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## *Policy Brief*

# Resituating Menser and Darchen-Labrang in the Boundary Negotiations with China

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## *Summary*

Agreed, for India to reopen the hitherto forgotten Menser question and enforcing a residual sovereign claim over it would be difficult. But the enclave near Kailash-Manasarovar is historically, emotionally and commercially more critical for India when compared to Aksai-Chin's relevance today. For India, restoring the web of historical, spiritual, and commercial links with the Kailash-Manasarovar region assumes importance if for nothing else than to deter the Chinese and Tibetans claiming Tawang and other places in India on account of their religious affiliation. The recent Doklam episode should prompt India and Bhutan to rethink their hitherto overlooked issue of resituating Menser and Darchen-Labrang in their academic discourse and policy positions.

The recent launch of the China-Pakistan-Economic Corridor (CPEC) by China and Pakistan has provided India with a fresh impetus to assert its sovereign claim over Pakistan-occupied-Kashmir (PoK), including Gilgit-Baltistan (GB) region, which had hitherto remained in diplomatic abeyance. The Instrument of Accession signed by Maharaja Hari Singh on October 26, 1947 warranted India's control over the entire territory of the erstwhile Princely State of Jammu & Kashmir. And, Section 4 of the Jammu & Kashmir (J&K) Constitution defined the State's territory as comprising all the territories which, on the fifteenth day of August 1947, were under the sovereignty or suzerainty of the Ruler of the State.

Consequently, the geographical extent of J&K included the areas now under Pakistani occupation, that is, Pakistan-occupied Kashmir (PoK), as well as the Trans-Karakoram Tract or Shaksgam Valley, and the Aksai Chin Plateau. One important fact that is generally ignored is that Maharaja Hari Singh's Instrument of Accession referred to him as "*Shriman Inder Mahinder Rajrajeswar Maharajadhiraj Shri Hari Singhji, Jammu & Kashmir Naresh Tatha Tibbet adi Deshadhipati*". That is, he asserted that he is not just the ruler of Jammu & Kashmir but also of the areas of eastern Ladakh including Aksai Chin as well as the territory he controlled inside Tibet. Accordingly, J&K's territory included jurisdiction over Menser (Menser) estate, which consisted of a cluster of villages located 296 kilometres deep inside Chinese territory at the foot of the holy Mount Kailash on the bank of Manasarovar Lake.

### **Menser: An Indian Estate in Tibet**

Menser remained a part of India even after Tibet under the 5<sup>th</sup> Dalai Lama brutally snatched the eastern half of Ladakh, covering the area of Rudok, Guge, Kailash, Burang and up to the Nepal border junction, during the 1679–1684 Ladakh-Tibet war. But for the timely military intervention of Aurangzeb and diplomatic intercession by the Bhutanese, the whole of Ladakh would have been part of Tibet-China today.

The 1684 [Treaty of Temisgang](#) concluded at the end of that war entitled the ruler of Ladakh to govern the Menser villages for two key purposes:

- a) retaining a transit place for Indian traders and pilgrims to Mount Kailash; and,
- b) meeting the expenses connected with religious offerings to the sacred Mount Kailash.

The Treaty also confirmed the delimitation of the Tibet-Ladakh boundary at Demchok. Successive Maharajas of Kashmir continued to abide by these treaty obligations and collected taxes from Menser villages from 1846 until the early 1960s. Similarly, Bhutan also enjoyed legal rights over the Darchen-Labrang enclave consisting of a series of monasteries near Mount Kailash and Gartok.

Both Menser and Darchen-Labrang served as key outposts for Indian and Bhutanese traders and pilgrims for over 300 years. They exercised full administrative jurisdiction and collected annual tribute from their respective enclaves until the 1960s.

In 1853, the Wazir of Ladakh, Mehta Basti Ram collected Rs 56 as revenue from Menser. The collection had gone up to Rs 297 by 1905. According to Indian censuses 1911 and 1921, Menser had 44 houses comprising, 87 men and 73 women. The final settlement report of J&K in 1958 showed Menser among the 110 villages in Ladakh Tehsil. Local records suggest that J&K authorities stopped collecting annual revenue from Menser after the India-Pakistan War of 1965.

