

Indo-Naga conflict and the Idea of Shared Sovereignty

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Abstract

The Naga struggle for self-determination is considered the longest running struggle in the subcontinent. Though the Indian state has granted statehood to the Nagas within Indian Union with a special provision under Article 371A, this did not satisfy the nationalist section, and violence continued for almost four decades until the present ceasefire was reached in 1997. Several attempts were made in the past to resolve the conflict but without success. The latest attempt to resolve the conflict led to the signing of 'Framework Agreement' in August 2015. Though the details of the agreement were not produced in the public domain, it is evident from different revelations by the negotiators that the agreement was basically about shared sovereignty.

This article is broadly divided into three sections. The first part briefly discusses the past failed experiments. The second section analyses the current initiative for shared sovereignty. However, the mechanism for working out the shared sovereignty, whether in the form pan-Naga or any other, is not discussed in this article. The final section is a speculative argument based on personal observation.

I. Why did previous resolution efforts fail ?

The Indo-Naga conflict, considered to be the longest unresolved conflict for self-determination in South Asia, have witnessed several developments in the past 60 years. Since the inception of the Naga Club in 1919 that ushered the Nagas into an era of nationalism, the Naga struggle for recognition as a distinct nationality has witnessed a few missed opportunities.

Firstly, the British colonial rulers left Indian subcontinent without resolving the Naga issue, which led the Nagas into the hands of the then newly independent India. This conflict is, therefore, the legacy of the British colonial era, whose primary interest was to maintain its empire without much intention of resolving her colonial problems as long as it did not hamper the smooth functioning of the colony.

The division of the Nagas into different administrative areas by the British was inherited by the new Indian state. This arbitrary division of the Naga territory formed purely for administrative convenience by the British only complicated the problem, leaving the Naga independence issue one step backward in the post-Independent era. At present the Nagas are divided by political boundaries and are scattered in the Indian states of Arunachal Pradesh, Assam, Nagaland, and Manipur, and Myanmar on the other side of the international border.¹

¹ The very idea of Naga is contested by some people as the Naga do not constitute one homogenous ethnic group. It is true that the name Naga was given by outsiders, and the term may be a construct, however, it is a fact now that the term Naga is accepted by the Nagas themselves and they identify themselves as one.

Secondly, in the formative years of post-independent India, crucial opportunities were missed primarily due to the ignorance of the Indian leadership about the Nagas. Nehru, who championed the cause of the indigenous peoples' right to self-determination and fought against colonialism and racialism in the international platform unfortunately, led a double standard when it comes to the Naga issue. His policy of forceful appropriation of the Naga's right to self-determination accentuated the fear of the Nagas. One can only imagine why Nehru took such a contradictory approach on the Naga issue. Perhaps he was trying to reconcile the contradiction of people's right to self-determination and his idea of integration of India to prove his secular credentials. Or perhaps Nehru was so well entrenched in colonial mindset that he was convinced backward Nagas can only be tamed by a relatively advanced Indian society. In other words, it is a "civilizing mission" for the Indians. In addition, the geo-military strategic importance of Nagalim (land of the Nagas), being located in the tri-junction of China, Myanmar and India, seems to have played a major role in determining his rigid policy towards the Nagas.

Prior to the present ceasefire and peace process, attempts to resolve and end insurgency were made on two important occasions. The first one being the initiative made by the Naga People's Convention (NPC) leading to the signing of the Sixteen Point Agreement and subsequent formation of the present Nagaland state in 1963. The failure of this initiative was mainly due to two reasons; *one*, the Overground Nagas failed to persuade the Underground group to join the Convention, thereby leaving out the nationalist section from the settlement. It has only led to more violence due to internecine conflict and repression of the NNC by the Indian military. *Two*, the failure of implementation of the Sixteen Point Agreement,

particularly the point about the integration of the Naga territories. For the nationalists the Sixteen Point Agreement was an attempt by the Indian intelligence to hijack the Naga issue through backdoor.²

The second attempt to end violence was made during the time of national emergency promulgated by the then Prime Minister Indira Gandhi in 1975, leading to the signing of the infamous Shillong Accord. It was immediately repudiated by the nationalist faction and the agreement was condemned by the Naga National Assembly. Though Phizo did not officially denounce the Accord, the events immediately following the Accord indicate that he should have, as did the Naga public who considered it a total sell out of their cause. It resulted in the formation of a more potent nationalist group known as the National Socialist Council of Nagalim (NSCN).

