

**Asymmetric Federalism and Special Status:
The case of Nagaland.**

**Dissertation submitted to the Jawaharlal Nehru University in partial
fulfillment of the requirement for the award of the degree**

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T. Uniel Kichu Ao



**Centre for Political Studies
School of Social Sciences
Jawaharlal Nehru University
New Delhi – 110 067
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जवाहरलाल नेहरू विश्वविद्यालय
JAWAHARLAL NEHRU UNIVERSITY
NEW DELHI - 110067


Centre for Political Studies
School of Social Sciences

21.07.2001


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Certified that the Dissertation entitled “Asymmetric Federalism and Special Status : The case of Nagaland.” submitted by T. Uniel Kichu Ao, in partial fulfillment of the requirements for the award of the degree of Master of Philosophy of this University. This dissertation has not been submitted for any other degree of this University, or any other University.

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Dr. Sudha Pai
(Chairperson)
(acting ch)

CHAIRPERSON
Centre for Political Studies
School of Social Sciences-II
Jawaharlal Nehru University
New Delhi-110067


Prof. Balveer Arora
(Supervisor)

to dad

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Asymmetric Federalism and Special Status: The case of Nagaland

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A. A Conceptual and an analytical prelude.

FEDERALISM AND ASYMMETRY.

The term 'federal' is derived from the Latin word *foedus*, which means, covenant. In this context, Federalism is meant to rest on the principle that political and social institutions and relationship are established through covenants, compacts, or other contractual arrangements. Federalism in essence seeks 'arrangements' which is one of partnership, established and regulated by a covenant, whose internal relationship reflect the special kind of sharing that must prevail among the partners, based on mutual recognition of the integrity of each partner and the attempt to foster a special unity among them.¹

Federalism has been defined as combining self-rule with shared rule.² In a system of government, the self-rule component usually refers to a territorial base and always involves a degree of autonomy, or final responsibility. The shared rule component between the governments on the other hand is expected to operate directly on the individual members of the whole community.³

Federalism deals with the relationship between the two faces of politics - power and justice. Federalism in its most limited form is usually defined as having to do with the distribution of power, and in its broadest sense is presented as a form of justice – emphasising liberty and citizen participation in governance. One of the primary attributes of federalism is that it cannot, by its very nature, abandon the concern for either power or justice but must consider both in relationship to

¹ Daniel J. Elazar, *Exploring Federalism*. Tuscaloosa: The University of Alabama Press, 1987, p5.

² Daniel J. Elazar, *op cit*. 1987.

³ Cheryl Saunders, "Constitutional Arrangements of Federal Systems", in *Publius: The Journal of Federalism* 25:2 (Spring 1995), p61.

each other; thus letting people to consider the hard realities of political life while at the same time maintaining their aspiration for the best polity.⁴

Many writers on federalism have argued that federations are dynamic systems in a much more fundamental sense. Ronald Watts notes that the understanding of federal systems requires the analysis of the interaction of societies, structures and processes. Friedrich regards federalism 'as an evolutionary pattern of changing relationships' and explains that federalism is primarily the process of federalising of a political community, that is to say, the process by which a number of separate political communities enter into arrangements for working out solutions.⁵

Today federalism has emerged as a major means of accommodating the spreading desire of people to preserve and revive the advantages of smaller societies within the growing necessity for larger combinations or to maintain or strengthen their cultural distinctiveness within more extensive polities. Consequently, federal arrangements have been widely applied on the one hand, to integrate new polities while preserving legitimate internal diversities and, on the other, to link established polities for economic advantage and greater security.

A major reason for this evolution lies in the reassertion of ethnic and regional identities. There are many ethnic and tribal groups in the world conscious of their respective identities. Most of the politically 'sovereign' states now in existence are multiethnic in composition, and most of these states are involved in

⁴ Daniel J. Elazar, *op. cit.* 1987, p. 84.

⁵ Suri Ratnapala, "Federalism as a Response to Ethnic Regionalism", in Ian Copland & John Rickard (ed.), *Federalism: Comparative Perspective from India and Australia*. Delhi: Manohar Publishers, 1999, p. 116.

formal arrangements using federal principles in some way to accommodate demands for self-rule and shared-rule.⁶

Peoples today finds itself confronted with number of political problems, many of which are seemingly intransigent, whose source lie in conflicting national, ethnic, linguistic, and racial claims arising out of historical experiences. Some of these problems are headline material almost daily, others are less visible but consistently aggravating, and still some others have temporarily submerged but only wait the appropriate moment to reappear further to disturb the worldwide quest for peace. The just resolution of these problems is essential if local and world peace is to be attained on the basis of some approximation of justice. Yet in none of this is justice a simple matter; hence the conflicting claims of the parties involved has not proved amenable to the usual forms of political compromise. New forms of resolving these problems are desperately needed.⁷

The essence of federalism is not to be found in a particular set of institutions but in the institutionalisation of particular relationship among the participants in political life. Consequently, federalism is a phenomenon that provides many option for the organisation of political authority and power; as long as the proper relations are created, a wide variety of political structures can be developed that are consistent with federal principles.

It is useful here to reiterate what is meant by federalism in this context. The simplest possible definition is self-rule plus shared rule. Federalism thus defined involves some kind of contractual linkage of a presumably permanent

⁶ Elazar, *op. cit.* 1987, p. 8.

⁷ *Ibid.*, p.11.

character that 1) provides for power sharing, 2) cuts around the issue of sovereignty, and 3) supplements but does not seek to replace or diminish prior organic ties where they exist.⁸

Most of the new states of Asia and Africa must come to grips with the multiethnic issue. It is an issue that can be accommodated peacefully only through the application of federal principles that will combine kinship (the basis for ethnicity) and consent (the basis for democratic government) into politically viable, constitutionally protected arrangements involving territorial and non-territorial polities.⁹

Asymmetry connotes an uneven distribution of elements along a common axis. Federalism is to do with the institutionalization of particular arrangements. Asymmetric federalism is in essence a calibrated institutional response to the diversity of constituent units, permitting variations.

Generally, we tend to think of federalism as a vertical relationship between the centre and the region. But another important aspect to it is the horizontal relationship between the federal units. Ideally, perhaps, federations should be compacts of units that are more or less alike, however this homogeneity over large areas is rare. This accords the necessity for the federation to arrive at certain innovations to maintain the differences in its regions. Sometimes these regional differences are formally recognised in the Constitutions through special arrangements.¹⁰

⁸ Ibid., p.12.

⁹ Ibid., p.9.

¹⁰ Introduction in Ian Copland & John Rickard, (ed.), *Federalism: Comparative Perspective from India and Australia*. Delhi: Manohar Publishers, 1999, p.16.

The units composing the federal system need not necessarily assume equal standings, vis-à-vis their size, wealth, influence etc. and its cultural and ethnic composition might also be along varied lines. Thus, while advantages can be gained from creating roughly comparable units, most federations depart from these norms in one direction or the other. Each system is subject to a variety of influences and pressures, which dictate the form it takes and which may themselves change over the time span of the federation.

An important area of conflicts that in a federation is that of regional disparities within the units of the federation. Important questions arise on the degree of disparity among the regions that is acceptable to a federation and how it should be achieved. Federations contemplate diversity and within limits, regional autonomy. Natural disadvantages and differences in economic circumstances between regions including cultural and social heterogeneity is likely to threaten the cohesion of the federation. To remedy this regional most federations envisage some kind of equalisation treatment.

In this context, Ronald Watts attributes two kinds of asymmetry among regional units in a federation:

‘One, which is characteristic of all federations and might be described as *political* asymmetry, arises from the impact of cultural, economic, social and political conditions affecting the relative power, influence and relations of different regional units with each other and with the federal government. The other, which exist in some but not all federations and which might be labelled *constitutional* asymmetry, relates

specifically to the degree to which powers assigned to regional units by the constitution of the federation are not uniform.’¹¹

Political asymmetry among full-fledged constituent units exists in every federation. Among the major factors are variations in population, territorial size, economic character, and resources and wealth among the regional units. The impact of this factor lies in the relative power and influence within these federations of the larger regional units, especially where one or two dominate, and in the relative powerlessness of the smaller member units. Both can be a source of internal resentment and tension in the political dynamics within federations.¹²

Constitutional asymmetry refers specifically to differences in the status or legislative and executive powers assigned by the constitution to the different regional units. In most federations the formal constitutional distribution of legislative and executive jurisdiction and of financial resources applies asymmetrically, and in some cases the constitution has ‘explicitly’ provided for constitutional asymmetry in the jurisdiction assigned to full-fledged member states. This has been to recognise the significant variations among the constituent units relating to geographic size and population or to their particular social and cultural composition and economic situation.¹³

Watts ascribes ‘basically’ three approaches regarding the establishment of constitutional asymmetry in the distribution of powers within federal systems:¹⁴

¹¹ Ronald Watts, *Comparing Federal Systems*. Toronto: Queens University, p. 63.

¹² *Ibid.*, p. 63.

¹³ *Ibid.*, p. 66.

¹⁴ *Ibid.*, p. 66.

1. By increasing from the norm the federal authority in particular member states for certain specified functions within the federal system (i.e. to reduce regional autonomy).
2. By increasing, from the norm, the jurisdiction of particular member states (i.e. to increase regional autonomy).
3. By permitting asymmetry in the jurisdiction and powers exercised by certain members (i.e. the constitution is formally symmetrical in giving all the member states the same jurisdiction, but includes provisions that permit member states in certain cases to 'opt in' or 'opt out' of these assignments).

Asymmetry among regional units of a federation is a reality. Many 'federal systems' if not all is faced with the 'hard political reality' of asymmetry among its units in varying forms. Then, to maintain the 'aspirations of the best polity' it becomes all the more imperative to grapple with this. Federalism to possibly 'encompass all the three themes in the concern for politics'¹⁵ in a recurring complex world, one factor it will need to recognise and address is the these linkages of asymmetry.

FEDERALISM AND THE INDIAN CONSTITUTION.

In the framing of our Constitution, features and ideas of different constitutional systems in the world were taken, which the Constitution makers of

¹⁵ Daniel Elazar in his book 'Exploring Federalism' writes that the human concern with politics rest on three general themes: the pursuit of political justice to achieve political order; the search for understanding the emperical reality of political power; and the creation of an appropriate civic environment capable of integrating the first two themes to produce good life. In this pursuit, one major recurring principles of political import that encompasses all these three themes, he avers, is Federalism.

the country thought fit for the vast country. This was necessitated as Dr. Ambedkar observed, because ‘all constitutions in their main provisions must look similar. The only things, if there be any, in a constitution framed so late in the day are variations made to remove the faults and to accommodate it to the need of the country’¹⁶. The same happened in incorporating federalism to the needs of India. An innovative way was pursued, which Dr. Ambedkar pointed out was ‘federal in structure’ but a ‘Union’ because of the certain advantages it had. As a result, what they incorporated into the India Constitution, was ‘basically’ federal but with striking unitary features¹⁷.

‘Impelled by fears of disintegration and imbued with the vision of a strong, united India, a heterogeneous land of diverse languages, culture, ethnicity and history, India’s Constitution makers drew up a frame work for the country’s governance that Ambedkar, its main architect believed had federalism as its ‘chief mark’ even though it had a pronounced unitary bias’.¹⁸

For a country of India’s heterogeneity made up of people of diverse ethnicity, language, culture and history, it was only appropriate that the constitutional makers chose the federal form as the framework for governance. However, they were driven by fears, following the partition that accompanied independence, of the country breaking up further, on the one hand, and the vision of a strong united nation on the other.¹⁹

¹⁶ VII Constituent Assembly Debates, p.35-38.

¹⁷ Reaffirmed by the 9-Judge Bench Supreme Court decision in S.R. Bommai v. Union of India, A. 1994 S.C. 1918 (para. 211).

¹⁸ Raja J. Chelliah,, *Towards a Decentralised Polity*. Fourth L K Jha Memorial Lecture, Fiscal Research Foundation, New Delhi, 1991.

¹⁹ Amaresh Bagchi, “Rethinking Federalism: Overview of Current Debates with Some Reflection in Indian Context, in *Economic and Political Weekly*, August 19-25, 2000, Vol. XXXV No. 34.

The Constitution of India as such is said to be 'Quasi-federal' and the federal system in India is a 'basic feature of the constitution' which cannot be altered in exercise of the power to amend it.²⁰

According to Balveer Arora the Constituent Assembly while framing the constitution adopted an 'unorthodox federalism' which required 'exceptional courage' in –

the aftermath of the 'unitary colonial regime'. 'Many feared too federal a constitution might encourage other fissiparous tendencies'. Thus it was justified primarily in 'functional' terms, rather than as a means of deepening the roots of democracy as the tenets of classical federalism envisage.²¹

But while there was a unitary bias in the original design of the Indian federalism, a remarkable degree of flexibility and pragmatism was worked into it. Recognising the virtues of 'asymmetry' or asymmetric federalism was one of them. More so in the context of bringing about and maintaining the Union, particularly in integrating states and people who had enjoyed considerable amount of autonomy under the British.²²

From the early days, in India there was marked absence of homogeneity among the federating units. For instance, from the early times the princely states had a separate political entity and had little in common with the erstwhile

²⁰ As asserted in the 13-Judge Full Bench Supreme Court decision in the *Keshavananda v. State of Kerala*, A. 1973 S.C. 161 (F.B.) and as subsequently held through several cases in the supreme court, thus introducing the doctrine of the 'basic features' of the constitution by judicial innovation.

²¹ Balveer Arora, "Adapting Federalism to India: Multi Level and Asymmetrical Innovations", in Balveer Arora and Douglas V. Verney (eds.), *Multiple Identities in a Single State: Indian Federalism in Comparative Perspective*. New Delhi: Konark Publishers pvt. Ltd., 1995.

²² Ibid.

provinces. Also 'federal sentiment' as Dicey called it, was lacking among them. In these conditions the framers of the constitution had to bring about innovations to accommodate all the units of the federation.

After the first states reorganisation in India, India had to still deal with new emergent demands from different quarters. One of the more notable area from where these demands were increasingly felt in the form of autonomy assertions, was in the Northeast. To meet these demands the Parliament has attempted to adopt the country's flexible federal constitution to the needs of the heterogeneous society through a variety of asymmetrical innovations. The Northeast by reasons of geography, history, economics, and ethnicity was in variance with the 'mainstream' India. In this unequal situation, asymmetrical relations were worked out into the constitutional design to meet specific needs and situations of the peoples on this periphery²³.

To meet to these demands the provision for 'special status' was introduced in the constitution through various amendments. 'Special status and unique relationships to meet specific needs and requirements were a part of the original design of the constitution. Exceptions and modifications to the general regime was regarded as legitimate, and non-conformity was considered perfectly compatible with the overarching requirements of the cohesion of the nation as such'²⁴. In a social system characterised by as what Francine Frankel says, 'asymmetrical obligations among unequals', special status encountered no conceptual objections. India's experiment with asymmetry can thus be viewed as an extended discovery

²³ Balveer Arora, in Balveer Arora and Douglas Verney, *op cit.* 1995.

²⁴ *Ibid.*

of the minimum degree of uniformity necessary for maintaining a coherent union.²⁵

One instance where the concept of special status was extended and given a permanent constitutional niche is the Thirteenth Amendment (1962) which formally introduced 'special provisions' for the northeastern state of Nagaland under Article 371A.

Tracing the growth and history of this 'institutional set-up' as an example to understand the working of Asymmetric Federalism in India and the World in general, is what this work intends to pursue. The essence of federalism as has already been mentioned lies not only in particular relationship but lies in the 'institutionalisation of particular relationship'. In this context Nagaland might be a interesting example.

B. Introducing Nagaland.

THE NAGAS UNDER BRITISH ADMINISTRATION.

M. Horam in his book, 'the Naga Polity'²⁶ divides 'Anglo-Naga affairs' into three broad periods:

1. Period of Exploration.
2. Period of Expedition.
3. Period of Control.

The period of exploration being the first forays of British soldiers into the Naga Hills, starting in January 1832. The Court of Directors in 1838 decide that the Naga affairs would come directly under the British government – with this

²⁵ Ibid.

²⁶ M. Horam, *The Naga Polity*. Delhi: Low Price Publication, 1975, p. 9-15.

according to Horam, the exploratory period ended and ushered in its wake a period of expeditions.

The period of expeditions begin in January 1839, with the British carrying out military expeditions to the Naga Hills. Resistance from the Nagas were tough. Persistent raids by the Nagas in the neighboring plains (Assam) were a problem to the British and these expeditions were carried out to check this.

Lord Dalhousie in 1851, laid down the policy of 'non-interference' so long as the Nagas kept to their own territory. This policy lasted for 15 years. According to the full text of the policy (as given in McKenzie's book) it says that it would be 'costly and unproductive' to take possession and control the hills and the establishment of the British sovereignty over this 'savage inhabitants'. It would be 'impolitic' it further states, to contemplate the permanent possession of these hills, the withdrawal of the British can be attributed to no motive but 'our desire to show that we have no wish for territorial aggrandizement, and no designs on the independence of the Naga hills'²⁷.

During the next period from 1851 to 1865, the foreign power followed the policy of non-intervention in Naga affairs. This was abandoned in 1866 and the policy that followed was called the 'forward policy'.

'Experience showed that raids were mounting up...besides there was the internecine tribal feuds which had disastrous effect on the administration within their controlled area. In view of this alarming situation the government was impelled to revise their policy... and laid the policy known as the forward policy. By the forward policy it meant that

²⁷ M. Alemchiba, *A Brief Historical Account of Nagaland*. Kohima: Naga Institute of Culture, 1970, p.58-

the sphere of administration would be created through the established government institutions'.²⁸

The Naga Hills District.

In was in 1866, that a district known as the Naga Hills District was formed with its headquarters at Samaguting near Dimapur in the foothills under the administration of the Lt. Governor of Bengal.

'The Bengal Government prescribed rules in accordance with which the district was to be administered and the notification which created the district, declared that it should be administered by a deputy commissioner under the control of the Commissioner of Assam'.²⁹

From 1869 to 1873 tea cultivation in Assam along the frontiers of Naga Hills grew rapidly causing friction between the Nagas and the British subjects. This necessitated the introduction of the Inner Line Regulation. It sought to prevent these incidents of friction by prohibiting unrestricted entry into these frontier regions. Accordingly a regulation was drawn up by the Lt. Governor to prescribe a line, to be called the 'Inner Line', in each or any of the districts affected, beyond which no British subject of certain classes or foreign residents can pass without a license. Rules regarding trade, the possession of land beyond the line, and other matters were also laid down. The Inner Line separated some

²⁸ Hamlet Bareh, "India's Northeast and her Ethnic Character during the British and the Contemporary set-up", in B. Pakem (ed.), *Regionalism in India (With special reference to northeast India)*. New Delhi: Har Anand Publications 1993.

²⁹ P.N. Luthra, *Nagaland from a District to a State*. Shillong: Director of Information and Public Relations, 1974, p. 5.

tracts inhabited by the tribal people from the districts of Assam Administration and journey beyond this inner line was restricted.³⁰

In 1874 Bengal and Assam were separated into two different provinces. In the same year the Naga Hills District with some other districts were taken out of the jurisdiction of the Lt. Governor of Bengal and were constituted into the separate province of Assam, under a Chief Commissioner. (Vide the Government of India, Home Department notifications, 379 and 380, dated 6th February 1874).

The Naga Hills District was declared a 'Scheduled District' under the Scheduled District Act, 1874. The chief purpose of this act was to enable a more simpler and personal administration. Thus in accordance with the provision of 5A of the Scheduled District A Act, 1874, the government passed in 1884 the Assam Frontier Tract Regulation II of 1880 as amended by the Regulation III section (2) of 1884, and extended it to the Naga Hills District.

By virtue of this regulation, Naga Hills were excluded from the operation of enactment's relating to elaborate Codes of Law, the Code of Criminal Procedure and the Civil Procedure Code. On the other hand, Naga administration continued to function under their Chiefs and Headmen free from alien technical difficulties.³¹

Under this declaration the Naga Hills District was excluded from the general operations of Laws operating through the rest of British India, and thus a non-regulation district. The ostensible purpose was to implement special plans for its development and for preservation of its customs and culture.³²

³⁰ Alexander MacKenzie, *The North-East Frontier of India*. New Delhi: Mittal Publication. 1884, 1979(reprint), p. 89,98,99.

³¹ Dr. Piketo Sema, *British Policy and Administration in Nagaland 1881-1947*. New Delhi: Scholar Publishing House, 1991

³² Hokishe Sema, *Emergence of Nagaland: A Socio-Economic and Political Transformation and the Future*. New Delhi: Vikas Publishing House Pvt. Ltd. 1986, p. 73.

The Government was successful in checking the raids on their frontier but the Nagas continued to raid each other across the border. At the same time, Naga raids continued on villages under the British control near the border. With two things on their agenda firstly, to check Naga raids in the frontier and secondly to stop inter-tribal feuds and raids, the government decided to move into the heart of the Naga country. Thus in 1876 the headquarter was shifted to Wokha but when found unsuitable it was transferred to Kohima on 24 March 1878 – ‘in view of the alarming political situation in the Naga hills, the Chief Commissioner of Assam directed the then political agent of the district to occupy Kohima without delay. Accordingly, on 19 March 1879 the headquarters were moved to Kohima.³³

The Naga tribe in Kohima looked upon the advance of the British into their land with suspicion. The political agent of the British incharge of Nagaland while on a visit to one of the villages was shot to death. This was followed by the siege of the British post at kohima by thousands of Naga warriors, making the influence of the British on the Nagas with the occupation of kohima shaky. This uprising made the British further review their steps. Ultimately the Governor General-in-council approved the need of a central position in the Naga territory to extend their suzerainty over the Nagas. The government approved that Kohima should be retained as the headquarters and a regiment of soldiers should be permanently stationed there and the district administered as British territory. So, the final decision to make Naga Hills a British district was taken in 1881.³⁴ The British government of India took precautionary measures against further

³³ MacKenzie, 1884(reprint 1979), p132. Asoso, 1973, p. 100.

³⁴ Dr. S.K. Barpujari, 1974. “Formation of the Naga Hills District : A Landmark in the History of British-Naga Relations”, in *the Highlander*. Vol. II No. 2. Kohima: Department of Art and Culture.

insurrection among the tribes. All the villages, which had participated against the government, were punished, and a token system of collecting revenue from the villages was introduced.

After successfully penetrating into the interior of the Naga country it was only a matter of time before the British Government increased its influence all over the Naga hills.

As mentioned earlier, it was not until 1881 that the Government of India finally decided that the Naga Hills District should be brought under a regular system of administration. Accordingly in April 1884, the Assam Frontier Tract Regulation (II of 1880), as amended by Regulation III of 1884, was extended to the Naga Hills.³⁵

The next change came with the Government of India Act 1919. Section 13[52-A(2)] of the Act categorised the Naga areas as 'Backward Tracts' and the Governor of Assam was to act as the agent of the Governor General of India. The Governor was given the responsibility of bringing the inhabitants of the said tract under close administrative control, so that in due course the responsibility of the administration would be transferred to the provincial government. Also, the Government of India Act 1919 it was made clear that no Acts passed by the Indian Legislature was to apply to this 'Backward Tract'.

The Naga Club.

Around this an important event took place which brought changes into the Naga Hills - the World War of 1914-18. A 2000-strong Naga Labour Corps was recruited and sent to France to aid the British in their war. This gave the Nagas an

³⁵ Luthra, *op.cit.* 1974, p. 6.

exposure to the outside world. Also by the turn of the century Christianity introduced by the American Missionaries had already created a niche in parts of the Naga areas and it was fast spreading bringing among other things – western Education. Increasingly, many Nagas were getting admitted to schools and higher studies.

Having been to and seen a larger world during the First World War, some of the Nagas realised the need for bringing changes into their society as well. They realised that the village republics were not enough and the progressive Nagas should transcend the limits of their respective tribe and villages. The need for a ‘pan-Naga’ identity gradually began to be felt by an increasing number of Nagas. The denouement of all this consciousness was the establishment of the Naga Club in 1918. This ‘club offered a common platform for the various tribes who could identify themselves as a single community’. The Naga Club provided a forum for people from different areas and walks of life to come together and to discuss their common problems.³⁶

In 1928, the British Home Government set up a Statutory Commission to be known as the Simon Commission to study the proposed Constitutional Reform Scheme (1928-1935) and the situation in British India, for future policy. This Commission visited Kohima as well in 10 January 1929. Helped by the then Deputy Commissioner of the Naga Hills District, the Naga Club submitted a memorandum to the Simon Commission. The two-page memorandum, apart from being the first political document of the Nagas, clearly pointed out to the Commission that the Nagas wanted to be left alone to decide their political future. It said that the Naga Hills, ‘may be withdrawn from the Reform Scheme and

³⁶ R.P. Sharma & Nangshikokba Ao, *Mayangnokcha : The Pathfinder*. Mokokchung: Mayangnokcha Award Trust, 2000.

placed outside the reforms but directly under the British Government.’ The Nagas made it clear to the Commission that would not like to be connected, administratively or otherwise, with the people from the ‘plains’ for the simple reason that they never trusted them. It also clarified that since there had not been much of an interaction between the ‘plains people’ and the Nagas nor had they much in common, it was only just and proper that the Nagas be allowed to look after themselves and take care of whatever they might need politically or otherwise in the future. The most important contention of the Naga Club, however related to their claim that never in history were they ever been conquered or subjugated by any people other than the British. And so it was important that they remained free to decide their fate if and when an opportunity for such a decision came their way.³⁷

The members of the Commission were apparently impressed by the contents of the Naga Club Memorandum and the report of the Deputy Commissioner then, J.H.Hutton in which he had emphatically endorsed the memorandum.

The report of the Commission on the Naga Hills, which highlighted the replacement of the phrase ‘Backward Tracts’ of the Government of India Act 1919, was debated in the House of Commons. The British recognised the Naga claim to be treated separately from British India, in pursuance of which the Government of India Act 1935 renamed the Naga Hills District as, ‘the Naga Hills Excluded Area’.³⁸

³⁷ Ibid. Asoso, 1973, p.130-137.

³⁸ Seminar Presentation by the Naga Students Federation, *The Naga Problem : An Account*. New Delhi: Citizens for Democracy and the Naga Students Federation, 14 December 1995.

As a result of the report and recommendation of the commission and subsequent debates on the House of Commons and events in India, the Government of India Act was passed in 1935. A provision for excluded areas and partially excluded areas were passed. In regard to these areas, no federal or provincial save under notification of the Governor, who might provide for its modification or exception in its application. It was also provided that with the subsequent assent of the Governor General in his discretion, he would make regulation for the Peace and good governance of this area.³⁹

According to Sharma and Ao, the memorandum was sidelined. Consequently, upon the report of the Commission, the Government of India Act 1935 came into effect from 1 May 1937 and the Naga Hills were made an 'Excluded Area' within the Province of Assam, though to be administered directly by the Governor of Assam. The phrase, 'Excluded Area' meant that the Naga Hills was excluded from the control of the Provincial Legislature and left in the hand of the Governor. The object being neither 'repression' nor the 'artificial preservation of primitive cultures, but the to protect the Nagas from exploitation, to reduce to a minimum the bureaucracy with which he had to contend and to caution him against the impact of civilization until he was educated enough to stand alone.⁴⁰

The outbreak of the second of the Second World War was another very significant event for the Nagas. When the Japanese occupied Burma, their imminent invasion of British India through Manipur and the Naga Hills gave a serious threat to the Allied Forces. Kohima became very vital – because for the

³⁹ Asoso, 1973, p. 136,138.

⁴⁰ Sharma & Ao, *op. cit.* .

Japanese it was important for their progress Southeast Asia and for the Allied power the defence of Kohima was vital for the safety of the Indian sub-continent.

The Japanese and the Allied forces met in a decisive battle at Kohima. The Nagas served in the Allied forces as soldiers, guides, coolies and by supplying food and all necessary help. The Allied combined force defeated the Japanese in the Battle of Kohima. Field Marshall Viscount Shim observed, 'These were the gallant Nagas whose loyalty even in the most depressing times of the invasion had never faltered. Despite floggings, torture, execution and the burning of villages, they refused to aid the Japanese in any way or betray our troops. Their active help to us were beyond value or praise... many a British and Indian soldiers of the 14th Army will ever think of them but with admiration and affection.'⁴¹

When the world was in the throes of a devastating war, India was passing through a critical phase in history. New developments in the world and a strong Indian nationalist movement made it dawn on the British that it could no longer hold on to their imperial rule over India. Preparations and plans for the British relinquishment of India were underway.

