THE PHILOSOPHY OF SHARED SOVEREIGNTY WITH INTERNATIONAL LAW TO END THE INDO-NAGA CONFLICT

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ABSTRACT

The Indo-Naga conflict has been the conflict of self-determination for the Nagas. This is also considered as the longest running struggle in the Indian sub-continent. Though, the constitution of India provided the statehood to Nagas, however they were not satisfied with statehood as they wanted to establish their independent nation with functional sovereignty. The government of India and Nagas had been indulged in several attempts to resolve the conflict and to end the bloody violence, but no success could be achieved. Therefore, this paper focused on discussing the concept of shared sovereignty that could bring a halt-if not a resolution to the Indo-Naga conflict.

Paper discussed the concept and philosophy of sovereignty and shared sovereignty to understand the difference between two concepts. Paper provides the discussion about the International influence that resulted in demarcation of the various regions that fueled the Indo-Naga conflict. The latest attempt to resolve the Indo-Naga conflict has been initiated by the signing of the ‘Framework Agreement’ (Aka the Indo-Naga Peace Accord) in 2015 that has increased the debate about the concept of shared sovereignty between India and the Nagas. Paper concludes that concept of shared sovereignty could be the only option to tackle (if not resolve) the conflict that had been increased due to international influences and could not work under absolute sovereignty.

Keywords: Sovereignty, Shared Sovereignty, International Influences, Indo-Naga Conflict, Sharing Sovereign Power

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INTRODUCTION

There has been the increased interest in the concept and philosophy of sovereignty in the contemporary politics and international relations. There is no surprise that the recent political developments have given the increased interest to the philosophy of sovereignty. The traditional meaning of sovereignty was conceptualized by the early modern theorists Bodin and Hobbes, which characterizes the supreme power or the absolute power within the territorial boundaries. With the process of globalization the political and economic interdependence between the states have increased and this has resulted in reasserting the sovereign power of the states. However, the nation states still find that sovereign power is the only defence to the increasing terror wars, economic crisis and the other threats to porous borders. Due to these conditions the modern theorists have believed that traditional concept of sovereignty could be considered as adequate. This has led to the development of the new concept of shared sovereignty.

The dissolution of the colonization in the wake of World War II and the end of the Cold War has resulted in creating significant changes in the power balance of the world. Globalization has paved the path for the economic development, but increased the struggle for self-determination between the competing ethnic groups and has become the principle barrier for the growth and sustainability. The conflicts in 20th century were mainly associated with imperialism, colonialism and isolationism, whereas in the 21st century the struggle and conflict has been related to globalization and ethnic nationalism. Shared sovereignty has been found as the only solution for eliminating the Indo-Naga conflict. This had been the longest conflict of the history that had gone beyond the individual nation states control. Therefore, this paper will discuss the concept of sovereignty and shared sovereignty and the significance of the international law in context to Indo-Naga Conflict.

THE ORIGIN OF INDO-NAGA CONFLICT

The Indo-Naga conflict can be considered as the internal civil war for India. The Nagas struggle in self-defence against the dominating external aggressor. The Nagas did not accept the domination of the British and had not accepted their colonization and political supremacy. Historically, it has been found that Nagas were the head hunters that became the significant reason of their
independence during the complete period of British colonization in India (Vashum, 2001). The Naga conflict had mainly developed during the British rule in India. The British colonizers were mainly interested in maintaining their empire and were not interested in resolving the political or colonial conflicts, when the conflicts were not posing the barrier to their empire. A small part of the Nagaland was colonized by the British and the larger area always remained un-colonized. After the India gained its independence from the British rule, they also received the political conflicts as the legacy of British Empire (Phyobenthung, 2016).