On both these occasions the blunder was due to the absence of the frontline leaders of the nationalist groups. The sidelining of the nationalists section only hardened the resolve to carry forward with the armed struggle. It was also a blunder on the part of the Indian government in so far as it tried to co-opt a few Naga elites thereby dividing the Naga society into Indian loyalists and Naga nationalists.

After a repeated trial and error approach, the current peace process was hailed with much optimism. Although the initial hype for early settlement has withered away, there is no doubt that the current peace initiative holds much vigor and optimism as compared to the past initiatives, for two reasons; *One*, the present negotiation is being conducted with the most effective nationalist group, although other groups are theoretically not left out of the peaceful engagement, except the NSCN (K) group which withdrew from the ceasefire agreement in 2015. *Two*, after 15 years

² See *Nagalim Voice* (2015: 1), VII (5), Online Accessed (21-05-2016). Available at www.nagalimvoice.com

of negotiation and several rounds of talk, the contour of settlement, popularly known as “Framework Agreement”, has been agreed upon and signed on August 3, 2015. Currently Mr. RN Ravi, the interlocutor of the peace talk has been seriously pursuing to persuade all sections of the Naga society, both Underground and Overground, to come on board for the final settlement.

The Framework Agreement, according to Rh. Raising, Home Minister, NSCN/GPRN, talks about “sharing sovereign power defined in the competencies for enduring inclusive new relationship of peaceful co-existence of the two entities”(Nagalim Voice: *ibid*).

II. “Shared Sovereignty”

The idea of shared sovereignty as the basis for resolving Indo-Naga conflict is a welcome innovation by the negotiating parties. While the term ‘shared sovereignty’ sounds more appropriate in case of sovereign countries coming together and surrendering some of their exclusive rights to a common body, for example European Union, World Trade Organization, in this case the term is loosely used to mean sharing of competencies and resources, which also points to ‘power sharing’ as well. Therefore, in this case, the term ‘shared sovereignty’ refers to basically sharing of India’s sovereignty by the Nagas, since the Nagas have no sovereignty to share with India, because the Naga Independence declared on 14th August 1947 lacks International recognition, which is considered an important element of a true sovereign entity. This is because along with recognition comes the rights,

privileges, and obligations as a member of International Organisation and Nagas have not enjoyed any such privileges so far.

In the current context, it is not that the Nagas do not understand or are confused by the term sovereignty, as some have argued.³ From the start, by sovereignty Nagas meant external and internal sovereignty. External sovereignty means that India or any other country has no right to occupy and subjugate Nagas. It means power to make independent decision on foreign affairs, defense, currency, communication etc. Internal sovereignty is the exclusive and unrestrained power over its own affairs in accordance with the laws of the land and the will of its citizens. Therefore the traditional-conservative understanding of the term was very clear to the Nagas when nationalism took shape. That the ‘Nagas are not Indian’ is the oft repeated quote from the nationalists. It is more than clear what they demanded and why they demanded it. Therefore to say that the Nagas did not understand the concept is a distortion of the fact.

