

## Integration Vs. Independence: The Debate in Naga Hills

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It was not unusual, in the 1970s, to open a discussion on nationalism with remarks about the dearth of literature, and the fact that many views on nationalism saw it as an irrational attribute of human sentiment. Later on by the mid-1980s such a statement became passé. In the subsequent years there have been numerous studies carried out regarding nationalism, regionalism and self-determination. Theoretical (Anderson, 1983; Gellner, 1983; Munck, 1986; Smith, 1971, 1981), comparative (Breuilly, 1982, Tiryakian and Rogowski, 1985; Sathyamurthy, 1983) and numerous case studies of particular nationalism(s) have been undertaken. Broader issues on internal colonialism (Hechter, 1975), uneven-development (Nairn, 1977), primordialism and territorial aspects (Linz, 1985) were also taken up.

Simultaneously, Indianist scholars debated on the issue of a state-nation vs. nation-state character of de-colonised India. However, these approaches were intended less as an acknowledgement of the need to restructure India into a pluralist society, and more as a strategy of containment of recalcitrant entities within the nation-state. Meanwhile, scholars of Marxist persuasions made promising moves, but in a sort of deadpan doctrinaire way. They kept discovering 'nationalities' almost everywhere, excepting perhaps the Chenchus and the Onges. But it was anyhow argued that these nationalities must be subsumed within a greater nationalism. In this process, academics managed to study certain problems like the legitimate political question of the frontiers, to death.

As of now, there is little need for social scientists to agonize over the existence or the definitional adequacy of understanding questions, such as tribal upsurges in the frontiers, some of which have existed even before the Indian State emerged. Essentially, a nation is historically derived - the past produces the present and leads to the future. It is common knowledge that the colonial past has facilitated *de jure* encapsulation of tribal groups within the nation-state rather than through sharing of a common heritage with

the dominant society. Although the former aspire for a distinct politico-territorial identity to determine their own future, what has been done in the process of colonial history cannot easily be undone. It becomes imperative to control the national past as a means by which tribal assertions are discounted or their pasts are eliminated. A significant element in this enterprise is the acceptance of the model of territorial organization and that 'national unity' and 'national integration' have to be achieved through the historicity of a territory and territorialisation of a history (Poulantzas, 1978: 114). This undoubtedly suits the statist policy formulation. It is through the activities of the state in such frontier regions, traditionally independent societies, which struggle for control is taking place. The frontier is then both a physical and a symbolic space of production and reproduction of national identity. It is small wonder that even military means of control has constituted an important, if not 'normal', aspect of practical politics.

There are two dimensions to this issue, one being the uncritical acceptance of the Euro-centric conception: nation-state, and a desired conterminality between nation and state.<sup>1</sup> The State, therefore, has taken up the task of nation building, and hence this 'desperate' need for integration.<sup>2</sup> The other aspect is the considerable debate revolving around the relationship of nationalism to general processes, such as capitalism and global integration. Nationalism is necessary in this transition for creating a high culture that would bind together various social groups within a state. In other words, it means imposing cultural homogeneity within the bounds of a given territory. This vision of homogenisation or Gellner's thesis (Gellner, 1983), although obviously rooted in the original European state nationalism, has takers in the Indian sub-continent. In its search for consolidation, the Indian State has harnessed the symbols of majority collectivity. This coincidence of expansionist yet exclusivist ethos of the dominant majority with the nation-building enterprise of the State have not come about by default. In this aspect, it is instructive to turn to T.K. Oommen (1986: 56-74). Oommen suggests that the existing "all India" elements are derived from the Aryan-Brahmanic-Sanskritic sources - the great tradition. The little traditions are mere localized cultural elements with hardly any spatial spread, placed in a vertical relationship constantly emulating the elite norms and continuously absorbing Brahmanical values. Social science writings are, according to Oommen, replete with rationalizations of this perspective; the concepts of little and great traditions, Sanskritization, etc., are only the more prominent and well-known among these. What is evident in these efforts is to localize collectivities in vertical and hierarchical terms instead of having them horizontally. Oommen further argues that through expansionism the dominant collectivity attempts to assimilate all those social collectivities defined as insiders into the cultural mainstream, leading to their ethnocide.