The details of India's legal jurisdiction over Menser are given in the *Notes, Memoranda and Letters Exchanged and Agreements signed between The Governments of India and China (White Paper IV for the period between September 1959 – March 1960)*, published by the Ministry of External Affairs, Government of India.

Some facts that are now coming to the fore suggest that India “unilaterally (and discretely)” gave up its sovereign rights over Menser in the early 1950s. According to Claude Arpi, an expert on Himalayan Affairs, “Nehru in 1953, wanting to be nice and have his Panchsheel Agreement signed, had unilaterally renounced all Indian ‘colonial’ rights over smaller principalities including the Indian estate of Menser in 1953 as a *gesture of goodwill towards Communist China.*”

Nehru's instructions to Indian negotiators on the Panchsheel accord signed in Beijing was as follows:

“Regarding the village of Minsar in western Tibet, which has belonged to the Kashmir State, it is clear that we shall have to give it up, if this question is raised. We need not raise it. If it is raised, we should say that we recognise the strength of the Chinese contention and we are prepared to consider it and recommend it.”

At the same time, however, Nehru added that “we should not come to a final agreement without gaining the formal assent of the Kashmir Government.”

Clearly, the Bhutanese enclaves of Darchen-Labrang in Tibet also met with the same fate under Nehru's instructions.

Nehru's “goodwill-gesture” theory cannot be substantiated, though Indian historians have mostly attributed India's guff up with China to Nehru's “innocence and gullibility”. This was despite other leaders including Vallabhbhai Patel warning him about China's motives vis-à-vis India.

Why the Indian leadership surrendered the possession of J&K and Bhutanese territories near Mount Kailash, which formed a key aspect of the strategy followed by Ladakh and Bhutan to offset Sino-Tibetan expansionism in the Himalayas, needs more investigation.

### **Why did Nehru Forego the Indian and Bhutanese Principalities to China?**

While Nehru's “goodwill-gesture” theory cannot be substantiated, the most striking incident that seemingly jolted Nehru in 1947 stemmed from an issue related to Tibet. Barely two months after independence, Nehru was apparently shocked to receive two

telegrams from the Tibetan Government in Lhasa asking India to return the (lost) territories of Tibet. One of these, dated October 16, 1947 and forwarded through the Indian Mission in Lhasa, sought the return of territories "such as Sayul and Walong and in direction of Pemakoe, Lonag, Lapa, Mon, Bhutan, Sikkim, Darjeeling and others on this side of river Ganges and Lowo, Ladakh etc. up to boundary of Yarkhim."

Nehru was stunned by these Tibetan demands but concealed them from Parliament. He seemingly rejected the Tibetan claim and instead advised Lhasa to maintain the status quo until new agreements can be reached. This most preposterous claim by the Tibetans, which was fraught with incalculable consequences for India, is mentioned in the then Intelligence Bureau Chief B.N. Mullick's book *My Years with Nehru – the Chinese Betrayal*. Mullick characterised it as an "ill-advised claim" by the Tibetan authority.

Interestingly, neither did Lhasa accept independent India's call for ratifying the 1914 [Simla Convention](#) and the McMahon Line Treaty nor was it willing to send an official delegation to attend India's Independence celebration in 1947. Perhaps, it was this Tibetan inanity that prompted Nehru to issue a clarification on [December 6, 1950](#) that "he was not interested in challenging China's suzerainty over it."

India was greatly relieved when the Dalai Lama's representatives signed the [17-point agreement](#) with China on May 23, 1951 affirming Chinese sovereignty over Tibet. It was only after the Sino-Tibetan agreement had been signed that India went ahead with the signing of the Peace Treaty with China on [April 29, 1954](#) – which explicitly recognized Tibet as part of China.

Interestingly, after his escape to India in 1959, the Dalai Lama absolved himself from the above missteps by saying that he was only 18 years old and had no active control over his Regent then. Regrettably, the Tibetan faux pas turned into a great benefit for China.

### **Nehru's Quandary**

The Tibetan follies may have rightly caused a dilemma in Nehru's mind whether to follow the traditional customary treaties with Tibet or stick to the British conventions for resetting boundaries with China. Inheriting the British colonial legacy involved a risk of being called an "imperialist". But continuing with the old treaties (with Tibet) risked opening a can of worms in the Himalayas especially when Tibetans themselves were asserting claims over territories from Ladakh to Arunachal Pradesh.