In the Naga hills at this juncture, the Governor of Assam, Sir. Robert Reid (1937-42) proposed the formation of a 'Crown colony' or a 'Trust territory' comprising the Naga hills and some other areas. His understanding being the immense cultural and ethnic differences these tribes had with the mainland Indians. Several other administrators serving in these areas supported this; among them were Dr. J.H. Hutton, Commissioner of the Naga Hills District, N.E. Parrey, Superintendent of the Lushai Hills, and J.P. Mills, Advisor to the Assam Governor on Tribal Affairs. Sir Reginald Coupland, a British Constitutional expert, also

⁴¹ Murkot Ramunny, *The World of Nagas*. New Delhi: The Northern Book Centre, 1988, p. 29.

reportedly proposed in 1946 a rather similar plan that the tribal areas of Assam and Burma be constituted into a 'Crown Colony' under the British rule or the Government of India might have a treaty with Britain and that each should take the share of responsibilities for the area.⁴² The 'Coupland Plan' as it was known, emphasised the need for 'special treatment' of these areas and that the Government of India and Burma might have a treaty with the British and share the responsibility of this 'trust territory'. This plan was put in cold storage because of the change in the British Government. The new Labour government was not interested in any confrontation in the sub-continent.

On the other hand the Nagas vehemently opposed these plans having no desire to continue under the British. They wanted to maintain their sovereignty and independence. Their stand was that they should get back their sovereignty as soon as the British let India, presuming most shortsightedly that the British quitting India would automatically entail the independence of the Naga hills. Thus these plans lost ground and interest.

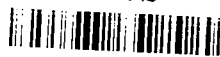
The British ultimately decide to quit India once and for all without any remnants of their empire.

The Naga club as such remained the centre of political and social gatherings. It grew into a sustained pressure group. It 'might not have achieved much remarkable objective except the memorandum submitted to the Simon Commission, nevertheless, it continued to be a meeting place where the educated

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⁴² Asoso, 1973, p. 139,140.

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and the authoritative leaders of the Naga people met and discussed their problems.⁴³

The NNC.

In 1945 the 'Naga Hills Tribal Council' was formed to work for the rehabilitation and reconstruction of the war devastated areas of the Naga hills, with the initiative of the then British Deputy Commissioner of the District.⁴⁴ As early as 1923 different tribes in the Naga hills began forming their own tribal councils. A conference of the representatives of the individual tribal councils was held on 2 February 1946, here they formed a united organisation for all the tribes calling themselves the 'Naga National Council'. Its original aim was to foster was to foster the welfare and social aspiration of the Nagas and it received official patronage from the British administrators. Gradually its sphere of influence extended to the field of politics and it worked for the achievement of solidarity of all the Nagas and the satisfaction of their political aspirations.⁴⁵

At its inception the NNC composed of only 29 members representing few tribes, later on the membership grew. Every Naga was expected to be a member of the NNC. A regular monthly journal was published called the 'Naga Nation', which created immense political consciousness and identity.

On 19 June 1946, the NNC passed a 4-point resolution. The resolution read:

⁴³ Asoso, *The Rising Nagas: A Historical and Political Study*. Delhi: Mittal Publication, 1974: p. 160.

⁴⁴ B.B. Kumar, *Small States Syndrome in India*. Delhi: Concept Publishing Co, 1998, p. 62.

⁴⁵ Alemchiba, *op. cit.* 1970, p. 165.

1. The NNC stands for the solidarity of the Naga tribes including those in the unadministered areas.
2. The council protest against the grouping of Assam with Bengal.
3. The Naga Hills should be included in autonomous Assam in free India with local autonomy and due safeguards for the interest of the Nagas.
4. The Naga tribe should have a separate electorate.

This resolution was submitted to the representatives of the British Government (the Cabinet Mission). However any decision in reciprocation to this was not made.

This resolution was then sent to Jawaharlal Nehru, who responded to the letter in August 1946. In the reply among other things it said that the Naga territory was too small to stand by itself economically or politically. It had to join the Assam province of India with utmost autonomy, as any tribal area would be deemed to have. The NNC would have authority over the Naga areas but at the same time the Nagas should have representatives in the Assam Provincial legislature. He doubted the efficacy of the separate electorates for the Naga Hills. He further envisaged the election of an advisory committee by the constituent assembly in which the tribes of Assam would be well represented. He emphasised that special provision would be made for the Naga areas and the protection of its customs and traditions. He hinted upon the need for the Nagas to learn Hindi so as to hitch on the developments taking place in mainstream India.⁴⁶

T. Aliba Imti, the President of the NNC then, in a public meeting in Kohima on 6 December 1946, emphasised that the Nagas have numerous

⁴⁶ Alemchiba, *op. cit.* 1970, p. 166-169.

connection with the Indians and should remain so, but at the same time maintain its uniqueness as a distinct community.

‘the NNC stands for the unification of all the Naga tribes and their freedom... today we are in the most critical time of our history... we cannot sit idle waiting for only what others assign to us... our country is connected with India, connected in many ways. We should continue this connection... but as a distinctive community... we must develop according to our genius...’⁴⁷

INDIAN CONSTITUTIONAL DEVELOPMENT AND THE NAGA HILLS.

At this point of time there was a divergence of opinion among the Naga leaders. One group favoured complete independence, some favoured the continuation of governmental relation with the government of India in some form till such time that it could run a modern state on its own, and still there were some who wanted to be under the British under special arrangements for a specific time. These different views were accommodated in the interim demand. In this plan, after a series of discussions over the issue of Naga independence it was resolved to request for an interim government to look after the Naga hills for a specific period of time, where his Majesty’s government and the Government of India, would act as the Guardian power over the Nagas for a period of 10 years, at the end of which the question of the political future of the Nagas would left for themselves to decide. This plan was embodied in the memorandum submitted to the last Viceroy of India, Lord Louis Mountbatten. The 10-year interim period as proposed by the NNC were as follows:

⁴⁷ Asoso, *op. cit.* 1973, p. 164, 165.

1. The interim government of the Naga people will be government by the Naga people, having full powers in terms of Legislation, executive and judiciary.
2. Nagaland belong to the Nagas and will be inalienable.
3. The interim government of the Naga people will have full powers in the matter of raising revenue and expenditure, and annual subvention to cover the deficit being given by the Guardian power.
4. For defence and for aiding civil power in case of emergency a force considered necessary by the NNC will be maintained in Nagaland by the Guardian power. That force will be responsible to the NNC who will in turn be responsible to the Gaurdian power.⁴⁸

No direct reply was made to this except that the Nagas should make their wishes known to the Advisory Committee on the Aboriginal tribes, which was to visit Kohima. In the process of framing the Constitution, the Advisory Committee on Tribal Areas led by Sardar Vallabhai Patel and Gopinath Bordoloi was given the responsibility of advising on the future administration of the Tribal areas and Excluded areas. A Sub-Committee was appointed for Assam, with Mr. Gopinath Bordoloi as Chairman and members of the likes of Rev. J.J.M. Nichols Roy, Mr. Rupnath Verma, Mr. Mayangnokcha etc. This sub-Committee visited Kohima on 20 May 1947 and met the NNC.

The Sub-Committee raised the following points to the NNC:

1. Whether you would like to be related to the legislature of the Guardian power, or the provincial, and if so under what terms of franchise.

⁴⁸ Alemchiba, *op. cit.* 1970, p. 170.

2. Whether for the future protection of your interest and administration of the government you would not like some representation in the Ministry.
3. Whether there should not be a separate financial statement in reference to the Naga Hills on which your members of the legislature, if there be any, could exercise some degree of criticism and control for the improvement of your area.
4. Whether you would not like another body chosen from your and other people in order to advise the executive of the province for the purpose of carrying out the administration in your area to your best advantage.
5. We assume that you shall have autonomy in your area but to what extent should the autonomy extend.
6. Whether you should have any representation in the services of the Guardian power or the province with which you shall have some relationship for the common development of your areas as well as the province of your Guardian power.
7. You have stated that the land of the Nagas is theirs. The question will arise as to how that land could be efficiently maintained by the Nagas themselves.⁴⁹

The NNC maintained that the sub-Committee's 'whether' should deserve consideration if the Naga Hills were to constitute an integral part of India of the province of Assam. As the Nagas had never entertained the idea of Naga Hills forming part of India with local autonomy they refused to pursue the matter in that line.

⁴⁹ Ibid., p. 170.

On the other hand Mr. Aliba Imti of the NNC objected to the Sub-Committee's proposal as it treated the Naga Hills District as part of Assam and not as an independent area, and it also gave 'arbitrary' powers to the Governor of Assam.⁵⁰

The NNC maintained their stand that at the end of 10 years they should be left free to decide their future. The Committee found it impossible to make any recommendation to the Constituent Assembly to the effect that at the end of 10 years period under the guardianship of India, the Nagas should be left free to decide their own future. The NNC made it clear to the sub-Committee that the Nagas would not accept any other kind of constitutional arrangement. The meeting between the sub-Committee and the NNC as such ended in a deadlock.

To break this deadlock, Sir Akbar Hydari, who was close to Nehru and the Governor of Assam then, was sent to Kohima on 17 June 1947. He had a series of meetings with the NNC for three days – 27, 28 and 29 June 1947. The point of discussion being the question of the 'ten years interim demand' put forward by the NNC. A compromise was worked out through a formula known as the 'Hydari Agreement' comprising nine points with the full consent of Nehru and Bordoloi.⁵¹

The most controversial point here being the last point which ran as:

'Point of Agreement: The Governor of Assam as the agent of the Government of India will have special responsibility for a period of 10 years to ensure the due observance of this Agreement; and at the end of this period, the NNC would be asked whether they require the above

⁵⁰ Asoso, *op. cit.* 1974, p.187.

⁵¹ Asoso, *op. cit.* 1974, p.173.

agreement to be extended for a further period or a new agreement regarding the Naga people arrived at'.

This agreement struck a fair balance without a overt promise of the recognition of sovereign Nagaland in future although the germs of self-determination and freedom were contained in it. The last point was to be point of immense controversy. The government of India implied that it was a peaceful step to bring the Nagas into the Indian Union by their own will⁵². Whereas the Nagas took it that at the end of ten years they were at liberty to choose their political set up including complete sovereignty.

On the other hand there was division within the 'moderates' and 'extremist' in the NNC on the clause 9 of the Agreement. The extremist read it to mean that at the end of 10 years, the Nagas would become completely free to choose forward their future for independence at the will of the Government of India, though the Nagas right to self-determination was not explicitly given in the agreement. On the other hand the moderates supported it on the ground that it was a democratic and evolutionary step to meet the interest of the Nagas, and was a step ahead of self-rule. They also maintained that so long as this provision was maintained effectively, the Nagas could maintain their independent national life, no matter what government comes.⁵³

To resolve this conflict between the 'moderates' and the 'extremist', the issue was voted for in the presence of the then Deputy Commissioner of the Naga Hills District, Sir Charles Pawsey. In a controversial voting the 'moderates' won

⁵² Ibid., p.175.

⁵³ Ibid., p.175.

on a narrow margin. The 'extremist' rejected the voting as null and void. This differences augured serious complications in any plan of action of the NNC although both the 'moderated' and the 'extremist' stood, with a difference of emphasis, for political Naga independence and 'Nagaism'.⁵⁴ According to Ramunny, the British officials, Sir Charles Pawsey and P.F. Adams, Secretary to the Governor of Assam, did everything to confuse the NNC members about the issue regarding the 9th clause. 'Seeing that the majority of the members were persuaded Sir Charles forced the members to put the issue to vote. The negotiations were brought to a close with the opposition members still protesting'.⁵⁵

On 7 July 1947, Hydari reported to Nehru - who was then the Vice-President of the Executive Council of the Viceroy - that an understanding was arrived on the Naga issue. He reported that a considerable degree of local self-government would be given to them while the residuary power would be with the central and the provincial government, with the Naga Hills remaining an integral part of Assam. He also added that there was a n influential minority within the Nagas who saw complete independence as the only safeguard against exploitation by outsiders. The main problem according to Hydari was 'to reassure the Nagas that their essential interest will be fully safeguarded within the Indian Union'. His hope was that the 10 year period as envisaged in the understanding would be utilised in promoting the already growing integration of the hill areas with the rest of the Province. With a sympathetic policy, financial assistance and the right type of administrative officers, this could be achieved in natural course of events.

⁵⁴ Ibid., p.176.

⁵⁵ Ramunny, *op. cit.* 1988, p. 39.

Nehru was quick to accept Hydari's findings and it was sent to the Constituent Assembly.⁵⁶

Gradually the extremist gained more control of the NNC. On 2 February 1948 a '2-men Naga delegation' met the Governor of Assam to enquire about the status of the 9-point Agreement. The Governor said that the Agreement would be incorporated into the 6th Schedule of the Indian Constitution . Written assurances were again given to the NNC on 25 May 1948 and 22 June 1948 by the Governor and the Premier of Assam that the Agreement would be implemented and that it would be incorporated into the draft constitution without any inconsistencies from the original Agreement. But in November 1949 when a delegation of the NNC met the Premier of Assam, the Premier is reportedly said to have made across to the NNC representatives that the 9-point Agreement no longer existed in the government of India's view.⁵⁷

Consequently, the NNC passed a resolution on 30 December 1949 to establish at the earliest time a 'separate sovereign State of Nagaland'. The NNC was dominated then by the 'extremist' led by the charismatic Phizo. There was certainly a rift in the NNC over the demand for independence, yet the group led by Phizo emerged more powerful. Starting with this resolution the NNC organised and carried out several programmes aimed at asserting the independence of the Naga areas and the rejection of the Indian State.

The Constitution of India was introduced with the Sixth Schedule incorporating the principles of the 9-point agreement. Taking note of the recommendation of the Advisory Committee on Tribal Areas, on the Excluded

⁵⁶ Ramunny, *op. cit.* 1988, p. 23-24.

⁵⁷ Bendangangshi, *Glimpses of Naga History*. Mokokchung: Naga Patriots from Soyim, 1993.

and Partially Excluded areas, the makers of the Constitution placed all the tribal areas including the Naga Hills in Article 244 of the new Constitution, that made up the provision for the 5th and the 6th Schedules. The 5th being of the tribal areas excluding those in Assam and the 6th being of the Assam tribal areas.

The Sixth Schedule as incorporated by the Constitution envisaged the creation of 'Autonomous District Councils' for the hill tribes of Assam. These councils were entrusted with power to protect their peoples' land and forest, manage traditional and customary laws and usages, provide and maintain civic services in the region etc. The autonomous character of these councils was preserved by the arrangement that no laws of Assam could apply in these areas, unless so approved by the tribal people. The Governor of Assam, as the agent of the Government of India was given the special discretionary power to look into the administration of these areas.

The NNC, which by then had Phizo at the helm, rejected this constitutional arrangement and continued to canvas the cause for independence. Here was the first constitutional setup for the Naga hills under the Indian government, which was made after a considerable amount of negotiation and study. The Indian government had much expectation out of this as the Nehru's policy towards the tribals was incorporated into this. An institutional setup in the form of the 6th schedule was envisaged to settle the demands articulated from these areas. But the development in these hills especially the Naga hills as further developments showed was beyond this. The period that was to latter follow this showed that the issue of the Nagas was just beginning.

II. POLITICAL AND CONSTITUTIONAL HISTORY OF NAGALAND.

A.

Genesis of the Underground movement.

The 1950s started off with the NNC under Phizo resorting to vociferously taking up the cause for independence. In May 1951 the NNC held a plebiscite on the question of independence. The NNC claimed that 99 percent voted for independence. Ramunny claims that the basis on which the results of the plebiscite was arrived at was questionable. The administration at the Naga Hills at that time apparently did not take the plebiscite seriously. The NNC then sent the verdict of their plebiscite to the President of India and other high offices inside and outside the country. The reaction it received though was disappointing to the NNC. The Government of India ignored the plebiscite and declared it as a 'stage-managed show'.

Following this the NNC met the Nehru on 19 December 1951 and 11 March 1952. The NNC put across the basing themselves on the results of the plebiscite. The meeting according to Bendangangshi was a stormy one.

Phizo at this moment went underground to prepare the draft memorandum, which he planned to take to the UNO. He was intercepted by the Burmese police in January 1953 and in June 1953 returned to the Naga Hills. But he continued to remain underground and directed the activities of the NNC.

The PM. Pandit Nehru with his Burmese counterpart visited Nagaland in March 1953. An unfortunate incident occurred because of the callousness of the

administration then, which led to the walk out of the Naga crowd gathered at the local stadium to hear Nehru speak.¹

There are many accounts of the situation following this walk out. Immediately after this it was widely rumored that the police had made a list of people to be arrested. According to Ramunny, in addition to 'driving away the people' from the public meeting, the NNC leaders started the 'rumor' that the government would take serious action against the elders and they should go underground.² According to Asoso the worst came when it was in the air that the Police was preparing a list of suspects to be arrested for the maintenance of law and order. This invidious rumor allied with fear forced the Naga leaders to go underground. Accordingly the Police raided the house of Sakhrie, the Secretary of the NNC on the night of 4 April 1953. The monthly newspaper of the NNC, 'Naga Nation' and 'Naga Herald' was banned by the government in the same as an anti-India propaganda organ. Thereafter almost all the important members of the NNC went underground. A few days later, four villages near Kohima were 'indiscriminately ravaged' by armed Policemen. Many were arrested.³

Immediately the PM's visit, an order was issued for the arrest of 8 Naga leaders suspected to have engineered the unpleasant episode during the PM's visit. The NNC leaders in the meantime held meetings on whether to court arrest or to go underground to evade arrest. A number of villages were raided and by then random arrest were made. This senseless display of force led many Nagas against the Indian Government.

¹ The NNC wanted to read out a memorandum in their welcome speech to the PM. The DC then disallowed any address either in speech or writing to be made at the public meeting. The NNC was furious that this was on Nehru's bidding.

² M. Ramunny, *The World of Nagas*. New Delhi: Northern Book Centre, 1988, p. 64.

³ Yanou Asoso, *The Rising Nagas*. 1974, p. 205.

Hereafter many Nagas went underground. The callousness of the administrators of the Indian government and the Assam government was evident following this period, which saw that they did everything to turn the Nagas to turn away from them.

Around this period the underground became active and violent. The underground took up arms and the situation in the Naga Hills became out of control.

In March 1956 the underground NNC founded the Naga Federal Government. It framed a Constitution of its own. They also formed a Naga Army. 'By the end of 1955, the rebel leaders could mobilize a armed force of 5000 men which soon after increased to 15,000 approximately'.⁴ The government passed the Naga Hills Disturbed Area Ordinance and Assam maintenance of public order and the whole of the Naga Hills was declared a Disturbed Area. The Assam police was replaced by the Indian armed forces and Special Powers Act was enforced in the Naga Hills.

The underground army met the Indian troops with violent opposition. They attacked outposts, ambushed convoys on the roads and patrolling parties in many places. The Army on the other hand carried out operations in which villages were burned down and its civilian inhabitants were terrorized. This undeclared war between the Naga underground army and the Indian soldiers continued unabated, the innocent villagers and the civilians being the worst victims.

⁴ M. Alemchiba, *A Brief Historical Account of India*. Kohima: Naga Institute of Culture, 1970, p. 184.

The Naga Peoples' Convention.

'Deeply grieved' by the widespread suffering and destruction brought by the 'fierce little war'⁵ between the rebel Nagas and the Indian Government troops, the 'moderate' Nagas felt the need to bring about a satisfactory political settlement and restore peace. It called upon the 'traditional Naga leaders' to get together at a convention to discuss the Naga issue.⁶

'The moderate Nagas motivated by an earnest desire to avoid bloodshed, to restore peace, to heal past wounds of suspicion and anxiety and to serve the people in good faith, swore off independence, mustered the courage despite the threat to their lives by Phizoites, called upon the traditional Naga leaders to get together at a convention to discuss the Naga issue, to open a new dialogue with the Government of India in appropriate time and to devise ways in order to arrive at such a political settlement in keeping with the honour and tradition of the Nagas in contrast to the demand of the extremist'.⁷

Accordingly, the NPC represented by about 1,705 representatives' of different Naga tribes particularly from the Naga hills and Tuensang area of NEFA and about 2,000 observers from the other Naga areas, was called at Kohima from 22 to 26 August 1957 under the Chairmanship of Dr. Imkongliba.⁸

The NPC avowed that the intention of the convention was not to have a direct, separate or independent dialogue with the Indian Government. All that it

⁵ Gavin Young, *An Unknown War*. London, 1962.

⁶ Asoso, *Op. cit.* 1974, p. 221.

⁷ *Ibid.*, p. 221.

⁸ *Ibid.*, p. 222.

was doing was to create a conducive atmosphere in which the Government of India and the Underground Nagas could come together and find out a negotiated settlement. The Federal Government which had objected to the independent line which they thought that the NPC was taking, later on being assured by the NPC that it was only a mediator, okayed the holding of the convention and even sent a few observers to it.⁹

The NPC passed the following resolution:¹⁰

1. We maintain that the early answer to the Naga question as satisfactory political settlement.
2. In as much as a large number of our people are still underground and there is no freedom of movement and speech under the present condition in the Naga hills district, we feel no full discussion can be held among the people preliminary to negotiations.
3. In order to create the condition necessary for a political settlement the following immediate changes as in interim measure is essential. The present Naga Hills district of Assam and Tuensang Frontier division of NEFA along with the reserved forest transferred out of the Naga Hills District after the reforms of 1921, should be constituted into a single administrative unit, under the External Affairs of the Government of India through the governor of Assam acting as the agent of the president of India, so as to ensure with our active help, a genuine general amnesty, speedy end of hostilities and relief to suffering.

⁹ M. Horam, *Naga Insurgency – 30 years*. New Delhi: Cosmo Publication, 1988, p. 82.

¹⁰ *Ibid.*, p. 82.

4. We strongly urge the Government to implement the above proposal immediately as we, on our part, pledge ourselves :
 - a) To actively work together to end hostilities that the army and police be withdrawn and the villages de-grouped.
 - b) To try by all means in our power to heal old feuds so that all of us, both those overground and underground, may work together for the good of our land and the free development of our people according to our own tradition.
5. We appeal to our countrymen in arms to give up the cult of violence.
6. The convention asks for the prayers of all men of goodwill, both underground and overground and in government services, for the achievement of lasting and honourable peace.¹¹

These resolutions were communicated to the Governor, Syed Fazl Ali. The Governor communicated back to the convention on the desirability of inserting the words, 'within the Indian Union' after the Words 'political settlement'. The message read as follows:

'If the delegation really desire satisfactory settlement and ending of Naga troubles as I'm sure they do, the resolution must clearly state political settlement within the Indian Union. Any settlement to be practicable and acceptable must be within the Indian union...'¹²

¹¹ Dr. Chandrika Singh, p. 61. Horam, p. 82-83.

¹² Murkot Ramunny, *The World of Nagas*. New Delhi: Northern Book Centre, 1988, p. 119-120.

On the Governor's message, a supplementary resolution was passed by the convention as follows:

1. In connection with the resolution no. 1, in view of the message from the Governor of Assam conveyed to the President of the convention the following clarifications has been made in order to avoid any possible misinterpretation and as such the delegates are empowered to state that by political settlement is meant a 'satisfactory political settlement within the Indian Union'...¹³

In the course of the convention it elected a nine -person delegation headed by its president Dr. Imkongliba to carry on political negotiations with the central Government of India. Meanwhile, in defiance the Naga rebels carried on with their Guerilla warfare.¹⁴

This nine-man delegation met the Prime Minister, Jawaharlal Nehru at New Delhi in September 1957, on the basis of the conventions' resolutions. They assured him that they would put their best efforts for restoration of peace in Nagaland and usher in an atmosphere, conducive to a 'dispassionate discussion' on the Naga problem, to bring about a final settlement, in the interest of the people. The Prime Minister expressed his satisfaction over the proposals on behalf of the Government of India. He emphasised the need to put an end to the hostilities and feuds.¹⁵

Nehru, at the outset, made it clear that the Indian Government was not prepared to discuss any scheme, which demanded the independence of the Naga

¹³ Horam, *op. cit.* 1988, p. 120.

¹⁴ Asoso, *op. cit.* 1974, p. 224.

¹⁵ Rammuny, *op. cit.* 1988, p. 120-121.

Hills.¹⁶ But, he promptly consented to the immediate demand for a separate Naga Administrative unit out of Assam, under the central Government.¹⁷

He assured the Naga delegation that necessary amendment to the Constitution would be considered by the Parliament in its next session in November-December 1957.

On the point of General Amnesty and the de-grouping of villages he said that the Government would grant amnesty to the rebels 'in respect of all offences committed against the State in the past, though amnesty would not cover future offences.'¹⁸

The PM also accepted the request for the de-grouping of villages in principle, but he made it clear that the manner and speed of such degrouping would depend on the peaceful condition in the area concerned.¹⁹

Thereafter the Ministry of External Affairs of India issued a statement on 26 September 1957, which summarised the talk held between Nehru and the Naga delegation and also spelt out the scheme for future administration of the Naga Hills area. The statement read, 'the Naga Hills Area and the Tuensang Frontier Division would be constituted into one administrative unit within the Indian Union under the President of India. This unit will be administered by the Governor of Assam on behalf of the president under the Ministry of External Affairs.'²⁰

¹⁶ Dr. Chandrika Singh, *op. cit.* 1981, p. 62.

¹⁷ Asoso, *op. cit.* 1974, p. 224.

¹⁸ Dr. C Singh, *op. cit.* 1981, p. 63.

¹⁹ Rammuny, *op. cit.* 1988, p. 121.

²⁰ Dr. C. Singh, *op. cit.* 1981, p. 63.

In pursuance of the assurances given by Nehru to the Naga delegation, a bill for the amendment of the 6th Schedule of the Indian Constitution was introduced in the Lok Sabha on 20 November 1957²¹ and was passed. According to this act, from 1 December 1957, the Naga Hills District of Assam and Tuensang Frontier division of NEFA was constituted into a single administrative unit. A part of the act read as:

‘The following Act of the Parliament received the assent of the President on the 29th November, 1957 ...this Act may be called the Naga Hills-Tuensang Area Act, 1957 ...Object – this Act gives effect to the proposal to create a new administrative unit consisting of the existing Naga Hills District now being administered by the Government of Assam, and the Tuensang Frontier Division of the North-East Frontier Agency which is being administered by the Governor of Assam as the Agent of the President. This new unit to be named ‘The Naga Hills-Tuensang Area’ will be administered by the Governor as the agent of the President but will be distinct from the North-East Frontier Administration. It is proposed to amend paragraph 20 of the Sixth Schedule to the Constitution and make certain consequential amendments of the Delimitation of Parliamentary and Assembly Constituencies Order, 1956, and the Representation of the People Act, 1950. Provision is made in clause 5 of the Act for an additional nominated member in the Lok Sabha to represent the new unit...’²²

²¹ Ibid., p. 63.

²² The Naga Hills-Tuensang Area Act, 1957, Act No. 42 of 1957. As given in, P.N. Luthra, *Nagaland: from District to a State*. Shillong: Director of Information and Public Relations, 1974, p. 83-86.

It was under a commissioner and divided into three districts- Kohima, Mokokchung and Tuensang, each under a Deputy Commissioner, acting on behalf of the Governor of Assam acting as the agent of the President of India.

The entire administration was handed over to the Indian Frontier Administrative Service. This was a new service formed to administer the frontier hill areas. They were volunteers selected from all the services in India. They were handpicked and given comprehensive training on the 'attitude' of the tribal people and the special requirements of the tribal administration.

The central government would bear the entire cost of the administration of the Union territory of this, the Tuensang area, already being centrally administered as part of NEFA, would not impose any new financial burden on the central government. The expenditure incurred for the Naga Hills Autonomous district of Assam by the government of Assam would now pass on to the central government. This taking over the administration was due in response to the wishes of the Naga people for an 'interim measure'.²³

While 'Phizo and his associates' denounced the settlement as a sell out, the 'peace loving and the moderate nagas' held it as the dawn of a new era in Nagaland. Thus, the political settlement arrived at in 1957 had a mixed reception in Nagaland. This settlement on the one hand gave 'encouragement' to the 'moderates' and on the other it 'irritated' the 'hostiles' all the more. While the 'moderates' considered it as a first positive step towards the direction of eventual triumph, the underground Nagas regarded it as an attempt of the government of India to consolidate and strengthen their position in the Naga hills area.²⁴

²³ Asoso, 1974, p. 225.

²⁴ Dr. C. Singh, *op. cit.* 1981, p. 65.

There is no denying the fact that in the wake of the formation of the Naga Hills Tuensang Area, a new era was ushered in as was witnessed by many rebels surrendering. But there was still 'hostile' nagas who were underground and clung to the demand for a sovereign independent naga state. Violence as such still continued.²⁵

Inspite of the special administrative arrangement the underground nagas still continued their demand for a sovereign Nagaland, and describe the new arrangement as a 'bribe to the moderates'. They raided the 'loyal' villages, ambushed military convoys and patrols, attacked army and civil posts in Nagaland.²⁶

The Second Naga Peoples convention was held at Ungma from 21 to 23 May 1958. 2705 delegates from various tribes attended the convention with another 1200 visitors and 160 members of the reception committee.²⁷

The Convention passed the following resolutions:

1. This convention reaffirms the decision of the Naga Peoples' Convention at Kohima and expresses satisfaction that since the creation of the new administrative unit under the External Affairs Ministry, Government of India, there has been a cessation of armed conflicts, despite sporadic instances of raids by some irresponsible underground parties.
2. The convention strongly condemns all acts of violence, dacoity, theft, intimidation, impersonation, false propaganda, imposition of fines and closing down of schools in certain areas.