In the light of the conflicting nationalist narratives, it is suggested that sensitivity to cultural difference is an imperative need, and should be extended to political and legal spheres and institutions of the Indian State. When we consider cultural differences

between tribal peoples and the State, we must think of these as problems of conceptual reference for which there is no common grounding. That is, we cannot dictate the substance of cultural differences from a position of a particular institutional and conceptual cultural framework; for each culture is capable of sensitivity to the basic condition of difference, and must develop cross-cultural relations accordingly. Coming to the question of cultural authority, which needs recasting, it obviously refers to the dominant collectivity which claims to possess the authority to create appropriate law and legal language. One needs mention only the proposed uniform civil code in the country as a glaring example of this process. Institutional differences will inevitably approximate 'segregation' as one might erroneously think; however, the viewpoint of 'cultural pluralism' as advocated here, does enable tribals, if they so desire, to establish their own structures and institutions. I must hasten to add that it is not an advocacy for 'radical' cultural relativism.

For this discussion, cultural differences have not been 'interpreted' as gaps in one's knowledge of a discourse to be filled with conceptual bridges and connections, but rather irreconcilable or irreducible elements of human relations. It means a paradigmatic shift rather than a cognitive gap to be filled in by one which has not yet been taken seriously in interpretation of peoples. "Integrationists" may not accept this position. Still then,

When we discover that there are several cultures instead of just one and consequently at the time when we acknowledge the end of a sort of cultural monopoly, be it illusory or real, we are threatened with the destruction of our own discovery. Suddenly it becomes possible that there are just others, that we ourselves are an 'another' among others. (Ricoeur, 1965:278).

One promising policy that is gaining currency among Indianist scholars, but not yet acknowledged by the State, is pluralism. It implies mutual tolerance and respect for cultural differences by all members of the national society.<sup>3</sup> Essentially, contemporary tribal movements seek the recognition of their pre-existing political society (inherent rights). It is in conflict with universalism (i.e., the one-people thesis), in that it supports a structurally separate community within an ideology spelled out in state policies<sup>4</sup>, such as assimilation and integration. In a different phraseology it means that cultural differences can never be reconciled through a rewriting of tribal history or by the 'rediscovery' of their 'affinity with mainstream civilization'.

But does it make sense to speak of tribal groups (a pejorative term and not at all a 'people') in a particular society especially when we are concerned with multiculturalism, people to people or people to state dialogue? In what way are they to be accorded "collective" legal rights when members of Scheduled Tribes are mere aggregates or belong to a category devoid of inherent rights? These questions arise, with the force of

a logical prerequisite, in every inquiry into tribal rights, policy and law. There are several distinct issues, often confused deliberately or otherwise. The first involves the justification, in point of morality, policy or law, for treating an issue as a tribal one that is for recognizing rights or claims presented in terms of tribalness. A second involves recognizing rights and claims presented in terms of a particular group as tribal for the purpose of categorizing it as Scheduled Tribe. Thirdly, there are the issues of implementation involved in giving effect to agreements entered into by tribal people and the state, *i.e.*, the Nagas. The third issue is the most contentious one and defies solution.

### Genesis of Naga Politics

The former British imperial State imagined itself cartographically and juridically as an absolute sovereign power with precise political geography. But most of the colonial claims over frontiers were, however, legal fiction.<sup>5</sup> The British asserted claims of jurisdiction over the Nagas, exerting elements of control over them but lacked most of the essential aspects of sovereignty as we know of the term today. Nonetheless, the Nagas had been considered as distinct independent political communities or tribes, retaining their natural rights, as the undisputed possessor of the soil with the single exception of that imposed by irresistible power, which excluded them from interacting with other European powers than the first 'discoverer' of their land brought under its Foreign jurisdiction.

The Naga relationship with British power was determined by the principle of 'immemorial possession'. This doctrine acknowledged the rights of those who had occupied territories over prolonged periods of time. It entailed recognition of the inherent sovereignty and proprietary rights of the Nagas. There we find expressed in the *Inner line*. This doctrine of the colonial era was recognized by the earlier legal theorists of the middle ages as had been by the Romans before them. But it was after the British appropriated huge tracts of Nagaland and forest for cultivation of tea, extracting coal, and logging (now in Assam) under the dubious principle of *Vacuum domicilium*, *i.e.*, lands the natives never "subdued" for farming. Although the basis of the British Crown's Foreign Jurisdiction was treaty, other means were also recognized as sound foundation. The doctrines of treaty and aboriginal rights got firmly established in International Law and the Law of the British Empire, which led to the creation of protected Foreign Jurisdiction. Moreover, the African experience has shown that until Her Majesty, the Parliament and Tribal Chiefs agreed to consensual annexation and territory protected by a treaty, the territory remained a foreign country to the surrounding dominions even though it was administered (or brought under political control) solely by the servants of Her Majesty. Furthermore, the Foreign Jurisdiction Act of 1890 provided for the continued exercise of Her Majesty's jurisdiction independent of the British Parliament. These jurisdictions are distinct from Dominions and Colonies, in the sense that they are derivative of delegations of authority from native polity of native sovereigns and not inherent in the Royal prerogative. Though the Nagas never entered

