

Introduction

While history has most fundamentally been about domination, it is also about justice and forming respectful and harmonious relationships. Many lessons repeated throughout human history have demonstrated that war and violence have not paved the way to enduring and peaceful existence as humans have continually resorted to using coercive force in order to attain the illusive outcomes of justice and peace. This illustrates the imperative for understanding history in guiding humanity to a shared future of peaceful coexistence. Paulo Freire shares an incisive perception that “there is no historical reality which is not human ... there is only history *of* humanity, made by *people* and in turn making them.”¹ This implies that humanity has the capability to keep making history through constantly transforming, thereby ensuring and sustaining the balance and harmony among all relations.

The transforming characteristics of humanity inherently exist in the peoples’ self-determining capabilities and freedom to exercise their self-determination through relationships where power is shared with the ‘other.’ Yet, organizing humanity along standards of the Westphalian World Order² has resulted in structures of domination and cultural assumptions of superiority giving rise to the Westphalian State. The hegemonizing and homogenizing characteristics of the State have continuously negated and pushed away peoples’ self-determination. Today, the modern world has inherited a history of war; a history of control through domination, oppression and violence; and a history where the powerful wields power-over the ‘other;’ all systematically denying humanity. The modern world is a construct of that history which continues to suffer from the policies of colonialism and the legacies of imperialism. How then, can there be peace in an imperialist dominated world?

¹ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 111.

² Richard Falk says that the Westphalian World Order emerged as a result of the Peace Treaty of Westphalia in 1648, which is the benchmark from which the modern system of sovereign states has emerged. Falk adds that “the Westphalian rubric is ambiguous in its usage as it serves both as a shorthand to designate a state-centric, sovereignty-oriented, territorially bounded global order and to identify a hierarchically structured world order shaped and managed by dominant or hegemonic political actors.” In effect, “Westphalia,” Falk says, “contains an inevitable degree of incoherence by combining the territorial/judicial logic of equality with the geopolitical/hegemonic logic of inequality.” The Westphalian World Order was a “European regional system for most of its operative period, gradually developing a global outreach that attained its climax in the colonial era.” Richard Falk, “Revisiting Westphalia, Discovering Post-westphalia,” (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4).

In the 21st century self-determination conflicts³ between States and Peoples continue on different continents and remain highly relevant to the question of world peace. Marc Weller informs “there are about 26 ongoing armed self-determination conflicts [and] in addition to these active conflicts, it is estimated that there are another 55 or so campaigns for self-determination which may turn violent if left unaddressed, with another 15 conflicts considered provisionally settled but at risk of reignition.”⁴ These clearly indicate that self-determination conflicts remain relevant; and thereby the imperative is to find effective approaches to transform them.

Research Intent

In the background of these contemporary historical experiences, this research study is persuaded to explore an unrepresented peoples’ perspective⁵ on the right to self-determination and to examine its potential as a resource for JustPeace. For purposes of this research the term *unrepresented peoples* refers to indigenous peoples, minorities, and peoples living in occupied territories. Unrepresented peoples are the most oppressed and marginalized, that are denied active participation in the political process of decision-making. They have been systematically denied their right to freely determine their own political status and develop their economic, social, and cultural future.

The term *JustPeace* for this research refers to a vision that recognizes that there can be no peace without justice. It emerges only when all forms of injustices that destroy human dignity are removed and requires addressing them through genuinely inclusive and fair means. JustPeace

³ Based on a statist perspective of Self-Determination and Conflict, Monica Duffy Toft and Stephen M. Saideman inform that since 1940, there have been 136 civil wars where “62 were “separatist,” whereby an identity group sought greater autonomy or self-determination over a portion of a state’s territory.” They further claim that the “remaining 74 civil wars were “centralist” in the sense that the combatants fought for control over the state and government offices in order to control and govern the entire territory of the state.” They define Civil War as involving at least two groups of organized combatants, with the State being one of those combatants, which leads to large scale violence within the border of an internationally recognized state, resulting in at least 1,000 deaths on average per year of the war, with the stronger side suffering at least 5 percent of those deaths. See Monica Duffy Toft and Stephen M. Saideman, “Self-Determination Movements and their Outcomes” in J. Joseph Hewitt, Jonathan Wilkenfeld & Ted Robert Gurr, *Peace and Conflict 2010* (Boulder; London: Paradigm Publishers, 2010), p. 44. The researcher feels that such a definition is problematic because there are armed conflicts having fewer than 1,000 deaths on average per year, and, yet their situation may warrant immediate intervention. Advocates of self-determination clarify that a self-determination based conflict between a State and a Peoples is not a Civil War.

⁴ Marc Weller, “Settling Self-determination Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009), p. 112.

⁵ Gadotti shares that the word “perspective” in Portuguese is rich with meanings. It originates in the late Latin “perspectives;” derived from two verbs: *perspecto*, which means “to look to the end, to examine attentively,” and *perspicio*, meaning “to look through, to see well, to look attentively, to examine with care, to recognize clearly.” Moacir Gadotti, “Paulo Freire and the Culture of JustPeace: The perspective of Washington versus The perspective of Angicos,” a paper presented during The Third International Paulo Freire Forum on the general theme: The Possible Dream. Paulo Freire and the Future of Humanity, in Los Angeles, September 18-21, 2001.

necessitates transforming all unjust systems, as well as building new paradigms where peace can be experienced. The unrepresented peoples' perspective in this study refers to a *point of view* that has *faith in the future*⁶ for a JustPeace. This research seeks to provide a point of view with faith in the future from a place that calls for decolonizing and liberating the language of self-determination.

Research Aim: To creatively explore an evolving synthesis of the right to self-determination as a shared language and a resource for JustPeace from an unrepresented peoples' perspective.⁷

Research Objectives:

1. To analyze the Naga conflict and struggle for the right to self-determination as a case of unrepresented peoples' struggle;
2. To critique the United Nations' (UN) existing language of self-determination and State-centered attitude and responses towards peoples' right to self-determination;
3. To examine whether the denial of self-determination leads to conflict, and its relationship to JustPeace; and
4. To explore whether the realization of self-determination will lead to transformation of the Naga conflict.

This research will raise the voices for self-determination to become a liberative and living praxis through which the people regain their dignity and take ownership for determining their own collective future. Frantz Fanon notes:

Decolonization never takes place unnoticed, for it influences individuals and modifies them fundamentally. It brings a natural rhythm into existence, introduced by new men [and women], and with it a new language and a new humanity.⁸

At its heart, this research study hopes⁹ to explore an alternative way of understanding self-determination that represents a language of JustPeace for all Peoples.

⁶ Ibid. Gadotti says that "perspective" means "point of view" which is the view from a point, from a place. He further adds that "perspective" can also mean *approach*, when we speak, for example, of political perspective *possibility*, belief in circumstances considered probably and good. Hence, to speak of perspectives is to speak of *faith in the future*.

⁷ While recognizing that unrepresented peoples comprise many different peoples having their own contextual historical, political, cultural and economic realities, this study will sensitively approach the language of self-determination that has been generally understood by unrepresented peoples.

⁸ Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 1963) p. 36.

Significance

In approaching this research from an unrepresented peoples’ perspective on self-determination as a resource for JustPeace, several significant areas emerged, including:

1. Examining the dominant discourses of self-determination which assumes it to be the cause of conflict;
2. Creating a shared language for self-determination that provides a multi-cultural and interdisciplinary understanding and critique to the United Nations’ position on self-determination as a principle and right;
3. The possibilities of bridging self-determination and peacebuilding processes as complimenting each other;
4. Emphasizing that the right to self-determination has the potential to be a nonviolent mechanism that is integral to peace processes; and
5. By way of imagining a pathway to the future, some new and alternative steps have been suggested for exploring the transformation of the Naga peoples struggle for self-determination.

Scope and Limitations

This research has used qualitative approaches to gather the primary data. The qualitative approach has both strengths and weaknesses. Its strength is demonstrated by the voices that have been raised after deep discernment, which is reflected in the richness and depth of the data. However, this has limited the number of participants in the research study. Subsequently, since this research study is an exploratory process to question the possibilities for seeking alternatives and creative ways of understanding self-determination and JustPeace, no absolute findings can be made. Rather, only recommendations in the form of an imagination, a summary and the future direction following this study can be offered for further dialogue.

While this research seeks to explore the right of self-determination from the lens of conflict and JustPeace, the scope of this research is focused within the parameters of the identified research intent, aim and objectives. However, the primary data from the Respondents far exceed the extent of this research in both content and meaning. The researcher acknowledges that several themes

⁹ Paulo Freire tells us that without a minimum of hope, “we cannot so much as start the struggle. But without the struggle, hope, as an ontological need, dissipates, loses its bearings, and turns into hopelessness. And hopelessness can become tragic despair.”⁹ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), p. 9.

have emerged from the primary data which has not been reflected in the content, since they go beyond the scope of this study. This nonetheless reveals that the area of self-determination is vast, interconnected, and interrelated to many facets of human life.

The researcher made the conscious decision not to send any questionnaire or to request any interviews from the *powers that be* – in this case, the governments and armed groups. While this may be perceived as a limitation, the researcher holds the view that the ‘positions and viewpoints’ of the *powers that be* often find their way to public space through their respective official channels and mainstream media. However, on the other hand, the views, feelings and aspirations of ordinary men and women are rarely heard, and often find no space in the public discourse. With the perspective of bringing into public expression the voices of ordinary men and women, the primary data for this research has been elicited from men and women who do not represent either the government or the armed groups, with the view that it will contribute to a process of a peoples-to-peoples dialogue. The researcher acknowledges, that the primary data, as well, as the analysis for the case study does not represent the views and opinions of all Nagas.

Similarly, this research study does not entirely reflect the views of those working in the areas of self-determination and conflict studies/peacebuilding. It recognizes and acknowledges the numerous scholars and researchers who have responded to questions around the history and evolution of self-determination and the comparative progression of self-determination within the UN,¹⁰ as well as on the areas of conflict studies.

Background

Most of today’s protracted armed conflicts around the world involve States and unrepresented peoples in their struggle to recover and exercise their self-determining capacities. The problems and challenges arising from these conflicts have emphasized States’ centralizing and nationalizing character and their unwillingness to confront and address the core causes of conflicts. Ironically, while the right to self-determination was the liberating concept which contributed the legal

¹⁰ For a comprehensive reading on self-determination, see, A. Rigo Sureda, *The Evolution of the Right of Self-Determination: A Study of United Nations Practice*, (Leiden: Sijthoff, 1973); Aurelie Cristescu, *The Right to Self-Determination: Historical and Current Development On The Basis Of United Nations Instruments A Study Prepared By A Special Rapporteur* (New York: United Nations, 1981); David C. Gordon, *Self-Determination and History in the Third World* (Princeton, New Jersey: Princeton University Press, 1971); Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, Revised Edition, 1990); and S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996).

framework for the break-down of empires in post-World War I and the formation of emerging States in post-World War II, the new States effectively restricted its meaning and application. Since then, self-determination developed principally around the discourse of real politik, which was invariably in favor of “international order and state security.”¹¹

Although self-determination is a powerful and dynamic concept that is applicable and relevant to all humanity, most of the literature addressing it has been confined to perspectives, definitions and models representing the dominant viewpoint coated in legal clothing. Such a state-centric discourse overlooks the framework for justice by not taking into consideration the unrepresented peoples’ values, norms and worldviews. As a result, stereotypical images and assumptions define self-determination as a source of conflict. Hence, while the language of self-determination has been included within the framework of the UN’s human rights instruments, inconsistencies exist in both meaning and implementation.

The State approach to self-determination is based on a legacy of ‘victor’s justice’ where the victors of war have determined the nature and course of self-determination. In this manner, it has only limited the UN’s capacity and credibility to promote ‘universal peace’ and enable genuine transformation. The peoples’ struggles for self-determination are a result of continuing colonization and a state-centric approach to the decolonization process. At least two aspects of the ‘decolonization process’ ensured further marginalizing the values of self-determination:

- (1.) The decolonized States were given independence from their colonizers which did not lead to emancipation, but was limited to the transfer of power from the colonizers to an exclusive elite group within the colonized entity; and
- (2.) The 1960 UN’s initiative for decolonization was limited to the ‘Blue Water thesis,’ as a result of which many peoples and nations were trapped within colonial boundaries of emerging States.

Furthermore, States reduced the concept of peoples to a legal entity, thereby causing ambiguity in defining and accepting a peoples. Hurst Hannum says in many instances it is easy to decide “whether a given community is a ‘people’ as long as one does not immediately attach legal

¹¹ James Mayall, “Ideological Source of Conflict: The Principle of Self-Determination, Religion and the Legitimacy of the State,” in Trevor Taylor and Seizaburo Sato (ed.), *Security Challenges for Japan and Europe in a Post-Cold War World, Volume IV: Future Source of Global Conflict* (London: Royal Institute of International Affairs and Institute for International Policy Studies, 1995).

consequences to the appellation.”¹² He adds “there can be no doubt that Tibetans, Kurds, Tatars, Navajos, Basques, and Yanomami are ‘a body of persons composing a community, tribe, race, or nation.’” Conversely, he says, “it is difficult to identify the common characteristics - apart from citizenship – of Swiss, Indians, Nigerians, Guatemalans, and Americans, yet each of these groups is identified by the international community as a people.” The second criterion identifies peoples on the basis of territory; and while this approach may be simplistic, it fails to address and recognize many unrepresented peoples who are trapped within the new States.

Many times State powers have deliberately and effectively initiated violence to create conditions of injustice, exploitation, domination, oppression and subjugation as means to ensure survival of its own kind, and the dehumanization¹³ of the ‘other.’ Unrepresented peoples are being denied their peoplehood and have been threatened at every level of their societies, their cultures suppressed, their worldviews and knowledge system negated, while simultaneously their struggle for self-determination has been misconstrued.

Colonization was not limited to geography and militarization, but included colonizing people’s minds, cultures, systems of governance and spirituality, causing the subsequent oppression to be present internally and externally. Unrepresented peoples’ struggle for humanity has not been adequately addressed or even clearly understood by the international community and States, especially when all too often their struggle for self-determination has been projected as the cause of the conflict. Examples of this have occurred on many continents and are represented by the Kachins, Karens, Tibetans, Kurds, the Basque, Aboriginal peoples of Australia and the Irish struggles.

The failure to uphold self-determination as a right of all peoples in the decolonization process has led to conflicts of interest between the ruling elite of emerging new States and unrepresented peoples, which have, in most cases, resulted in a brutal protracted armed conflict. The Tamil conflict is an example demonstrating that Sri Lanka’s denial of the Tamil peoples’ right to self-determination led to a protracted situation of an intense war and militarization that caused

¹² Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int’l L. (1993-1994) Issue 1 Fall 1993), p. 36.

¹³ Dehumanization, as Freire says marks not only those whose humanity is stolen, but also (though in a different way) those who have stolen it and is a distortion of the vocation of becoming more fully human. Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition*. (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 26.

extensive loss of human life, destroyed property, as well as devastated the economy. In 2009, after a history of failed cease-fires and negotiations, the Sri Lankan State went on sustained military operations to defeat the Liberation Tigers of Tamil Eelam (LTTE) in a bloody and brutal campaign.

It is quite obvious that the Sri Lankan State did more than just militarily defeat the LTTE; it caused irreparable damage to the Tamils' foundation in Sri Lanka that resulted in a serious humanitarian crisis. The loss of human life and the Tamils' displacement from their homes, undoubtedly, will adversely affect their future and increase their sense of collective loss. Sadly, the trauma they have endured will take generations to heal. Furthermore, with the LTTE's defeat, a political vacuum has been created. Could the bloodbath have been avoided? Has it helped to resolve the situation, or has it led to conditions that further deny the peoples' self-determining capacities and abilities?

The Tamil experience, therefore, has provided important lessons for the international community; and more significantly for States and peoples that are confronted with situations of political conflict. The primary lesson is that despite the military victory, the necessity for a long term settlement through some form of dialogue remains imperative. Military options come at a very heavy human and environmental price which cannot be measured. Experience from many conflicts has shown that collective trauma of this magnitude has the potential to arouse and intensify future confrontations, thereby prolonging the conflict and further complicating it. This reveals the inherent limitations of military options in finding political solutions.

The Israeli-Palestinian conflict has also resoundingly demonstrated that military force is not a viable response to conflicts that stem from the right to self-determination. Whether it is the LTTE, Hamas or any another armed group in areas of political conflict, they are only responding to underlying issues that have led to the conflict in the first place; hence, their defeat does not imply the end of the problem. The need for political dialogue cannot be avoided, and the urgency to develop nonviolent and peaceful means of resolving conflicts has become fundamental. Any dialogue should recognize the increasing interdependency and cooperation between States which are reflected in the regional alliances that have been formed along economic and military interests, including the North Atlantic Treaty Organization (NATO), Association of South East Asian Nations (ASEAN) and the South Asian Association for Regional Cooperation (SAARC), etc.

While State boundaries have become more fluid and open since the end of the Cold War, States continue to monopolize the use of legitimate force through corporately protecting and safeguarding their interests using these supra-state structures. The increasing interest-based strategic relationships between States have to a large extent adversely affected the peace processes, for instance, the conflicting parties in the Israel-Palestinian peace process are no longer the only stakeholders in the process. Is this the reason why “bi-lateral negotiations between conflicting parties in this modern era of multi-lateralism have not fully succeeded in finding durable solutions,”¹⁴ to questions of self-determination?

Whereas, on the other hand, using ‘plebiscite’ as an act of self-determination, based on the expressed will of the people has been successful in determining the political status of Kosovo and South Sudan. Both Kosovo and South Sudan have shown that a sustained peace does not depend on determining the political status alone, but requires conditions that allow the continuing exercise of a peoples’ self-determining capacities in defining their social, economic and cultural destinies. In essence, these experiences have demonstrated that self-determination, when defined as the will of the people, has the potential to be a peaceful and nonviolent mechanism for effectively transforming conflicts.

Organization of the Dissertation

This research is organized into seven different chapters briefly described below:

1. *A Journey of Reflection and Dialogue*: This chapter narrates the research journey that includes how the research study was approached, executed and analyzed on the basis of the qualitative method. It provides insight to the internal and external conditions that influenced the researcher in understanding the empirical data that was collected. It demonstrates how the Grounded Theory is a way of thinking and conceptualizing data. It narrates how this theory empowered the researcher to connect a series of plausible relationships within the context of the research situation and the constant comparison of data that enabled an alternative theory to be explored systematically from empirical data. From this chapter onwards until the conclusion, the analysis and the evolving synthesis are based on both primary and secondary data.

¹⁴ A Report on “Sitting Around the Fire: A Dialogue on Politics, Peace & Reconciliation,” (Dimapur: *The Morung Express*, May 2011), p. 10.

2. *The Language of Self-Determination*: This chapter focuses on how the praxis of self-determination is the essence of humanization. It goes on to establish that the existing language of self-determination has largely been shaped by traditional Western culture, jurisprudence and the Westphalian State, thereby negating the values and knowledge system of non-Western cultures. Consequently, this chapter argues that the state-centric approach to self-determination was constructed as a language of exclusivity, thereby becoming an obstacle to genuine self-determination. The analysis of this chapter is based on secondary data.
3. *Self-determination and the United Nations*: This chapter critically analyses how the UN as an ‘exclusive club’ of States has restricted self-determination to remedial aspect, notwithstanding that it is recognized as a principle and a right. Consequently, the application of self-determination is reduced to one of privilege and recognized only within the decolonization process conditioned by the ‘Blue Water thesis.’ While this contradicts the UN’s recognition of self-determination for all peoples, such denials have been the source of conflict. However, in the post-Cold War period, self-determination has been applied outside the context of classical decolonization, thereby creating new challenges for the UN. The analysis of this chapter is based on secondary data.
4. *Towards a Shared Language of Self-determination*: Recognizing the multi-cultural and inter-disciplinary character of self-determination, this chapter emphasizes the need for imagination in order to develop an evolving synthesis of self-determination. As a result, self-determination as a shared language shows the relationship between self-determination and sovereignty as concepts that are derived from the will of the people, and therefore, requiring a bottom up approach to transformation. It establishes that self-determination is fundamentally a concept not confined to secession, but as a continuing right that is relational in nature, implying ‘right relationship’ and shared responsibility. Based on primary and secondary data, the shared language demonstrates self-determination as a concept in perpetual transformation and as a praxis that is crucial to the humanizing process.
5. *Self-Determination as a Resource for JustPeace*: This chapter clarifies that self-determination when identified exclusively with secession is problematic, and adds that while secession is a process of relating to States, self-determination involves peoples’ needs, rights and aspirations. Historically, the denial of self-determination has been accepted as the source of conflict with the potential of becoming a protracted armed conflict. However, this chapter argues that while self-determination is a right, autonomy is

essentially a gift from the State which does not address peoples' aspirations. This chapter calls for a transformative praxis of self-determination as a resource for JustPeace that transcends the Westphalian World Order while seeking to sustain the continuing character of self-determination. It brings into focus the need for a framework where 'earned sovereignty' and 'bottom-up' peacebuilding complement each other.

6. *The Naga Caravan and its search for Humanization:* Based on the evolving synthesis formed in the previous chapters, self-determination as a shared language and as a resource for JustPeace is applied to the Naga conflict. This chapter analyzes the policy of militarization and the violence of peace that has been used to systematically suppress the Naga peoples' struggle for self-determination. This chapter focuses on creating the space for 'unrepresented' voices of Naga men and women to influence issues of self-determination and JustPeace. By establishing that negotiations are unable to facilitate a settlement that is consistent with principles of justice in the Naga context, this chapter argues that the rational way forward is to refer to the 'common will' of the people. It implies that self-determination becomes the mechanism for transforming the conflict, and on this basis, some recommendations as a way forward to the future is proposed.
7. *Conclusion:* This chapter summarizes the key outcomes of the research and establishes that it is the denial of self-determination which is the source of conflict. It further asserts that self-determination is an untapped resource for JustPeace and emphasizes the growing need to replace existing State structures with ones that are more representative, legitimate and humane. In the context of the 21st century the right to self-determination has assumed greater relevance as a creative language towards a shared humanity. Finally, as an exploratory process, the research points out the need for dialogue between self-determination and conflict transformation to work together in harmony, complementing each other for the humanization of humanity.

A Journey of Reflection and Dialogue

Introduction

The violence of conflict is numbing. It strips your sense of dignity, human-worth and creates conditions which induce complacency that makes you believe that the existing structural violence and injustice are normal and tolerable. Nevertheless, growing up in a situation of protracted conflict makes one recognize that life needs to be celebrated in its fullness. This is the paradox. I remember as a child the intricacy required in order to comprehend the eerie stillness that enveloped our lives even as the conflict ensured that our world was a standstill of perpetual domestication. Being reactive was not difficult under such conditions yet, every reaction only narrowed our already constricted realities that had kept us systematically isolated from the world. But the desire and will to celebrate the fullness of life, persuaded and nudged the human yearning to resist and explore ways to reclaim one's dignity.

For my generation that had lost its youth to conflict, injustice, struggle and substance abuse,¹⁵ the series of ceasefire between the Indian State and various groups of the Naga national movement beginning from 1997, was a breath of fresh air. It interrupted the cycle of open warfare and beyond the realms of politicization, it was the first time that many experienced some form of relative peace. It was not a JustPeace, but it did constitute some form of peace that allowed people to reclaim aspects of their lives. More importantly this space created opportunities for self-criticism, to broaden perspectives and learn from other peoples' experiences. This transitory situation provided openings for young Nagas to travel outside the Naga context and gain knowledge in areas such as human rights, development, conflict and peacebuilding; then they returned with their learning to share with others. The generation that lost its youth to conflict was becoming a generation that imparted the values of shared responsibility, non-violence and dignity.

As a young student,¹⁶ when my intuition led me to the path of human rights in 1993, I did not know what the right of self-determination meant, nor what it implied. It was not a term that was

¹⁵ Many young people turned to alcohol and drugs and became addicted to them. Due to heavy militarization, working hours were reduced considerably and many people chose to stay indoors to avoid the road-blocks and random checking by the Indian security forces. This constricted freedom of movement affecting cultivating land, transacting business, developing culture, enriching social life, thereby creating a climate of 'divide and rule' through conditions of fear and suspicion.

¹⁶ As a child of 5 years, my parents sent me to study at a boarding school in Shillong, the capital city of Meghalaya State, which was far from my home in Nagaland. Due to the armed conflict, the education infrastructure lacked good schools and contributed to the gloomy social conditions prevailing in Nagaland. Consequently, many parents sent

commonly used in the Naga context. I was familiar with political slogans such as freedom, sovereignty and independence, but the term self-determination in its legal splendor sounded so obscure, distant and void of feelings. Nonetheless, the idea behind self-determination presented an intriguing demeanor that left a deep impression on me. It was while I was pursuing my Master's degree through Eastern Mennonite University's Conflict Transformation Program that the different facets of self-determination kept revealing itself in the area of peacebuilding. Many hours of dialogue with friends including a Mennonite carpenter, and a Kenyan peace artist inspired me to undertake this research study to examine the relationship between self-determination and peacebuilding and explore the potential of self-determination to be a resource for JustPeace.

This research study is an ongoing personal journey of self-discovery through reflection and dialogue on issues pertaining to human dignity and how I, as an individual within the collective identity of a Naga, can contribute to the process of humanization. My research coincided with two sweeping conditions that challenged my thoughts, perceptions and assumptions. They helped me understand, contextualize and analyze the primary and secondary data more clearly and raised important questions that reinforced the perspective that has emerged in this evolving synthesis.

The first is an external condition: The 21st century that began with the liberation of Kosovo in 2008, and South Sudan in 2011, demonstrated the political and moral will of the international community to intervene and pursue a settlement. However, the violent military campaign launched by Sri Lanka to defeat the LTTE in 2009 that suppressed the Tamil peoples at any cost, serves as a reminder that, the State out of insecurity, still relies on the use of force as its primary response to peoples' aspirations. It also indicates that the international community makes decisive interventions arbitrarily, only when it wants to. The resurgence of the Scottish desire to test its destiny on the issue of independence from the United Kingdom through a referendum in 2014, demonstrates the continuing relevance of self-determination in the 21st century.

their children to be educated outside of Nagaland. Since the age of 5, I attended various boarding schools in India, including higher education at college and university. Studying outside my own context had its own advantages and disadvantages. It did, however, provide me with the opportunity to form an outside perspective of the Naga context, while still being an 'insider.' During vacations when I returned to Nagaland, I was initially unable to comprehend why there were so many security check points and our movements were constantly interrupted by security personnel who spoke to us in a language we could not understand. The whole situation was disturbing and raised more questions within me. I saw that there were differences in the quality of life in the places where I studied and in my own home in Nagaland. Eventually, as I grew older, I was able to understand that there were no human rights for the Naga people.

The second is an internal condition: The 1997 Naga peace process has continued without any visible change in the Indian State's position to genuinely recognize and respect the Naga peoples' historical and political rights, neither has India shown any willingness to be a partner in the peace process by creating the space for the Naga people to freely express and decide their own political future. However, the Naga Reconciliation Process, which was initiated in 2008 at a time of renewed internal violence, has given rise to new hope. More importantly, it has inspired a new imagination for looking at using nonviolent approaches as the most viable and creative means of transforming violent and seemingly intractable situations. Fundamentally, nonviolent approaches make space for increased participation and interaction of peoples in conflict situations. This has also happened to some degree in the Naga context as the level of violence has decreased.

The Naga Reconciliation Process provided me the opportunity to travel to various Naga villages and towns, where I met a cross section of people with different backgrounds and affiliations, and to engage in personal interactions. It also allowed me to closely observe the current dynamics of the Naga peoples' desire, challenges and dilemmas around their aspiration to decide their own future. The learning gleaned from Linda Tuhiwai Smith's book *Decolonizing Methodologies: Research and Indigenous Peoples* enabled me to contextually analyze the Naga situation with a new lens. Her book empowered recognizing the necessity to consciously re-interpret the Naga peoples' ground realities while keeping in mind the impact of imperial policies, imposed boundaries and militarization on the Naga people.

This ongoing analysis raised many key questions, such as: How does one reconcile with the overwhelming situation where ordinary people no longer feel safe in their own home, and have nowhere to go when their most basic rights are violated? How does one comprehend the fact that a Naga family has to go into 'Burma' to cultivate their ancestral land, and return to their house in 'India' for the night? How does one come to terms with the increasing reality that young Naga students are being taught about India and the world, but not about their own history, geography, politics and culture? A people without knowledge of their stories and narratives are in danger of losing their sense of who they are as a people, because someone else is going to tell their stories for them. The consequences directly related to the denial of self-determination are being lived on a daily basis in the Naga context.

Smith's 'Decolonizing Methodologies' was complimented by a perpetual cycle of reflection, dialogue and imagination that was inspired by Paulo Freire, through his books – *Pedagogy of the*

Oppressed and Pedagogy of Hope. While the reflection was a process of personal discernment, the dialogue and imagination was a process through which I could engage and share with different people during the journey. The interplay of the internal and external conditions along with the knowledge and lessons from Smith and Freire provided a dynamic basis for the research study. It has profoundly influenced my understanding, application and significance of the methodology towards my studies and how it contributed to the data's interpretation and analysis. The interweaving of the local conditions in the research area, the underlying cultural interpretations and the underpinning conceptual approach has been reinforced by the grounded theory.

This overall framework as a point of reference has kept me focused in providing an unrepresented peoples' perspective, as well as being conscious of the direction that was emerging from within the data analysis and its interpretation. While recognizing that unrepresented peoples are comprised of many peoples having their own historical, political and cultural forces, this study approaches self-determination from a perspective that is generally expressed by unrepresented peoples through their writings and submissions in different forums. Hence, it is based on the unrepresented peoples' perspective that the denial of self-determination is the source of conflict. The parameters allowed elicitation techniques and exploration toward an evolving shared language of the right to self-determination, which emerged from a thorough process of analyzing the primary and secondary data.

The resultant shared language of self-determination is people-centered and embraces many cultures. With this lens, the Naga struggle for self-determination through a methodological process of an analytic narrative has been re-interpreted and a pathway to the future by way of imagining has emerged. This aspect is what makes this research study different from the other studies conducted on Naga self-determination. This study of unrepresented peoples as seen through the prism of the Naga struggle for self-determination also examined whether a shared perspective of self-determination could become an essential resource for JustPeace in conflicts between State and Peoples. The evolving synthesis of self-determination as a shared language pointed out the need to explore self-determination and conflict transformation as 'bottom-up' approaches that compliment each other. The question is how to bridge them, because they are opposite sides of the same coin and need to work together in order for JustPeace to be realized.

The study undertaken is vast, complex and sensitive and the synthesis can only be exploratory and evolving in nature. However, it may contribute to the reawakening of a consciousness to stimulate

dialogue for a paradigm shift in which the praxis of self-determination can become integral to peacebuilding paradigms.

Research Design

The questions around a people's right to be self-determining, particularly in the case of the unrepresented peoples, have evoked much emotion and strife between State and Peoples. Consequently, the flurry of political slogans, position-based negotiations, security centric peace accords and State manoeuvres has resulted in dislocating the voices, needs and perspectives of peoples far from the political task of realistically fostering human reasoning, understanding, self-determination and JustPeace.

For a comprehensive study on the *Right to Self-Determination as a Resource for JustPeace*, a qualitative research method of inclusive participatory approaches in learning and co-creating a new understanding that reflects indigenous knowledge and ways of knowing was used. The research began by reviewing and analyzing information collected from secondary sources in the literature and presenting a critique on the existing language of self-determination and the United Nations. The learning that emerged from the critique of secondary information was crucial in developing the primary research questions for the data collection. Following this, simultaneous processes of data collection and data analysis took place that resulted in integrating the core outcomes related to the research objectives.

Considering that the people hold the right to self-determination and JustPeace can be realized only when the dignity and human worth of a people is honored, this research involved conditions that called for aspects of an ethnographic approach to gathering the data.¹⁷ The ethnographic approach to collecting primary data was affirmed during the process since the participants' cultural understanding affected their responses and interpretations of the relation between conflict, self-determination and JustPeace.

¹⁷ Some of the conditions identified for ethnographic research are: define the problem when the problem is not clear; define the problem when it is complex and embedded in multiple systems and sectors; identify participants when the participants, sectors, or stakeholders are not yet known or identified; clarify the range of settings where the problem or situation is occurring at times when the settings are not fully identified, known, or understood; explore the factors associated with the problem in order to understand and address them or to identify them when they are not known; document a process; describe unexpected or unanticipated outcomes; design measures that match the characteristics of the target population, clients, community participants when existing measures are not a good fit; answer questions that cannot be addressed with other methods or approaches; and ease the access of clients to the research process and products. Margaret D. LeCompte and Jean J. Schensul, *Designing & Conducting Ethnographic Research, book 1 of the Ethnographer's Toolkit* (Walnut Creek, California: AltaMira Press, 1999), p. 29.

While the nature of a qualitative approach to data collection is intensive, expansive and time consuming, it is flexible and forgiving. This allowed me to introduce purposive techniques that facilitated collecting vital information from individuals who either represented people’s views in general, or because of their expertise and working knowledge in the field. The primary data was collected using multiple qualitative methods that involved an ongoing elicitive process of responses from survey questionnaires, in-depth individual interviews, focus group discussions, as well as observations. This is discussed later in the section on Methods for Collecting the Research Data.

Simultaneously, the data was being analyzed based on the grounded theory. This theory outlines an “inductive method of qualitative research which would allow social theory to be generated systematically from data. That is, theories would be ‘grounded’ in rigorous empirical research, rather than produced in the abstract.”¹⁸ It, therefore, represents a way of thinking about and conceptualizing data.¹⁹ The dynamism inherent within the grounded theory provided the framework for analyzing data. The details of this approach are further discussed in the section on Process Involved in Data Analysis.

The right to self-determination entails a process through which people exercise their individual and collective conscience, thereby shaping their everyday way of life. The praxis of self-determination validates the enduring nature of human existence that revolves around life-giving values. Collecting subjective information that describes a social and political phenomenon as it occurs naturally, thus providing a holistic perspective to conceptualize an understanding of a situation was necessary for this study. As a result, it was essential to base my research study on a qualitative approach that produced subjective information by eliciting the participants’ opinions, experiences, feelings and aspirations.

A critical decision made in this research design was for me, as the researcher, to be physically located in Nagaland throughout the entire process of data collection, analysis of the data, and while writing the dissertation. Hence, observing the unfolding events occurring both locally and globally was insightful to the process, for instance, the specific event of the referendum and subsequent liberation of South Sudan in relation to how it was perceived and interpreted from the

¹⁸ Anne Lacey and Donna Luff, *Trent Focus on Research and Development in Primary Health Care: Qualitative Data Analysis* (Trent Focus Group, 2001), p. 6.

¹⁹ Ibid.

Naga context. Therefore, as the researcher, I experienced, witnessed, observed and was part of the interactions, dilemmas and struggles as they were occurring. Being physically located in the research area contributed towards a conscious perspective that was people-centered.

Being in Nagaland intensified the awareness and recognition of my own personal involvement with the research issues as an insider to the Naga context; and, therefore, felt the need for a mechanism to enable self-monitoring and objectivity. For this reason, I invited several individuals to be part of an informal support group – External Advisory Group. Having their counsel helped my process of reflection and dialogue and provided the opportunity to engage in constructive criticism and to have substantive discussions that sharpened my analyses and understanding. The contributions of the informal External Advisory Group also helped protect the study’s integrity and academic objectivity, affirm the validity of the analysis, and as well as the constant awareness to avoid personal biases. The group consisted of activists, scholars, elders and practitioners in various fields.

Research Aim

The research aim is to creatively explore an evolving synthesis of the right to self-determination as a shared language and a resource for JustPeace from an unrepresented peoples’ perspective.

Research Objectives

1. To analyze the Naga conflict and struggle for the right to self-determination as a case of unrepresented peoples’ struggle;
2. To critique the United Nations’ (UN) existing language of self-determination and State-centered attitude and responses towards peoples’ right to self-determination;
3. To examine whether the denial of self-determination leads to conflict, and its relationship to JustPeace; and
4. To explore whether the realization of self-determination will lead to transformation of the Naga conflict.

Research Questions

1. How do Nagas understand the right to self-determination and how has colonization affected their exercise of this praxis?
2. Does the United Nation’s existing definition for self-determination correspond to the aspirations of unrepresented peoples?

3. What is the Indian State's response to the Naga people's aspiration for self-determination?
4. Which values, principles, elements and rights of self-determination are essential for the Nagas in their struggle for a JustPeace?
5. Can an inclusive and shared language of self-determination contribute towards paradigms of conflict transformation and JustPeace?

The research objectives, research questions and the initial literature review and analysis provided the basis for how the primary survey questionnaire was developed to explore key concepts as the first stage of data collection. As an example, the core questions from the first survey questionnaire included the following:

1. What does self-determination mean to you?
2. What are the causes of conflict in the Indo-Naga political context?
3. What is the relationship between conflict, self-determination and peace?
4. What has been India's response to the Naga struggle for self-determination? Why have peace efforts during the past 60 years failed?
5. Are you familiar with the UN's position on self-determination? If so, is it inclusive or state-centered and why? Does the present UN position on self-determination strengthen world peace?
6. Will the recognition and implementation of the right to self-determination lead to peace in Nagaland?
7. Can the right to self-determination be a resource for JustPeace?

After the responses to this survey questionnaire were received, the simultaneous process of analysis using the grounded theory's approach of constant comparisons helped frame the data collection for the next stage which involved developing more survey questionnaires and in-depth interviews. This process is discussed in the sections of Methods of Collecting Research Data and the Process Involved in Data Analysis.

Timeframe

After receiving approval from UNE's Human Research Ethics Committee, the data collection process began in July 2010, by selecting the participants and inviting them to participate through responding to the survey questionnaires. The process of data collection was completed by September 30, 2011.

Participants' Backgrounds

This research study included three broad categories of participants: Nagas, Indians and internationals.²⁰ It must be specifically mentioned that in addition to the Nagas, there was one participant from the northeast region of the sub-continent, an Ahom man, who provided an unrepresented peoples' perspective. At the initial stage, I had intended to invite Naga leaders in the Naga national movement and leaders in the Indian government to participate in this process. However, after deep reflection, I recognized that the purpose of generating alternative meaning and thinking would emerge from data that reflected the feelings, aspirations and views of men and women whose perspective are habitually ignored by the 'powers that be.'

The Naga participants included a broad representation of people with diverse backgrounds and varying levels of involvement in the key issues associated with this research study. They included: human rights activists, lawyers, women, youth, and academicians, individuals that represented and influenced opinions of communities, the diaspora, practitioners, social and religious workers. The Indian participants were more specific as they represented individuals who were well informed on the Naga issue, and several of them had at different times in the past been a member of fact-finding teams to study the impact of militarization in the Naga context. They included: women's rights activists, civil and political rights activist, representatives of indigenous peoples. The international participants were mostly comprised of academicians, activists and practitioners in the field of self-determination and conflict transformation.

This study used a *purposive sampling* as it was the best way to elicit views to facilitate an in-depth study where the participants were invited based on the purpose and the nature of questions being asked. Within the availability of resources and the constraints it was important that the participants were diverse in nature, but also appropriate which meant having acknowledged qualities, experiences and insights essential to the research. The data collected reflected and represented Naga people's aspirations, unrepresented peoples' perspectives, as well as, the current thinking of academicians and practitioners in self-determination and peacebuilding working in various international settings. The sensitivity and strategic selection of participants increased the liability and validity further strengthening the study's exploratory nature.

²⁰ The international participants included individuals from the United States, Europe, Burma, Thailand and Japan.

Researcher's Background

During the past twenty years, my activism on issues of civil and political rights and peacebuilding has given me the opportunity to meet and interact with a spectrum of Naga people from different backgrounds, experiences and professions. This included individuals in leadership positions both in civil society, as well as, organizations in the Naga national movement. After completing my Masters in Conflict Transformation in 2000, my activism has been specifically focused around peacebuilding activities through nonviolent means by facilitating trainings and workshops in villages, towns, and camps. While the intent of these activities was co-learning on issues of human rights and JustPeace, it was also to engage in a dialogue to explore and examine the relevance and applicability of various models and approaches to conflict transformation. Through these interactions I have acquired new perspective, knowledge and understanding from the peoples' experiences. In these last ten years, these activities helped me to become part of a broader web of relationships, which provided the basis for my credibility in order to access the participants while conducting the research study.

More specifically the researchers' background includes:

- being a human rights activist and have been involved in different human rights campaigns and documenting human rights violations
- being involved in organizing sustained campaigns that required mobilizing grassroots and communities
- being an educator/trainer
- associating with civil society initiatives that engaged in dialogue on issues of self-determination, conflict, peace, human rights and indigenous peoples
- being a member of the Forum for Naga Reconciliation which focuses on reconciling the different groups that constitute the Naga national movement
- Managing Director of *The Morung Express*, a daily English language independent newspaper, from 2005 till date; and editor from April 1, 2008 – March 31, 2010.

Some specific skills which were required in order to conduct this research project are:

- interview
- small and large group facilitation
- qualitative analysis and writing
- active listening and a keen sense of observation

- knowledge and a heightened awareness of the Naga situation and the ability to connect them to regional and global events

Methods of Collecting Research Data

The following section describes the types of data, primary and secondary, and how they were collected. It is important to note that while the literature review began before the primary data was collected for the first stage, that the process, thereafter, for each continued simultaneously and were interactive, one informing the other.