The present conflict between India and Nagas is not just the result of a single historical event, but originated due to the consequences of the various events. One such event was the post-colonial settlement between British and India. The Nagas were handed from British rule (However, British could never establish their absolute control over entire Naga territory) to India (Ngaihte, 2014). As history witnessed, Nagas had limited contact with India and handing over their power to India was absolutely unacceptable to them. This had created the clash between the two powers, where one wants to display its dominance and military arrogance, while the other side was struggling to display their continuous existence. The Nagas always feared that sovereignty of India might lead to their assimilation and would also lead to the destruction of their identity.

WHAT IS THE PHILOSOPHY BEHIND SOVEREIGNTY?

Sovereignty is the term that has developed too many conflicting meanings over the centuries. The various definitions of sovereignty have been developed that are flexible enough to accommodate the historical diversity, yet it is considered to be concrete and meaningful and defined as the “supreme authority within a territory- Authority- the right to command and correlative, the right to be obeyed” (Philpott, 1995, p. 353). Robert Paul Wolff's has defined sovereignty as “a matter of right or legitimacy, not one of mere power” (as cited in Philpott, 1995, p. 353). However, the sovereignty is not just specified by the authority, there are various authorities, who do not have the power of sovereignty.

Although supremacy has been stressed by the concept of sovereignty, yet is also considered as the territorial power (Annan, 1999). Bodin, (1992) has defined sovereignty as “absolute and perpetual
"power of a commonwealth" (p. 3). According to this concept the authorities have the supreme law making power and the absolute power to command. The second sub part is the political sovereignty, where the authorities have the legitimate power for administering the state. Internal sovereignty is the third sub part that states about the internal empowerment of the nation to control the various domestic conflicts and last is the external sovereignty, which specifically explains the power of the state in terms of relations with other nations.

According to the above definitions of sovereignty, it can be understood as the power that the governing body has to govern itself without any kind of interference from the outside bodies. In the political theory, sovereignty can be considered as a substantive term defining the supreme authority over polity. Therefore, the sovereign state is one that governs itself independently without any interference of the foreign bodies. The classic liberal theory also states that every individual is sovereign on oneself (De Benoist, 1999). The concept of sovereignty has been very complex and contradictory in political science.

Sovereignty has also been defined in two different ways. According to the first definition sovereignty can be considered as the supreme public power, where the public has the rights and can impose the authorities. However, the second definition states about the holder of the legitimate power, who is considered as the main authority. In terms of the national sovereignty, the first definition is applicable, where the people have the power, whereas for the legitimacy the second definition is applicable. Therefore, it can be said that sovereignty is about power and legitimacy (De Benoist, 1999). According to these two different definitions, sovereignty can be divided in four different sub parts to be applicable for the modern political situations and concepts. These sub parts are legal, administrative, political and internal sovereignty that defines the absolute power of the authority.

The Nagas do not have anything similar to India or Indians. They have the different religious, cultural and political history and accepting the sovereignty of India was not acceptable for them. The Indo-Naga conflict had there been due to the fact that Nagas wanted their own identity and their own country. The destruction of identity was the major concern because the Nagas believed that assimilation of Nagaland in India will destruct their monolithic identity (Kikon, 2015). Most of the Nagas were animist earlier, but now most of them are Christians. The British rule ended and
the British gave the power of Nagaland to India, which fuelled this political conflict. According to philosophy of sovereignty, the authority has the absolute power. Therefore, the concept of sovereignty has been considered as complicated and was not appropriate to resolve the Indo-Naga conflict (Kikon, 2015).

**SHARED SOVEREIGNTY**

Self-determination and globalization has given rise to many new conflicts. The conflicts of power and control have led to great destruction in the history. The ethnic nationalism is one such conflict that has been significant in 21st century (Walker, 2003). These challenges and conflicts have culminated in tensions that often threaten the peace and security. The ethnic groups often fight for attaining control of the states or the nations that escalates the conflict. Such nation state conflicts are left with very limited options to resolve the issues. Therefore, the best option that is considered by many scholars is the concept of shared sovereignty that can be significant for promotion of peace (Walker, 2003).