into a treaty agreement with the British, they were encapsulated within this broad framework under two types of jurisdictions: (a) the Naga Hills District was declared an Excluded District outside the purview of the provincial autonomy under the Government of India Order (Excluded and Partially Excluded Areas), 1936. It has been mis-interpreted as bifurcation of a pre-existing Assam with reference also to the Treaty of Yandabo, although the Burmans did not overrun the Naga territories at all; (b) the Naga Tribal Areas referred to the area along the Eastern Frontier of India which were not a part of British India or Burma or any other Foreign State (i.e., China, or a Western Colonial power). Following the ambiguity in implementing the Akbar Hydari Agreement,<sup>6</sup> the Nagas were left in a diplomatic wasteland for last fifty years, seeking:<sup>7</sup>

Amalgamation of all Naga inhabited areas under one administrative roof, the return to Nagas of all forests and territories transferred by the British, and right to determine their future, preserve traditional society, and pursue a new way of life moulded on their own past.

It was after the World War II that the Nagas categorically rejected the historical control by dominating powers and, under the concept of self-determination, sought the power and freedom to define themselves as distinct peoples - culturally different - and to shape their own political future. However, principles of 'territorial integrity' took precedence over the rights of self-determination. A statement of Jawaharlal Nehru reveals a pre-emptive policy that 'it is obvious that the Naga territory in Eastern Assam is too small to stand by itself politically and economically. It lies between two huge countries, India and China, and part of it consists of rather backward people who require considerable help when India is independent. They would be isolated there between India and China. Inevitably, therefore, Naga territory must form a part of India...'<sup>8</sup>

Later, it was spelled out as a state policy with explicit claims of legal inheritance from the colonial masters along with an avowed objective of developing backward tribals. Under the Naga National Council, three distinct political articulations or groups evolved in the Excluded District of Naga Hills. One group was the *Dobashis*, represented by Senkalembe OBE; Kahoto Sumi, son of a dominant Sumi chief; and Imlong Chang OBE a trans-Dikhu tribesman. Student leaders, educationists and government officials dominated the other two groups. At this time there were a handful of them educated in Indian universities, namely, Sashimeren Aier, who was close to Pandit Nehru, A. Kevichusa of Khonoma who was the first graduate, and Aliba T. Imti IFAS who later on became the President of Naga National Council (NNC). They had an infusion of a Westminster type of political structure in their thinking, and, were the educated group that brought about a telling effect on their future within the Union of India. An unrelenting viewpoint emerged with Zapu Phizo. Phizo was associated with the Indian National Army of Subash Chandra Bose and to an extent was influenced by the Burman brand of revolutionary

change. On their political question three views emerged, one view favoring continual governmental relationship with India in a modified form till such time they became 'sophisticated' to run a nation-state; another proposed placing Naga areas under the British Crown as a mandated state for a specific period; and a third advocating the immediate declaration of independence. A compromise plan emerged favoring an interim government under a joint Anglo-Indian guardianship with full legislative, executive and judiciary powers having inalienable rights over land, revenue and expenditure through a grant from the guardian power. It also envisaged a security force to be maintained by the power under joint responsibility. The Naga claim to self-determination led to the Hydari Agreement signed on 26 June 1947. This agreement echoes the then existent limits of the political hegemony of both the government and the Nagas under NNC. It assured them continued political hegemony and autonomy outside the normal governmental control and provisions since House Tax collection has been handed over to NNC. This house tax was the only form of subjection of Naga under *Pax Britannica* in the excluded District of Naga Hills.

Subsequently, the Sub-Committee of the Advisory Committee on the aboriginal tribes visited Kohima to seek Naga opinion on May 29, 1947. The committee made it clear that it was impossible for them to recommend the proposal for ten years interim government to the constituent assembly. However, the interim report placed on record that "the Naga members, desired that as far as the Naga Hills District was concerned the sub-committee should recommend the understanding said to have been reached between the NNC and the Governor of Assam to the constituent Assembly for acceptance in that exact form... that the contemplated representation of the Naga Hills District in the provincial legislature which the NNC did not desire..."<sup>9</sup> In 1948, a draft constitution of India was published wherein Naga Hills District was included as an autonomous District of Assam. The NNC claimed that the draft totally ignored the agreement reached between NNC and the Governor of Assam. They declared rejection of the draft constitution and unilaterally appointed a working body to implement the nine-point agreement. Their fears were reflected in an earlier memorandum to the British Government on 20 February 1947, which states that:

a constitution drawn up by the people who have no knowledge of the Naga Hills and the Naga people will be quite unsuitable and unacceptable to the Naga people... besides... thrown among forty crores of Indians the one million of the Nagas with their unique system will be wiped out of existence.<sup>10</sup>