²⁵ The Statesman (New Delhi) 17 January 1958, as given in Dr. C. Singh, p. 67.

²⁶ Asoso, *op. cit.* 1974, p. 228.

²⁷ Ramunny, *op. cit.* 1988, p. 125.

3. The convention requests the government to extend the period of amnesty and appeals to all those who are still underground to come overground availing themselves to the offer of amnesty.
4. A liason committee consisting of the following members shall be appointed to explore possibilities from an agreed solution of the Naga problem. The findings of he committee shall be placed before the select committee within three months for consideration in a meeting to be convened at such a time and place as may be fixed hereafter.²⁸

The liason committee consisted of eight members namely Imkongliba, Kevichusa, Vizol, Tekasosang, khelhoshe, Sangba, Etssorhomo and Lakimong.²⁹

The liason committee got in touch with the underground leaders but found that they had not changed their stand and were still for a sovereign Nagaland, having nothing to do with India. Rather the committee was informed to tell the Government of India to confirm recognition of the Naga Federal Government first as a basis of negotiation for a political settlement.³⁰

The underground leaders laid down certain preconditions for their participation in any negotiations with the Government of India. These conditions were firstly, the recognition of their Naga Federal Government and secondly, the acceptance of their demand of a sovereign independent Naga state.³¹

The 16 point Agreement and the State of Nagaland.

²⁸ Ibid., p.125, 126.

²⁹ Asoso, *op. cit.* 1974, p. 229.

³⁰ Ibid., p. 229.

³¹ Mankekar. *On the Slippery Slopes of Nagaland. op cit* p64.

The Liason committee got much more than the 3 months to contact and persuade the underground to cooperate with the NPC. But the committee was unsuccessful. The NPC now found no way of accommodating the underground's demand except to strive to its own way for a political settlement within the Indian union.³²The liason committee then reported to the select committee, as resolved by the convention. The select committee now decided to go ahead for the political settlement of the Naga Hills area within the Indian union.

The select committee of the convention met on 11 and 12 December 1958 to work out prospects of plan and preferences for the future of Naga-Hills Tuensang Area. A drafting committee was appointed to prepare a settlement of the issue. A draft constitution was to be formulated for what might be their final demands to the Government of India.

The committee thus brought out 16 points proposal which essentially desired the decision to establish a Nagaland state within the Indian union. The underground raised their objection to it.³³

The 16-point proposal thus formulated by the drafting committee set up by the select committee was placed before the third Naga Peoples Convention, which met at Mokokchung from 22 to 26 October 1959. A total of about 3,000 delegates from different tribes attended with Imkongliba presiding.³⁴

A working committee with 3 representatives from every tribe to follow up on the decisions made was appointed. The working committee was also entrusted to select the negotiating body who would discuss with the Government of India as well as the underground.

³² Ramunny, *op. cit.* 1988, p. 126.

³³ Asoso, *op. cit.* 1974, p. 229.

³⁴ *Ibid.*, p. 229,130.

The discussion went on for days. Each tribe took part in it. Representatives of each tribe held discussions, which went 'through the night and early hours of the morning'. Each clause was discussed and debated over. On the final day after all the clauses of the 16-points were gone over by the convention, Dr. Imkongliba with his 'patience and tact' read through each clause of the 16-point resolution for the final perusal as to be resolved by the convention. By the time he completed the last clause the sun was about to set and the 3,000 delegates and visitors sat silently as he took his seat. 'It was a historic moment'.³⁵ The 16-point resolution was thus adopted.

This 16-point resolution was to form the basis on which negotiations were to be carried out with the Government of India.

In pursuance of the 16-point proposal and resolution adopted in the third NPC, a 15-man delegation with Imkongliba as the leader was constituted to negotiate with the Government of India for the final political settlement. The delegation met the Governor of Assam in April 1960 and presented him a memorandum containing the 16-point proposal.³⁶

By this time a new governor had been appointed for Assam. The new governor of Assam's assessment of the situation following the 3rd Naga Peoples' Convention was that the convention had changed its earlier stand which proposed for a settlement within the Indian Union but short of a separate state. According to the governor there were 3 courses open to the government:³⁷

- a) Accept the convention proposal which would produce a cascading effect to other autonomous district of Assam. He rules out this course.

³⁵ Ramunny, *op. cit.* 1988, p. 126.

³⁶ The Assam Tribune (Gauhati), 20 April 1960, as quoted in Dr. C. Singh, p. 70.

³⁷ Ramunny, *op. cit.* 1988, p. 131,132.

- b) The second course was to denounce the leadership of the NPC as they could not gain the support of the underground leadership, as this would mean the resistance by the underground leadership of any settlement reached by the NPC.
- c) The third option was to put pressure on the NPC's negotiating body to agree to changes that would 'minor but be in fact basic and fundamental.' This was to keep the Naga hills within the 6th schedule (Assam).

But the Governor reserved the final decision for Delhi to make.

According to Ramunny who was the Commissioner of the Naga Hills-Tuensang Area then, the Governor was wrong in the sense that it was never said to the convention that they could not demand for a separate State. The only indication by the centre was that anything short of complete independence could be discussed. It was also his opinion that no outside element could interfere in the 'democratic process' of the convention. The Governor in his final recommendation to the Prime Minister said that it should not accept the proposal of the convention in its present form but should be ready to discuss an alternative short of a separate state.

The Government of India was also taken aback by the convention's resolution envisaging a full fledged State with executive, legislative and judicial apparatus. It was their opinion that such a small and poor State was politically and economically unviable. Nehru's final advice was that the Nagas should devise a 'suitable organisation suited to their genius and tribal tradition.' He further highlighted the governor on the more imperative issue of deteriorating law and order situation created by the hostiles. The NPC was to be primarily directed to

end this. On the matter of the 'suitable organisation' to be determined for the Nagas, it should be discussed in a general manner leaving the details to the NPC.

The Prime Minister, Nehru gave his ideas that the Nagas should be given maximum autonomy in the administration of their affairs subject to law and order and general financial supervision. He pointed out that in other states, the state government shoulders their own financial burdens for administration and part of the funds for development of the state. The centre helps in development and not for administration. He did not want to accept any basic change which added to the difficulties faced and create a structure that could not function adequately with the resources available. The stress to the governor from the centre was the advisability not to commit to the Nagas an elaborate administrative apparatus.

The meeting of the negotiating body of the NPC with the governor and his advisors was held at Shillong on 8th and 9th April 1960. The NPC handed over their 16-point resolution to the governor. The governor pointed out that the future set-up to be adopted in the Naga hills should be simple, economic and on the traditional Naga pattern. The NPC delegates replied that they were not interested at that moment with the details of the future set-up but found it more important to know if their demand for a separate State within the Union was acceptable to the government of India. As regards finance what they wanted was in fact not so much the substance, as the semblance of a state at least for the time being. Moreover they stated that they had no power to change the basic principles of the 16-points as it was resolved by a convention representing the tribes.³⁸

The Prime Minister directed that he would meet the NPC negotiating body on 26 July 1960. Arrangements were made. While this decision was made Phizo's

³⁸ Ibid., p. 137,138.

appearance London was also publicised. The reaction among his followers was one of optimism where hopes of independence was revived as they saw hope in taking the issue to international platforms. Also some in the underground saw his emergence with 'uneasiness' as some of them resisted his leadership. The response among the overground was also divided.³⁹

The Governor on the other hand felt that it was the wrong time for the PM to see the NPC delegation as Phizo could take the limelight out of this claiming that it was his appearance at this critical hour that made the Government of India make this concession. He could even claim that had the NPC been more patient and given Phizo the time to conduct the negotiation, independence could have been wrested from the Government of India. On the other hand the commissioner of the NHTA was of the opinion that if the government of India further delayed, it would result in the NPC losing confidence in the government and the people, majority of which were in two minds would join the Phizo group. The Prime Minister after listening to all advises and suggestions came to the conclusion that statehood should be conceded to the Naga hills.⁴⁰

The meeting between the government of India led the Prime Minister and the Naga Peoples' Convention took place on 26 July 1960. He out rightly accepted that Nagaland should be a state within the Indian union. He took up all the 16 points submitted by the NPC one by one giving his comments on each.⁴¹

It took four days for a detailed discussion to be held and minutes to be prepared on the finalization for the granting of statehood to Nagaland. And on the

³⁹ Ibid., p. 141,142.

⁴⁰ Ibid., p. 141,142.

⁴¹ Ibid., p. 143.

final day the Prime Minister made it known to the NPC team his satisfaction with the negotiations.

On 1 August 1960 the Prime Minister announced the decision about the formation of the 16th state of Nagaland to the Lok Sabha. Many questions and doubts were raised by the members, which Nehru tried to placate.

According to the agreement arrived provisions for a transitional period was arranged before the real state set up was introduced. The Nagaland (Transitional Provisions) Regulation, 1961 was passed. It envisaged the establishment of a council for Nagaland called the Interim Body. It would consist of 45 members elected from the tribes in Nagaland with a Chairman. The Interim Body shall appoint an Executive Council of not exceeding 5 members from the body, who would assist and advise the governor.

This was followed by the Constitution (thirteenth amendment) Act, 1962. 28th December, 1962. This act of the parliament inserted article 371A into the already existing Article 371. This article gives accords special privileges to the state of Nagaland. Among other things, its gives that not withstanding anything in the Constitution no act of the Parliament shall apply to Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides, in respect to the following:

1. Religious and social practice of the Nagas.
2. Naga customary law and procedure.
3. Administration of civil and criminal justice involving justice according to the Naga customary law.
4. Ownership and transfer of land and its resources.

The State of Nagaland Act, 1962 was passed by the Parliament and received the assent of the President on 4th September, 1962. Accordingly amendments in the first and the sixth schedule were made. There was six parts to this amendment giving a detailed structure proposed for the state of Nagaland – part I being about the preliminaries of the act, part II is about the formation of the state of Nagaland, part III is concerning the representation in the Legislatures, part IV the high court, part V the financial provisions and part VI being the legal and miscellaneous provisions.

The state of Nagaland thus came into being.

1964 Ceasefire and the negotiations.

In spite of the creation of the state of Nagaland, the rebels continued with their activities. In the operations and counter operations that the underground and the Indian security forces carried out, the public was the most affected. The underground laid ambushes, collected tax from the people, recruited people to their ranks, made intimidations on the people etc. On the other hand the army carried out military operations to flush out the underground men where the public faced the major brunt as many reports of army excesses were reported, some very brutal. The public were tired of the hostilities affecting their normal life. On the other hand, realisation came to certain quarters in the underground that a spell of peace would spur them in mobilizing public opinion. Besides they needed a respite from the army operations to reorganise themselves.

It was in this context that public-spirited church leaders in Nagaland, motivated by the considerations of peace met in a convention at Wokha on 24

February 1964. They issued an appeal to the government as well as the underground for restoration of peace, order and normalcy in the strife torn state. In the convention it decided to form a 4- member peace mission comprising eminent and respected figures, as a go-between, between the government of India and the underground (naga federal government). The men chosen for this were Michael Scott, Jayaprakash Narayan, Bimala Prasad Chaliha and Sankar Rao Deo (he was unable to be a part of the mission due to reasons of health). The Legislative assembly of Nagaland, on the church leaders' appraisal, on 13 March 1964 nominated a group of 13 members of the assembly as peace committee to assist in the task of the peace mission. The peace mission started off their work at Kohima in April 1964.

The first task before the mission was to negotiate a cease-fire agreement between the GOI and the rebel naga federal government (NFG), and then bring them into a conference table for a political settlement.

On 25 May 1964 the peace mission and representatives of the NFG numbering six signed an agreement with the understanding that the terms as signed by the underground be communicated to the GOI. According to the agreement the underground nagas agreed to suspend all forms of violent activities from a given date, given that the GOI also suspend army operations, patrolling beyond 1,000 yards of security post, searching of villages etc. The underground government (FGN) also undertook to suspend its activities – sniping and ambushing, kidnapping and recruiting, sabotage activities etc.

The GOI announced its acceptance of the draft agreement on 25 June 1964 subject to the reservation that there was to be no question of recognition, even by implication, of the FGN, and that the government of Nagaland was, to be included

in the peace talks. The FGN however rejected this reservation and refused to accept the government of Nagaland and branded it as a 'puppet' body.

While the cease-fire draft was in the making, the prime minister, Pandit Nehru passed away – 27 May 1964. His passing away did incur a change in the trajectory of naga politics because his understanding of the issue and the naga people as such was different. Also the power he wielded at the decision making level in the centre was unlike any of his predecessors.

On 15 August 1964 the suspension of armed operations agreement was signed by both the parties, which was officially christened, 'Cease-fire' and it came into with effect from 6 September 1964. The cease-fire was received with much enthusiasm.

One of the objectives of the cease-fire was to bring about an atmosphere, conducive to constructive negotiations between the GOI and the NFG. Negotiations for a political settlement began on 23 September 1964 at Chedema near Kohima, and this was hitherto called 'peace talks'. After a series of meetings between the GOI and the underground NFG, on October 1964 an agreement was arrived at where the underground government agreed to give up arms and the GOI agreed to retain forces in the naga areas only for external defence.⁴² A plan for withdrawal of the security forces and disarmament on the part of the underground army was envisaged by the peace mission.

Another round of talks was held from 10-14 November 1964. The GOI representatives pointed out the continued violation of the terms of the cease-fire agreement by the underground. The underground representatives demanded the complete withdrawal of the Indian security forces from Nagaland and that the

⁴² Horam, *op. cit.* 1988, p. 110-112.

Indian government should recognise a 'sovereign independent Nagaland' and nothing less. Thus since the underground stood firmly by their demand for sovereignty and the GOI insisted on a solution within the Indian Constitution the talks was destined for a deadlock.

In a bid to resolve this deadlock, the peace mission made a proposal, which later came to be known as the, 'Peace Mission Proposals'. On 20 December 1964 the proposal running to 17 paras, appealing to both the GOI and the underground FGN, for coming to an agreement was issued. Part 13 of the proposal read :

'on the one hand, the NFG could, on their own volition, decide to be a participant in the union of India and mutually settle the terms and conditions for that purpose; on the other hand, the GOI could consider to what extent the pattern and structure of the relationship between Nagaland and the government of India should be adopted and recast, so as to satisfy the political aspirations of all sections of Naga opinion and make it possible for the ideal of peace as expressed in the Naga peace declaration to be substantially realised'⁴³.

The GOI welcomed the proposal and the underground demanded that a plebiscite on the issue of joining the Indian union on their volition. The Naga underground leaders also demanded that the negotiations be upgraded to the ministerial level.

⁴³ Horam, *op. cit.* p. 114.

The next round of talks resumed from 23 February 1965 at Khensa a village near Mokokchung. The underground representatives reiterated the demand for a plebiscite. The GOI rejected on the ground that it was not mentioned in the peace mission's proposals. This peace-talks also ended in deadlock.

The talks further resumed on 4 and 5 May 1965 where the government representatives accepted the demand by the underground for the negotiations to be upgraded to the ministerial level.

Ministerial level talks with the underground.

The first round of ministerial level talks were held on 18 February 1966 in Delhi between the Prime Minister of India, Mrs. Indira Gandhi, and the Naga underground leaders led by Kukhato, the 'Prime Minister' of the Naga Federal Government. In this meeting only general political outlines were discussed and no serious issues were taken up.⁴⁴

The second round of talks were held on 11 and 12 April 1966. Not much headway was made here as the underground stuck to their demand of naga sovereignty.

By 4 May 1966 the peace mission which had bought great hopes of initiating peace and settlement to the vexed Naga problem and with great effort made these talks possible, ceased to exist. All the three members of the mission left the body on individual reasons. This was substituted by the Sarvodaya Movement under the guidance of Dr. Aram.

⁴⁴ Ibid., p. 122.

The third round of ministerial level talks took place on 10 and 11 August 1966. Without much significant matters different from the earlier talks being discussed, this round of talks also ended in a deadlock.

At this point the underground naga delegation at Delhi asked for time so that it could discuss the issues and the developments of the talks with the 'Tatar Hoho' (the underground federal parliament) at Nagaland before further decisions were made. The Prime Minister agreed and suggested that the delegation consult their friends and come at a later date for more detailed discussion.

Mrs. Indira Gandhi made a significant concession here by proposing to the underground delegation that Nagaland could enjoy complete autonomy and a settlement within the Indian union which would be not necessarily within the present Indian constitutional framework.⁴⁵

This was very significant as far as the government's policy towards the Nagas was concerned. It was stated in the Rajya Sabha on 8 November 1966 that the Indian government could think a settlement of the Naga problem only 'with readjustment of the present status of Nagaland within the Indian union'.⁴⁶

Here Horam mentions that the underground leaders at this time missed to seize a great opportunity. He avers that only if had they realised the momentous nature and development of the negotiations then, and decided to agree to the offer that was made to them by the Indian government, Nagaland would have got the maximum benefits and autonomy.⁴⁷

The end of 1966 saw the activities of the underground insurgents stepping up. The fifth round of the talks were held from 2 to 5 January 1967. Mrs. Gandhi

⁴⁵ Asoso, 1974, p. 290.

⁴⁶ Horam, *op. cit.* 1988, p.131.

⁴⁷ *Ibid.*

again tried to impress upon the Nagas to consider a different status for Nagaland from that of the present Statehood. At this point the underground leadership sought the advice of 'their leader' Phizo in London on the GOI latest offer. The GOI agreed to this and two emissaries from the underground were sent to meet him. But Phizo kept himself tenaciously to the demand of a sovereign independent Nagaland and told the underground ranks against conceding to the Indian Government's offer but advised the underground not to break off the talks and continue with the cease-fire as long as the Indian forces respected it.⁴⁸

Back in Nagaland a new development occurred. A schism in the underground ranks was witnessed as a popular and powerful leader of the underground army, 'General' Kaito strongly opposed Phizo's participation in the talks with the Indian government and questioned the leadership of Phizo. This even went to the extent of Kaito's followers raiding the army camp of Phizo's followers and he demanding that a solution be brought out by the underground leadership or an 'army government' would take over, with him as the leader.⁴⁹

Around this time reports of the underground sending about 1500 men to China for training flared the situation. This was a clear violation of all the agreements signed with the underground. The state government took a strong stand against it and it warned that the state government would change its policy towards the underground government, which had been co-operative till that time.

The sixth and the final round of talks was opened in Delhi on 5 October 1967. Mrs. Gandhi made it clear to the delegation that there could be no solution of the Naga problem outside the Indian Union, where as the naga delegation

⁴⁸ Asoso, 1974, p.291.

⁴⁹ Asoso, 1974, p.291,292.

reaffirmed their expressed view in the 14-point memorandum. Mrs. Gandhi had to leave for a foreign tour and thus she expressed her inability to continue to attend further meetings with the naga delegation. The naga delegation were also told to leave the building they were staying immediately as some foreign dignitaries were expected. Piqued and 'humiliated' by the impromptu actions of the GOI, the delegation left in anger.⁵⁰

The hopes for a settlement and agreement raised by the four years of high level parleys, thus came to an end. According to Asoso this was caused by the failure of finding a 'meeting ground on negotiating skills'. Both parties miscalculated the extent to which pressure could be brought to bear on the other side to make concessions.

After their return to Nagaland, the Vice-President of the NNC who was part of the delegation at Delhi issued a statement saying, 'So far as the as the talks are concerned, they are finished. India was responsible for the failure. Now we have to act according to circumstances'. The talks between the GOI and FGN were destined to end in an impasse, for the two sides were not on the same wavelength. While the former offered every thing except independence, the later asked for complete independence.⁵¹

With the return of the naga delegation, drastic changes took place in the underground set-up. This can be seen as the beginning of the end of the naga movement for sovereignty. The first serious cracks in the solidarity of the naga national movement was witnessed. The nagas were succumbing to their most potent enemy – tribalism.⁵²

⁵⁰ Asoso, 1974, p.292, 293.

⁵¹ Horam, *op. cit.* 1988, p. 136.

⁵² *Ibid.*, p. 136.

Soon after their return from Delhi, the underground parliament blamed the leader Kukhato Sukhai for the failed talks and consequently he had to resign. A new leadership came into being where the high post of the President of the NFG (the prime ministerial government was changed into presidential one) and the head of the naga army were taken up by members both belonging to the same tribe (Angami). Incidentally both post were held by members belonging to another one tribe (Sema). Another aspect to this was the appointment of Z. Ramyo and T. Muivah to the important post of Home Minister (NFG) and General Secretary (NNC) respectively, both belonging to one tribe (Tangkhul). According to Horam the appointment of the Ramyo and Muivah had some misgivings because some tribes had some 'marked dislike' for them.

The assassination of Gen. Kaito soon after on 3 August 1968 further aggravated the tribal schism in the underground ranks. Consequently the sema-dominated group of the underground formed a new party called the 'Council of the Naga People' with the previous PM of the NFG Kukhato. On 2 November 1968 this party formed a new government called the 'Revolutionary Government of Nagaland'. This group did not overtly mention sovereignty and called for more moderate claims – the integrity of Nagaland, peace co-existence, and peaceful solution to the naga political problem.

The NNC denounced the newly created RGN and did not recognise it. Meanwhile the batch of naga army led by Thinuselie and Muivah which had gone to China for training and procurement of arms returned to Nagaland. The Indian security forces launched a big operation to nab the Chinese trained force. This came to be much publicised and international opinion were garnered.

By 1968, the naga underground was a divided house. On the other hand law and order situation was worsening. Violation of the cease-fire agreement was rife and armed clashes once again became a regular feature. There were charges and counter-charges from both the NFG and the GOI regarding the violation of the cease-fire.

For all practical purpose, the men of the RGN though still underground could move freely and meet government officials. Allegations of the RGN aiding the Indian security forces in capturing the federal army men were made. One case, being the capture of Gen. Mowu and his men on their return from China (another batch).⁵³ On 8 August 1972 an attempt on the life of the CM was made. An immediate fallout of this was the official declaration of NNC, NFG and the naga federal army by the GOI as unlawful associations. Thus ended the cease-fire which came into force from 6 September 1964.

On 15 August 1973 the RGN surrendered in a big ceremony. Around 1500 people surrendered. Its president Scato Swu was nominated to the Rajya Sabha by the president. A new battalion of BSF was formed to accommodate the surrendered underground members.

The failure of the Delhi peace talks resulted in the resumption of hostile activities in Nagaland, though officially the cease-fire was still operative. But certain rift and despondency in the ranks of the underground was witnessed by this time. The goal of independence seemed to be getting vaguer and further from achievement as division and differences of opinion was emerging openly in the underground ranks – the causes being tribalism, personal ambitions, ideological

⁵³ Ibid., p. 146, 147.

differences etc. On the other hand the development and progress that was taking place as a result of the formation of the state of Nagaland made the effect on the people and the underground. As such so many attributes can be given towards the waning away of the strength of the underground by this time. But violence as such continued unabated.

The Shillong Accord.

In the middle of 1974 yet another peace council was formed comprising the members of the Naga Baptist Churches Council and the Sarvodaya peace observers. This peace council took the initiative and called upon the underground and the GOI to continue negotiations to bring a solution. The peace council petitioned the underground to stop its activities, and the GOI to repeal the Unlawful Activities (Prevention) Act of 1967 to facilitate a conducive atmosphere for negotiations. The following months saw hectic activities as the peace council parlayed between the two. However the Act was not repealed and on the other hand reports of another group of underground leaving for China was reported. Military operation to capture them was carried out.

At this juncture the peace council renewed their call for cessation of hostilities. In November 1975 the peace council was instrumental in bringing the representatives of the underground and the GOI for discussion to the peace camp – the erstwhile Chedema peace camp in bringing a solution ‘honourable’ and ‘acceptable’ to all. The premises on which the negotiations were held was the non-insistence on the part of the underground for independence as a pre-condition, and the absence of any pre-conditions on the constitutional status of Nagaland from the side of the GOI. The GOI and the underground representatives met

several times and modalities to a solution were discussed with the peace council as the go-between.

It was found that the attitude of many of the erstwhile hard liners had mellowed down and they were actually saying that they would not 'insist on independence as a precondition'.⁵⁴

A six-member underground delegation led by Kevi Yallay met L.P. Singh, the governor at Shillong. On 10 and 11 November 1975 there was a series of discussion between the government of India and the underground representatives. The GOI was led by the Governor of Assam, with his advisors and officials from the home ministry. The underground represented by I. Temjenba, S. Darhu, Veniyi, Z. Ramyu, M. Assa and Kevi Yallay. The liaison committee of the peace committee were also present who were Longri Ao, M. Aram, L. Lungalang, Kenneth Kerhou and L. Shaiza. The outcome of the discussion was the signing of the agreement between the GOI and the Underground as follows :

1. The representation of the underground organisation conveyed their decision, of their own volition to accept without condition the constitution of India.
2. It was agreed that arms, now underground would be brought out and deposited at appointed places. Details for giving effect to this agreement would be worked out between them and the representation of the government the security forces and the liason committee.

⁵⁴ Horam, *op. cit.* p. 177.

3. It was agreed that the representatives of the underground organisations should have reasonable time to formulate other issues for discussion for the final settlement.⁵⁵

A supplementary agreement was made on 5 January 1976 to arrange the modalities for the surrender of arms at agreed places and provisions for accommodating the surrendered underground.⁵⁶

On the other hand the Governor suspended the Unlawful Activities (Prevention) Act. The underground were allowed to move freely in different parts of Nagaland. Later the NFG met between 1 and 3 December where the president Zashei Huire, Home minister B. Medom and the chief of army staff Lt. Gen. Viyalie Mehta were also present. They endorsed the agreement reached in Shillong.⁵⁷

With the Shillong Accord being signed, a seeming end to the Naga hostilities was envisaged. The negotiations, it was expected was a success. But the developments following the accord was to show different end results. The immediate development in the NNC after the accord being the rejection of it by some of the NNC leaders. Phizo the NNC president refused to accept the existence of the Shillong Accord. While Isak Swu the vice-president of the NFG and T.H. Muivah the General Secretary of the NNC and who had just arrived from China after the Shillong Accord condemned and denounced the Shillong Accord outright

⁵⁵ Rammuny, *op. cit.* 1988, p. 335.

⁵⁶ Dr. C. Singh, 1981, p.158,159.

⁵⁷ Horam, *op. cit.* 1988, p. 179.

as a complete sell-out of the Naga rights.⁵⁸ In a signed statement by both of them, they totally condemned 'Mr. Zashei Huire (the president of the NFG) and his ministry. 'As the acceptance of the Indian constitution and surrendered arms to the GOI clearly constituted total capitulation, the peoples supreme Assembly of Nagaland totally condemns Zashei Huire and his ministry as traitors'.⁵⁹

In the same manner a resolution passed at the Naga National Workers Meeting at Kohima on 28 and 29 August 1981 saying, 'the Shillong Accord which was signed on the 10th and 11th November 1975 without the consent of the Naga people should not form the basis or process for a solution of the political problem between the Government of India and the Naga National Council'.⁶⁰ Thus there came into being a schism in the NNC, what was to be then referred to in many quarters as the NNC (non-accordist) and the NNC (accordist).

The signing of the Shillong Accord on November 1975, was an harbinger of major changes in the movement of the Nagas. This accord changed the whole complexion of the movement, notably the eruption of differences and division within the underground ranks. Another important change was the weaning away of the strength of the once powerful NNC and the emergence of the NSCN as the main underground organisation.

⁵⁸ Presentation at a Seminar, *The Naga Problem: An Account, Citizens for Democracy and the Naga Students Federation*. New Delhi: 14 December 1995.

⁵⁹ *Facts about Shillong Accord and its Condemnation and Abrogation*. Nagaland, Publicity and Information Wing, Naga National Council, 1991, p. 19.

⁶⁰ *Ibid.*, p. 20.

B.

The Congress dominance era.

Elections in Nagaland : a brief history.

By 1963 the election machinery came into full operation in Nagaland. There were two political parties – the Naga Nationalist Organisation (NNO) and the Democratic Party. The first election for the Nagaland Legislative Assembly was held in January 1964. The NNO won 34 seats and the DP won 12. The candidates of the NNO won both the seats for the two parliamentary seats. The NNO formed the government under the chief ministership of Shilu Ao.

In December 1964 the opposition Democratic Party was in favour of taking Phizo's help in solving the Naga problem, it was therefore proposed that Phizo be allowed to come to Nagaland. This was however not acceptable to the government of Nagaland (NNO), on the argument that Phizo had already taken British citizenship. On this very issue all the 12 members of the DP resigned en bloc from the legislative assembly. In the by-elections that followed 11 candidates of the NNO were elected, 8 of them unopposed, thus increasing the strength of the NNO in the assembly to 45 out of the total of 46.

In 1966 the ruling NNO passed a resolution against their leader Shilu Ao, the chief minister, and chose T.N. Angami as their leader. Shilu resigned from the chief ministership and T.N. Angami took his place, which lasted for another 3 years.