Similarly a statement like, “in a democracy sovereignty lies with the people”, is too simple and general a point to make at this time in Indo-Naga relations.⁴ Going by this statement, Nagas have been sovereign throughout since it is a democratic society; or do R. N. Ravi’s words mean that Nagas have failed to realize that their sovereignty was there with them all along until he pointed it out to them? In either case, this is a misrepresentation of the Naga struggle, and for whatever reason, Ravi seems to be confusing between ‘state sovereignty’ and ‘governmental sovereignty’. The Sovereignty

³ According to SC Jamir, Nagas are “much too obsessed with the word “sovereignty” despite being largely ignorant about its concept and implications or connotations”. For more on this see, SC Jamir (April 17, 2013), *Naga Political Problem as I see it*. Online Accessed (04-05-2016). Available at www.nagajournal.wordpress.com It is true that the concept of ‘sovereignty’ has changed since the Nagas started the movement. There is also a long and complex relationship with India, such that their futures are tied together some way or the other.

⁴ When asked what does shared sovereignty means? RN Ravi explained, “Both sides have acknowledged the universal principle that in a democracy, sovereignty lies with the people”. *Nagaland Post*, December 8, 2015.

that the Nagas espoused was 'state sovereignty' rather than 'governmental sovereignty' or internal sovereignty, which Nagas already had in their village governments. As discussed above, it was very clear to the Naga what sovereignty is.

It is true that time has changed and with it the concept of sovereignty has also undergone a remarkable change. Therefore it is imperative that the meaning of sovereignty is relevantly re-interpreted and understood to suit the changes. Given the present context, it appears more realistic to explore the concept of "shared sovereignty" because the future of the Nagas and India is tied together due to their long and complex relationship⁵.

This clarification is important because there is a tradition of India's masterful use of vague terms in agreement with Nagas which became the sources of disagreement and misunderstanding. Ample proof of this can be found in the contested interpretations of the previous Indo-Naga agreements such as the Nine Point Agreement, Sixteen Point Agreement etc.

In view of this history, it is crucial for Nagas to ask what this 'shared sovereignty' is all about. As the "uniqueness" of the Nagas is recognized by India, this uniqueness also calls for a unique solution. In a way, all the states in India are unique, and by that logic all states are equal, which means uniqueness is common. But when we say that "Nagas are unique", we are not just arguing that the uniqueness of Nagas differs from all these uniqueness found in India. What sets the Nagas apart from the other people in India is the history

of their political relations with India. Acknowledging this uniqueness of the Nagas would require a solution different from the normal power sharing arrangement the Indian government has with the other states in the federal system. It calls for a solution that provides special powers greater than that is already provided for in Article 371A. Because, given the complexity of Indo-Naga history and its legacy of fragmented mandates and divisions in Naga society, anything lesser or equal to what has been already achieved will neither convince nor satisfy the rival nationalist groups. It will only be taken as a mockery in the faces of the rival factions.

The present constitutional arrangement of India provides an exclusive power to the Union government for the items mentioned in Article 246 (1) and Article 248, i.e. Union List and Residuary power. In addition to these, it shares power with the states over the items in Article 246 (2), that is, the concurrent list. This exclusive domain of the Union government includes area matters such as defense, foreign affairs, atomic energy, railways, postal, currency, airways, citizenship, Supreme Court and high courts, mineral oil resources, RBI, CBI, UPSC, etc.

In this context, any kind of "shared sovereignty" arrangement should necessarily include sharing of all the powers that are relevant to the Nagas, including those normally reserved for the Union. At least they should be open for negotiation. Although Article 371A contains certain special provisions to Nagaland that were devised

⁵ Indians and the Nagas have both shared a colonial past and have been influenced by the West. Western liberal democracy, parliamentary system, system of administration etc. are deeply rooted in both the cases. In the post-colonial India, the reorganisation of Northeast India has had a strong bearing on the Nagas. Through various policy initiatives promoting the majority culture of the region and of India as a whole, Nagas are slowly getting assimilated into the majority culture.