Nonetheless, an electoral system of representation was envisaged in the Naga Hills District from the very inception of the Constitution. Consequently, Subramanian, the Union Secretary to the government for excluded tribal areas met with NNC representatives to discuss details for the establishment of District and Regional Councils and implementation

of the Sixth Schedule. The meeting was, however, aborted. The promulgation of the 6th Schedule in 1950 was considered a rejection of the 9 point agreement by NNC. The NNC at least conducted preliminary democratic functions: mass agitation, civil resistance and a unilateral plebiscite. Inevitably the Nagas boycotted the first General Elections and District Councils could not be implemented. At this crucial juncture, Angami Zapu Phizo became President of NNC and organized a plebiscite in May 1951 to reaffirm Naga commitment to their early declaration of independence on 14th August 1947. This political move became binding on the Nagas, as Mullick correctly observes that:

The custom is that once a resolution is passed at a tribal conference that holds good amongst the tribals till another conference of an equally representative character could meet and under the decision of the first conference. By the Conference of May 1951, the tribals had committed themselves to the idea of a plebiscite and what Phizo had done was to carry that idea by word of mouth to every Naga village up to that time it must be said to the credit of the Nagas that they were not thinking of any violent movement. They were hoping that the result of a plebiscite would sufficiently influence the authorities to give a dispensation in their favour.<sup>11</sup>

The writ of the NNC was shown when Pandit Nehru along with Thankin Nu the premier of Burma arrived in Kohima for a public meeting which was boycotted by the Nagas. Immediately following this, arrest warrants were issued against eight NNC leaders, followed by promulgation of Assam Maintenance of Public Order Act and Disturbed Area Act.<sup>12</sup>

Thus, confrontation became inevitable when India obtained pre-emption of inheritance and held the legal title over the Naga territories and considered NNC as coming within the 6th Schedule as an appendage of the politico-administrative apparatus much in line of a municipal body. For India, the erstwhile Naga Hills of "excluded area" became the nodal point of exercising the extension of territorial and political jurisdiction over contiguous Naga areas. Whereas, the NNC considered the other Naga areas as free and declared that the plebiscite they conducted was "meant for those Nagas within the confines of the region of Nagaland known as Naga Hills in Assam excluded area."<sup>13</sup> It becomes clear that the tribes never formally consented to become part of the union and therefore, the legitimacy of the exercise of state power and authority over them is frequently questioned.

Consequently, after sustained military operations, combined with the reactions of middle-class elements based in urban settlements, erosion in the support to NNC/NFG developed. The decision making body shifted to the moderates comprising a few local officials inducted in 1953 for frontier administration. These included Kevichusa and T. Aliba Imti, both of whom were to become members of the Indian Parliament, and a NNC

'reformist' group led by J.P. Jasokie who became Chief Minister of Nagaland state later on. Some *Dobashis* threw in their lot with this moderate group. A movement started with a public meeting convened with active involvement of India's administration at Mokokchung in the summer of 1956. The meeting resolved that if such a situation "is allowed to continue for a further period Nagas will perish as a people". This brought about a series of consultations under the auspices of Naga People's Convention. Two completely different viewpoints emerged in a meeting of the Select Committee at Kohima, in the month of December 1958:

One group held that the NPC (Naga Peoples convention) was only a peace body, and as such was not competent to take any political decision on behalf of the people of Nagaland. This view was backed by the fact that the NPC was not an elected body but a voluntary association of people assembling together to find out ways and means to restore peace and normalcy in the area. The second opinion was that the NPC should go ahead with the preparing of a basis for political settlement. They majority of the group was made up of government officials and *qaonburahs*.<sup>14</sup>

The NPC was organized in August 1957, and was attended by 1956 tribal delegates along with some 60 government officials. The convention resolved that "being grieved by widespread killing and sufferings caused by burning of houses and granaries, destruction of crops, grouping of villages, restriction of freedom of movement and speech, forced labour without payment, the resultant diseases and hunger ... the only solution is political one". This was preceded by issuing of a statement by T.N. Angami of the reforming committee of the NNC advocating peace, order and security, and declared that:

the majority demand of the Nagas is for a separate administrative unit keeping with the Naga tradition within the framework of the Indian Union.<sup>15</sup>

Consequently, a 16-point agreement was arrived at with the Government of India. A Naga advisory body of 45 members called Territorial Council was instituted as a transitional arrangement (The Nagaland Transitional Provisions Regulation Act of 1961). Formally, Nagaland was established as a State, the status of which was spelled out by Pandit Nehru during debate in Parliament that:<sup>16</sup>

the state for the time being will have certain restrictions on its autonomy in regard to law and order and finance and certain special provisions in regard to the Tuensang District. Otherwise, it will be a full state of the Indian Union and in course of time, I hope, as the situation returns to normalcy, it will, have all the powers of State of the Indian Union.

