

# INTERNAL SELF DETERMINATION: AN ALTERNATIVE TO THE SECESSIONIST MOVEMENTS IN INDIA'S NORTH EAST

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The international community of nations composed of multi-ethnic, multi-cultural and multi-linguistic agglomerates is witnessing a dangerous resurgence of nationalism resulting in nationalist movements. This wave of nationalist and ethno-centric feelings is undermining consolidated state structures and triggering secessionist movements. The most conspicuous instances are those concerning the former states of Soviet Union and Yugoslavia. In India, the ethnic movements in the North eastern region<sup>1</sup> demanding self determination and an independent country has been going on for a long time with intensity. These developments take us to believe that the traditional multi-ethnic state that has for centuries constituted the mainstay of world communities has become ineffective and is probably doomed to die. Tribalism and micro-nationalism seem to depict the current scenario.<sup>2</sup> This article endeavours to examine the present status of principles of self determination and the need to re-orient them in order to be universal and acceptable to include the principles of internal self determination which is a type of self government which emphasises on protection of ethnic minorities within existing states. Studying the developments of insurgent movements in the Northeast, the article presents an alternative solution within the framework of internal self determination.

## ***THE PRINCIPLES OF SELF DETERMINATION IN THE POST-COLONIAL ERA***

The international body of legal norms on self determination does not grant ethnic groups and minorities the right to secede with a view to becoming a separate and distinct entity. Law of self determination in a post-colonial world is understood to denote the right solely of "Peoples under foreign domination".<sup>3</sup> In the understanding of the modern contemporary world, the principles of self

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1 The North East Region is constituted of the States Assam, Arunachal Pradesh, Meghalaya, Mizoram, Manipur, Nagaland and Tripura, commonly known as seven sisters.

2 T.M. Franck, *Post Modern Tribalism and the Right of Secession in Brozman* 4 (1976); Lefeber and Zieck, *Peoples and Minorities in International Law* 3 (1972).

3 Declaration of Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations. General Assembly Resolution 2625 (XXV) of 24 October 1970; "Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair totally or in part, the territorial integrity or political unity of sovereign and Independent States conducting themselves in compliance with

determination manifest themselves in three forms.<sup>4</sup> Firstly, it includes right of people of an existing state to choose freely their own political system and to pursue their own economic, social and cultural developments. Secondly, the law might be considered to apply in situations where the existence and extension of territorial sovereignty is altogether uncertain like Palestine. The absolute solution is in exceptional cases when a state brutally violates or lacks the will or the power to protect the human dignity and the most basic human rights. Thirdly, as a result of United Nations practice, Chapters XI to XIII of the UN Charter have clearly emerged as a legal foundation of the law of decolonisation.<sup>5</sup>

Secession<sup>6</sup> and disruption of a State, as consequences of self determination, conflict with the fundamental principle of International Law, namely sovereignty and territorial integrity of States. Therefore International Law resolutely denies the right of self determination.<sup>7</sup> India has made its stand clear with respect to the principle of self determination. It has accepted *International Covenant of Civil and Political Rights* and interpreted Art. 1<sup>8</sup> of the Covenant guaranteeing Right of self determination, to mean the right only for people "under foreign domination" and that the Article does not apply to sovereign independent States or to a section of the people or nation which is the essence of national integrity.

The UN has established the right of self determination as a right of people under colonial and alien domination. The right does not apply to people already organised in the form of a State who are not under colonial and alien domination. Therefore, the principle of self determination does not include a general right of groups to secede from the State of which they form a part.<sup>9</sup> Thus, in a post

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the principle of equal rights and self determination of peoples belonging to the territory without distinction as to race, creed or colour. Every State shall refrain from any action aimed at the partial or total disruption of the national unity and territorial integrity of any other state or country".