1. Primary Data

Qualitative approaches to data collection and empirical inquiry were used to gather the primary data with a peoples’ centered focus to ensure their voices are represented. As mentioned in the Research Design, conditions in the research required aspects of the ethnographic approach to data collection. In ethnography, which is said to be “a peculiarly human endeavor”²¹ the *researcher* is the primary tool for collecting primary data and the principal database is amassed in the course of human interaction such as direct observation; face-to-face interviewing, focus group discussions and elicitation.²²

While an ethnographic approach to gathering data is scientific and investigative, it requires rigorous research methods and data collection techniques to avoid bias and ensure accuracy of data and builds on peoples’ perspectives in the research setting.²³ Furthermore, the characteristics of ethnography use “inductive, interactive and recursive data collection and analytic strategies to build local cultural theories.”²⁴ Subsequently, one of the strengths in this method is that it results in an outcome that is derived from the perspectives of their members.²⁵ Since an ethnographic approach is conducted locally, the researcher seeks “to understand the links between what happens locally and regional, national and global events, policies and political and economic structures.”²⁶

²¹ Margaret D. LeCompte and Jean J. Schensul, *Designing & Conducting Ethnographic Research, book 1 of the Ethnographer’s Toolkit* (Walnut Creek, California: AltaMira Press, 1999), p. xiv.

²² *Ibid.*

²³ *Ibid.*, p. 1.

²⁴ *Ibid.*, p. 9.

²⁵ *Ibid.*, p. 27.

²⁶ Stephen L. Schensul, Jean J. Schensul, and Margaret D. LeCompte, *Essential Ethnographic Methods: Observations, Interviews and Questionnaires* (Walnut Creek, London, New Delhi: AltaMira Press, 1999), p. 7.

In the beginning when preparing to collect the primary data, the following conceptual steps were involved: developing the main research questions; reviewing ideas drawn from the previous studies reported in the literature; looking at the available secondary data; talking with other people who have had research experience; building an initial conceptual framework for guiding the research; and identifying initial factors for further exploration and analysis.²⁷

The process of gathering the primary data included the following steps:

- **method** – that was elicitive and participatory;
- **purpose** – acquiring in-depth information on the research questions, personal narratives, etc.;
- **target participants** – individuals, lawyers, academicians, activists, young people, women, practitioners, etc.;
- **procedures for data collection** – survey questionnaires, in-depth interviews that were both unstructured and semi-structured, focus group discussions, observations; and
- **data content** – consisted of responses to open-ended questions and elicited inquiries. Interpersonal interaction with participants took place during the survey questionnaires, interviews and the focus group discussions.

In some cases, interaction with some of the participants continued throughout the course of the research study. This direct contact allowed for the possibility of previously undocumented data to emerge, as well as enabling me to draw out valuable insights from the participants.

The primary data collection began by identifying participants based on the *purposive sample* method, which was followed by inviting them to be part of the research study. While some invitations were made through direct contact either in person or on the telephone, the majority of them were sent electronically via e-mail. The survey questionnaires, and in-depth interview happened simultaneously with other components of the methodology, but the focus group discussions were held during the last stage of the data collection. This was designed to examine and validate the new information that emerged through analysis and to explore, if there was any more new information.

²⁷ Ibid., p. 69.

All participants were provided with an information sheet and a consent form, which were proved approved by the Human Research Ethics Committee. Participants also provided personal information, such as their affiliation to organizations or occupation and address. A summary of the types and of primary data and the number of participants are shown in the table below:

Summary of Types of Primary Data Collected and Participants

<i>Data Source</i>	<i>Participants</i>
33 Survey Questionnaires	7 Nagas (3 women and 4 men); 1 Ahom man 8 Indians (3 women and 5 men) 17 International (4 women and 13 men)
11 Follow-up Questionnaires	1 Naga man, 1 Ahom man 9 International Community (3 women and 6 men)
17 In-Depth Interviews	15 Nagas (6 women and 9 men) 2 International men
2 Focus Group Discussion	9 Nagas (4 women and 5 men)

Data collected through qualitative methods are subjective, interpretative, descriptive, holistic and abundant. Each of the methods and processes used for the collection of primary data is briefly described below:

A. Survey Questionnaires

The survey questionnaires were developed based on the research questions and the preliminary reading of relevant literature. Once the participants began responding to the first set of survey questionnaires, the analysis process began simultaneously. The results that emerged from first survey questionnaire influenced the questions in the second questionnaire and the in-depth interviews that were also taking place. In all there were four survey questionnaires and a follow-up survey questionnaire which were based on the themes emerging from the previous stage, and they were also adapted for different participant groups depending on whether they were Naga insiders, Indians or international participants. The data collection through survey questionnaires and interviews were all happening simultaneously with the analysis and focused reading of the literature. The interplay of the data collection and the data analysis will be discussed in the section on Process Involved in Data Analysis.

B. *In-depth Interviews*

In-depth and open-ended interviews are elicitive, challenging, time consuming, and yet innovative and effective as far as collecting information was concerned. Open-ended interviews are exploratory in nature which allowed the participants to be reflective and creative while engaging in the interview. It affirmed that the researcher was open to any and all relevant responses, and, because there are no correct answers, it provides flexibility for the researcher to explore, identify and obtain information and ideas important to the research study.²⁸

The individuals who agreed to be interviewed were given the opportunity to decide how they wanted the interview process to occur. After being provided the information sheet, several participants shared the view that considering the importance of the issues that the research study was exploring, they wanted to be given time to reflect over the questions before responding. There were a few participants who wanted to engage in a written interview, rather than an oral interview. This involved a series of written exchanges between me and the participant, and while it proved to be tedious and time consuming, the responses were rich in meaning and content. While an interview in the written form may not be conventional, their suggestion came from a place of good intention and implied seriousness in their response. This was not a cultural, but a situational decision that required consideration. Given, the history of conflict and a deep sense of distrust and suspicion in the Naga context, I fully understand the reasons why they wanted to participate in a written interview.²⁹

The approach I used for conducting the face-to-face interviews was both unstructured and semi-structured. Unstructured interviews were conducted within informal settings such as the participant's home or in any other location that was convenient and comfortable in terms of privacy. My first priority, as an interviewer, was to build trust and understanding through

²⁸ Ibid., p. 121.

²⁹ With the ceasefire between the Indian State and Naga groups, beginning from 1997, the Naga context has been a destination for researchers and journalists. Since the Naga conflict is protracted and complex in nature, collecting information requires being sensitive to the historical, cultural, political, and as well as, the situation of State-domination. Very few outside researchers and journalist have come to live with the people to understand and interpret the underlying meaning of what the people are actually saying. This has affected the manner in which the Naga story and their struggle for self-determination and peace are being represented. The consequences of any misinterpretation and misrepresentation of information are being lived by the people and **not** by the researchers and journalists who live in a situation that is removed from this reality. I have been a participant in many interviews and research studies concerning the Naga struggle. I have often engaged in interviews, but after being misinterpreted and misquoted on very sensitive and crucial issues, I have reached a stage where I feel comfortable responding to interviews through the written form even when in a face-to-face situation with the interviewer. The process usually involves having an informal discussion and responding to a list of questions are given at a later stage in the written form that it protects the participant's integrity.

initiating some friendly interaction by talking about common issues and topics. This allowed the participants to develop some sense of openness and trust in sharing their views, opinions and experiences. The unstructured interviews were facilitated in a non-directive manner, and follow-up questions were asked based on their earlier response. Given the informality, the unstructured interview approach was applied with participants who were my contemporaries.

I prepared a list of issues and topics for semi-structured interviews that had emerged from the analytical process that was occurring simultaneously. This approach was applied primarily with elders in a more formal setting; the responses were more precise and focused less on details and more on meaning and substance. I was open to be guided by the interviewee's response as to the sequencing of questions. In some cases follow-up interviews were conducted when the subject required more time to respond. The interviews were conducted in English and no interpreters or translations were required. All the in-depth interviews were conducted by the researcher with the exception of two that took place in Burma through the assistance of Neichü Dz. Angami³⁰ on behalf of the researcher.

C. Focus Group Discussions

Two focus group discussions took place towards the end of the data collection period after the majority of the primary data was already collected. This was designed with the view to examine and validate the new information that emerged through the analytical process, and to explore if there were any more additional ideas that could be collected.

The two focus group discussions took place in New Delhi, India, on March 29 and 30, 2011. The participants were composed of Naga researchers, activists, teachers and professionals living in New Delhi. They, however, did not necessarily know each other personally, but agreed to participate in the discussions. The invitation to the focus group discussion was facilitated through the members of Naga Peoples' Movement for Human Rights based in New Delhi.

Both focus group discussions took place in an informal setting where I attempted to stimulate an open discussion and facilitate in a manner that drew out the participants to freely voice their thoughts and concerns without any restraint. The discussions were supportive and created a non-

³⁰ Neichü Dz. Angami is a development worker engaged with health issues and based in Burma/Myanmar.

judgmental space where a healthy and spontaneous interaction took place. One person assisted by taking notes and audio recording the discussions.

D. Observation and Other Primary sources

Observations to events, incidents, and changing patterns of the ground conditions have been crucial to information gathering. Personally, the act of observation has been fundamental to my learning process along with the intuitive listening process to spoken and unspoken words or other forms of non-verbal communication. The data collection period coincided with my participation in the Naga Reconciliation Process that involved extensive travel to villages and towns which provided increased opportunities for consciously observing the ground realities related to my research. Although this was not officially part of the research study, the grounded theory affirms the view that data is constantly being gathered at all times and in all conditions. Hence, my journey with the Naga Reconciliation Process strengthened both examining the data collection process and analysis.

Other situations where observations took place occurred while leading workshops, participating in seminars, and when I was in the role of either an observer or a delegate during consultations on issues of self-determination and peace. My learning experience was enhanced through open dialogues, conferences and consultations where people articulated values of freedom, peace and their desire to decide their own destiny in their own terms and realities on the future they envision and how they intended to realize it. These observations combined with participant's interactions involved in the study deepened my understanding, my ability to contextualize and conduct analysis inside and outside an academic framework; and most importantly, it presented a living, people-centered, day-to-day analysis.

Some observations were documented as field notes both when they occurred and after the fact. They included personal views, reflections and analysis which contributed to the qualitative data collection and analysis. Unpublished papers, correspondence and informal discussions around the research subject constituted other primary sources.

2. Secondary Data

The process of collecting data from secondary sources, specifically from current literature happened in two stages. The first stage was a preliminary process during which I reviewed and analyzed relevant literature on self-determination, conflict transformation, international law,

indigenous peoples, as well as other topics related to the research subject. The existing documents on the UN and its language of self-determination, various accounts of current conflicts based on self-determination and any associated peacebuilding processes were useful. This helped me glean information on how the international community views self-determination, and how they have responded to and addressed self-determination conflicts. I also accessed data on unrepresented peoples and the struggles for self-determination, their aspirations, and how they have dealt with and addressed the issues. The central issues that emerged from this analysis were critical in framing the research objectives, research questions and developing the first survey questionnaire.

The second stage of collecting data from current literature was more specific since it was part of the simultaneous process of data analysis and data collection based on the grounded theory's constant comparison process. Through this process new ideas emerging from the different stages of primary and secondary data were constantly compared and connected. Subsequently, some aspects of the ideas emerging from the primary data were validated and affirmed by the literature. For instance, the inconsistencies identified in the UNs' application of self-determination and the need for an inclusive understanding of self-determination was present in both. At the same time, different views were also identified between the outcomes of the primary data and the literature. For instance, the primary data pointed to the relevance of self-determination to peacebuilding; however, existing literature for most part, pitted them against each other as opposing values, thereby strengthening the status quo.

The chapters on *The Language of Self-determination* and *Self-determination and the United Nations* are exclusively based on the analysis from secondary data – while the remaining chapters in this dissertation are based on integrating the outcomes arrived through the simultaneous process of analyzing the primary and secondary data.

Process involved in Data Analysis

Using the lens of grounded theory enabled me, as the researcher, to experience the multi-faceted nature of the research context and data. The exploratory nature of the research allowed me to have an open mind and welcome the discovery of emerging information. The data gathered for this study was very rich and relevant, exceeding the researcher's expectations, as well as, the parameters of this study. Therefore, based on the contextual and cultural situation, the application of the grounded theory explored relationships between the concepts and categories by constantly

comparing them, which resulted in an evolving synthesis that was qualitative, valid, reliable and purposive.

The “Grounded theory³¹ perspective locates the phenomena of human experiences within the world of social interaction,”³² which supports the view that “reality is a constructed and shifting entity and that social processes can be changed by interactions among people.”³³ In other words, this perspective of grounded theory implies that perpetual dialogue is one of the imperatives in transforming human realities; and dialogue in turn requires reflection and action. Carol Grbich points out that “the focus in grounded theory then becomes life as it is actually happening – the empirical, social world ‘out there’ ... comprising many different layers, as well as public and private views.”³⁴

For this research study the grounded theory approach followed a process which began with specific and open-ended research questions and proceeded in stages.³⁵ The analysis was simultaneously performed with each stage so that the ideas which emerge from one stage were included in data collection for the next.³⁶ As a result, ideas and concepts emerging from one stage of the data analysis were compared with those emerging from the next. The purpose was to look for relationships between them, by constantly comparing them. The process of constant comparison continued until it reached “theoretical saturation.”³⁷ This occurred when the new information confirmed a stable pattern and when no new significant ideas and concepts appeared to emerge. Hancock says this “goes beyond phenomenology because the explanations that emerge

³¹ The Grounded Theory approach emerged in 1967 and was developed by Barney Glaser, a psychologist, and Anselm Strauss, a sociologist. While they jointly devised this approach, they parted ways and developed different emphasis in their approaches to data analysis. For the purposes of this study the researcher has followed the Glaserian method of Grounded Theory. According to Glaser, Grounded Theory is multivariate. It happens sequentially, subsequently, simultaneously, serendipitously, and scheduled. He functions on the dictum that all is data, which means that everything that gets in the researcher’s way when studying a certain area is data. This includes interviews, observations, while field notes can come from informal interviews, lectures, seminars, expert group meetings, newspaper articles, Internet mail lists, even television shows, conversations with friends, etc. In other words, anything is data that helps the researcher generate concepts for the emerging theory.

³² Carol Grbich, *Qualitative Data Analysis: An Introduction* (London, Thousand Oaks, New Delhi: Sage Publications, 2007), p. 71.

³³ Ibid.

³⁴ Ibid.

³⁵ Anne Lacey and Donna Luff, *Trent Focus on Research and Development in Primary Health Care: Qualitative Data Analysis* (Trent Focus Group, 2001), p. 7.

³⁶ Beverley Hancock, *An Introduction to Qualitative Research* (Trent Focus Group, 2002), p. 6.

³⁷ Anne Lacey and Donna Luff, *Trent Focus on Research and Development in Primary Health Care: Qualitative Data Analysis* (Trent Focus Group, 2001), p. 7.

are genuinely new knowledge and are used to develop new theories about a phenomenon.”³⁸ Hence, the main role of the grounded theory in this research was to explore developing new and alternative perspectives and resources on the right to self-determination as a resource for JustPeace through the data collection and its analysis.

This process of analyzing the data towards constructing “meaningful understanding”³⁹ was realized through a rigorous process of inductively discovering themes through “exploring words,”⁴⁰ observations, interpretations, and the “constant comparative method”⁴¹ to draw out similarities and disparities to establish “plausible relationships”⁴² as directly generated from the data. An example of an incremental step in connecting different themes and establishing their relationships occurred when the denial of self-determination was recognized as a cause of conflict. Simultaneously self-determination was identified as a relational praxis and a source from which all other rights originate. By connecting these themes and integrating them, the relationship between self-determination and its potential as a resource for JustPeace was established.

Themes were also identified by deductively uncovering, identifying and exploring concepts in existing literature on self-determination, conflict and peacebuilding, and through prior

³⁸ Beverley Hancock, *An Introduction to Qualitative Research* (Trent Focus Group, 2002), p. 5. To help understand the development of new theory through the collection and analysis of data in grounded theory, Hancock says, “It goes beyond phenomenology because the explanations that emerge are genuinely new knowledge and are used to develop new theories about a phenomenon.” Hancock provides an example of grounded theory based on the grief process. Hancock says, “Researchers observed that people who were bereaved progressed through a series of stages and that each stage was characterised by certain responses: denial, anger, acceptance and resolution. This is not a new phenomenon, people have going through these stages for as long as society has existed, but the research formally acknowledged and described the experience. Now we use our knowledge of *the grief process*, new knowledge derived from grounded theory, to understand the experience of bereavement and to help the bereaved to come to terms with their loss. We recognise when a person is having difficulty coming to terms with loss because we use the knowledge to recognise signs of ‘abnormal’ grief and can offer help.” Beverley Hancock, *An Introduction to Qualitative Research* (Trent Focus Group, 2002), pp. 5-6.

³⁹ Zina O’Leary, *The Essential Guide To Doing Research* (London, Thousand Oaks, New Delhi: Sage Publications, 2004), p. 195.

⁴⁰ *Ibid.*, p. 196.

⁴¹ In this constant comparative method, which is central to Grounded Theory, concepts or categories emerging from one stage of the data analysis are compared with concepts emerging from the next. Here, the researcher is constantly looking for “relationships between these concepts and categories, by constantly comparing them, to form the basis of the emerging theory. The researcher continues with this process of constant comparison until they reach what is called ‘theoretical saturation’, that is no new significant categories or concepts are emerging.” Anne Lacey and Donna Luff, *Trent Focus on Research and Development in Primary Health Care: Qualitative Data Analysis* (Trent Focus Group, 2001), p. 7.

⁴² *Ibid.* Anne Lacey and Donna Luff emphasizes that a ‘grounded theory’ consists of “plausible relationships” among sets of concepts, which are directly developed from data analysis. They add that “Theory, in this sense, provides a set of testable propositions that help us to understand our social world more clearly, rather than an absolute ‘truths.’”

experiences⁴³ of peoples engaged in self-determination conflicts. The data was categorized according to its relevance as major or minor themes in relation to the commonalities, differences, continuity and quality of information for purposes of this study. The themes, ideas and concepts were further simultaneously processed through reflection and dialogue.

As an individual, the processes of reflection have been integral to my thought-processes in creating meaning and understanding for many years. The reflective processes have, therefore, been essential to this research analysis involving interpreting data, and, in this case, when using the External Advisory Group as a sounding-board. Dialogue, as a method of creating meaning, is culturally rooted in Naga world-view and practices. Besides placing people at the center of the process, using dialogue as an interactive approach assists in creating meaning, and is essential to consensus building which by implication means an evolving process.

In this research, the dialogue process was comprised of interactions during which the emerging ideas and concepts from the data were shared at workshops, seminars and informal discussions as a method of clarifying and validating the emerging outcomes from the analysis, and exploring new interpretations to historical narratives. The reflection and dialogue processes were crucial in funneling the broad array of ideas and concepts towards ‘meaningful understanding.’ The process was akin to the act of separating the chaff from the grain.

The reflective and dialogue processes were helpful in appreciating and respecting the theoretical sensitivity⁴⁴ with regard to the research situation. While concepts such as self-determination, conflict and peace are universal, they are experienced, interpreted and applied contextually within each particular situation. For instance, both international and Naga participants emphasized the underlying importance of self-determination as a concept relevant to human yearning for deciding their own destiny. However, notwithstanding this affirmation, several international Respondents opined about the diminishing role of self-determination in the context of globalization, and the State’s changing nature in their own respective situations. On the other hand, Naga Respondents, as well as, international Respondents from conflict areas emphasized the growing relevance

⁴³ Zina O’Leary, *The Essential Guide To Doing Research* (London, Thousand Oaks, New Delhi: Sage Publications, 2004), p. 197.

⁴⁴ Grounded theory analysis requires ‘theoretical sensitivity,’ which is the ability “to see the research situation and its associated data in new ways, and to explore the data’s potential for developing theory.” A. Strauss and J. Corbin, *Basics of Qualitative Research: Grounded Theory Procedures and Techniques* (London: Sage Publications, 1990), p. 44.

within the context of globalization, and that the State's position was hardening and becoming more violent as experienced and lived in their own situations. It was by recognizing that the emerging outcome from the data was both contextual and situational that one could explore its potential to provide new meaning to the research situation.

The data analysis has been a cumulative process that involved constantly revisiting the data in the light of new ideas that were continuously evolving with the processes of data collection, reflection and dialogue, until the point of saturation could be reached. It represented a simultaneous process of collecting, analyzing, comparing, generating connections and ideas, and establishing relationships. One of the challenges was that when the primary data had reached the point of theoretical saturation, getting any more information that provided further validation was not forthcoming. For example, one over-arching theme from the responses was that, in principle, there was a general consensus that self-determination was a resource for JustPeace. However, when probing the participants about what that resource could be, no new information was provided. This perhaps highlighted the new areas that the research was touching upon.

Furthermore, coupled with reading relevant literature, it strengthened the constant comparative process and enabled the underlying patterns to emerge amidst the many perspectives which were present in the data. This was not a linear process, but reflects a web of methods which was held together by an analytical process that integrated the key ideas emerging from the data. In this case, despite the wide spectrum of issues and the rich meanings generated from the data, the grounded theory through its constant comparison ensured that the parameters set by the research objective were respected. By ensuring that the primary data collected from the people remained the focal source from which new meaning is generated, the grounded theory is indeed people-centered.

Along with the constant comparative analysis, I applied the method of content analysis which enabled me to analyze the verbal and behavioral data and categorize them according to the issues, their relevance and significance to the study's purpose. The content analysis took place at two levels. The first part of the analysis was the basic level also called the manifest level which is when the data is presented in its descriptive form without any interpretations. The second part of the analysis is called the latent level that includes the process where data is interpreted which accounts for the unspoken emotions or inferences concerned with implied and intended responses and meanings are taken into consideration.

It needs to be mentioned here that this interactive process between the primary data and relevant literature helped to identify relevant themes, generate ideas. The interplay between the two provided new understanding and meaning of the research questions. On close observation, it was noted that while specific case studies on self-determination have been written, they do not necessarily address the overall endemic problems, and, therefore, associated it with negative images of violence, secession, etc,. Furthermore, most of the case studies I read were confined to historical narratives and legal arguments advocating for a specific group of peoples' right to self-determination. As the researcher, I made the conscious decision to focus on the emerging outcomes from the data by integrating the ideas and concepts relevant to the research objectives. This meant that the research study does not dwell on the historical narratives of self-determination; and, rather than citing case studies, it focused on gleaning information and ideas that enabled re-interpreting the State-centered understanding of self-determination.

The grounded theory's approach facilitated the data to speak for itself. Subsequently, the evolving synthesis of self-determination's shared language emerged from the data through a rigorous process of analysis supported actively by perpetual reflection and dialogue. The evolving synthesis while very generalized can be explored across a spectrum of situations, and contextually applied as it provides the space for people to create their most desirable way forward through imagining and dreaming. The evolving synthesis proved to be value-based, creative, flexible, and all-encompassing as demonstrated while examining the Naga struggle for self-determination. By integrating the evolving synthesis of self-determination and its capacity to be a resource of JustPeace, this research study, as an exploratory process, has provided a positive alternative for understanding self-determination and how it constitutes an integral part in transforming the Naga conflict.

Ethics

When the research topic is of a sensitive nature, the question of ethics and confidentiality has to be addressed within the context of the culture and the research objectives. In situations of protracted conflict, facts do not always speak for themselves, and hence, the need to look beyond the facts and to go the root source for knowledge, information and understanding without jeopardizing or causing any risk to the source who may or may not wish to be identified.

Any aura of formal interviews has indicated that it makes people shy and uneasy with little or no space to share beyond their established positions. Therefore, to get beyond their established

positions and to explore their understanding and ideas based on their interest and needs, I adapted a method in which the research activities enabled me to bring out into the open information that goes beyond established positions. My experiences with fact-finding teams and research initiatives have shown that informal meetings and informal interviews with open-ended questions are most the efficient, effective and reliable means for collecting data. However, despite the interview's informal nature, the research's purpose and objective were introduced to the participants, so that they understood that the informal meeting or informal interview was part of the research study.

Because of the nature of conflict in the research area there may be parts of my research where the participants chose to remain anonymous. This has been respected and confidentiality has been maintained.

Reliability and Validity

This study's reliability lies in its multiple-methods and research practices. Such methods, namely: survey questionnaires, in-depth interview, focus group discussions and observations were carried out in a thorough, sensitive and sincere manner. Recognizing that the study's credibility may be compromised by my own opinions and perceptions, there was constant self-monitoring with checks and balances supported by the external advisory group who earnestly provided a critique throughout the study period. Some data for the Naga analysis was obtained from non-Nagas who have been involved in peacebuilding activities, and, as outsiders, they view the conflict between the Nagas, India and Burma more objectively.

All data collected have been analyzed primarily through the constant comparative process based on the grounded theory. The new information that has emerged from the data has been discussed in two chapters – *Towards a Shared Language of Self-Determination* and *Self-Determination as a Source of JustPeace*. The evolving synthesis from these chapters has been explored to the Naga struggle for self-determination. Based on the analytical framework that has been mentioned in the introduction to this chapter, the historical experiences of the Nagas has been analyzed and re-interpreted in the chapter – *The Naga Caravan and its search for Humanization*; and self-determination as a resource for JustPeace has been explored.

Several factors further validated the data which included:

1. An elicitive approach was used for the interviews, during the focus group discussions and in any follow-up to the survey questionnaires and interviews. The very nature of this approach stimulates more reflective responses from the participants encouraging and persuading them deeply explore the questions and the opportunity to express them.
2. Many of the survey questionnaires and interviews took place in the field where the participants were comfortable, which allowed them to respond more freely and openly.
3. Naga people are by nature open and willing to share their aspirations, feelings and emotions. Ironically, the conflict situation has instilled a form of self-censorship because of fear. However, some Naga interview participants understood the importance of the questions and requested copies of the questions in advance so they could think about them. This involvement was validating for them.
4. International Respondents also recognized the importance of the questions by indicating that they were often overlooked or ignored. However, having been asked the questions as part of this study, they responded. Their participation has deeply contributed towards upholding academic objectivity.
5. Some interviews were audio recorded, as well as, both focus group discussions. Utmost care was taken to ensure that there were no misinterpretations while collecting data, thereby, ensuring the validity of the study. No translations or interpreting was needed at any time with everyone responding in the English language which reduced the possibility of misunderstanding.
6. Because this study was people-centered, emphasis was given to what the participants were saying; and this has been demonstrated through the direct quotations and references that have been consistently reflected throughout the dissertation.
7. Due to the ongoing Indo-Naga political peace processes and the Naga Reconciliation Process, there is comparatively more freedom of movement and accessibility to collect data for this study.

Furthermore, the relevance of self-determination has been validated by nearly all the participants in some manner. The voices of unrepresented peoples validate its critical relevance. Conversely, some of the international participants have also expressed that relevance of self-determination may decrease. While this represents how self-determination is understood differently in various contexts, it simultaneously highlights the imperative for more interaction and dialogues across civilizations and cultures. This need is further reiterated because as long as the peoples are the

primary holder of the right to self-determination, the relevance of self-determination will continue.

Challenges and Considerations

As the researcher, my primary challenge was undertaking a research study of an ongoing conflict situation and to explore alternative possibilities where self-determination is a resource for JustPeace. To put this into perspective, by implication it means that those at the negotiating table – Indian State and groups of the Naga national movement – may misunderstand the intent of this study, because the central ideas emerging from it differ from their direction since 1997. Also, since the Indian State has consistently opposed self-determination, the research aim to evolve a shared language of self-determination as a resource for JustPeace may be perceived as being provocative.

In situations of protracted conflict and militarization the process of data collection through qualitative methods is a challenging task; and even more so when the research study involves issues that are directly related to the conflict. Subsequently, research studies around issues of ongoing conflict, human rights violations and peace processes need to be approached with great sensitivity, not just during the stage of data collection and data analysis, but throughout the entire period. This is crucial because the participants are the ones that have to live with the consequences of the research. The issues around participant's consent, concerns of safety, anonymity and well-being are imperative and must be respected and honored.

Furthermore, when people have been exploited and suppressed for years, there is a tendency to become suspicious towards research. This is particularly true when the research outcomes are not shared with the people, and especially when there is no apparent sense of accountability between the researcher, the participants and people of the researched area. The suspicious character of research in such situations has to do with the research topic, its purpose and the will to take the results seriously. There is no doubt that the topic of this research, and, in particular, the case study of the Nagas is not only sensitive, but could also be misunderstood by various interest groups.

While the data collection was specific in its scope and its parameters were set by the research aim and objectives, the participants' responses, however, went far beyond the study's scope. This implies that many other perspectives exist. However, as the researcher, my challenge was to define the analysis within the research parameters, and this meant that all the data could not be

used. While acknowledging that the analysis may not have done justice to the richness of the overall data, it was nonetheless a very thorough process of analysis as far as the data's relevance to the research aim, objectives and questions are concerned. This is evident through the final outcome of this research study.

At a personal level, one of the challenges that I constantly considered was to recognize and acknowledge the practitioner in me, to be aware of my biases, and how they might interfere with my objectivity, and the analysis. Additionally, as the researcher who was the primary tool for collecting primary data and also an insider, I had to self-monitor to ensure that my own opinions and biases were not compromising the integrity of the research study. The external advisory group was very helpful towards ensuring it. Being an insider also had its advantages in understanding the underlying cultural values, communication styles, word usage and expressions, observing and picking up on nuances, and, more importantly, the intuitive sense of feeling of undercurrents and the unspoken happenings.

Keeping all these different challenges in mind, it was important that I was living in the research area throughout the period of my research study. I approached the research with utmost sensitivity. I was obliged to accurately convey and communicate the objectives and purpose of the research as clearly as possible with the participants, and to seek their opinions and involvement when planning some of the research activities. In order to ensure some sense of accountability to the people and show transparency, I intend to take the outcomes of this research study back to the people who have participated in the process of data collection and other aspects of the study. It is my hope that by sharing the outcomes with them that it will lead to more interaction and dialogue on issues of self-determination and JustPeace.

Conclusion

The research study is an ongoing journey of reflection and dialogue. While I consciously used the grounded theory, it was not the intention of this study to result in a hypothesis; rather it was concerned primarily with the process of exploring. The grounded theory with the constant comparative process of analysis was rigorous and focused in funneling meaningful understanding around the people's lives, experiences and opinions. The very nature of the analysis brought out key concepts and categories from the data itself. During the natural process of integrating them, the outcomes of this analysis points to an emerging and evolving synthesis. This can be

understood as a new shared language of self-determination which is inclusive and calls for respecting peoples' cultures, values and aspirations.

Smith shares the notion that “self-determination in a research agenda becomes more than a political goal. It becomes a goal of social justice which is expressed through and across a wide range of psychological, social, cultural and economic terrains. It necessarily involves the processes of transformation, of decolonization, of healing and of mobilizing of peoples. The processes, approaches and methodologies – while dynamic and open to different influences and possibilities – are critical elements of a strategic research agenda.”⁴⁵

By this understanding, self-determination is not just an end but also a means. It refers to a praxis where self-determination is an aspiration that is not limited to a static political goal; but as a continuing process towards realizing aspirations through transformative approaches that touches upon the many different facets of human life; and finally, an end that is not pre-conditioned, but one that has evolved through encounters with various influences and possibilities, hence resulting in creation of the new. As a research agenda, self-determination is located in a dialectical process of humanizing, whereby self-determination is transformed in order to transform. Self-determination is, therefore, in a condition of constant transformation so that it can respond to the aspirations of the people.

From this view point, the data analysis on self-determination in this research study has persistently demonstrated right through the research process, its consistency with Smith's idea of self-determination being a transformative process by which it secures the possibility of embodying both the means and an end of a peoples in search of their self-definition and the right to freely exercise the self-determining capacities to become fully human. The interplay of self-determination as a means and an end towards securing a peoples' aspiration through a process of transformation and healing sustains the perspective of faith in the future which manifests the dream for humanization is always a process of becoming.

Clearly such a praxis of self-determination has the inherent potential to be a resource for JustPeace. However, the possibilities of making this paradigm shift needs to be further explored

⁴⁵ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), 116.

so that the application of self-determination becomes the mechanism for transforming conflicts between States and Peoples; and its values are the sustenance for JustPeace. While this research study has all the ingredients for a new theory to be generated from the data, it is still exploratory in nature.

The Language of Self-Determination

Introduction

As an idea and aspiration of a people to live in freedom and to chart their own future, self-determination is an ancient praxis that was expressed in attitudes, values, spirituality, ethics and behaviors. However, with its institutionalization since the modern State was formed following the Treaty of Westphalia in 1648, self-determination has lost its dynamism and flexibility both in its meaning, as well as, its application. Consequently, when it was incorporated into international law, the humanistic character of self-determination was constrained and only its legal personality was developed based on the traditional European system of jurisprudence. A state-centric development of self-determination has undermined its own principle, and although self-determination presumptively benefits all human beings, its static application has limited it to only certain segments of humanity.

The language of self-determination, therefore, has been the center of confrontation between States and Peoples, and is invariably a significant factor in the area of conflict and peace. In order for all peoples to exercise their right to self-determination and in effect determine their own destinies, it becomes essential to recover the humanistic values and meaning of self-determination. This chapter examines the restricted language of self-determination as developed and influenced by values, systems of power, concepts of institutions and notions of individualism and ethos of life which are deeply rooted in the ideology of traditional European culture. It seeks to examine how the State, as a structure of domination, has restricted the language of self-determination into one of exclusive privilege, rather than one of rights of all peoples. Finally, this chapter looks to establish how the present language of self-determination in its restricted and rigid sense has impacted JustPeace for all peoples.

In Search of a Meaning

Human society is founded and guided by evolving sets of principles and values that empower peoples⁴⁶ to confront and engage in the course of their progression. Human history, the Kenyan

⁴⁶ Tran Van Dinh notes that in Sino-Vietnamese-Japanese, the word ‘people’ is made of two words: one meaning person, human being; the other meaning, citizen. For details, see Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World* (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p. 142.

writer Ngũgĩ wa Thiong'o notes, is about human struggle.⁴⁷ At the core of every struggle, people are yearning to attain or realize their human dignity. And in the course of trying to attain their dignity, people encounter various types and levels of conflict.

The dilemma in addressing these conflicts lies in the notion of brokering peace by dominant powers who often do not respect the peoples' needs and aspirations that are affected by the brokered agreements. Brokered peace often fails to attain and restore peoples' dignity, which in turn, jeopardizes the peace process, making it fragile and unstable. The unsustainability of brokering peace has time and again been revealed in the history of failed peace processes between Israel and Palestine. Invariably, an approach that does not address the issues of human dignity and does not respect and follow democratic principles and processes in any peace effort, represents an absence of political and moral will to confront the critical component for realizing human dignity, which is embedded in self-determination.

As a result, States that feel threatened by the values and notions of self-determination have deliberately pushed its praxis to the very margins. Subsequently, such a discourse has removed humans away from the center of humanity, creating severe imbalance in how humans relate to each other and how they interact with the different facets of life. When self-determination is not an integral part in the search for dignity, humans are removed from the process of humanization. When dehumanization occurs, people become broken; and human experience has shown that broken relationships do not lead to peace, hence, the illusive search for peace.

The presence and exercise of deep-rooted power relations⁴⁸ in human societies lead to a dichotomy where people are either "humanized or dehumanized."⁴⁹ As a human being, one cannot

⁴⁷ Thiong'o goes on to add that it is precisely because history is the result of struggle and tells of change that it is perceived as a threat by all the ruling strata in all the oppressive exploitative systems. Tyrants and their tyrannical systems he says, are terrified at the sound of the wheels of history. Ngũgĩ wa Thiong'o, *Moving the Centre: The Struggle for Cultural Freedoms* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 96.

⁴⁸ See Michel Foucault's *The Subject and Power in Beyond Structuralism and Hermeneutics* (Chicago: University of Chicago, 1982), p. 208. In this writing French philosopher Michel Foucault says that "In effect, between a relationship of power and a strategy of struggle there is a reciprocal appeal, a perpetual linking and a perpetual reversal." He says that "at every moment the relationship between adversaries in society may, at every moment, give place to the putting into operation of mechanisms of power. The consequence of this instability is the ability to decipher the same events and the same transformations either from inside the history of struggle or from the standpoint of the power relationships." He goes on to add that "the interpretations which result will not consist of the same elements of meaning or the same links or the same types of intelligibility, although they refer to the same historical fabric, and each of the two analyses must have reference to the other. In fact, it is precisely the disparities

escape from these two destinies as they have continued to exist within the historical realities of humankind. In their vision of JustPeace, unrepresented people seek to transcend dehumanization and to make real the providence of human-kind. Their struggles to attain the destiny of humanization⁵⁰ are constantly confronted by issues of war, justice and peace, and, perhaps, the most fundamental question underlying these issues is the praxis⁵¹ of how a peoples exercise their self-determining capacities.

Perceptions, attitudes and behavior in addressing questions of justice and peace, and the struggle for regaining humanity have invariably been shaped by a people's capacity to be self-determining. It is the dynamism of a people's capacity to be self-determining that enables and empowers them to balance the diverse aspects of their beings, such as: harmonizing with the natural forces that exist around them; respecting the integrity of others; and achieving peaceful co-existence based on mutual respect and understanding.

The question of human survival has always been linked with the forces of humanization that has in its origin the right to self-determination and the right to freedom as interdependent values. A person who is not free cannot determine his or her own destiny and a person who is not self-determining cannot claim to be free. The virtues of freedom and self-determination enable people to live compassionately in the truth they know, to have ownership of decision-making, to develop understanding of differences; to foster critical human solidarity and to exercise mutual respect with dignity, which are critical for human survival, creativity and imagination. It is, therefore, not

between the two readings which make visible those fundamental phenomena of "domination" which are present in a large number of human societies."

⁴⁹ In the struggle for power on one hand and rights on the other, humanization here implies the struggle to assert and claim humanity as opposed to dehumanization, where one is not "fully human." "Dehumanization," indigenous scholar Smith states, was "often hidden behind justifications for imperialism and colonialism which were clothed within an ideology of humanism and liberalism and the assertion of moral claims which related to a concept of 'civilized man.'" Smith points out that "ideas about what counted as human in association with the power to define people as human or not human were already encoded in imperial and colonial discourses." Furthermore, to "consider indigenous peoples as not fully human, or not human at all," Smith says, "enabled distance to be maintained and justified various policies of either extermination or domestication." Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), pp. 25-28.

⁵⁰ Freire notes that concern for humanization leads at once to the recognition of dehumanization, not only as an ontological possibility, but as an historical reality. He goes on to add that while both humanization and dehumanization are real alternatives, only the first is the people's vocation ... and that it is affirmed by the yearning of the oppressed for freedom and justice, and by their struggle to recover their lost humanity. Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), pp. 25-26.

⁵¹ According to Freire, Praxis involves a continuous process of *Reflection* and *Action* upon the world in order to transform it. Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 33.

surprising that the development and praxis of self-determination has and continues to be the focus of human history.

The meaning given to the idiom ‘self-determination’ can either empower a peoples’ capacity to be makers of their own history or, as it happens all too often, people are relegated to being passive spectators and disempowered objects, not participants in making their own history. The unquenchable human thirst for dominance, power, and control on one hand, and the search for freedom and human dignity on the other, has sown radical conflicts of interest and value systems between States and dominant elites, and people struggling for re-humanization.

The restricted concept of self-determination as it stands today, is a result of a deliberate process to deter and prevent a peoples’ struggle for re-humanization; to define their own way of life, and to effectively and consciously determine their own destiny. Indeed, the existing concept of self-determination has impaired conditions required for realizing JustPeace, thereby creating environments conducive to conflict and human destruction. As Rodolfo Stavenhagen observed while outlining the themes of Martin Ennals Memorial Symposium on Self-Determination:

... the violence we see around is not generated by the drive for self-determination, but by its negation. The denial of self-determination, not its pursuit, is what leads to upheavals and conflicts.⁵²

Self-determination as a praxis of values is “ancient going back to the first attempt by a people to control or subjugate another,”⁵³ and essentially a “revolutionary proposition.”⁵⁴ For unrepresented peoples, the language of self-determination did not originate within the legal confines of the international legal norms and principles. Rather the praxis of self-determination was rooted in peoples’ yearning and desire to decide as they wish and chart their own destinies. Nonetheless,

⁵² Stavenhagen quoted in Nihal Jayawickrama, rapporteur, “The Right to Self-Determination” Report of the Martin Ennals Memorial Symposium on Self-Determination, a Satellite Conference for the 1993 World Conference on Human Rights, co-sponsored by the College of Law, University of Saskatchewan and International Alert, Saskatoon, Saskatchewan, Canada, March 3-6, 1993, and also, Rodolfo Stavenhagen, “Self-Determination: Right or Demon?” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 8.

⁵³ David B. Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 251.

⁵⁴ Ibid. Knight adds, as “a revolutionary proposition, self-determination referred to the establishment of the idea of popular national sovereignty over the inhabited territory as the state-ruler relationship was replaced by that of the state-nation. At this base of this reformulation of definition was the people-to-territory relationship.”

Ved P. Nanda says that the history of self-determination begins with the Peace of Westphalia⁵⁵ in 1648.⁵⁶

Since the end of World War I and more prominently after World War II,⁵⁷ the existing language of self-determination emerged not as a new, but as a particularly valued concept which evolved in stages in the dominant modern discourse of political science and international law during the 20th Century. It became recognized as an established concept in international law and international affairs where it was connected to issues of nationality, secession and sovereignty,⁵⁸ which gained acceptance under the United Nations' (UN) framework.⁵⁹

⁵⁵ Falk reminds us that “Westphalia” is simultaneously used to identify an *event*, an *idea*, a *process* and a *normative sheet*. As an *event*, Falk says that Westphalia refers to the peace settlement negotiated at the end of the Thirty Years War (1618-1648). As an *idea*, Westphalia refers to the state-centric character of world order premised on full participatory membership being accorded exclusively to territorially based sovereign States. As a *process*, Westphalia refers to the changing character of the State and statecraft as it has evolved during more than 350 years since the treaties were negotiated, with crucial developments as both colonialism and decolonization, the advent of weaponry of mass destruction, the establishment of international institutions, the rise of global market forces, and the emergence of global civil society. Finally, as a *normative score sheet*, Falk says Westphalia refers to the strengths and weaknesses, as conditioned by historical circumstances, of such a sovereignty based system, shielding oppressive States from accountability and exposing weak and economically disadvantaged States to intervention and severe forms of material deprivation. Falk continues to assert that “this foundation for world order, besides being implicitly and operationally Eurocentric, also generated a sharp contrast in identity between the civilized “we” and the barbaric “them,” which became formalized much later in the colonial era. Richard Falk, *Revisiting Westphalia, Discovering Post-westphalia* (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4) pp. 312-313.