Hence, the decision to forego the Indian and Bhutanese principalities inside Tibet and also not making any reference to the discrepancies along the Sikkim-Tibet border and Bhutan-Tibet border or Doklam (tri-junction) in the early 1950s probably stemmed from Nehru's dilemma vis-a-vis Tibet. Even the British knew that the Tibetans posed a greater threat to India than China did.

India, therefore, may have favoured to opt for continuing with the British Raj's Tibet policy, which preferred

- a) a weak Chinese presence in Tibet,

- b) a suzerain and not sovereign status for Tibet, and
- c) autonomy and not independence for Tibet.

The underlying objective of the British policy was to

- a) protect Indian commercial interests in Tibet,
- b) prevent Russian advancement, and
- c) check Tibetan irredentist claims over the Indian Himalayas.

Together, these determined India's decision not to push the Tibetan question in the UN beyond the preliminaries, thus giving a natural death to the issue. Moreover, the British government's advice then was that neither India nor any external power could prevent the Chinese takeover of Tibet.

### **Aggrieved Nehru**

Five years after the Panchsheel Treaty was signed, Nehru received a lengthy letter from Chou En-lai (September 8, 1959) which described the McMahon Line as a product of the British policy of aggression on a weak Tibet. Among other things, Chou En-lai claimed an additional 40,000 square miles of Indian Territory; raised the issue of China's non-ratification of the 1842 Tibet-Ladakh border; reminded Nehru of Lhasa's 1947 correspondence relating to the return of Tibetan areas by India; claimed the frontier east of Bhutan as a traditional frontier; rejected that the Sikkim and Bhutan boundary issues fell within the scope of India-China discussions; asserted that China has a 2,000 kilometre long boundary with India instead of the 3,530 kilometre boundary claimed by India; alleged that Indian troops have trespassed, "invaded and occupied" a number of places; accused India of shielding armed Tibetan rebels in the frontier areas; and alleged that Indian aircraft are repeatedly violating Chinese air space.

Terribly distressed, Nehru sent a rebuttal to Chou En-lai on [September 26, 1959](#) in which he deeply resented the allegation that India was seeking to reap a benefit from the British aggression against China and said that "India voluntarily renounced all the extra-territorial rights enjoyed by Britain in Tibet before 1947 and recognised that Tibet is a region of China."

Clearly, Beijing was reinforcing the claim earlier made by the Tibetan administration which called the McMahon Line an imperialist fabrication and hence "illegal" and India must return those 'lost' Tibetan territories.

### **The Change of Tack**

A turnaround in Nehru's policy came when he started to reassert over issues relating to the Sikkim and Bhutan boundaries defined by the British. In Paragraph 17 of his September 1959 letter to Chou, without questioning the validity of the 1890 Sikkim-Tibet Convention, Nehru insisted that it only referred to *northern Sikkim and not to the tri-*

junction. He explicitly objected to the *discrepancy in Chinese maps showing a sizeable part of the tri-junction (Doklam) area of Bhutan as part of China*, which needed to be discussed with Bhutan and Sikkim.

Consequently, India also remained more definitive about Sikkim exercising full administrative and jurisdictional control all along the traditional/customary 'boundary alignment' that had been recognised by both sides. India's disquieting positions in this regard vis-à-vis China are reflected in the Notes, Memoranda and letters Exchanged and Agreements signed between The Governments of India and China (White Paper IV for the period between September 1959 – March 1960), published by the Government of India.

With regards to Bhutan, the 1961 [Report of the Governments of India and the People's Republic of China on the Boundary Question \(Part 3\)](#), published by the Ministry of External Affairs states the following:

"The State of Bhutan has been maintaining check posts and exercising effective administrative jurisdiction all along her boundary with Tibet."

"The Government of India has already taken up with the Government of China various matters on behalf of Bhutan, including the delineation of Bhutan's external boundaries."

"The official map was more or less correctly drawn except Bhutan's eastern border with India."