⁶ After the expiry of ten years of Nagaland statehood, in 1973 Tuensang district (undivided) came at par with the rest of the districts in Nagaland. See MSME, GoI (n.d) *Brief Industrial Profile of Tuensang District, Nagaland State*. Online Accessed (21-05-2016). Available at <https://www.dcmsme.gov.in/dips/DIPR-Tuensang-Final.pdf>

to persuade the Nagas, this arrangement was highly unsatisfactory to begin with and it was confined to the Nagas of Nagaland. Moreover this special provision, excepting the “ownership and transfer of land and its resources”, did not postulate sharing of any other power under the domain of the Centre. All the other provisions such as customary law, civil and criminal justice comes under the concurrent list. Therefore, in the context of “shared sovereignty”, this article has nothing much in substance. Moreover the entire provision, save Section 1 (a), is now redundant, as it pertains to Naga Hill-Tuensang Area, which in reality is no more a classified territory⁶.

“Shared sovereignty” implies sharing of foreign affairs. This is even more justified given that the Naga nationality spreads across International boundaries, and its distinct religious and racial characteristics from mainstream India. Till 1972 the Indian government placed the Naga affairs under the Ministry of External Affairs. This is clear proof of the uniqueness of the Naga situation. A shared foreign affairs arrangement would not be an anomaly as it is also practiced in different parts of the world. For instance, under the Russian Federation, the ethnic republics of Tatarstan and Bashkortostan are given free hand to establish independent foreign relation⁷. It also enjoys a separate Passport Office and arrangement that enable them to use their ethnic name rather than Russian.

Nagas can also work for non-self governing territory status and associate membership in the United Nations, as this is a typical case of colonial

legacy. This will be mutually beneficial. On the one hand, India will resolve its dangerous secessionist problem; on the other hand, Nagas will be able to safeguard their interests across nation-states. As Muivah made it clear to Prime Minister Modi, “Nagas can be trustworthy and take into your confidence for any policy in the northeast and beyond”⁸. Throughout their history Nagas have bravely fought their enemies to safeguard their land. More recently, Nagas made supreme sacrifices during the Second World War against the Japanese Aggression. In the field of defence Naga will not give up the responsibility of her border security to India alone. They have fought before and continue to safeguard their traditional land against any invasion, with the help of India if possible and alone if necessary. For the Nagas, land is their identity. As Mar Imsong argues, “In the Naga understanding, land is sacred; indeed for the Naga, ‘land’ includes Earth and all creation, in its spiritual and material modes of being. Their consciousness of the integrated dimensions of land as sacred place shaped the traditional Naga identity and ethos. This Naga Identity embodies human in a “God-Land-People” integrated triad of interrelation and interaction”⁹.

Likewise, there are many areas where both parties can benefit by sharing sovereign power. Once this is applied successfully it can become a model solution to India’s chronic problem in Kashmir and other parts in India. After years of lukewarm approach to the peace process, the statement of Prime Minister Modi appears positive. During the Agreement signing ceremony on Au-

⁷ Russia resolved most of her nationality problems in the post-USSR through treaty-based settlement. In the case of Tatarstan the Treaty is supplemented by the “Agreement on the Delimitation of Authority in the Sphere of Foreign Economic Relation”. Similarly Bashkortostan achieved special status by incorporating special supplementary pact in the Federative Treaty for Bashkortostan providing virtual independence.

⁸ Muivah’s Speech during the ceremony of Peace Agreement signed between the Government of India and the NSCN (IM) held on 3rd August 2015, New Delhi.

⁹ Imsong, Mar (2009: v) *God-Land-People: An Ethnic Naga Identity*, Heritage Publishing House, Dimapur, Nagaland.

gust 3, 2015, he said, “today’s agreement is a shining example of what we can achieved when we deal with each other in a spirit of equality and respect, trust and confidence, when we seek to understand concerns and try to address aspirations”¹⁰. This statement is indicative enough that the Indian side has finally understood the intricacies of the Naga issue. What is needed is acting on that understanding.