Meanwhile, hectic political activity started in 1968 for the following general elections in 1969. At that time NNO was the only political party in Nagaland, the DP having become defunct. Some leaders who had left the Phizo dominated NNC formed a new party called the United Front of Nagaland. Since

some of the UFN party members were formerly in the underground, their joining the overground elections were welcomed in many quarters.

The second general elections were held from 6 to 10 February 1969. The total seats to the assembly were increased to 52. The two parties – NNO and the UFN participated. In their manifestos the NNO mentioned the need for bringing in development to State and the UF highlighted the need to bring a lasting peace for which dialogue with the underground was necessary. The NNO won 22 seats, he UFN got 10 seats and the independent obtained 8 seats. 12 other members were to be chosen from the regional council of the Tuensang district – all of them joined the NNO. 7 of the independent too joined the NNO raising the strength of the NNO party to 41 in a 52-member assembly. The NNO formed the government with Hokishe Sema as their leader and the Chief Minister with a 14-man ministry in February 1969.

Towards the end of 1971, Indira Gandhi took the decision of going to polls to seek a fresh mandate in the aftermath of the victory in the Indo-Pak war of 1971. In this election that followed in March 1972 the NNO set up their candidate Chubatoshi Jamir for the single Lok Sabha seat – he was the sitting MP and a Union deputy minister. Kevichusa contested on the United Front ticket. Chubatoshi lost in spite of all predictions against it. This was to leave an indelible mark on the loosing candidate.

In October 1971 a political crisis arose in the ruling NNO when a group of legislators led by T.N. Angami pressed for associating the NNC in the peace talks with the GOI. Hokishe was of the opinion that the NNC did not represent all the underground Nagas and that in any negotiation all the underground groups should be associated. This difference reached a stage where the chief minister asked 3 of

his ministers and the deputy speaker to resign - they left the NNO, though it did not effect the majority strength of the Hokishe Ministry. His ministry lasted for a whole 5 years.

Elections for the 3rd Naga Legislative Assembly started in February 1974. The UFN had changed its name to United Democratic Front (UDF) when the splinter-NNO group joined the UF. The UDF captured 25 seats, while NNO got 23 seats, the remaining 12 going to the independents. The UDF could not get an absolute majority but later 7 independents joined the UDF. The UDF formed the ministry with Vizol chosen as its leader and the fourth chief minister of Nagaland.

The Vizol ministry did not last and within a year a crisis arose in the UDF party. 7 members defected from the UDF and joined the NNO. Vizol had to resign and NNO formed the government with Jasokie as the chief minister. But soon enough 10 members of the NNO defected to the UDF leaving the NNO with 27 members in the house of 60. Jasokie however did not resign, and still claimed the support of 35 members. Both the NNO and the UDF were claiming majority and repeated floor crossing was carried out causing disarray in the assembly. President rule was invoked on the recommendation of the Governor on 22 march 1975.

During this Presidents rule the Shillong Accord and the National Emergency took place. Also during this period the NNO merged with the Indian National Congress including some members from the UDF.

In the 6th General Elections 1977, congress was completely routed in the aftermath of the Emergency. The lone seat to the Lok Sabha from Nagaland was won by the UDF against the congress candidate.

In June 1977 when assembly elections were held in 9 states in India some Naga leaders also suggested assembly elections in Nagaland. The UDF welcomed the decision. But the Congress party in Nagaland did not favour elections till the implementation of the third clause of the Shillong Accord.

The same year the 4th Assembly elections were contested between the UDF, the NPCC (Nagaland Pradesh Congress Party) and a new party-National Convention of Nagaland (NCN). The NPCC in its manifesto assured that the party would insist on the 'other issues' of the 3rd clause of the Shillong Accord. The UDF pledged to seek a solution to the Naga problem. The UDF captured 35 seats, the congress won only 15. 9 went to the independents and the NCN won 1. The UDF party formed the government with Vizol as the Chief Minister. For the first time a post of deputy Chief Minister was created and S.C. Jamir was inducted to it.

In October 1979 the dy.Chief minister was expelled from the Vizol ministry. Another minister was expelled one month later. Further the dy.Speaker and 2 MLAs were expelled. Later 4 MLAs were also expelled from the party (UDF). 4 UDF ministers gave the decisive blow to the UDF ministry when they submitted their resignations. The UDF party was now in a precarious position.

From March 1980 onwards Naga politics saw dramatic changes in quick succession. The defectors and expelled members of the UDF formed the UDF (progressive) party.

A new regional party, the Naga National Party was formed with Jasokie as the leader, by the leaders of the NCN, the Congress and some independent members.

Later the congress, the Naga National Party and the UDF(progressive) combined to form the United Legislature Party under the leadership of S.C. Jamir.

In April 1980 when the Vizol's UDF ministry was called for a trial of strength, he resigned. The newly combined ULP formed a new ministry with Jamir as the Chief Minister.

A few weeks later some member of the NNP and the UDF decided to form a new party – the Naga National Democratic Party.

From here on many defections and counter-defections followed. One among them being the joining of some members of the UDF(prog) and the split-NNP to the Congress-I.

Jamir had to resign in June 1980, following which the new combine NNNDP formed the government with Jasokie as the leader.

The Congress era.

The assembly elections of 1982 in Nagaland saw a close fight between the two leading contenders in which the Congress I got 24 seats, the NNNDP 24 and the Independents 12. With the support from the centre the Congress(I) assumed power with the help from the Independent candidates all of whom were rewarded as ministers. Jamir was sworn as the chief minister.

Ever since Jamir became the chief minister by outmaneuvering his rivals, he has been holding to the reins firmly and by a clever combination of tact and manipulation he has ensured that the Congress(I) is well seated in power. He has so far given a fairly stable administration to a state that is both sensitive and strategically important in the northeast region¹.

¹ Seyievino Liegise, *Party System and Instability in Nagaland*. Delhi, Centre for Political Studies, JNU. 1993.

According to Gonmei too, 1982 onwards is seen as a period of 'Congress trend'. In spite of the strong opposition it faced from regional parties and anti-national-party attitude in 1982-90 it consolidated and established itself.²

Jamir made efforts to establish contacts with the newly formed NSCN with a view to come to a solution. Under Mr. Hokishe and S.C. Jamir, the Congress(I) government has patronised and recognised the NSCN for negotiation in line with the centre's policy.

The Congress(I) government made it clear that in relation to the growing activities of the NSCN, it would strive to reach a settlement with the NSCN only as in their opinion, the unity of the underground factions was to be settled within the underground themselves.³ By contrast the NNDP, the main opposition party, aimed to unite every faction of the underground in a single platform from where they can have a unanimous settlement with the centre. The congress(I) approach prevailed.

Some time later the centre communicated Jamir to step down from the party leadership in Nagaland for party reasons. Hokishe took over as the chief minister.

In the 1987 elections the congress got a comfortable mandate by winning 34 seats, the NNDP winning 18, the Independents 7 and the NPP 1. The Congress(I) formed the government with Hokishe as the CM.

In July 1988, 13 assembly members including ministers and the dy. Speaker resigned en bloc. They later formed the Naga Regional Congress and then finally merged with the NNDP and others to form a new party, Joint

² J.Gonmei, *Electorcl Politics in Nagaland: A case study of three assembly elections (1982-1989)*. Delhi: Centre for Political Studies, JNU, 1993

³ *Economic and Political Weekly*, 19 December 1987.

Regional Legislative Parties (JRLP), which now had a absolute majority in the Assembly. Vamuzo, the leader of the new party approached the Governor to form the government but the governor did not oblige. Within a week president's rule was imposed and the assembly dissolved.

For the Congress(I) the Presidents rule was a relief because there was instability and dissension within its ranks and this gave them time to consolidate. For the JRLP/NPC the president's rule was a sabotage to their legal claim of forming the government. They went to the extent of filing a case in the High Court against the validity of the imposition.

The Presidents rule was called off and Elections to the assembly was held in early 1989. The Congress(I) got 36 seats and the NPC 24. Congress(I) under S.C. Jamir formed the government.

Within 16 months it collapsed due to defection and the NPC formed the government under K.L. Chishi.

Within 1 month this government too collapsed as 17 NPC members withdrew their support to him. They elected Vamuzo as their leader and joined hands with 24 Congress(I) legislators (Jamir was part of this). They formed the government with Vamuzo as the CM. 6 months later this coalition of the NPC and the Congress(I) too broke, when 10 Congress(I) members resigned en bloc. Vamuzo still continued until Presidents rule was invoked again on 2 April 1992.

The 8th General Elections were held in the year 1993. The Congress won 35 seats, the NPC 17, the Independents 7 and the DLP 1. The Congress(I) with S.C. Jamir as their leader formed the government in February 1993. His government managed to stay in power for the full term till 1998.

The Sarkaria Commission Report.

In 1983 a three-member commission headed by Justice R.S. Sarkaria was constituted to examine and review the existing arrangement of the centre-state relation in all spheres, and to suggest changes and measures appropriate for the smooth functioning of centre-state relations. It submitted a very comprehensive report in 1988.

Among other things, the report put up a exhaustive questionnaire to all the states regarding different aspects and issues in centre-state relations. Some particular issues regarding Nagaland is reproduced below.

Question no. 1.2 of the questionnaire put up by the commission reads,

‘Accepting the “traditional” notion of Federalism, the Rajamannar Committee appointed by the then Tamil Nadu Government, urged for greater autonomy of the States by the redistribution of legislative powers in the three list of the Seventh Schedule; deletion, revision or substantial modification of certain provisions (such as Articles 251, 256, 257, 348, 349, 355, 356, 357, 365, etc.), which give the Union a supervisory role over the States; allotment of more tax-resources in List II to the States, abolition of appeals to the Supreme Court except in Constitutional matters, etc.

Would you subscribe to this view ?⁴

To this the Government of Nagaland replied:⁵

⁴ *Commission on Centre-State Relations Report*. Government Press. Vol.2 Part I. 1988, p. 3.

⁵ *Ibid.*, p. 393.

‘In the Constitution of India, the Legislative powers are distributed between the Union and the States in the three list of the Seventh Schedule. The powers have been distributed basically on sound principles and in the view of the Government of Nagaland, no substantial modifications are considered necessary in the matter.

‘However, some modification is suggested in the sub-clause (b) of Clause(1) of Article 356 of the Constitution of India. In the said sub-clause the powers of the Legislature of a State shall be exercisable by or under the authority of the Parliament as per sub-clause (b) as is stands. Under the said sub-clause, the Parliament may, by law, authorise the President to exercise the powers of the State Legislature and instances are thereof conferring such powers on the President by law made by the Parliament.

It is suggested that the powers of the State Legislature should be exercised by the Parliament alone in enacting laws to be made for the State, as and when occasions arise.

The State Government of Nagaland is of the view that abolition of appeals to the Supreme Court altogether may not be desirable. However, it is suggested that there may be a separate division in the Supreme Court for dealing exclusively the constitutional matters and the cases involving validity or otherwise of the Parliamentary laws and the State laws and another division for dealing with appeals admitted in the Supreme Court by grant of Special Leave against judgements and orders passed by the High Courts. It may also be desirable to constitute appropriate Tribunals

for disposal of service matters and cases arising out of different Tax laws a in force giving finality to the decisions made by such Tribunals constituted’.

Question no. 1.8 of the Sarkaria Commission queried:

‘Article 3 of the Constitution provides that Parliament may by law:

- (a) Form a new State by separation of territory from any State or by uniting two or more States or part of States or by uniting any territory to a part of any State;
- (b) Increase the area of any State;
- (c) Diminish the area of any State;
- (d) Alter the boundaries of any State;
- (e) Alter the name of any State.

A view has been expressed that this Article requires reconsideration.

Do you agree with this view and, if so, what modification of this provision would you suggest ?’⁶

To this the Government of Nagaland reply was :⁷

‘Basically no change is required in Article 3 of the Constitution of India. However for dissolving dispute or disputes arising between one or more States with regard to the respective boundaries of the different States, it is suggested that it may be desirable to incorporate a provision for the

⁶ Ibid., p. 3.

⁷ Ibid., p. 393,394.

appointment of Commission or Commissions in dissolving such dispute or disputes. The powers and functions of such Commission or Commissions should be clearly indicated making suitable provisions for giving opportunities to the concerned States to place their respective cases, produce materials and documents before such Commission or Commissions in support of the respective claims. On the recommendation of such Commission or Commissions constituted, Parliament may make laws increasing, diminishing or altering the boundaries of any State as provided in Article 3 of the Constitution of India.’

The State Government of Nagaland here mentions about an issue cropping out of the ‘special status’ accorded to the State under Article 371A. It says:⁸

‘...Article 371A of the Constitution... was incorporated into the Constitution on the basis of an agreement arrived between the delegation of the Naga peoples’ Convention and the representatives of the Government of India... The said agreement is commonly known as the ‘Sixteen Point Agreement’. To give effect to clause 7⁹ of the said agreement, article 371 A was inserted into the Constitution by the Constitution (13th Amendment) Act, 1962. The said article was incorporated with the clear view that notwithstanding anything in the

⁸ Ibid., p. 394.

⁹ No act or law passed by the Union Parliament affecting the following provisions shall have legal force in Nagaland unless specifically applied to it by a majority vote of the Naga Legislative Assembly:

- (i) The religious or social practice of the Nagas.
- (ii) Naga customary law and procedure.
- (iii) Civil and criminal justice so far as these concern decisions according to Naga customary law.
- (iv) The ownership and transfer of land and its resources.

Constitution, no act of Parliament in respect of the four matters enumerated in clause 1) to 4) shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides. It is implicit in the said provision that all laws made by the Parliament, whether before or after the commencement of the said article in respect of the aforesaid four matters shall not apply to the state of Nagaland unless the Nagaland Legislative Assembly so decides. It is suggested that what is implicit in the said article as regards applicability of Article 371A, should be made explicit so as to remove ambiguity, if any, in the manner as may be contended by some quarter.

In the said Article 371A, it has not been specifically mentioned as to what consequences will follow if any law made by the Parliament in respect of the four matters mentioned above is not adopted by the Nagaland Legislative Assembly by any resolution passed. It is again implicit that in such an eventuality, the State Legislature of Nagaland shall have also full executive powers in respect of the aforesaid four matters being competent to legislate regarding the said matters as mentioned earlier.

In view of the above, it is suggested that necessary amendments may be made to the Article 371A of the Constitution in order to make explicit what is implicit in the said Article and to make the said article as an effective provision as desired at the time of the incorporation of the said article on the basis of the "Sixteen Point Agreement".

Further regarding the Article 371A the Government of Nagaland points out that:

‘...the sub clause (b) & (c)¹⁰ of Article 371A need to be deleted from the said Article by necessary amendment of the said Articles. In view of the fact that the complete peace prevails in the entire State for the past so many years and much more better than the other States in India. It is no longer necessary for the continuation of the two clauses in Article 371A of the constitution of India. Further, the Regional Council for the Tuensang District as contemplated by clause (d)¹¹ is also no longer there. In view of the above, clauses (b) to (d) of the Article 371A(1) and clause (2)¹² of the said article need to be deleted by a constitutional amendment.

Nagaland being a State like other States in the Constitution, any further continuation of the said clauses (b) and (c) is no longer necessary and needs to be deleted.

The provision included in sub clause (d) and clause (2) of the said Article 371A have already spent its force, in as much as the period of ten years from the date of the formation of Nagaland as mentioned in clause (2) is already over and the extended period under the said sub clause is already over.’

¹⁰ Special responsibility of the Governor regarding law and order and role of the Governor in the process of demand for grants from the consolidated fund of India.

¹¹ This clause lays down provisions for the establishment of a regional council for the Tuensang district and the composition and function of the council.

¹² This clause lays down a very comprehensive set of provisions for the administration of the Tuensang district to be carried out by the Governor on the recommendation of the Regional council, for a period of ten years from the formation of the State of Nagaland.

In regard to this the Sarkaria Commission put up additional questions¹³

as;

‘8. The Government of Nagaland has put forward the following views on the implications of Article 371A(1)(a)... Article 371A(1)(a) empowers the State Legislature to enact laws relating to the following matters enumerated in the sub clause... the Government of Nagaland argues that no act of the Parliament in respect of the above matters can apply to the State of Nagaland unless its Legislative Assembly so decides by a resolution.

10. The subjects at (i), (ii) and (iii)¹⁴ overlap Entries 1, 2 and 13 of List III¹⁵.

The first segment of (iv) viz. “Ownership and transfer of land” is covered by Entry List II¹⁶. The last segment of (iv) namely “and its resources” impinges upon Entries 53 and 54 of List I¹⁷. According to the Government of Nagaland the effect of the operation of Article 371A(1)(a) is that notwithstanding anything in the Constitution, legislative competence with regard to the aforesaid subjects at (i) to (iv) vest exclusively in the Legislative Assembly of Nagaland and the Articles 200 and 254(2) also would not apply to State legislations on these subjects.

¹³ Additional Questions Regarding A Governor’s Discretionary Powers under Article 200, Point 3. *Commission on Centre-State Relation Report*. Vol. 2 Part I GOI press, Nasik: 1982, p.30.

¹⁴ Refer to footnote 7 in the same chapter.

¹⁵ According to Schedule VII in the distribution of Legislative power the List-III (concurrent list): point 1 is regarding the criminal law and all matters relating to the IPC; point 2 is about the criminal procedure including all matters of the CPC; and point 13 is regarding the Civil procedure.

¹⁶ Land relations.(State List)

¹⁷ regulation and development of oil fields and regulation of mines and mineral development.(Union List)

11. The Government of Nagaland claims that Article 371A(1)(a) has retrospective effect. That is, a law of the Parliament on the four subjects in question which was passed prior to 1-2-1963 (viz. The date of the formation of Nagaland) cannot apply to the State unless the Legislative Assembly of the State decides by a resolution that it applies. This interpretation as on accordance with the agreement between the Government of India and the Naga Peoples' Convention on the basis of which Article 371A was incorporated.'

The question that the Government of India further raised were:¹⁸

1. Is the above reasoning correct ?
2. What are the implications of Article 371A(1)(a) in relation to List I, II, and III in the Seventh Schedule ?
3. Does Article 371A(1)(a) have retrospective effect ?

Rise of the Nationalist Socialist Council of Nagaland.

In 1980 one group of the Naga underground challenged the leadership of Phizo and formed a new organisation named as the 'National Socialist Council of Nagalim (NSCN). The NSCN was given birth by Isak Chishi Swu and T. Muivah. Khaplang a Burmese Naga who had set up an Eastern Naga Revolutionary Council (ENRC) in the 1950s and had been working hand in hand with the NNC joined hands with the NSCN in 1981.¹⁹

¹⁸ Sarkaria, p. 30.

¹⁹ Lanusashi Longkumer, *Core-Periphery Relationship in North-East India with a Focus on Nagaland*. Delhi: CIPOD, JNU. 1996, p.146.

The NSCN split in 1988. The one led by Khaplang and the other led by Muivah and Isak. These two factions of the NSCN thus began to be labeled as the NSCN(IM) and the NSCN(K). With the emergence of these two factions there also arose the regular armed conflict between the two. Each faction claimed legitimacy over the other.

The NSCN(IM) gradually emerged itself as the most dreaded, well-organised, and influential underground organisation in that region. The NSCN at the outset seemed to follow the dual policy of internationalising the Naga issue and forging links with other rebel groups in the region.

The support and floating of other insurgency groups served two purposes: i. Open up multiple fronts for the counter-insurgency and the security forces busy elsewhere also rather than concentrating in the stronghold of core-insurgency groups; ii. It helped the core insurgent group to mobilise additional resources from areas beyond its sphere of influence.²⁰

By 1990 it was out in the open that the NSCN(IM) was giving arms and training to the other smaller insurgent groups in the Northeast. 'It is no secret that the NSCN has ties with the Hmar Peoples Council, National Liberation Front of Tripura, Meitei extremist (PLA), the ULFA, Bodo Security Force by providing them arms and training.'²¹

By 1989 the NSCN had already forged an alliance called the 'Revolutionary United Front' with some other groups. The other groups being ULFA, PREPAK (Manipur), PLA (Manipur), TNV (Tripura).²² In 1990 the 'Indo-

²⁰Gurudas Das, "Understanding the Insurgency Phenomenon in India's Northeast: An Analytical Framework", in B. Pakem, *Insurgency in Northeast India*. New Delhi: Omsons Publication, 1997, p. 190, 191.

²¹*The National Herald*, 9 November 1992, Delhi.

²²The Newstime, 12 February 1989. Hyderabad.

Naga Revolutionary Front (IBRF) was formed consisting of the NSCN, ULFA, UNLF and they were conducting joint training camps across the border in Burma and Bangladesh.²³

In November 1994 the NSCN militants were reported to have formed an umbrella organisation called the 'Self Defence United Front of the South-East Himalayan Region (SUDF)' with the object of fighting against 'Indianisation of indigenous people'.

The Naga-Kuki clash renewed on a much greater scale of violence in May 1992 on the India-Burma border at Moreh. The igniting cause being the refusal of the Kukis to accede to the demand of the NSCN to pay 'taxes'.

NSCN like what many newspapers agreed upon was becoming the most 'dreaded' insurgent group in the northeast, and was playing a pivotal role in the insurgent groups of the region by influencing them. 'As far the Northeast is concerned... the NSCN is the mother of all insurgencies'²⁴.

On the other hand the NSCN(IM) was gradually building up an international base and internationalising themselves. They had reportedly opened branches in Geneva, Dhaka and New York with the headquarters at Bangkok.²⁵

In January 1993 the NSCN(IM) obtained membership to the Unrepresented Nations and Peoples' Organisation (UNPO), which met in Hague, Netherlands. The UNPO provided a national platform to the Naga underground and political commentators have viewed the entry of the NSCN(IM) into the

²³ *The Hindu*. 14 August 1990. Madras.

²⁴ Sanjoy Hazarika, "Far Eastern Himalaya's Search for Distance and Dignity", in *Himal*, May-June 1993 p.19.

²⁵ Subir Ghosh, "Insurgent Hearts follow Naga Heads" in *The Telegraph*, 27 July 1995.

UNPO as a major success for the Naga underground at the level of propaganda and publicity.²⁶

The Chairman of the NSCN, Isak swu also addressed the United Nations Conference on Indigenous People in July, 1994. The UN defines the indigenous people as the 'descendants of people who inhabited the present territory of a country, wholly or partially at a time when persons of a different culture or ethnic origin arrived from different parts of the world, overcame them, by conquest, settlement or other means reduced them to non-dominant or colonial condition'.²⁷

The UN draft seeks to provide the right to self-determination to the indigenous people so as to enable them to determine their own political status and institutions. India along with some other countries including USA is oppose to this, as this right will legitimise secession, encourage terrorism and lead to disintegration of the states.

The NSCN is the lone common feature to figure in three different yet striking similar organisations – the UNPO, AIPP (Asian Indigenous Peoples Pact) at Bangkok and the NEITPF (North East Indigenous and Tribal Peoples Front).²⁸

Another major change occurred in the Naga underground organisation with the passing away of Phizo, who had directed and led the NNC through four decades, in London in 1990. At the present juncture the Naga underground was fragmented and the NNC was weaned of its strength and legitimacy. With this passing away of Phizo the crisis over the Presidentship arose. Adino, the daughter of Phizo was appointed the NNC President by some of the NNC members which was resented by many in the NNC. The NNC central executive council elected

²⁶ Udayon Mishra, *The Periphery Strikes Back: Challenges to the Nation-State in Assam and Nagaland*. Shimla: Indian Institute of Advanced Studies, 2000.

²⁷ Rabijit Choudhuri, in *the Statesman*. 6March 1995. Calcutta.

²⁸ Ibid.

Khodao Yanthan as the President of the NNC on 3 January 1991. The NNC (Accordist) further resolved that the Shillong Accord was not signed with the peoples' consent and thus was not recognised by them. A part of the NNC resolution read. 'the Shillong Accordist and their Agents are traitors to the Naga cause and all action by them are deemed treason'.²⁹ It further said that unless the accordist denounced the accord, they would be relegated from the 'National Services and Affairs' of the NNC.

Talks and Cease-fire, 1990s.

As early as 1995, the Prime Minister then Mr. Narasimha Rao gave the commitment to the NSCN that talks would be held at the highest level, without any condition, and even outside India when he met them in Paris in 1995. When the NSCN leaders told him that they doubted the sincerity of the Indian government, Mr. Rao reportedly replied that, 'I am the Prime Minister of India, I will not let you down. If we do not come to an agreement, we will thank you and let you go on your own way honourably'.³⁰

Mr. Rao, it seemed wanted a cease-fire before the 1996 general elections. His Principal Secretary, A.N. Verma had already met them in New York subsequent to the Paris meeting in this regard. The NSCN leaders were apprehensive of the cease-fire initiation being forwarded taking into aspect the experience of failures in the 1960s-cess-fire. Isak Swu had reportedly said, 'we cannot talk about cease-fire easily'. According to Swu, Verma even went to the extent of asking them if they wanted the present CM of Nagaland, S.C. Jamir

²⁹ NNC: p28.

³⁰ Bharat Bhushan, "Towards Peace: the Naga View – III", in *The Hindustan Times*. New Delhi: 8 September 1997.

removed, to which they replied that it was not for them to give suggestions on that issue.³¹

Mr. Rao's successor Mr. Deve Gowda followed up on the commitment given by his predecessor to the NSCN leaders. In October 1996 Mr. Deve Gowda carried out a weeklong tour of the Northeast. In this tour he offered to hold unconditional talks with the regions rebel groups. In 27 October 1996 in the final leg of his tour at Gauhati, he announced a 6,100 crore rupees economic package for the northeast region. Four months later on 4 March 1997 Mr. Gowda announced at the Lok Sabha that he had met and had held initial talks with the leaders of the NSCN(IM) on 3 February at Zurich while he was in Switzerland to attend the Davos meeting of the World Economic Forum.

In the meantime contacts with the NSCN(IM) was maintained by the GOI at other levels too. At these talks the underground leaders had expressed their willingness to negotiate with the GOI provided that it was done in a third country. Later officials of the Intelligence Bureau (IB) and the Research and Analysis Wing (RAW) visited Bangkok, where Muivah and Isak Swu, General Secretary and Chairman respectively of the NSCN(IM) were based.³²

In any case, by meeting the underground leaders outside India, Deve Gowda seemed to have signaled that he was willing to meet them halfway. Later Isak Swu made it known that the GOI had accepted to have talks in a third country at the highest level. However, 'Nothing was known of the form of "sovereignty" that they were demanding... although Deve Gowda offered "unconditional" talks,

³¹ Ibid. (In relation to this S.C. Jamir had reportedly told that he was ready to do so if a decision was reached and the underground group was willing to join the mainstream but then in the face of the presence of many factions within the underground, coming to a consensus would be difficult).

³² Tapas Ray, *Frontline*. 18 April 1997.

it was hard to see him giving independence to Nagaland and parts of Manipur, Assam and Arunachal Pradesh, and harder still to believe that Muivah, a seasoned politician, did not know this i.e. assuming “sovereignty” is understood in the usual sense of independence.’³³(their demand has been fixed on sovereignty of the Naga areas).

The All tribes Naga Hoho endorsed this peace initiative and called on to all the underground factions to work towards peace. The Chief Minister accepted that the peace initiative was a ‘very welcome development’ and stressed upon the need for all sections of the underground to unite.

I.K. Gujral renewed the centre’s offer for talks with the Naga underground, unconditionally except with regards to secessionism. He carried out a tour of the northeast states on May 1997. He reaffirmed the commitment to implement Rs. 6,100 crores economic package as announced by his predecessor Deve Gowda. He also reaffirmed unconditional talks with the militants and that settlement of these problems was high on his agenda.³⁴ He not only renewed the centre’s offer for talks with the NSCN but also made it plain that there would not be any preconditions for negotiations. This was a big improvement from the government’s earlier stand.³⁵

Around this time the Naga Baptist Church leaders with the support of the World Baptist Alliance proposed a convention of all Naga rebel factions and other Naga leaders at Atlanta. Coinciding with the celebration of 125 years of Christianity in Nagaland the conference was proposed to be held on 28 May 1997. The CM Mr. Jamir vouched the convention. Leaders of the NSCN(K), FGN and

³³ Ibid.

³⁴ *The Hindu*, 26 May 1997. Madras.

³⁵ Satish Kakati, in *the Statesman*. 7 June 1997.

S.C. Jamir attended the meeting among others. Conspicuous with their absence was the NSCN(IM) who were the main underground faction and already on negotiating terms with the GOI. They denounced the convention saying that those attending the convention were all 'puppets of all shades who have betrayed the cause of the nagas'.³⁶ Jamir's stand against this was that unless all Naga rebel factions decide on the modalities and the agendas for the negotiations with the centre and every faction involve in it the negotiations would be a non-starter. However powerful the NSCN(IM) may be militarily, in making peace the consensus opinion of the Naga people is important.³⁷ At the end of this conference an appeal was issued which called upon the Naga people 'irrespective of affiliations, to relinquish old antagonisms, give up old grudges and build upon the best of Naga heritage'.