⁵⁶ Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), p. 447.

⁵⁷ Jenne notes that “both the Allied and Central Powers used promises of self-determination to compete for allies during the war.” Regardless of their promises to self-determination to gain support during World War II, Jenne observes, “several major powers opposed establishing a general right to self-determination after the war for fear of losing their colonial territories.” She further points out that the principle of self-determination was largely excluded from postwar political institutions. Erin Jenne, “National Self-Determination: A Deadly Mobilizing Device” in Hurst Hannum & Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), pp. 11-13.

⁵⁸ Lãm points out that “Since the state, under liberal democratic theory, cannot strictly speaking act for itself, but must always perform as the agent of another, i.e., the people, it cannot logically claim to be “self-determining” and at the same time profess legitimacy. Hence, while, international law refers regularly to the “sovereignty” of states, it almost always speaks of the “self-determination” of peoples.” Francisco Rigo Sureda’s position further provides clarity on this aspect when he stated that: “The history of self-determination is bound up with the history of the doctrine of popular sovereignty proclaimed by the French Revolution: government should be based on the will of the people, not on that of the monarch, and people not content with the government of the country to which they belong should be able to secede and organize themselves as they wish. This means that the territorial element in a political unit lost its feudal predominance in favor of the personal element: people were not to be any more a mere appurtenance of the land.” Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 181.

⁵⁹ The victors of World War II formed the United Nations in 1945 with its members being designated as ‘peace-loving nations.’ The “self-determination of peoples” was featured in the “purposes and principles” of the founding documents of the UN’s Charter – containing two direct and two indirect references of self-determination. The two direct references are the result of an amendment proposed by the Soviet Union that introduced an addition to Article 1, paragraph 2 which amended the purposes of the UN: “To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.” Aurelie Cristescu, *The Right to Self-Determination: Historical and Current Development*

The UN institutionalized⁶⁰ self-determination as a continuing principle⁶¹ and a right⁶² based on notions of “victor’s justice” and exclusive knowledge system, thereby negating indigenous and non-Western values, ethics and understanding of self-determination and restricting its meaning and praxis. Its objective was flawed when Woodrow Wilson⁶³ intended the principle of self-determination to “apply immediately and unconditionally to the peoples of Europe,” and that “self-determination would have an uncertain and eventual application in non-European settings.”⁶⁴

On The Basis Of United Nations Instruments. A Study Prepared By A Special Rapporteur. (New York: United Nations, 1981), p. 54.

⁶⁰ The present language of self-determination as a vital feature of international relations originated in the 16th century with the rise of nationalism and the establishment of nation-states. The Peace of Westphalia in 1648 first codified these nationalistic principles into international law, and the growth of empires during the 18th and 19th centuries fueled nationalistic drives for self-determination. Although there is no explicit mention of self-determination in the League of Nations, most commentators agree that the modern era of self-determination commenced following the end of the First World War with the collapse of the Ottoman and Austro-Hungarian empires. Eric Kolodner, *The Future of The Right to Self-Determination* (10 Conn. J. Int'l L. 153, 1994). The exercise of the right to self-determination as a fundamental human aspiration of people has been popularly linked with events such as the American Declaration of Independence, and more significantly through the French Revolution especially in the Declaration of the Rights of Man and of the Citizen. It gained prominence in international political discourse around World War I when President Woodrow Wilson proclaimed the idea in his Fourteen Points address of January 1918. It was also expressed in the Peace Treaties of 1919, the Covenant of the League of Nations, the Atlantic Charter of 14 August 1940, and the Cairo Declaration of 26 November, 1943. The institutionalization of self-determination became complete when the UN recognized the concept as a legal entity. See Yassin El-Ayouty, *The United Nations and Decolonization: The Role of Afro-Asia* (The Hague, Netherlands: Martinus Nijhoff, 1971). Self-Determination has been mentioned directly in Article 1 para 2 and Article 55 and indirectly twice in Article 76 of Chapter XI: The International Trusteeship System and in Article 73 of Chapter XI: The ‘Declaration Regarding Non-Self-Governing Territories’ of the UN’s Charter.

⁶¹ Self-determination has been established as a principle in Article 1 para 2 and Article 55 of the United Nations Charter. Article 1 para 2 of the United Nations Charter states “**To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.**”

⁶² UN’ General Assembly Resolution 1514 (XV) Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960 and the UN’s International Covenant on Human Rights in 1966, has established self-determination as a right. Art. 2 UNGA Resolution 1514(XV) carried a broad definition of the right of self-determination, namely, “**All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.**” The content of Article 2 UNGA Resolution 1514 (XV) was reproduced verbatim as Article 1 in both the International Covenant on Economic, Social, and Cultural Rights; and the International Covenant on Civil and Political Rights in 1966.

⁶³ Secretary of State Robert Lansing was highly critical over the notion of self-determination as a right of colonial peoples, exclaiming that “The more I think about self-determination the more convinced I am of the danger of putting such an idea into the minds of certain races.” Robert Lansing, *The Peace Negotiations: A Personal Narrative* (Boston, 1921) quoted by Emilio J. Cardenas and Maria Fernanda Canas, “The Limits of Self-Determination” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 104.

⁶⁴ Richard Falk, “Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 39.

The concept of self-determination as a praxis is affected by notions of individual rights, as expounded in the origins and ideas of human rights in the Western world.⁶⁵ For instance, Maivân Clech Lâm suggests that the UN's leaning towards individual rights is based on historical experiences. She notes "If Westphalia invented the state, which the French Revolution in turn idealized and also totalitarianized, the League on its part provided the foil for the ideal, League wardship, which in due course failed." She points out that "It is generally agreed that this failure caused the United Nations at the end of World War II to turn away from the further consideration of minority group rights and to develop instead a new body of universally binding law: individual human rights."⁶⁶ Consequently, self-determination has largely been influenced and shaped by a combination of Western based jurisprudence, knowledge systems, systems of power, concepts of institutions; notions of individualism and values and ethos of life, which are all deeply rooted in the ideology of traditional European culture.

Subsequently, information and knowledge about unrepresented peoples such as the indigenous peoples was collected, classified and then represented through the eyes of the West.⁶⁷ Edward Said refers to this process as a Western discourse about the 'Other,' which is supported by "institutions, vocabulary, scholarship, imagery, doctrines, even colonial bureaucracies and colonial styles."⁶⁸ Therefore, since the existing language and discourse of self-determination during the initial stages was grounded in European settings and the Western world, they had little actual relevance for non-Western cultures and peoples. However, as the colonized, they had to live with the terrible consequences of such narrow construct of humanity.

⁶⁵ Otto Kimminich, *The United Nations Contribution to the Development of International Law* (Law and State, volume 53/54, 1996), pp. 108-9.

⁶⁶ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 95 Lâm's observation is based on two historical experiences of the French Revolution and the League of Nations. She notes that the "state became a people" in the 1789 French Revolution. She points this out because on the historic occasion of the creation of France, there did not yet exist a French people, as only Bretons, Basques, Gascons, Auvergnats and so on occupied France. Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 89-92. Similarly, Lâm points out that it was in the 1914 League of Nations, that "the peoples became states." Her rationale was: "Aware that ethnic conflict had triggered if not cause World War I, the League resolved to deter future conflicts in Europe by conceptually breaking the defeated German, Austro-Hungarian, and Ottoman Empires down into their supposed ethnic parts, each of which was then assessed for potential statehood, which at the end was validated in a number of cases." Lâm adds that "where disaggregation of peoples and/or dismemberment of states proved politically too costly, the League created regimes or protection for ethnic minorities enclosed within heterogeneous states. Both actions were justified on the principle of the self-determination of peoples." Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 92-96.

⁶⁷ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 1.

⁶⁸ Edward Said, *Orientalism* (London: Vintage Books, 1978) pp. 2-3.

Restricting the language of self-determination was further compounded when patterns of human association were reduced to hierarchical structures of relations defined by post-colonial States that gave in to the old structures of the Westphalian State.⁶⁹ The Westphalian State took assertive dominance and monopoly in defining the discourse of self-determination. As a result, the praxis of self-determination as an idea lost its dynamism and became institutionalized with the State system upholding the status quo and legitimizing oppressive policies that denied the recognition of unrepresented peoples as equal political entities with the right to self-determination.

For instance, States not wanting to recognize indigenous peoples⁷⁰ as ‘peoples’ relegated them to the status of ‘population,’ which was upheld by the UN when the UN’s Working Group on Indigenous Population was formed. According to the *language* of UN instruments it is “peoples” and not “populations” that have the right to self-determination. Consequently, we see the UN’s approach, as a world body, setting an international standard that chooses not to recognize unrepresented people as a political entity with the right to self-determination.

Through this discourse there has been a collision between unrepresented peoples deriving self-determination in its fullest essence as an emancipatory praxis, while States have restricted it to a repressive end. For instance, those who once fought for self-determination, after realizing it formed an exclusive *men’s* club; and are now actively engaged in preventing others from asserting the right to self-determination.⁷¹ The common standpoint taken by members of this exclusive club against the right of self-determination is the perception that such a right threatens their political

⁶⁹ The order of present sovereign states dates roughly to The Peace Treaty of Westphalia in 1648, a settlement ‘which ended the Thirty Years War. Westphalia was a *modus vivendi*, an agreement not upon common principles of religion or justice, but upon the mutual obligation of political authorities not to interfere in one another’s territory. Westphalia State named after The Peace Treaty of Westphalia became the most enduring, universal and invoked form of territorial sovereignty in international law. See Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 407, Daniel Philpott, “Self-Determination in Practice” in Margaret Moore (ed.), *National Self-Determination and Secession* (New York: Oxford University Press, 1998), pp. 89-90, See also, S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996) and Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Cambridge, MA & Oxford, UK: Blackwell Publisher, Ltd., 1990; 1992).

⁷⁰ Smith reminds us that “Indigenous peoples were classified alongside the flora and fauna; hierarchical typologies of humanity and systems of representations were fuelled by new discoveries; and cultural maps were charted and territories claimed and contested by major European powers. Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin’s Press, 1999), pp. 59-60.

⁷¹ Stavenhagen notes “it would seem that for some people self-determination is somewhat akin to an exclusive club: you fight hard to gain access yourself, but once you’re in, you’d rather not see any new upstarts come along.” Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 1.

status, territorial integrity, the stability of international peace and security; and hence poses a threat to existing States.

This exclusive club has discredited self-determination by limiting it to the decolonization process, and further, equating the praxis of self-determination with notions of secession entangled into legal matters which threatens ‘world peace.’ The UN, as an example of the exclusive men’s club, is manifested by the fact that from the time of its inception in 1945 until 1991, there has been only one case where it decided to recognize the right to self-determination outside the context of classical colonialism, the case in question being the liberation of East Pakistan from Pakistan, and subsequently emerging as the State of Bangladesh.⁷²

The inconsistencies in the praxis of self-determination between the UN and States on one hand, and unrepresented peoples on the other, have resulted in a condition of perpetual suppression of the inherent human yearning to be self-determining; and it is proving to be counter-productive for the growth of all humanity. The Palestinian struggle for their right to self-determination is one example of how the desire for self-determination is continually met with repressive force threatening the very idea of the right to life. The policy of militarization has only led to a vicious cycle of violence. The paradox of self-determination as either a cause of conflict or as a source of JustPeace invariably depends on how we deconstruct its existing concept and application.

The call of struggling people for the transformation in understanding the principles and values of self-determination involves identifying this phenomenon as a living and life-giving concept, which can no longer be negated. This call requires a paradigm shift where the restricted language of self-determination is replaced with a praxis that is embedded in a shared language of pluralism which is dynamic and enduring so that the vision of JustPeace becomes a reality.

The process to reclaim the true spirit and character of self-determination with all its ethical values must begin with:

- (1.) intellectual decolonization⁷³ of the mind that critically examines the existing concepts of self-determination as defined by European values and State systems; and

⁷² Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 13.

⁷³ Decolonization, Smith points out, does not mean and has not meant a total rejection of all theory or research or Western knowledge. Rather it is about centering our concerns and world views and then coming to know and

- (2.) recognizing the imperative need to reclaim and rediscover indigenous and non-indigenous values, ethics and understanding of self-determination into its fullest embodiment.

A Word on Self-Determination

If self-determination, which S. James Anaya considers to be the “principle of the highest order,” is derived from the “philosophical affirmation of the human drive to translate aspirations into reality, coupled with postulates of inherent equality;”⁷⁴ human history and human struggle for dignity and humanization form the focal points of this affirmation. By this, we understand that the praxis of self-determination involves an ongoing process where people effectively participate in decision-making processes, assume full ownership over their natural resources and take upon themselves the responsibility to determine their social, economic,⁷⁵ cultural and political destinies.

The praxis also means “involving questions relating to our history” and a “critique of how we, as the Other, have been represented or excluded from various accounts”⁷⁶ of humanity. It implies the desire to tell our own stories, write our own versions in our own ways, for our own purposes and to restore a spirit⁷⁷ toward a shared humanity.

While States view self-determination as a remedy to colonization,⁷⁸ unrepresented peoples perceive it as an ongoing process where the peoples’ will is reflected in all spheres of human activity. The systems of government, institutions and forms of governance should be devised to reflect the peoples’ aspirations in order to enable them to realize their self-determining capabilities. Independence for unrepresented peoples, therefore, is not an end, but the means by which the people pursue their aspirations based on their culture and values, in relation to all of

understand theory and research from our own perspective and for our own purposes. Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 39.

⁷⁴ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 75.

⁷⁵ Taiaiake observed that 'Meaningful progress towards self-determination can never be made until Native communities are free of economic dependency.' Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 136.

⁷⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 28.

⁷⁷ *Ibid.*, pp. 28-29.

⁷⁸ *Ibid.*, pp. 62-64. Smith reminds us that it is important to remember that “colonialism was not just about collection. It was also about re-arrangement, re-presentation and re-distribution.” And in this sense, the ‘idea’ of the West became a reality when it was re-presented back to indigenous nations through colonialism.

humanity. The praxis of self-determination further implies that the legitimacy of any political status and political arrangement must depend on the will of the people.⁷⁹

In 1950, the UN's General Assembly asked the Economic and Social Council to request that the Commission on Human Rights to “study ways and means which would insure the right of nations and peoples to self-determination.”⁸⁰ The concept of self-determination as a ‘right’ was broadly defined and established by the UN’s General Assembly (UNGA) Resolution 1514 (XV) Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960 and further affirmed by the United Nations International Covenant on Human Rights in 1966. Article I, common to both the International Covenant on Economic, Social and Cultural Rights and the International Covenant on Civil and Political Rights reads:

1. All peoples have the right to self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.
2. All peoples may, for their own ends, freely dispose of their natural wealth and resources without prejudice to any obligations arising out of international economic co-operation, based upon the principle of mutual benefit, and international law. In no case may a people be deprived of its own means of subsistence.
3. The States Parties to the present Covenant, including those having responsibility for the administration of Non-Self-Governing and Trust Territories, shall promote the realization of the right of self-determination, and shall respect that right, in conformity with the provisions of the UN’s Charter.⁸¹

These Covenants extend the right to ‘Peoples’ and, thereby, are not confined to ‘States.’ Recognizing self-determination as a right by which all peoples can freely determine their political status and freely pursue their economic, social and cultural development broadened the space and possibilities within international law to expand the language of self-determination to other forms. The concept of self-determination embodies two scopes of rights; namely the right of the ‘self’ which does the determining, and the ‘right’ which the ‘self’ determines.⁸²

When a ‘peoples’ is not self-determining, they are said to be in a condition of dehumanization, and, therefore, self-determination is a right without which the humanization of humankind will

⁷⁹ Richard Falk, “Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World*. (London: Lynne Rienner Publishers, 2002), p. 65.

⁸⁰ G.A. Res. 421 D, 5 U.N. GAOR, Supp. No 20, at 42, U.N. Doc. A/1775 (1950).

⁸¹ Article 1 in both the International Covenant on Economic, Social and Cultural Rights of 1966, adopted on 16 December 1966, Entry into force: 3 January 1976 and International Covenant on Civil and Political Right, Adopted on 16 December 1966, Entry into force: 23 March 1976, which was adopted by the UNGA.

⁸² David Archard, “The Ethical Status of Nationality,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 154.

not be realized. Self-determination is an inherent right – a natural right, and, therefore, inalienable, which can neither be granted nor taken away. Being an inherent right, it implies that the praxis of self-determination is essential to embodying the self-conscious expressions and acts of individuals which are forged into a collective response to life and the world they confront.⁸³

When the collective self-conscious expressions reflect the power of the peoples' will, then it is perhaps safe to say that the self-conscious expressions of the peoples' will form an essential part of a culture. Culture as philosophy is lived and celebrated in a society,⁸⁴ which is the unfolding of principles already implied in its originating process.⁸⁵

Bennars and Njoroge inform us that culture comes from the Latin verb *cultus* which means to cultivate, or more precisely, act upon the land, transforming it for production. *Cultus* inevitably involves *human action* to transform the world, to make the world more humane⁸⁶ and it demonstrates a peoples' collective wisdom, history, traditions, worldviews and its capabilities, empowerment and capacities in confronting issues of justice and peace. Augusto Boal declares, "To make culture is to invent the world so that it responds to our needs, our desires, our dream."⁸⁷ Indeed, Ramachandra says,

Culture permeates all human feeling, thinking and acting. It crystallizes into social and political formations which generate and succeed each other in an orderly array, thus endowing human life with meaning.⁸⁸

Thiong'o goes on to add that culture⁸⁹ is a product of a peoples' history embodied with a whole set of values by which they view themselves and their place in time and space.⁹⁰ Therefore, if

⁸³ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), pp. 15-16.

⁸⁴ Okot p'Bitek, *Artist the Ruler: Essays on Art, Culture and Values* (Nairobi: East African Educational Publishers Ltd., 1986), p. 13.

⁸⁵ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc. 1994, 10th Edition 2000), p. 17.

⁸⁶ G. Bennars and R. Njoroge, *Philosophy and Education in Africa* (Nairobi: PanAfrica Press, 1996). Also, Akum Longchari and Babu Ayindo, *From Cold War to Hot Peace? The Politics of Conflict Resolution: <daga.dhs.org/justpeace/reflections.html>* (Last accessed on August 27, 2012).

⁸⁷ Augusto Boal, *Legislative Theater* (New York: Routledge, 1998), p. 178.

⁸⁸ Vinoth Ramachandra, *Gods that Fail: Modern Idolatry and Christian Mission* (London: Paternoster Press, 1996), p. 31.

⁸⁹ Thiong'o further says that culture is a product of the history, which it in turn reflects. He adds that "culture in other words is a product and a reflection of human beings communicating with one another in the very struggle to create wealth and to control it." He clarifies that culture does not merely reflect that history, or rather it does so by actually forming images or pictures of the world of nature and nurture. He notes that "our capacity to confront the world creatively is dependent on how those images correspondent or not to that reality." Ngũgĩ wa Thiong'o, *Decolonizing*

culture as a human action to transform the world includes the translated aspirations of people; its manifestation is invariably dependent on a peoples' ability to be self-determining. The etymology of the idiom 'self-determination,' therefore, denotes dynamism or in other words to be in a constructive process of perpetual permanent transformation.

From this standpoint, the language of self-determination is not limited to articulations expressed in spoken or written words, but includes attitudes, values, ethics and behaviors that are in a condition of constant transformation. This holistic approach of creating meaning enables us to collectively understand that the phenomenon, ethics, belief and ideas of self-determination existed much before the idiom *self-determination* itself was coined.

As Ali A. Mazrui would put it, "that new words are coined only *after* the ideas they are supposed to designate have been already thought of" and so "if, then, words follow ideas, and do not coincide with them, one must allow for a theoretical time-gap between the birth of an idea and the emergence of a *single* word for it."⁹¹ For instance, Nagas were practicing the values of self-determination even before they heard the idiom self-determination. This is demonstrated in their resistance by one Naga village against the interference of another village; and the collective Naga resistance against intrusion and domination by colonial powers are testimonies to the fact that Nagas were, and are self-determining people before and since their contact with colonial forces.

Similar resistances have been demonstrated by many unrepresented peoples that are manifestations of their belief in the value that everyone has the right to existence. Examples such as this indicates historical realities and geographical dimensions in which ideas, ethics, values and political aspirations and the praxis of self-determination were exercised even prior to the coinage of its designated idiom.⁹²

the Mind: The Politics of Language in African Literature (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 15.

⁹⁰ *Ibid.*, p. 42.

⁹¹ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. 4.

⁹² This is critical for understanding the historical dimension of the values and ethics of self-determination because as Mazrui points out, there are tendencies among political analysts to equate a previous absence of a special name for a phenomenon with an absence of the phenomenon itself. Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. 4.

The Language of Exclusivity

The *language*⁹³ in which the present concept of self-determination is expressed is inadequate to bring to public expression the aspirations, ideas and values which motivate and inspire the will of the people. The present language provides an exclusive perspective which selectively negates events, activities and processes of struggling people, particularly narratives⁹⁴ of indigenous peoples.⁹⁵ Written as it was with questionable intentions, the existence of the values and ethics of indigenous peacebuilding, nationbuilding and their self-determining values remain unrecognized. The language after all is an echo of the dominant culture, and as Thomas Sankara observed,

From imperialism's point of view it is more important to dominate us culturally than militarily. Cultural domination is more flexible, more effective and less costly.⁹⁶

⁹³ Freire reminds us that the *language* is a vital component to the structure of oppression, and it both generates and derives from the policy of domination, exploitation and subjugation of others. Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000). Also, Thiong'o says that language is central to a peoples' definition in relation to the world around them and has a dual character as a means of communication and a carrier of an evolving culture; therefore, language as the collective memory bank of a people's experience in history. He further adds that "the domination of a people's language by the languages of the colonizing nations was crucial to the domination of the mental universe of the colonized." Ngũgĩ wa Thiong'o, *Decolonizing the Mind: The Politics of Language in African Literature* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), pp. 4-16.

⁹⁴ The researcher recalls a conversation with an elder of the Navajo nation in the summer of 1999, who said that history is always written by the oppressors and victors of war. He went on to add that in reality the truth and legends lie in people's hearts. He gave the example of books that which have credited Christopher Columbus with the discovery of the Turtle Island [North America]; while in reality Columbus was lost and the First Nations people discovered Columbus, who was lost, invited him to spend the night with them. Unfortunately, Columbus overstayed ... for 500 years now. Also, Alfred Taiaiake, *Peace, Power, and Righteousness: An Indigenous Manifesto* (Canada: Oxford University Press, 1999).

⁹⁵ The term indigenous refers broadly to the living descendants of pre-invasion inhabitants of lands now dominated by others. They are indigenous because their ancestral roots are imbedded in the lands in which they live; and have special relationship with their land which they see as being imbued with a spirituality and sacredness not generally comprehensible by others. The land for them is more than just a habitat or a political boundary; it is the basis of their social organization, economic system and cultural identification. Indigenous peoples are culturally distinctive peoples with historical continuity of existence and identity that links them to the communities or nations of their ancestral past who now find themselves engulfed by settler societies born of the forces of empire and conquest. S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 3 Also, Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories, or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems. José Martínez Cobo, *Study on the Problem of Discrimination Against Indigenous Populations*, E/CN.4/Sub.2/1986/7/Add.4, para 379.

⁹⁶ Thomas Sankara, "Thomas Sankara Speaks - The Burkina Faso Revolution 1983-87" (Pathfinder Press, 1988), p. 153. Thiong'o also marked that the biggest weapon unleashed by imperialism is the 'cultural bomb'. The effect of which is to annihilate a people's belief in their names, in their languages, in their environment, in their heritage of struggle, in their unity, in their capacities and ultimately in themselves. Ngũgĩ wa Thiong'o, "Decolonizing the Mind: The Politics of Language in African Literature" (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 3.

The modern world is a result of the interplay between European imperialism⁹⁷ and the resistance⁹⁸ against it. To maintain its dominance in the international system, a language of self-determination embodying the European culture was shaped, in which the concept of self-determination is upheld only for itself.⁹⁹ This discourse conveniently erased the historical and geographical experiences, and in negating the praxis of self-determination, it denied the existence of all other non-European cultures as non-self-determining.

As a result, non-European cultures were seen as passive objects living in a static reality with no history while the European cultures were seen as the makers of their own history and where the future of humankind lay in imitating European values.¹⁰⁰ The distortion of a peoples' story, history, spirituality and identity is not only dehumanizing, but has blatantly contributed to a systematic breakdown in relationships. This language that perpetuates oppression is projected as a representation of a universalized language in an effort to Westernize humanity, therefore creating the myth that the European model is the sole possessor on all solutions to the challenges of our time.¹⁰¹ This interpretation of self-determination has been formulated and developed within the context of traditional European culture which makes little sense outside of this tradition.¹⁰²

⁹⁷ Smith argues that the concept of imperialism and colonialism are crucial ones which are used across a range of disciplines, often with meanings which are taken for granted. She asserts that imperialism was the system of control which secured the markets and capital investments, while colonialism facilitated this expansion by ensuring that they were European control, which necessarily meant securing and subjugating the indigenous population. Colonialism, she says, became imperialism's outpost, the fort and the port of imperial outreach. She further reminds us that colonial outposts were also cultural sites which preserved an image or represented an image of what the West or 'civilization' stood for. Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999). pp. 20-25.

⁹⁸ Ngũgĩ wa Thiong'o, *Moving the Centre: The Struggle for Cultural Freedoms* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 4.

⁹⁹ Stewart C. Easton is quoted by Mazrui as saying that self-determination was not thought of by any European power to be applicable to the peoples of their colonies, who were not fit for self-government. This view is further asserted by Rupert Emerson who suggests that even Woodrow Wilson did not seem certain about whether he wanted the principle of self-determination to apply to non-European peoples under colonial rule, in addition to dynastic intra-European empires. Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. 15.

¹⁰⁰ For detailed perspective on the role of history in self-determination, see, David C. Gordon, *Self-Determination and History in the Third World* (Princeton, New Jersey: Princeton University Press, 1971).

¹⁰¹ Thiong'o adds that Western civilization itself is a prisoner of Eurocentric interpretations, and the irony is that even that which is genuinely universal in the West is imprisoned by Eurocentrism which is not interested in seeking possible general laws of human evolution. Ngũgĩ wa Thiong'o, *Moving the Centre: The Struggle for Cultural Freedoms* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. xvii.

¹⁰² Stephanie Lawson, "Self-Determination as Ethnocracy: Perspectives from the South Pacific" in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 169.

The irony of this trend Marimba Ani says, is that,

Europeans are the only ones with the authority to criticize their culture, and the criticisms they make and the solutions they find are said to have universal significance.¹⁰³

Consequently, this leaves no place for creative alternative paradigms, and, in effect, negates the capacity and right to self-determination of non-Europeans. Such a discourse has limited the *right* to self-determination as an exercisable right to one of *privilege*.¹⁰⁴ Such a language does not uphold the values and rights to self-determination, but rather creates expectations without fulfillment, thereby sustaining the status quo of oppression and the effective cessation of self-determination.

The construction of self-determination as a privilege is ideological and extremely political in nature. At its center are the interests and goals of the European culture that are counterintuitive to and destructive of all other cultures and its desire for supremacy through expansionism and monoculture that resulted in colonialism.¹⁰⁵ Indeed, the denial of self-determination to the ‘cultural other’ has led to dehumanization and is responsible for many of today's conflicts, such as the Kurds, West Papuans, Palestinians and Abkhazians.

The Language of the Self

Ivor Jennings’ observation that “the people cannot decide until somebody decides who are the people,”¹⁰⁶ proves ironic because unless a people determines its own *self-definition*, its capacity to be self-determining is overpowered by those who define it for them. Identity is intimately tied with the moral and ethical notion of human dignity; after all, when one is seeking the realization of human dignity and human worth, one is also referring to those qualities and values which are shared with fellow humans.¹⁰⁷ The peoples’ identity and dignified will are indeed the primeval aspirations wedded in the politics of human existence and human relations. The *self* in self-

¹⁰³ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 21.

¹⁰⁴ Gerry J. Simpson, “The Diffusion of Sovereignty: Self-Determination in the Post-Colonial Age” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 37.

¹⁰⁵ Ali Behad informs us that “Like war, colonialism is the collective organization of aggressive urges, and it is organized by the community.” See Ali Behad, “Eroticism, Colonialism and Violence” in Hent de Vries and Samuel Weber (ed.), *Violence, Identity, and Self-Determination* (Stanford, California: Stanford University Press, 1997), p. 202.

¹⁰⁶ Ivor Jennings quoted by Mazrui in Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. 10.

¹⁰⁷ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. xi.

determination raises the issue of identity¹⁰⁸ and the right to self-definition is invariably linked to how one constructs and exercises the right to self-determination.

The idiom ‘self-determination’ implies that inherent presence of the collective *self* asserts its existence as a social and political reality by embracing the aspirations and ethical notions of human dignity and human worth. Hence, self-determination is *relational* and as Kenneth Deer asserts, self-determination is not held in isolation; it is shared with your neighbor; and follows the relationship you make with the people who live next to you.¹⁰⁹

The praxis of self-determination becomes more meaningful when applied in the context of collective identity as peoples. Hans Köchler reminds us of the undeniable feature of human rights as collective rights, and one in which individual rights and collective rights cannot be separated from each other in legal philosophy and modern human rights doctrine.¹¹⁰

Critical observation shows that historical forces have been instrumental in shaping and expanding the notion of *self*; and perhaps the more important question is: Which self are we referring to? Mahmood Mamdani says from a nation-state theory the “self” in “the right of self-determination” is a “cultural self,” and “cultural identity remained the bedrock of political identity.”¹¹¹ He notes that political identities exist in their own right as a direct consequence of the history of State formation, and are the result of how power is organized.¹¹²

David Gordon asserts that “In the final analysis it is for [humans] to decide which identity they prefer, unless of course they are constrained by superior power to do otherwise.”¹¹³ Invariably, in the case of unrepresented peoples, the States have forcefully taken upon themselves the

¹⁰⁸ Ibid., pp. x-xi.

¹⁰⁹ Kenneth Deer, “An Indigenous Understanding of Self-Determination,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 105.

¹¹⁰ Hans Kochler, “Self-Determination as a Means of Democratization of the United Nations & the International System,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 139.

¹¹¹ Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda*. (Princeton: Princeton University Press, 2001), p. 21. Also, Mamdani further notes that the “doctrine of self-determination proclaims the right of every “nation” – defined variously as a group with a common culture – to its own state. It translates cultural into political identities.” Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda*. (Princeton: Princeton University Press, 2001), p. 264.

¹¹² Ibid., p. 22.

¹¹³ David C. Gordon, *Self-Determination and History in the Third World* (Princeton, New Jersey: Princeton University Press, 1971), p. 128.

prerogative to define the self and connecting it with the process of State-building, so that it forms specific political identities to maintain its hegemony.

Commenting on the history of State-Peoples' relations in Burma, the anthropologist F.K. Lehman illustrates how the Burman's "lost understanding" has influenced their interaction with the Karen, Kachin, Chins, etc. He said that,

[T]hroughout the pre-colonial period of history the Burmans had a reasonably correct tacit understanding of the nature of their relations with bordering peoples, tribal and non-tribal. That Burma seems to have lost this understanding today is almost certainly directly attributable to the importation of every explicit European ideas about nations, societies, and cultures, and the kinds of phenomena that they are taken to be.¹¹⁴

This has contributed to the present conflicts where the Burmese State's dominant assertion over the others has resulted in the denial of self-determination.

John Hoffman remarks that, it is the State in the modern world, which imprisons identities in particularistic frameworks even as it presents its monopolistic claims in universalizing terms.¹¹⁵ Mamdani adds that "the organization of power not only defines the parameters of the political community, by telling us who is included and who is left out, but also differentiates the bounded political community internally."¹¹⁶ In doing so, States have effectively negated the right to self-definition within the scope of the right to self-determination.

Hoffman adds that power organized by force to assert its prerogative over a "peoples" within a given territory makes this territorial identity become "overarching and dominant" with modern States.¹¹⁷ This development has complicated and, at times, displaced the praxis of self-determination, because experiences of the *self* have been limited to colonial boundaries, colonial ideas and European notions of individualism.

An underlying point of view is formed in understanding the interrelation between European conception of *self* and European idea of freedom when Emile Durkheim said the value of the

¹¹⁴ F.K. Lehman as quoted in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 100.

¹¹⁵ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 208.

¹¹⁶ Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda* (Princeton: Princeton University Press, 2001), p. 22.

¹¹⁷ John Hoffman, *Beyond the State: An Introductory Critique* (Cambridge: Polity Press, 1995), p. 66.

individual personality is a ‘cult’ of European culture.¹¹⁸ The individual-centric notion of the right to freedom is based on separating humanity into individual sovereigns and not on union of a collective self. The notion of absolute individuals leads to a philosophy of individualism where ‘one’ believes that the ‘other’ is responsible for restricting, rather than realizing ones rights, and, therefore, a threat to one’s freedom.¹¹⁹ This notion of individual right to freedom leads to a “clash of competing wills as each asserts his or her right against the other.”¹²⁰ It invariably contradicts the values and praxis of self-determination which desires for all peoples, as a collective entity not just individuals, to experience humanization.

Ani thus cautions the unquestionable acceptance of the European concept of ‘individuality’ and the related concept of ‘individual freedom’ which has continually misguided and weakened the struggles for self-determination.¹²¹ Therefore, to understand *self* on the basis of Western notions of *individualism* creates a narrow concept of *peoples* that is exclusive and likely to diminish the relevance of values of self-determination. It is distorted, and, at best, incomplete when it does not take into account the multiple patterns of human association and interdependency, because its values of freedom and equality have meaning for the multiple and overlapping spheres of human association and political ordering that characterizes humanity.

A crucial aspect of European culture for understanding its imperialistic posture, Ani tells us, is the European cultural creation of the “cultural other,”¹²² constructed in part to answer the needs for its expansionism. Ani goes on to add that in European ideology the ‘cultural other’ is like the land – territory or space into which they expand themselves and describe their new awareness of objects,

¹¹⁸ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 340.

¹¹⁹ Vinoth Ramachandra, *Gods that Fail: Modern Idolatry and Christian Mission* (London: Paternoster Press, 1996), p. 22.

¹²⁰ *Ibid.*

¹²¹ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 340.

¹²² Ani notes that the “cultural other” is there for Europeans to define, to “make over” as their discovery. The “cultural other” is therefore the person (object) who can be treated in any manner. Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 403. Furthermore, Ani notes that the “the concept of the cultural other contributes to the survival of European culture.” Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 417.

peoples and territories as *their* discovery;¹²³ and one that can be treated with an unlimited degree of hostility and brutality.

The conception of the ‘cultural other’ contributes to the survival of the European culture and reduces the ‘cultural other’ to the status of a nonhuman¹²⁴ which lacks the characteristics of “humanness.”¹²⁵ The discourse of self-determination founded solely on European culture establishes the domination and survival of its own culture through the destruction of the cultural – hence, ideological – capacity of the ‘cultural other.’ The European culture is inherently expansionistic that seeks not self-determination, but imperial dominion,¹²⁶ and State-Determination.

State and Nations: The Dichotomy of Humanity

Okot p’ Bitek points out institutions are informed and, in fact, built around the central ideas people develop, which are shaped in turn by their culture.¹²⁷ Thiong’o further expounds that culture is an ideological expression of the totality of their activities.¹²⁸ Structures and institutions are, therefore, at the center of activities which shapes and bestows new forms to a peoples’ culture. The Westphalian State¹²⁹ invariably finds itself at the center of European culture which does not seek self-determination, but dominance at the cost of all other cultures.

¹²³ Smith says that discoveries about and from the ‘new’ world expanded and challenged ideas the West held about itself and adds that the systematic colonization of indigenous peoples in the eighteenth and nineteenth centuries are all facets of the modernist project. Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 59.

¹²⁴ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), pp. 402-409.

¹²⁵ *Ibid.*, p. 427.

¹²⁶ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 568.

¹²⁷ Okot p’ Bitek, *Artist the Ruler: Essays on Art, Culture and Values* (Nairobi: East African Educational Publishers Ltd., 1986), p. 13.

¹²⁸ Ngũgĩ wa Thiong’o, *Writers in Politics* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1981), p. 9.

¹²⁹ This does not mean that States did not exist before the Treaty of Westphalia in 1648. One can find important instances of Greek city-states and both oriental and indigenous patterns of human association and political institutions. The idea of state with sovereignty and some sort of an interstate system, resting upon some mutual higher ideas and values was, however, not prevalent prior to the seventeenth century. Sovereign states based on European models were imposed in Asia, Africa and Latin America during the era of colonization. Jeffrey Herbst says that it was not until the 19th century that the post-feudal political entities were converted into national states in Europe and that the organizing principle across most of the world outside of Europe was not nation-state but empires. Jeffrey Herbst, “Global Change and the Future of Existing Nation-States” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World*. (London: Lynne Rienner Publishers, 2002), p. 15.

Given that the Westphalian State was founded on a violent and domineering culture, we must critically examine its role in relation to the praxis of self-determination. When we realize that the institutionalized structure of European culture has negated the existence of all other cultures and institutions, we may perhaps agree with Thiong'o, who observes "that the structures of domination, subordination and resistance are emerging common global experiences where vocabulary of concepts of domination and revolt has become part of a shared intellectual tradition."¹³⁰

Mazrui observes that, "Europe evolved from a culture of the absolute deity to a culture of the absolute monarch and then onwards to a culture of the absolute State."¹³¹ Humanity has been conveniently reduced by the European knowledge system into two perceptual categories – the individual and the State – that has resulted in an intolerant non-existent relationship to the multiplicity of human cultures and patterns of social organizations.¹³² The Individual-State framework gave rise to notions of the rights of the individual on the one hand, and on the other, the State sovereignty with its corollaries of exclusive jurisdiction, territorial integrity and non-intervention in domestic affairs which developed into a central precept of international law.¹³³

Anaya says that, "Statehood and Nationhood converged as mutually reinforcing concepts and political phenomena, hence, the term 'nation-state'¹³⁴ which was based on the corollary of the individual/state dichotomy."¹³⁵ "The nation-state system," in the words of Palmer and Perkins, "is the pattern of political life in which people are separately organized into sovereign States that

¹³⁰ Ngũgĩ wa Thiong'o, *Moving the Centre: The Struggle for Cultural Freedoms* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 13.

¹³¹ Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 61.

¹³² S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), pp. 13-26.

¹³³ *Ibid.*, p. 15.

¹³⁴ Talbott says there are "two difficulties" with the concept of the nation-state. The first is that, "carried to an extreme, it means that every one of the thousands of nationalities on Earth should have its own states, which would make for a very large United Nations and a messy world." The second is, "that a pure nation-state does not exist in nature. Ethnographic boundaries almost never coincide with political ones." He says that is one reason why "300 years after the Peace of Westphalia, Europeans kept going back to war and redrawing the map of the Continent in blood." Strobe Talbott, "Self-Determination in an Interdependent World," (*Foreign Policy*, Issue 118, Spring 2000), pp. 152-153.

¹³⁵ The terms 'nation' and 'state' used as interchangeable terms by Swiss diplomat Emmerich de Vattel (1714-1769) who in his treatise, *The Law of Nations, or the Principles of Law* (1758) elaborated the idea of a discrete body of law concerned exclusively with states, thus articulating the doctrine of state sovereignty. The term nation-state has been employed by social scientists to indicate the steady synthesis that may come between cultural and political boundaries after perpetual maintenance of political control by a central authority over a given territory and its population. S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 13-15.

interact with one another in varying degrees and in varying ways.”¹³⁶ The more important question perhaps is: Who gets to define the people and the sovereign State in which they exist?

Anaya identifies Statehood as developed in reference to the Westphalian political community in which its defining characteristics are exclusivity of territorial domain, a top down hierarchy, and centralized authority which assumes that the State embodies the model of all human associations and aspirations. This definition both excludes and contradicts indigenous peoples’ political structures which are primarily decentralized, having shared or overlapping spheres of territorial control.¹³⁷ The European basis of human association feeds upon power, domination, violence, capitalism and imperialism that displace humanity from its center and “pushed aside other forms of political, social and economic organization.”¹³⁸ This has resulted in the breakdown of the complex web of interdependence, interconnection and interrelationships.

The present system with the State as a principle of power and authority and the Nation as a principle of identity¹³⁹ is recognized as the primary receptacle to sovereignty. As Cristescu states, “The sovereign national state is at present the main institution through which a nation expresses its wish to take part in international life and play its role as a direct participant in the solution of international problems of concern to it.”¹⁴⁰ Bernard Nietschmann defines State as the political apparatuses that unites (sometimes forcibly) different peoples and nations into one internationally recognized political and territorial entity; whereas nations, conversely, are made up of a self-identifying people, often united by a common language, religion and political consensus, which occupy all or part of an ancestral territory.¹⁴¹

Rudolph Ryser adds that nations are evolved human organisms, self-identified, which includes members who share a common culture, heritage, language and geography. Their existence was not dependent on size, and their identity was essentially determined by their culture. The culture of

¹³⁶ Palmer and Perkins, *International Relations – The World Community in Transition* (Calcutta, 1970), p. 2.

