and political rights.<sup>43</sup> In its 1991 white paper, the Chinese government asserted that 'the right to subsistence is the most important of all human rights, without which the other rights are out of the question'. In line with its aspirational and collective view of human rights, China scrupulously avoids any suggestion that socio-economic rights should be enforceable by individuals. China continues to undermine the basic human rights principles on the plea that

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<sup>42</sup> *Supra*, note 40.

<sup>43</sup> Sonya Sceats, Shaun Breslin, China and the International Human Rights System, The Royal Institute of International Affairs, Chatham House, 2012.

countries may differ on human rights issues depending on the level of their development and other social, cultural peculiarities. With such contorted notions of human rights China justifies its actions in Tibet as providing security and bringing prosperity to Tibet. China takes all possible measures to ensure that no criticism is raised against its human rights violation in Tibet in the World Body.

Issue of violations of human rights in Tibet is an international issue and it is considered to be so by the world community. China has been violating international human rights norms with utter disregard to the world community by vigorously pursuing its policy of total annexation of Tibet through colonization, oppression, torture, incarceration etc. The financial or military prowess of China should not make the world community dither from holding China accountable for its blatant human rights violations and stand by the people of Tibet to protect their human rights in all its comprehensiveness. If the UN does not stand up to garner concerted action of the member states to restrain China then the cause of human rights so vociferously advocated by the World Body would be defeated.