It was reported that in the same month top IB officials met Isak Swu and Muivah in Geneva to prepare the blue print for a cease-fire. Somewhere around July the issues of cease-fire to prepare the grounds for negotiations were arrived at. On 25 July 1997 the Prime Minister declared in the parliament about the cease-fire to be called on from 1 August 1997. On that date as decided, the cease-fire came into effect in Nagaland.

The centre and the NSCN(IM) finalised 11 ground rules for effective implementation of the cease-fire in Nagaland.

The salient features of the ground rules were that the NSCN(IM) would not undertake any operation that would lead to death, injury, damage or loss of property. The NSCN also agreed that they would not parade in groups or individually in uniform or with arms in specific places. It will also not blockade

³⁶ *Sunday*, 20-28 July 1997.

³⁷ *Ibid.*

roads, communications or disrupt economic and development activities and essential services. The organisation will act against extortions and prevent forcible collection of money and essential supplies and intimidation of individuals. Further meetings between the GOI officials and the NSCN(IM) leaders were carried out to finalise the ground rules and modalities for the implementation of the cease-fire. According to guidelines, there was to be no ambushes, raids and attacks leading to death or injury or damage or loss of property against the NSCN(IM), by the army, paramilitary forces and the police. Patrolling by the Indian army, paramilitary forces and the police would however continue to prevent infiltration of the militants and arms.³⁸

The cease-fire was further extended for 3 months on 1 November. The ground rules for the cease-fire were finalised on 17 December 1997. The centre expressed concern over the extortion and intimidation of individuals including government officials to the underground. The NSCN denied this, however expressed that the activities would be prevented.

The cease-fire was further extended for 3 times. On 19 February 1998 a cease-fire monitoring group was constituted to maintain the observance of the cease-fire. Its first meeting was held in Dimapur under the chairmanship of an additional secretary in the Home Ministry.

From the beginning of the cease-fire, there was a series of parleys between the officials of the Home Ministry led by the Home Secretary Padmanabhiah and the joint Secretary(NE) G.K. Pillai, and the NSCN(IM) team, headed by V.S.

³⁸ *The Telegraph*, Centre finalises Ground Rules for Naga Cease-fire, 19 December 1997.

Atem. Originally conceived as a monthly talk, these were later held at regular intervals.³⁹

In June 1998 Swaraj Kaushal was nominated to the Rajya Sabha and selected to be the Prime Minister's special emissary as the main negotiator with the NSCN(IM), representing the GOI.

The cease-fire was extended for a whole year on August 1998. Mr. Kaushal continued to meet the leaders of the underground. In 30 September 1998 as demanded by the underground leaders Mr. Kaushal arranged a meeting between the new Prime Minister of India A.B. Vajpayee and the NSCN(IM) leaders in Paris. The talks were reportedly inconclusive.

Mr. Kaushal reportedly suggested a Bhutan like protectorate status for Nagaland which was rejected by the underground leadership. He also broached the Mizoram example where the Chief Minister stepped down to make way for the rebel leader – this case was also rejected by the underground.

Swaraj Kaushal gave his resignation letter in March 1999 because of certain problems he had with the centre.

As this process was going on there were cases of non-compliance to the cease-fire ground rules by the underground cadres. The GOI pointed it out to the leaders. Mr. Jamir also pointed out the instances of extortion and killings.

Mr. Padmanabhiiah the previous Home secretary, was appointed to be the new emissary of the PM to represent the GOI in the peace-talk. In July 23-24 1999 a two day meeting was carried between the new emissary and the NSCN(IM) leaders. As a result the cease-fire was further extended from 1 August 1999 to 31 July 2000.

³⁹ *The Northeast Sun*, The Long Road to Peace. June 15-30, 2001. Vol. 6 No. 22.

On 29 November 1999 an attempt on the life of the Chief Minister S.C. Jamir was made. The attack was pointed out to be the handiwork of the NSCN(IM) as evidence towards that were made. However the NSCN(IM)'s GPRN denied the attack as their work. As a result of the attack there was fear that the incident would effect the ongoing peace talks. However the cease-fire survived.

Muivah the NSCN(IM) leader was arrested in Thailand on 19 January 2000 on the charge of carrying a false passport. He was released on 18 September 2000.

The state government was also made to be actively involved in the peace talks between the GOI and the NSCN(IM), when the Prime Minister invited the Chief Minister S.C. Jamir and the Governor O.P. Sharma to discuss about it.

In November 2000 the Chief Minister of Mizoram Zoramthanga met Isak and Muivah in Bangkok to discuss about the peace-talks. He denied that he was any official of the GOI but was on his own, though he reportedly had the backing of the PM.

Since 1997 the centre has had series of talks with the underground leaders in Bangkok, Manila, Zurich, Geneva, Paris and Amsterdam.

As the peace talks were carried out on 7 May 2001 the NSCN(IM) gave an ultimatum to the GOI to review the cease fire as it expired o 21 May 2001. The NSCN's statement read, '...NSCN have given too long a time for the Indian government to declare the cease-fire area coverage which they (GOI) have deliberately ignored inspite of their repeated positive assurances' the statement further warned that, '...we shall accept no pretext nor any excuse and we mean

what we say. GOI will be solely responsible for any consequences that may arise therefrom.⁴⁰

Elections 1998: Campaign and Issues.

The elections to the Nagaland Legislative Assembly, 1998 was unique in the sense that a massive boycott was initiated from different quarters, leaving the incumbent party a free hand to win most of the seats of the assembly unopposed. The Congress won a 2/3 majority by bagging 43 seats of the 60 total seats without a single ballot being cast. This was because no other political party or independent candidates remained in the fray in those 43 seats. Later the total tally was Congress(I) 53 and 7 independents. A background to the follow up to the elections in thus necessary to understand the situation then.

Beginning in 1997, the talks between the NSCN and GOI were by this time on a high keynote. On 10 December 1997 the joint meeting of all Non-governmental Organisations (NGOs) under the aegis of the Naga Hoho at Kohima resolved to urge the Government of India, not to hold elections in all Naga-inhabited areas. On 30 December 1997 the Government of the Peoples Republic of Nagaland (GPRN) issued a statement, warning people of 'capital punishment' for filing nominations in the coming elections (1998). Although this was on 10 January 1998 denied by the NSCN(IM) leaders Isak Swu and Th. Muivah in a signed statement saying that it 'was not approved by the collective leadership'. They however opposed the imposition of 'India's elections on the Naga people'.⁴¹

The reason for the call for boycott being that while talks were being held for a Settlement the poll process becomes an anomaly. The NSCN appealed to all

⁴⁰ *Northeast Sun*, May 15-31, 2001. Vol. 6 No.20.

⁴¹ *The Northeast Sun*, June 15-30, 2001. Vol. 6 No. 22.

the Nagas to shun the 'Indian poll process'. The Naga secessionist group claimed that the 'imposition' of elections by the Indian government while holding talks with the NSCN on the future of Nagaland amounted to a fraud on the Naga people.⁴²

27 June 1998 all opposition parties in Nagaland decided not to participate in the assembly polls to be held on 23 February 1998. Several public organisation and NGOs like the Naga Hoho, the Naga Students Federation etc. also gave the call for boycott.

The leader of the congress and the incumbent Chief Minister, S.C. Jamir ridiculed the opposition for not participating in the elections. He further added against the NSCN contention saying that there was no certainty on how long the talk parleys would last. 'We cannot ^{stop} the democratic process that has been continuing for the last 30 years'. 'We cannot deprive people of welfare just because of peace-talks.'⁴³ He further ruled that an elected Government could play a mediatory role with a view to create a congenial atmosphere where the contending parties can sort out their problems.

⁴² Subir Ghosh, , *Sunday*. 22-28 February 2000.

⁴³ Paradip Parikh, *Sunday*. 22-28 February 2000.

3. THE WORKING OF ARTICLE 371 A.

A. The basis of Special Status.

Special status as mentioned was an original part of the Indian Constitution right from the beginning. It was meant to meet specific needs and requirements of differing regions and to create unique relationship with the center.

Keeping in view the very important consideration that regional interest must not be ignored, the constitution makers introduced these special provisions. These special provisions reflect a awareness that the problems arising from the historical background in which our Constitution was framed had to be resolved according to the genius of the Indian people, and co-operation and interdependence between the Union and the States should be the very core of our constitutional framework. ¹ 'Exceptions and modifications to the general regime was regarded legitimate, and non-uniformity was perfectly compatible with the overarching requirements of cohesion of the nation as such.'²

'The Constitutional design does contain however number of provision intended to facilitate the flexible and adaptable application of the federal principle in specific cases, since uneven development was a stark reality. In addition to the provisions of Part X relating to Scheduled & tribal areas (elaborated in the 5th and 6th Schedules), there are the provisions of Article 370 and the articles grouped under 371, which permitted the necessary non-uniformity for meeting special needs and situations.'³

¹ Ibid., p. 111, 112.

² Arora, in Arora & Verney, *op. cit.* 1995, p.78.

³K.A. Ramasubramaniam, "The Historical Development and Essential Features of the Federal System", in Nirmal Mukarji & Balveer Arora, *Federalism in India: Origin and Development (ed.)*, New Delhi: Vikas Publishing House Pvt. Ltd., 1992, p.8.

Thus non-uniformity, uneven development, inequality *et al* conjured the justification to modifications and exceptions in the Constitution as a basis for the principle of special status. This being rendered absolute in the circumstances that necessitated the maintenance of the Union. It could be taken as adjustments and compromises, for the greater needs and projections of the whole.

While creating in the face of political expediency small 'special status' States the centre was nonetheless faced with opposition from several quarters, yet basing on the more imperative demands of the unity and integrity of the country, the justification to give autonomy through special arrangements to the new States were made.

The federalist idea in the Indian Constitution has some 'inherent strains' in the matter of equality among the federal units. The first 'noticeable inequality' was with the special status granted by Article 370 to Kashmir. The Constitution envisaged similar or equal status for some other States through Article 371 A to 371 F, including Nagaland, which was to specially deal with some particular problems of some States.⁴

A look at these institutional provisions exemplifies two broad issues (as in the case of Article 371 A) - one being the developmental aspect of the region and second, the satisfaction of the autonomy and identity assertions thereof.

'These provisions gave meaningful context to the federal system, keeping in view the unity of Nations by making some needed adjustments in favour of the 'feelings' or the 'level of development' of concerned people'.⁵

⁴ U.N. Gupta, "Keynote Paper", in U.N. Gupta (ed.), *Indian Federalism and Unity of Nation: A Review of Indian Constitutional Experiences*. Allahabad: Vohra Publishers & Distributors, 1988, p.10, 11.

⁵ *Ibid.*, p. 11.

To stress this point, it was also concurred that:⁶

‘A survey of movements in the North-East leave one with the unmistakable impression that apprehension, either real or imaginary, about loss of identity in the starting point is the driving force behind most movements. Similarly, a feeling of deprivation, or neglect, resulting from the nature of national decision-making process in the centre where the North-East is only a distant negligible presence, provide the logic for mass movements in most cases.’

The relative underdevelopment of the economy in these regions was claimed to be one of the reasons for the ‘problems’ there. Development of these regions were thus inevitably sound as a policy to contain and maintain the much needed unity and integrity of the Union. It was thus natural for the centre to posit value to the allocation of funds for developing this region. The policy was to give grant-in-aids, loans, subsidies etc. on a liberal basis. It was political exigencies against economic viability.

On the other hand, there was the other even ebullient issue of the autonomy and identity assertions of the people in this region. Basing on basically cultural grounds, the demands for autonomy were a preponderant issue.

⁶ M.P. Bezbaruah, “Cultural Sub-Nationalism in India’s North-East: An Overview”, in S.K. Mitra, & R.A.Lewis, (ed.), *Sub-National Movements in South-Asia*. Westview Press (Harper Collins), 1996, p.175.

‘When territorial identity gets linked to the language, dialect, religion, race or equally far reaching interest and aspirations, the resultant fusion causes mutation which in the field of political activity can range from vague demands of autonomy, separate Statehood to threats of secession’.⁷

The culture there being predominantly tribal it was part of the centre’s policy especially under Nehru to encourage their cultural uniqueness and not impose upon them any thing detrimental to that effect. It was expected that they develop according and by their ‘own genius’.

‘Special Status’ is accorded to the State of Nagaland though Article 371 A. The 16-point Agreement, between the Government of India and the NPC gave way to the establishment of the State of Nagaland. This agreement was envisaged to be in principle incorporated into the Article 371A of the Constitution, which was the basis of the State of Nagaland. Basing on these two parameters some developing issues in the relationship between the State of Nagaland and the Centre is discussed.

B. Developmental Issues.

Article 371A(1)(c) reads:

‘In making his recommendation with regard to ant demand for a grant, the Governor of Nagaland shall ensure that any provided by the Government of India out of the consolidated fund of India for any specific

⁷ T.C.A. Srinivasavaradan, “Pluralistic Problems in Federal System”, in Nirmal Mukarji & Balveer Arora (ed.), *op. cit.*, p. 147.

purpose is included in the demand for the grant relating to that service or purpose and not in any other demand'⁸.

This is suppose to be a follow up to the Agreement reached as per the, '16-point Agreement' notably the 11th clause, which reads:⁹

'To supplement the revenues of Nagaland, there will be a need for the Government of India to pay out of the Consolidated fund of India:

(1) A lump sum each year for the development programme in the Nagaland; and

(2) A grant-in-aid towards meeting cost of administration.

The proposals for the above grants shall be placed and submitted by the Governor of Nagaland to the Government of India for their approval. The Governor will have general responsibility for ensuring that the funds made available by the Government of India are expended for the purpose for which they have been approved.'

In the other States the centre does not provide for the cost of administration. The GOI officials expressly mentioned this when the negotiations were going on between the GOI and the NPC on the 16-points. This was also a point of discussion in the debates in the then Prime Ministers Office (External Affairs) on the eve of granting Statehood status to the Naga hills, as mentioned by

⁸ Luthra, 1974, p. 98-99.

⁹ Booklet on the Third Naga Peoples Convention. Mokokchung October 1959. Unpublished.

Ramunny who was part of the discussants in the Prime Minister's office then, in his book.

Understanding the fact that the internal revenue of the State of Nagaland would be extremely limited, the centre considered these special considerations. This was incorporated to the effect that the Indian federation accords to some States including Nagaland in terms of allocating funds as 'Special Category' States. As per this category, of the total grants that the centre provides for the State, 90 percent is in the form grant-in-aid and the other 10 percent as loan. This is against what is provided to other 'normal' States whose major percent of the allocations is in the form of loans.

Keeping in mind these basic economic parameters of the State of Nagaland the developments that has taken place can be further seen.

CHANGE IN THE BCR FUNDING PATTERN.

The state of Nagaland was born out of a unique agreement between the Union Government and the representatives of the Naga people, and thus occupies a unique place in the realm of Centre-State relations. The State was least of all formed for considerations of economic viability but it was a result of unavoidable political compulsions. Under clause 11 of the 16-Point Agreement a special funding pattern was stipulated for Nagaland.

The arrangement as per this gives a 'special category' status to the State of Nagaland, under which a special financial arrangement is provided. Under this, 90 percent of which the 'State spends' is given as grant-in-aid by the centre and the other 10 percent is converted as a loan which the State has to return yearly.

The grievance that the State had towards the Centre is the change in the Central funding pattern in 1989-90, where the Centre discontinued the practice of covering the Non-Plan Revenue gap or BCR (Balance on Current Resources) gap of the State. It was the yearly practice till 1989 that the Centre covered the deficits in the Non-Plan Expenditure. This is to mean that the expenditure that the Government of Nagaland incurred in the non-plan areas like the salary to the Government officials, cost of administration etc. was fully covered by the centre in that whatever extra cost was incurred it was provided for by the centre. This ensured on the other hand the full coverage of the plan outlay of the State. Ever since this funding pattern was rolled back it is the State Governments persistent grievance to the Centre that the State has been in severe financial crisis.

‘At the moment, while the Central Government can be said to be providing money for the developmental programme of the State. It cannot be said that it is providing sufficient grant-in-aid towards meeting the cost of administration. That is why the Non-Plan resource gap got widened over the years, leading to the steady increase in the State’s annual financial deficits.’¹⁰

Nagaland began participating in the Plan Programme of the Country from the third plan. Being a new entrant with a small population and a small area, the plan allocation was nominal for the 3rd, 4th and the 5th Plans.¹¹ According to the

¹⁰ Budget Speech of S.C. Jamir, Chief Mnister, in-charge of Finance. Government of Nagaland. 1998-99. Kohima, 21 July 1998.

¹¹ As per the minute of the Chief Minister’s Speech at the 48th meeting of the National Development Council on 19 February 1999 at New Delhi the Plan Fund Allocation and Expenditure for the 3rd, 4th and the 5th Plan were: Refer to Annexure

Chief Minister, rational planning with a decent outlay started with the 6th Plan. The later part of the 7th plan coincided with the award of the 9th Finance Commission, and the subsequent introduction in this period of the rolling back BCR funding pattern.¹²

During the period 1989-90 to 1993-94, the aggregate shortfall in resources as per net budgeted expenditure was assessed at Rs. 591.41 crores. During those 5 years the State had to repeatedly go for overdraft from the RBI, the cumulative effect of which compelled the State to take Rs. 91.39 crores as Advance Plan Assistance from the Central Government in 1993-94.¹³ It has been the persistent demand of the State that the Centre reverts back to the funding pattern of the pre-1989 period.

REVENUE CONSOLIDATION OF THE STATE.

Development in Nagaland has been focussed mainly on infrastructure and the provision of basic amenities, which were non-existent, when the State was created. The industrial base is negligent, production of goods is low and the scope for taxation is very limited. Diversification and enhancement of tax revenue is difficult. Tax revenue in Nagaland is mostly from sales tax and motor vehicles tax, along with a nominal land revenue and house tax. As of 1999, total revenue, both tax and non-tax; account for only 5 percent of the annual expenditure of the State. Taxation machinery and tax infrastructures are yet to be fully developed.¹⁴

12. *ibid.*

¹³ Budget speech of Chief Minister, in-charge of Finance. Government of Nagaland. 1998-90.

¹⁴ Speech delivered by the Chief Minister of Nagaland at the Chief Ministers/Finance Ministers conference at New Delhi on 16 November 1999.

Nagaland, being a net importer State, a consumer in Nagaland has to bear a heavier burden of sales tax as compared to its counterpart in an exporter State, because of the element of Central Sales Tax. Gradual but fast-paced reduction, and eventually elimination, of the Central Sales Tax will definitely contribute to the economic development of the smaller and net importing States.¹⁵

The State has been going through lean periods on the financial front persistently. The inherent problem being the mismatch between the scarce resource and the ever-increasing expenditure that has had an adverse cumulative effect, resulting in fiscal deficits mounting from year to year. In order to bring austerity in Government expenditure, the Government has been slashing down Non-Plan expenditure on a number of non-priority items. Unfortunately, payment on account of salary and pension has been mounting at an alarming rate, thus neutralising the effort at containing non-developmental expenditure. A stage has come where the Government spends 53% of its budget on Government employees, other non-developmental but unavoidable expenditure amounts to another 20% of the Budget. Thus, what is finally available for development activities is only about 27% of the Budget. Hence the need for rationalising. A 'Fiscal Reform Programme' in the year 2000 has been signed as a part of MOU with the Government of India. This reform programme includes resource mobilisation through additional taxation measures and also tighter expenditure control.¹⁶

The State has been making serious efforts to reduce the deficit by curtailing the expenditures. But this has brought out unintended side effects. Since

¹⁵ Ibid.

¹⁶ Governor's Address at the 7th Session of the 9th Assembly. Nagaland Legislative Assembly. March 2000.

the pay bill of the Government employees cannot be reduced, the only alternative is to reduce the expenditure under Plan activities, which hampers the developmental activities of the State. During the year 1994-95 and 1995-96 the Government of Nagaland reduced its plan spending to Rs. 84.36 crores against an outlay of Rs. 220 crores. But on the other hand it was the Planning Commission's information that the future Plan size would depend on the utilization of Plan funds during the previous year, thus this necessitate the State to increase its Plan expenditure, thereby pushing up the States deficit.¹⁷

There is hardly any industry in the state and a major part of the cultivated area is under jhum cultivation. With the plan to remedy this the Government of Nagaland proposed in the 9th plan, May 1995 an industrial policy whose priority areas were identified for investment were power, tourism, floriculture, agro-based industries, sericulture, horticulture, handlooms and handicrafts and mineral-based industries.

The Shukla Commissions major recommendation for the state were:¹⁸

1. Development of certain railway and road ways.
2. Corporatisation of State electricity department.
3. Lifting of Restricted Area Permit and simplification of Inner Line Permit.
4. Timely completion of the Doyang Hydel project.

¹⁷ Budget Speech. 21 July 1998.

¹⁸ Gulshan Sachdeva, *Economy of the North-East: Policy, Present Condition and Future Possibilities*. New Delhi: Konark Publishers, 2000, p.114.

The CM of Nagaland in speech at the 48th meeting of the National Developmental Council on 19 February 1999 reiterates the non-implementation of the Shukla Commissions' findings.

The state of the revenue consolidation is so adverse the total internal revenue from all sources formed only about 5 Percent of the total budgetary requirements. Efforts at bringing down the deficits were disastrous as can be seen below:¹⁹

Year	Closing deficit	State plan outlay	State plan expenditure
1989-90	29.79	132	120.22
1990-91	74.41	143	142.13
1991-92	141.18	170	160.05
1992-93	85.79	185	110.17
1993-94	65.74	205	168.41
1994-95	8.14	220	84.39
1995-96	8.08	240	195.00
1996-97	89.88	290	262.00
1997-98	192.30	291	236.00

(figures in crores)

THE NORTH EASTERN COUNCIL (NEC).

In view of the growing problems in the Northeast, the need to have a forum where an integrated and co-ordinated view of the entire Northeastern region could be taken was felt. In response to this, the establishment of an institutional arrangement for the whole Northeast was envisaged. However, the arrangement had to fit the federal structure of the Constitution.

It was in this context the North Eastern Council(NEC) was established. The NEC was established by an act of Parliament in 1971 and formally

¹⁹ *The Warrior*. Vol. 28. No. 4 April '99. Kohima: Department of Information and Publicity, Government of Nagaland. p.21.

inaugurated in 1972. According to the Act the Chief Ministers of all the Northeastern States and their Governors were members of the council. The Act also provided for a Secretariat to service the Council. To assist the council in the discharge of its functions, there was provision for the representatives of the Ministries of Defence, Finance, Home Affairs and Planning to attend the meetings of the council. The Act also provided for the President of India to nominate any member of the council as Chairman of the Council.²⁰

As mentioned, to fit the federal structure of the Constitution, the council was envisaged as an advisory body, which could discuss matters of common interest and make recommendations with regard to it. More specifically, the council was to discuss and make recommendations with regard to common interest in the field of economic and social planning, inter-State transport and communication, power etc. The council was also envisaged as a regional planning body, which could forward proposals for projects of regional character. It was also envisaged that the NEC could recommend measures for affecting co-ordination among the States in the implementation of such projects and also recommend the way in which such projects may be executed/managed/maintained, how the benefits could be shared, how the expenditure would be incurred. The council would review the progress of expenditure and recommend to the Central Government the quantum of financial assistance to be given for such regional projects.²¹

²⁰ *North Eastern Council, 1972-1992: Commemoration of 20 years of NEC*. Shillong: Director of Information and Public Relations, 1992, p.15.

²¹ *Ibid.*, p.16, 17.

The NEC was basically envisaged as an advisory body. It was not envisaged as a funding body in the Act, however certain amount of funding of projects by the NEC could be undertaken.

Two policy innovations were made in the constitution of the NEC – in the first place the concept of ‘regional planning authority’ with a separate plan and outlay was

envisaged. Secondly, the council was given the task of being a source of ideas for the ‘development of the region for human welfare’ as well maintenance of security and public order.²²

When the NEC Bill was introduced in the Lok Sabha on 11 May 1970, the then Prime Minister stated the objectives of the Council plainly:

‘... there should be a forum where a co-ordinated and integrated view of the entire eastern India can be taken. There are two aspects which needs co-ordinated action – one is the security aspect and the other is the development aspect.’²³ Thus two roles were envisaged for the NEC.

The Prime Minister while inaugurating the NEC on 7 November 1972 said, ‘the primary purpose for this council is the development of the region for greater human welfare... I am glad to inaugurate this council which is a promising innovation in regional planning.’²⁴

The principle developmental functions of the NEC are:²⁵

²² B.P. Singh, “The Problem of Change – A study of North East India”, in the *North Eastern Council, 1972-1992...*, 1992, p.23.

²³ Ibid., p.25.

²⁴ Ibid., p.25.

²⁵ Ibid., p.23.

1. Formulation of a unified and co-ordinated regional plan in matters of common interest.
2. Fixation of priorities of projects and schemes and their phasing from the point of view of implementation.
3. Deciding upon the location of projects and schemes.
4. Recommending the allocation of benefits and expenditure to the member units with regard to the projects in the regional plan.
5. Reviewing and co-ordinating the implementation of these projects.
6. Recommending the initiation of surveys and investigations of projects in the regional plan.

The council is thus expected to help accelerate the economic growth of the Northeast India as an integrated whole through the voluntary co-operation and mutual understanding of all the units and with generous assistance of Delhi. This was not to be taken that the component in its could not develop themselves. Far from it, they are to be encouraged by the council to be self-sufficient in meeting the basic requirements of their people and co-operating with their neighbors.

There is a debate regarding the security-related role of the NEC. By and large the Eastern Command of the Indian Army with its headquarters in Calcutta looks after the eastern border of India. The argument is that the Northeast should have a separate command. This would enable the command to exclusive attention to the problems of the northeast. The council however has not been able to project its role in the arena of internal security.

The NEC financed projects has made some important contributions to the economy of the NER particularly in Power, communication and manpower development, social services and agriculture.

There is no doubt that the council comes into conflict with the political ideology of greater autonomy to the federating units – a vociferous demand in the northeastern states. However in view of the distance from Delhi, and the legacy of all round non-development or under-development in the region, a regional planning authority, which the council essentially is must be accepted as a necessity. The council has already begun to be recognised by the constituting units as a forum for regional problems and an institution for projecting their problems before the central government.²⁶

On 8 December 1998 the NEC(Amendment) Bill was introduced in the Rajya Sabha. Its main features were:²⁷

1. Sikkim shall be included in the council.
2. Governors, who are constitutional heads, shall cease to members of the council.
3. Besides the CM of the northeastern states, the council shall consist of 3 members to be nominated by the President of India.
4. The council shall function as a regional planning body for the North-East area. Instead of being merely an advisory body, the council shall have such powers as may be delegated to it by the central government.

²⁶ Ibid., p.27.

²⁷ Annual Report, 1998-1999. Ministry of Home Affairs, Government of India.

There was also a proposal to de-link the security responsibility from the NEC. In addition the council it was proposed that the council may be de-linked from the Home Ministry and put under the planning commission. The entire aimed to make NEC an effective and strong planning body to accelerate the economic development of the region.²⁸

Sceptics are afraid of member states of the NEC feeling like second class states in the Indian federal structure. But much will depend functioning of the NEC as an institution of economic development and an additional forum for the expression of personalities of the Northeastern political units.

C. Autonomy and Identity Issues.

Many writers have defined that a major problem in the northeast is one of identity. The northeast crisis it is assumed is one of conflicting ethnicity and nationalism, a matter ultimately of identities and allegiances.

Identity formation is not the function of a single process. Various forces influence it. Elements like race, religion, and language provide the institutional frame, the cultural perception of the community towards other groups, leading to crystallization of identity. In a multi-ethnic society, the reaction to challenges arising out of attempts by the dominant groups towards assimilation, growing economic competition among different groups and political and developmental processes enforced by the state reinforce identity formation. Multiple forces thus come together to give rise to identity consciousness.²⁹

²⁸ Gulshan Sachdeva, *Economy of the North-East: Policy, Present Conditions and Future Possibilities*. New Delhi: Konark Publishers, 2000, p. 136.

²⁹ M.N. Karna, "Ethnic Identity and Socio-Economic Processes in North-East India", in K.S. Aggrawal, (ed.), *Dynamics of Identity and Inter-group Relation in North-East India*. Shimla: Indian Institute of Advance Studies, 1999, p. 29.

Identity and autonomy movements have been a persistent character of the Northeast. Unrest among ethnic minorities, tribals and indigenous people, is not an isolated occurrence in India alone. It is a problem that has stricken that entire post-colonial world. In their urgency to find and assert their national identities, the former colonies upon their release has not been able to give much attention to the needs and aspiration of smaller nationalities within their geographical boundaries³⁰.