- 4 A. Rigo Sureda, *The Evolution of the Rights of Self determination: A Study of United Nations Practice* 27 (1973); D. Thurer, *Self determination, Encyclopedia of Public International Law* 471 (1985).
- 5 *Namibia (South West Africa) Advisory opinion*, 1971 ICJ 31. *Western Sahara (Advisory opinion)*, 1975 ICJ 32.
- 6 See, L.C. Buchheit, *Secession: The Legitimacy of Self determination*, 1978; A. Heraclides, *Secession, Self determination and Non-Intervention: In Quest of a Normative Symbiosis*, *Journal of International Affairs* 435 (1992).
- 7 Armbruster said, "The principle of Sovereignty excludes logically the right of self determination. If International Law guarantees the sovereignty of the existing states, it cannot permit, at the same time, this right of self determination."
- 8 Art. 1 of the Covenant on Civil and Political Rights 1966 states that, "All peoples have that right of self determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development." Art. 1 of the Covenant on Economic, Social and Cultural Rights 1966 also state the same.
- 9 United Nations General Assembly Resolutions 1514 (xv) of 14 December 1960 - Declaration Granting Independence to Colonial Countries and Peoples: "Any attempt at the partial or total disruption of national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations."

colonial era, for self determination as a principle to become truly universal in scope, needs be developed as a concept of internal self government. In this way the UN would not be restricted by Art. 2(7) of the Charter (which reserves certain matters within the domestic jurisdiction of states) in developing new principles of this sort. Principles of self determination have long ceased to be a matter solely within the domestic sphere. Its extension to people within state might in a more integrated world community, contribute to the strengthening of universal peace and safeguarding of respect for human rights as the basis of State sovereignty, thus fulfilling a more central function within the framework of which it is placed by the UN Charter. This will answer the present strong felt need for rethinking the concept of self determination and suggesting possible avenues for the future development of law in this area.

***INTERNAL SELF DETERMINATION AS A SOLUTION TO HOLD TOGETHER THE MULTI-ETHNIC AND MULTI-RACIAL NATIONS***

Internal self determination means right to self government,<sup>10</sup> that is, the right for people to choose freely their own political and economic regime - which is choosing the best that suits their own conditions rather than accepting something thrust from outside, due to political or economic oppression. It is an ongoing right unlike external self determination for colonial peoples. Once it is implemented, the right of internal self determination is neither destroyed nor diminished by its having already once been invoked and put into effect. It is a new principle of International Law discerned from contemporary definitions of sovereignty, self determination and human rights. It is a new right of autonomy that supports creative attempts to deal with conflicts over minority and majority rights before they escalate into civil war and demands for secession. It recognises the right of minorities and indigenous people to exercise meaningful internal self determination and control over their own affairs in a manner that is consistent with the ultimate sovereignty of the State.<sup>11</sup> It addresses the rights of people of an existing State.

Internal self determination must also subsume into itself economic and cultural self determination. Thus, the right of these ethnic people to be taught in their own language about their history, about their culture, custom and tradition has to be recognised along with the right to economic independence and exclusive right over the natural resources of the region.<sup>12</sup> This concern is adequately reflected in Art. 19 of the Draft Charter of Indigenous Tribal people. Various International instruments advocate principles of internal self determination, which

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10 See, Asbjorn Eide, *In Search of Constrictive Alternatives to Secession, Modern Law of Self determination*, 140 (1993). See also, A Cassese, *Self determination of Peoples* (1965).

11 See, Dietrich Mursuiek, *The Issue of a Right of Secession - Reconsidered*, *Modern Law of Self determination* 23 (1993). See also, C. Tomuchat (Ed.), *Modern Law of Self determination* 41 (1993).

12 See, Nandita Haksar, *Human Rights Violations in North East*, 302 (1994).

introduces a new element into International Law. The Atlantic Charter proclaimed the right of all people to choose freely the form of government under which they wish to live. Art. 1 of the Covenant on Civil and Political Rights and Economic, Social and Cultural Rights added the right of all people to freely pursue their economic, political and cultural development. The necessary implication is that the fundamental freedom guaranteed by various international instruments is to be encouraged by implementation of the right of self determination, which must in turn be in conformity with Art. 25 of the Covenant of Civil and Political Rights which expressly recognises the right of every citizen to participate in the conduct of public affairs either directly or through representatives. This is an expression of basic democratic principles and means that people cannot be deprived by their own regime of the right of self-governance. The right is a permanent continual right and exists as an inherent right in all people irrespective of the form of government which controls them.<sup>13</sup> Art. 47 of the above Covenant protects the right of all people to enjoy and utilise fully and freely their natural wealth and resources. Art. 1 of the Covenant on Economic, Social and Cultural Rights also proclaims the same.