III. Observation and Suggestion

1. Unambiguous Agreement: The issue of clarity for any agreement is very crucial. Any resolution or peace accord should be very vividly written, simple and unambiguous, because the interpretation of the provisions of the accord will determine the success or failure of the agreement. Therefore, in order to avoid misunderstanding while implementing the provisions of any agreement, a mechanism should be put in place to address the issue of differential interpretation. The history of Indo-Naga conflict shows that various past agreements broke down due to the different interpretations of the provisions by the parties at their convenience. In 1947 when the Nine Point Agreement was signed between the representative of the NNC and the government of India, represented by the then governor of Assam Akbar Hydari, popularly known as Hydari Agreement, there was misunderstanding on the interpretation of the last point, i.e. Period of Agreement. It states, “The Governor of Assam as the Agent of the Government of the Indian Union will have a special responsibility for a period of 10 years to ensure the observance of the agree-

ment, at the end of this period the Naga Council will be asked whether they require the above agreement to be extended for a further period or a new agreement regarding the future of Naga people arrived at”.¹¹ While the Nagas understood the agreement as a partnership for a period of ten years, thereafter some sort self-determination for the Nagas to decide on their future, the Indian government interpreted the ten years period as lease period after which the Nagas will be integrated in the Indian Union.

The Sixteen Point Agreement between the representative of the Naga People’s Convention and the Indian government leading to the formation of the present Nagaland state and the incorporation of a special provision, Article 371A, in the Indian constitution, also faced with the same ambiguity of interpretation. More recently the Nagaland State Legislature, basing on Section 1(a)iv of Article 371A, which says that the “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”, enacted the Nagaland Petroleum and Natural Gas Regulation in 2012 empowering itself for exploration. However the Petroleum ministry of the Union government objected to such move stating that exploration of petroleum and natural gas lies exclusively in the hand of the union government under clause 1 of Article 246, i.e. Union List. Overriding the state’s notice, the Petroleum ministry issued a fresh tender for exploration of the same¹².

Similar situations should be avoided as far as possible to save both sides from conflicting interpretation. Therefore any Agreement or accord in

¹⁰ Op. cit.

¹¹ See Naga-Akbar Hydari Accord (Nine Point Agreement) 1947. Online Accessed (15-04-2012), Available at http://peacemaker.un.org/sites/peacemaker.un.org/files/IN_470628_Naga-Akbar%20Hydari%20Accord.pdf

¹² For official documents; *Expression of Interest*, see <http://www.oil-india.com/pdf/tenders/EOI/EOIGPHY01UA-2D2015-01.pdf>. For *NPNGR 2012*, see <http://www.indiaenvironmentportal.org.in/content/377867/the-nagaland-petroleum-and-natural-gas-regulations-2012/>. Online accessed (21-05-2016)

the future should lucidly enumerate the provisions without any ambiguity. Wordings should be structured in simple language and in detail as far as possible.

2. Wider public debate: Before inking any final agreement, detailed contents or the extent of power sharing arrangement should be made available to the public for a wider consultation and debate. Given the fragmentation of Naga society and the democratic mandate, a broad consensus is essential for the successful implementation of any agreement. This is crucial because even if the Naga people on the Indian side (not to mention NSCN-IM and the Nagas based in Myanmar who are not within the reach of any settlement made with the Indian Union) agree to come together into a loosely unified manner, which is a possibility, any Accord that does not give all the Nagas a fair share of power, or an honorable one, will only give an upper hand to the sceptics and will be a source of further disunity. If the Naga people do not accept the arrangement with the NSCN-IM, there would not be a solution and the struggle would only intensify. In that case, the agreement will be a repetition of past mistakes and a source of more division and violence instead of a solution.

Therefore the participation of ‘the people’ or in the words of R.N. Ravi “taking everybody on board” is very essential. It is clear that the Naga issue is not only a concern of the armed nationalist groups but more importantly it involves the different sections of the Naga people such as the Tribal bodies, Church organizations, the elected representatives and the political parties, the students’ and women bodies, which constitute the Naga civil society. Therefore it is important that

the details of the Accord be produced in the public domain for thorough deliberation before it is finally agreed upon and tabled in the parliament. This action can play a unifying role for the different Naga groups.