The agreement came as a package deal through which the new state was placed under the External Affairs Ministry of India as per clause 2 of the agreement which said:

The Ministry In-Charge: the State of Nagaland shall be under the Ministry of External Affairs, the Government of India.

The peculiarity of the Naga question is like this: we note that the British government did not undertake administration of the Tribal Area in question. Besides, the Naga Hills (Excluded) District was set aside as a separate entity from Assam; here, the inner-line formed a kind of boundary line. The Tribal Area initially came under the Foreign Jurisdiction Act—normally exercised in British protectorates and foreign countries. With reference to this region, on June 19, 1902, a Foreign Jurisdiction Order in Council was passed in the Court at Buckingham Palace 'by virtue of and in exercise of the powers by the foreign jurisdiction act 1890 or otherwise in His Majesty vested'. Although this foreign jurisdiction contains no direct reference to the assumption of sovereignty or protectorate of the British *per se*, it comprises an act of state implying some kind of paramountcy. Later on, the Government of India Act, 1935, invented the concept of Tribal Areas. With this reconceptualisation, the range of foreign jurisdiction got confined only to the native states (Section 294), and Tribal Area was placed under the executive authority of the Governor-General [Section 313 (2) (C)] to be exercised by Governors at their discretion as Governor-General's agents and not subjected to any provincial or Parliament acts. Subsequently, the new Indian Foreign Jurisdiction Order of 1937 excluded the Tribal Areas in India from the scope of the order "without prejudice, however, to the validity of anything previously done thereunder". The NPC keeping in mind this peculiar historical position, conceded to a statehood within the Indian Union but under the External Affairs Ministry of the Union implying thus a sort of standstill agreement or a political status quo vis-à-vis total integration with the Union. The agreement also included a clause that was to determine the Naga Principles of representation. This clause states:

The Legislature: There shall be a constituted Legislative Assembly consisting of elected and nominated members as maybe deemed necessary representing different tribes (further, a duly constituted body of experts may be formed to examine and determine the principles of representation on democratic basis).

Moreover, the agreement stipulated the administration, finance and development would be looked after by the Central Government. These two clauses were not implemented. Quite contrary to the provisions of the agreement the emergent middle class with their advisors went ahead with the constitution of the Legislative Assembly with 40 elected members and 6 nominated by the Regional Council of Tuensang. It was later on increased to 60 elective seats.

### What Constitutes the Naga Question?

The Nagas maintain that their rights were in existence before the Nation-States came into being and can continue to exist independently of the creation of India and Burma. The Nagas hold that the British aggrandizing thematic was based on a policy of managing frontiers solely to safeguard tea and forest economy, and that neither the Crown had ever formally conquered their land nor any treaty had ever been arrived at. For the Nagas, the question is: Did India and Burma claim political and legal legitimacy directly from the English crown's fictitiously maintained prerogative rights of conquest of erstwhile Excluded District of Naga Hills or jurisdictional claims of right to further conquest of unadministered Naga lands derived from the doctrine of discovery? On the other hand, the Nation-States of India and Burma argue that Naga territory had always been geographically part of their countries, and was inherited by them from Britain. No other interpretative framework was convincing enough to justify their assertion of sovereignty over Nagaland. This philosophy structurally implies premises that are almost racist and colonial. Because it is only when framed from the perspective on the superiority of valley Burman and Indian societies that one can make logical sense of the "inheritance doctrine".<sup>17</sup>

Post colonial India left two historical options for the Nagas: creating and living in an artificial society or under a greater military rule. It never envisaged a relationship that emphasized on other options.<sup>18</sup> Moreover, two specific attitudes are found crystallized to all the Nagas. One view considered them as 'backward Hindus' and 'religious deviants' when they made the singular "mistake" of becoming Christians and dared to imagine themselves as comprising a national society of their own. The other view, which became the cornerstone of state policy, is the oft-quoted Nehru-Elwin doctrine.