***INSURGENCY: SECESSIONIST MOVEMENTS IN THE NORTHEAST REGION: IN SEARCH OF ALTERNATIVES***

***(a) Nagaland***

The Naga insurgency movement, the oldest of all movements, is the product of a need to maintain "the underlying consciousness of unity and separate national identity which stems from their common ethnic origin, common heritage, common political and economic structures and common territory".<sup>14</sup> Such a need to preserve and promote their way of living made the Nagas demand independence way back in the 1920s by presenting a memorandum to Simon commission. Thus, the Naga insurgency dates back to the early part of this century. The British, in order to keep the Nagas contented granted them autonomy by forming the Naga District Tribal Council in 1945. The Nine point Hydari Agreement was signed and provisions included in the Constitution to safeguard their interest.<sup>15</sup> The Nagas stood by their demand for total independence but the Indian Government did not agree to it. By 1959 large scale violence erupted and Indian Army was moved into Nagaland to fight insurgent groups. In 1972 the Naga Federal government was banned and President's rule imposed. This led the fighting groups like NSCN and NNC to go underground and the leader of the movement, A.Z. Phizo escaped to London where he established a centre. Thereafter, the signing of Shillong accord not taking into confidence all the warring factions and subsequent non-

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13 See, A. Cassese, *The Right of Self determination and Non-States Peoples*, 65 AJIL 713 (1971).

14 See, A. Sunil Achaya, 'Insurgency in Nagaland', *Administrator* 132 (1994); See also, Phanjoubam Tarapot, *Insurgency Movements in North-Eastern India* 254 (1994).

15 *Ibid.* at p. 154.

fulfilment of the terms of accord added fuel to the movement.<sup>16</sup> By enacting draconian laws like "Armed Forces Special Powers Act" the armed forces were given sweeping powers to shoot and arrest and not be subject to investigation, trial and punishment for the same. The Army rule which led to gross violations of human rights left a deep impact on the minds of the people leading to hatred and discontent. The signing of accords and negotiations have failed time and again due to lack of political will on the part of the centre and lack of faith on the part of the insurgent groups. The Atlanta Peace Meet and the invitation offered by erstwhile United Front Government under the Prime Ministership of Sri. H.D. Deve Gowda followed by Sri. I.K. Gujral, seem only to have repeated past mistakes. As a result the gulf widens.

**(b) Assam**

The social discontent amongst the people of Assam may be traced to:<sup>17</sup>

- 1) The demographic profile of Assam that has been altered by the influx of refugees and illegal immigrants from neighbouring countries and also migration from other parts of India.
- 2) No development in real terms despite having rich natural resources and forest wealth.
- 3) The centre's partisan interest<sup>18</sup> which at times aggravated the problems.

The State Government has also taken steps that go against regional consolidation, by neglecting and ignoring the Borodoloi report to include Koch-Rajbongshis of Assam,<sup>19</sup> who are an integral part of Assamese society, to be recognised as Scheduled Tribes.

The Bodo-Kachari<sup>20</sup> tribes, who have been marginalised and dominated by Assamese people have revolted against this domination. Their demand for autonomy and separate statehood has turned violent. The Bodo movement, spearheaded by ABSU-BPAC for separate statehood, has been characterised by violence and counter violence throughout. This has also led to clashes between

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16 See, NPMHR, *Suppression of Naga National Movement, Symphony of Freedom* 149 (1996).

17 See, Dhrubajyoti Borah, *Understanding Assam and North East, Administrator* 64 (1994).

18 When the Regional Assam Gana Parishad Government came to power in Assam in 1985, the central intelligence agencies started to instigate the Bodo tribals and trained the militants in subversive and terrorist activities including the use of explosives. It was done to destabilise non-Congress opposition State Government. It was a form of internal subversion. The Central Government have till date been unable to refute these facts convincingly.

19 Borah, *supra* n. 17 at p. 65.

20 One of the major tribes inhabiting the State of Assam. They have a rich history of having ruled the entire Brahmaputra Valley they later came into conflict with Ahom Kings who overpowered them. Due to this they have a historical animosity.

Bodos and Santhals, the Bodos and non-Bodos like Bengalis.<sup>21</sup> The signing of the Bodoland Accord and the formation of the Bodoland Autonomous Council has not solved the problem due to inherent defects.<sup>22</sup> The situation is the result of the indifferent attitudes of both Union and the State in not acting promptly that has brought the movement to a point of perpetual hatred, tension and bloodshed.