Shared sovereignty can be understood as the concept under which the two or more nations share the power under certain terms and conditions. This could be understood through the example of European Union. The countries that are the member of the European Union work under the shared sovereignty and these countries have to accept the significant constraints on the ir monetary policies (Phillips, 2012). The members have to abandon their balance of power politics and have to work under the political and economic integration. The power and decision making about the important political and economic issues is shared among the interest groups (Wells & Wells Jr, 2008). All the independent states in the European Union (EU) are sharing their sovereign power with some important terms and conditions to maintain peace and mutual support. However, in the context of Indo-Naga Conflict, dimensions of sovereignty as discussed above dramatically changes because, Nagas has no sovereignty to share with India in fact it is India which is required to share its sovereign powers with the Nagas and therefore, the role of India is very significant in the ongoing Indo-Naga Peace process which has reached to a very crucial stage. The best example of Shared Sovereignty (The Tribal Sovereignty) can be cited that of the relationship that US Government is sharing with Red Indian tribes. From the perspective of American Federal
Government, U.S. tribal sovereignty means that “Native American tribes are “domestic dependent nations” that exist within the boundaries of the U.S. and that they are wards of the U.S., even though they may operate and manage some internal tribal affairs. From the U.S. viewpoint, tribes do not exist as truly sovereign and independent nations” (Lee, 2014). The study of the model of Shared Sovereignty that exists in US helps us to understand how the powers of governance concentrated in the hands of centre can be shared and how the principle of ‘mutual dependency’ exists as a soul of the model of shared sovereignty. The Red Indian tribes enjoy the sovereign powers over their ‘designated’ territories without any interference from the US Government which allows them to function to some extent as ‘truly sovereign nation’.

Therefore, specifically “Shared sovereignty” mainly implies the sharing of the foreign affairs. Share sovereignty can also be considered as the ‘security partnership’ where the two different powers and excluding the major interests related to business and labour (Wells & Wells Jr, 2008). It can also be said that shared sovereignty is the sharing of the administrative and legislative powers. India and Naga have their own concepts and understanding towards the philosophy of sovereignty and shared sovereignty According to the agreement made on 3rd August lies within the context of shared sovereignty, under which the sovereign power mainly lies with people. Therefore, shared sovereignty is mainly used to make the negotiations for re-establishing peace and to solve the Indo-Naga political problem (Ngaihte, 2014).

The concept of shared sovereignty will work effectively in the case of Indo-Naga conflict. This will provide the opportunity to the Naga to function as an independent nation, which will be effective under Pan Naga Hoho System. Pan Naga Hoho System is the part of the framework agreement of 3rd August 2015. Under this agreement that model of shared sovereignty will be made acceptable for both India and Nagas. According to this shared sovereignty agreement, the Nagas will be completely independent but they will be considered under the union of India.

The article 371 (A) of the Constitution of India is regarding the special provision with respect to the State of Nagaland. This article considers the religious and social practices of the Nagas and provides the rights of the administration of the civil and criminal justice and involves the decision making according to Naga customary law. Therefore, the Indian constitution has given many rights by considering the Naga land as the state. This article supports the 16 points agreement that
supported the formation of the Nagaland. Nagaland receives the absolute safety under this article and the centre of Nagaland will have the eminent domain. Through the shared sovereignty, Nagas will hold the absolute power of their resources and minerals and whatever is above or below the land will absolutely belong to Naga.

The government of India also has the significant views towards the shared sovereignty. The chief negotiator from the India is Joint Intelligence Committee (JIC) chief R.N Ravi, who has stated that shared sovereignty or the sharing of power is not just the mere semantics, but it is considered as the genuine devolution that will make the Nagas as almost equal to sovereign, however, not absolutely sovereign like a Nation State (“Shared Sovereignty between India and Nagalim”, 1st March 2016, Published in The Sangai Express). The Nagas have undergone the great struggle to achieve their independent identity. The history of Nagas explains about their uniqueness and their struggle. The relationship between India and Nagas will be based on shared sovereignty that specifically lies with the people. The two will be independent and will share the powers.