The Paradox, however, was that new legislations sought to alter the "behaviour" of tribal communities. This manipulation was invariably done in the garb of developing them and eventually facilitating their integration into the "mainstream". Their definition of mainstream, not surprisingly, is a combination of fundamentalist Hinduism and social Darwinism. In this scheme, the "distinctness" of Nagas was expressed through something called Scheduled Tribe. The Scheduled Tribe to policy makers means a concept that describes, in the legal sense, a condition whereby the interests of an incompetent community are taken over by the State. By the same token, it identifies a sort of moral exclusion, a moral order, which is presumably the preserve of the "civilized" majority. This policy, pre-figured in the 6th Schedule, was a systematic form of intervention associated with bureaucratic custodianship in which pedagogic and totalising forms of control were to be implemented. The establishment of a legalistic custodianship ensured that the term ST was no longer just a folk category ('Backward Hindus' originally), but a legal category which imposed limitations and facilitated state control. The state became the possessor and reproducer of the collective representation of trans-generational

right to speak for themselves as a body with regard to their history. Generally, the political practices of the state are essentially aimed at "retaining" this "population" for social engineering. In this context, it denotes a particular form of internal colonialism that seeks to dissolve the cultural distinctiveness. Thus, paradoxically the Nehru-Elwin doctrine is now made to stand on its head.

To Nagas, the Akbar Hydari agreement meant entitlement to a pre-existing inherent right, that is, allegiance and identity would be vested in their own institution: the Naga National Council. Instead, through a devolution of power the 6th Schedule was sought to be imposed in which the NNC was to be an appendage of the Indian legal apparatus much in line with a municipal body.

A major myth in this enterprise is the concept that elements of inherent rights of Nagas have been safeguarded in Article 371A. This myth has allowed the transformation of indigenous institutions thus preventing a natural evolution. By 1972, the Indian state had consolidated its political, economic and military power sufficiently to abandon any remaining subtleties in its enterprise when the Naga affairs were transferred from Foreign to the Home Ministry. The inner logic of Article 371A grew out of the erstwhile Colonial Power's Jurisdiction implying Naga as a distinct people with a territory.<sup>19</sup> The 16 point agreement which came as a package deal reflected an agreement on their political status, under which they were considered outside and separate in a particular way, from the "mainstream" polity. Moreover, the retention of the Inner-line has been a pre-emptive act that sets up a jurisdictional barrier around Nagaland that excludes operation of inappropriate Union law and institutions.

S. Chubatoshi Jamir makes this point clear, in that:<sup>20</sup>

the main objectives of this provision was to place Nagaland:

- (a) under a separate status in the Indian Union;
- (b) since Pandit Nehru, the P.M. was in-charge of External Affairs and Nagas desired to be under him;
- (c) to safeguard the status of Nagaland, for future negotiation between the Government of India and the Naga underground."

But with this ministerial transfer, the state acquired the required validity in the legal sense, of a hidden agenda, that is, assimilation of the Nagas. As of now, through constitutional development, judicial interpretation, incorporation of state law by reference, the important principle of autonomy of Nagaland has been circumvented, compromised and nullified in effect, "special status" has been reduced to a legal clinch if not a mere political rhetoric. In the final analysis, the Naga people exist at the sufferance of the Parliament of India, and are therefore subject to complete defeasance. It is an implicit

divestiture rule which draws its strength from the principle that Nagas are under the territorial sovereignty of India. Does it mean, agreement or no agreement, the state is empowered to survey the political and historical condition? Yes, there is a legislative supremacy which has been established by which the Indian state can unilaterally alter relationship with Nagas. Because, the Naga people as a collectivity to represent themselves have ceased to exist in the legal sense. However, we are reminded here that the state of Nagaland was established with the agreement of the moderate Nagas and on terms negotiated with them, in which case compliance with those clauses of the agreement is a matter of honour, not of discretion.

The recent revival of the Naga *Hoho* (assembly of tribal councils) in a formal context gains significance as an important aspect of the reassertion of their identity. I would suggest that if current political and economic arrangement are any indication, i.e., Article 371A and the erosion of its original purpose,<sup>21</sup> the scope for respect of cultural differences is more theoretical than actual. There is, therefore, little space within the confines of existing state policies. It remains to be seen how much political ingenuity can be brought into play to address this question. In this particular case there is already a model that can be referred to. Earlier in the 60's, during the high level negotiations with the Federal Naga leadership, the Indian Government's insistence on accepting the status of Nagaland as 'an integral part of India' gave way to a strategic form of reference. A 'complete autonomy' was proposed to the Federal Nagas by the then Prime Minister of India, Mrs. Indira Gandhi. This status implied retention of the whole paraphernalia of organizational structure of NNC and NFG, flag and their *Yezahbo* with little or no alteration.