**(c) Manipur**

Manipur has also been hit by insurgent movements fighting for a separate country.<sup>23</sup> Manipur Liberation Front (MLF) is an underground faction fighting for total independence.<sup>24</sup> The region is backward and whatever little funds come from the Centre for development are siphoned off by corrupt officials. A large group of unemployed youths have gone underground to revolt against the system and for their own sustenance. Moreover, the feeling of regionalism and their quest to maintain their culture and identity rallied them around a common objective "a homeland away from India". There are demands to revive the traditional script and traditional Gods of Meitei and not Hindu Gods which are a later addition.<sup>25</sup>

The moving in of the Indian Army and enforcing of Armed Forces Special Powers Act has only resulted in aggravating the situation. Large scale violations of human rights, arbitrary arrest and inhuman torture have left deep marks in the minds of people. Though unlike Assam, Nagaland or Manipur, simmering discontent<sup>26</sup> has also been expressed in Arunachal Pradesh, Meghalaya, Mizoram and Tripura.<sup>26</sup>

**INTERNAL SELF DETERMINATION AS A SOLUTION TO THE SECESSIONIST MOVEMENTS IN INDIA'S NORTH EAST**

The complex ethnic problems of tribals of the North East needs to be corrected by enforcing the new principles of internal self determination discerned

21 See, Chandra Bhattacharjee, *Bodoland Movement: Issues and Lessons*, Administrator 78 (1994).

22 See, P.S. Dutta, *India's North East: a Study in Transition*, Administrator 146 (1992).

23 See, B.B. Kumar, *North East India: Need for a Fresh Look*, Administrator, 9 (1994).

24 *Ibid.* at p. 15.

25 See, Sriram Taranikanti, *Kuki-Naga Conflict in Manipur: A Case from Churachandpur*, Administrator 104 (1994).

26 In Tripura, due to large scale migration of Bengalis from East Pakistan, the tribals (indigenous people) have been pushed to the hills and been made a minority in their own homeland. The tribals have asserted themselves. The government has not come out with a lasting solution to the problem. As a result, tribal warring factions have gone underground, leading to violence. Also, there has been simmering discontent in Arunachal Pradesh, against the Centre's indifference to the Chakma-Hojong and Tibetan refugees problem. Violent incidents have shown that if timely action is not initiated, it will lead to insurgency problems. The people of Mizoram and Meghalaya nurture discontent for New Delhi's attitude towards development of the people. Corruption and bureaucratisation has let nothing trickle down.

from sovereignty, human rights and self determination. Internal self determination today ought to be considered as a principle mandating the recognition of group rights and regional autonomy. Accordingly, self determination should be conceived as a basis for the development of an alternative constitutional framework, affording a right to self determination and a meaningful measure of autonomy. Internal self determination comes as a range of choices and options rather than solely an *ultimate goal of independence*.<sup>27</sup> As a result the gap between the legal right and political reality is considerably narrowed.

The problem can be approached by application of the following two steps.<sup>28</sup> Firstly, for satisfactory solution of the problem, it is important that the people realise the value of internal self determination. The whole tribal population should be granted the continuing right to freely choose its own rulers through a democratic process.

Secondly, it is for the tribals to declare what type of protection they seek: autonomy, regional self-government, participation in the national decision making process etc. As we have seen, self determination primarily means the right of the people concerned to freely express their wish about their destiny. It follows that the choice among the various alternative ways of safeguarding its basic rights mainly vests with each tribal group and should not be imposed from outside.<sup>29</sup>

The present regime governing protection of tribal groups and minorities is insufficient. The real problem facing the North-east is lack of economic development, poor infrastructure, unemployed youth and total neglect of the region. Though the concept of autonomy is still vague and imprecise, in many countries self government has proved to be workable and capable of reconciling the conflicting needs of minorities and the demands of State integrity.

The plans for tribal peoples and tribal areas, while articulating the regional and national plans, must be formulated in their respective milieu and must be operated by multi-tiered autonomous bodies keeping the scale of complexity of operation in view at each tier. It should have provisions for autonomy.<sup>30</sup>

A plausible model of development within the framework of internal self determination should be:<sup>31</sup>

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27 Eide, *supra* n. 10.