The British from the outset followed the exclusionary methods of rule for the tribals – the Inner Line Regulation Act, 1873 and the Government of India Act, 1935 being instances. They did not take direct part in the constitutional and democratic process started in different parts of India. As a result many of the tribes genuinely believed in their own separate identity, independent of the Indian nation.³¹

In 1954 the States Reorganisation Commission was set up.³² The commission was suppose to have considered around 1,52,250 applications, memoranda and communications³³. The report of the commission running to 267 pages was tabled in September 1955. The Commission based its recommendation on the following factors:³⁴

1. Preservation of the unity and security of the Country.
2. Linguistic and cultural homogeneity.
3. Financial, economic and administrative considerations.

³⁰ Pradip Phanjoubham, "Ethnic Identity and Community Relationship in the North-East", in K.S.Aggrawal (ed.), *Dynamics of Identity...*, 1999, p. 162.

³¹ Bezbaruah, in Mitra & Lewis (ed.) 1996, p. 178-80.

³² Coincidentally the hostilities in the Naga Hills started around this time.

³³ B.B. Kumar, *Small States Syndrome in India*, Delhi: Concept Publishing Company, 1998, p. 56.

³⁴ *Ibid.*, 1998, p57.

4. Successful implications of the five-year plan.

The commission found the drawing of State boundaries along cultural lines feasible³⁵ but it accepted the difficulty in extending the principle of culturally defined States to the North-East.³⁶

The formation of linguistic States on the basis of the SRC's report did not fully settle the demand for the creation of new States. The demands in the Naga Hills being the foremost – the State of Nagaland was the first State of the Indian Union that was not created on linguistic lines. It was ultimately the autonomy movement, which resulted in the formation of the State of Nagaland. Insurgency and underground movement preceded the formation of the State. It was the first State to be created on ethnic lines.³⁷ In this case the linguistic and economic criteria was ignored.

Much before the granting of Statehood, NNC, the forerunner to the demand for self-determination of the Nagas, based their demands on the following premises:³⁸

1. Ethnic distinctiveness.
2. Distinct social life, laws and custom etc.
3. Religion.

Even after the granting of Statehood and thus political integration with India, their 'emotional integration and identification' with the pan-Indian nationalism remained weak and incomplete.³⁹

³⁵ In this process it recommended the creation of 16 states and 3 centrally administered territories. The Government ultimately formed upon these, 14 States and 6 centrally administered territories.

³⁶ Bezbaruah, in Mitra & Lewis, 1996, p. 173.

³⁷ B.B. Kumar, 1998, p. 58,61.

³⁸ Ibid., 1998, p. 62.

³⁹ Bezbaruah, in Mitra & Lewis, 1996, p. 180.

The semantics of Naga politics right from the beginning contained the issue of nationhood, self-determination and inalienable territorial rights, though not necessarily in the absolute sense of the terms.⁴⁰

In another aspect, from the very beginning of the Naga insurgency movement, the Nagas felt it hard to locate common political, cultural or economic binding links with their neighboring communities towards the centre of administration. Thus in the beginning they expressed the need to remain independent as they could not create links to bind them together with others, under the constitution of India.

Most of the ethnic communities found it difficult to appreciate the emerging situation of integration. The uprisings marked the beginning of an effective mode of collective expression of reaction to the newly arrived situation – political, constitutional integration with the centre at Delhi.⁴¹

Since the formation of the Naga Club in 1918, it was the stand of the 'extremist' Naga groups that they have different ethnic, racial, cultural, political as well as religious background from the mainstream Indians. This ideology grew and it got much needed impetus by the establishment of the NNC in 1946. This movement around 1954 went underground in the face of State retaliation, giving rise to the insurgency movement. The 'moderate' force, which in the early days remained in the background in the face of mass support of the independence movement, started to hold ground. Once the State responded with heavy counter-violence measures and when some sign of developments trickled down, the

⁴⁰ C. Lima Imchen, "Politics of Identity and Interpretative Monopolies", in K.S. Aggrawal, (ed.) *Dynamics...* 1999, p. 80.

⁴¹ A.P. Sinha, "Insurgency in the North East India", in B. Pakem (ed.), *Insurgency in North East India*. N.Delhi: Omsons Publication, 1997, p. 151.

moderate forces begun to make some leeway. Phizo's departure and certain other developments paved way for the moderates to organise the Nagas along their line of 'autonomy and integration'- the Naga Peoples Convention and the resultant Statehood in 1963 being the results.

From the very beginning the Indian Government sought to incorporate the needs and demands of autonomy of the Nagas without drastically altering the constitution. It was an attempt of the leaders at the centre to heed to these demands and make compromises within, at the same time obtaining the acceptance of the rest of the nation to the changes. Between this two extremes the arrival to a compromise was a hard process. Due to this difficulty several negotiations and agreements remained inconclusive.

For instance for the Nagas under the aegis of the NNC, the Hydari 9-point agreement of 1947 primarily underscored that the allegiance and identity would be vested in their own institution – the NNC. It meant for them an 'entitlement to a pre-existing inherent right'. Such a 'jurisdictional reorganisation' was unacceptable to the centre. This was one of the main reasons why this agreement did not work. Instead of this the Government of India stated their policy of 'devolution' of power under the 6th Schedule – one main implication of which was that the NNC was to be the 'appendage of the legal apparatus' much in line with a municipal body. This was why the NNC rejected it.⁴²

All along the Nagas have insisted that arrangements be made to recognise and accommodate their inherent right to government, and that 'alien structures are not compatible with their traditional authority' over their customary usages and practises, religion, land and resources etc. The 16-point agreement and the Article

⁴² C. Lima Imchen, in Aggrawal (ed.), *op cit.* 1999, p. 80.

371A reflected this distinct political status of the Nagas, under which they were considered separate and distinct, in a unique way from the mainstream polity.⁴³

Clause 7 of the 16-Points and Article 371A(1)(a) expressly mentioning this.

The first ruling party of the State of Nagaland, Naga Nationalist Organisation, later followed and functioned along the lines of the ruling party in the centre – the Indian National Congress, until its merger with the Congress (I). Thus cutting across religio-cultural specificities, the Naga society was integrated with the Indian mainstream along party line politics.⁴⁴

This integration along national party line politics according to Imchen was a debilitating factor in the political emergence of Nagaland. His argument is that the ‘traditionally grounded governance’ was replaced by party-based politics; and a process of de-tribalisation to make them ready for legal ‘emancipation’ was set into motion since the 60s – electoral politics being a major aspect of this undertaking.⁴⁵

‘The notion that indigenous institutions must be redesigned to fit into the existing system of government based on electoral politics is one thing and working consciously to recognise and accommodate their inherent right to self-governance is another’.⁴⁶

⁴³ Ibid., p. 81, 82.

⁴⁴ Gurudas Das, “Understanding the Insurgency Phenomenon in the Northeast: An Analytical Framework”, in B. Pakem, *Insurgency in Northeast India*. N. Delhi: Omsons Publication, 1997, p. 173.

⁴⁵ Imchen, in Aggrawal (ed.), *op cit.* 1999, p. 82.

⁴⁶ Ibid., p. 82.

This was oppose to the very principles of Article 371A and the 16-point agreement which gives primacy to the ‘traditional’ and ‘customary’ practises of the Nagas.

Article 371A attempts to allay the fears and apprehensions regarding the loss of identity of the State. Its is an institutional arrangement as a part of the centre’s federalising process.

NON-IMPLEMENTATION OF PARTS OF THE 16-POINTS AGREEMENT.

One cause of contention in the Centre-State relation with the state of Nagaland has been the non-implementation of certain parts of the 16-point agreement, which was the precursor to the formation of the State of Nagaland.

Dissatisfaction over the non-implementation of the 16-points was imminent since the inception of the State, instances on which can be drawn from an early debate of the Nagaland Legislative Assembly:

In the 11th Session (16th March – 30th March 1968) of the Naga Legislative Assembly, the question raised by some of its members on the 16-point made the Speaker of the Assembly to devote much time on its discussion. The members pointed out their dissatisfaction over the non-implementation of the provisions in the 16-point agreement regarding to the role and power of the Governor, transfer of the reserved forest out of Naga areas, the Assam-Nagaland border issue, the contiguous Naga area issue and the Inner line regulation and its related issues. The then Chief Minister in reply to these question raised pointed out that only three important points have not been implemented so far (1968) – the creation of a separate Governor for Nagaland, merger of all Naga contiguous areas and the boundary dispute between Nagaland and Assam. He highlighted that all these

three points were 'ceaselessly pursued' with the government of India. He further mentions to the house that 'except the first point (separate governor) the rest two points are not that simple...the rest two points i.e. merger of Naga contiguous area and the boundary dispute is really complicated and it may take time for its solution'.⁴⁷

On these same three points another question and answer session can be witnessed in the Legislative Assembly. In the 2nd session of the 7th Assembly, 1989 the leader of the opposition raised the question to the Chief Minister, as to what steps the State Government had taken for the implementation of the 16-point agreement with reference to various resolutions adopted by the Assembly so far. The Chief Minister points out that:

'Except points 3, 12 and 13 of the 16-point memorandum all other points have been implemented and the Government is continuing in its effort to get:

1. A separate Governor for the State. (point no. 1)
2. Point no.2 refers to the boundary dispute between Assam and Nagaland (re-transfer of reserved forests to Nagaland). After a series of actions taken by both the State Governments on our non-acceptance of the Boundary Commissions report, the matter still remains unsettled. Of late Assam has filed a suit in the Supreme Court.

⁴⁷ Proceedings of the Naga Legislative Assembly, 11th session (16th march-30th march 1968). Assembly Secretariat, Nagaland. Kohima 1969.

3. Point 13 about the inclusion of the Naga inhabited contiguous area, the matter will be examined in due course.’⁴⁸

The leader of the opposition against this reply by the Chief Minister raises a supplementary question. This question was based on the Resolution adopted by the Assembly on the June 29, 1972. (It should be noted that point 2 of the 16-point agreement reads that the Nagaland shall be under the Ministry of External Affairs of the Government of India. The Centre withdrew this and Nagaland was brought under the Ministry of Home Affairs. To this, the Assembly had passed a resolution, resolving that Nagaland should continue to be under the Ministry of External Affairs. The resolution read,

‘Whereas the Government of India and the Naga Peoples Convention have signed a 16-point Agreement in 1960 and, whereas, one of the points (Point No. 2) was that Nagaland should be under the Ministry of External Affairs, the unilateral decision taken by the Govt. of India to transfer Nagaland from the Ministry of External Affairs to Ministry of Home Affairs before full implementation of the 16-point Agreement of 1960 is a clear violation of the said Agreement.

The Assembly therefore, resolves that Nagaland should continue to be under the Ministry of External Affairs and the decision of the Government of India so taken be withdrawn forthwith’.

⁴⁸ Proceeding of the Nagaland Legislative Assembly, 2nd Session (7th Assembly) 18th, 20th and 23rd March 1989). Assembly Secretariat, Nagaland. Kohima.

This transfer according to the opposition leader was a clear violation of the 16-point Agreement.⁴⁹

Further in the 7th Session of the 9th Assembly, March 2000, a member of the Assembly causes the laying down of a copy of the 16-point Agreement and raises the question to the concerned Minister on the non-implementation of certain points in it. The Minister furnishes 5 points, which he says have not been fully implemented. They being:

1. Point no. 2: Ministry-in-charge.
2. Point no. 9(b)(2): Establishment of Naga Tribunal.
3. Point no.11: Financial Assistance from the Government of India.
4. Point no. 12: Re-transfer of Reserved Forest.
5. Point no. 13: Consolidation of contiguous Naga Area.

He mentions that these points are in various stages of process with the appropriate authorities in the Government of India and the neighboring states. The Minister further quotes the reply of Union Minister of State for Home, Mr. I.D. Wami, in the Parliament on February 16, 2000 on the question of the Ministry-in-charge for Nagaland: it says, during this discussion in the Parliament it was pointed out that-

‘It was not possible to include any specific provision to that effect in the Constitution. Mr. Wami mentions that the Article 77 of the Constitution gives power to the President to make rules for the conduct of the business of the Government of India in exercise of those powers the affairs concerning Nagaland were subsequently ordered to be dealt with

⁴⁹ Ibid.

the Ministry of Home Affairs. The rights of the people of Nagaland are equally if not better protected under the Ministry of Home Affairs, and there is no proposal to transfer the subject back to the Ministry of External Affairs. The people of Nagaland have been provided safeguards under Articles 371(A) of the Constitution as envisaged under the 16-point Agreement. Nagaland is also treated as a Special Category State. All Provisions in the 16-point Agreement has been fulfilled. A member of the legislative Assembly further queries this reply with a supplementary question as to who it was that had violated the 16-Point Agreement- the Central Government or the State Government'.⁵⁰

Dr. Kanito, a member of the Assembly on 25th March 2000 makes a comment on the 16-Point Agreement when the General Discussion on the Budget was in progress in the Assembly. His comment reads as follows:

‘...the document I am holding, of course, is not an authenticated document because the actual document of the 16-Point Agreement I sometimes used to study and in that text the former Governor, Shri L.P. Singh and also the leader of the Naga Peoples convention has signed and that becomes authenticated document...

First of all I would like to apprise this august House whether in the past there had been any legal body or Commission entrusted to make careful interpretation of the 16-Point Agreement signed by the Government of India and the Naga People. If such an interpretation has not

⁵⁰ Proceedings of the Nagaland Legislative Assembly, 7th Session (9th Assembly) 21st, 23rd, 24th and 25th March 2000. Assembly Secretariat, Nagaland. Kohima.

been conducted, I am sure, the most valuable contents in this document were not utilised. When we go through the structure and the substance of the document, we really come to certain conclusion that the Government of India was so sympathetic and considerate to concede lot of important provisions in the Constitution of India for Nagas to safeguard themselves and secure their livelihood and also the body of this Agreement reflects that Naga people have been given almost a semi-independence... the history of the Naga political problems we have mis-read ad mis-calculated. Our own people keep on condemning the 16-Point Agreement, this is something undesirable... transcending from one stage to another starting from Simon Commission, then we had the stage when we had 9-Point Agreement with Haider Ali, the then Governor of Assam, then comes the 16-Point Agreement, also we have the Shillong Accord. However, among the agreement drawn with the Government of India during the recent past or right from the inception of Naga evolution, we find that this 16-Point Agreement is the richest document, which contains the rich and valuable provisions for the Naga people for their identity, for their economy, for their social and all other interest of our people... this House requires a full length discussion on this and let the Govt. of India be aware of our position. How much more and how many times the Govt. of India would keep on distorting the sacred Document and also how long the Govt. of India will go on violating its own Agreement with the people of Nagaland'.

To this the State Home Minister acknowledged the need for a full time debate on this Agreement between two parties and feels that it was wrong on the part of one of the parties to unilaterally alter the understanding reached.⁵¹

Article 371A institutionalises the nature of ‘special status’ for the State of Nagaland. The 16-Points precedes and is a basis for this Article, in that the nature of State was formulated within those points. The Special Status accorded to the State which envisages, as mentioned, development and meeting identity needs, is intimately related to the Constitutional guarantees, which most importantly rest on the 16 points. It is thus necessary to underscore the importance of the implications within this compact and the issues that emerges out of it.

⁵¹ *ibid.*

4. CONCLUSION:

Asymmetric federalism presupposes the will to accommodate diversity. In the accommodation of diversity, constitutional arrangements permitting exceptions and modifications can be viewed as facilitating greater responsiveness. Liberally endowed with such possibilities the Indian constitution does not present any obstacle to the development of federalism.¹

Special status was meant to meet specific needs and requirements of differing regions and to create unique relationship with the center. Basing on more imperative demands of the unity and integrity of the country, the justification to give autonomy through special arrangements has been accepted, as 'exceptions and modifications' to the general regime. Thus it should be taken as necessary and legitimate the non-uniformity and asymmetry brought about through the constitutional innovations, and one cannot deny its place with the 'overarching requirements of cohesion of the nation'.

Special status through Article 371A in Nagaland gives certain autonomy and special privileges to the State of Nagaland. This arrangement was the result of the negotiations between the Naga Peoples Convention and the Government of India, which brought about the 16-point Agreement. In principle the agreement is suppose to be incorporated into the article 371A. It is another issue as to how far the centre has objectively incorporated and implemented all the points of the agreement.

Another important aspect to it is that the article has sought to resolve the demands of the Nagas by acting as the 'covenant' or compact on the basis of which understanding between the two parties was to be reached. It needs to be

¹ Arora, in Arora & Verney, *op. cit.*

seen from the issues brought about in the preceding chapters whether the compact has achieved the purpose it was to serve, and how far it had made its way towards that. On the other hand with the change that has taken place since this compact, it has to be further seen and linked to the new complexities that has emerged in the working and progress of the said article. It is therefore necessary to give an assessment of the compact and review its achievements and failures.

The overall development of the State through the ample funds awarded by the centre is a positive pointer to the success of the compact. The provisions for the 'special category States' has given the State much needed opportunities for its development. It is another issue as to how effectively the State has made use of these opportunities, as how John Kincaid avers:

'Most analysis of democratic and economic development and in federal systems focus on uneven economic development and on the asymmetries in the size and the wealth of the constituent jurisdictions; consequently, fiscal remedies, such as national revenue sharing or fiscal equalisation, take on considerable importance. Such fiscal remedies may be a necessary condition and unifying symbol of the federal covenant, but they may also end up subsidising inefficiencies and inequities and, in turn, reducing incentives for undemocratic constituent governments to develop politically as well as economically'.²

However the devolution of financial support as envisaged through the fiscal formulae of federalism, more objectively in the case of Nagaland, the

² John Kincaid, "Value and Value Tradeoffs in Federalism", in *Publius: The Journal of Federalism*, 25:2(Spring 1995).

‘special category State’ and the other provisions, has assured the efficacy and importance of sound federal finance relationship. Elazar’s ‘empirical reality of political power’ could well in real terms be encompassed through this. ‘It is clear that, as always, politics influences economics as well as vice-versa... the politics of federalism offers a means for extending economic benefits more widely...’³

On the other hand the recognition of cultural rights through the special provisions in Article 371A has ensured that certain rights specific to the needs of identity and preservation of autonomy has been met. Some problem exist, as put across in the Sarkaria Commission, which needs to be seen in the context of the changing times and complexities.

The continuance of hostilities and the emergence of new dimensions to Naga politics on the other hand have pointed out the underlying failures of the compact. From the very beginning the compact could not completely satisfy all the forces in play, in Naga politics due to several reasons. Starting with the cease-fire and negotiations of the 1960s, to the Shillong Accord and the formation of the NSCN, several developments had always made it impossible for the State of Nagaland created under on the basis of the 16-point agreement and under article 371A of the Constitution to reach its full development.

Today the movements have grown much more complicated. The rise of the NSCN as the foremost underground organisation in the region is one of these developments. Through a series of strategic maneuvers, the NSCN has reached a stage where it is carrying out regular negotiations with the GoI, for a political settlement, creating much attention.

³ Elazar, *op. cit* ,p.253.

The cycle of movements and negotiations has moved to the NSCN. At the basic level, as was seen in the history of negotiations between the underground and the GoI, this one too faces the same dilemma - it is unthinkable that the GoI would ever compromise or even negotiate on the question of its national territorial integrity; on the other hand the NSCN (IM) continue to stick to its demand for sovereignty. Thus, the negotiations as has been seen in earlier experiences is hanging on the same premises, and as for the time taken the cease-fire or cessation of hostilities – arranged between the NSCN(IM) and the GoI to facilitate negotiations - is commencing on its fourth year. The parameters of sovereignty and national integrity being at the higher level of the political bargaining, the ground realities, leaves different issues at stake. What emerges out of this ‘bargaining’ is at best left to speculation, but safely, it would present a case for asymmetric arrangements.

Another issue here that makes the issue all the more complex, is the territorial question. The Nagas are spread across different State boundaries through historical circumstances. Without going into the historical aspect of the issue, it has to be understood that one of the major stance taken by the NSCN (IM) leaders is the unification of all the Naga inhabited areas. This would if met, mean the redrawing of boundaries of at least three States. Thus there is vehement opposition to this proposition, from the affected States. Since the time negotiations between the NSCN (IM) and the GoI commenced this issue has always cropped up in the talks, often reportedly ending in deadlocks. At the same time the neighboring affected States has from time to time made it known to the centre of their undaunted opposition to the scheme. Without going into the legitimacy of any of the claims, it is to be seen that this issue might also contain in

it one of those intractable overtones, which has always been the curse of many negotiations.

There are certain issues that further needs to be developed upon. This is as what L. Imchen defines as, 'different levels of Naga political alignments and legal identity, some of which overlap and interact, perhaps, without exactly matching'⁴.

For instance though the NSCN (IM) has emerged as the most prominent underground organisation operating in Nagaland, there are other underground organisations too. Former CM and a signatory to the 16-points Agreement Vizol had stated to the press of the need of a 'comprehensive and blanket' cease-fire that would include the different underground organisations.⁵ This view was also often repeated by the present CM S.C. Jamir, who had since the NFG and RGN days asserted the importance of negotiating with all factions of the underground to come to a complete settlement.

On the other hand, reportedly, 'underground sources' had hinted that both Isak and Muivah may renounce insurgency and enter mainstream politics if certain concessions – such as territorial adjustment to include within the geographically area of Nagaland parts of Naga inhabited areas of Manipur - were made and further special provisions made.⁶

The national Congress party is well entrenched in the political setup of Nagaland as of now. The BJP has made inroads into the State by roping in the ex-CM Hokishe Sema into their folds recently. The regional party, which has gone

⁴ Imchen, C.L. Naga Politics: Regionalism and Non-Nation State. In Pakem, B. (ed.) Regionalism in India (with special reference to North-East India) New Delhi, Har-Anand Publications. 1993: p109.

⁵ Frontline. August 14 1998.

⁶ Frontline. August 14 1998.

through several changes but has remained a part and parcel of the Nagaland electoral politics, has still a dominant presence.

However it has to be said that in a diverse set up like India settlement of regional problems and presenting a strong union would ultimately need the institutionalisation of certain relationships. In the face for various demands which seems to grow nonchalantly it would only be worthwhile for the centre to make legislations in line with what Elazar's phrases as Shared rule and self-rule. At the same time we have to see how this institutional arrangements encourage other elements which would lead to the demand for greater autonomy.

Clearly, constitutional asymmetry among the regional units within a federation introduces complexity. Nevertheless, some federations have found that the only way to accommodate the varying pressures for regional autonomy has been to incorporate asymmetry in the constitutional distribution of powers. In some other cases it has, proved useful as a transitional arrangement accommodating regions at different stages of political development. In some cases pressures for asymmetry has induced counter-pressures for symmetry, as there can be limits to asymmetry beyond which extreme asymmetry may prove dysfunctional. Nevertheless, in a number of federations there it appears that the recognition of constitutional asymmetry has provided an effective way of accommodating major differences between constituent units.⁷

'It is universally recognised that major rethinking lies ahead in the adaptation of existing structures to the rapidly changing needs of the times.

The pace of socio-economic change in India has accelerated considerably,

⁷ Ronald Watts, *op. cit.* P. 68.

giving rise to new strains and capacity of the federal system to organise and promote incremental reforms. The inadequacies of existing arrangements have become all too apparent, and the need for a more flexible calibrated system of responses has assumed urgency. Experimentation with asymmetrical provision have to be viewed as devices of enhancing responsiveness.⁸

One cannot do away with the fact that asymmetry and special arrangements among the constituents of a federal system will bring about complexities in the system. The varying pressures and counter pressures will put the federation often in precarious positions. It then becomes more important to react to this kind of situations. Federalism in certain ways presupposes conflict, it seeks to bring innovative arrangements to remedy the conflict in the best way. Unique and original relationships thus form its hall mark.

⁸ Arora, "Adapting Federalism..." , in Arora & Verney, *op. cit.*

POSTSCRIPT.

In 14 June 2001, the Government of India formally announced the extension of the 4 year old cease-fire with the NSCN (IM) for one more year and the to enlarge it to cover all Naga Inhabited areas in the entire North-East, with effect from 1 August 2001.

The Union Home Secretary briefing the media said that this was brought out after negotiations in Bangkok between the centre's representative Mr. K. Padmanabhaiah, and the leader of the NSCN (IM), T. Muivah. Their 'Joint Statement' read:

'In continuation of the ongoing Peace process, a meeting was held on 13 and 14 June, 2001 in Bangkok between the representatives of the government of India and the NSCN and the following are mutually agreed upon:⁹

1. The cease-fire agreement is between the Government of India and the NSCN as two entities without territorial limits.
2. Both the parties would abide by the ground rules as revised on 13 January 2001, both in letter and in spirit.
3. It is agreed to further extend the cease-fire for a period of one year with effect from 1 August, 2001.
4. The Government of India and the NSCN agree to proceed with the peace process on substantive issues to bring about a lasting solution to the issue. It is recognised that there is a need for mutual trust and respect.

⁹ NorthEast Sun. June 15-30, 2001 Vol. 6 No. 22.

5. The next round of talks would be held in the last week of July/
first week of August, 2001.

The Home Secretary further mentioned that the truce beyond Nagaland would not in any way impinge upon the territorial integrity of the other States.¹⁰

The unlimited territorial limit clause of the cease-fire was overwhelmingly opposed in the other States. As the Naga inhabited areas covered parts of Assam, Manipur and Arunachal Pradesh, the protest were marked here especially so in Manipur. The Governor of Manipur conveyed to the Union Home Minister, 'strong feelings of the people of Manipur and their fears' to the extension. The Minister assured that there was no question of agreeing to anything that would threaten Manipur's territorial integrity. He was also told that as per the Common Minimum Programme of the National Democratic Alliance (the ruling coalition) the commitment to maintain the territorial integrity of Manipur would be kept¹¹.

Immediately following this, a 68-hour bandh was called by 83 social organisations and others to protest against the truce territorial extension. The situation in Manipur further aggravated to the worse when 13 people were killed and around 100 injured when Police fired against demonstrations on 18 June 2001, where thousands of people defied prohibitory orders and set out to the streets. They set fire to the Assembly Secretariat, the residences of many of their representatives in the assembly and most of the political party offices. As a result curfew was clamped there and the Army carried out flag marches.¹²

¹⁰ Hindu 15 June 2001.

¹¹ Hindu. 16 June 2001.

¹² Times of India. 17 June 2001, 19 June 2001. Hindustan Times 19 June 2001.

On 24 June 2001, a large delegation of the Manipur MLAs met and submitted a memorandum to the PM, underscoring that the withdrawal of the cease-fire extension without territorial limits need to be done.

The whole issue here was that the cease-fire without territorial limits would give a better bargaining position to the NSCN, in the demand for a 'greater Nagaland', and was a step ahead towards that.

In Bangkok on 18 June 2001 Muivah the NSCN leader told media persons that the cease-fire Agreement had nothing to do with the demand for greater Nagaland comprising all Naga-contiguous areas. 'The cease-fire is a cease-fire' and 'at the moment it has nothing to do with territories'. He further mentioned that, 'eventually it will be decided according to history... if the Nagas would like to join with their brothers there is nothing wrong'.¹³ The NSCN's vision had always been clear since its inception, that to achieve sovereignty of all the Naga inhabited areas. This was further highlighted in an interview later by Muivah where he reiterated that there was no question of greater or smaller Nagaland as the land of the Nagas was always there as one.

The issue here is that the States had been always wary about the NSCN's overt call for the unification of all the Naga contiguous areas, which would disturb their territorial boundary. It was more so after the NSCN came to the negotiating table with the GoI. On the other hand the centre had repeatedly assured them of their territorial integrity.

The Northeast is a multitude of different tribal and ethnic communities. They have been through different historical experiences. There has been in some cases conflicts between the emergent institutions from history and the various

¹³ The Hindu, 19 June 2001: p11.

demands of identity. Another factor to this conflict could also include the post-independence devolution of power and 'goods' from the centre.

As what Ratnapala proposes, the distinction between the process of spontaneous and natural federation in and among human communities and the process of political federation which is brought out by deliberate political action is reflected by the distinction between the top-down imposition of political order and the bottom-up principle of self-organisation in a complex system.¹⁴

This has to do with Ronald Watts' 'natural recurring paradigm' that has to do with the face-to-face negotiations over territories of neighboring communities.

¹⁴ Ratnapala, S. Federalism as a Response to Ethnic Regionalism, in Copland & Rickard (ed.), 1999: p115,116.

ANNEXURE I.
THE SIXTEEN POINTS AGREEMENT

The Third Naga Peoples Convention, Mokokchung October, 1959.

In the third session of the Naga Peoples' Convention held at Mokokchung from 22nd to 26th October, 1959, the following sixteen points have been passed after full deliberations of the various recommendations of sub-committees, to form the basis of negotiation with the government of India for the final Naga Political Settlement.

1. THE NAME:

The territories that were heretofore known as Naga Hills-Tuensang Area under the Naga Hills-Tuensang Area Act 1957, and any other Naga area, which may hereafter come after it, shall form a state within the Indian Union and be hereafter known as Nagaland.

2. THE MINISTRY INCHARGE:

The Nagaland shall be under the Ministry of External Affairs of the Government of India.