¹³⁷ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 15.

¹³⁸ Ryser, “Tribal Political Status: Finding a Place for Indigenous Peoples in the Family of Nations,” (Center for World Indigenous Studies, May 1980: See also <www.cwis.org/fwdp/international/tribstat.txt>.

¹³⁹ Ali A. Mazrui, *Cultural Forces in World Politics*. (Oxford: James Currey Ltd., 1990) p. 152.

¹⁴⁰ Aurelie Cristescu, *The Right to Self-Determination: Historical and Current Development on the Basis of United Nations Instruments*. A Study Prepared by a Special Rapporteur (New York: United Nations, 1981), p.282.

¹⁴¹ Bernard Nietschmann, “Fourth World Nations: Conflicts and Alternatives” Center for World Indigenous Studies, 1995, <www.tamilnation.org/fourthworld/bernard.htm>.

each nation was determined by the relationship between the people and the land.¹⁴² This focus on self-identification reflects the reality of the lived experience of unrepresented peoples who vary widely in size and cultural identity, yet consider themselves to be ‘nations.’ The tendency to identify nations as monolithic units, occupying exclusive territorial space, is particularly insensitive to nuances, and is incompatible with the indigenous perception of nationhood.

Various nations may exist in one State, or a nation may go beyond the territory of a single State. The reality of existing overlapping nations and multiple identities indicates that there are very few true nation-states.¹⁴³ The extent to which the right to self-determination has been violated can be better understood within the context of this distinction between Nations (Peoples) and States.

Perhaps the hegemony of Western States is best documented in their policies towards the indigenous peoples. Francisco de Vitoria found the indigenous peoples of the Americas sufficiently rational to possess original rights and dominion over lands, but unfit to found and administer a lawful State up to the standard required by European forms of civilization.¹⁴⁴ He, thus, constructed a theory of just war based on European culture to justify patterns of colonization over indigenous peoples and their lands. The theory of just war was accompanied by the doctrine of *terra nullis*¹⁴⁵ established in international law,¹⁴⁶ which considered non-European and

¹⁴² Rudolph Ryser, “Statecraft, Nations and Sharing Governmental Power” in IWGIA Document No. 76, “Indigenous Peoples Experiences with Self-Government,” proceedings of the seminar on arrangements for self-determination by indigenous Peoples within national states, 10 and 11 February 1994, University of Amsterdam: <www.cwis.org/fwdp/International/staterft.txt> [Hereafter Ryser, Statecraft].

¹⁴³ Knight says that “perhaps Portugal and Iceland are the most clearly defined exceptions, that is, they have homogenous populations. Most states have plural societies with minorities.” David B. Knight, *Territory and People or People and Territory?: Thoughts on Postcolonial Self-Determination* (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2) p. 249. Also, Johan Galtung informs that “with about 200 states, 2,000 nations with claims on sacred space and with memories of sacred time, and about 20 nation-states, there is a world potential for 1,980 independence wars, pitting status quo-oriented states against change oriented nations.” He further adds, “about 180 states are multinational, almost all dominated by one nation, often the result of historical patterns of conquest,” and says it is “difficult anywhere in the world to identify more than one state, or country, that is both multinational and symmetric.” He identifies Switzerland as being both multinational and symmetric. Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 126.

¹⁴⁴ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), pp. 11-13.

¹⁴⁵ *Ibid.*, p. 84 and 139. The doctrine of *terra nullis* was established in traditional international law where all lands not under a Western sovereign was considered as vacant land; hence, international law legitimized colonization of non-European in the guise of ‘discovery.’ The International Court of Justice in the Western Sahara Case critically examined and questioned the intent and refused to give legal theory to the doctrine.

¹⁴⁶ Mazrui suggests that “one important characteristic of international law as it now stands is that it is a law which was born in Europe and was originally intended to govern inter-European relations. Today the law remains essentially Western in its conception of the world and in the rules of behavior which it lays down.” He goes on to say that international law “came to concern itself only with relations between one state and another – not between one state and a clan or tribe.” As a result civilization became the criterion for determining which countries had rights under

indigenous lands prior to any colonial rule as vacant lands or legally unoccupied, meaning that the land belonged to no one and could be colonized in the name of discovery.

The question of the right to self-definition is important because colonial policies transformed loosely organized societies and communities in the third world into rigid structures that took the form of the Western State.¹⁴⁷ Therefore, ‘State-building’ processes, to a great extent have been responsible for destroying ‘nations’ and entrapping them within “artificial boundaries.”¹⁴⁸ Indigenous peoples were reduced to their individual constituents, denied their collective rights, and were not recognized as nations; thus could not enjoy rights or duties as peoples under international law.¹⁴⁹ Through a process of domestication,¹⁵⁰ indigenous people have been denied nationhood by States. Not being among the ‘civilized’ and powerful forces of colonization, indigenous peoples had no place and no rights in international law.¹⁵¹ The intent to domesticate the political, legal and social facets of indigenous peoples was to diminish their status below the

international law. Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), pp. 28-29. Also, Anaya says that international law shaped by Western perspectives and political power developed a complicity with the often brutal forces that wrested lands from indigenous peoples, suppressed their cultures and institutions, and left them among the poorest of the poor. S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 39.

¹⁴⁷ Alfred says “in many societies, conquest or colonization of non-Western peoples by Europeans has led to the creation of superstructures based upon the Western conception of nationhood.” Gerald R. Alfred, *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism* (Toronto Oxford University Press, 1995), p. 11.

¹⁴⁸ Jayawickrama reminds us that many such boundaries are man-made by victors of the great wars and notes that most boundaries had been drawn in a “very arbitrary manner, slashing across ethnic settlements regardless of the cultural affinities that had existed from time immemorial.” He asserts that “most ethnic groups precede contemporary national boundaries by hundred, if not thousands, of years.” Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), pp. 362-363.

¹⁴⁹ Justifying his stand to exclude indigenous peoples from the subjects of International Law, Henry Wheaton refers to them as “an unsettled horde of wandering savages not yet formed into a civil society. The legal idea of the State necessarily implies that the habitual obedience of its members to those person which whom superiority vests, and a fixed abode, and definite territory belonging to the people by whom it occupied.” Anaya adds that this signaled “the ensuing dominance of political and jurisprudential tendency to deny indigenous peoples status, and, hence, protection under international law unless they fit within narrow categories of political and social organizations and land use.” Anaya notes that it would have proved too difficult for Western eyes to see tribes as “states.” S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), pp. 14-19.

¹⁵⁰ Domestication is a process whereby the entire indigenous problem is removed from the sphere of international law and placed squarely under the exclusive competence of the internal jurisdiction of the non-indigenous states. M.A Martinez, “Study on treaties, agreements and other constructive arrangements between states and indigenous populations”, Report of the Special Rapporteur, UN Commission on Human Rights, UN Document: E/CN.4/Sub.2/1999/20 (22 June 1999).

¹⁵¹ John Westlake is quoted by Anaya as justifying the categorical exclusion of indigenous peoples as subjects of international law based on the distinction between “civilised and uncivilised humanity” and deemed European style government and sedentary lifestyle the test of “civilization.” Anaya states that “Westlake’s rationalization effectively admitted that international law was an instrument of the ‘white’ and powerful colonizer.” S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 20.

level of a peoples. The continued domination perpetuated by State structures based on dominance and exploitation has denied indigenous people the freedom to decide their own destiny.

The Structures of Domination: An Obstacle to Self-Determination

“The colonial state” according to Mamdani “was in every instance a historical formation...its structure everywhere came to share certain fundamental features.”¹⁵² The State according to Hannum is “a legal and political community”¹⁵³ established by “deliberate action,”¹⁵⁴ Ryser adds that the State “is a rational organizational construct created to solve specific social, economic and political problems, and it is made legitimate by virtues of the recognition extended to it by other established states.”¹⁵⁵

However, the foundation of State organization [and State power] has occurred largely, as Charles Tilly puts it, “consequences of efforts to conquer, and to maintain control over the people and property in the territory,” which “inevitably creates top-down hierarchies of coercive control.”¹⁵⁶ Many of them have been imposed by outside colonial powers without any regard to the geographic, ethnic or historical realities of nations. States pursue power through division, by segregating and stratifying societies and destroying the political community that existed prior to its imposition. It indicates that State oppression of people is inevitable because of its structure of domination even where there are constitutionally protected and guaranteed rights of the people.

The contradictions are reflected in the historical experiences of State-building processes which have often resulted at the expense of the ‘cultural other,’ particularly that of indigenous peoples, human security, land, and right to determine their own destiny. Therefore, the struggles for self-determination question the very foundation and legitimacy of a State on which they now exist. Political domination, economic exploitation and forced cultural assimilation are denying

¹⁵² Mahmood Mamdani, *Citizen and Subject: Contemporary Africa and the legacy of late Colonialism* (Princeton: Princeton University Press, 1996), p. 16.

¹⁵³ Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, 1990), p. 24.

¹⁵⁴ Harold S. Johnson, *Self-Determination Within the Community of Nations* (Netherland: Sijthoff, 1967), p. 19.

¹⁵⁵ Rudolph Ryser, “Statecraft, Nations and Sharing Governmental Power” in IWGIA Document No. 76, “Indigenous Peoples Experiences with Self-Government,” proceedings of the seminar on arrangements for self-determination by indigenous Peoples within national states, 10 and 11 February 1994, University of Amsterdam: <www.cwis.org/fwdp/International/staterft.txt>.

¹⁵⁶ Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Cambridge, MA & Oxford, UK: Blackwell Publisher, Ltd., 1990; 1992), p. 131.

indigenous peoples of their basic rights, arbitrarily placing them in a subservient status which manifests a situation of classic colonialism.¹⁵⁷

Tilly points out that War made States, and States, in turn, made War, and in due process with increasing tendency the States monitored, controlled and monopolized the effective use of violence; thereby revealing the link between war-making and State structures.¹⁵⁸ Max Weber goes on to add that unless a State's claim is monopolistic, territorially focused and underpinned by a force which is legitimate, it cannot function.¹⁵⁹ State sovereignty as it is usually referred to, is a "source of vitality" for the State, providing guarantees of formal equality and political independence, access to resources and connections, and an international identity.¹⁶⁰

F.H. Hinsley, however, argues that the State's emergence is not a sufficient condition for sovereignty,¹⁶¹ since any claim to recognize sovereignty must uphold the dignity of the political community. This depends on the right to rule itself, and hence, is founded on the praxis of self-determination and self-realization of political communities.¹⁶² Nonetheless, in situations, particularly where the State structure has been imposed from above, inherent tensions between State and the Peoples often results in protracted conflict. The State's claim to sovereignty falls when it violates the rights of the people,¹⁶³ hence, raising the contradiction between State sovereignty and Peoples' self-determination.

¹⁵⁷ Draft Declaration on the rights of indigenous peoples as agreed upon by the members of the working group at its 10th session in July 1992, *UN doc E/CN. 4/Sub.2/1992/33*; as cited in M. Rafigul Islam, *Indigenous Self-Determination at the Crossroads: Right of a State Versus Right of its People* (Indian Journal of International Law, 34 (4) Oct-Dec. 1996), p. 48.

¹⁵⁸ Charles Tilly, *Coercion, Capital, and European States, AD 990-1992* (Cambridge, MA & Oxford, UK: Blackwell Publisher, Ltd. 1990; 1992), pp. 68-70. Also, Sun Tzu in his book 'The Art of War' begins with the statement: War is a matter of vital importance to the State; the province of life or death; the road to survival or ruin. As quoted in Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), pp. 156-157.

¹⁵⁹ Max Weber Quoted in John Hoffman, *Beyond the State: An Introductory Critique* (Cambridge: Polity Press, 1995), p. 3.

¹⁶⁰ Mark Webber, "State and Statehood" in Brain White, Richard Little and Michael Smith, (ed.), *Issues in World Politics* (MacMillan Press, 1997), p. 26.

¹⁶¹ David L. Blaney and Naeem Inayatullah, "The Third World and a Problem with Border" in Mark E. Denham and Mark Owen Lombardi (ed.), *Perspectives of Third World Sovereignty: The Postmodern Paradox* (London: Macmillan Press Ltd., and New York: St. Martin's Press, 1996), p. 87.

¹⁶² *Ibid.*, pp. 85-86.

¹⁶³ Mark Webber, "State and Statehood" in Brain White, Richard Little and Michael Smith, (ed.), *Issues in World Politics* (MacMillan Press, 1997), p. 35.

Understanding human relations based on power and dominance as originating from European culture points to motivation for power as the crucial element.¹⁶⁴ This collective pattern of behaviors and thoughts that translates itself into self-conscious acts has resulted in the present system and ideology of domination.¹⁶⁵

Preventing the realization of self-determination is dehumanizing, which inevitably sows seeds of conflict. The ideology of power-relations and domination denies the right of self-determination of the ‘cultural other’ with the intent of destroying their will and self-determining capacity and freedom. The State claims to be the only medium of communication, but, however, prevents any scope for further dialogue.¹⁶⁶ However, in the process, it is not alive with the rich variety of intermediate or alternative associational groupings actually found in human cultures. Furthermore, the State is not prepared to ascribe any rights to the ‘cultural other’ and, with force, assumes itself as the only legitimate institution to define the discourse of self-determination.

Hoffman argues that the State is both logical and illogical, where its inherent logic is a contradictory one which is vividly demonstrated in its relation to the territorial dimension of State power. Any perceived threat to State monopolistic claims causes fear and sense of insecurity, driving them to resort to force and control. The use of force is indeed inconsistent with the idea of legitimacy, which excludes the use of force. Thus, the continuing need for States to exercise force only points to the presence of illegitimacy between rulers and ruled.¹⁶⁷ Force ultimately prevents the right to self-determination and undermines the freedom of all who live under its shadows. The idea of State as a sovereign entity is a deliberate attempt to undermine the existence of the peoples’ sovereign will; and invariably negate their right to self-determination.

The Westphalian State is widely regarded as the genesis of the modern system of sovereign States, which has come to govern the destiny of humankind.¹⁶⁸ Mazrui says that “traditional international law as it evolved in Europe came to concern itself only with relations between one State and another – not between one State and a clan or tribe.”¹⁶⁹ This application of international law contains a contradiction. It suggests it is logical to ask the Indian State to respect her relationship

¹⁶⁴ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), pp. 447-448.

¹⁶⁵ See Michel Foucault, *Beyond Structuralism and Hermeneutics* (Chicago: University of Chicago, 1982)

¹⁶⁶ Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 45.

¹⁶⁷ John Hoffman, *Beyond the State: An Introductory Critique* (Cambridge: Polity Press, 1995), pp. 3-8.

¹⁶⁸ Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 38.

¹⁶⁹ *Ibid.*, pp. 28-29.

with a fellow ‘State,’ while on the other, it is illogical to ask the Indian State not to deny the right to self-determination of the Naga people. This contradicting practice indicates that States are concerned only for their survival.

Mazrui comments that, “those who seek to purify the world through the state system continue to discover that they are themselves polluted by the state system.”¹⁷⁰ State narcissism and its obsession with force and exclusivity breeds institutionalized violence and a domination system leading to dehumanizing and oppressing humanity that is inconsistent with the very values on which self-determination stands. Under such compelling circumstances, State imposed peace is often molded to a pyramid like structure where majority of the people are conditioned to ‘suffer peacefully’ at the bottom. The very nature of State contradictions prevents realizing self-determination in its fullest embodiment, hence resulting in injustice and conflict.

Alan Tidwell reminds us that the link between theory and praxis is profoundly influenced by societal and structural factors within which they operate.¹⁷¹ The theory and praxis of self-determination is exclusively founded on European culture; its knowledge system and structures of human association is projected through the modern State. Therefore, based on this reasoning we find that in the final analysis, the modern State¹⁷² is indeed an obstacle to the realization and exercise of the praxis of self-determination.

Conclusion

Self-determination in its full embodiment is clearly an imperative in the struggle for humanization, and yet because of the manner in which it has been interpreted and applied by the States, its ability to contribute to peace has been impaired. The present language of self-determination derived exclusively from the traditional European culture provides a perspective which selectively negates events, activities and processes of struggling people, particularly narratives of indigenous peoples, and its usage has effectively been reduced to a remedial aspect.

¹⁷⁰ Ibid., p. 57.

¹⁷¹ Alan. C. Tidwell, *Conflict Resolved?: A Critical Assessment of Conflict Resolution* (London: Printer, 1998), p. 6.

¹⁷² In spite of claims of increasing irrelevancy, Webber says that the State can be seen as something more than a passive onlooker of global transformation. Mark Webber, “State and Statehood” in Brian White, Richard Little and Michael Smith, (ed.), *Issues in World Politics* (MacMillan Press, 1997), pp. 42-43. Brecher, Costello and Smith also point out that there are those who argue that “globalization is moving toward a world state.” Jeremy Brecher, Tim Costello and Brendan Smith, *Globalization from Below: The Power of Solidarity* (Cambridge: South End Press, 2000), p. 33

This distortion of a peoples’ story, history, spirituality and identity has caused dehumanization and have led to a systematic breakdown in relationships.

While self-determination has been established as a principle, as well as, a right by the UN, the denial of self-determination to the ‘cultural others’ remains a fundamental concern, since this denial constitutes the core reason for many of the world’s conflict between State and Peoples. Such a discourse has limited the right to self-determination as an exercisable right to one of privilege, and has ignored the multiple, overlapping spheres of community, authority, interdependence, interrelation, and interconnection that exists in the human experience, thereby sustaining the status quo of oppression and effectively thwarting people’ self-determination.

This present language of self-determination as defined and applied by the State system raises key questions for the UN – a body of sovereign States – since its purposes includes strengthening ‘universal peace’ on the basis of equal rights and self-determination of peoples. Some of the questions arising out of this contradiction between the UN aims, on one hand, and its practice, on the other, will be critically examined in the following chapter, *Self-Determination and the United Nations*.

Self-Determination and the United Nations

Introduction

The conclusions reached in the previous chapter indicate that the modern State is the culminating structure for European culture and historical experiences. It upholds a *language* that seeks self-determination for itself, while obstructing the ‘cultural other’ from realizing self-determination. This is quite evident in how the League of Nations “recognized the right of self-determination in a number of minority peoples, whereas non-European peoples enclosed within the overseas empires of the victorious Allied powers were wholly excluded from accessing the same privilege.”¹⁷³ This paradox is quite ironic because the asserted political goal behind the League of Nation’s action, according to Lâm was “the restoration and maintenance of peace in Europe.”¹⁷⁴

By default, self-determination was reduced to a remedy, as well as the justification for creating new States along the Westphalian model. Jeffrey Herbst points out that “The true triumph of the State occurred between 1948 and 1963, when dozens of countries gained independence and chose as the vehicle to independence the nation-state as defined politically and geographically by their former colonizers.”¹⁷⁵ Ironically, borders of most sovereign States today were once administrative boundaries of colonial powers¹⁷⁶ out of which European models of ‘nation-states’ were reproduced throughout the ‘third world’ countries.¹⁷⁷ In other words, “colonial boundaries” were in effect functioning “as the boundaries of emerging states;” whereby the focus on the territory and boundaries rather than on peoples limited the notion of *self* in self-determination.¹⁷⁸

¹⁷³ The minority peoples enclosed in the defeated German, Austro-Hungarian, and Ottoman Empires at the end of World War I either acceded to their own states or came to enjoy, to the extent that they were effective, regimes of protection guaranteed by the League. Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 112-113

¹⁷⁴ *Ibid.*, p. 113.

¹⁷⁵ Jeffrey Herbst, “Global Change and the Future of Existing Nation-States” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 15.

¹⁷⁶ William Wohlforth and Tyler Felgenhauer, “Self-Determination and the Stability of the Russian Federation” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 229.

¹⁷⁷ Jeffrey Herbst, “Global Change and the Future of Existing Nation-States” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 19.

¹⁷⁸ Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 20.

In continuing the same political and geographical construct of former colonizers, modern States have become extensions of colonialism for many unrepresented peoples who willingly or unwillingly live within the borders of the present States, of which they now form a voluntary or involuntary part.¹⁷⁹ Michael Freeman reminds that member-States of the UN were Westphalian States, some of which were imperial powers, and many of which were internally authoritarian.¹⁸⁰ In the previous chapter it has been established that patterns of power, domination and unequal relation between the State and Peoples reveal inconsistencies within the existing language and implementation of self-determination.

Recognizing the different historical experiences between States and unrepresented peoples, it is quite evident that States are less concerned about the issues of dignity and the right to self-determination for all peoples. With States establishing their domination in the international system following the formation of the UN after World War II, it has, therefore, become imperative to critically examine the relationship between the States and the United Nations in the context of unrepresented peoples' struggles for the right to self-determination.

More specifically it must be examined whether the structures of the UN can uphold and assert self-determination as a continuing principle and right for all of humanity. Based on the arguments and conclusions drawn from the previous chapter, this chapter will proceed in examining the UN's position on the right to self-determination in the context of unrepresented peoples. It will further seek to understand whether the UN's position on self-determination has contributed towards transforming conflict and building peace for all peoples.

Self-Determination as a Privilege

The discourse of self-determination was greatly influenced as tensions increased between European powers seeking to retain their colonies and those groups challenging the colonial order began to collide. World War II gave rise to the UN;¹⁸¹ and 'self-determination of peoples' was

¹⁷⁹ Richard Falk, "Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience" in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 31.

¹⁸⁰ Michael Freeman, "The Right to National Self-Determination: Ethical Problems and Practical Solutions," in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 50

¹⁸¹ San Francisco conference was attended by fifty States from 25th April to 26th June 1945, when the UN Charter was drafted and signed. Poland, unable to attend the conference, later signed the Charter thus becoming one of the original member States. The UN was officially founded on 24th October 1945, with fifty-one original members signing its

featured in the “purposes and principles” of the UN Charter’s founding documents containing two direct and two indirect references of self-determination.¹⁸² The two direct references are the result of an amendment proposed by the Soviet Union at the 1945 San Francisco Conference on the UN that introduced an addition to Article 1, paragraph 2 which amended the UN’s purposes:

To develop friendly relations among nations, *based on respect for the principle of equal rights and self-determination of peoples*, and to take other appropriate measures to strengthen universal peace.¹⁸³

The clause “based on respect for the principle of equal rights and self-determination of peoples”¹⁸⁴ is listed as one of the UN’s purposes and appears again in Article 55 of the Charter. However, the idea of self-determination was kept undefined and imprecise, its scope unclear without identifying the concepts of *self* and *peoples*.¹⁸⁵

The UN’s Charter does not clarify and develop the meaning of self-determination, and with no consensual agreement on the content, its applicability and implementation was left to the process

Charter, [including India, although she did not have independence at that time]. *Basic Facts About the United Nations 2000*, Sales No. E.00.I.21.

¹⁸² Aurelie Cristescu, *The Right to Self-Determination: Historical and Current Development On The Basis Of United Nations Instruments*. A Study Prepared By A Special Rapporteur. (New York: United Nations, 1981), p. 54. Self-Determination has been mentioned specifically in Article 1 paragraph 2 and Article 55 and indirectly twice in Article 73 of Chapter XI: The “Declaration Regarding Non-Self-Governing Territories” of the United Nations Charter and Article 76 of Chapter XII: “The International Trusteeship System.” See also, Erica-Irene A. Daes argues that the Charter at its inception did not clearly include any general “right”, as such of self-determination. She continues to say that the “principle of equal rights and self-determination of peoples, with all its ambiguity, is referred to only twice in the UN Charter. Erica-Irene A. Daes, “The Right of Indigenous Peoples to Self-Determination in the Contemporary World Order,” in Donald Clark and Robert Williamson ed., *Self-Determination: International Perspectives*, (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, Inc., 1996), p. 47. Hurst Hannum also argues that the principle of self-determination is mentioned only twice in the 1945 UN Charter, both times in the limiting context of developing “friendly relations among nations” and in conjunction with the principle of “equal rights... of peoples.” Hurst Hannum, *Rethinking Self-Determination* (Virginia Journal of International Law, 34, 1993).

¹⁸³ Additions made to Article 1, Paragraph 2 are noted in italics.

¹⁸⁴ The earlier Dumbarton Oaks version of the Charter made no mention of this clause. The clause was first introduced at the San Francisco conference by the four sponsoring governments (Big Four) consisting of the United States, Great Britain, Soviet Union and China; especially at the suggestion of the Soviet Union. This clause was ultimately established and recognized in both Articles 1 and 55. Rupert Emerson, *From Empire to Nation: The Rise of Self-Assertion of Asian and African Peoples* (Boston: Beacon Press, 1960), <www.mtholyoke.edu/acad/intrel/emerson.htm>. For a detailed discussion on Soviet initiative and attitude towards self-determination refer to Elliot R. Goodman, *The Cry of National Liberation: Recent Soviet Attitudes towards National Self-determination* (International Organisation, Vol.14, 1960).

Note: By the term “Great Powers” or “Big Three” or “Big Four” it means those States who considered themselves as institutionally privileged to set baseline for discussions on the post-war institutions, which are: the United States, Great Britain and the Soviet Union constituted the “Big Three” before the Dumbarton Oaks; these three States including China constitute the “Big Four” and the “Big Five” which added France after the San Francisco constitutes the “Big Five” or the Great Power.

¹⁸⁵ Emilio J. Cardenas and Maria Fernanda Canas, “The Limits of Self-Determination” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 102.

of broad interpretation to transform its meaning from a ‘principle’ into a fundamental ‘right.’ The decision to include an Article on self-determination in the Covenants on Human Rights was taken at the 6th session of the General Assembly stating that all peoples and all nations shall have the right to national self-determination.¹⁸⁶

Nonetheless, Anjoo S. Updhyaya says that the adoption of self-determination was not without opposition. Updhyaya goes on to add that some representatives of the third committee contended that the inclusion of the right to self-determination in the Human Rights Covenant would be incompatible with Article 2(7) of the UN Charter,¹⁸⁷ which prevents intervention in the ‘essentially’ domestic affairs of a State. The majority of the representatives however, voted for adopting the text containing explicit support to the right of self-determination.¹⁸⁸ Accordingly, two Covenants of Human Rights were adopted by the General Assembly in 1966.¹⁸⁹

However, delegates drafting the Universal Declaration were unable to reach an agreement on the wording of an article on self-determination, which attributed towards the omission of the right to self-determination from the UN’s most dramatic and well known human rights declaration – the Universal Declaration of Human Rights.¹⁹⁰ Its exclusion indicates lack of unanimous consensus within the UN to recognize the right of self-determination for all peoples.

The need for consensus was reflected once again in 1952, when UN member-States were called to pass a resolution to “recognize and promote the realization of the right of self-determination of the peoples of Non-Self Governing and Trust Territories”¹⁹¹ which was passed by a vote of 40 to 14 with 6 abstentions.¹⁹² While member-States did not share complete consensus for supporting anti-

¹⁸⁶ The wording was proposed by the Human Rights Commission at its 6th session in 1950.

¹⁸⁷ G.A. Official Record, tenth sess., ann., 28 (pt. 1), p. 1. (A/2910/Add 2) as cited in Anjoo S. Updhyaya, *Self-Determination in World Politics: Emergence of Bangladesh*, (Allahabad: Lokbharati Prakashan, 1984), p. 29.

¹⁸⁸ G.A. Official Record, tenth sess., Third Committee, 676 mtg. Paragraph 27, By 33:12:13, as cited in Anjoo S. Updhyaya, *Self-Determination in World Politics: Emergence of Bangladesh*, (Allahabad: Lokbharati Prakashan, 1984), p. 29.

¹⁸⁹ The two Covenants of Human Rights are the International Covenant on Economic, Social and Cultural Rights; and the International Covenant on Civil and Political Rights.

¹⁹⁰ The Universal Declaration of Human Rights was adopted on December 10, 1948, with 48 votes of approval in the General Assembly and 8 abstentions, namely Saudi Arabia, South Africa, and Soviet Union along with four East European states and a Soviet republic. Philip Alston and Henry J. Steiner, *International Human Rights in Context*, (Oxford: Clarendon Press), p. 118.

¹⁹¹ Self-determination has been mentioned indirectly twice in the UN Charter in Article 73 of Chapter XI: The “Declaration Regarding Non-Self-Governing Territories” of the United Nations Charter and Article 76 of Chapter XI: “The International Trusteeship System.”

¹⁹² U.N.G.A. Res. 637A (VII), December 16, 1952, 40:14:6. Voting against were Austria, Belgium, Canada, Denmark, France, Iceland, Luxemburg, the Netherlands, New Zealand, Norway, Sweden, South Africa, the United

colonial self-determination, nonetheless, they remained united in their opposition to other forms of self-determination movements.¹⁹³

The UN's Charter in Articles 1(2) and 55 refers to "self-determination of peoples," but the concept is treated as a 'principle' rather than a 'right.'¹⁹⁴ It is only later in the decolonization process and human rights covenants that the UN confirmed self-determination as a 'right.' When the UN's General Assembly in Resolution 1514 (XV) adopted the Declaration on the Granting of Independence to Colonial Countries and Peoples in 1960,¹⁹⁵ self-determination as a 'right' was embraced.

The International Covenant on Human Rights adopted by the UN's General Assembly in 1966 embodied the content of Article 2 in Resolution 1514 (XV), and was reproduced verbatim as Article 1, item 1 in both the International Covenant on Economic, Social, and Cultural Rights; and the International Covenant on Civil and Political Rights,¹⁹⁶ which reads:

All peoples have the right of self-determination. By virtue of that right they freely determine their political status and freely pursue their economic, social and cultural development.

Subsequently, the peoples' right to self-determination is recognized in other international and regional instruments;¹⁹⁷ and compliance with the right is a fundamental condition for the

Kingdom and the United States. Abstaining countries were Ecuador, Israel, Nicaragua, Paraguay, Thailand and Turkey. As cited in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 21.

¹⁹³ Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 21.

¹⁹⁴ *Idib.*, p. 20. Also, while East European and Asian countries supported a broad interpretation of the principle, Western countries hesitated to promote international involvement in what they considered domestic matters or to support a concept they feared could be applied to groups within their own territories. As cited in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC Carnegie Endowment for International Peace, 1992), p. 21.

¹⁹⁵ U.N.G.A. Resolution 1514 (XV), Declaration on the Granting of Independence to Colonial Countries and Peoples on 14th December 1960 was adopted with 89:0:9 votes. There were however nine (9) significant abstentions including Portugal, Spain, South Africa, United Kingdom, United States of America, Australia, Belgium, Dominican Republic and France. Richard Falk, "Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience" in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 43.

¹⁹⁶ These two covenants form the core of the United Nations activities in the field of the protecting human rights. By 31 December 1994, 131 states had ratified the International Covenant on Economic, Social and Cultural Rights and 128 states had ratified the International Covenant on Civil and Political Rights. That is more than two-thirds of the current total of 185 UN member states. Otto Kimminich, *The United Nations Contribution to the Development of International Law* (Law and State, volume 53/54, 1996), p. 105.

¹⁹⁷ Including the Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States adopted by the UN's General Assembly Resolution 2625 (XXV) in 1970; the Helsinki Final Act adopted by the Conference on Security and Co-operation in Europe (CSCE) in 1975 in Helsinki by 35 European states; the African Charter of Human and Peoples' Rights adopted on 27th June 1981; the CSCE Charter of Paris for a

enjoyment of other human rights and fundamental freedoms. However, though the covenants and declarations are in a position to accommodate an expansive definition, they have adopted a narrow, more constrained interpretation to the right of self-determination.¹⁹⁸

The comparative and qualitative difference between the principle of self-determination as articulated in the UN's Charter drafted in 1945, and the right to self-determination of all peoples upheld in the two International Human Rights Covenants, drafted in 1966¹⁹⁹ indicates that while it aims to end colonialism, its intent is to protect the State's sovereign claim over colonial territorial boundaries.

The "inalienability of human rights" established by the Covenants on Human Rights creates an obligation upon member-States to promote the realization of the right to self-determination as a fundamental human right. But with the *language* remaining open to varying degrees of interpretation, India for example, lodged a reservation restricting the rights' applicability "only to peoples under foreign domination" and not "to sovereign independent States or to a section of people or nation-which is the essence of national integrity."

India's reservation was objected to by The Netherlands, arguing that "the right of self-determination as embodied in the covenant is conferred upon all peoples."²⁰⁰ While, on one hand, member-States argue that self-determination corresponds closely to the will and desire of the people everywhere and should clearly be enunciated in the UN's Charter; on the other hand it is emphasized by Rupert Emerson that "the principle conformed to the purposes of Charter only insofar as it implied the right of self-government of peoples and not right of secession."²⁰¹

New Europe adopted in 1990; and the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights in 1993. It has been affirmed by the International Court of Justice in the *Namibiase* (1971 ICJ 16), the *Western Sahara case* (1975 ICJ 12) and the *East Timor case* (1995 ICJ 102) in which its *erga omnes* character was confirmed. Furthermore, the scope and content of the right to self-determination has been elaborated upon by the UN Human Rights Committee (1984. UN doc. HRI/GEN/1/Rev.3) and the Committee on the Elimination of Racial Discrimination (1996 UN doc. CERD/C/49/CRP.2/Add.7).

¹⁹⁸ Gerry J. Simpson, "The Diffusion of Sovereignty: Self-Determination in the Post-Colonial Age" in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 41.

¹⁹⁹ Micha Pomerance, *Self-Determination in Law and Practice*, (Boston: Martinus Nijhoff Publishers, 1982), p. 9.

²⁰⁰ Centre for Human Rights, "Human Rights: Status of International Instruments" (New York: United Nations, 1987) as cited in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), pp. 22-23.

²⁰¹ Rupert Emerson, *From Empire to Nation: The Rise of Self-Assertion of Asian and African Peoples* (Boston: Beacon Press, 1960), Chapter XVI, <www.mtholyoke.edu/acad/intrel/emerson.htm>.

The competing understandings and interpretations by UN member-States have caused varying complexities in asserting that since self-determination is a collective right it should, therefore, not be embodied into a document articulating individual rights. It notes that self-determination as it would appear in the Covenants is not intended to apply to the rights of minority and that self-determination should not violate national sovereignty in its application.²⁰² Hoffman disdainfully remarks that even human rights doctrines appear as no more than legal instruments used by the strong to beat the weak.²⁰³

The expanding notion of self-determination at the UN came in 1970 with the Declaration on Principles of International Law Concerning Friendly Relations and Cooperation among States²⁰⁴ in accordance with the principle of the UN's Charter of "equal rights and self-determination." The Declaration contains a prerequisite which distinguishes it from previous resolutions on self-determination, when it specifies that protecting territorial integrity will apply to States "possessed of a government representing the whole people belonging to the territory without distinction as to race, creed or colour." This instrument clearly shows that the UN and the States controlling the institution continue to seek ways to both acknowledge the right to self-determination on the one hand, while significantly limiting its application on the other.

In spite of the UN persistently upholding self-determination as a principle, all the rights that would entail peoples have not been fully implemented by it. The scope of the resolutions pertaining to self-determination issues in the UN are perceived as recommendatory and does not create any legal obligations. In its present form the principles remain simply without precise definition that serve more as a political principle containing guidelines for building a community of States.²⁰⁵ With State practices constantly associating the question of political status to the right

²⁰² Aurelie Cristescu, *The Right to Self-Determination: Historical and Current Development On The Basis Of United Nations Instruments*. A Study Prepared By A Special Rapporteur. (New York: United Nations, 1981), paragraph 44, p. 32.

²⁰³ John Hoffman, *Beyond the State: An Introductory Critique* (Cambridge: Polity Press, 1995), p. 193.

²⁰⁴ Declaration of Principles of International Law Concerning Friendly Relations and Co-operation Among States adopted by the UN's General Assembly Resolution 2625 (XXV) in 1970. The Declaration expands the scope of the right of self-determination arguing that it can be implemented through the "establishment of a sovereign and independent State, the free association with an independent State or the emergence into any other political status freely determined by a people." Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 23.

²⁰⁵ F.S. Northedge, *The International Political System* (London: Faber and Faber, 1976), p. 15.

of self-determination, a people's international and domestic status are referred to as *external* and *internal* self-determination.²⁰⁶

This dichotomy is tantamount to arbitrarily creating distinctions of people into different categories. For instance, a group of people maybe more privileged and be 'permitted' to exercise the full right to self-determination, which is *external* self-determination, whereas another group of people may be less privileged and be 'permitted' to exercise only a limited right, which is *internal* self-determination. The rationale for distinguishing the application into *external* and *internal* self-determination is often based on protecting the State's territorial integrity. The dichotomy of the right of self-determination into *external* and *internal* invariably defies and contradicts existing instruments which affirms that "all peoples" have the right to self-determination, including the "right to freely determine their political status."

Self-Determination as Decolonization²⁰⁷

The Declaration on Principles of International Law affirms the contents of the right to self-determination in General Assembly Resolution 1514 (XV) 1960, which says that subjecting people to alien subjugation, domination and exploitation constitutes the denial of fundamental human rights which violates the principles of peoples' equal rights and self-determination, and is, therefore, inconsistent with the UN's Charter.

The General Assembly Resolution 1514 affirms "the necessity of bringing to a speedy and unconditional end colonialism in all its forms and manifestations," and it further finds that "the subjection of peoples to alien subjugation, domination and exploitation constitutes a denial of fundamental human rights, is contrary to the UN Charter, and is an impediment to the promotion of world peace and co-operation." As a result, colonialism is constituted and denounced as illegitimate; and possessing colonies became incompatible with the UN membership as it was perceived as an obstacle to promoting world peace and security.

²⁰⁶ For a detailed discussion on the *external* and *internal* aspects of self-determination, see Michla Pomerance, *Self-Determination in Law and Practice* (Boston: Martinus Nijhoff Publishers, 1982), pp. 37-42.

²⁰⁷ Ghai states that decolonization was a result of the UN's commitment to self-determination. He observed that "it was for the most part not resisted by the colonial powers themselves (exceptions being France and Indonesia), the major problems being technical rather than political." Yash Ghai, "Reflections on Self-Determination in the South Pacific" in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin's Press, INC., 1996), p. 174.

The process of decolonization was, however, further complicated by Resolution 1541, which was an attempt to uphold the principle of territorial integrity and to limit the “self” to whom the principle of self-determination could apply.²⁰⁸ It specified that a territory would be considered “non-self-governing” under Chapter XI of the UN’s Charter only if it were both “geographically separate and distinct ethnically and/or culturally from the country administering it.”²⁰⁹

James Crawford argues that “there is no good reason why other defining characteristics, including historical boundaries or de facto boundaries established through the hostile action of government in question, might not also be relevant.”²¹⁰ However, the pre-conditions introduced were to reserve self-determination only for external colonies on the dual basis of ethnic and geographical distinctiveness came to be known as the *blue water or salt water* thesis.²¹¹ Ironically, Resolution 1541 failed to appreciate historical experience that “colonial oppression can happen across land as easily as across water.”²¹²

The ‘Blue Water thesis’ grants the right of self-determination only in situations where “subjection to alien subjugation, domination and exploitation” is from beyond the sea or continent. Therefore, based on this rationale, when colonizers from within or from adjoining lands invaded a peoples, their colonization was upheld, and were incorporated into the colonial State system. Subsequently, a peoples whose colonizing administration was not geographically separated were denied the right to self-determination, for example, Tibetans, Kurdish, etc. Based on this parochial perspective, States in such circumstances have legally succeeded in imposing their will and drawing artificial borders in the most arbitrary manner. The advocates of the ‘Blue Water thesis’ betray the lack of respect and commitment to the very values and principles of Resolution 1514.

Belgium countered with the stratagem that self-determination must be made universally available to all subjugated peoples, whether in colonial territories or sovereign States, including newly

²⁰⁸ UNGA Resolution 1541 (XV), December 15, 1960, 69:2:21, was adopted the day after the Declaration on the Granting of Independence to Colonial Countries and Peoples on 14th December 1960 was passed.

²⁰⁹ Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 22.

²¹⁰ James Crawford quoted in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination in The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 25.

²¹¹ The Blue Water Thesis was incorporated into General Assembly Resolution 1541 (XV) on December 15, 1960, and was developed in opposition to efforts of some colonial powers to expand the scope of obligations and procedures of Chapter XI of the UN’s Charter, by including enclave indigenous peoples within non-self governing territories. S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 60.

²¹² Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 139.

independent ones.²¹³ The arguments opposing the ‘Blue Water thesis’ were made strongest by what came to be known as the ‘Belgium thesis.’ The ‘Belgium thesis’ was attempting to extend the concept of non-self governing territories to include disenfranchised indigenous peoples living within the borders of independent States, in particular, if the races, language and culture differed from those of the dominant population.

Furthermore, Belgium advocated that under the UN’s Covenants and the Charter, the sacred trust was exercised by “States which enjoy a superior civilization” in relation to “populations of inferior civilization” which they administer, irrespective of whether these populations were within or without the State’s frontiers. El-Ayouty argues that this definition places the concept of trust “within a civilization, rather than a political-institutional framework.”²¹⁴ Belgium claimed that the trust should be exercised not only over indigenous people residing in non-self-governing territories, but also over indigenous and underprivileged inhabitants of sovereign States. The trust was universal, and the broad constructionists of Chapter XI were in effect strict constructionists.

Since the ‘Belgium thesis’ had extended the umbrella of the sacred trust to both those who live within the frontiers of independent States and those who live in non-self-governing territories, the ‘Blue Water’ theory of colonization was regarded as a myth.²¹⁵ It covered indigenous tribes such as those living in Brazil, the United States of America and other American Republics. Regarding the newly independent States, such as India, Pakistan, Burma, Ceylon, the Philippines and Indonesia, the ‘Belgium thesis’ pointed out that they also comprised ethnic minorities that remained in backward conditions and which, willingly or not, were incorporated into the new State. However, States that had unrepresented peoples living within their territories opposed the ‘Belgium thesis’ for a more exclusive understanding of non-self governing territories.