3. Address both symbolic and substantive issues: For an Accord to be widely acceptable and honorable it should address both the symbolic and substantive concerns of the people. The symbolic elements include, *inter alia*, separate flag, emblem, song or anthem, and other culturally related protections. This will address the issue of identity. This is important because minority ethnic groups such as the Nagas are not only apprehensive of the mainstream dominant culture subsuming their ethnic culture but also because of the aggressive behavior of the majority communities in India. However these symbolic elements will not be of much use if the substantive issues are not addressed. Substantive elements include the devolution of political power and a proportionate share of political and economic power. There should be a separate constitution or bilateral-treaty-based- federation as practiced in Tatarstan, Bashkortostan under Russian Federation.

With hardly 3 million Naga populations in India’s 1.5 billion, Nagas are never going to be enough in a democratic number game¹³. But India’s democratic character will be judged by how it protects and provides due opportunity to the minority nationalities not only by how much the majority is secured and uplifted. Therefore the Indian government should devise a political and economic empowerment policy such that irrespective of any political party coming to power at the Centre, the Nagas get their share of these powers without in

¹³ There is no accurate data available exclusively for Nagas in India. Several authors roughly estimate around 3 million according to 2001 census of India. According to Shimray the 1991 census of India recorded 14,54,864 Nagas living in India. U.A. Shimray (2007: 26) *Naga Population and Integration Movement Documentation*, Mittal Publications, New Delhi. See also Thohe Pou, *The Myths of Naga Origin*, Online Accessed (30-05-2016). Available at www.e-pou.net/epSubPageExtractor.asp?src=manipur.Ethnic_Races_Manipur.The_Myths_of_Naga_Origin

terruption. This can be done not by increasing the number of members in Parliament, but by accord- ing other effective representation beyond voting rights, because if Naga rights are tied to voting rights in the Indian parliament, the Naga represen- tatives will get lost in the party politics of India, making them insignificant in the great democratic number game of Indian politics. India should also provide special economic assistance to the Nagas as the Nagas have suffered long enough due to this unresolved political problem with India. The eco- nomic development has taken a backseat due to the conflict. Therefore it is only fair that a special economic package be negotiated in the same way colonized peoples have demanded and received compensation from their colonial masters. Such strategy of conflict resolution can be a model solu- tion replicable not only for the other ethnic mi- norities in India but also other nations with similar problems.

4. Acceptability on both sides: Acceptability by both the Nagas and the Indian side is the corner- stone for the final agreement to bring durable peace. As long as the final agreement is an honourable one, Nagas may not have much problem, with the exception of NSCN (K). However there can be ways of bringing the NSCN (K) along. On the In- dian side, however, parliamentary democracy de- mands that any constitutional amendment has to be approved by the parliament with required ma- jority. Once tabled and passed in the parliament— assuming that the ruling party will muster the re- quired number— there is another hurdle to pass

through, i.e., the judiciary. The tussle between the Judiciary and the Legislature in India is well known. Though in principle harmonious relation- ship between these two organs of government is accepted, many times the judiciary, being the guard- ian of the Indian constitution, has struck down laws using the power of judicial review, and declared them null and void on grounds for their violation of the basic structure of the constitution. Given the sensitivity of the issue it is hoped that the judiciary will look at the case favorably, if the matter comes up in the court. Naga political settlement must not be politicized.

With the exception of NSCN (K) in Myanmar, other national groups based in India are unlikely to pose a problem. For the NSCN(K), India can play a major role with the Myanmar government, and along with the Nagas on both sides of the border, the governments can work in uplifting the lives of the Nagas in Myanmar. Policies such as tied loan, soft border, economic cooperation etc. can be used to improve the economy of the region while also working to India's and Myanmar's advantage. The Act East Policy of the current Indian government should be pursued with all seriousness, because merely coming with nice-sounding policies changes nothing. Nomenclature does not make any difference in reality. It is disheartening to see that there are no significant changes taking place at the ground level even after two years of 'Act East Policy' from 'Look East Policy'. It is only by attracting Nagas to the Indian system that Nagas can become a partner with India in building a truly multi-lateral India, and not through threat, intimi- dation and conquest.