3. THE GOVERNOR OF NAGALAND:

- (1) The President of India shall appoint a Governor for Nagaland and he will be vested with the executive powers of the Government of Nagaland, and he will function from the headquarters of the Nagaland.
- (2) His administrative secretariat will be headed with a chief secretary stationed at the headquarters with other secretariat staff as necessary.
- (3) The governor shall have special responsibility with regard to law and order and police during the transitional period only.

4. COUNCIL OF MINISTERS ;

- (1) There shall be a Council of Minister (viz. Six Ministers and three Deputy Ministers) with a Chief Minister at the head to assist and advice the Governor in the exercise of his functions.

(2) The Council of Ministers shall be responsible to the Naga Legislative Assembly.

5. THE LEGISLATURE:

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

6. REPRESENTATION IN THE PARLIAMENT:

Three elected members shall represent the Nagaland in the Union Parliament, i.e. Two in the Lok Sabha and one in the Rajya Sabha.

7. ACT OF PARLIAMENT.

No Act or Law passed by the Union Parliament affecting the following provisions shall have legal force in Nagaland unless specifically applied to it by a majority vote of the Naga Legislative Assembly: -

- i. Religious or social practices of the Nagas.
- ii. Naga Customary law and Procedure.
- iii. Civil and Criminal Justice so far as these concern decisions according to Naga Customary Law.
- iv. The ownership and transfer of Land and its resources.

8. LOCAL SELF-GOVERNMENT: -

Each tribe shall have the following units of Law making and administrative local bodies to deal with matters concerning the respective tribes and areas:

- i. The Village Council.
- ii. The Range Council.
- iii. The Tribal Council.

9. ADMINISTRATION OF JUSTICE: -

A. Each tribe shall have the following court of Justice:

- i. The Village Court.
- ii. The Range court.

iii. The Tribal Court.

B. Appellate Court:

- i. The District Court-cum-Sessions Court (for each District) and Supreme Court of India.
- ii. The Naga Tribunal (for the whole of Nagaland) in respect of cases decided according to Customary Law.

10. ADMINISTRATION OF TUENSANG DISTRICT: -

- (1) The Governor shall carry on the administration of the Tuensang District for a period of 10 years until such time when the tribes in the Tuensang District are capable of shouldering more responsibilities for the advance system of administration. The commencement of 10-year period of administration will start simultaneously with the enforcement of detailed workings of the Constitution in the other parts of the Nagaland.
- (2) Provided further that a Regional Council shall be formed for Tuensang district by elected representatives from all the tribes in Tuensang District, and the Governor may nominate representatives to the Regional Council will elect members to the Naga Legislative Assembly to represent Tuensang District.
- (3) Provided further that on the advice of the regional Council, steps will be taken to start various councils and Courts, those areas where the people feel themselves capable of establishing such institutions.
- (4) Provided further that no Act or Law passed by the Naga Legislative Assembly shall be applicable to Tuensang District unless specifically recommended by the Regional Council.
- (5) Provided further that the Regional Council shall supervise and guide the working of various Councils and Courts within the Tuensang District and wherever deed necessary depute the Local Officers to act as Chairman thereof.
- (6) Provided further that Councils of such areas inhabited by mix population or which have not as yet decided to which specific Tribal Council to be affiliated to, shall be directly under the Regional council for the time being.

11. FINANCIAL ASSISTANCE FROM THE GOVERNMENT OF INDIA:

-

To supplement the revenues of the Nagaland, there shall be a need for the Government of India to pay out of the consolidated fund of India as Grants-in-aid as follows: -

- i. Lump sums as may be necessary each year for development programme in Nagaland.
- ii. A fixed recurring sum (Annual Subvention) for meeting the cost of administration in Nagaland.

12. RE-TRANSFER OF RESERVED FORESTS.

All the reserved forest and other Naga areas out of Naga area will be returned to Nagaland with a clearly defined boundary under the present settlement.

13. CONSOLIDATION OF CONTIGUOUS NAGA AREA:

The other Naga tribes inhabiting the areas contiguous to the present Nagaland should be allowed to join Nagaland if they so desire.

14. FORMATION OF A SEPARATE NAGA REGIMENT:

In order that the Naga people can fulfil their desire of playing a full role in the defence force of India, the question of raising a separate Naga Regiment should be duly examined for action.

15. TRANSITIONAL PERIOD.

- i. On reaching the political settlement with the Government of India, the Naga People's Convention shall appoint a body to draft the details of the constitution for Nagaland on the basis of the settlement.
- ii. There shall be constituted an interim body with elected representatives from every tribe, to assist and advise the Governor in the administration of the Nagaland during the transitional period. The tenure of office of the members of the Interim Body will be 3 (three) years subject to re-election.

16. INNER LINEREGULATION:

The Rules embodied in the Protected Area Act of 1958 shall remain in force in Nagaland.

Signed:

Dr. Imkongliba Ao, President.

Vizol, Vice-President.

Jasokie, Secretary.

Chubatoshi Jamir, Joint Secretary.

Naga People's Convention.

A BRIEF SUMMARY OF DISCUSSIONS ON SIXTEEN POINT AGREEMENT.

A brief summary of the discussions of the 16 points placed before the Prime Minister on July 26, 1960, by the delegation of the Naga peoples Convention.

The discussion took place on July 27 and 28 between the members of the delegation led by Dr. Imkongliba Ao, and the Foreign Secretary to the Government of India, assisted by other officials.

POINT 1.

The delegation stated that they would prefer to call the new State as 'Nagaland' and not by any other name.

It was explained to the delegation that the territories comprising the new State will have to be stated specifically in the first schedule of the Constitution. Article 3 and 4 of the Constitution provide for the inclusion of any new area within the State. In the circumstances, the delegation agreed to the following words being deleted:

'and any other Naga Area which may hereafter come under it'.

POINT 2.

It was explained to the delegation that while there will be no objection to the affairs concerning the Nagaland being dealt by the Ministry of External Affairs of the Government of India, it is not possible to put any special provision to that effect in the constitution. Article 77 of the constitution gives power to the

President to make rules for the conduct of business of the Government Of India, and the President will be prepared to make a rule whereby the External affairs Ministry will be in charge of matters concerning the new State, if that is the desire of the Council of Ministers.

POINT 3.

Clause (1) – It was explained to the delegation that Article 153 of the Constitution provides for the appointment of the same person as the Governor of two or more States. If therefore, the same person is appointed as the Governor of the new State and some other State, it will not be feasible for the Governor ‘to function from the headquarters of Nagaland’. The Governor will have his headquarters in Nagaland, but this would not mean that he would have to reside permanently within Nagaland or that he would be precluded from discharging his functions unless he is residing in Nagaland. If it is the wish of the New State that the Governor should have a residence within Nagaland, there can be no objection, subject to the understanding above.

(After the foreign Secretary had explained the position as above, an understanding was reached between the NPC leaders and the Foreign Secretary that the same person will be appointed as the Governor of Nagaland as also the Governor of Assam.)

The delegation said that according to their understanding the Government of a state is consulted before the appointment of a Governor and they expressed the hope that the Government of Nagaland would also be consulted before the appointment of the Governor.

The Foreign Secretary referred to Articles 155 and 156 of the Constitution and said that the Government of India would not go Beyond what is laid down in the Constitution, or fetter the President’s power under the Constitution, He added that if in practice the President does consult the Government of a State, there is no reason to think that the Government of Nagaland will not be similarly consulted.

CLAUSE (2) –

The foreign Secretary emphasised the need for avoiding an elaborate administrative apparatus, but said that if the new Government would like to designate their principle secretariat Officer as Chief Secretary, there would be no

Objection. He added that it was not necessary to provide for this in the Constitution.

CLAUSE (3) –

The words ‘and police’ were omitted, as law and order would include the administration of the Police.

It was explained to the delegation that while the law and order situation continued to remain disturbed within the Nagaland and large security forces from outside the area had been brought to deal with the situation the Governor would have to have special responsibility in regard to the maintenance of law and order. After full discussion, this clause was re-drafted as follows:

“The Governor will have special responsibility with regard to law and order during the transitional period; and for so long as the law and order situation continues to remain disturbed on account of hostile activities”.

The foreign Secretary stated that while the Governor would consult the Ministry in exercising his special responsibility, he would in his individual judgement.

The delegation wished it to be recorded that the special responsibilities of the Governor would cease when normalcy returns.

POINT 4.

CLAUSE (1) –

A reference was made to the article 168 of the Constitution and it was explained to the delegation that it was necessary to specify any particular number of Ministers or Deputy Ministers in the Constitution. The strength of the Council of Ministers will be decided on the advice of the Chief Minister, The attention of the delegation was drawn once more to the need for avoiding elaborate administrative apparatus.

CLAUSE (2) –

It was explained to the delegation that this clause might be omitted in view of article 164(2) of the Constitution. The delegation agreed.

POINT 5.

The leader of the delegation stated that they had considered the suggestion that the legislature should be called 'Grand Tribal Council', but had come to the conclusion that it should be called Legislative Assembly. The Foreign Secretary said that while 'Grand Tribal Council' would bring out the special character of the Naga Administrative and Legislative system and would be in line with the nomenclature of the local bodies to be set up under point 8, there would be no objection to the legislature being called the Legislative Council.

The Foreign Secretary pointed out that the other matters stated under point 5 were primarily procedural ones, the details of which could be worked out in due course.

POINT 6.

The delegation agreed that there should be one member in the Lok Sabha and one member in the Rajya Sabha from the new State.

POINT 7.

It was agreed that no Law or Act passed by the Union Parliament would operate in the Nagaland so far as matters stated in clause (1) and (3) were concerned, unless the Naga Legislative Assembly accepted it by a majority vote.

Clause (3) – this was agreed to, subject to the following addition:

'The existing laws relating to civil and criminal justice as provided in the rules for the administration of justice in the Naga Hills shall continue to remain in force'.

Clause (4) – there was a discussion on the question of resources. It was explained to the delegation that while there is no intention to disturb the ownership of the underground resources, Parliament must retain the power to regulate and develop such resources in accordance with entries 53 and 54 of list I – Union list in the Seventh Schedule of the Constitution. The attention of the delegation was drawn to entry 23 in list II in the Seventh Schedule.

This position was accepted by the delegation and subject to this, the Foreign Secretary accepted clause as it stands.

POINT 8.

The delegation suggested the following redraft of this point:

“Each tribe shall have the following units of rule making and administrative local bodies to deal with matters concerning the respective tribes and areas: -

1. The Village Council
2. The Range Council
3. The Tribe Council

These Council will deal with disputes and cases arising out of customary laws and usages.”

This was agreed to.

POINT 9.

The delegation suggested that in place of clause (a), the following should be substituted:

“The existing system of administration of civil and criminal justice shall continue”.

This was agreed to.

The delegation suggested to following redraft for clause (b) Appellate Courts:

1. The District Court cum Session Court (for each district), the High Court and Supreme Court of India.
2. The Naga Tribunal for the whole of Nagaland in respect of cases according to the Naga Customary Law.

The Foreign Secretary referred to Articles 214 and 231 of the Constitution and said that the Constitution provided for a common High Court for two or more States. We varied it to be understood that there could not be a separate High Court for the new Naga State and that the jurisdiction of the Assam High Court would have to continue.

This position was accepted by the delegation. The amended paragraph was agreed to.

POINT 10.

This was accepted subject to a slight amendment in clause (5). It was agreed that for the words 'the various Councils and Court' the word "the various Councils and Tribal Courts' would be substituted.

POINT 11.

The Foreign Secretary explained that the revenues of the Nagaland would be extremely limited and the new State would have to depend on grants from the centre for its development plans. It might also be necessary for some time to come for the Government of India to contribute towards the cost of administration. He emphasised the need, therefore to avoid an elaborate administrative apparatus. He made it clear that the schemes, which the State Government proposed to finance out of the grants or contribution from the centre, would have to be approved in advance by the Government of India. Similarly, the Government of India would have to exercise general control to ensure that the funds made available for schemes approved by them are so expended. IT WAS NOT THEIR INTENTION TO EXERCISE DAY TO DAY CONTROL OVER THE DETAILS OF EXPENDITURE, but the Government of India should have to satisfy themselves that a grant made for a particular scheme would not be diverted by the state Government to any other scheme. The Government of India could not agree in advance to sanction a fixed recurring sum. The Government of the new State had to satisfy the Government of India in regard to individual schemes before any grant could be considered. There was no discrimination against the Nagaland involved in this. The other States too also have to send up their schemes to the Government of India for consideration by the Planning Commission and the technical Ministries of the Government of India and only after the schemes are approved, funds are made available by the Government of India. Infact the Government of India officials frequently visits the States to satisfy themselves that the money provided by the Government of India was spent properly. THESE OTHER STATES DO NOT DEPEND ON THE GOVERNMENT OF INDIA FOR THEIR ADMINISTRATIVE EXPENSES.

The Foreign Secretary clarified the position by stating that so far as the revenue raised from their own resources by the new state are concerned, the state would be free to appropriate them as they wish.

It was also pointed out to the delegation that the new State would have to have the services of senior and experienced Officers if their administration was to be conducted efficiently and for these purpose grants from the Government of India would be considered. There was however no intention o the part of the Government of India to make any appointment direct. Names of the senior officers would be suggested to the State Government and ultimate selection would rest with them.

In light of the clarification given above point II was redrafted as follows and agreed upon:

“To supplement the revenues of the Nagaland, there will be need for the Government of India to pay out of the Consolidated Fund of India.

1. A lump-sum each year for the development programme in the Nagaland, and
2. A grant-in-aid towards meeting the cost of administration.

The proposal for the above grant shall be prepared and submitted by the Government of Nagaland to the Government of India for approval. The Governor will have general responsibility for ensuring that the funds made available by the Government of India are expended for the purpose for which they had been approved”.

The foreign Secretary assured the delegation that it was not the intention of the Government of India that the Governor would exercise detailed control over expenditure. He would, however, have to see that funds sanctioned by the Government of India for one scheme are not diverted to some other schemes. A point was raised by a delegate as to whether in the event of sudden natural calamity; the money made available by the Government of India for development schemes could not be used for reliving distress as a result of calamity.

The Foreign Secretary stated, in reply, that any proposal to that effect made by the Government of the new State would undoubtedly be considered sympathetically by the Government of India.

POINT 12.

The Foreign secretary referred to what the Prime minister had said on this point on the 26th July. He briefly mentioned that past history of these forests. He said that the Naga Hills District was constituted in 1866 and much of the larger area of these forest formed part of the district only for 21 years from 1882. For the rest of the period, they have formed part of Sibsagar and Nowgong districts of Assam. It was clearly impossible for the Government of India to make any commitment without consulting the other State concerned. The utmost that the Government of India could agree was that, if the new Government of Nagaland were to put up a case to the Government of India, they could refer it to the Government of Assam. The new state might also take it up with the Government of Assam.

Dr. Ao then referred to certain doubts regarding the exact boundary between the NHTA and the district of Sibsagar and Nowgong. The foreign Secretary said that the boundary should in any case, be demarcated and clearly defined. But this was a separate matter.

Dr. Ao then reverted to the suggestion for the transfer of forest to Nagaland and pointed out that even now there exist boundary pillars, showing the demarcation as agreed to between the Ahom Kings and the Nagas. He added that there are people living amongst the Nagas and the Assamese who could testify to this.

The Foreign Secretary referred Dr. Ao again to the provisions of the Constitution and said that all available evidence would be adduced when the time came into the dispute in the appropriate manner. The Government of India could not make any commitment about the transfer of an area which forms part of the State.

After the position was fully explained and discussed as above, it was agreed that the following should be placed on record.

“The Naga delegation discussed the question of inclusion of the Reserved forest and the contiguous area inhabited by Nagas. They were referred to the provision in Article 3 and 4 of the Constitution prescribing the procedure for the transfer of areas from one state to another”.

POINT 13.

The foreign Secretary mentioned that this point was discussed on the 27th while dealing with point 1. He reiterated the position that according to the First Schedule of the Constitution the territory of Nagaland would have to be stated precisely in

the first Schedule of the Constitution. The relevant provisions of the Constitution would have to be followed before any change in the boundary of a State could be considered. He had, however, no objection to the following being placed on the record.

“The Naga leaders expressed the view that other Nagas inhabiting contiguous areas should be enabled to join the new State. It was pointed out that the Article 3 and 4 of the Constitution provided for increasing the area of any State, but it was not possible for the Government of India to make any commitment in this regard at this stage”.

This was accepted by the delegation.

POINT 14.

The Foreign Secretary appreciated the desire to have a separate Naga Battalion. He pointed out that even at present there are companies of Nagas in the existing Battalions of the Assam Regiment. It was the desire of the Nagas to have a separate Naga Battalion, there would be no objection to one being formed subject to the existing army rules regarding the class composition. The foreign Secretary mentioned in this connection that, according to his information, the Nagas serving in the Assam Regiment did not, as a rule, complete their full tenure of service and were inclined to leave the Army after three or four years of service, this presented some difficulties.

This position was accepted by the delegation.

Clause (a) This was agreed to.

It was suggested to the delegation that the Naga leaders might simultaneously proceed with the framing of the rules regarding the methods of election to and the Constitution of tribal bodies and related matters.

Point 16.

The following redraft was agreed upon;

“The rules embodied in the Bengal Eastern Frontier Regulation, 1873 shall remain in force in the Nagaland”.

The foreign Secretary pointed out to the delegated that after agreement had been reached on the point, it would be for the constitutional experts to decide which of the points would require amendment of the Indian Constitution and which were

merely points of procedure for which no amendment of the Constitution would be necessary. It was decided that an agreed record of the discussions and agreement reached would be kept.

The Foreign Secretary made it clear that he was not competent to finally commit the government of India. The record of discussions would be placed before the Prime Minister after it had been shown to the delegation.

Sd/-

Dr. Imkongliba Ao,
President, Nagaland People's Convention
29-7-60.

ANNEXURE II
SELECT PARTS OF THE STATE OF NAGALAND MEMORANDUM TO
THE SARKARIA COMMISSION.

CHAPTER II
CONSTITUTION AND LEGISLATIVE.

PART I

Constitution

In the operation of the Constitution especially in regard to the provisions relating to the Centre-State relations, the Govt. of Nagaland is of the view that there has not been any area in which the State Govt. has felt any undue strain. Hence there is hardly any need to bring about any fundamental changes in matters relating pertaining to Centre-State relations.

4. However, some modifications is suggested in the sub-clause (b) of the clause (1) of Article 356 of the Constitution of India. In the said sub-clause, the powers of the Legislature of the State shall be exercisable by or under authority of the Parliament as per sub-clause (b) as it stands. Under the said sub-clause, the Parliament may, by law, authorise the President to exercise the powers of the State Legislature and instances are therof conferring such powers on the President by law made by the Parliament.

It is suggested that the powers of the State Legislature should be exercised by the Parliament alone in enacting laws to be made for the State, as and when occasion arise.

7. To the best Knowledge of the State Government, no where in the present day world day world, a federation of the traditional type exists. The State Government shares that the view that the difficulties, issues, tensions and the problems which may rise in Union-State relationship can be resolved without amjor constitutional amendments and there are no substantial defects in the scheme and the fundamental fabric of the Constitution relating to Union-State relationship.

8. The State Government fully agrees that the protection of the independence and the maintenance of the unity and the integration of the country is undouptedly fo paramount importance. Provision to that effect appear in a chain in the different aprts of the Constitution and proper implementation of such provisions are sufficient to achieve the aforesaid objectives.

9. The Constitutional povision imposing obligations on the Union and the States are considered resonable taking into consideration the interest of the country as a whole. Save and accept the suggestion made with regard to Article 356 (1) (b) of the Constitution, no change is considered necessary with regard to other articles. Basically no chanfge in considered necessary in Article 3 of the Constitution of India. However, for dissolving dispute or disputes arising between one or more States with regard to the boundary to the different States, it is suggested that it may be desirable to incorporate a provision for the appointment of a Commission or Commissions is resolving suchn disput or disputes. The powers and functions of such Commission or Commissions should be clearly indicated making suitable opportunities for providing opportunities to the concerned States to place their respective cases, produce materials and documentsbefore such Commission or Commissions in support of their respective claims. On the recommendation of the Commission or Commissions constituted, Parliament may make laws, increasing, diminishing or altering the boundaries of any State as provided in Article 3 of the Constitution of India.

Article 371A

10. One other Article, viz. Article of the Constitution which is applicable to the State of Nagaland needs to be mentioned with the observation as hereunder.

The said article was incorporated in the constitution on the basis of an Agreement arrived between the delegation of the Naga peoples' Convention and the Representatives of the Government of India because of the keen initiative taken by the then Prime Minister of India Pandit Jawaharlal Nehru before the formation of the State of Nagaland. The said agreement is commonly known as 'Sixteen Points Agreement'. To give effect to the clause 7 of the said agreement, Article 371A was inserted into the Constitution by the Constitution (13th Amendment) Act, 1962. The said agreement was incorporated with the clear view that notwithstanding anything in the Constitution, no Act of the Parliament with respect of the four matters in clauses (i to iv) shall apply to the State of Nagaland by a resolution so decided. It is implicit in the said provision that all laws made by the Parliament, whether before or after the commencement of the said article in respect of the aforesaid four matters shall apply to the State of Nagaland unless the Nagaland Legislative Assembly so decides. It is suggested that what is implicit in the said Article as regards applicability of Article 371A in respect of Laws made by the Parliament before the enforcement of the said Article 371A, should be made explicit so as to remove the ambiguity, if any, in the matter as may be contended by some quarters.

11. In the said Article 371A, it has not been specifically mentioned as to what consequences will follow if any Law made by the Parliament in respect of the four matters mentioned above is not adopted by the Nagaland Legislative Assembly by any resolution passed. It is again implicit that in such eventuality, the State Legislature of Nagaland shall be competent to enact Laws in respect of the four matters mentioned in the said Article and the laws so made by the State Legislature shall prevail in the State of Nagaland. It is again implicit that in such an eventuality, the State of Nagaland shall have also full executive powers in respect of the aforesaid four matters being competent to legislate regarding the said matters as mentioned earlier.

12. In view of the above it is suggested that the necessary amendments may be made to Article 371A of the Constitution in order to make explicit what is implicit in the said Article as to make the said articles as an effective provision as declared at the time of the incorporation of the said Article on the basis of the 'Sixteen Points Agreement' mentioned earlier.

13. It is suggested that the sub-clauses (b) & (c) of the Article 371A (1) need to be deleted from the said Article by necessary amendment. In view of the fact that complete peace prevails in the entire State of Nagaland and the law and order position of the State for the past so many years is much more better than the other States of India, it is no longer necessary for the continuation of these two clauses in Article 371A of the Constitution of India. Further, the Regional Council of Tuensang District as contemplated by clause (d) is no longer there. In view of the above, clauses (b) to (d) of Article 371A (1) and clause (2) of the said Article need to be deleted by Constitutional Amendment.

14. Nagaland being a State like other States in the Constitution, if any further said continuation of the said clauses (b) and (c) is no longer necessary and needs to be deleted.

15. The provision contained in the sub clause (d) and clause (2) of the said Article 371A have already spent its force, in-as-much as the period of ten years from the date of the formation of the State of Nagaland as mentioned in the sub clause (2) is already over and the extended period under the said sub clause is also already over.

PART II

Legislative Relations

16. As expressed earlier, there is nothing basically wrong in the scheme of distribution of legislative powers between the Union and the States.

17. There are some legislative entries like entry 7, 52, 53, 54 and 56 in the Union to declare by law the matters specified in the aforesaid entries either to be necessary for the purpose of defence or for the prosecution of war or in the public interest or the like. In exercise of the powers conferred by the said entries, the Parliament has enacted laws, from time to time; to achieve the objectives envisaged by the said entries. Legislation's made by the Parliament in exercise of the said entries even though might affect the powers of the State Legislatures, should not be considered as encroachments. No substantial changes in the present provisions are considered necessary.
18. It may be desirable to have the views of the State Governments before enactment of any legislation by the Centre on any matter in the concurrent list. However, the views expressed by the State Governments in the very nature of things have to be in the nature of recommendations and may not be binding as such on the Centre. Nonetheless the views expressed by the different State Governments are likely to help the Centre in enacting laws on a matter falling under the concurrent list. The State Governments is of the view that the existing provisions in the Constitution in this regard do not require any substantial change.

Part III

Role of the Governor.

24. So far as the State of Nagaland is concerned, no difficulty was faced at any time in respect of the Bills passed by the State Legislature and placed before the Governor for doing the needful in terms of the provisions of the Constitution.
26. Criticisms may be there in making choice of the Chief Minister by the Governor in one or two isolated cases, but that may not justify any substantial change in the existing provisions. Any provision like Article 67 of the basic law in the Constitution of the Federal Republic of Germany may not be appropriate in India at this stage.

27. The recommendation of the Administrative reforms commission in laying down guidelines on the manner in which discretionary powers should be allowed to be exercised in the best judgement and wisdom of the authority concerned. Any such guidelines as suggested may be of a doubtful constitutional validity. That apart, such guidelines may not be of any substantial pragmatic utility.

CHAPTER III

Financial relations Planning and general

1. The issue that is now at conflict is unity among diversity. Unity comes with pre-supposition that there is diversity. For if there is no diversity, the concept of unity does not arise. Keeping this fact in view, the functioning of the federal structural has to be studied. In this connection, James Boyce, an eminent writer, has compared a federation with the solar family i.e. the sun and the planets. He has stated, "The problem of every federation is to keep centrifugal and centripetal forces in equilibrium so that neither 52-288/87 the planet States shall fly off into the space nor the sun of the Central Govt. shall draw them into its consuming fires". The planets have got to be kept in such a position that they would not drift away from the course of orbiting the sun and, at the same time, the planets should have the necessary strength as not to be drawn into the body of the sun, only to be vanished. In other words, there should be an equilibrium between the Central Govt. and the various Govt. in the States.

2. Generally there are three areas of Centre-State relations which tend to converge and become controversial. One is the area of legislative authority, the second is financial participation and the third is of planning. The first has been amply discussed in Chapter II. As regards second and third, these are discussed in the paragraphs that follow.

3. Under the Constitution, the Centre has been entrusted with the responsibility of maintaining important national matters such as National Defence, Foreign Affairs and Communications etc. but the burden of

socio-economic development falls mainly on the State Govt. which too is no less important as this is the sphere which directly affects the quality of life of the people. Therefore, the basic criterion in the Centre-State relations should be that devolution of funds from the Central resources to the States should be based on the concept that the federal financial system should be so oriented that surpluses of the Union are given to the States which are in acute need of them and liberally to those whose capacity to create assets of their own is limited. This is more so in the case of States like Nagaland whose sources of revenue, because of its highly undeveloped and backward States in the country and Nagaland, in particular, are faced with inherent imbalances between resources and responsibilities.

4. It is a matter of common experience that the State which have non-Plan revenue gaps also tend to have non-Plan capital gaps. This is because of the fact that the investments of loans for planned development do not bring in especially in backward States, the comparable returns, resulting in inability of the individual. State Govt., to meet the liability of the loan repayment and the interest thereon to the Centre as the returns from investment are, to a large extent determined by the level of economic activity in an area.
5. Accordingly, we feel that balances in Central receipts should be revised in as large a measure as possible so that it may be possible for the Central Govt. to come to the help of chronically weaker and backward States from their inherent disequilibrium, resulting from resource imbalances.
6. Therefore, it is our plea to the Commission on Centre-State Relations to recommend a scheme of devolution of resources in such a way that would enable the States with a low fiscal capacity to maintain comparable standards of administrative, social and developmental services corresponding to a national norm. So long as this objective is not achieved, the devolution of resources to different States should be worked

out in such a way that the poorer States are in a position to expand services at a faster rate than the richer States.

7. Locations of industrial projects were based on the decisions taken by the Central Govt. and preference was given to the areas, where already developed communication system, market accessibility, availability of power and technical know-how are available. Secondly the relatively smaller contribution made by the States, like Nagaland, to the national resources pool has inhibited the Finance Commissions from giving adequate consideration to the requirement of such States in the past. Lack of adequate Central assistance, whether in public or private sector and a comparatively less developed entrepreneurial skill have acted in a vicious circle resulting in low absorption of capital. With the result that the vicious circle of backwardness has been breeding backwardness in States like Nagaland and initial economic advantages were multiplying in other well developed States leading to further economic gaps.
8. To carry out these social responsibilities and undertake development programmes to achieve desired welfare objectives, the State has to mobilise resources of a higher order. The resources raising powers of the State are very much limited. They continue to remain at a very low ebb. Despite efforts by the State Govt. there are certain limiting factors which do not allow raising of resources beyond a particular level. For instance, it is not possible to raise the rate of sales tax beyond a particular point. Similar is the case with State excise on liquor and other taxes. It is here that the State Govt. has felt its helplessness in a situation where it is committed to uplift the economic standard and social welfare of the people.
9. As regards Corporation tax the Union surcharge on income tax, many States in the past had pleaded that these should be brought within the shareable pool. Various Finance Commissions have held the view that these taxes should be retained by the Centre as any change in this regard requires amendment of the constitution. There is no doubt that corporation

tax and Union surcharge have considerably increased during the past years and the yield is of a sizeable order now. The revenue from Corporation tax has been increasing at compound rate of 15% in the last ten years. The Sixth Finance Commission has suggested that the question of bringing them in the divisible pool should be considered by the highest policy making body like the National Development Council. The State Govt. feels that the Sarkaria Commission should consider the need for making the Corporation tax shareable.