"Since the traditional India-Tibet boundary runs along the Himalayan watershed, Bhutan's eastern boundary was a matter concerning India and Bhutan only."

"The whole of Bhutan's eastern boundary with India had been studied jointly during 1936-38 and formally accepted by Governments of India and Bhutan."

With regards to Bhutanese rights in Tibet, the 1961 Report said:

*"Chinese officials have illegally dispossessed the designated authorities of the Government of Bhutan in the following eight villages situated in western Tibet over which Bhutan has been exercising administrative jurisdiction for more than 300 years: Khangri, Tarchen, Tsekhor, Diraphu, Dzong Tuphu, Jangehe, Chakip and Kocha."*

"Bhutanese officers governed these villages, collected taxes from them and administered justice. Tibetan authorities consistently recognised that these villages belonged to the Bhutan Government."

*"At the request of the State of Bhutan the Government of India in their notes of 19 August 1959 and 20 August 1959 have represented to the Chinese Government to restore the rightful authority of the Bhutan Government over their enclaves."*

But China deliberately avoided a discussion or exchange of maps relating to the Tibet-Sikkim and Tibet-Bhutan borders with India. To what extent the Chinese were advised by Tibetan authorities is unclear. But what is very clear is the fact that Tibetan advice both critically impacted Indian security and impinged on the boundary negotiation with China.

## **Time to Talk about the Restitution of Menser**

Although in its 1959 Notes India had sought the restoration of Bhutan's rightful authority over Bhutanese enclaves in Tibet, it surprisingly did not mention its own sovereign claim over Menser. This, despite the Official Report issued later in 1961 providing a full account of India's historical, administrative and revenue rights over five villages near Kailash-Manasarovar. The Report also provided a full record of the Maharaja's jurisdiction on Menser, which was one of the 110 villages that fell under Ladakh Tehsil. The Report is backed by documents including the J&K Revenue Assessment Report of 1902 and Settlement Report of 1908, Census Reports from 1901 to 1937, and Revenue records from 1901 to 1948, among others.

The complete story regarding Nehru's discrete surrender of Menser is yet to be ascertained, but some pertinent questions surrounding the case should still be raised even if they are of only academic relevance.

1. First, if the Tibetans and Chinese authorities acknowledged that Ladakh/Kashmir and Bhutan held certain rights in Mount Kailash area, why did India unilaterally decide to hand over those rights to China?
2. Second, on record, neither did China apparently challenge Indian sovereign rights over Menser, nor did India raise the issue in talks with China in 1953-54. So, does that mean that Menser legally still belongs to India?
3. Third, Menser's surrender was neither referred to Srinagar nor was it ratified by Parliament. Why did the J&K government keep quiet on the Menser issue despite voices in that regard being repeatedly raised in Ladakh for seven decades?
4. Fourth, why has India kept the issue out of the public domain in spite of the repeated clarifications sought on Menser by the Member of Parliament from Ladakh constituency since 1982 in the Lok Sabha? Till date, no convincing answer seems to have been given by any central Government. Is this a case of self-betrayal? The Government owes an answer to the people of J&K?
5. Fifth, if the Government of India was the competent authority to take up matters concerning Bhutan's territory, what prevented India from raising its own Menser issue with Beijing?
6. Sixth, having decided to forego the enclaves, why did not the Government of India ever seek any compensation for either Ladakh/Kashmir or Bhutan?

Clearly, the fate of these enclaves has never been negotiated or settled legally so far. As the British historian John Bray wrote "The status of Minsar is no more than a minor footnote to these concerns, but one that has still to be cleared up." Therefore, the Menser question should not be considered by us as entirely closed.

Strangely, not only the Chinese but even the Dalai Lama remains silent on the status of Menser and Darchen-Labrang enclaves.

## Implications

To recall, in 2015, China had insisted upon [opening the Nathu La](#) instead of Demchok as an alternate pilgrimage route to Manasarovar. Beijing had ostensibly done this to put to rest any future discussion on Menser and Darchen-Labrang enclaves located near Mount Kailash knowing very well that those places hold great spiritual, emotional and political significance to Indian and Bhutanese pilgrims.

China's hardening of position on the boundary issue, especially demanding the "restitution" of Tawang, is solely based on the argument that the Sixth Dalai Lama was born there and that the Tibetans had paid obeisance to the Monastery for centuries – hence it cannot be parted with.