As of now, the Naga presence and entry into Global Forums and discourse, suggest an element of International order extending beyond the limits of prevailing interpretative paradigms. The National Socialist Council of Nagaland/Nagalim has taken up the indigenous people framework to advance their case quite effectively. This indigenous question is described by Richard Falk thus:

For one thing, indigenous people, to the extent that they centre their grievances around encroachments upon their collective identity, represent a competing nationalism within the boundaries of the State. Such claims, posited in a variety of forms, challenge two fundamental statist nations: that of territorial sovereignty, and that of a unified nationality.

In this context, James Anaya, an international law expert on indigenous peoples maintains that:

State sovereignty as an international law doctrine thus apparently is becoming one that functions only in so far as it approximates its original purpose of upholding

human interests and maximizing the ends of human society. But to the degree attributes of sovereignty are deemed in modern international discourse to impede rather than further the realization of human values, those attributes are in effect suspended in favour of a corresponding measure of international legal competency.

Moreover, sovereignty is not an attribute that emanates from the state itself but derives from the inter-state system on the one hand, and the people on the other. Hence, the Indian state-nation may be re-assessed in this light, for, the Indian state was not devised in a normative, absolutist or historical vacuum.

### NOTES

1. It follows that the nation cannot have an existence prior to that of the States (Smooha, 1989: 267-68) and here Hobsbawm (1990: 9-10) is more explicit that the nation "is a social entity in so far as it relates to a certain kind of modern territorial state, the nation-state and, therefore, it is pointless to discuss nation and nationality except in so far as they both relate to it.
2. P.N. Mukherji (1994: 21-49) is clear that India is not yet Nation-State, although it is already on a nation-in-the-becoming continuum scale. And that it will be a grossly erroneous over simplification of the Indian complexity to suggest that India has crossed this threshold.
3. The use of "national society" here is not without reservation. It means a totality of persons and social practices, which is a misnomer. I use it simply because it is vernacular.
4. See: U.N. *Special Study on Racial Discrimination in the Political, Economic, Social and Cultural Spheres*, U.N. Publication, Sales No. 171, XIV, 2. State policies are:
  - (i) Assimilation: defined as being based on the idea of the superiority of the dominant culture. It aims at the achievement of homogeneity within the state by ensuring that groups discard their cultures in favour of the dominant culture.
  - (ii) Integration: It refers to "a process by which diverse elements are combined into a unity while retaining their basic identity". There is no insistence on elimination of differences other than aspects which would disturb or inhibit total unity. The UN study notes, however, that integration can easily slip into assimilation, besides generating its own restrictive characters for groups desiring to defend their identity.
5. During the colonial era, acquisition of territory from so-called 'discovered' peoples (in Asia and Africa) who were unwilling to accept Christianity were subject to conquest or "re-conquest". Justification came from Roman legal principle, the *Territorium Nullius*. Essentially, any territory inhabited by non-Europeans was considered "backward" and *terra nullius*. Thus, in the European context, it mean a territory which was a no man's land until the first western power chose to occupy or earmark it for future assumption of sovereignty over it. It is pertinent to refer the advisory opinion of the International Court of Justice given in October 1975 in response to a UN General Assembly query as to whether Western Sahara belonged to no one at the time of colonisation by Spain in 1884. The legal fiction broke when it became clear that this doctrine is not a part of international law.
6. It is important to note that: In 1989, the Economic and Social Council of the UN authorised a full study of the international scope, character and status of treaties/agreements between indigenous nations and states, ECOSOC Res. 1989/77, UN DOC.E/1989/INF/7 at 154. See: the Report of the Special Rapporteur: E/CN.4/Sub.2/1992/32.