SHARED SOVEREIGNTY AND INTERNATIONAL LAWS IN CONTEXT OF INDO-NAGA CONFLICT

The Naga struggle has been considered as the longest struggle of self-determination. Though the Nagas were provided with the statehood under the Indian Union, which had been specifically defined under the Article 371 A of the Constitution of India, which, however; could not satisfy the nationalists and this had resulted in extensive conflict, bloodshed and destruction. There is also the international influence on the Indo-Naga conflict because of the social and political arrangements of India with China and Myanmar (Burma). The asymmetrical relationship of the Naga with the India government increased their frustration that lead to the internationalization of the conflict. The international society vales the restraints and reject the possibility of any kind of war and violence (Sanyu, 1996). There could be a hope from the end of China due to their strategic and ideological approach. However, the help of the ideological and legal elements with the help of China may not be a reality considering the international political dynamism exhibited by china from time to time and also, the issue did not significantly affect the core interest of the country. In other words china might indirectly support the cause of Nagas, however, the chances of supporting
them openly by China at international platform are remote. There is no much difference between
the approach of India and China since, India has been heavy handed towards the etho-nationalism,
the Chinese have also seen the Vietnamese as the southern savages and also do not have any
tolerance for Nagas (Sanyu, 1996), which is the fact that cannot be ignored. Nagas can never rely
on China.

The international laws related to India, China and Myanmar had the significant impact on the Indo-
Naga conflict. The Nagas are inhabited in the hills area of the tri junction of India, China and
Myanmar and their region is called as the Naga Hills (Shimray, 1985). Before the British rule, the
Nagas lived on a contiguous region without any kind of the national or international boundaries
and differences. The various Naga tribes have never live under one administrative role. The Naga
problem has been resulted due to the various international treaties and demarcations. When British
took over Assam and signed the treaty of Yandaboo in the year 1826, it resulted in drawing the
Indo-Burma demarcation. This boundary passed through the current state of Nagaland, Mizo hills,
Manipur, Kachin states and Chin hills and the then Naga hills. Therefore the one sided boundary
line divided the Nagas and resulted in many problems.

The boundary demarcation divided the Nagas and also disunited them and reduced their power.
They did not have the courage to revolt against the imperial rule. With the departure of the British,
the Nagas believed that this will result in their freedom and Independence. In the year 1937, Burma
was also separated from India that further disunited their community. The India Burma boundary
problem had also occurred that was unable to be settled by the Indian Prime Minister Jawaharlal
Nehru and the Premier of Burma U Nu. They both had been unable to resolve the boundary conflict
that had been the legacy of the British Government. This has led to the Indo-Naga armed conflict
in the year 1955 and the frontier areas became the strategic location for the Nagas. The
international law again played a significant role, when the Indo-Burmese relationship improved
and Nagas were prevented from trekking to East Pakistan and China. The demarcation of the Naga
Hills had resulted in dividing South Asia and South East Asia.

The result of these international treaties had resulted in isolating Nagas from the remaining world.
The Nagas lose their power and could not go against the world to achieve their independence and
freedom. Though, they always fought for their freedom and internationalize the conflict, which
was done by A.Z Phizo, the President of NNC. For highlighting the Naga problem an anti-Indian propaganda was conducted in London, due to which India was accused of many atrocities. However, no results could be achieved through internationalization. Therefore the Nagas have to face the effects of ‘international politics’ that further led them to unique ideological position that could be called as ‘eclecticism’. The different variables, international treaties and the international laws related to India, China, Myanmar, United States and other Western countries affected the situation of Nagas (Ngaihte, 2014).