Emerson pointed out that it is “nonsensical” to exclude secession if *all peoples* have been granted the right to self-determination.²¹⁶ Buchanan further affirmed the right to national self-determination; that every nation has the right to its own State.²¹⁷ Inconsistencies that are inherent within the UN’s restricted understanding of self-determination invariably expose its inability to

²¹³ Ibid., p. 118.

²¹⁴ Yassin El-Ayouty, *The United Nations and Decolonization: The Role of Afro Asia* (The Hague, Netherlands: Martinus Nijhoff, 1971), p. 50.

²¹⁵ Ibid., pp. 47-51.

²¹⁶ Rupert Emerson, “Self-determination,” (*American Journal Of International Law*, Vol. 65, no. 3, July, 1971), p. 464.

²¹⁷ A. Buchanan, *Secession* (Boulder: Westview, 1991).

cope with the dynamism of peoples' struggle; and, in effect, results in the denial of self-determination. This restricted approach to relate self-determination only to traditional colonial situations has proved to be too inadequate to fulfill aspirations for true self-determination, and contradicts the universality of the right of self-determination for all peoples. While limited perceptions continue to fuel misunderstanding, policies that deny have not deterred movements for freedom and the struggle for peace.²¹⁸

Though the idea of self-determination provides the moral basis and legal rationale to the movement for decolonization, the debates around decolonization were largely responsible in constructing a restricted understanding of self-determination that shaped a contextual limitation on the sweeping language of the Covenants on Human Rights. The "approach taken by the 1960 declaration to the right of self-determination is instructive, both in terms of its attempts to confirm the right in relation to colonialism and to deny some forms of wider application."²¹⁹ Yash Ghai points out the irony when he notes, "on the one hand the UN denounced the legitimacy of colonial regimes and boundaries; on the other hand, it sought to perpetuate them (though not as colonial)."²²⁰

In the process, self-determination as a right has been reduced to one of privilege. Only in situations where a European power dominates a non-contiguous territory, where a majority of its population is non-metropolitan or indigenous, can exercising the right to self-determination be considered. However, when such a power imposes its sovereign claim to preserve its territorial integrity, exercising the right to self-determination is rejected. Lâm observed that "Resolution 1541, like Resolution 1514, fails to suggest how a conflict of rights, between one self-determination right and another, for example, or between it and the right of a state to its territorial integrity is to be decided."²²¹

²¹⁸ L.C. Buchheit, *Secession: The Legitimacy of Self-Determination* (New Haven: Yale University Press, 1978), pp. 19-20.

²¹⁹ Richard Falk, "Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience" in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 44.

²²⁰ Yash Ghai, "Reflections on Self-Determination in the South Pacific" in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin's Press, INC., 1996), p. 182.

²²¹ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 117.

Implementing self-determination under Resolution 1514 was determined by political situations, for instance the West Papua crisis.²²² In practice the UN has been extremely selective when applying the principle only to peoples in recognized colonial territories implying that the right of self-determination ends with decolonization.²²³ Ghai says,

... the real beneficiaries of the principle were not the colonized but the colonizers. They were beneficiaries because it provided them with a convenient alibi for exit when the colonial mission – the economic exploitation of the colonized – was over, colonialism had become embarrassing and inconvenient, and colonial interests could be served in less overt ways.²²⁴

Therefore, from the standpoint of colonial interests, irrespective of competing claims or rights, self-determination is considered to be a principle and a right to be exercised only in the limited context of ‘classic’ colonialism. The concept of State sovereignty and their resulting claim to territorial integrity overshadows the rights of unrepresented peoples and nations to exercise their right to self-determination in creating their own political entity.²²⁵

According to Kirgis, the one consensual opinion that is commonly agreed upon is that self-determination means freedom from colonial domination, “at least when the domination is of people of color in their homeland by racial groups.”²²⁶ Evidently, rather than an effort to transforming existing structures or developing new ones that would meet the peoples’ aspirations,

²²² Ibid., pp. 119-120. When the Netherlands signed the 1949 Transfer of Sovereignty which made Indonesia independent, it left the fate of West Papua to future negotiations. In the meantime, a Dutch administration remained in West Papua to, as the Dutch put it, “endeavor to create conditions for the self-determination of a population.” The Indonesians, for their part, saw the continuing Dutch presence as the prolonging colonialism, direct or indirect, in a part of the territory of the former Netherlands East Indies. In 1961 when the Dutch asked the UN to apply Resolution 1514 on decolonization to West Papua, the Indonesian government responded that the request was “not used to complete the independence of Indonesia, not in order to solve the Dutch-Indonesia dispute, but in reverse direction, this resolution was used as an instrument to execute a partition of a part of the Republic’s territory, a part of the Indonesian nation.” The impasse between Indonesia and Netherlands broke in 1962, when an agreement was signed under which Indonesia would take over the administration of West Papua in 1963, and under the UN’s supervision, the inhabitants of West Papua would engaged in an act of self-determination regarding its political status no later than 1969. Despite a rigged and coerced poll in West Papua, the United Nations validated Indonesia’s extension of sovereignty over West Papua in 1969.

²²³ Herb Feith and Alan Smith, “Self-Determination in the 1990s: Equipping the UN to Resolve Ethno-Nationalist Conflicts” in Kumar Rupesinghe (ed.), *Conflict Transformation* (London: Macmillan Press, 1995), p. 144.

²²⁴ Yash Ghai, “Reflections on Self-Determination in the South Pacific” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 175.

²²⁵ Hans Kochler, “Self-Determination as a Means of Democratization of the United Nations & the International System”, in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 137.

²²⁶ Frederic L. Kirgis, Jr., “The Degrees of Self-Determination in the United Nations Era,” (88 *American Journal of International Law* 304, 1994). p. 305.

the process of decolonization was reduced to geopolitical adjustments²²⁷ and the transfer of power between elites.²²⁸

Hence, for third world countries independence from colonial rule did not result in dismantling colonial establishments and boundaries, but led to replacing the “colonial identity” with a “native identity,” essentially inheriting the same colonial structures. Consequently, historical violations of self-determination need to be understood as a process developed in accordance with aspirations and yearnings which may have altered with the passage of time to meet present day needs.²²⁹ Limiting the scope of redressal to decolonization is to imply reverting to the status quo that restricts the values of self-determination to a remedial aspect.

In practice, international law has long limited the legal right of self-determination to colonized peoples struggling for independence.²³⁰ Lãm notes that “because the ‘Blue-water thesis’ casts all non-colonial assertions of external self-determination as extra-legal, it not only relegates a significant number of peoples in so-called independent states, to unrelieved subjugation, which transgresses the value of justice, but also leaves them with armed struggle as their only solution, which transgresses the value of peace.”²³¹

Hence, while in principle the entire international instrument stipulates “all peoples have the right to self-determination,” the context in which the universal goal is declared demonstrates an intention to confine the right of self-determination to peoples who are still “dependent” and those subjected to “exploitation, domination, and alien subjugation.” The UN, due to its selective implementation of the decolonization process, has indeed bypassed many peoples such as the Karens and Kachins in Burma that continues until this day to be engaged in the struggle for justice and peace.

²²⁷ Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 5.

²²⁸ Jeffrey Herbst, “Global Change and the Future of Existing Nation-States” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 19.

²²⁹ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 83.

²³⁰ Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 4.

²³¹ Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 151.

Peoples and Territorial Integrity

The holistic praxis of self-determination is concerned with all human beings and embodies the spectrum of humanity's complex web of interrelationships and interdependencies. Its linkage with the term 'peoples' James Anaya says, indicates the collective character of the principle. The UNESCO international Meeting of Experts for the Elucidation of the concepts of Rights of Peoples includes the criteria, "the group as a whole must have the will to be identified as a people or the consciousness of being a people."²³²

In other words, the term 'all peoples' includes peoples under colonial or alien subjugation or domination, those under occupation, indigenous peoples and other communities who satisfy the criteria generally accepted for determining the peoples' existence. The definition of the term 'peoples' have proved sensitive in international practice, because it has been engaged to undermine non-State and unrepresented peoples' specific rights, most conspicuously the right of 'all peoples' to self-determination.

Throughout the UN's instruments, the right to self-determination is a right vested with 'peoples' and 'nations,' not with sovereign States. The term 'peoples' which refers to the holder of the right to self-determination has however not been defined in international law and it has been the policy of the UN to back 'States' against any 'peoples' who might challenge them.²³³ Therefore, ongoing practices suggest the peoples' enjoyment of self-determination is defined by and limited to existing or perceived sovereign boundaries.²³⁴

This brings us to question the European knowledge system that has reduced humanity to two perceptual categories: the Individual and the State. Based on the notion of Individual/State, for all

²³² The UNESCO international Meeting of Experts for the Elucidation of the Concepts of Rights of Peoples, describes a 'people' as: (a.) "A group of individual human beings who enjoy some or all the following common features: (i) a common historical tradition, (ii) racial or ethnic identity, (iii) cultural homogeneity, (iv) linguistic unity, (v) religious or ideological affinity, (vi) territorial connection, (vii) common economic life; (b.) The group must be of a certain number who need not be large (e.g., the people of micro states), but must be more than mere association of individuals within a state; (c.) The group as a whole must have the will to be identified as a people or the consciousness of being a people - allowing that groups or some members of such groups, though sharing the foregoing characteristics, may not have the will or consciousness; (d.) Possibly the group must have institutions or other means of expressing its common characteristics and will for identity." See, UNESCO, International Meeting of Experts on Further Study of the Concept of the Rights of Peoples: Final Report and Recommendations UNESCO doc. SHS 89/conf.602/7, pp. 7-8.

²³³ Michael Freeman, "The Right to National Self-Determination: Ethical Problems and Practical Solutions" in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 52.

²³⁴ James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p.79.

practical state-centric reasons, ‘peoples’ and ‘nations’ in the context of self-determination have been reduced to exclusively define sovereign territorial communities, which largely ignore diverse patterns of human cultures and human associations.²³⁵ Though States are willing to use such terms as people and nation domestically, they have been reticent about the use of the term ‘indigenous peoples’²³⁶ at the international level. The resistance towards acknowledging self-determination is based on a state-centric approach which is reinforced by its perception of having an exclusive sovereign claim over a territory.

Self-determination has come to mean not only determining what happens to the *self*, but also determining what is going to happen to the territory on which the *self* is now residing.²³⁷ According to the statist approach to self-determination, unless in situations of voluntary agreement between States and Peoples, the *self* in self-determination is defined as the existing States; and no matter how artificial their boundaries and oppressive the system, conflicts with regard to the right to self-determination are to be resolved under all conditions within existing State and international boundaries.²³⁸ The arbitrary nature of this doctrine reduces the right to self-determination to internal State matters. Galtung points out that “a state may be ‘a prison of nations’ and causes violent conflicts, often called ‘internal wars,’ even if no such thing exists in the age of intervention.”²³⁹

²³⁵ Ibid., pp. 77-79.

²³⁶ States have manipulated definitions of indigenous peoples to suit their own political needs. In fact, some governments such as India and Bangladesh are particularly interested in lobbying to limit the definition of ‘indigenous’ to groups in the Western Hemisphere and Australasian. Ultimately the UN’s Working Group on Indigenous Populations opted for a more flexible approach which would not require formal adoption of a definition, though some governments such as India, China, Bangladesh continue to maintain a questionable equation between colonization and indigeness, denying that there are any ‘indigenous’ peoples within their territory. As Gray notes, “Governments in Asia (particularly in India, Bangladesh, and Burma are adamant in claiming that the word [Indigenous] does not apply to peoples in their countries. However, the evidence shows that they are markedly out of touch with their own people.” Andrew Gray, “The Indigenous Movement in Asia,” in R.H. Barnes, Andrew Gray, and Benedict Kingsbury (ed.), *Indigenous Peoples of Asia* (Michigan: The Association for Asian Studies, INC., 1995), pp. 15; 57. Also, Professor Erica-Irene A. Daes, the Chairperson-Rapporteur of the UN’s Working Group on Indigenous Populations is not persuaded that “there is any distinction between ‘indigenous’ peoples and ‘people’ generally, other than the fact that the group typically identified as ‘indigenous’ have been unable to exercise the right of self-determination.”

²³⁷ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), pp. 10-11.

²³⁸ Richard Falk, “Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 33.

²³⁹ Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), pp. 130-131.

Furthermore, when the geographical scope of the claimed right does not correspond to the colonial territorial boundaries, such as the Kurdish experience; unrepresented peoples are marginalized and left with no access to seek a just redressal. For many peoples, the current borders represent the administrative convenience of imperial powers.²⁴⁰ The continued maintenance of abusive and dominating structures with respect to self-determination has resulted in systematic human rights violations. Anaya cautions that,

... limiting self-determinations' applicability to the peoples in territories of a classical colonial type denies self-determination's relevance to all segments of humanity and thus undermines the principle's human rights character.²⁴¹

On the whole, the UN has approached the issue of self-determination on an ad hoc basis, particularly in relation to issues of secession that threaten State sovereignty. For example, the province of Katanga declared independence from Congo in July 1960, and engaged in an armed conflict that lasted until January 1963. While the UN assumed a role to restore order, it however, chose to remain neutral on the question of Katanga's claim of Independence. It was only in November 1961, that the UN's Security Council rejected Katanga's claim of independence passing a resolution condemning "secessionist activities and armed action now being carried on by the provincial administration of Katanga with the aid of external resources and foreign mercenaries, and *completely rejecting* the claim that Katanga is a 'sovereign independent nation.'"²⁴² The Security Council went on to resolve in February 1961 and later in November the same year, authorizing the use of force by the United Nations to end the secession. In another instance, the attempt to create the independent Republic of Biafra in May 1967 by the Ibos of the eastern region of Nigeria was also denied support by the UN's member-States²⁴³ in the interest of the territorial integrity of Nigeria. The UN's position to protect and uphold the territorial integrity of both Congo and Nigeria reflects that its primary role is to safeguard the interest of States; and in doing so failed to uphold the peoples' rights of self-determination.

²⁴⁰ Henry Kissinger, *Diplomacy* (New York: Simon & Schuster, 1994), p. 807.

²⁴¹ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 77.

²⁴² U.N. Security Council Resolution 169 (XVI), November 24, 1961, 9:0. Emphasis in Original. Cited in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 13.

²⁴³ *Ibid.*, p. 14. Four African States of Gabon, Ivory Coast, Tanzania and Zambia recognized the existence of Biafra.

Judge Hardy Dillard expressed his opinion in the Western Sahara case by stating:

It is for the people to determine the destiny of the territory and not the territory the destiny of the people.²⁴⁴

Between 1947 and 1991, the independence of Bangladesh²⁴⁵ in 1971 is the only instance where the people determined the destiny of the territory affirming the dominating statist perception that views State boundaries as permanent and non-negotiable.²⁴⁶ Two other exceptions are, “Senegal’s decision to secede from the Mali Federation in 1960, and Singapore’s peaceful separation from the Malaysian Federation in 1965.”²⁴⁷

Perhaps, the disintegration of the Soviet Union and Yugoslavia²⁴⁸ and the independence of East Timor,²⁴⁹ Kosovo and the most recent case of South Sudan are instances where the peoples’ will has successfully challenged the very notion of territorial integrity. They have ably demonstrated that State sovereignty and territorial integrity are not absolute and permanent rights and were a departure from the UN’s political rationale on exercising of the right to self-determination within existing States.

In crisis situations the UN has often invoked the *language* of peaceful solutions, which Mazrui reminds us is invoked to legitimize the status quo, to enable those who already ‘have’ to secure their privileges and to encourage the ‘have nots’ to accept their lot at least for the time being.²⁵⁰ The very fact that self-determination continues to linger under a State’s sovereign claim over territory indicates the existence of a hierarchy of norms within international law and the UN. Such

²⁴⁴ Judge Hardy Dillard (ICJ Reports, 1975) quoted by Richard Falk, “Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 47.

²⁴⁵ The International community’s recognition of Bangladesh did not signal acceptance of any general right of secession, even in the case of an unrepresentative or oppressive government. The case of Bangladesh stands out as the dramatic exception. Cited in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. 15.

²⁴⁶ Margaret Moore, “Introduction: The Self-Determination Principle and the Ethics of Secession” in Margaret Moore (ed.), *National Self-Determination and Secession* (New York: Oxford University Press, 1998), p.1.

²⁴⁷ David B Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” *International Political Science Review*, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 262.

²⁴⁸ The disintegration of Yugoslavia added four new countries and the collapse of the Soviet Union brought 15 new countries into the world order.

²⁴⁹ Eric, Lord Avebury, claims that the case of East Timor is one of “unfinished decolonization.” See Eric, Lord Avebury, “A Positive Legal Duty: The Liberation of the People of East Timor” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 214.

²⁵⁰ Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 22.

a hierarchy falsely suggests the notion that the principle of territorial integrity is over and above the will of the people. Article 2 (1) of the UN's Charter affirms the notion that only States enjoy "sovereign equality" and any conflicting claim of sovereignty by a non-member entity is undermined.²⁵¹

Restricting the exercise of self-determination within existing States based on European models invariably means denying the right to self-determination to alternative non-European models of States and to nations and peoples not recognized by international law. Attempts to articulate a more inclusive praxis of self-determination continue to be resisted by the UN which has enshrined in its Charter the States' sovereign right to maintain its territorial integrity.²⁵²

The right to self-determination as peoples' collective human right, unfortunately, has been deserted in favor of the notion of territorial integrity. The principle of territorial integrity has been justified by the perceived need to empower States to stabilize the State system, and in doing so, Freeman points out that the UN has offered power to States while refusing to grant status to peoples, thereby, laying the foundation for intense conflict between States and peoples.²⁵³

Territorial integrity, however, cannot be an end in itself, and, therefore, it is imperative to revisit the rationale for territorial integrity. Umozurike states that,

... the ultimate purpose of territorial integrity is to safeguard the interests of the peoples of a territory. The concept of territorial integrity is... meaningful [only] so long as it continues to fulfill that purpose to all sections of the people.²⁵⁴

The State's assurance of 'territorial integrity or political unity' is, nevertheless, based on the Declaration on Principles of International Law in 1970, that requires States to conduct themselves in accordance with the Charter's principle and possessing a government that represents a whole people without discrimination in relation to "race, creed, or color."

²⁵¹ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 41.

²⁵² Gerry J. Simpson, "The Diffusion of Sovereignty: Self-Determination in the Post-Colonial Age" in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 54.

²⁵³ Michael Freeman, "The Right to National Self-Determination: Ethical Problems and Practical Solutions," in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 51.

²⁵⁴ Umozurike, Self-Determination in International Law 236, quoted by Gerry J. Simpson, "The Diffusion of Sovereignty: Self-Determination in the Post-Colonial Age" in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 54.

Based on this interpretation, the right to self-determination can, therefore, be accorded priority over the competing principle of territorial integrity if a State is not “possessed of a government representing the whole people.” The right is also applicable to people inside political boundaries of existing sovereign and independent States in situations where the “government does not represent the governed,” hence, clearly taking self-determination outside the context of decolonization.²⁵⁵ Perhaps the freedom of East Timor from Indonesia is an example of where the government did not represent the governed.

No State or government can claim to safeguard the interests and rights of the governed when:

- (1.) It has used force to establish its rule and dominance over a territory, and
- (2.) The people have not freely expressed and given their consent and will to be part of that union.

However, under the guise of State sovereignty the peoples’ right to self-determination continues to be violated in the name of territorial integrity. Robert McCorquodale says, “In a world where boundary disputes are a constant source of instability and tension, the principle of territorial integrity has been adopted to serve as a broad limitation of self-determination.”²⁵⁶ Unrepresented peoples trapped within artificial State boundaries invariably find themselves in conflict when States deny them the fundamental right of exercising their right to self-determination.

The UN is an institution with its membership defined exclusively on the sole basis of State sovereignty, which indicates that the UN is not a union of nations, but a union of States.²⁵⁷ As an institution of States, it remains a symbol of political status rather than sincerely upholding all people’s humanity. The UN’s deliberate intent to exclude unrepresented peoples from realizing their right to self-determination reveals its contradicting character in pursuing peace and security.

²⁵⁵ Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), pp. 23-24.

²⁵⁶ Robert McCorquodale, “Human Rights and Self-Determination” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 20.

²⁵⁷ Alptekin says there is at present an estimated 6,500 nations, peoples, minorities and indigenous peoples in the world of which less than 200 are represented in the UN. Erkin Alptekin in his presentation on Self-Determination and Conflict Transformation in Geneva, July 16, 2002. Also note that the Republic of South Sudan became the youngest member State of the UN when it was officially admitted to the General Assembly as the 193rd member of the UN in July 13, 2011.

Mazrui further exposes the UN in its dual capacity as a collective imperialist with trusteeship responsibilities of its own and as a grand critic of imperialism at large.²⁵⁸ With the UN's member-States assuming the exclusive authority to define self-determination, it becomes rather futile for the UN to talk about self-determination. If there are no institutions that can promote an inclusive praxis of self-determination, it only indicates that the existing institution is unwilling to embrace it in its fullest form. Self-determination within the UN continues to retain an overtly statist dimension and is employed primarily as a notion of State-determination.

While it is understandable that States and the UN are concerned about fragmentation, Smith reminds us that "fragmentation is not a phenomenon of postmodernism" because for unrepresented peoples "fragmentation has been the consequence of imperialism."²⁵⁹ Andrew Delisle, recalling the experience of the Kahnawake peoples says,

In the beginning we were a scattered people; then we formed bands. The band formed tribes; the tribes formed nations; the nations formed confederacies. Then the white man came and divided our nations. They were broken down by design, from nations to tribes to bands and, in some cases, to settlements. Isn't that what we are facing now? ... Our objective is to put everything back together as it was before the white man came, to ensure that the circle continues.²⁶⁰

The question of fragmentation requires understanding the source of its policy and the intent behind its implementation. The historical experiences of unrepresented peoples reveal that fragmentation has been part of the imperial policy to divide and rule over them, and it is something from which they continue to recover.

Colonialism has reduced unrepresented peoples to making claims and assertions about their rights and dues, thereby making self-determination in practice, a privilege rather than a right. So long as State policies are determined by fear of its fragmentation;²⁶¹ and its drive for legitimacy is derived

²⁵⁸ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition*, (Chicago: The University of Chicago Press, 1967), p. 133.

²⁵⁹ Smith notes that writers such as Frantz Fanon have claimed that "Imperialism and colonialism brought complete disorder to colonized peoples, disconnecting them from their histories, their landscapes, their languages, their social relations and their own ways of thinking, feeling and interacting with the world." See Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 28.

²⁶⁰ Andrew Delisle, "How We Regained Control over Our Lives and Territories: The Kahnawake Story," in Little Bear Leroy, Menno Boldt and J. Anthony Long, (eds.), *Pathways to Self-Determination: Canadian Indians and the Canadian State*, (Toronto: University of Toronto Press, 1984), p. 142.

²⁶¹ Perhaps the UN anxiety was reflected by the then UN's Secretary-General Boutros Boutros-Ghali who in August 1992 remarked, "If every ethnic, religious or linguistic group claimed statehood, there would be no limit to

through the use of force, the consequent denial of self-determination implies that the UNs' vision for world peace will continue to remain illusive.

Institutionalized Self-Determination: A Cause of Conflict

The UN's formation like its member-States leads to the pursuit of power and the struggle for rights. The UN in its 1945 Charter by declaring: first, their determination "to save succeeding generations from the scourge of war;" and then, only secondly to reaffirm "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small" suggests that its intent was to maintain the status quo of *suffering peacefully* by invoking the language of peaceful solutions.

Unrepresented peoples' struggles have reversed the order by affirming first "faith in fundamental rights [and] in the dignity and worth of the human person" so that their determinations "save succeeding generations from the scourge of war."²⁶² The praxis of self-determination involves a clash of values and fundamental world order principles²⁶³ that often leads to a philosophical clash between the ideas of suffering peacefully and the ideas of human struggle for dignity. The States know all too well that their continued sovereignty and power depends to a large extent in deciding which values and principles it develops.

What raises deeper concern is the realization that restricting self-determination is not coincidental, but involves deliberate States' strategy to ensure their continued dominance in world politics. The universe of values that promoted the emancipation of colonial territories simultaneously promoted the assimilation of peoples, who were politically and culturally distinct into the dominant political and social orders.

As a result, the decolonization process bypassed spheres of unrepresented peoples allowing States to suppress their collective aspirations and yearnings to determine their own future. The cleavage created in the principle of self-determination as a legal right on one hand and as an evolving

fragmentation, and peace, security and economic well-being for all, would become even more difficult to achieve." Boutros Boutros-Ghali, *Agenda for Peace* (New York: U N, 1992), paragraph 17.

²⁶² Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition* (Chicago: The University of Chicago Press, 1967), p. 135.

²⁶³ Richard Falk, "Self-Determination Under International Law: The Coherence of Doctrine Versus the Incoherence of Experience" in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 31.

natural phenomenon with inherent rights and ethical values on the other hand continues to test the relations between States and Peoples.

States have restricted the notion of self-determination to a stage of arrestation where its meaning is bound by the language and its application determined by forces of power politics. States often perceive movements for self-determination as a possible threat to their territorial integrity with the capacity to cause their disintegration, and often use physical military force to suppress the peoples rather than first seeking peacefully negotiated settlements. The Tamil struggle is an example where the Sri Lankan government reacted first with force in the name of protecting its national integrity. India and Burma has also responded in the same manner by suppressing self-determination movements in the name of national security and territorial integrity.

Wolfgang Danspeckgruber says that “No other concept is as powerful, visceral, emotional, unruly, as steep in creating aspirations and hopes as self-determination” which evokes emotions, expectations and fears.²⁶⁴ When denied the right to determine and have ownership of their own destiny, a peoples inevitably lose their freedom as well; and its denial has been one of the most prevalent causes of conflict between States and unrepresented peoples. As Rodolfo Stavenhagen put it “the denial of self-determination, not its pursuit, is what leads to upheavals and conflicts.”²⁶⁵

The preamble of the Universal Declaration of Human Rights emphasizes recognizing “inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” While it is clear that no State can use force against people struggling for self-determination,²⁶⁶ it, however, systematically violates human rights and dignity of people through policies of militarization in the name of sovereignty and territorial integrity. Mazrui says there is more readiness to use force on the part of those who seek to protect one’s property than by those that seek to acquire new possessions.²⁶⁷

²⁶⁴ Michael C. van Walt van Praag with Onno Seroo, *The Implementation of The Right To Self-Determination as a Contribution to Conflict Prevention*, Report of the International Conference of Experts Held in Barcelona from 21st to 27th November 1998, p. 14.

²⁶⁵ Rodolfo Stavenhagen, “Self-Determination: Right or Demon?” in Clark and Williamson (ed.), *Self-Determination: International Perspectives*, (Great Britain: Macmillan Press Ltd., United States: St. Martin’s Press INC., 1996), p. 8.

²⁶⁶ Declaration on Principles of International Law concerning Friendly Relations and Co-operation among States in accordance with the Charter of the United Nations, Annex to GA Res. 2625 (XXV).

²⁶⁷ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition* (Chicago: The University of Chicago Press, 1967), p. 145.

Therefore, having a vested interest in the status quo to maintain sovereignty over territory can sometimes impel a State to disturb the peace in a bid to prevent change and to legitimize the use of force. Subsequently, by limiting the notion of peoples to an exclusive perpetual category, it prevents the praxis of self-determination as a relational concept. In doing so it destabilizes harmonious relationships and it might be argued that it leads to the formation of power relationships which invariably lead to injustice and intolerance.

The UN, according to Freeman, is an organization of “state-based power-holders” with the primary purpose to protect and promote the interest of their States and to maintain existing inter-State order. Therefore, as a neo-Westphalian institution, their commitment to the self-determination of peoples is subordinate to these purposes.²⁶⁸ In not granting and respecting the peoples’ status, the UN has invariably failed in “maintaining peace based on respect for the principle of equal rights and self-determination of peoples.”

The UN’s policy before the crisis in Yugoslavia in 1991 and 1992 was to abstain from intervening in struggles of self-determination such as those in Nigeria in the late 1960s and in Pakistan in 1971.²⁶⁹ The very practice and structures of the UN prevents realizing its primary function to seek world peace and security. State systems rather than safeguarding and promoting the interests of their people, often suppress and use any available means to establish, contain and protect its hegemony, which is the root cause of violence. This has happened in many situations where there is presence of movements for self-determination such as in Burma. The Naga struggle with similar experiences will be discussed in greater detail as a case study.

Based on national security, States have continually justified human rights violations; and seek protection by invoking their sovereign power of non-interference in internal affairs, therefore preventing and limiting any action initiated against them. Consistent with the principle of territorial integrity, all conflicts within States are regarded as matters of exclusively domestic

²⁶⁸ Michael Freeman, “The Right to National Self-Determination: Ethical Problems and Practical Solutions,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 51.

²⁶⁹ Lloyd N. Cutler, “Foreword” in Morton H. Halperin and David J. Scheffer with Patricia L. Small, *Self-Determination In The New World Order* (Washington DC: Carnegie Endowment for International Peace, 1992), p. xi.

jurisdiction that are not subjected to intervention by international bodies, except by invitation of the State concerned.²⁷⁰

While struggles for self-determination have often been depicted as ‘internal’ or ‘domestic’, experiences have shown conflicts of this nature have the potential to escalate into violence and bloodshed transcending State boundaries.²⁷¹ Ryser argues that the movement of indigenous peoples for self-determination “reflects the long struggle between those who seek the permanent establishment of the State and the original nations on top of which the State was established.”²⁷² These conflicts result from a State’s failure to ensure the full sharing of political power by all peoples. Consequently, many of the unrepresented peoples do not recognize the oppressive State and governments as their legitimate representatives.

Erkin Alptekin reminds us that out of an estimated 6,500 nations, peoples, minorities and indigenous peoples around the globe, less than 200 are represented in the UN,²⁷³ which means the remaining are unrepresented and live either willingly or unwillingly within the borders of modern States. Many unrepresented peoples are struggling for the most basic human needs including their right to determine their own lives with human dignity and human security.²⁷⁴ The continuing exclusive interpretation and application of the principle of self-determination is inadequate, and finds itself as the fundamental question underlying the issue of justice and peace.

Struggles for self-determination have often started first as democratic movements through nonviolent and peaceful means. However, when all peaceful means have been exhausted and all democratic spaces denied, peoples struggling for self-determination have often been forced to

²⁷⁰ Herb Feith and Alan Smith, “Self-Determination in the 1990s: Equipping the UN to Resolve Ethno-Nationalist Conflicts” in Kumar Rupesinghe (ed.), *Conflict Transformation* (London: Macmillan Press, 1995), p. 145.

²⁷¹ Thomas Franck explains, “In a post-war world of rising nationalisms, denials of self-determination were probably no mere domestic matter. Repressions tended to generate friction with neighboring states where liberation movements habitually sought sanctuary. Self-determination, denied, precipitated the flight of hordes of refugees, placing onerous economic, social and political strains on the neighboring states of refuge.” Thomas M. Franck, “The Emerging Right to Democratic Governance” 86 *American Journal International Law* 46, 54 (1992) quoted in Jerome Wilson, *Ethnic Groups and the Right to Self-Determination*, 11 *Connecticut Journal of International Law*, 433, Spring 1996, p. 9.

²⁷² Rudolph Ryser, “Statecraft, Nations and Sharing Governmental Power” in IWGIA Document No. 76, “Indigenous Peoples Experiences with Self-Government,” proceedings of the seminar on arrangements for self-determination by indigenous Peoples within national states, 10 and 11 February 1994, University of Amsterdam: <www.cwis.org/fwdp/International/staterft.txt>.

²⁷³ Erkin Alptekin in his presentation on *Self-Determination and Conflict Transformation* in Geneva, July 16, 2002.

²⁷⁴ Adapted from the Unrepresented Nations and Peoples Organization, “Universal Declaration of the Rights of Peoples,” adopted by the UNPO VI General Assembly in Tallinn, Estonia, February 17th, 2001, <www.unpo.org>.

armed struggle as their only means to seek redressal.²⁷⁵ Self-determination conflicts have resulted in armed confrontation when States have chosen to use force to prevent and suppress peoples' aspirations and yearning for self-determination, dignity and humanization.

State's intentions to deny are reflected in the internal contradictions of the UN's facade when it gives, or at least holds at a distance the right to self-determination with one hand and takes it away with the other. An example is the case of the Palestinian people, when the UN "Reaffirmed the right of the Palestinian people to self-determination, including the option of a State...;"²⁷⁶ and simultaneously the UN also continues to uphold the State of Israel's territorial integrity, as it continues military campaigns against the Palestinians.

The UN's lack of clarity and far-sightedness is reminiscent of Henry Kissinger's opinion that "The United Nations was thus transformed from a vehicle for solving international disputes to a final hurdle to be cleared before resorting to force, and, in a sense, even as an excuse for it."²⁷⁷

In the final analysis a "state centered approach to self-determination seeks to preserve not just the territorial integrity of states, but also the hegemonic control over individual that modern states enjoyed in their respective territories."²⁷⁸ The UN has failed to fully implement the right embodied under its resolutions. The present situation demands the urgent need for an inclusive and shared praxis of the right to self-determination that goes beyond the traditional decolonization context.

Beyond Decolonization: The Need for a Shared Language

The right to self-determination which was once referred by Robert Lansing as a concept "loaded with dynamite," and one that "will raise hopes which can never be realized," continues to test the modern State. In the post-Cold war era, Nanda points out that "we are witnessing the unfolding of

²⁷⁵ Article 7 of the Definition of Aggression, General Assembly Resolution 3314 (XXIX) on 14 December 1974, and Article 1(4) of Protocol I of the Geneva Convention of 12 August 1949, and relating to Protection of Victims of International Armed Conflicts provides space for peoples to exercise their inherent right to self-defense against a State when it unlawfully acts in contradiction to international law.

²⁷⁶ UN's General Assembly Resolution 54/152, Fifty Fourth session, Agenda item 115, Resolution Adopted by the General Assembly [on the report of the Third Committee A/54/604] 54/152. The Right of the Palestinian people to self-determination, The General Assembly, 83rd Plenary Meeting, 17th December, 1999.

²⁷⁷ Henry Kissinger, *Diplomacy* (New York: Simon & Schuster, 1994), p. 539.

²⁷⁸ Maivân Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 161.

the explosive quality of self-determination.”²⁷⁹ While Lansing may have been right to call it a concept “loaded with dynamite” he may not have appreciated the basic human yearning to chart the course of one’s own destiny.

The trends for self-determination after the post-cold war indicate that the right to self-determination covers non-colonial situations as well.²⁸⁰ Unlike the decolonization era, the present self-determination movements have strengthened their stand to “challenge the territorial approach to self-determination, that once a territory has achieved independence, it has reached a culmination of self-determination claimed.”²⁸¹ This does not mean that the States are willingly recognizing and accepting the praxis to self-determination. Nonetheless, Richard Falk suggests that the simple state-centric image of world order derived from a somewhat mechanical invocation of the Peace of Westphalia can no longer be accepted.²⁸²

Lâm reminds us that the first opportunistic use of the right of self-determination occurred at the end of World War I, when victorious European States invoked the norm for the purpose of dismantling the European empires of their foes, but simultaneously opposed its application to their own overseas possessions. The second opportunity came after World War II in the wake of decolonization movement, but was limited by Resolution 1541. The third and current display of opportunism, Lâm says, abides in the proposition, that the right of self-determination is one and the same as the right to democratic governance so that only peoples who are governed by non-democratic regimes may assert external self-determination.²⁸³

This current display of opportunism is a cause of deep concern, because a State established as having democratic governance does not necessarily imply that this democratic governance is being exercised by all peoples within it. For instance, the Kashmiris and Nagas are being denied

²⁷⁹ Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), p. 444.

²⁸⁰ Ibid., pp. 450-452. Nanda states that “During the Cold War, there was obviously no challenge to borders in Eastern Europe and the former Soviet Union. Those wishing to claim the right of self-determination were deterred by the dictatorial regimes. But with the collapse of the Soviet Union, a rush of claims in Yugoslavia, the Baltics, the Caucasus, in Georgia, Armenia, Azerbaijan, and Tajikistan, among others challenged the international community. Even the Organization of African Unity has reluctantly recognized the right of Eritrea to secede.” Nanda specifically refers to the conflict in former Yugoslavia as a case in point which was not a colonial situation.

²⁸¹ Ibid., p. 444.

²⁸² Richard Falk’s Foreword in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. xii.

²⁸³ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000), pp.145-146.

the right to exercise their self-determination by India, the world's largest democracy; and yet despite the established presence of democratic governance in the Indian State, the territories naturally inhabited by the Kashmiris and the Nagas have been in a situation of armed conflict for decades due to the denial of the right to self-determination. Falk, therefore, cautions that achieving democracy for State-Society relations cannot be assumed and that the absence of a minimal democratic character is a matter of pervasive concern.²⁸⁴ He further points out that the internal structure of the State in question must be genuinely democratic.²⁸⁵

Today, there no longer is an international consensus that self-determination is to be limited to colonial and non-self-governing situations.²⁸⁶ Nanda points out that with the “growing recognition of the close link between human rights and international peace and security” it is “not premature to accord recognition to the right to secession”²⁸⁷ in an effort to promote human rights and international peace and security. He adds that “the severe deprivations of human rights often leave no alternative to territorial separation.”²⁸⁸

While Nanda presents an essential standpoint that contributes a quantum leap forward in the area of self-determination from a legal perspective, a qualitative distinction between self-determination as a remedy and a process must be made. Cultural assumptions that self-determination is equivalent to secession should be discouraged. After all, Glenn T. Morris notes that “colonies accede to independence; they cannot logically secede from an entity in whose creation they played no part.”²⁸⁹ Hence, it is imperative to point out that most unrepresented peoples are not necessarily claiming secession; rather they are questioning the legitimacy of the “entity in whose creation they played no part” and are seeking alternative models of human association in which

²⁸⁴ Richard Falk's Foreword in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000), p. xii.

²⁸⁵ Ibid.

²⁸⁶ Nanda goes on to add that even in the presence of such a consensus a couple of decades ago, he questioned both the validity and the wisdom of the consensus. Referring to what he had pointed out in 1981, Nanda says “it seems desirable and necessary, however, to enhance awareness of the likelihood that the international community will, in the future, be faced with claims for territorial separation in non-colonial settings and that the absence of institutions, procedures, and strategies to implement the right of secession will leave few alternatives to violence...” See Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), pp. 444-445.

²⁸⁷ Ibid., p. 452. Nanda says that claims to secession through the right of self-determination must only be considered as a “last resort when it is clear that ethnic groups cannot live together and it is equally clear that the group claiming secession makes a compelling case because of its perceived deprivation of human rights within the larger community. The claim that it is deprived of its right to participate in all value processes, power, wealth and resources, respect and rectitude, enlightenment and skill, and affection and well being, should establish its right to secede.”

²⁸⁸ Ibid., pp. 444-445.

²⁸⁹ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 60.

the praxis of self-determination is a relational process that is exercised to enhance their human dignity and human worth.

Peace for those engaged in the struggle to regain their self-determination does not mean merely the absence of war and domination. It also means realizing a people's dignity to live in justice and to have ownership over their destiny while exercising their self-determining nature in a way that will fulfill their aspirations. It is through dialogue and negotiations, and not armed violence that creates possibilities for solutions to end the conflict.²⁹⁰ However, we need to critically examine whether current approaches of resolving and transforming conflicts follow a statist response in upholding the status quo; or provide a response that seeks to put right the unjust relationships by restoring human dignity and transforming oppressive structures. States in order to impose their will have often sought to negotiate from a position of strength.²⁹¹

Transforming conflicts caused by denying self-determination must involve a process of redefining power relationships towards respecting each others' rights. When States refuse to see unrepresented peoples as nations, they effectively reduce the possibilities of resolving the conflict through peaceful negotiations.²⁹² The right to self-determination implies a consistent expression of struggle against all forms of oppression and domination which prevents a peoples from being fully human.

Since "The colonial world is a world divided into compartments,"²⁹³ Fanon argues that decolonization is a "historical process" and one, "which sets out to change the order of the world is, obviously, a programme of complete disorder."²⁹⁴ Fanon, therefore, points out that "Decolonization is the meeting of two forces, opposed to each other by their very nature."²⁹⁵ It can be argued that the two opposing forces are humanization and dehumanization. Addressing the conflict between these two forces, therefore, should not be aimed at continually maintaining an

²⁹⁰ Gerald Kaufman, "The Right to Self-Determination: Reviewing the Anomalies" in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Geneva: Clarity Press INC., 2000), p. 103.

²⁹¹ Taiaiake says that the states position of strength is based on a false claim to morality, justice and authority. Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 120.

²⁹² James Tully, "Reconsidering the BC Treaty Process." Lecture presented at Speaking Truth to Power, A Treaty Forum, presented by the BC Treaty Commission and the Law Commission of Canada, Vancouver, March 3-4, 2000.

²⁹³ Frantz Fanon, *The Wretched of the Earth* (New York: Grove Press, 1963) p. 37.

²⁹⁴ Ibid., p. 36.

²⁹⁵ Ibid.

unjust status quo, but must be a process that allows transformation to occur peacefully through mutually agreed solutions reached during dialogues based on the praxis of self-determination.²⁹⁶

States and unrepresented peoples may have the same concern for peace; the difference between them depends on their attitude, value and approach towards self-determination. The denial of self-determination is decisively a cause of conflict in which negotiable issues of interdependency have shifted to non-negotiable issues of a State's survival. Structures that perpetuate the denial of self-determination tend to undermine and obstruct the urgency for peace.