By the same logic, the Menser and Darchen-Labrang along with other eight monasteries owned respectively by Ladakh and Bhutan were visited by their people for pilgrimages to Mount Kailash (*Gangs rin-po-che, Ti-se*) or holy abode of Lord Shiva (*Chang-chub-chen-mo*) for centuries – hence cannot be parted with and swept away.

Importantly, India needs to be cautious about China possibly claiming places in Ladakh based on the contention that [Lama Staksang Repa](#), the sole legal owner or caretaker of [Hemis Monastery](#), is a Chinese national presently living in Lhasa. Hemis continues to hold legal ownership over a large portion of Ladakh's agricultural land. The issue is important and must be factored in finding the next incarnation of Lama Staksang Repa within India.

More critically, the key Indian monasteries in Ladakh have already fallen into the hands of high-ranking Tibetan (refugee) Lamas with all the attendant risks entailing long term implications for India. How to undo that remains a challenge.

In addition to the five Indian villages in Menser, China is sitting over the 38,000 square kilometre area of Aksai-Chin and the 5000 square kilometre area of Shaksgam of J&K. According to the [2013 report](#) authored by Shyam Saran, which has not been made public, the PLA has, in recent decades, nibbled away 645 kilometres of land in Ladakh's Raki Nallah, Pangong Tso and Skakjung area. Consequently, the Line of Actual Control (LAC) originally defined in 1959 had been pushed westward and Indian controlled territory has considerably shrunk. The Chinese ground assertion in Depsang, Trig-Height, Hot-Spring, Chushul, Spanguur, Demchok and Chumur remains unabated.

To be sure, China's objective is to push for a formal settlement in the Western Sector, where it has nothing to lose. In fact, the swapping of respective claims over Aksai-Chin and Arunachal Pradesh is also entertained as a pragmatic idea even in India.

But there is need for caution in this regard. China's smart move would be to convince India, in the first step, to forego its claim over Aksai-Chin, thereby de-linking the Ladakh or J&K sector from the overall boundary dispute. By doing so, China intends to remove the Aksai-Chin, Shaksgam and Menser issues from the dispute. China had applied a similar trick in recent times for settling borders with three Central Asian states. The ceding

of Aksai-Chin, Shaksgam and Menser enclave would tantamount to altering the territorial extent of J&K and by implication ceding Gilgit-Baltistan to Pakistan.

But the Chinese are masters in the art of denial and deception. Once India falls for China's magnanimous position over Aksai-Chin, Beijing will then shift the focus to Arunachal, considered by China as 'South Tibet'. It would then emphatically convey that India is occupying 90,000 square kilometres of Chinese territory, and that Tawang in particular is **non-negotiable** in a final settlement of the border issue. China's 'minimal demand' has been aired through unofficial and academic channels. The policy is couched to convey the point "you keep the substance, we retain the face" – a tactic China profitably applied in its favour with Central Asian States.

Yet, China would want to resolve issues with India along three essential points: a) settle the boundary dispute on its terms, b) solve Tibet problem without Indian interference in the post-Dalai Lama scenario, and c) prevent India-US congruence along the Himalayan frontiers.

As a consequence of the Instrument of Accession, and if Article 1 of the Constitution of India defines Jammu & Kashmir as a State of the Indian Union and the State of J&K under Section 4 of its Constitution cherishes the right to visualise the possibility of occupied areas being vacated by aggressors, then the mere reclaiming of PoK alone would be viewed as hypocritical.

Agreed, for India to reopen the hitherto forgotten Menser question and enforcing a residual sovereign claim over it would be difficult. But the enclave near Kailash-Manasarovar is historically, emotionally and commercially more critical for India when compared to Aksai-Chin's relevance today. For India, restoring the web of historical, spiritual, and commercial links with the Kailash-Manasarovar region assumes importance if for nothing else than to deter the Chinese and Tibetans claiming Tawang and other places in India on account of their religious affiliation. The recent Doklam episode should prompt India and Bhutan to rethink their hitherto overlooked issue of resituating Menser and Darchen-Labrang in their academic discourse and policy positions.

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