7. See: C.L. Imchen, (1993).
8. Quoted in Chandrika Singh, (1981).
9. *Naga Nation*, July 1947.
10. *Naga Nation*, Vol. 1, No. II, June 1947, pp. 2-5.
11. B.N. Mullick, "The Nagas" *My Years with Nehru, 1948-1964*, pp. 295-335. Quoted in Tajen Ao, *British Occupation of Naga Country*, Mokochung, 1993.
12. It was precipitated by a letter No. 556/C dt 30.3.53 disallowing any form of representation by the D.C., Naga Hills delivered to NNC ten minutes before the public meeting started.
13. A.Z. Phizo's letter to the President of India, dated 11 April 1951 (unpublished *NNC Papers*).
14. S.C. Jamir, *The Myth and Reality*, Statesman Press, 1974.
15. *Asian Recorder*, 16-22 Feb., 1957, p. 1307.
16. Lok Sabha Debate 28 August 1962, *III Series, Vol. 7, 6, 4507*.
17. Khuswant Singh, et al., (1966), p. 526. It is not unlike the Chinese rationale of holding on to other peoples. People are considered Chinese in perpetuity if they have ever belonged to the Chinese family of nations. More so, because the Chinese language does not distinguish between the nation (at the level of the state), a nationality (as part of the State), a people or an ethnic group. This theory insists that peoples remain so. In other words who have been brought within the orbit of Han civilisation cannot leave it. In the Indian sub-continent, then it is immaterial whether other peoples were brought over by a ritual categorisation or by dubious legal jurisdictional claims of the former colonial government. See also David Maybury-Lewis, (1997).
18. See C.L. Imchen, (1990).
19. At the UN indigenous and tribal representatives claimed preference to 'peoples' than 'populations' because the latter in their context is degrading and reflect neither reality nor their conceptualisation of themselves. The ILO Conference which met to revise the 'paternalistic' Convention 107 in 1989, compromised on the use of 'peoples' on condition that it is understood by the committee that the use of the term 'peoples' in this convention has no implications as regards to the right to self-determination as understood in International Law. *Report of the Committee on Convention 107, Published in ILO, Provisional Record, No. 25/7. Para 81, 76th Session, 1989*.
20. Interview with S.C. Jamir, January 1997, Mokochung.
21. I am remind of the closing remarks of S. Chubatoshi Jamir, former Chief Minister of Nagaland in an interview with Verghese of the Centre for Policy Research, New Delhi, 8.8.97 in *Doordarshan*, that Government of India must recognise the existence of a political problem in Nagaland and the terms that were arrived at in the 16-point agreement were never honoured by the Union Government in its entirety.
22. See: Richard Falk, (1988). Also, C.L. Imchen (1997). For a comprehensive perspective of indigenous peoples, I am indebted to my post-doctoral guide Prof. David Maybury-Lewis of Harvard.
23. See: S. James Anaya, (1990).

## REFERENCES

- Anaya James. S. 1990. 'The Rights of Indigenous Peoples and International Law in Historical and Contemporary Perspective' in *1989 Harvard Indian Law Symposium*, Harvard.
- Anderson, B. 1983. *Imagined Communities*. London: Verso.

- Bose, Asish, et al., ( eds.). 1990. *Tribal Demography and Development in North East India* Delhi: B.R. Publishing.
- Breuilly, J. 1982. *Nationalism and the State*. Manchester: Manchester University Press.
- Chandrika Singh. 1981. *Political Evolution of Nagaland*, New Delhi: Lancers Publishers.
- Crawford, J. (ed). 1988. *The Right of Peoples*, Oxford: Clarendon Press.
- Gellner, E. 1983. *Nations and Nationalism*. Oxford: Basil Blackwell.
- Guy Wint (ed.). 1966. *Asia Handbook*, Penquin Books.
- Hechter, M. 1975. *Internal Colonialism: The Celtic Fringe in British National Development 1576-1966*. London: Routledge and Kegan Paul.
- Hobsbawm, E.J. 1990. *Nations and nationalism Since 1780 Programme, Myth and Reality*, Cambridge: Cambridge University Press.
- Linz, J. 1985. 'From Primordialism to Nationalism' in E. Tiryakian and R. Rogowski (eds.) *New Nationalisms of the Developed West*. Winchester, MA: Allen and Unwin.
- Miller, Marc (ed.). 1993. *State of the People*, Boston: Beacon.
- Mukherji, Partha N. 1994. 'The Indian State in Crisis? Nationalism and nation Building', in *Sociological Bulletin*, 43(1).
- Munck, R. 1986. *The Difficult Dialogue: Marxism and Nationalism*. London: Zed Books.
- Nairn, T. 1977. *The Break-up of Britain*. London: New Left Books.
- Oommen, T.K. 1986. 'Insiders and Outsiders in India: Primordial Collectivism and Cultural Pluralism in Nation Building', in *International Sociology*, 1(1).
- Poulantzas, N. 1978. *State, Power and Socialism*. London: New Left Books.
- Raha, M.K. et al., (eds.). 1997. *North east India: The Human Interface*, Delhi: Gyan.
- Ricoeur, Paul. 1965. *History and Truth*, Trans C Kelby, Evanston: North- western University Press, C.5at 278.
- Smith, A.D. 1971. *Theories of Nationalism*, London: Duckworth.
- Smith, A.D. 1981. *The Ethnic Revival*. Cambridge: Cambridge University Press.
- Smootha, Sammy. 1989. 'Ethnic Groups', in Adam Kuper and Jessica Kuper (eds.), *The Social Science Encyclopaedia*, pp. 267-68, London and New York: Routledge.
- Tajen, Ao. 1993. *British Occupation of Naga Country*, Mokokchung.
- Tiryakian, E. and Rosowski, R. (eds.) 1985. *New Nationalisms of the Developed West*. Winchester, MA: Allen and Unwin.