If world peace and human security represent the shared visions of humanity, the UN and its member States must have the political will and courage to deal with the issue of self-determination in a just and respectful manner. The UN should be open to seeking a shared understanding of the concept of self-determination that transcends a statist perspective. If not, the continued denial of self-determination may only result in more violence because the struggle does not just involve the right to self-determination, but is also the search for a JustPeace. Ignoring or suppressing self-determination movements, in varying forms, will not make the conflict or the struggle disappear.

The UN has to reconsider its position especially after the collapse of Yugoslavia and the Soviet Union. There is a growing realization that the UN needs to assume a more proactive role in transforming self-determination related conflicts; and, while the cases of Kosovo and South Sudan are signs of a departure from the UN's decolonization approach, the existing language of self-determination needs to be transformed. The values and praxis of self-determination as inherent and inalienable rights are imperative for the humanization of humanity, and for that reason essential for JustPeace.

Therefore, there is a need to seek a more inclusive discourse of self-determination which is not exclusively defined by European culture; but one that is defined as a *right* capable of responding to the yearnings and aspirations of all peoples that entails the spectrum of humanity. In essence the present realities indicate the imperativeness for a shared language of self-determination, a *language* that truly represents all peoples and their desire to be fully human.

²⁹⁶ Michael C. van Walt van Praag with Onno Serroo, The Implementation of The Right To Self-Determination as a Contribution to Conflict Prevention, Report of the International Conference of Experts Held in Barcelona from 21st to 27th November 1998.

Conclusion

The language and usage of the principle of self-determination grew rapidly with the UN's formation and growth after the end of World War II. With the UN emerging as an exclusive club of States, rather than Nations, the definition and application of self-determination were limited to serving the interests of the State and not peoples. Though the UN has formally recognized self-determination as a principle and a right, yet its ad-hoc application had a fundamental impact on the persona of self-determination as its capability to be a transforming praxis was reduced to a remedial aspect. Hence, for most part, the right to self-determination was associated with the decolonization process, which in turn was conditioned by the 'Blue Water thesis.' By applying this condition, the UN turned self-determination into a question of privilege, as well as the justification for creating new States along the Westphalian model.

The UN and States have been very possessive in protecting and upholding the States' interests and sanctity, and have, therefore, on most occasions held territorial integrity over and above the right of peoples' aspirations. With colonial boundaries functioning as the boundaries of present States, the focus on territories and boundaries rather than on peoples impinges upon the *right* aspect of self-determination. The UN's state-centric approach to self-determination has only led to more conflict between State and Peoples and has undermined its own purposes to contribute towards world peace and co-operation.

With the end of the Cold War, experiences in Eastern Europe, former USSR and South Sudan indicate that self-determination is no longer applicable only to the decolonization process. Umozurike's argument that "the ultimate purpose of territorial integrity is to safeguard the interests of the peoples of a territory [and] the concept of territorial integrity is...meaningful [only] so long as it continues to fulfill that purpose to all sections of the people" clearly indicates that the State's territorial integrity is no longer absolute. The softening of State borders in the post Cold War world order is another indication of the changing character of State boundaries. Judge Hardy Dillard's affirmation in the Western Sahara that, "It is for the people to determine the destiny of the territory and not the territory the destiny of the people" indicates the relevance and importance for the UN to look at self-determination beyond the decolonization process.

The increasing tension between States and Peoples on the question of self-determination has increased the necessity for the UN to address issues of self-determination in a just and respectful manner. This implies being open to working towards a shared and evolving understanding of self-

determination that transcends a statist perspective. Recognizing that the act of ignoring or suppressing movements for self-determination will not make the conflict or the struggle disappear, the UN needs to assume a more proactive role in transforming self-determination related conflicts. While the cases of Kosovo and South Sudan are signs of a departure from the UN's decolonization approach, the existing language of self-determination itself is transforming towards a pluralistic discourse.

Towards a Shared Language of Self-Determination

Introduction

Influenced by the forces of history, the idea and exercise of self-determination continues to withstand rigorous examination, even as ‘the powers that be’ seek its silent and quick demise. As an ancient idea which embodied the various expressions of human freedom and aspiration, self-determination emerged as an emancipatory means for the humanization and development of all peoples. However, the evolution of self-determination as a humanizing concept was interrupted when it was first co-opted into the Westphalian discourse, and later, when it was incorporated into international law. The liberating nature of self-determination was considerably restricted both in character and in application by the State structure. This had profound consequences as it altered peoples yearning for humanization, as well as, the relationship between States and Peoples.

In the chapter *The Language of Self-determination*, it has been argued that the universe of human values and cultures embodied in self-determination was conveniently negated and restricted primarily to traditional European culture and values through the policy and implementation of colonization. This construct of humanity had little relevance for non-Western cultures and peoples, who were relegated to the ‘cultural others.’ Yet, it was the ‘cultural others’ that survived the consequences of this colonial project.

The *Language of Self-determination* that emerged out of this colonial project was one that pushed the universe of human values and ideals to the margins. This was a deliberate attempt to deter and prevent a peoples’ struggle for re-humanization; to define their own way of life, and to effectively and consciously determine their own destiny. Humanity was represented in the form of the Individual/State dichotomy, in which the State was given precedence over an Individual. Such a discourse removed humans from the center of humanity. Consequently, self-determination, as an integral imperative in the search for human dignity was marginalized; and peoples were removed from the humanizing process. Self-determination as a dynamic and constructive process in perpetual transformation was reduced to a static remedial instrument which had little to do with peoples becoming humanized.

With States assuming priority over peoples and nations, the League of Nations, and, ultimately, the UN, as an exclusive body of States, defined the character of self-determination. Hence, in the

chapter on Self-determination and the United Nations, the discourse on self-determination since the UN's formation has been critically examined. Self-determination was the legitimizing means for the victors of World War I to draw new State boundaries out of the territories of former empires, thereby fulfilling their desire to re-divide Europe.²⁹⁷ The right to self-determination became a convenient tool for the victors of war to assert their interests by creating new States.

While it was the UN that gave self-determination a legal personality in the form of a principle, and, subsequently as a right under international law, the UN's position has proven to be two-faced and stands to be challenged. On one hand, self-determination is clearly established as a right in international law,²⁹⁸ while on the other, it has been applied for the most part only in situations where peoples are seeking to end "alien subjugation, domination and exploitation" under the 'Blue Water thesis.' This selective application of self-determination reveals that political expediency was given greater importance over the rights of the 'cultural other,' even if it meant that this expediency could be achieved only through the use force and domination.

The UN's primary interest is the survival of States, which has effectively ensured that self-determination for all peoples was reduced from a right to one of privilege. The end of the Cold War, however, created a situation where the status quo was challenged, and self-determination trickled past the UN's decolonization approach. In light of these realities, the chapter on Self-determination and the United Nations concluded by identifying the need to seek a more inclusive discourse of self-determination that is capable of responding to all peoples' yearnings and aspirations across the spectrum of humanity. This calls for a shared language of self-determination – a *language* that represents *all* of humanity.

Following the arguments presented in the previous two chapters, this chapter focuses on presenting an evolving synthesis towards a shared language of self-determination. While the right to self-determination is implicit in much of the writings on international relations, yet, rarely is it

²⁹⁷ Hurst Hannum, "Rethinking Self-Determination," (Virginia Journal of International Law 34 Va. J. Int'l L. (1993-1994) Issue 1, Fall 1993), pp. 3-4.

²⁹⁸ Ennals argues that though the "right to self-determination is clearly established in international law" on the other hand it is "so hedged around by escape clauses that it is virtually meaningless as a basis for legal or political debate." Martin Ennals quoted in Rodolfo Stavenhagen, "Self-Determination: Right or Demon" in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin's Press, INC., 1996), p. 6.

given explicit and comprehensive examination²⁹⁹ from an interdisciplinary and multi-cultural perspective. Furthermore, since law is an adjunct of society, it is necessary for the former to adjust when the latter changes.³⁰⁰ A legal system that remains stagnant is in danger of not just irrelevancy, but in committing grave injustice; and hence, is a deterrent to peace.

Ennals was insightful when he noted that “the present dilemma is multi-disciplinary and cross-cultural.”³⁰¹ The institutionalization of self-determination as a legal concept constrained its humanistic components. Lãm observes that the issues surrounding the right to self-determination, “are not a matter of law only, or even ultimately of power and economics alone, but simultaneously involve habits of thought, faith, and practice which, precisely because they are habits, remain relatively inaccessible to and under-examined by the actors involved.”³⁰²

Hannum points out, “self-determination seems poised to adapt itself once more to the changing conditions in the world,”³⁰³ towards a “new definition” which has “become infused with broadly defined human, minority and indigenous rights,”³⁰⁴ that includes the “right to be different.”³⁰⁵ In affirmation, Danspeckgruber asserts that self-determination has “gained new meaning and significance”³⁰⁶ in an increasingly interdependent world. Redefining self-determination may be more “politically acceptable than attempting to bury it.”³⁰⁷

²⁹⁹ David B Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 250.

³⁰⁰ Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000), p. 202.

³⁰¹ Martin Ennals quoted in Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 6.

³⁰² Lãm notes that “the modern secular state and attendant inter-state system, which was first developed in Europe in the 17th century, constitute such a habit. They make certain ideas associated with the organization of a country and of international society appear transparently right, universal, and imperative when these ideas in fact are merely expedient, particular and contingent.” See Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 85-86.

³⁰³ Hannum in his Introduction in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p.1.

³⁰⁴ *Ibid.*, p. 61. Hurst Hannum, “Self-Determination in the Twenty-First Century.”

³⁰⁵ Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int’l. L., (1993-1994) Issue 1 Fall 1993), p. 67.

³⁰⁶ Wolfgang Danspeckgruber in his Introduction in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 4.

³⁰⁷ Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int’l. L., (1993-1994) Issue 1 Fall 1993), p. 67.

The blurring of State boundaries and borders in so many settings since the end of the Cold War combined with the increasing recognition and distinct acceleration³⁰⁸ of human interdependence and interconnection emphasizes the need for a more imaginative, persuasive, and future-oriented perspective³⁰⁹ to address the increasing number of conflicts occurring within states when self-determination has been denied. The challenge of the 21st century is to liberate self-determination from its restricted confines and to reveal the inherent character of self-determination as language of JustPeace in both thought and action. Invariably this challenge demands a deliberate act of seeking an imagination which draws the lived experiences and aspirations of humanity.

An Imagination

The very basis of self-determination implies an idea that is constantly evolving. However, the journey of self-determination since the Treaty of Westphalia has been navigated only by a few within a particular local culture, which has been presented in a global dimension. Subsequently, its meaning has been restricted within the realms of international law, while its implementation has been reduced to one of privilege. It is time for self-determination to go beyond international law and to embrace the values of humanity, to explore and extend its journey to the uncharted realms of the ‘cultural others.’

Bringing alive the praxis of a shared language of self-determination requires embracing, recognizing and respecting all human cultures, not simply the *juxtaposition of cultures*. Freire notes that,

... cultural pluralism consists in the *realization* of freedom, in the *guaranteed* right of each culture to move in mutual respect, each one freely running the risk of being different, fearless of being different, each culture being for itself.³¹⁰

³⁰⁸ The researcher holds the view that the end of the Cold War has impacted both States and Peoples with increasing momentum and tenacity, even as the physical and psychological walls created during the heights of the Cold War were broken down. Perhaps for the first time since the end of World War II, States were compelled to rethink their position and application of rigid State boundaries, as well as their control over the market and transfer of goods and resources. This has led to more fluid boundaries and borders, especially in Europe, and States have relegated some of their sovereign authorities to large corporations. While this enabled more interaction among people, it has also caused greater consciousness of the need to know one’s own cultural identity and values.

³⁰⁹ See Richard Falk’s Foreword in Maivân Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000), p. xi.

³¹⁰ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), p. 156.

This multi-cultural process should not be provoked and dominated by one culture, but rather provide the space and opportunity to grow together in the direction of an evolving cultural pluralism.

Imagination, as a praxis is important for a shared language of self-determination to emerge as it can be a way of sharing one's own culture and aspirations to the world. According to Toni Morrison, it is a process of struggling to find the language to do this, and, then struggling to interpret and perform within that shared imagination.³¹¹ To put this shared imagination into motion, a process of reflection and action that is rooted in the values of self-determination is imperative. Such an imagination needs to take a deliberate step in understanding how colonization effected the colonized, and to ensure that the decolonization process is magnanimous in embracing positive values of the colonizing culture.

Walking towards a shared language of self-determination depends on one's approach to the past.³¹² Smith notes that the "whole process of colonization can be viewed as a stripping away of *mana* (our standing in our own eyes), and an undermining of *rangatiratanga* (our ability and right to determine our destinies)."³¹³ She observes that "such things as mental illness, alcoholism and suicide, for example, are not about psychological and individualized failure, but about colonization or lack of collective self-determination."³¹⁴ This implies that unrepresented peoples are still being colonized in various forms and continue to suffer from its effects as they struggle to find justice and dignity.

The 'cultural others' have had a presence in the Western imagination,³¹⁵ in "its fibre and texture, in its sense of itself, in its language, in its silences and shadows, its margins and intersections."³¹⁶

³¹¹ Toni Morrison is quoted in Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 37.

³¹² Ibid., p. 39. Smith says that the exercise of recovering our own stories of the past is "inextricably bound to a recovery of our language and epistemological foundations. It is also about reconciliation and reprioritizing what is really important about the past with what is important about the present."

³¹³ Ibid., p. 173.

³¹⁴ Ibid., p. 153.

³¹⁵ Ibid., pp. 22-23. Smith points out that "in complex ways, imperialism was also a mode through which the new states of Europe could expand their economies, through which new ideas and discoveries could be made and harnessed. The imperial imagination enabled European nations to imagine the possibility that new worlds, new wealth and new possessions existed that could be discovered and controlled." This imagination, Smith says, "was realized through the promotion of science, economic expansion and political practice." She goes on to add that "colonialism was, in part, an image of imperialism, a particular realization of the imperial imagination. It was also, in part, an image of the future nation it would become."

Hence, in any decolonizing framework, the deconstruction would be part of a much broader intention, which involves a ‘knowingness of the colonizer’ and a recovery of the self, an analysis of colonialism, and a struggle for self-determination.³¹⁷ The deconstruction is important because as Ashis Nandy argues that “the structures of colonialism contain rules by which colonial encounters occur and are managed.”³¹⁸ Therefore, the decolonizing framework and deconstruction cannot and should not take place with colonialism as the central point of reference.³¹⁹

Colonization called “itself the mark of a higher civilization – a superiority in philosophy, in language, in technology, in social organization – and it would impose this upon others in the world...through a system that ignores human dignity in its pursuit of economic advantage.”³²⁰ Colonialism suppressed the cultures of the *cultural others* in order to rule politically, and, therefore, political decolonization does not automatically lead to decolonization of the culture, structures or the economy. Subsequently, freedom, political or otherwise seems possible only through a vigorous assertion of cultural freedom.³²¹ Robert W. July asserts that,

... self-determination was a necessary prerequisite to the creative power of a people; hence, political independence and cultural freedom went hand in hand.³²²

Therefore, decolonization in essence is a process which needs to engage and confront imperialism and colonialism at multiple levels, not just as a remedial event of transferring power from one to another.

Decolonization does not mean and has not meant a total rejection of Western culture, jurisprudence, structure nor its knowledge system. Mazrui notes that “past reactions have tended to reject Europe, to glorify indigenous institutions because they were criticized or ignored by the West.”³²³ While stating that European ideas and institutions have become an integral part, Mazrui adds there is a body of traditional values and institutions that can serve the present with [the

³¹⁶ Ibid., p. 14.

³¹⁷ Ibid., p. 7.

³¹⁸ Ibid., p. 8. Ashis Nandy quoted by Linda Tuhiwai Smith.

³¹⁹ Ibid., p. 14. In this context, neither colonialism nor post-colonialism should be the central point of reference, if the objective is to explore alternate paradigms of human association. Smith emphasizes that “post-colonialism is viewed as the convenient invention of Western intellectuals which reinscribes their power to define the world.”

³²⁰ Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), p. 26.

³²¹ Ibid., p. 28.

³²² Ibid., p. 41.

³²³ Ali A. Mazrui as referred in Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), p. 243.

positive attributes] absorbed from the West. Decolonization is about centering one's concerns and worldviews, then coming to know and understand the colonizer, as well as, the colonized from one's own perspective.

Mamdani holds the opinion that an intellectual movement will be required to achieve intellectual decolonization.³²⁴ The process of intellectual decolonization is imperative for creating and enabling a successful political decolonization, cultural reconstruction and the exercise of an authentic self-determination.³²⁵ Ani says, ultimately the “liberation of our thought from colonized condition will require the creation of a new language.”³²⁶ The act of changing language is part of the process of changing the world,³²⁷ and is crucial in recognizing and developing a shared language of self-determination. It invites humanity to a new way of perceiving and understanding the concrete conditions in which dehumanization prevails.

Although this change in understanding is of basic importance; it does not, however, mean a change in the conditions.³²⁸ Nevertheless, it inspires an imagination about a different world, which is necessary to the process of transforming reality.³²⁹ The process of imagination begins by respecting all human cultures where consent is imperative and opposes the idea that there is only one right way to see or do things. Obtaining consent requires trust throughout a dynamic and respectful relationship with the understanding that the trust will not only be reciprocated, but will evolve constantly in the process of JustPeace.

Dreaming is part of self-determination's praxis of reflection and action. Manifesting the dream for humanization is always in a process of becoming. Freire says dreaming is not only a necessary political act; it is part of human nature, which, within history, is in permanent process of

³²⁴ Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda*. (Princeton: Princeton University Press, 2001), pp. xiv-xv.

³²⁵ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 1.

³²⁶ *Ibid.*, p. 10.

³²⁷ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), pp. 67-68.

³²⁸ *Ibid.*, p. 26. Freire notes that “An understanding of the world, which conditioned by the concrete reality that in part explains that understanding, can begin to change through a change in that concrete reality. In fact, that understanding of the world can begin to change the moment the unmasking of concrete reality begins to lay bare the “whys” of what the actual understanding had been up until then.” Freire cautions that hopelessness when it becomes a program can paralyze and immobilize.

³²⁹ *Ibid.*, p. 39.

becoming. He affirms there is no change without dream, as there is no dream without hope,³³⁰ and says that, “the *dream* is a demand or condition that becomes ongoing in the history that we make and that makes and remakes us.”³³¹ It is the yearning for a “freedom that permeates the vocation to humanization.”³³² The dream becomes a necessity in creating a shared language of self-determination because the people can weave the future of their dream. The self-confidence and self-assurance to know that they have survived and can only go forward provides the momentum necessary for envisioning.

To imagine self-determination, Smith notes, “is also to imagine a world in which indigenous peoples become active participants, and to prepare for the possibilities and challenges that lie ahead.”³³³ It essentially means the need for a people to take back control and ownership of their destinies and to freely pursue their aspirations. While histories and narratives written from the position of victors and dominant groups can break the peoples’ dignity by dehumanizing them, stories can also repair them. Stories have the capacity to empower and humanize. Throughout history, colonizers have often referred to indigenous peoples as savages, uncivilized and incapable of governing themselves, and their lands were considered as *terra nullis*. In Australia, the Aboriginal people and Torres Strait Islanders were once considered as flora and fauna.

A shared imagination primarily involves a process where unrepresented peoples tell their own stories, write their own versions, in their own ways, and for their own purposes³³⁴ so that it enables them to work towards a future; one in which all peoples are fully human. In other words, reclaiming history³³⁵ is central to decolonization and in shaping a language of a shared humanity. This is imperative since “colonized peoples have been compelled to define what it means to be human because there is a deep understanding of what it has meant to be considered not fully human.”³³⁶

For unrepresented peoples across the world, survival at the most basic human level is still a priority and basic need. Their aspirations go beyond decolonization and involve a dynamic praxis

³³⁰ Ibid., pp. 90-91.

³³¹ Ibid., p. 99.

³³² Ibid., p. 99.

³³³ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 124.

³³⁴ Ibid., p. 28.

³³⁵ Ibid., p. 32. Smith says that “history was the story of people who were regarded as fully human.”

³³⁶ Ibid., p. 26.

at multiple levels and dimensions, some of which are still unfolding. In order to enable a shared language and a shared imagination, it is essential that in the struggle for humanization “the oppressed must not, in seeking to regain their humanity, become in turn oppressors of the oppressors, but rather restorers of the humanity of both.”³³⁷ This, Freire notes, “is the great humanistic and historical task of the oppressed: to liberate themselves and their oppressors as well.”³³⁸ In the process, the political act of imagining and dreaming becomes the most effective means of creating a shared language of self-determination.

From State-Determination to Peoples-Determination

Alongside the task of consciously working towards cultural pluralism, the unrepresented peoples are reaching out for transformation in the international legal system. They seek a legal system in which law is “determined on the basis of visions of what ought to be, rather than simply on the basis of what is,”³³⁹ and where the State would be an instrument of humankind, rather than its master. This vision calls for self-determination as a right belonging to peoples which should be alive to the “rich variety of intermediate or alternative associational groupings actually found in human cultures” and one that is “prepared to ascribe to such groupings any rights not reducible either to the liberties of the citizen or to the prerogatives of the states.”³⁴⁰

The UN and various other international instruments have declared self-determination as a right attributed to all peoples. The International Court of Justice in the Western Sahara Case refers to the right to self-determination as a right held by the people, rather than a right held by the governments alone.³⁴¹ Taiaiake asserts that right to self-determination “unbounded by state law” is a “concept appropriate to nations.”³⁴² However, in practice the UN has ensured it retains the privilege of deciding who gets to exercise self-determination, and in most instances, has given States prerogative over Peoples. This emphasizes the necessity to reclaim self-determination as a right of all peoples in both thought and practice.

³³⁷ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 26.

³³⁸ Ibid.

³³⁹ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 40.

³⁴⁰ This vision is inspired by S. James Anaya. See S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 14.

³⁴¹ Karen Parker, “Understanding Self-determination: The Basics,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 63.

³⁴² Taiaiake Alfred (Mohawk), “Sovereignty” in Joanne Barker (ed.), *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination* (Lincoln; London: University of Nebraska Press, 2005), p. 42.

1. *Reclaiming the Self*

One may attest to the view that the definition of the relevant *self* has been “hopelessly political and confused.”³⁴³ However, the consistent reference “of all peoples” in UN documents and the fact that self-determination has been established as a right in human rights treaties implies it should have universal applicability, and hence, suggests a scope that goes beyond decolonization. Hans Köchler claims “it is not the state that is ‘eternal’ and that enjoys ‘inalienable rights,’ but the people as a collective social and cultural reality.”³⁴⁴ While rejecting the state-centered approach, he emphasizes that only a peoples-centered framework of international law will be in conformity with the requirements of human rights and democracy.

Recent human experience shows that the term *peoples* can no longer be defined by “existing or perceived sovereign boundaries.”³⁴⁵ Consequently, self-determination cannot be concerned only with narrow and exclusive definitions of peoples, since that would reduce the relevance of self-determination and its values. In fact, in today’s world of enhanced communications, interdependency and interaction, Anaya advocates that the term peoples should be understood in a flexible manner.³⁴⁶ This upholds the rationale that self-determination is “presumptively universal in scope and thus must be assumed to benefit all segments of humanity.”³⁴⁷

The *self* in self-determination naturally concerns peoples not as objects, but as makers of their own destiny. Accordingly, *peoples* mean “the spectrum of humanity’s complex web of interrelationships and loyalties”³⁴⁸ that recognizes the “multiple, overlapping spheres of community, authority, and interdependence that actually exist in the human experience.”³⁴⁹ The right to *self-definition* is invariably essential for the full expression of self-determination. It implies the affirmation of the authentic *self*, which connects it with “our languages as an uninterrupted link to our histories, to the ownership of our lands, to our abilities to create and

³⁴³ A UN observer quoted in Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int’l L. (1993-1994) Issue 1, Fall 1993), p. 35.

³⁴⁴ Hans Köchler, “Self-determination as a means of Democratization of the United Nations and the International System,” in Y. N. Kly and D. Kly ed., *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 141.

³⁴⁵ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 79.

³⁴⁶ S. James Anaya quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 260.

³⁴⁷ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 76.

³⁴⁸ *Ibid.*, p. 79.

³⁴⁹ *Ibid.*, p. 78.

control or own life and death, to a sense of balance among ourselves and with the environment, to our authentic selves as a people.”³⁵⁰

McCorquodale points out that the right to self-determination “now applies to all peoples in all territories, not just colonial territories, and to all peoples within a state,” and “extends to all peoples suffering from oppression by subjugation, domination, and exploitation by others.”³⁵¹ The exercise of self-determination in Kosovo and South Sudan are recent examples that clearly demonstrate that ‘State-determination’ has given way to ‘Peoples-determination.’ These historical instances firmly establish that the *self* in self-determination refers to a people with self-definition having the right to determine their political status and to freely pursue their economic, social and cultural future.

2. *Dialectics of Self-Determination and Sovereignty*

Sovereignty³⁵² is usually projected as a concept originating and revolving around the idea of the Westphalian State. It has been used by both colonial and State powers over unrepresented peoples in negating their “territorial rights and humanity while justifying the right of conquest by claims of national superiority.”³⁵³ Considering that State sovereignty revolves around territory and legitimacy through force, Achille Mbembe says, “the ultimate expression of sovereignty resides, to a large degree, in the power and the capacity to dictate who may live and who must die.”³⁵⁴ He says, “to kill or to allow to live constitutes the limits of sovereignty,” and therefore, “to exercise sovereignty is to exercise control over mortality and to define life as the deployment and manifestation of power.”³⁵⁵

³⁵⁰ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 73.

³⁵¹ Robert McCorquodale, “Human Rights and Self-Determination” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), pp. 9-10.

³⁵² Joanne Barker argues that “sovereignty seemed to belong to nations but was then understood to originate either from the people who made up those nations or as a character of the nation itself (nationhood).” See Joanne Barker (Lenape), “For Whom Sovereignty Matters” in Joanne Barker (ed.), *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination* (Lincoln; London: University of Nebraska Press, 2005), p. 2.

³⁵³ *Ibid.*, p. 5.

³⁵⁴ Achille Mbembe, “Necropolitics,” (Public Culture, Volume 15, Issue 1, 2003), p. 11.

³⁵⁵ *Ibid.*, pp. 11-12.

On the other hand, Taiaiake affirms that sovereignty is “the result of choices made by men and women, indicative of a mindset located in ... a social and political order.”³⁵⁶ Mbembe points out that the “ultimate expression of sovereignty is the production of general norms by a body made up of free and equal men and women.” who are capable of “self-understanding, self-consciousness, and self-representation.”³⁵⁷ If sovereignty is the outcome of choices made by the will of men and women, it can be said that both sovereignty and self-determination derive their legitimacy through the people’s will. Ghai, however, cautions that they are also both vulnerable to State manipulation, and that self-determination growing out of popular sovereignty often finds itself being obstructed in the name of State sovereignty.³⁵⁸

States that continue to deny the right to self-determination often justify it on grounds of State sovereignty. Yet, by denying a peoples’ right to self-determination, the State is limiting its own ability to exercise its Sovereignty. For instance, when Burma suppresses the right of self-determination of the Karens, Kachins, Chins, etc., through the use of force, it is restricting their ability to function and develop as a sovereign entity in a manner that is democratic, healthy, peaceful and conducive for its own growth and well-being. Chingya Luithui, a young Naga human rights activist in a tone of irony reminds us,

... the exercise of self-determination is imperative for a meaningful [State] sovereignty, while [State] sovereignty might not necessarily be indispensable for meaningful self-determination.³⁵⁹

When sovereignty and self-determination as derived from the people affirm and empower each other, they ensure that the idea of State and territorial sovereignty no longer remains in an unchallenged position, both in theory and practice. Foucault adds that the end of sovereignty is circular in the sense that the end of [State] sovereignty is the exercise of [Peoples] sovereignty.³⁶⁰

³⁵⁶ Taiaiake Alfred (Mohawk), “Sovereignty” in Joanne Barker (ed.), *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination* (Lincoln; London: University of Nebraska Press, 2005), p. 46.

³⁵⁷ Achille Mbembe, “Necropolitics,” (Public Culture, Volume 15, Issue 1, 2003), p. 13.

³⁵⁸ Ghai expresses his view that Self-determination and Sovereignty share an interesting relationship. He says, while both these two concepts derives its legitimacy through the will of the people and are affirming and empowering to each other, yet, they are also vulnerable to manipulation by the State system. See Yash Ghai, “Reflections on Self-Determination in the South Pacific” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd. and United States: St. Martin’s Press, INC., 1996), p. 177.

³⁵⁹ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

³⁶⁰ Foucault quoted in Mark E. Denham and Mark Owen Lombardi (ed.), *Perspectives of Third-World Sovereignty: The PostModern Paradox* (Hampshire: MacMillan Press Ltd., 1996), p. 1.

The harmony of self-determination and sovereignty as complementary expressions is central to the struggle for humanization and JustPeace.

In the effort to transform self-determination from “state-determination to peoples-determination,” Lãm reminds us that “humankind, for its part receives most of its paradigm shifts ... not from ‘successful’ societies, but from those at the fringes who are compelled by the ‘winners’ to re-invent, or succumb.”³⁶¹ Unrepresented peoples find themselves living at the edge of the modern State – politically, economically, culturally, and often physically as well. In their aspiration to become fully human they are compelled to conceptually construct new paradigms of the rightful structure, function, and patterns of relationship with States and with each other. It is in their desire to humanize that they imagine and seek to “appropriate or reproduce the unreconstructed state.”³⁶²

3. *A Bottom-Up Approach*

The struggle for self-determination is also contested on whether it should be “determined in a top-down manner through the mechanisms of statism and geopolitics or by a bottom-up approach that exhibits the vitality and potency of emergent trends favoring the extension of democratic practices and the deepening of human rights.”³⁶³ A top-down approach limits self-determination to a remedial aspect, where decolonization is viewed as the formal process of handing over the instruments of government. However, merely granting sovereignty by a colonial power does not in itself comprise or ensure true independence - not politically, nor economically and certainly not culturally.³⁶⁴ Changing the political status does not necessarily ensure freedom to pursue economic, social and cultural development. For instance, the initiative of the military rulers in Burma to change its status from a military regime to a democratic government through a top-down approach has not translated into justice and freedom for ordinary citizens who continue to live in fear under State oppression.

³⁶¹ Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. xxvi.

³⁶² Ibid.

³⁶³ Falk says, “in essence, the outcome of these struggles will shape whether our era lives up to the emancipatory potential implicit in the legal, moral, and political promise of self-determination to the peoples of the world. Or fails to do so, and retreats into the rigidities of processing self-determination claims by reference to the territorial nationalism and status quo compulsions of most existing sovereign states.” See, Richard Falk in his Preface in Y.N. Kly and D. Kly ed., *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC, 2000), p. 6.

³⁶⁴ Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), pp. ix-x.

On the other hand, in a bottom-up approach to self-determination, decolonization is a process where independence means more than freedom from colonial rule. It means the freedom to build a new life, a better world³⁶⁵ which is a long-term process that divests the bureaucratic, cultural and psychological structures of colonial power.³⁶⁶ This approach to self-determination goes beyond the remedial aspects, and, because it originates from within the people's aspirations and experiences, it has the capacity to empower a people to exercise ownership of the process. Such a bottom-up approach enables a praxis of self-determination which "entails a universe of human rights"³⁶⁷ necessary for a peoples to become fully human. In essence it calls for the right to self-determination to be rooted in the people. The significant breakthroughs achieved in Tunisia, Egypt and Libya are examples of how ordinary people have sought to regain their right to be fully human with dignity and justice.

The differences between the top-down and bottom-up approach to self-determination provide an opportunity to clarify the often misunderstood relationship between sovereignty and self-determination. While States relate on the basis of what Lâm calls "power-right to sovereignty," peoples by contrast can only assert a "need-right to self-determination"³⁶⁸ Lâm makes the argument that "since the state, under liberal democratic theory, cannot strictly speaking act for itself, but must always perform as the agent of another, i.e., the people, it cannot logically claim to be "self-determining," and at the same time profess legitimacy. Hence, while international law refers regularly to the "sovereignty" of states, it almost always speaks of the "self-determination" of peoples."³⁶⁹

A Shared Language of Self-Determination

The UN has identified self-determination as one basis to develop friendly relations among nations and to strengthen universal peace. Furthermore, it adopted the International Covenant on Human Rights wherein by virtue of the right to self-determination, all peoples can freely determine their political status and freely pursue their economic, social and cultural development. While this forms the foundation of self-determination, its meaning, scope and application has, in practice,

³⁶⁵ Ibid., p. 4.

³⁶⁶ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 98.

³⁶⁷ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 81.

³⁶⁸ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 178.

³⁶⁹ Ibid., p. 181.

been limited by real politik. Notwithstanding, the current restrictions, the UN's aspiration to develop harmonious relations and strengthen global peace means that self-determination needs to represent an ongoing process that assures human security, fulfills human needs and enables a wider scope of possible outcomes. This would correspond to and complement the multiple and overlapping spheres of human association and political ordering that characterizes humanity.

In the challenge to persuade and create a shared language of self-determination, it is helpful to recognize that denying the 'cultural others' knowledge system, experiences and aspirations has been central to the colonizing agenda. Luithui laments that much of what is discussed and critiqued about self-determination often revolves around what it should be and what it should not be for those involved in the discussion, and not necessarily for those who are affected by it.³⁷⁰ Hence, Luithui says, the idea of self-determination that emerges is primarily from the contexts of those involved in the discussion, while those who have the highest stakes fail to have their experiences reflected in both the process and outcome. The voices of the 'cultural others' continues to be consistently pushed to the margins, consequently it has taken many years of persistent lobbying, advocacy and negotiations for indigenous voices just to be recognized by the UN.³⁷¹

The path to creating a shared language of "self-determination is uphill and strewn with obstacles,"³⁷² and yet this path needs to be taken if humankind is to recover its humanity. Taiaiake says to survive this path is to "recover our strength, our wisdom, and our [human] solidarity." Creating human solidarity implies approaching communication as a means and process of evolving culture. Thiong'o reminds us that, "Language as culture is the collective memory bank of a people's experience in history."³⁷³ In its essence, "culture cannot be tamed ... and it wants

³⁷⁰ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

³⁷¹ For instance, it took 25 years of "contentious negotiations" before the UN's General Assembly finally adopted the UN's Declaration on the Rights of Indigenous Peoples on September 13, 2007. By a vote of 143 in favor to 4 against (Australia, Canada, New Zealand and the United States), with 11 abstentions, the Assembly adopted the UN's Declaration on the Rights of Indigenous Peoples, "which sets out the individual and collective rights of the world's 370 million native peoples, calls for the maintenance and strengthening of their cultural identities, and emphasizes their right to pursue development in keeping with their own needs and aspirations" including the indigenous peoples right to self-determination in the same terms as it is recognized for all peoples within the framework of the UN Charter. This recognition upholds the need for self-determination to be multi-cultural, and in some ways the Rights of Indigenous Peoples have created an opening for a shared language of self-determination to evolve.

³⁷² Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), pp. xi-xii.

³⁷³ Ngugi Wa Thiong'o, *Decolonizing the Mind: The Politics of Language in African Literature* (Nairobi: East African Educational Publishers Ltd., & London: James Curry Ltd., 1993), p. 15.

life in all its richness; it demands and asserts its freedom, an impulse nothing can control.”³⁷⁴ Like culture, the language of self-determination too is seeking life in all its richness which needs to reflect equity and justice in all spheres of life that is translated into all peoples’ lived experiences.³⁷⁵

1. “Right” as Right Relationship

The concept of self-determination embodies two scopes of rights: namely the right of the ‘self’ which does the determining; and the ‘right’ which the ‘self’ determines. Barry Hart notes that the ‘right’ in “right of self-determination,” may best be described as “right relationship,” since “we must have this kind of relationship to best determine how we should live together.”³⁷⁶ John Paul Lederach affirms that the best of self-determination will aim to rebalance power and will seek to redefine relationships while sustaining a view of relational interdependence.³⁷⁷ Self-determination is the ability to stand up for all the peoples’ justice in a universal logic and language, and means that the individual and the collective needs to arrive at a place of “right relationship.” Self-determination represents a quality that is an undivided and an indivisible right that implies living in “right relationship” with fellow human beings, nature, and the structures that governs them.

The creative tensions between the individual on one hand, and the collective on the other, need to be located in the context of a ‘right relationship.’ Taiaiake points out that “a crucial feature of the indigenous concept of governance is its respect for individual autonomy.”³⁷⁸ He takes this argument further by saying, “in indigenous tradition, the idea of self-determination truly starts with the self; political identity – with its inherent freedoms, powers, and responsibilities – is not surrendered to any external entity.”³⁷⁹ While emphasizing that individuals alone determine their interests and destinies, Taiaiake says “there is no coercion: only the compelling force of

³⁷⁴ Geoffrey-Dechaume quoted in Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p 19.

³⁷⁵ CR Bijoy who is a member of the “Campaign for Survival and Dignity” - an alliance of struggle based mass organizations of Indigenous Peoples in India in his response to Questionnaire 1 on July 14, 2010.

³⁷⁶ Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

³⁷⁷ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

³⁷⁸ Taiaiake adds that “this respect precludes the notion of ‘sovereignty’ – the idea that there can be a permanent transference of power or authority from the individual to an abstraction of the collective called ‘government.’ The indigenous tradition sees government as the collective power of the individual members of the nations.” See Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 25.

³⁷⁹ Ibid.

conscience based on those inherited and collectively refined principles that structure society.”³⁸⁰ Self-determination operates as a critically important and powerful political and moral principle,³⁸¹ and in scope operates as a principle of justice and liberty.³⁸²

The purpose for self-determination to be defined as a right, McCorquodale argues, is to “protect the rights of groups, as groups, from oppression,” and adds that “its development and changing application over the years have been within the context of the development of human rights law.”³⁸³ In other words, self-determination, which is the ultimate exercise of collective human rights,³⁸⁴ is an extension of personal political self-determination,³⁸⁵ and depends on the conscious coordination of individual powers of self-determination.³⁸⁶ Based on this reasoning, there is no contradiction between the individual and the collective in the context of the right of self-determination.³⁸⁷

The world can no longer operate from interpretations developed by one culture, and unrepresented peoples “have come to realize the importance of semantics in their quest for self-determination.”³⁸⁸ Kenneth Deer asserts:

No-one has a patent over the definition of self-determination. Nobody exercises self-determination in isolation – it’s shared, and surrendered, and you make treaties all the time.³⁸⁹

³⁸⁰ Ibid.

³⁸¹ David B Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 250.

³⁸² The Aaland Islands Question, at 27, League of Nations Doc. B7.21/68/106 (1921) (English Version) (Report Submitted to the Council of the League of Nations by the Commission of Rapporteurs).

³⁸³ Robert McCorquodale, “Human Rights and Self-Determination” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 25.

³⁸⁴ Gerry J. Simpson, “The Diffusion of Sovereignty: Self-Determinations in the Post-Colonial Age” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 54.

³⁸⁵ Ibid., p. 49.

³⁸⁶ Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 26.

³⁸⁷ MacCormick argues that “self-determination as a collective right of appropriate groups may be a necessary element in individual self-realisation as a fully self-realising member of a political community.” See Neil MacCormick, “Liberal Nationalism and Self-Determination,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 78.

³⁸⁸ Glenn T. Morris quoted by Joanne Barker (Lenape), “For Whom Sovereignty Matters” in Joanne Barker (ed.), *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination* (Lincoln; London: University of Nebraska Press, 2005), p. 24.

³⁸⁹ Kenneth Deer quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 259.

He emphasizes that we all need to make treaties in order to live side by side. For instance, all governments at the UN have given up some degree of their sovereignty when they agreed to join the UN.

In a world that is fast recognizing that human relationships and their survival are defined by the principle of interdependence and interconnectedness, no longer is self-determination the right of the *self* at the expense of the “cultural other.”³⁹⁰ Self-determination “does not confer on any one people the right to deny other peoples the same right on an equal footing. It does not include any right to oppress other peoples.”³⁹¹ Hence, justice, as in ‘right relationship’ from a peoples’ perspective implies a perpetual process of maintaining a respectful and balanced coexistence among all humans, and demonstrating in thought and action with genuine respect for the power and dignity of each that constitutes the circle of interdependency.³⁹² Taiaiake says the objective of this form of justice is to achieve “respectful coexistence – restoration of harmony to the network of relationships, and renewed commitment to ensuring the integrity and physical, emotional, and spiritual health of all individuals and communities,”³⁹³ not just within the set of human relationships that form the society, but all other relationships.

2. *Shared Respect and Responsibility*

A shared language of self-determination calls for a new paradigm of international relations where decisions on human affairs are not based exclusively on State pragmatism and interests, but on the peoples’ political, social, economic and cultural realities in combination with their inalienable right to self-determination. The dynamism of self-determination as a praxis for respect and responsibility lies in its history of indeterminacy and varied applicability.³⁹⁴ Therefore, while in an absolutist sense self-determination means a people’s right to independence, Tapan Bose points

³⁹⁰ Arriens says that self-determination means the right of a people to conduct its own affairs free from outside interference, provided that in doing so this does not impinge on the right of self-determination of other people. Jan Arriens in his response to Questionnaire 2 on August 14, 2010.

³⁹¹ Sambo Dorough quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 257.

³⁹² Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 42.

³⁹³ Ibid.