The domestic, systematic and cognitive forces resulted from the conflict had affected the Naga elites and forced the Naga decision makers to think towards the conflict with new approach, which could be more self-limiting and moderate. The decisions of the Naga leaders are specifically based on the ‘functional sovereignty’, which has emerged from the paradigm shift (Kipgen, 2013). This shift has also forced the leaders to eliminate the political militants to moderators, who could commit towards peace building (Kipgen, 2013). Therefore, the Nagas could achieve the position in international context and could gain a place only under the shared sovereignty of India. The concept of shared sovereignty will be mainly associated with the sharing of the foreign affairs. This could be understood through a more justified example that nationality of Nagas spread across the international borders and it has the distinct racial and religious identity that is different from India (Kipgen, 2013).

The concept of the shared foreign affairs is not an anomaly, as it is also significantly practiced in the other parts of the world. For example, ethnic republics of Tatarstan and Bashkortostan are under the shared sovereignty of the Russian Federation, for which they have the free opportunity to establish independent foreign relations (Phyobenthung, 2016). They also have the separate Passport office and have the significant arrangements under which they can use their ethnic names without using the name of Russia. Therefore, according to this example Nagas can also receive the non-self-governing territory status and can also associate the membership in United Nation that will strengthen the position of Nagas in international context (Phyobenthung, 2016). The concept of shared sovereignty can be mutually beneficial for both India and Nagas. The India will at least be able to achieve the peace in region and Nagas will be benefitted as they will get the opportunity to safeguard their interests across nation states (Shimray, 2007). Though the detailed contents of the agreement and the extent of power sharing has not been made public, but it will significantly
benefit the Naga people who were on the Indian side and those who were based in Myanmar (Phyobenthung, 2016).

CONCLUSION

The hills of China -India-Myanmar borders have witnessed the Indo-Naga conflict of 65 years. This had been the fight for the Political Justice. The peace process had been very long, however nothing substantial could be achieved till the time the unique history and uniqueness of the Naga people was officially acknowledged. This conflict had resulted in armed conflicts and many political conflicts. The Indo-Naga conflict is considered as the legacy of the British rule in India, which had significantly fueled post Indian Independence. Nagas always believed in their different identity and had claimed that they are not Indians, as they do not share any kind of religious, cultural, political or historical connections. Let us understand that the conflict has not yet been ended with the agreement in the year 2015 that had been initiated by the Prime Minister Narendra Modi, but paved the path towards concrete possibility of peace. Indo-Naga Conflict can never be truly resolved because of the unfulfilled, impossible dream of Nagas-the dream of the formation of independent Naga Nation, however, the alternate solution of the idea of Shared Sovereignty within the constitutional framework of India definitely satisfies the needs of the stakeholders from both the sides. The Naga conflict stretched over the years because of the insufficiency of the Indian government and failure of the many significant steps that were taken to resolve the conflict.

The significant factors that can be associated with the solution of the Indo-Naga conflict are sovereignty, shared sovereignty and the international laws. The paper addressed the philosophy and concept of sovereignty and shared sovereignty to explain that how these two concepts have affected the Indo-Naga conflict. Nagas had refused to accept the supremacy of India by accepting the sovereignty of India. Therefore, the concept of shared sovereignty developed. The conflict had been affected by various international laws and treaties, due to which Nagas failed to achieve freedom and independence. Therefore, it can be concluded that shared sovereignty in context to Indo-Naga conflict had been the only solution-if not resolution, to this problem.
The Indians and Nagas share the colonial past and have been significantly influenced by the Western democracy, system of administration and parliamentary system. The recognition of the North East India occurred after the India gained independence from British government. This reorganization of the region greatly affected the Nagas. Due to the various policy initiatives and the influence of the majority culture (India) the Nagas were slowly assimilated in India. Sovereignty stated the complete assimilation of the Nagas in India and threatened their identity. Therefore, shared sovereignty which provides ‘functional sovereignty’ had been a significant solution to the conflict and a necessary arrangement to respect and maintain the unique identity of Nagas, however, the question remains unanswered- will this solution be a final resolution to Asia’s protracted Conflict….only time will decide!
REFERENCES