28 See, *Report of the CSCE Committee of Experts on National Minorities and Indigenous Peoples*, adopted on 19 July 1991- "Section II(2) of the Report stipulates that the States participating in CSCE process emphasise that human rights and fundamental freedoms are the basis for the protection and promotion of rights of persons belonging to indigenous peoples and minorities".

29 *Report of CSCE Meeting of experts of Indigenous Peoples and Minorities* - "The means of achieving Internal self determination for ethnic groups and minorities is by strengthening positive action and participatory rights and granting a wide measure of autonomy".

30 See, B.K. Roy Burman, *Policy Issues for North East and Tribal Areas*, Administrator 43 (1994).

31 See, Chapters XI to XIII, United Nations Charter.

- (a) to ensure, with due respect for the culture of peoples, their political, economic, social and educational advancement, their just treatment and protection against intrusion from external forces.
- (b) to develop and encourage the tradition of self-governance, to take due account of the political aspirations of the peoples and to assist them in the progressive development of their free political institutions, according to the tradition, culture and way of life of each tribe.
- (c) to promote constructive measures of development, to encourage research and to enhance inter-tribal harmony.

The Northeast region may be considered as a special economic zone<sup>32</sup> and a special Planning Commission (under the national planning commission) must be constituted entirely for the Northeast. The total economy of the region should be planned and it should incorporate both private and public sector investment efforts. Hasty privatisation unmindful of social and political consequences must be actively discouraged. Infrastructural facilities in power generation, transport, communication, financial infrastructure for providing capital, etc., must be built up. Products and technology should not be merely a so-called scientific technological survey but should be improved through drawing upon the ecological prudence and value systems of peoples. Efforts should be made for debureaucratisation of the apparatus for implementing the plans and programmes.

The Northeast region is quite poor in technical and skilled man-power which necessary for modern industrial and service sector growth. The whole educational infrastructure of the region is totally inadequate to produce the required man power pool. The technical institutes need to be upgraded by equipping them with better facilities to generate required man-power. Industrialisation cannot be carried on by importing all the skilled man-power from outside. Therefore, there is a need to take up planned human resource development programmes. Trade between the Northeast and neighbouring South Asian countries and China must be opened up for the benefit of the region.<sup>33</sup> There is no justification at all for importing fish, rice, etc., to Northeast from far away states like Haryana, Punjab or Andhra Pradesh, when the same is available from neighbouring Bangladesh, Myanmar and other Southeast Asian countries, at a cheaper rate. The industrial goods produced in this region such as coal, petroleum, tea, can find easy market in the neighbouring countries. Roads are already there upto the border. Only the political will is needed. This will integrate the region with regional and global economic activity. India's most effective access to the Southeast Asia, South China and the Pacific rim lies not through the Bay of Bengal but through the valley of the Northeast.

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32 See, NECCC (I), *A Scheme for Economic Development of North East, Administrator*, 43 (1994).  
See also, B.K. Roy Burman, *Policy Issues for North East and Tribal Areas, Administrator* 9 (1994).

33 See, Sanjoy Hazarika, *Strangers of the Mist* 388 (1994).

To make the principles of internal self determination really work and yield results, the Centre will have to set up some sort of monitoring device capable of inducing compliance. It is suggested that two important steps be taken at the implementation level. First, some sort of appropriate machinery should be set up whereby some international monitoring body may be entrusted with putting pressure demanding the implementation of these rights. Second, international standing should be given to the representatives of the peoples to enable them to put forward claims for realisation of their right. So long as these practical steps of organisational nature are not taken the efforts will be meaningless.

### CONCLUSION

Bringing out models of development within the framework of internal self determination in accordance with Art. 1 of the Covenant on Civil and Political Rights, Covenant for Economic, Social and Political Rights, human rights and self determination would be the best alternative solution to ethnic movements in the Northeast. Autonomy may mean to part with some sovereignty in order that powers may be delegated to autonomous bodies and institutions. Many states fear that the granting of autonomy to ethnic minorities is the first step towards secession and towards the dismemberment of the State. But the contrary is true. Autonomy with principles of internal self determination is the best prevention against secessionist demands, if only granted in time. Therefore, the threat of the right of secession should become a motivation for granting internal self determination in time and thus making any wish for self determination superfluous. Though several attempts have been made to achieve, things have slipped back time and again to the original position. This may be due to lack of political will and peace proposals which were basically *ad hoc* in nature.