³⁹⁴ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 243.

out that it also has different meanings in the present context. Galtung points out that self-determination by implication include “the option of independence and the option of status quo.”³⁹⁵

Bose asserts that self-determination is an integral part of a marginalized peoples struggle against exclusion from political power structure and justice,³⁹⁶ and means challenging the “majoritarian”³⁹⁷ notion of nation to make it inclusive and participatory.³⁹⁸ In the present context, self-determination includes systemic changes to ensure full enjoyment of rights and control over the lives and resources by all communities.³⁹⁹ Jayawickrama, therefore, rejects the qualification that peoples may exercise self-determination only when it is discriminated against and excluded from government on the grounds that it “ignores the supreme truth that all human communities are in a constant state of evolution. No particular political, social, or economic system or ideology can claim legitimacy for itself when it fails to provide the framework for such evolution.”⁴⁰⁰

A shared language of self-determination is a step towards building a shared future based on mutual respect. Respect in this context means a “reciprocal, shared, constantly interchanging principle which is expressed through all aspects of social conduct.”⁴⁰¹ While the language of self-determination encompasses a wide range of inclusive values and aspirations, in its praxis “it clearly lends itself to very particular translations and interpretations of what it would mean

³⁹⁵ Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), pp. 131.

³⁹⁶ Tapan Bose, General Secretary of South Asian Forum for Human Rights, in his response to Questionnaire 1 on June 1, 2011.

³⁹⁷ Ibid. Bose says it is unfortunate that the “histories of ‘nation states’ show that the ‘nation’ has become a majoritarian concept and demands virtually complete assimilation of all peoples into the constructed identity of nation.” He adds that “Minoritisation is inherent in any political system, whether authoritarian or democratic. It excludes those who do not conform to the majoritarian concept of the nation.”

³⁹⁸ Ibid. Bose cites the example of The European Union’s Framework Convention on protection of minorities, attempts to achieve this through strict adherence to a set of non-derogable rights, of minorities, creation of autonomous regions, devolution of political and economic power and a High Commissioner for National Minorities who has a EU wide jurisdiction to evaluate the situation of national minorities and recommend policy guide changes. The office of the High Commissioner also submits periodic reports to the European Parliament.

³⁹⁹ Ibid.

⁴⁰⁰ Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 363.

⁴⁰¹ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin’s Press, 1999), p. 120. Smith further observes that the “denial by the West of humanity to indigenous peoples, the denial of citizenship and human rights, the denial of the right to self-determination – all these demonstrate palpably the enormous lack of respect which has marked the relations of indigenous and non-indigenous peoples.”

locally.”⁴⁰² Since it is universal in scope, it requires specific articulation and “demands a localized, territorialized, and culturally specific expression.”⁴⁰³ Self-determination, therefore, relies on contextual interpretation over varied time and space⁴⁰⁴ so that a peoples’ aspiration for equality, justice and dignity needs to be based and embedded in creating conditions that allow this principle to manifest.⁴⁰⁵

Trust is the fundamental condition for realizing the right of self-determination between peoples⁴⁰⁶ which can be sustained with a commitment to inclusion, engagement and respectful dialogue. Therefore, the freedom to determine is not absolute, and needs to be “framed within the principles of ethical responsibility, respect and justice,”⁴⁰⁷ as well as, be “attuned to the other.”⁴⁰⁸ The right to self-determination is perceived as essential to attaining “morally-valued and socially-shared goals,”⁴⁰⁹ and is “not a right to be autistic, disregarding others completely.”⁴¹⁰ In view of the different kinds of conflicts taking place in the 21st century, Wati Aier, says self-determination has reached the age of responsibility which requires a common desire towards a shared future.⁴¹¹ The right to self-determination implies responsibility in which the notion of shared future rests on a shared humanity.

3. *A Perpetual Transformation*

Preferring to take a common sense approach to understanding its core energy and impulse, Lederach says, self-determination means a *voice* and *influence* in decision-making. He points out

⁴⁰² Cree activist Ted Moses quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 260.

⁴⁰³ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 261.

⁴⁰⁴ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁴⁰⁵ C. R. Bijoy in his response to Questionnaire 1 on July 14, 2010.

⁴⁰⁶ Erica-Irene A. Daes, “Striving for Self-determination for Indigenous Peoples,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 57.

⁴⁰⁷ Respondent A, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on June 3, 2011.

⁴⁰⁸ Respondent O, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on April 12, 2011.

⁴⁰⁹ Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 5.

⁴¹⁰ Galtung notes that in the same way “the right to free speech does not imply the right to disregard the consequences of exercising that right,” the right to self-determination needs to be exercised with responsibility without disregarding its consequences. Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 131.

⁴¹¹ Wati Aier, Convenor of the Forum for Naga Reconciliation in his interview on September 27, 2011.

that “voice” has an “aural, sonic, metaphoric base” and “reflects the idea that when people say they want a voice in the affairs that affects their lives, they are in part asking to be included in a space where meaningful conversation happens.”⁴¹² Lederach says, “Voice requires a proximity of process that includes people, who often feel at distance from the locus of conversation and the ensuing decisions.”

On the other hand, Lederach says “influence” suggests having “meaningful power.” Putting aside the notion of *power over*, he qualifies power as Boulding argued a *power with* - that is, “decisions are taken within and by the processes where those most affected by the outcome of those decisions have significant input into the ideas and options, have open and transparent sharing of relevant information, and access to and preparation for meaningful participation and decision making.” Lederach says this view suggests “a preferential option for participation, the local communities, and relationships of significant respect.”⁴¹³

Lederach’s approach to self-determination provides an understanding that empowers the unrepresented peoples to assert and take ownership of their *voice* and *influence*. It implies practical processes of engagement and dialogue are taking place simultaneously at different levels of society to make self-determination meaningful, as well as relevant. Since it is rooted in a bottom-up approach to self-determination, it provides the basis to confront the structures of domination which are based on *power-over* relations. The interplay of ‘voice and influence’ suggests a web of processes that makes self-determination a transformative praxis in which peoples’ rights become attainable through a system where relationships are based on *power-with* the people.

Jayawickrama points out that the essence of self-determination is a “free, genuine, and voluntary choice expressed through informed and democratic processes,”⁴¹⁴ which may be expressed by a peoples “from time to time in respect to their international status, as well as their domestic

⁴¹² John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame in his response to Questionnaire 2 on November 8, 2010.

⁴¹³ Lederach notes that a “power with” the people approach “has a healthy suspicion of centralized power and decision making controlled by ruling elites where decisions are made almost exclusively on top-down understandings of vision and policy.” John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁴¹⁴ Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 356.

political status.”⁴¹⁵ This notion of continuity was well articulated by E. Young, a British diplomat, who explained at the UN that “[s]elf-determination is not a single event – one revolution or one election. The exercise of this right is a continuous process.”⁴¹⁶ Furthermore, the Helsinki Final Act denotes self-determination as a right “all people always have.”⁴¹⁷

Self-determination is, therefore, not an end and cannot be restricted to a remedial component. Such a limitation would make it incapable of universal application. Self-determination is first and foremost a means towards humanization and human rights for all people which respects the multiple and overlapping spheres of human association and political ordering that characterizes humanity. Self-determination implies the freedom to evolve and participate⁴¹⁸ in their own institutions of their own free will and without coercion. It embodies the basic human aspiration for dignity,⁴¹⁹ and the freedom⁴²⁰ of any collective with a shared identity in a given area to determine their political status, and pursue their social, economic and cultural future.

A multi-cultural and shared language of self-determination provides a human face to the principle of the ‘highest order,’ derived from the “philosophical affirmation of the human drive to translate aspirations into reality.” When self-determination is no longer limited and shrouded in the complex domain of international law, it embodies a language that represents life-giving values and reflects the peoples’ aspirations. As an inherent right that all people pursue as they wish, with a heightened sense of responsibility, the exercise of creating a shared language of self-determination inevitably leads to a transformative praxis.

Self-Determination: A Transformative Praxis

Since self-determination is the freely expressed will and desire of a people, the language of self-determination is not limited to articulations expressed in spoken or written words, but includes attitudes, values, ethics and behaviors that are constantly transforming. Invariably, culture, as the

⁴¹⁵ Ibid.

⁴¹⁶ Ibid. E. Young, Representative of the United Kingdom is quoted in Nihal Jayawickrama.

⁴¹⁷ The “Helsinki Final Act” adopted by 35 European States in 1975, says, “by virtue of the principle of equal rights and self-determination of peoples, all people always have the right, in full freedom, to determine, when and as they wish, their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development.” As quoted in Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int’l L. (1993-1994) Issue 1, Fall 1993), p. 28.

⁴¹⁸ Xonzoi (Sanjay) Barbora in his response to Questionnaire 1 on July 5, 2010.

⁴¹⁹ Respondent M, a Naga man who did not wish to be named, in his response to Questionnaire 1 on April 2, 2011.

⁴²⁰ A number of those who participated in the data collection either through the questionnaire, interview or the focus group discussion referred to the right to self-determination as “freedom.”

culmination of human action needs to embrace the peoples' aspirations, and its manifestation depends on a peoples' ability to be self-expressing and self-determining. The praxis of self-determination is by nature, revolutionary, since its application usually implies radical transformation in which the *self* exercises its right to chart its own destiny with responsibility and in relation to all of humanity.

However, in its institutionalized life, self-determination rests on the historical legacies of what Lãm identifies as,

... the Westphalian-derived, and French Revolution-embellished, theory that the nation-state is the perfected form of political organization towards which political energy axiomatically aspires; the League of Nations practice of treating peoples not organized into states as wards of surrounding states or of the international community; the UN conceit that some geographies of subjugation are more equal than others; and finally, the UN practice of re-conceptualizing the 'less equal' instances of the subjugation of peoples as remediable individual human rights grievances.⁴²¹

Stavenhagen, however, urges that "there are simply far too many in the world for whom that last remedy misses the point." He says there are millions of human beings in dozens of countries in every part of the world who claim their own identity, their own right to an existence according to their values and forms of social organization.⁴²²

For these millions of unrepresented peoples in their constant struggle between humanization and dehumanization, the right to self-determination is, therefore, not so much a remedial objective or a political goal; rather, it is perceived as a process and a way of life to become fully human. Based on a peoples' expressed will and action to transform the world through their aspirations, the concept of self-determination denotes dynamism or in other words to be in a constructive process of perpetual transformation towards humanization. Self-determination, Smith notes, becomes,

... a goal of social justice, which is expressed through and across a wide range of psychological, social, cultural and economic terrains. It necessarily involves the processes of transformation, of decolonization, of healing and of mobilization as peoples.⁴²³

⁴²¹ Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 98.

⁴²² *Ibid.*, Rodolfo Stavenhagen as quoted in Maivãn Clech Lãm.

⁴²³ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 116. Smith locates self-determination as a part of a four major tides, which includes: survival, recovery, development and self-determination. She identifies them as the conditions and states of being through which indigenous communities are moving and further notes that the survival of peoples as physical beings, of languages, of social and spiritual practices, of social relations, and of the arts are all subject to some basic prioritizing.

In this 21st century, it is essential that self-determination reclaim its values as a humanizing process and a democratic imperative.

1. *A Basic Humanizing Process*

Humanity urgently requires a culture that is both responsive and responsible for human needs. For the praxis of self-determination to become a force for humanization, it is imperative that humanity directs its energies towards the “recreation of cultural alternatives informed by ancestral visions of a future that celebrates [all of humanity] and encourages the best of the human spirit.”⁴²⁴ Ani notes that true humanism is spiritual, not rational and adds that it is the recognition of the possibility of spirituality in human beings and in terms of concrete behavior.⁴²⁵ The freeing of spirituality rests upon a cultural reaffirmation that revives the ancient qualities in forms, which deal with the exigencies of the past, present and the future.⁴²⁶

A culture that embraces human needs should have the will-to-power demands for a world to be redefined in terms of power-relations. It is a culture that works for mode of balance and harmony where unity can be perceived even in ambiguity, contrast and inconsistency.⁴²⁷ Ani claims that such a culture itself is designed to be a humanizing force.⁴²⁸ Cultural independence with a corresponding intellectual decolonization, therefore, is crucial for humanization. July notes that a vigorous culture is an “essential prerequisite to political health and economic prosperity.”⁴²⁹

Freire views human beings as historically, culturally, and socially *existing*, and cannot just be simply *living*. Hence, he understands humans “only as beings who are makers of their ‘way,’ in the making of which they lay themselves open to or commit themselves to the ‘way’ that they make, and that, therefore, remakes them as well.”⁴³⁰ This reminds us that human beings are inherently makers of their own ‘way’ and capable of constantly remaking themselves according to their needs. However, it is the concept of self-determination alone which confers power on a

⁴²⁴ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc., 1994, 10th Edition 2000), p. 570.

⁴²⁵ *Ibid.*, p. 550.

⁴²⁶ Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), p. 201.

⁴²⁷ Marimba Ani, *YURUGU: An African-Centered Critique of European Cultural Thought and Behavior* (Trenton, NJ & Asmara, Eritrea: Africa World Press, Inc. 1994, 10th Edition 2000), p. 564.

⁴²⁸ *Ibid.*, p.566.

⁴²⁹ Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), p. 19.

⁴³⁰ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), p. 97.

people to make their own decisions, and, therefore, competent and entitled to develop a subjective response to its needs.

For this reason, Lãm points out that, self-determination straddles the realms of need and power. Whereas the concepts of “human rights and autonomy, on the other hand, represent responses to needs that emanate from an external vantage point, and confer no creative power as such on the needful party.”⁴³¹ Self-determination is, therefore, more than just a right; it is a basic human need, required to translate the peoples’ aspirations into concrete reality. Without exercising self-determination, people’s aspiration will remain illusive. Muehlebach informs that indigenous movements advocate that “self-determination should, in fact, be a prerequisite to the regulations of *all* social action and situations of cooperative interdependence.”⁴³² From this standpoint, the praxis of self-determination is the most basic and critical element to enable peoples to becoming fully human.

Based on an understanding of basic human needs theory and practice, Hart says self-determination is a human right and “is especially tied to the need to have and maintain one’s identity and that of one’s group; and maintaining nurturing this identity into the future.”⁴³³ He stresses that “identity is the thread that is woven through all basic needs” and when it is threatened, “other needs of safety, sense of purpose, even shelter and health are at risk.” Since identity, as the *self* possessing the right to self-definition, is the thread woven through all basic needs, self-determination empowers a people the right to be identified as they choose. This becomes the foundation from which all other rights can be enjoyed.

For instance, the Timorese exercised their self-definition and chose to be identified as East Timorese and not as Indonesian, based on which they determined their political status to be an independent country and to pursue their future. However, many unrepresented peoples such as the Tibetans, Kachins, Karens, Kurds, Tamils in Sri Lanka and others are denied their identity in a manner that would enable them to freely exercise their rights over their land and empower them to create and pursue a process towards a dignified future. Self-determination, therefore, is “clearly

⁴³¹ Maivãn Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 181-182.

⁴³² Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 253.

⁴³³ Barry Hart from the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

relevant, and regardless of the recognition that may or may not be accorded to it in particular cases, the concept relates to a fundamental feeling and need among the peoples of the world. It is a very prevalent aspiration and need that cannot be ignored.”⁴³⁴

Self-determination is clearly a basic human need and right⁴³⁵ which has become even more relevant today as the “interconnectedness of peoples across the globe has sparked awareness of the peoples that others have and the opportunities they have created for themselves.”⁴³⁶ Dan Buttry points out that this cross-cultural awareness stimulates peoples’ desires to be the shaper of one’s own destiny. Hector Gros-Espiell asserts that “the effective exercise of a people’s right to self-determination is an essential condition ... for the genuine existence of the other human rights and freedoms.”⁴³⁷ This affirms that self-determination is the most important of all human rights,⁴³⁸ and, hence, the essence in the struggle towards humanization.

Cindy Holder adds that self-determination is an essential condition for a people to determine “decisions together and for themselves” on how their “collective life develops and what future course it should take.” This, she says is what makes self-determination a “basic element of human dignity.”⁴³⁹ It is symbolic of the “central feature of global culture today,”⁴⁴⁰ and as a “protective and balanced relational modality of all peoples.”⁴⁴¹ Moses argues:

... self-determination is a prerequisite for the enjoyment of all the other rights and freedoms ... that encompasses all aspects of human development and interaction, cultural, social, political, and economic ... It is a complex of closely woven and inextricably related rights

⁴³⁴ Respondent I is an international lawyer, mediator, facilitator for interstate conflicts, who did not want to be named in his response to Questionnaire 4 on July 21, 2011.

⁴³⁵ Lisa Schirch, Professor of Peacebuilding at Eastern Mennonite University, Harrisonburg, Virginia, in her response to Questionnaire 2 on May 6, 2011.

⁴³⁶ Dan Buttry, a Global Consultant, International Ministries (ABC) in his response to Questionnaire 3 on February 15, 2011.

⁴³⁷ Hector Gros-Espiell quoted in Eric, Lord Avebury, “A Positive Legal Duty: The Liberation of the People of East Timor” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 221.

⁴³⁸ Denmark, Mexico, Ecuador, Costa Rica, Peru, Cuba, Guatemala, Finland and Norway are some of the states have begun to support the “unconditional right of self-determination of indigenous peoples and have called it a precondition for the full realization of their human rights. See Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 249.

⁴³⁹ Cindy Holder, “Self-determination as a universal human right,” (Human Rights Review, ISSN 1524-8879, 07/2006, Volume 7, Issue 4), p. 8.

⁴⁴⁰ Arjung Appadurai quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 242.

⁴⁴¹ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 243.

which are interdependent, where no one aspect is paramount over any other. It is a right that forms the basis of all other rights.⁴⁴²

Deer remarks that “without the right to self-determination, all the other rights have no grounding.”⁴⁴³ In essence, it implies that self-determination is the source or provenance from which all other rights originate and finding their contextual meaning. Article 1, paragraph 2 of the UN’s Charter clearly ensures that the “principle of equal rights and self-determination of peoples” is fundamental to human rights, as well as in strengthening universal peace. In this manner, self-determination represents the most basic need which subsequently enables all other rights, and, therefore, constitutes the most basic need for a peoples to become fully human.

2. *A Democratic Imperative*

When seen in the abstract, the concepts of self-determination and democracy⁴⁴⁴ can be quite easily misconceived as an end product. Yet, for a people seeking to exercise their self-determination and democracy, these concepts are not an end, but a means. In the case of unrepresented peoples, the dialectical interplay of self-determination and democracy are a basic and fundamental means towards their humanization. Muehlebach informs that “in the 1970s, the international community twice declared the apartheid state illegitimate on the grounds that self-determination was being withheld from the people of South Africa.”⁴⁴⁵ The apartheid State was countered with the concept of self-determination, and the dismantling of apartheid gave “rise to radical democratic reform.”⁴⁴⁶

In the present context, the confusion of democracy seems to lie in the problem that it is often presented as nothing more than a form of the state itself,⁴⁴⁷ and is reduced to “occasional electoral

⁴⁴² Cree activist Ted Moses quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 253.

⁴⁴³ Kenneth Deer, “An Indigenous Understanding of Self-determination,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 106.

⁴⁴⁴ Mao Tse-Tung in 1937, claimed “those who demand freedom and democracy in the abstract regard democracy as an end and not a means. Democracy as such sometimes seems to be an end, but it is in fact only a means.” Mao Tse-Tung as quoted in Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p. 18.

⁴⁴⁵ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), pp. 247-248.

⁴⁴⁶ Ibid.

⁴⁴⁷ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 13.

poll with secret ballots and multiple contending political parties.”⁴⁴⁸ William Connolly stresses, “democracy should be seen not only as a set of institutional arrangements, but also, and perhaps even primarily, as an attitude, a cultural disposition,” that “promote pluralism, tolerance and inclusion.”⁴⁴⁹ The exercise of self-determination becomes an imperative in reclaiming the essence of democracy as it is the right of all peoples to determine their future. This implies not merely the absence of a ‘tyrannical’⁴⁵⁰ state, but also the absence of structural violence, which creates conditions for democracy to exist as a means towards humanization.

While reiterating that denying self-determination is what leads to upheavals and conflicts, Stavenhagen notes the denial of self-determination is essentially incompatible with true democracy. He emphasizes that,

... only if the peoples’ right to self-determination is respected can a democratic society flourish, and only within a truly democratic framework, in which all other human rights are given due recognition, will the right to self-determination be freed from the ‘demon’ – real or putative – which now envelop it.⁴⁵¹

The praxis of self-determination as a fundamental principle of justice⁴⁵² is leading to a transformed understanding of relationships between marginalized peoples and the States in which they live. Erica-Irene Daes notes that this new understanding could lead to “more inclusive and democratic states in a situation where parts of the national population have been persistently excluded and marginalized.”⁴⁵³

⁴⁴⁸ Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 8.

⁴⁴⁹ William Connolly quoted in Ingrid Barnsley & Roland Bleiker, “Self-determination: from decolonization to deterritorialization,” (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), p. 133.

⁴⁵⁰ Hoffman refers to the word ‘tyrannical’ with the idea that democracy might promote ‘a tyranny of the majority.’ See John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 13.

⁴⁵¹ Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 8.

⁴⁵² Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 242.

⁴⁵³ Erica-Irene Daes quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 242.

This, however, is not the experience of many peoples, because “even anti-colonial struggles may produce structures of power that reproduce the inhumanity of the states they repudiate.”⁴⁵⁴ Mortimer Sellers points out that “human rights may challenge democratic mandates ... democracy may threaten human rights ... or democracy may threaten itself as new “peoples claim autonomy from old nations and empires.”⁴⁵⁵ An example of these contending contradictions is sufficiently evident in the Indian State where human rights groups continue to challenge State legislation such as the Armed Forces Special Powers Act.⁴⁵⁶

This Act is responsible for violations of human rights on ordinary Naga people, as well as in other areas where people are asserting their right. However, various agencies of the Indian State legitimize the validity of the Act as being necessary to protect State sovereignty as a democratic republic. Ironically, this has not only undermined India as a democratic State, but has increased people’s assertion that challenges India’s legitimacy over them. This irony lies in its history. India as a modern State emerged by exercising its right to self-determination against the British Colonial powers. However, like most colonial experience, self-determination was limited to granting sovereignty and the transfer of power, and while India’s political status changed, it retained much of the British colonial structures. By denying self-determination to the “cultural others,” India’s experiment with democracy is restricted to nothing more than a form of the state itself.

Self-determination “postulates the right of a people organized in an established territory to determine its collective political destiny in a democratic fashion, and is, therefore, at the core of the democratic entitlement.”⁴⁵⁷ Hence, the very idea of democracy is held to be largely identical with self-determination.⁴⁵⁸ Anaya points out that “self-determination comprises a standard of

⁴⁵⁴ Arif Dirlik is quoted by Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 85.

⁴⁵⁵ Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), pp. 1-2.

⁴⁵⁶ The Armed Forces Special Powers Act (AFSPA) was initially introduced in 1958 by the Indian Parliament, and later amended in 1972. It was enacted as a response to the Naga peoples desires to exercise their self-determination. The AFSPA is virtually identical to the Armed Forces Special Powers Ordinance which was introduced by the colonial British power in 1942 to quell the ‘Quit India’ movement.

⁴⁵⁷ Hurst Hannum, “Rethinking Self-Determination,” (Virginia Journal of International Law 34 Va. J. Int'l L. (1993-1994) Issue 1 Fall 1993), pp. 7-8.

⁴⁵⁸ Hent de Vries & Samuel Weber’s Introduction in Hent de Vries and Samuel Weber (ed.), *Violence, Identity, and Self-Determination* (Stanford, California: Stanford University Press, 1997), p. 1.

governmental legitimacy within the modern human rights frame.”⁴⁵⁹ He identifies two aspects of substantive self-determination. The first called *constitutive* aspect requires “that the governing institutional order be substantially the creation of processes guided by the will of the people, or peoples, governed.” The second called *ongoing* aspect requires, “the governing institutional order, independently of the processes leading to its creation or alternation, be one under which people may live and develop freely on a continuous basis.”⁴⁶⁰

Through these two aspects, Anaya not only differs with the dichotomy of self-determination into “internal and external,”⁴⁶¹ but asserts that the relationship on which self-determination is a democratic imperative in the search for humanization. While the process of identifying common interests is essential for self-determination, the exercise of democracy involves recognizing both differences, as well as the existence of common interests. This recognition enables people with different identities to “change places [because] to emphasize one at the expense of the other takes us back to the monopolistic and divisive practices of the state.”⁴⁶² Integral to the idea of democracy is for unrepresented peoples struggling for humanization to look beyond the State, if not, it is in danger of becoming the very system it intended to change. The failure of former colonies like India to look beyond the State meant that an independent Indian continued with most of its pre-existing colonial structures and laws.

⁴⁵⁹ Anaya further points out that “self-determination entails a universe of human rights precepts extending from core values of freedom and equality and applying in favor of human beings in relation to the institutions of government under which they live.” S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 81.

⁴⁶⁰ *Ibid.*, pp. 81-82. Anaya says the *constitutive* aspect of substantive self-determination “comprises a standard that enjoins the occasional or episodic procedures leading to the creation of or change in institutions of government within any given sphere of community.” He points out that the *constitutive* aspect of self-determination “corresponds with the provision common to the international human rights covenants and other instruments that state that peoples “freely determine their political status” by virtue of the right to self-determination.” Anaya says the *ongoing* aspect of substantive self-determination “continuously enjoins the form and functioning of the governing institutional order.” He adds that the *ongoing* self-determination “requires a governing order under which individuals and groups are able to make meaningful choices in matters touching upon all spheres of life on a continuous basis. In the words of the self-determination provision common to the international human rights covenant and other instruments, peoples are to ‘freely pursue their economic, social and cultural development.’”

⁴⁶¹ For details see S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 81. Also, the Sami international lawyer, Gudmunder Alfredsson, rejects the term “internal self-determination” stating that “political rights, political participation and autonomy certainly enhances equality for and dignity of indigenous peoples, but they fall short of granting the right of self-determination and the international law-makers are not willing to grant that right. I am inclined to believe that we should call the rights offered by their correct names and not try to advance their image by doubtful labeling.” As quoted in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 62.

⁴⁶² John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 14.

In this manner, the inter-play of self-determination and democracy in their true embodiment are interrelated affirmations that enable recognizing all peoples and ensuring their participation in their effort to becoming fully human. The Unrepresented Nations and Peoples Organization⁴⁶³ (UNPO) asserts that the right of self-determination is inseparable from democracy.⁴⁶⁴ Self-determination and democracy can exist in conditions of real cultural pluralism and diversity only if it looks beyond the absolutist and monopolistic State institutions. Since democracy is a concept that postulates popular self-government, Hoffman declares “there can be *no* democratic practice which does not challenge the hierarchies of the state.”⁴⁶⁵

Conclusion

A shared language of self-determination respects the cultures and aspirations of the ‘cultural others,’ opens to new understandings of self-determination, identifies and recognizes new problems, as well as offers new and creative options for peacebuilding. In this praxis, self-determination is not limited to a remedial aspect or to certain conditions of privilege. It is universal in scope and relies on a contextual interpretation over time and space so that a peoples’ aspiration for equity, justice and dignity needs to be embedded in creating conditions that make this principle manifest into reality. Self-determination from this pluralistic form implies respect, responsibility and a ‘right’ which means ‘right relationship’ with the ‘cultural others.’ In the 21st century, self-determination seeks to reclaim its humanizing values that are necessary for strengthening democracy.

⁴⁶³ The Unrepresented Nations and Peoples Organization (UNPO) is an international, nonviolent, and democratic membership organization. Founded in 1991, at the Peace Palace in The Hague, UNPO is unique as an international organization in that it is built entirely by its Members, who are comprised of indigenous peoples, minorities, and unrecognized or occupied territories that have joined together to protect and promote their human and cultural rights, to preserve their environments, and to find nonviolent solutions to conflicts which affect them. The five principles enshrined in the UNPO Covenant are: nonviolence, human rights, democracy and self-determination, environmental protection, and tolerance. For details, see www.unpo.org.

⁴⁶⁴ UNPO argues, “if democracy includes the right to the people to chose by whom they are to be governed and under what political system or ideology, then surely it must of necessity include the right to choose whether to be ruled by one’s own leaders, belonging to the same people or territory or by external leaders, belonging to another people or territory, often with traditions, cultures and values that are different.” It asserts that “a people should have the opportunity to elects its own leaders, those it trusts, rather than being compelled to accept leaders and systems chosen by a different, dominant and often more numerous people to suit their own interests.” See, “The Question of Self-Determination: The cases of East Timor, Tibet and Western Sahara,” (UNPO Conference Report: Palais des Nation, United Nations, Geneva, March 25-26 1996), p. 5

⁴⁶⁵ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 205.

At its core, self-determination is a liberating concept and is, therefore, expected to “equally contribute to peace and security in the world.”⁴⁶⁶ If the UN is sincere about promoting and fulfilling its purposes to secure a world peace and human security; it needs to accommodate the viewpoints and language of unrepresented peoples. Self-determination as a means of further “democratization of the UN and the international system can only lead to ending conflict” and granting peoples their right.⁴⁶⁷ This historical experience illuminates the UN’s need to muster the moral courage in respecting and legitimizing a language of self-determination which embodies the evolving culture of all humanity, and the political will to expand its imagination while recognizing the right of self-determination for all peoples. Such an approach will empower the UN, States and Peoples to “work together to develop frameworks to clarify issues of self-determination, as well as, for the peaceful ventilation, initiation or resolution of conflicts based on claims of self-determination.”⁴⁶⁸

Self-determination is “an *idée* force of powerful magnitude, a philosophical stance, a moral value, a social movement, a potent ideology.”⁴⁶⁹ Since, it is a right that belongs to peoples, the decisiveness of its praxis will remain in the hearts and minds of ordinary people. For this reason, self-determination will not wither away. So long as peoples are the *self* that guides determining the *right*, the language of self-determination will continue to be relevant in the search for humanization.

⁴⁶⁶ Point 12 of “The Saskatoon Statement on Self-Determination” Adopted by Substantial Majority at the Martin Ennals Memorial Symposium on Self-Determination, Co-sponsored by the College of Law, University of Saskatchewan and International Alert, Saskatoon, Saskatchewan, Canada, March 3-6, 1993.

⁴⁶⁷ Francis Mackey & Joe Dillon, “Self-determination & the Irish Question,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 180.

⁴⁶⁸ Kumar Rupesinghe, “Conflict Resolution: Current Options and New Mechanisms” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 339.

⁴⁶⁹ Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 2.

Self-Determination as a Resource for JustPeace

Introduction

In the previous chapter the evolving synthesis of a shared language of self-determination firmly calls for a shift from “state-determination to peoples-determination” in which the *self* in self-determination embodies all of humanity having the right to *self-definition*, and to be makers of their own destiny. The emergent praxis of self-determination is revolutionary, since its application implies radical transformation and is the most basic and critical element for a peoples to becoming fully human.

Self-determination is a democratic imperative crucial in challenging the hierarchies of State structures and creating the pluralistic conditions needed for humanization. Through its praxis a new understanding of relationships can evolve between unrepresented Peoples and the States in which they live. This praxis supports a bottom-up approach in which a peoples’ capacity to decide their own future can be creatively imagined in appropriating or reproducing the “unreconstructed state.” Invariably, a shared language of self-determination is an integral part of the human search for dignity, and one that places humans in the center of the humanizing process.

Based on self-determination’s evolving synthesis, it is fundamental to revisit the UN’s vision to “develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace.” Woodrow Wilson said that “self-determination is not a mere phrase. It is an imperative principle of action, which statesmen will henceforth ignore at their peril.” Ironically, many statesmen have ignored Wilson’s perceptive caution which has led to needless conflict and human suffering. Unfortunately, Wilson’s assertion that “national aspirations must be respected; people may now be ... governed only by their own consent,” continues to be ignored.

The relationship between self-determination and JustPeace demonstrated by prevailing conflicts between States and Peoples often results in protracted and violent conflicts. Unresolved conflicts around issues of self-determination are among the “biggest challenges in global politics.”⁴⁷⁰ Today, the challenge before the UN and the world community is to find ways to arrive at a

⁴⁷⁰ Ingrid Barnsley and Roland Bleiker, “Self-determination: from decolonization to deterritorialization,” (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), p. 121.

respectful settlement through “peaceful means, and in conformity with the principles of justice and international law.” From the perspective of justice and peace it is argued that,

... no nation should be forced to choose between the status quo and total independence because alternatives are not offered, and no nation should be forced to choose between acquiescence and violence because their right is not recognized.⁴⁷¹

Galtung questions, “Whether, under what circumstances and to what extent, the right to self-determination can serve as a mechanism for conflict resolution, or at least transformation?”⁴⁷² He urges that “the right to self-determination must be linked to a duty to conflict transformation,”⁴⁷³ and insists that “adequate conflict transformation becomes a right, not only a duty.”⁴⁷⁴ While history has demonstrated that humankind has not come closer to creating a world of JustPeace, it is pertinent to explore whether a shared language of self-determination will enable humanity to come closer to ending a history of domination and exploitation.

This chapter examines the relationship between the denial of self-determination as a cause of conflict, recognizing self-determination as a language of JustPeace, and its duty in transforming conflicts, as well as, going beyond the Westphalian World Order in the search for JustPeace.

Denial of Self-Determination and Conflict

Many of today's violent and persistent conflicts are between States and unrepresented Peoples that are characterized by the lack of peoples' self-determination and an acute power imbalance, which reflects the presence of incompatible interests around the questions of equality and rights. This conflict of interest epitomizes the inherent contradictions present within the modern State in which the struggle between power, on one hand, and rights, on the other, is a constant feature. Whereas, States seek to secure and establish their legitimacy over peoples within a defined territory through the use of force and coercion, Peoples seek to effectively exercise their rights to further their quality of life and to be fully human. Therefore, while self-determination is a right attributed to Peoples, human experiences demonstrate how States have reduced the scope of self-determination both in its meaning and application.

⁴⁷¹ Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” in Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 141.

⁴⁷² Ibid., pp. 127-128.

⁴⁷³ Ibid., p. 134.

⁴⁷⁴ Ibid., p. 141.

In such a struggle, when a people is seeking to exercise their rights and to freely determine their future, or at least to ensure that it is not further reduced, it invariably means the State's legitimacy is challenged and their control over the people is narrowed considerably. For instance, while the Karen people in Burma are seeking to freely exercise their inherent and inalienable rights and to live in dignity, the Burmese State perceives this as a threat to their legitimacy and supremacy. The Burmese State further fears that recognizing the Karen peoples' rights would impinge on its control over the Kachins, Shans, Chins and the many other peoples in Burma that are also seeking to exercise their rights. Subsequently, with its legitimacy in question, the Burmese State uses force to suppress and control the people through denying them their most basic rights to live in dignity.

The present modern State functions on such a confrontational model and "usually with a great deal of fear."⁴⁷⁵ This only gives rise to conflicts between States and Peoples, and similar examples like the Tamils in Sri Lanka, Palestinians, Kurdish, Kashmiris, Nagas, among many others, illustrates the danger posed to attaining humanization. States have options in addressing the right to self-determination. Eileen F. Babbitt observes that States can either negotiate to achieve a peaceful resolution (e.g., the Czech Republic and Slovakia; Spain and Catalonia); or they can refuse to acknowledge the legitimate right of the people (e.g., Russia in Chechnya; Turkey and the Kurds).⁴⁷⁶ She points out that the latter approach by States often escalates the conflict, sometimes resulting in armed confrontation that is likely to become intractable.⁴⁷⁷ Such conflicts often drag on for an extended period, sometimes for decades, without being able to construct a path to settlement.

Contested issues around self-determination do not need to lead to violence and armed confrontation. The primary responsibility lies with the State to either uphold the right to self-determination in both thought and action, or to deny self-determination. However, when the state-centric approach to self-determination denies it as a right in its full embodiment, such a denial is the root cause of many conflicts in the world today. Lederach points out that the denial of self-

⁴⁷⁵ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁴⁷⁶ Eileen F. Babbitt, "Self-Determination as a Component of Conflict Intractability: Implications for Negotiations" in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Book, 2006), pp. 115-116.

⁴⁷⁷ *Ibid.*, p. 116.

determination has “rather consistently led to conflict and violence, where control aimed at eliminating historic aspirations eliminates people but not the aspiration.”⁴⁷⁸

He says, control increases forms of State violence, and, often sporadic, if not openly sustained forms of violent response. While States see “little alternative to violent repression,” self-determination movements see “no alternative to an armed struggle” in order to achieve their aims.⁴⁷⁹ Self-determination conflicts in many cases become violent, and are at times likely to spread regionally when there are no peaceful mechanisms for pursuing these claims and reconciling competing ones through the process of negotiation.⁴⁸⁰ When the Naga freedom movement began it was the only struggle in the Indian sub-continent, since then more struggles for self-determination have begun throughout the region. Self-determination conflicts are among the “most persistent and destructive forms of warfare,”⁴⁸¹ and it was estimated that the twenty six (26) ongoing self-determination conflicts in 2009, had already lasted for twenty seven (27) years on average.⁴⁸²

In the post-Cold War era, self-determination conflicts have been one of the major causes of the world’s humanitarian crises.⁴⁸³ The denial of self-determination which is usually enforced through the use of force is justified by the State as it claims to involve peoples and territory internal to an existing State, and, therefore, is characterized as domestic.⁴⁸⁴ On the other hand, peoples assert they have not expressed their consent, the will to be part of that political entity, and feel entrapped within ‘artificial boundaries’ arbitrarily imposed upon them. Some examples where peoples are denied self-determination for this reason are: Kurds who live in a contiguous area of Turkey, Iraq, Iran, Armenia and Syria; Nagas who live in contiguous areas of northeast India and northwest Burma.

⁴⁷⁸ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁴⁷⁹ Marc Weller, “Settling Self-determination Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009), p. 114.

⁴⁸⁰ Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), p. 452.

⁴⁸¹ Marc Weller, “Settling Self-determination Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009), p. 111.

⁴⁸² Ibid., p. 114.

⁴⁸³ Wolfgang Danspeckgruber in his Introduction in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 1.

⁴⁸⁴ David B Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 263.

Hart, while agreeing that the “denial of self-determination is the source of conflict,” clarifies by using the term “complex conflict,” since conflict is an everyday occurrence. Complex conflicts, he says “mainly occur when there is a shaming function in place and is often related to structural violence, e.g., occupation of land or territory, economic deprivation, lack of access to resources, political dominance and related inequality, etc.” James Gilligan adds that shame is a major source of violence, possibly the source of it.⁴⁸⁵ Hart notes that people who are without a dignified “*self*” as determined by their identity and worldview usually find themselves caught up in violent structures that oppress and denigrate, and they in turn then often use violence to express their rejection of this shame and identity manipulation.⁴⁸⁶

Denying peoples’ identity and collective personality is “a cruel act of humiliation ... and humiliation is said to be the nuclear bomb in human relations from the personal level to the international level. Sooner or later it explodes.”⁴⁸⁷ Brendan O’Leary observes, “people voluntarily kill, or die, for collective causes expressed in words that register their group’s esteem, dignity and honour. Actions that provoke and rekindle resentment are catalyst of violence.”⁴⁸⁸ He asserts that group-honour often provokes more violence than considerations of material self-interest or material group-interest.

The contradictions within the modern State system through their policies and actions over questions of legitimacy⁴⁸⁹ and rights, such as the Israeli-Palestinian situation, have led to conflicts that have turned violent, deeply polarized and have created a perception that one’s survival can occur only at the expense of the other, thereby reducing possibilities for a peaceful settlement. Unrepresented peoples are constantly seeking to reset the terms of unequal political relationships or to re-evaluate the existing distribution of power and representation, or, in some cases, struggling to re-establish their political independence and preserve their separate national

⁴⁸⁵ James Gilligan is quoted by Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

⁴⁸⁶ Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

⁴⁸⁷ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

⁴⁸⁸ Brendan O’Leary, “Mission Accomplished? Looking Back at the IRA,” (Field Day Review I, 2005), p. 217.

⁴⁸⁹ Xonzo Barбора points out that in a context where “the State itself is in question – like the former Yugoslavia – the State has sub-contracted its capacity and power of coercion to highly developed non-state actors, who mime the state in every way possible.” This he claims has led to an expansion of violence that is both State-sponsored and private. Xonzo Barбора, an independent researcher, in his response to Follow-up Questionnaire on May 15, 2011.

identities eroded through Western colonialism.⁴⁹⁰ In this context, the State is “revealed as the nexus of conflicting social forces where the powerful, by definition, dominate, but are restrained from pushing abuse to the point where it jeopardizes the survival of society itself.”⁴⁹¹

Erin Jenne argues that “wars over self-determination tend to be bloodier and more protracted than other civil conflicts and a recipe for a ‘never-ending’ cycle of violence.”⁴⁹² On the other hand, Paul Collier and Anke Hoeffler point out that “self-determination is presented as the solution to the challenge of peaceful coexistence between distinct peoples.”⁴⁹³ Nonetheless, Hannum cautions that “the meaning of self-determination will always depend on one’s own perspective, and it will continue to be manipulated by politicians to justify their quest for power.”⁴⁹⁴ Freire provides a human perspective that while “the violence of the oppressors prevents the oppressed from being fully human, the response of the latter to this violence is grounded in the desire to pursue the right to be human.”⁴⁹⁵ The dialectical relationship between self-determination, conflict and peace⁴⁹⁶ can best be understood in its true sense within the context of each particular case.

Lederach while affirming that self-determination seeks the qualities of inclusivity, participation, trustworthy and respectful relational engagement and cooperative decision making, points out that “conflict emerges as much if not more from poor process, that is, from decision making that is not inclusive, open and transparent, and provides space for people to shape the communities and relationships they live in and with.”⁴⁹⁷

⁴⁹⁰ Gerald R. Alfred, *Heeding the Voices of Our Ancestors: Kahnawake Mohawk Politics and the Rise of Native Nationalism* (Toronto: Oxford University Press, 1995), p. 10.

⁴⁹¹ Rodolfo Stavenhagen quoted in Maivân Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 168.