10. Similarly, it may be stated that surcharge on income tax is not different from the income tax itself. It has been exclusively appropriated by the Centre. This type of exclusive earmarking of growing revenues for indefinite period by the Centre has deprived the States of growing source of revenue. It is therefore, suggested that it should be levied for only a limited period and, subsequently, be merged in the basic rate of income tax so that the benefit of the increasing receipts from this source accrues to the States as well. The Commission may consider it.
11. As regards shareable pool of income tax and Union excise duties, the State Govt. had pleaded to the Eight Finance Commission that 25% share of income tax and 10% share of Union excise duties should be earmarked for hill States. As these States have special problems which need to be tackled on priority basis. Unless the regional imbalances and backwardness of the areas suffering from such drawbacks are removed, there is a continuing dissatisfaction among the people of such States. We are glad to note that the 8th Finance Commission has appreciated this fact about deficit States. The Commission has stated that the deficit States are also members of the Federation and they should not be left* to fend for themselves. Accordingly, the Commission has earmarked 5% of the Union excise duties, for the 10 deficit States - Assam, Himachal Pradesh, Jammu & Kashmir, Manipur, Meghalaya, Nagaland, Orissa Sikkim, Tripura and West Bengal (Rajasthan being deficit in 1984-85 only). The State Govt. feels that this share of 5% should be increase to 10%. So we submit to Sarkaria Commission to consider and recommend raising of the share of

deficit States from 5% to 10% during the forecast period 1984-89. As regards tax on railway passenger fare, the Eighth Finance Commission has recommended increase in the quantum of grant to the States from Rs. 23-12 crores to Rs. 95 crores. Since 1971-72, the annual passenger earnings as well as gross earnings of the railways have shown annual growth of about 15%. Keeping this fact in view, the recommendation of the Eighth Finance Commission appears to be reasonable. We hope that Sarkaria Commission would impress upon the Railway Convention Committee to approve it.

12. We also feel that location of Central Sector Projects should be based on the consideration of regional imbalances also and not only on the basis of industrial and locational facilities available in a particular area where industries are already concentrated.
13. The monetary limit of Rs. one crore fixed for power projects in 1950 to be cleared and approved. The result is that schemes, which the States could take up on their own 35 years ago, have now to be submitted for Central clearance due to escalation of cost. The examination by the Central Authorities even in respect of small schemes is so time consuming that it takes about two to three years to clear a small scheme. These Central Authorities could be entrusted with schemes above a certain size and projects, which have inter-State implications.
14. The approach adopted by the Finance Commission in regard to the transfer of resources has been mainly on the basis of a gap filling approach and the transfer of resources through Central assistance for the Plan has been done mainly on the basis of distribution under a common formula. The transfer of resources has not promoted either efficiency or narrowed down the disparities between different States. Basic changes are, therefore, desired in regard to the principles governing the transfer of resources.

15. The principles of inter-State distribution should be such that they do not leave the advanced States with huge surpluses. Norms should be adopted and weightage be given to matters of national importance.
16. Basic requirement in the matter of distribution of resources in a rational way between the Centre and States and finally amongst the States themselves should be to increase the overall Central assistance to the deficit and hill States.
17. National Development Council with its Committees will be in a position to deal with most of the problems like planning and Central assistance. It will not be necessary to create a number of organisations such as National Credit Council, National Economic Council and the National Expenditure Commission. We feel that Finance Commission should be made a permanent organisation, which can look into the requirements of the State properly.
18. Deficit States are unable to fully utilise the Centrally Sponsored Schemes for want of matching resources. Therefore, these schemes should be fully financed by the Centre.
19. Industrial backwardness is different from general backwardness. The State has spent substantial sums of money to develop the infrastructure for social and economic development. As a result, the State has achieved a high rate of literacy in the country and a reasonably well developed physical infrastructure. But, on the other hand, industrial growth has been slow and unemployment in the State is increasing. It should be the specific objective of policy makers and planners to direct massive industrial investments to such States.

ANNEXURE III

Speech of the Chief Minister, Mr. S.C. Jamir at the 48th meeting of NDC on 19.02.1999 at New Delhi.

Respected Prime minister, Dy Chairman, Planning Commission, Esteemed members of the National Development Council, Members of the Planning Commission and Friends,

I am happy to participate in this 48th meeting of the NDC convened to deliberate on the 9th Plan and I wish to submit a few observations on the Agenda.

1. The Ninth Five Year Plan

1.1 Planning for this vast country is not an easy task with its geographic and demographic diversity and at the outset, I must applaud the ninth Plan document which has been placed before the council for our consideration. I am of the opinion that the thinking in the document on various development issues is comprehensive in scope and the approaches outlined in the paper are by and large acceptable. We from the far flung North-Eastern States are particularly happy to find specific mention of issues such as regional balance and historical inequalities. However, a written document along with all its lofty ideals and intentions is one thing while the practical implementation of objectives outlined therein is another matter, and I wish to dwell on this aspect with particular reference of Nagaland, which I feel is of relevance to all the backward, remote and poorer States of the country.

1.2 Historical Inequalities: The Planning process and the problem of resources in the newer and smaller States.

1.2.1. Nagaland began participating in the plan programmes of the country only from the third Plan, since we are not a full-fledged State till then, and besides, the land was ravaged by a most violent form of insurgency. Being a new entrant with a small population and a small area, the Plan allocations were nominal for the 3rd, 4th and the 5th Plans as may be seen at Annexure-I We started rational planning only from the 6th plan onwards with a somewhat decent outlay. However, the latter part of the seventh plan coincided with the award of the Ninth Finance Commission and ever since, our plans have gone awry. For the last ten years,

starting from 1989 till date, We are not at all happy with the direction of our planning process. A look at the plan outlays and spendings as given in Annexure-II will give a clear picture of our problems. The same may be better understood from the review of the expenditure and resource mobilisation of the eighth Plan where the country has a negative BCR of Rs. 39,563.00 crores despite all its revenue and resource potentials.

One can well imagine the plight of States like ours which have been formed not out of considerations of economic viability but of unavoidable political compulsions. Here, I must mention, as I have done before, that Nagaland was born out of a unique and historic Sixteen Point Agreement between the union Government and representatives of the Naga people, and thus occupies a special place in the realm of Centre-State relations with solemn guarantees to safeguard its interest, social, cultural, economic and developmental.

1.2.2. The Ninth-Five year plan document, too does not seem to hold out any promise for a better future for States like ours. The Resource Assessment for the Ninth plan in particular gives us very little hope. For one thing, the assumption that the BCR of the States will be positive during the ninth plan is not borne out by the experience of the eighth plan. Secondly, a glimpse of the financing pattern for the Ninth plan in respect of my State will indicate that the plan projection of Rs.2006.00 crores is hardly realistic, based as it is on an unrealistic assessment of the State's resources and expenditure requirements.

1.2.3. It may be one thing to have politically correct outlays but whether it is fiscally sustainable is another serious issues, specially for smaller and poorer States to ponder over. In such matters, honesty would indeed be the best policy. Let us not commit things which we cannot afford but, rather, cut our 'plan' coat according to the cloth available. Any outlay based on unrealistic assessment of our resources, needs and requirements will not only dismantle our economic processes but may create a wrong impression in the minds of the people. Such a situation is portent with danger, specially in insurgency prone areas like Nagaland. it merely adds to the discontentment of the people. We must avoid this by realistic projections and provision of funds.

1.2.4.I am now convinced that successive Plan documents have failed to make a true and realistic assessment of the States' capacity to raise resources for funding their plans. How else does one explain the eighth plan BCR assessment of plus Rs.35,005 crores turning into a minus Rs.39,563.00 crores?

1.2.5.Secondly, as I mention earlier, honest intention will have to be backed up by concrete plans of action, if the centre wishes the states' plan to be realistic and workable. Let us take the case of non-implementation of the tenth Finance Commission's recommendation to raise the State' share in the divisible pool to 29%. Despite the NDC's endorsement of the recommendation, the central Government is yet to take necessary legal and constitutional measures to give effect to this proposal.

1.2.6.Thirdly, I wonder, whether while working out the resources of the State, due regard has been given to their compelling obligation to implement the fifth Pay Commission's recommendations in respect of their own employees. If not, all Plan projections are likely to go haywire in the coming years.

1.3.Shukla Commission recommendations, funds under the Non- lapsable Pool Account and the issues of Cooperative Federalism.

1.3.1.The Ninth Plan document gives a lot of stress on development of infrastructure, particularly in remote and inaccessible areas of the country. Some time ago, having due regard to the serious infrastructural bottlenecks existing in the North-Eastern Region, the government of India had constituted an Expert Committee/Commission, popularly called the Shukla Committee/Commission. The recommendations of the expert Committee after due identification of the infrastructural gaps in the States of this region have been submitted to the union Government more than two years ago. However, no final decision on the acceptance of the Committee's recommendations and the resultant flow of funds to the States as yet.

1.3.2. In the meanwhile, the Government of India has announced the constitution of a Non-Lapsable pool Account from out of unutilised funds by various Ministries/Departments for financing properly identified and prioritised development projects in the States of the North-Eastern Region. It is not clear as yet whether this new mechanism has been put in place in lieu of the Shukla Commission's recommendations. This needs to be clarified. Secondly, even as this announcement has been received with much acclaim by the states in the region, the actual fund flow from the Non-lapsable Pool is yet to begin giving rise to serious misgivings about the scheme itself.

1.3.3. On the face of it, largesse such as this and time-to-time packages announced by successive Prime Ministers for the development of the region are welcome in as much as these promise to mitigate the acute financial strains on these States to some extent. However, without sounding ungrateful, let me add that these acts of benefaction amount to no more than doles to these States. In the process, what is being lost sight of is the real problem of Non-plan resources that is being acutely felt by these States. This in turn, is having a very deleterious effect on the implementation of the annual plans. What is, therefore needed is to tackle the problem of non-plan gaps of these strategically located states before making out development doles from time to time. The objective of co-operative federalism in so far as these States are concerned cannot be fulfilled by the Centre reducing these States to a completely dependent status vis-à-vis the government of India.

1.4. Identifiable Resources for planning in the North-Eastern States.

1.4.1. It is a pity that there is hardly any tangible proposal in the ninth plan document for building up the resource and revenue base of the states in the region. Here, I would like to dwell on an issue, which is pertaining to all the North-Eastern States. As it is well known, in the absence of any viable industrial and agricultural base, forest form the only major economic activity of the people. Unfortunately, all forest related income generating activities have come to a complete standstill following the ban imposed by the Hon'ble Supreme Court. It is not as if the people in the region are not alive to the need for protecting their rich environment and their bio-diversity. The respective Government are doing their utmost to wean away the people from jhum cultivation to plantation of trees. The

people themselves are also undertaking massive tree plantation exercises. All this is taking place because they are convinced about the economic returns that their forest wealth can provide to them. In case the situation does not change and the ban continues, the people are likely to give up their present enthusiasm for planting which, in the long run, will be disastrous not only for the ecology of the region but also for the economy of these States. I would request the NDC to give a serious thought to this problem being faced by us.

1.4.2. The other resource available with a number of States in the region is oil and natural gas. There appears to be little reference to the development of this resource of the States in the North-East in the Ninth Plan documents. Considering that this asset has the potential of making us self-reliant and a contributing partner in the progress of the nation, we are naturally zealous about guarding this resource as also to utilise it for our benefit and development. My State in particular has very ambitious plans for the exploitation of our oil and natural gas resources but our legislation in this respect is still pending with the Centre. Keeping in mind the concept of cooperative federalism as enunciated in the plan document, I would request the NDC to take a perceptive and sympathetic view of our stand in this regard.

1.5. Globalisation and the North-Eastern States.

1.5.1. The ninth Plan document talks of liberalisation, foreign trade and the funding of State plans through private investment flows and externally assisted projects (EAPS). Unfortunately, even after eight years of the liberalisation process in the country, there is hardly any visible impact in the States of the North-East. The reason for this are not far to seek. Added to the general inaccessibility of the region and the numerous infrastructure bottlenecks, legal restrictions such as the RAP under which foreigners are not allowed to come to the region freely, have contributed to very little private investment not to speak of foreign direct investment in the region. If the NDC is serious about the objectives of equity and growth through liberalisation, globalisation and capital flow, the ground realities prevailing in the North-Eastern States must first be addressed.

1.6. Finance Commissions and the Five Year Plans.

1.6.1. It has been seen that the finance commission's recommendations do not exactly coincide with the five year plans. This has posed some difficulties, like overflow of plan schemes from one plan to the other. for example, Nagaland is still carrying on with the liabilities of the past and other assets created during the seventh plan. This must be address to by the NDC if we are to have meaningful Five Year Plans.

2. Report of the National Development Council Committee on Power

2.1. turning to the second agenda item, I would like to stress at the outset that rapid development of the power sector is crucial for my State's overall economic growth. Except in the field of literacy, Nagaland, located in the geographically isolated North-Eastern region, lags behind the rest of the country in almost every indicator of economic development. Our per capita consumption of power, one of the most important indicators, was assessed in 1995-96 at a mere 79'kwh, as compared to the national average of 335kwh.

2.2.This has hampered our efforts of industrialisation and prevent the growth of employment opportunities outside the Govt. sector. The aspirations of our people have been belied, and the resultant frustration of our youth has now reached unmanageable levels. I, therefore , support the efforts being made to give an impetus to development of the power sector. As already brought out in the agenda documents, action on most of the recommendations of the NDC Committee on power have already been initiated. In Nagaland, as part of the ongoing reforms, we also have decided to set up our State Electricity Regulatory Commission. However, I would like to point out that many of the major problems arising out of cross subsidization being faced elsewhere do not exist in my State; we have negligible agricultural and industrial demand, and almost the entire consumption is in the domestic sector. Therefore, the scope for corrective tariff structure rationalisation by the ERC is limited, as also the scope for major increase in the tariff structure. Already our tariff, the brunt of which falls in the domestic sector, is amongst the highest in the country.

2.3.While on this subject, I would like to point out that my State is almost 100%dependent on power purchased from Central Sector agencies. In addition,

the transmission tariff at 35 paisa per unit is almost 2 ½ to 3 times higher than in the other regions. Any increase in tariffs will further retard our industrialisation efforts. I would, therefore, strongly urge that the tariff determination for my State, by the Central ERC for the central Sector generating and transmission agencies, be taken up on a different footing as compared to the rest of the country. With the new power generating capacity coming up during the 9th & 10th plans in this region, considerable power will need to be evacuated from the NE Region to other parts of the country for several years before our internal demands pick up. I would, therefore, further request that the transmission networks be treated as 'national lines' so that the transmission tariff can be brought down to reasonable levels.

2.4. In my State, vast hydel potential remains unexploited. We are, therefore, focusing on building up our own generating base, improving the quality of power supply, extending the electricity coverage to the remotest corners, improving the transmission & distribution network etc. All this requires massive investment which we are finding difficult to locate. The investment requirement is much higher in my state because of well known factors like only a single means of communication i.e. road transport and other infrastructural disabilities of the North-Eastern Region, which combine to push up project costs. Private sector participation, which has offered a way out in the other States, has not taken off in the foreseeable future. Development of power sector will, therefore, continue to be dependent almost solely on governmental action. If we are to break out of this vicious circle, a bold approach has to be adopted. Our problems in the power sector have to be tackled on a war footing to prevent further deterioration.

2.5. I would, therefore, strongly recommend that a specific policy package be worked out for my state, and for other similarly placed States of the North-Eastern Region. While this may appear to be asking for a higher level of Subsidies, I would like to stress that it is inescapable in view of the totally distinct geographical conditions prevailing here. It is also in the long term national interest to do so quickly as possible. Such steps will contribute significantly to meaningful economic development of my State and of this region. I am sure, this August House will support my request on this issue.

3. Revision in the Administered prices of Wheat, Rice, Sugar, Urea and LPG

3.1. While we appreciate the issues that have been raised in the note under circulation as also the economic cost factors, I would, however, like to draw the attention of the august body to para 1.34 of vol. of the Ninth Five Year Plan document where it is clearly indicated that and I quote, "market forces left to themselves may not correct the disparities" between the rich and the poor and also to para 1.36 where food security is also meant to "include people's access to basic nutritional requirements.....this problem of which is particularly acute in vulnerable sections of the society and in the deficit and inaccessible regions of the country." " quote these to stress that the poverty ridden and inaccessible North-Eastern Region of the country is also acutely deficient in food grains. Therefore, when we talk of food security, accessibility, poverty alleviation and correcting regional imbalance, this aspect must be kept in mind. The question of removing the food subsidy does not arise for the States in the North-East who have to import all their requirements from other parts of the country. I would, therefore rather support the policy outlined at para 1.36 of vol. which has suggested a restructuring of PDS to provide food grains at substantially lower prices to the poor in a focused manner. This may be changed to include poorer regions of the country, namely, North-East. in short, I am suggesting a dual pricing policy for the nation-one for the rich States and the other for the poorer regions, while continuing with the preferential treatment towards the poor even in relatively advance States.

4. A criterion for allocation of funds under major Rural Poverty Alleviation Programmes.

4.1. As regards agenda item No.4, we recognize that the formula adopted by the expert group was an improvement over that of the task force in as much as the latter ignored State specific variations in consumption patterns and/or prices. However, considering the fact that the share of some of the major States as worked out according to the Expert Group formula fell considerable in comparison to their earlier share under the task Force Formula, we endorse the weighted average shares now worked out by the Planning Commission.

5. Transfer of Centrally Sponsored Schemes

5.1 In the previous meeting of the National Development Council we had stated that we would not have any objection to the proposal for transfer of some of the CSS Schemes provided requirement of fund for maintenance and implementation of the transferred schemes are fully provided by the Centre over and above our State Plan outlays. Contrary to our stand the centre has transferred 116 number of schemes to the State but funds allocated for maintenance and implementation of the schemes is not commensurate.

5.2 It is our view that as long as the resource and budgeting position of the states who are facing extreme resource constraints are not rationalized, we are not in a position to agree to the transfer of the CSS schemes.

5.3 The meagre plan outlays, particularly of the small states of the North-East, cannot afford to have more earmarked sectors. As it is, even today, we are having serious problems on account of the BMS schemes which are earmarked schemes but come within the States outlay. The earmarking is done without any additionality to the State's overall outlay which gets only normal step-ups depending on the State's own resources. In fact, during 1997-98, we were given a step-up of only Rs.1 crore over the 1996-97 outlay of Rs.290 crores. We were, however, asked to earmark Rs.43.16 crores for the BMS. This has totally upset all other plan priorities. This may also be seen in the light of the fact that we continue to divert a large portion of our Plan funds to meet the Non-plan gap. Under the circumstances, unless the funds for the CSS come as a separate allotment without forming part of the state plan, we will not be able to implement the ongoing CSS schemes.

5.4 The State Government in the Cabinet has reviewed the position and we are of the strong view that status quo may be maintained with regard to the centrally Sponsored Schemes.

**Plan Fund Allocation & Expenditures
For the Third, Fourth and Fifth Plan**

(Rs. in crores)

	Approved outlay	Actual
expenditure		
Third Plan (1961-66)	7.15	10.97
Ad-hoc Plan (1966-69)	17.36	16.33
Fourth Plan (1969-74)	40.00	38.57
Fifth Plan (1975-80)	83.50	70.15

For the table above shows that the State of Nagaland started their third Plan with an allocation of Rs.7.15 crores, which was increased to Rs.83.50 crore during the 5th plan.

Year- wise Outlays and Expenditures

From 1989-90 to 1997-98

(Rs. In crores)

Year	Approved outlay	Expenditure	Utilisation ratio (%)
1989-90	132.00	120.21	91
1990-91	145.00	142.11	98
1991-92	170.00	159.82	94
1992-93	185.00	119.36	64.51
1993-94	203.00	162.64	79.92
1994-95	220.00	86.61	39.37
1995-96	240.00	200.17	93.79
1996-97	290.00	272.00	91.51
1997-98	291.00	235.00	

During the 8th Plan 1992-97 the approved outlay on year to year basis was Rs 1138.50 cr. against which the expenditure was Rs. 840.78 cr. registering utilisation percentage of 73.85 only.

ANNEXURE IV

**SPEECH OF THE CHIEF MINISTER, MR. S.C. JAMIR ON ARTICLE
371A AT THE CONFERENCE ON NATURAL RESOURCES VIS-A-VIS
ARTICLE 371A OF THE CONSTITUTION OF INDIA HELD AT ZONAL
COUNCIL HALL KOHIMA ON 4TH JULY 1994.**

Mr. Chairman, Ladies and Gentlemen,

Sometimes, with the passage of time, human memory tends to grow faint and blank. Then, we face the possibility of blaming those who walked before us without really understanding the factors responsible for the particular type of footprints our seniors left behind them. Everyone knows that the Sixteen Point Agreement was the foundation for creation of Nagaland State, which was enacted by the Parliament. Since then, three decades have gone and before the July 26, 1960 Agreement was signed, nearly two decades of active insurgency, intensive Army operation throughout the length and breadth of Nagaland, and untold human suffering, were the daily experiences of the Nagas.

Nagaland was virtually a closed hill district in Assam without any of the limited openness and access to modern means of communication that we have today. The Nagas suffered with no one to raise a voice for them. Their villages and granaries were burnt down by Security Forces, thus depriving them completely of shelter and food. Villages were grouped together and the menfolk often kept in stockades. Free movement was impossible and the little mobility allowed to some of the womenfolk to collect the basic necessities of life was rigidly regulated and controlled by the Army. Forced labour, starvation, disease and torture were the orders of the day. People literally in hundreds were herded into jails outside Nagaland, and killings from both sides took place frequently.

With the people cloistered in new villages and without food to eat, the Undergrounds were delinked from their sole source of sustenance and were much on the run. Research into the Naga history of this period will bear out what I am saying. Though politics was the root-cause of this untold Naga drama of tragedy, we must not also forget or try to undermine the extremity of the human situation which was equally responsible for compelling moderate opinions to initiate peace talks and to explore the possibility of addressing the Naga political problem through peaceful means.

The longing for peace, normalcy and security to life was so deep that representatives of the various Naga tribes under the name and style of "The Naga People's Convention" met first at Kohima in August 1957, resulting in de-grouping of villages, declaration of amnesty and security free movement of people within the district. The second and third meeting of the Naga People's Convention at Ungma and Mokokchung in 1958 and 1959 respectively, resulted in adoption of the 16 Point Memorandum that formed the basis of negotiation by the Naga

Peoples' Convention with the then Prime Minister of India, and the State of Nagaland was ultimately granted. Let us not forget that at this particular point of time, this was something we could hardly dream of attaining.

The heart and soul of the 16 Point Agreement was engraved in Article 371 A of the Constitution of India which reads "371 A Special provision with respect to the State of Nagaland -

1. Notwithstanding anything in this Constitution

(a) No Act of Parliament in respect of

(i) religious or social practices of Nagas,

(ii) administration of civil Nagas customary law and procedure,

(iii) administration of civil and criminal justice involving decisions according to Naga

customary law.

(iv) ownership and transfer of land and its resources shall

apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;

The interpretation of this constitutional provision throws open three important legal questions, viz.:

(i) what is the scope of the expression, land and its resources and whether it would include mines and minerals that may be found below the surface;

(ii) what is the ambit of legislative powers of the State of Nagaland;

(iii) whether this article is applicable to all Acts of Parliament as were passed even before the insertion of Article 371A (13th Amendment).

Many constitutional stalwarts like Justice Hidayatulla, Mr. Seervai, Mr. F.S. Nariman, Mr. R.C. Sarkar etc. have given their legal opinions on these issues. According to them, land and its resources would necessarily include the natural resource of the land and would obviously extend to mines and minerals. They have also endorsed the right of the State to legislate on land and its resources. Further, without the consent of the State legislature, no Act of Parliament relating to land and its resources would apply to Nagaland. In exercise of this right under Article 371 (A) the State has enacted Nagaland (Ownership and Transfer of Land and its Resources) Act, 1990.

Having thrown some light on the legal issues, I will focus on other side of the natural resources; Our natural resources are an endowment of God but these resources remain dormant if we do not explore the occurrences and exploit them to our common good. The areas of searching for and exploitation of natural resources including minerals pose serious challenge and opportunity it is a challenge because they involve high investment, high technology and long gestation; it is an opportunity to create employment to generate income and to accelerate the pace of economic development.

The sustained exploration works carried out so far by State Geology & Mining Department, Geological Survey of India, ONGC, Central Groundwater Board, Atomic Mineral Division, Regional Research Laboratory (RRL). National Metallurgical Laboratory (NML) etc. have proved that we are endowed with Petroleum and Natural gas, Nickel-Chromium, High grade limestone/marble, Coal and Dimensional stones, (slates, marble, quartzite). These minerals would form the backbone for socio-economic progress of the State. These are to be judiciously developed in harmony with environment, ecology and economic aspirations.

The hydro-carbon (petroleum) is by far the most precious resource available in ' our State. The exploration and extraction of crude oil involves enormous amount of investment coupled with high technology and well trained manpower. With a view to explore the potentials, the State 'Government granted PEL (Petroleum Exploration License) for 7.91 sq. km. to ONGC in November, 1973. With ONGC's effort our good fortune the first oil deposit was discovered in Changpang area of Wokha district. The ONGC on the basis of a trial production started producing oil in March'81 which was immediately stopped by the State Government as they are not allowed to undertake commercial production under PEL.

Subsequently, the Government allowed them to resume the trial production with a specific stipulation that ONGC will abide by whatever agreement the State Government may arrive at with the Central Government in this regard, even with retrospective effect. Although the ONGC had applied for Mining Lease (i.e. permission for regular and commercial production of oil and natural gas) the Government has not yet granted such Mining Lease, so far. The ONGC however, continued their production till 11th May, 1994 under the guise of

trial production allowed since 1981. The Government decided to suspend their crude oil production activities in Nagaland in May, 1994. The ONGC after expiry of the PEL in 1979, has been from time to time, submitting applications for grant of fresh PEL and the Government although, has not granted fresh PEL, ONGC was allowed to continue their search and exploration on the basis of a working permissions by the Government for specific periods. The present working permission, covering 2981.877 sq. km. area in the foothills of Wokha, Mokokchung and Kohima district and 30067 km. in parts of Tuensang and Mon districts would expire on 9th October, 1994 and January 1995 respectively. We have indeed learnt from our past mistake in the earlier PEL, which however is dead agreement after 1979.

The ONGC has so far drilled 30 exploratory oil wells in Changpang area, out of which only 9 wells were oil producing during '94 when the production was suspended, in Chumukedima - Tenyiphe areas 4 Nos. of exploratory oil wells in Changki and one was drilled by the ONGC and these have not yielded positive results. They were producing approximately 225 metric tonnes of crude oil per day (the total production by Oil India and ONGC from Assam last year was approximately 48 lakh tonnes whereas our production during 93,94 was 82 thousand tonnes). The ONGC has so far produced about 10.22 lakhs tonnes of crude oil from 28.3.81 to 11.5.94 for which a royalty of approximately Rs. 33.80 crores is earned as revenue by the State Government. The State Government has accepted the royalty for the oil produced and is reviewing the whole issue in the light of our Mining Act under the special Constitutional provision of Article 371 A.

Friends, I tried to outline the Constitutional rights with regard to land and its resources and economic opportunities available to us. Now it is our responsibility to shape our own policies to take maximum advantage of the situation. I am confident upon the issues keeping in mind the broader perspectives of economic development of the State. The following issues, in my opinion merit special consideration by the participants of this conference :

- (i) Policy perspectives on natural resources and their utilisation for economic prosperity of the State;
- (ii) Legal views on exploration and exploitation of mineral resources;

(iii) Issues relating to creation of conducive economic and social environment to attract capital, technology and entrepreneurs to exploit natural resources of the State.

Your discussion on these issues and the suggestions will immensely help the State Government to shape its policies and programmes for the betterment of the State.

The sweeping changes that are taking place across the world in economic and technological spheres pose challenges and opportunities. Unless the challenges are addressed to by us through pragmatic policies and programmes. We cannot reap the opportunities. Friends, I would like to remind that the economic laws do not make exception to Nagaland. Unless we sow for economic prosperity, we cannot reap; sowing and reaping are the natural law to economic as well as other spheres of human endeavor. Before it runs out of time, let us seize the economic opportunities and build up the State so as to make a better place to live in.

With those few words, I sincerely thank the Chairman of the Cabinet Sub-Committee for giving me this opportunity. I am personally overwhelmed by the spontaneous response from veteran political leaders of the State, intellectuals, administrators, voluntary organisations and others who are concerned with the future progress of the State. Let our efforts lead us to success and prosperity.

Thank you.

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