⁴⁹² Erin Jenne, “National Self-Determination: A Deadly Mobilizing Device” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 29.

⁴⁹³ Paul Collier and Anke Hoeffler, “The Political Economy of Secession” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 37.

⁴⁹⁴ Hurst Hannum, “Self-Determination in the Twenty-First Century” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 77.

⁴⁹⁵ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 38.

⁴⁹⁶ On the relationship between self-determination, conflict and peace, Iralu, a Naga elder holds the view that Conflict and Peace are by-products of the values we worship, our thinking and behavior. He says “the right to demonstrate what self-determination means provides the *opportunity* for a people to show what life and society can and is meant to be.” Iralu further points out that if this *opportunity* is utilized correctly and properly, the result is peace, stability and all-round growth, however if the *opportunity* is abused, the inevitable consequence is conflict. Niketu Iralu, Member, Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

⁴⁹⁷ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

Self-determination as a right is,

... the key is to assure the centrality of including and protecting those who historically and currently may be most marginalized and with the fewest platforms to engage these qualities successfully with those who have been historically more privileged and beneficiaries of existing power structures.⁴⁹⁸

According to Lederach, “the impulse to participate, provide balance and equality, access and transparency, fairness and voice” often results in conflict.

The lack of an effective mechanism to address the contending forces of *denial* by the State and the Peoples’ *impulse* intensifies the conflict, which is further encouraged due to the absence of a consensus and a common approach to issues of self-determination. Falk suggests that self-determination is “only partially a matter of legal craftsmanship and analysis” in areas “where entrenched interests and power seek to maintain the status quo to the fullest extent possible.”⁴⁹⁹ The denial of self-determination is to refuse peoples their “fundamental right to decide their own political relationship and future with the state.”⁵⁰⁰ This leads to simmering conflicts which are rooted in the most basic forms of human identity, human dignity and human need. Neingulo Krome puts this denial into perspective, that, “because people are bound to pursue what they want and when they are denied their rights, it is only human to seek any course of action to realize their aspirations.”⁵⁰¹

Peoples engaged in the struggle for self-determination converge around the idea that their various experiences and destinies are joined by the common resolve that their future depends upon exercising self-determination as a basic humanizing need. Barbora reminds us that “historically, self-determination is a right that has been wrested by peoples and nations, from their oppression through systemic acts of collective violence, and as long as those who wield power and control institutions of the State refuse to dialogue with those demanding self-determination, there will be no peace.”⁵⁰² Consequently, it is unlikely for any reconciliation between States and Peoples to

⁴⁹⁸ Ibid.

⁴⁹⁹ Richard Falk is quoted in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. xviii.

⁵⁰⁰ Mary Ellen Turpel, “The Cultural Non-Homogeneity of Quebec: Secession, Indigenous Legal Perspectives and Inseparability” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 298.

⁵⁰¹ Neingulo Krome, an activist with the Naga Peoples Movement for Human Rights, in his interview on April 26, 2011.

⁵⁰² Xonzoi Barbora, an independent researcher, in his response to Questionnaire 1 on July 5, 2010.

take place without considering and respecting self-determination and the practical application of the right on a case-by-case basis.⁵⁰³

Although there is the option of achieving a negotiated settlement, Marc Weller informs, that out of the “78 self-determination conflicts since the end of World War II only a handful were settled during the Cold War; most either ended in a decisive victory for the government or led to a protracted and mutually damaging stalemate.”⁵⁰⁴ This difficulty “arises from the failure of the United Nations to make the right justifiable, or to impose any penalties on those who violate it.”⁵⁰⁵ Lacking a mechanism to assert the right to self-determination means that “large and powerful states can flout it with relative impunity.”⁵⁰⁶ Since there is no authoritative body within the UN addressing the issue of self-determination, “small oppressed peoples” usually “have no other alternative but to resort to armed struggle,⁵⁰⁷ however unequal the odds may be.”⁵⁰⁸

Karen Parker laments, “unfortunately, many of the states involved in attempting to militarily obliterate the peoples with valid self-determination claims try to reduce these conflicts to terrorism.”⁵⁰⁹ Denying self-determination has often resulted in direct violence, structural violence and cultural violence. Divide and rule still operates as the most basic strategy employed by the State for dealing with peoples seeking to exercise their self-determination because, unfortunately it still works.⁵¹⁰ Freire shares his insight that “violence is initiated by those who oppress, who exploit, who fail to recognize others as persons – not by those who are oppressed, exploited and

⁵⁰³ See Richard Falk’s Foreword in Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. xvi.

⁵⁰⁴ Marc Weller, “Settling Self-determination Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009), p. 114.

⁵⁰⁵ Lord Avebury Eric, “A Positive Legal Duty: The Liberation of the People of East Timor” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 221.

⁵⁰⁶ Ibid.

⁵⁰⁷ The UN General Assembly has reaffirmed “the legitimacy of the struggle of peoples for independence, territorial integrity, national unity and liberation from colonial and foreign domination and foreign occupation by all available means, particularly armed struggle” on 29 November 1978 through UNGA Resolution 33/24. This resolution focuses on issues around the “Importance of the universal realization of the right of peoples to self-determination and of the speedy granting of independence to colonial countries and peoples for the effective guarantee and observance of human rights.”

⁵⁰⁸ Lord Avebury Eric, “A Positive Legal Duty: The Liberation of the People of East Timor” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), pp. 221-222.

⁵⁰⁹ Karen Parker, “Understanding Self-determination: The Basics,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC, 2000), p. 71.

⁵¹⁰ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin’s Press, 1999), p. 99.

unrecognized. It is not the unloved who initiate disaffection, but those who cannot love, because they love only themselves. It is not the helpless, subject to terror, who initiate terror, but the violent, who with their power create the concrete situation which begets the rejects of life.”⁵¹¹

State violence is invariably more severe in its consequences than reactionary violence, because the state usually has greater force at its disposal than guerrilla forces.⁵¹² The violence unleashed by the Sri Lankan government against the LTTE is a reminder of the extent to which the state would go to ensure its legitimacy through the use of force. The irony is not lost that despite the military victory over the LTTE, the desire for permanent and sustainable peace in Sri Lanka has not yet been attained. The Tamil people’s aspiration for self-determination remains unresolved and unaddressed, and its continued denial remains an ongoing source of conflict. A just solution is possible when the root causes of the conflict, which began when the Tamil people were denied their rights, including their right to existence as a people are addressed and recognized.⁵¹³ The experience of the Tamil people in Sri Lanka demonstrates that self-determination cannot be solved militarily.

Gerry J. Simpson says, “the right of self-determination has been invoked more than any other collective human right, it is evident that ‘success in defending or asserting collective political and cultural rights,’ depends on “the visibility of the cause of the exercise of violence in support of the claim.”⁵¹⁴ Historical experiences clearly indicate that the international community on most occasions becomes involved and intervenes in disputes over self-determination only when there is already a threat to peace and security. Stavenhagen notes the irony that,

... it is usually only when a subjugated people become more organized enough to be able to inflict violence, as in a national liberation movement, that the United Nations, a peace-

⁵¹¹ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 37.

⁵¹² Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 232.

⁵¹³ S.V. Kirubaharan, a Tamil human rights activist, points out “the roots of the war started in cruel and severe denial of fundamental rights including the right to existence of the Tamil people ... therefore the seeds of peace must be planted in a truly just solution which names the denial of these rights and recognizes the right of the Tamil people to freely determine their own political status, in other words, their right to self-determination.” S.V. Kirubaharan, “Human Rights & Self-determination of the Tamil People of the Island of Sri Lanka,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 174.

⁵¹⁴ Gerry J. Simpson, “The Diffusion of Sovereignty: Self-Determinations in the Post-Colonial Age” in Mortimer Sellers (ed.), *The New World Order: Sovereignty, Human Rights, and the Self-Determination of Peoples* (Oxford, UK: Berg, 1996), p. 35.

building organization, moves to recognize it as a people for purposes of self-determination.⁵¹⁵

Hoffman cautions, “to imagine that international law and global agencies could bring about an orderly world while *radical* conflicts of interest remain would be merely naïve.”⁵¹⁶

Boutros Boutros-Ghali, the sixth Secretary-General of the United Nations, in his 1992 report: “An Agenda For Peace: Preventive Diplomacy, Peacemaking And Peace-Keeping,” more commonly known as *An Agenda for Peace*, identified human rights as one of the solutions in response to conflicts in the post-Cold War world. The irony of this statement lies in the fact that self-determination though recognized as a ‘right’ of all peoples through the UN General Assembly Resolution 1514 in 1960 and subsequently affirmed in the two International Human Rights Covenants in 1966, has rarely been presented as a peaceful solution to conflicts between States and Peoples. Rather, States have reconstructed the language of self-determination in such a narrow way to protect its own interests. For instance, Bangladesh in 1971, exercised its self-determination to become an independent country, but denied the right to the people of the Chittagong Hill Tracts. The UN’s inability to uphold the right to self-determination of all peoples has encouraged conflict and undermined its purpose to promote world peace.

When the right is suppressed by a sovereign State, the dominant practice indicates that the international community tends to support the State’s territorial integrity until a war of independence is successful.⁵¹⁷ How long will the policy and practice of settling the problem on the battlefield continue? Prince Hans Adam II of Liechtenstein cautions, “if the international community does not change its present policy, we will probably see the collapse of more large states in civil wars.”⁵¹⁸ Hans Köchler points out that “insisting on the status quo may well lead to the destabilization of entire regions – with uncontrollable consequences for global peace.”⁵¹⁹ Rupesinghe further notes that, “while there are risks involved in reforming the international

⁵¹⁵ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 151.

⁵¹⁶ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 191.

⁵¹⁷ See the Foreword written by Prince Hans Adam II of Liechtenstein in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. xi.

⁵¹⁸ *Ibid.*

⁵¹⁹ Hans Köchler, “Self-determination as a means of Democratization of the United Nations and the International System,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 139.

system to taking into account demands for self-determination,⁵²⁰ he cautions that “the greater danger for the global community lies in clinging to an unresponsive *status quo*.”⁵²¹

Unrepresented peoples seek justice in their relations with the State which involves restoring genuine respect that will empower them to create a framework of respectful and harmonious coexistence in both thought and action based on acknowledging their right to self-determination. This relational form of justice is essential to JustPeace, since it explicitly allows for differences while promoting the construction of just relationships,⁵²² and genuine respect for the power and dignity of each part throughout the circle of interdependency.⁵²³ Given that no region in the world is immune from conflicts due to the denial of self-determination, it is evident that there is a need to develop processes and mechanisms that address conflicts through nonviolent means. With the end of the Cold War, the idea of *settlement* has become an attractive option to the conflicting parties. While pursuing settlement it is important to recognize that denying the right to self-determination leads to conflict. This increases the need to explore peacebuilding approaches through nonviolent means using existing structures that enable diplomacy, mediation and dialogue.

Transforming Self-Determination Conflicts

Imagine for a moment that States, the UN and the international community were to implement self-determination not on political expediency, but on a moral political position by giving it primacy over State territorial integrity and recognizing that a people are entitled to freely determine their political status. From the context of conflict and peace, it will lead to dramatic consequences where the most direct implication would mean that it will no longer be necessary to use any form of violence as tools to either deny or assert self-determination.⁵²⁴ Such an

⁵²⁰ Kumar Rupesinghe, “Conflict Resolution: Current Options and New Mechanisms” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 353.

⁵²¹ Ibid.

⁵²² Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 63.

⁵²³ Ibid., p. 42.

⁵²⁴ According to Jayawickrama the consequences are: The first “will introduce a fair and just rule of law which recognizes the dignity of the individual and accords him or her equality of status in all respects with other fellow beings. Secondly, it will make unnecessary for a minority ethnic group to allege discrimination by the State as the basis of its claim for self-determination and will, therefore, remove one of the primary causes of communal friction that exists today. Thirdly, acceptance of this principle will mean that it will no longer be necessary to resort to terrorism or other forms of violence simply to assert the right to self-determination.” Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-*

imagination implicates the future of unrepresented peoples. As an independent entity, unrepresented peoples will need to re-examine their positions in political, social, and economic terms as they look to a future of long term sustainability, stability and peace.⁵²⁵

In this probable scenario the unrepresented peoples, therefore, have the option to craft a comprehensive road-map to independence using an organized, democratic and nonviolent approach, or to remain within the existing State based on the terms negotiated, and, thereby creating conditions towards a dignified co-existence.⁵²⁶ In either case, the outcome should be the result of clear, free and well-informed choice that emerges through a participatory democratic process.⁵²⁷ This imagination brings to public expression that at its root, the implementation of genuine self-determination is an essential ingredient of peacebuilding. For this reason, Jayawickrama points out the “urgency for international law to recognize and apply this principle in practice if recurring violence is not to be the predominant feature of life.”⁵²⁸

History has, however, demonstrated that States, international law and international organizations have upheld States’ territorial integrity and sovereignty over and above a peoples’ right to determine their political future. The UN’s approach to self-determination was framed to apply only in the classical and narrowly defined circumstances of ‘Blue Water thesis’ and colonialism.⁵²⁹ This approach has been responsible for much conflict and human suffering.

Determination: International Perspectives (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 364.

⁵²⁵ Ibid.

⁵²⁶ Ibid. Jayawickrama says that such acts of “Co-existence will be a voluntary act as in the case of Switzerland, and not under compulsion, whether by the imposition of an autocratic ideology as was the case in both Yugoslavia and the Soviet Union, or by force of arms as in the case of Sri Lanka.”

⁵²⁷ “The Question of Self-Determination: The cases of East Timor, Tibet and Western Sahara,” (UNPO Conference Report: Palais des Nation, United Nations, Geneva, March 25-26 1996), p. 9.

⁵²⁸ Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 365.

⁵²⁹ Weller observes this restricted form leaves unaddressed three principal types of cases: (i) Cases arising outside the colonial context (for example, Chechnya, Basque, etc.). (ii) Challenges to the territorial definition of former colonial entities (for example, Sri Lanka, Philippines, Burma, India in relation to tribal peoples). These are cases where a former colony exercised the right to self-determination, but ethnic movements emerging within the newly independent state seek separation. (iii) Challenges to the implementation of colonial self-determination (for example, Comoros, Kashmir, Somaliland, etc.). Marc Weller, “Settling Self-determination Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009), pp. 113-114. Furthermore, Marc Weller points out that settlement for self-determination conflicts can be divided into nine different categories. These are: (i) Trading self-determination for autonomy or enhanced local self-government; (ii) Regionalism, federalization, or union with confirmation of territorial unity; (iii) Deferring a substantive settlement while agreeing to a settlement mechanism; (iv) Balancing self-determination claims; (v) Agreeing on self-determination but deferring implementation; (vi) Establishing a *de facto* state; (vii) Supervised independence; (viii) Conditional self-determination; and (ix) Constitutional self-determination. For details see Marc Weller, “Settling Self-determination

However, since 1989, the formation of new states created from recognized sovereign territorial entities (e.g., South Sudan from Sudan, East Timor from Indonesia) clearly indicates that the UN is compelled to rethink its approach to self-determination, and to acknowledge the legitimacy of a peoples' right over State sovereignty, in the greater interest of peace and security.⁵³⁰ The right to freely determine a peoples' political status outside the context of decolonization⁵³¹ is an emerging reality in the present world order.

Despite this emerging trend, Paul R. Williams reminds us, that “in the 1990’s almost half of all peace agreements failed within five years ... in the 21st century, 90 percent of civil wars occurred in countries that had already endured civil war within the last 30 years.”⁵³² These are indicators that conflict of interests between a Peoples’ aspiration for self-determination and the State’s desire to preserve its territory will continue to exist. Human experience has quite clearly shown that meaningful JustPeace cannot be achieved through exploitation, structures of domination, occupation or using violence and counter-violence. It is imperative to explore sustainable ways and peaceful means to creatively address and transform self-determination conflicts. Nonviolence as a means of self-determination encourages alternatives that not only bring an end to the conflict, but also enables imaginative non-Westphalian models of State which is reflective of a people’s culture and aspirations.

Conflicts are natural and exist at all levels of human interaction within and between individuals, communities, cultures and countries. The general perception that conflict is negative emerges

Conflicts: Recent Developments,” (European Journal of International Law, ISSN 0938-5428, Volume 20, Issue 1, 02/2009).

⁵³⁰ Williams notes that “in the 1950’s and 1960’s, the world grappled with a wave of new states emerging from decolonization. In the 1990s and 2000’s, the world witnessed the dissolution of the Soviet Union, Yugoslavia, Czechoslovakia, and the Sudan, as well as the separation of Eritrea from Ethiopia and East Timor from Indonesia. Paul R. Williams, “Earned Sovereignty: the future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 128. Also, Barbora says that “after 1991, there have been a range of outcomes of the exercise of the right to self determination by peoples and nations, such as: a messy and tragic secession in the Balkans; a controlled and calibrated transition to majority rule in South Africa; a UN-sponsored exercise in self-rule in Timor Leste (East Timor); a powerfully driven reorganization of political structures and governance in Europe.” Pointing out that there are variations of the right of self-determination that are being exercised in different parts of the world, he says that struggles for self-determination after 1991 are different in the sense that they inhabit different political worlds and practices. Xonzoi Barbora, an independent researcher, in his response to Follow-up Questionnaire on May 15, 2011.

⁵³¹ For example: The creation of 15 states with the fragmentation of the Soviet Union, the formation of the Czech and Slovak Republics, the secession of Eritrea from Ethiopia and the break-up of Yugoslavia. See Ingrid Barnsley and Roland Bleiker, “Self-determination: from decolonization to deterritorialization,” (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), p. 125.

⁵³² Paul R. Williams, “Earned Sovereignty: the future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 128.

from the assumption that conflicts are inherently associated with violence, and the absence of any violence implies there must be no conflict. However, such perceptions of war and peace only reaffirm the status quo of “negative peace” – a peace that focuses on ending violence without justice.

Kai Frithjof Brand-Jacobsen shares the view that, “what is important, is not whether conflicts themselves are *good* or *bad*, but how we deal with them.”⁵³³ Current approaches dealing with conflicts reveal that there is a tendency to focus too much on ending the violence by presenting selective short-term options without addressing the peoples’ aspirations and needs. Such approaches do not support peaceful interventions in exploring settlements that are consistent with justice, thereby denying the spectrum of rights that is necessary for the humanization and dignity of unrepresented peoples. Invariably, this prevents the *self* from determining its own destiny, and perhaps this is one of the reasons why self-determination conflicts have either spanned over an extended period of time or have reoccurred.

In protracted conflicts, “attitudes seem particularly resistant where the conflict has witnessed a long history of mutual attack and atrocity.”⁵³⁴ The process of transforming conflicts needs to create a “perception of common concern”⁵³⁵ so that trust-building can begin to take place and alter attitudes. During the course of the peace process ongoing efforts to mobilize and actively involve people needs to be taking place. Various peacebuilding activities could include: trust-building, peoples-to-peoples dialogue, trauma healing, reconciliation, humanizing the image of the ‘cultural other,’ encouraging and supporting leaders in making conciliatory steps, truth-telling and envisioning a shared future. Lederach calls for “cultivating an infrastructure for peacebuilding” which is not merely interested in ending something that is not desired, but “oriented toward the building of relationships that in their totality form new patterns, processes, and structures.”⁵³⁶

Clearly, top-down approaches to peace-building, “peace imposed *from above* or *from abroad*,” and “*resolutions by force* or the threat of force”, will not lead to JustPeace, rather it will only

⁵³³ Kai Frithjof Brand-Jacobsen, “Peace: The Goal and the Way” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), pp. 16-17.

⁵³⁴ Frederic S. Pearson, “Dimensions of Conflict Resolution in Ethnopolitical Disputes,” (Journal of Peace Research, Volume 38, Issue 3, 2001), p. 276.

⁵³⁵ Ibid.

⁵³⁶ John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: U.S. Institute of Peace Press, 1997), pp. 84-85.

provoke the conflict to escalate further.⁵³⁷ Any sustainable solution to peacefully transforming a conflict involves the peoples' active participation at all levels of society. Invariably, a peoples' values, needs and interests should be embodied in a peace process and upheld in a settlement. Attaining levels of transcendence requires empathy, creativity, sincerity and nonviolence. There is no ready-made, one-size-fits-all blueprint for addressing self-determination conflicts. In each case, the parties involved must consider the "unique historical and political circumstances"⁵³⁸ and strike a balance among various interests and values to make transformation possible.

Conflicts provide opportunities that open "new arenas of negotiation where social actors contest for power and control, as well as, for the definition of statehood in the aftermath of conflict."⁵³⁹ "Negotiating Statehood,"⁵⁴⁰ as a framework proposed by Tobias Hagmann and Didier Péclard is a "call for an alternative approach to current processes of state formation" and "an approach that is interpretative rather than normative in scope, sociological rather than state-centric in philosophy, and dynamic rather than static."⁵⁴¹ There is a need for States and Peoples to begin "conceptualizing self-determination along non-territorial lines, including the recognition of co-existing set of claims to the same land."⁵⁴²

Galtung asserts that, "conflict is removed as a cause by *transformation* so that the conflict can be handled by the parties non-violently, creatively, empathically."⁵⁴³ Transforming self-

⁵³⁷ Kai Frithjof Brand-Jacobsen with Carl G. Jacobsen, "Peacemaking as Realpolitik, Conflict Resolution and Oxymoron: the Record; the Challenge" Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), pp. 74-75.

⁵³⁸ Strobe Talbott, "Self-Determination in an Interdependent World," (Foreign Policy, Issue 118, Spring 2000), p. 152.

⁵³⁹ Tobias Hagmann and Didier Péclard, "Negotiating Statehood: Dynamics of Power and Domination in Africa," (Development and Change, Volume 41, Issue 4, 2010), p. 556.

⁵⁴⁰ Ibid., pp. 543-546. Hagmann and Péclard proposed 'negotiating statehood' framework as a way of looking at and grasping the dynamic and complex dimensions of statehood. They assert that the proposed framework "does not provide any explanation or causal model of state failure and formation. Nor does it apply to all state at all times and in all places." In this proposition they suggest an underlying process which involves constantly evolving 'relations of control and consent, power and authority,' and one in which 'domination is never or rarely exerted exclusively by one power, but is rather the product of multiple powers.' It further proposes a more grounded approach to statehood whose starting point is "empirical" and not "judicial." Tobias Hagmann and Didier Péclard says the objective of their proposal is to "understand the transformation of power that find their expressions in distinct forms of statehood in Africa as well as to grasp how non-state powers and sub-national authorities engage and disengage with the existing state."

⁵⁴¹ Ibid., p. 544.

⁵⁴² Ingrid Barnsley and Roland Bleiker, "Self-determination: from decolonization to deterritorialization," (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), p. 134.

⁵⁴³ Johan Galtung, "Conflict, War and Peace: A Bird's Eye View" Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 3.

determination based conflicts requires charting a different course and searching for innovative options and alternatives. It begins by acknowledging non-Western knowledge system, experiences, practices, aspirations, and accepting a shared language of self-determination. Conceptualizing such alternatives will accommodate culturally sensitive forms and patterns of human association and overlapping notions of sovereignties, rather than excluding or assimilating them.

When extending self-determination to groups “deprived of the opportunity to participate in the value processes of a body politic,” Nanda has reasoned that the test evaluating the claim for self-determination should be “the nature and extent of the deprivation of human rights of the subgroup making the claim.”⁵⁴⁴ After the East Timor and Kosovo experience, Nanda holds the opinion that the international community may be open to accepting “unilateral secession” in “exceptional circumstances,” specifically when “an undemocratic, authoritarian regime” has prohibited “the ‘people’ [from] participat[ing] effectively in the political and economic life of the state” and has followed “a pattern of flagrant violations of human rights.”⁵⁴⁵ Nanda points out the necessity to study the mechanisms under which all these claims can be peacefully pursued and resolved.⁵⁴⁶

With self-determination being equated to secession, many scholars and governments advocate a restricted application of self-determination, whereas, unrepresented peoples oppose these no-win

⁵⁴⁴ Nanda quoted in Paul R. Williams, “Earned Sovereignty: the future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), pp. 129-130. Also, Patrick Hoenig notes that “self-determination should prevail where massive, systematic and widespread violations of human rights prevent the implementation of reconciliation schemes and principles of restorative justice as without justice, peace cannot endure.” Patrick Hoenig, a visiting Professor at Jamia Millia Islamia, New Delhi, in his response to Questionnaire 2 on June 25, 2010.

⁵⁴⁵ Nanda quoted in Paul R. Williams, “Earned Sovereignty: the future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 131. Also, Birch says “There is a right to secession or national self-determination only if there are serious and persistent violations of human rights and no solution other than self-determination is available.” Quotation is attributed to Birch in Michael Freeman, “The Right to National Self-Determination: Ethical Problems and Practical Solutions,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 43.

⁵⁴⁶ Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), p. 445. Furthermore, if the claim of self-determination means that it is a claim to separation, independence, and statehood, then in addition the problem of likely international fragmentation and chaos, the issues pertaining to creation and recognition of states in light of the existing criteria for statehood, population, territory, government, and willingness and capacity to enter in relations with other states, are to be applied. See Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, 1997, Volume 3, Issue 2), p. 446.

situations.⁵⁴⁷ While rejecting the notion that implementing the right to self-determination “must” lead to political independence, it is also recognized as one of the options available for exercising the right. Clarifying that there is a problem in identifying self-determination “exclusively with secession” as it limits the scope of self-determination, Stavenhagen says the real contradiction here is that, self-determination is a right of peoples, while secession is a process of relating to States.⁵⁴⁸ He goes on to add that “separatism” and “secession” and “autonomy” are related to the States’ political organization, while self-determination involves the “needs, aspirations, values and goals of the social and cultural communities.”⁵⁴⁹

Asking the question why self-determination and not autonomy, Patrick Thornberry explains:

Self-determination is a right, autonomy is not; autonomy is essentially a gift by the state ...though it can be entrenched. Autonomy may be a good idea, but it does not flow freely from the sources of international law as an obligation on states. It is not difficult to understand the attachment of indigenous groups to the dynamics of self-determination; they benefit from its flexibility and dynamism, and contribute to its conceptualization. People would lay down their lives for self-determination; they might not do so for autonomy.⁵⁵⁰

It also means that autonomy and self-governance do not “guarantee the collective right of local communities to land and natural resources.”⁵⁵¹ Finally, both autonomy and self-governance would not automatically end a State’s desire to exert authority and control over them.⁵⁵²

⁵⁴⁷ Hannum argues that “self-determination in the twenty-first century should come to mean not statehood or independence, but the exercise of what might be termed functional sovereignty.” He points out that if “self-determination is viewed as a means to an end – that end being a democratic, participatory political and economic system in which the rights of individuals and the identity of minority communities are protected – its continuing validity is more easily perceived.” Hurts Hannum, “Self-Determination in the Post-Colonial Era” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd. and United States: St. Martin’s Press, INC., 1996), p. 37. On the other hand, O’Leary points out, “the people of Ireland, North and South, have the right to self-determination, but also the right to choose how to exercise national self-determination, and if that involves having one territorial unit with revisable linkages to the United Kingdom, that need not be a denial of the underlying principle.” Brendan O’Leary, “Mission Accomplished? Looking Back at the IRA,” (Field Day Review I, 2005), pp. 244-245.

⁵⁴⁸ Rodolfo Stavenhagen, “Self-Determination: Right or Demon” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 4.

⁵⁴⁹ Ibid.

⁵⁵⁰ Patrick Thornberry quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 252. Also, Moana Jackson asserts that “the breadth of the right of self-determination must be retained to accommodate those who choose association as well as those who choose statehood. He observes, “The colonial mind is always inventive, and its final resort is always a political ‘reality’ which either permits or denies the right to self-determination. But reality, like law, is a changing human construct...” See Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 62-63.

⁵⁵¹ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 253.

Article 1 of the UN Charter says that disputes are to be settled “by peaceful means, and in conformity with the principles of justice and international law.” Considering that any settlement is conditioned to meet the principles of justice and international law, self-determination conflicts need to be transformed within this principle. Hence, transforming self-determination conflicts need to be resolved through a final settlement, because international law imposes a legal test of any settlement. Notwithstanding this condition, whether a peoples is “enjoying or lacking a right of self-determination, would still see that the prospects of their aspirations lie chiefly in the realm of international politics rather than international law.”⁵⁵³ One could question why there is so much support for the Palestinians, while there is limited support for the Kurds. Furthermore, the application of self-determination has shown weakness when faced with the opposition of a major power or with the politics of international diplomacy which seeks to serve national interests,⁵⁵⁴ (e.g., the Tibet and Uyghur issues in China).

Freeman points out that while the “empirical relation between self-determination and conflict is complex,”⁵⁵⁵ he suggests “a justice-based theory of self-determination would provide solutions.”⁵⁵⁶ Galtung while affirming that a “conflict has to be transformed within the context of the human right” and that “the conflict should not invalidate the right,” he cautions that the right should not be the “only consideration in the conflict.”⁵⁵⁷ Taiaiake notes the difference between indigenous and Western concepts of justice can be seen in their approaches to conflict resolution.⁵⁵⁸ He questions whether modern treaties are a path to assimilation and claims that the

⁵⁵² Jon Henriksen quoted in Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 253.

⁵⁵³ Ralph Wilde, “Self-Determination, Secession, and Dispute Settlement after the Kosovo Advisory Opinion,” (Leiden Journal of International Law, ISSN 0922-1565, 03/2011, Volume 24, Issue 1), p. 154.

⁵⁵⁴ Yash Ghai, “Reflections on Self-Determination in the South Pacific” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 175.

⁵⁵⁵ Michael Freeman, “The Right to National Self-Determination: Ethical Problems and Practical Solutions,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 54.

⁵⁵⁶ Michael Freeman, “The Right to National Self-Determination: Ethical Problems and Practical Solutions,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 55.

⁵⁵⁷ Johan Galtung, “The State/Nation Dialectic: Some Tentative Conclusions” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 134.

⁵⁵⁸ Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 43. To illustrate this point, Taiaiake says that “injustice in the indigenous sense is the absence of balance and harmony. It does not consist in the commission of a particular act, however defined; acts may be seen as unjust, but only in their effect.” He adds, while sanctions in Western justice systems are used for punishment, in indigenous systems their purpose is to restore harmony and to re-establish peaceful coexistence.

British Columbia Treaty Process “represents an advanced form of control, manipulation and assimilation.”⁵⁵⁹

Proclaiming that State-sponsored processes can never offer an honorable resolution so long as the State refuses to demonstrate respect for the people, Taiaiake says the process is a “mere façade, and cynical manipulation is only perpetuating the problems that the negotiations are supposed to resolve.”⁵⁶⁰ Babbitt cautions that “self-determination can be negotiated only when it is understood that it is not a zero-sum game.”⁵⁶¹ She remains optimistic that with a “better understanding of the causes of self-determination conflicts and a better appreciation of the many alternatives that might be put forward to resolve these conflicts, ‘negotiating self-determination’ may become the norm, rather than the exception.”⁵⁶² Alptekin asserts that “the only long-term solution to conflicts between states and the peoples and nations they rule - legitimately or illegitimately, is one premised on the free expression of the particular group's need to determine its own destiny.”⁵⁶³

Considering that one of the core factors surrounding self-determination conflicts is the question of the *self*, the issues around identity, beliefs, and values, while non-negotiable, however, needs to be “addressed directly and in depth before and during formal negotiations.”⁵⁶⁴ The issues around identity and belief systems are “not simply the instrumental modalities of protection that must be determined,” it is also “the mutual understanding and acceptance of each side’s concerns about survival, status, legitimacy, and cultural and political rights.”⁵⁶⁵ Self-determination as a liberating concept seeks to promote respect for all peoples, and therefore, seeks to find new solutions to old problems that go beyond the current, limited domain of international law. Such solutions need to

⁵⁵⁹ Ibid., pp. 119-120. Taiaiake adds that “the BC Treaty Process illustrates all the problems that indigenous peoples face in their struggle to overcome colonialism: racism and ignorance in the mainstream, apathy in Native communities, co-optation of Native leadership, aggressive manipulation of the process by the state.” Taiaiake also says “the basic assumptions embedded in the process and the negotiating positions put forward in relation to indigenous peoples points to the state’s innate prejudice against justice for indigenous peoples.”

⁵⁶⁰ Ibid., p. 128.

⁵⁶¹ Eileen F. Babbitt, “Negotiating Self-Determination: Is It a Viable Alternative to Violence” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 165.

⁵⁶² Ibid.

⁵⁶³ Erkin Alptekin, the General Secretary of Unrepresented Nations and Peoples Organization, in his speech on “Self-Determination and Conflict Transformation” in Geneva on July 16, 2002.

⁵⁶⁴ Frederic S. Pearson, “Dimensions of Conflict Resolution in Ethnopolitical Disputes,” (Journal of Peace Research, Volume 38, Issue 3, 2001), p. 278.

⁵⁶⁵ Ibid.

“address the changing nature of state sovereignty and the implications of an increasingly interdependent world in which borders are becoming less relevant.”⁵⁶⁶

A shared language of self-determination, which is primarily construed as a means towards humanization provides flexibility and makes “negotiating self-determination”⁵⁶⁷ not only possible, but also more meaningful⁵⁶⁸ in enabling peaceful co-existence. Negotiations are about thinking and acting strategically while recognizing and working towards long-term goals. Negotiations are also about respect, self-respect and respect for the opposition.⁵⁶⁹ Any credible negotiation process that seeks to address the peoples’ needs and interests should be as inclusive as possible in order to ensure that the relevant stakeholders who have interests in the outcome are not left out and are deterred from undermining any negotiated settlement. The continued confidence in the negotiating process is about the desire for a shared humanity.

Self-determination conflicts involve a broad spectrum of people in every continent, many of whom are living in conflict zones, which demonstrates why it is essential that people are involved in peace processes, as well as in shaping peace agreements.⁵⁷⁰ Frederic S. Pearson points out that while negotiators claim to represent constituents, the “constituents themselves might not buy into the bargain if they have not been consulted, prepared, and reconciled to the situation.”⁵⁷¹ In other words, the negotiation process cannot be left to the negotiators to broker agreements. It is imperative that the democratic character of the peace process is not bypassed if there is to be a sustainable JustPeace. Such situations require a ‘bottom-up’ peace process, so that those negotiating at the ‘top’ are truly representing the peoples’ aspirations, values and needs.

⁵⁶⁶ Paragraph 10 of “The Saskatoon Statement on Self-Determination” Adopted by Substantial Majority at the Martin Ennals Memorial Symposium on Self-Determination, Co-sponsored by the College of Law, University of Saskatchewan and International Alert, Saskatoon, Saskatchewan, Canada, March 3-6, 1993.

⁵⁶⁷ Eileen F. Babbitt notes that “because self-determination touches upon identity issues as well as political power questions, the negotiation process is especially challenging and is open to manipulation by [State] leaders and extremist elements.” See Eileen F. Babbitt, “Self-Determination as a Component of Conflict Intractability: Implications for Negotiations” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 122.

⁵⁶⁸ Hurst Hannum, “Self-Determination in the Twenty-First Century” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 77.

⁵⁶⁹ Linda Tuhiwai Smith, *Decolonizing Methodologies: Research and Indigenous Peoples* (London; New York: Zed Books; Dunedin, N.Z.: University of Otago Press; New York: Distributed in the USA exclusively by St. Martin's Press, 1999), p. 160.

⁵⁷⁰ Lisa Schirch says that it is important “for communities and states to make agreements with each other for collective security and economic development, as these transcend localities.” Lisa Schirch, Professor of Peacebuilding at the Eastern Mennonite University, Harrisonburg, Virginia, in her response to Follow-up Questionnaire on May 6, 2011.

⁵⁷¹ Frederic S. Pearson, “Dimensions of Conflict Resolution in Ethnopolitical Disputes,” (*Journal of Peace Research*, Volume 38, Issue 3, 2001), p. 279.

Lederach advocates a shift from the traditional paradigm of top down peacebuilding⁵⁷² to a more progressive approach of moving from the grassroots level, and says that the “key lies in the relationship of the involved parties, with all that the term encompasses at the psychological, spiritual, social, economic, political and military levels.”⁵⁷³ His approach does not entirely focus on peacebuilding at the high political level which often takes rigid positions. Lederach places more emphasis in identifying the conflicting parties’ needs and interests, as well as, evolving strategies to address them, and, the vision of transforming their relationships to be more interdependent, inter-relational and interconnected. Under these conditions attaining sustainable co-existence and JustPeace are possible.

Williams advocates the approach of “earned sovereignty”⁵⁷⁴ as a “means of bridging the impasse between self-determination and territorial integrity,”⁵⁷⁵ and as “an option for ending conflict and resolving claims to self-determination,”⁵⁷⁶ in order to “reduce the accompanying human rights violations and spread of terrorism.”⁵⁷⁷ Karin Oeller-Frahm points to “earned sovereignty” as the “most promising solution in ethnically based conflicts where the prerequisites for self-determination are not met.”⁵⁷⁸ Jürgen Friedrich however expresses concern around the need for “ownership over the process” in order to achieve sustainable peace, and the “necessity for achievable standards with a clear endpoint.”⁵⁷⁹

⁵⁷² Lederach says peacebuilding “is understood as a comprehensive concept that encompasses, generates, and sustains the full array of processes, approaches, and stages needed to transform conflict toward more sustainable, peaceful relationships ... Metaphorically, peace is seen not merely as a stage in time or a condition. It is a dynamic social construct.” John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: U.S. Institute of Peace Press, 1997), p. 20.

⁵⁷³ John Paul Lederach, *Building Peace: Sustainable Reconciliation in Divided Societies* (Washington, D.C.: U.S. Institute of Peace Press, 1997), p. 75.

⁵⁷⁴ Paul R. Williams credits Professor Ved Nanda’s lifetime of work on the question of self-determination and his crucial role in the development of the approach of earned sovereignty. Williams says “earned sovereignty is the conditional and progressive devolution of sovereign powers and authority from a state to a substate entity under international supervision.” He adds that this “approach has its roots in the Northern Ireland and Bougainville peace agreements, among others, proved successful in structuring the separation of Montenegro from Serbia, East Timor from Indonesia, Kosovo from Serbia, and South Sudan from the Sudan.” For more details on “Earned Sovereignty” see, Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), pp. 128-143; and Paul R. Williams and Francesca Jannotti Pecci, “Earned Sovereignty: Bridging the Gap between Sovereignty and Self-Determination,” (Stanford Journal of International Law 347, Volume 40, Issue 2, 2004), pp. 347-386.

⁵⁷⁵ Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 128.

⁵⁷⁶ *Ibid.*, p. 132.

⁵⁷⁷ Paul R. Williams and Francesca Jannotti Pecci, “Earned Sovereignty: Bridging the Gap between Sovereignty and Self-Determination,” (Stanford Journal of International Law 347, Volume 40, Issue 2, 2004), p. 354.

⁵⁷⁸ Karin Oeller-Frahm quoted in Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 133.

⁵⁷⁹ Jürgen Friedrich cited in Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 133.

Earned sovereignty “develops within a peace process as a multistage approach to address the issue of the final political status of the substate entity.”⁵⁸⁰ It is a framework for creating opportunities to resolve conflicts on sovereignty and self-determination by “providing a mechanism where some substate entities may be guided through a process of transition to statehood or heightened autonomy in such a way so as not to undermine the legitimate interests of parent states and of the international community.”⁵⁸¹ This approach “seeks to promote peaceful coexistence between a state and a substate entity by establishing an equitable and acceptable power sharing agreement;”⁵⁸² and in some instances a “substate entity may acquire sovereign authority and functions sufficient to enable it to seek international recognition.”⁵⁸³ Through this approach, self-determination as a right also demonstrates its capacity to serve as a democratic and peaceful mechanism for resolving problems that seeks and honors a peoples’ mandate.⁵⁸⁴

Resolving self-determination conflicts cannot be limited to an approach that focuses on a top-down process that begins when a State grants sovereignty to a People, as it does not comprise or ensure true independence – politically, socially, culturally and economically. The transformation needs to go beyond peace agreements and the transfer of power while simultaneously embracing the values of genuine freedom, right relationship, reconciliation and structural changes, which implies a bottom-up process. Self-determination as a multi-cultural and inter-disciplinary value is crucial due to its ability to change structures of violence and conflict while working towards enabling creative and viable alternatives of human association by incorporating indigenous and cultural approaches and applications of peacebuilding.

The right to self-determination is an essential element in transforming conflicts, realigning power relationships, as well as, strengthening and generating new approaches and new visions for human interaction in which all of humanity can respectfully co-exist. If only States, international law and international organizations have the will to imagine and look beyond the realms of the Westphalian World Order, many of the conflicts can be transformed by invoking the principles,

⁵⁸⁰ Paul R. Williams and Francesca Jannotti Pecci, “Earned Sovereignty: Bridging the Gap between Sovereignty and Self-Determination,” (Stanford Journal of International Law 347, Volume 40, Issue 2, 2004), p. 350.

⁵⁸¹ Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 134.

⁵⁸² Ibid., pp. 134-135

⁵⁸³ Ibid., p. 134.

⁵⁸⁴ Respondent B, an Indian writer and civil rights activist, who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

values and the humanistic character of the right to self-determination. After all, satisfying peoples' desire for self-determination involves political solutions, not military force.

Moving towards Increasing Humanization

Considering that a peoples' aspiration for human dignity is affirmed by their yearning for freedom and justice, and by their struggle to recover their lost humanity, the development and praxis of self-determination has and continues to be the focus of human history. In the presence of deep rooted power relations and State domination, peoples are constantly seeking to transcend dehumanization. The question of human survival, therefore, has always been linked with the forces of humanization, and their struggle to attain this destiny is relentlessly challenged by issues of war and peace. The path towards realizing humanization is conditioned by a peoples' ability to exercise their self-determination, which makes it essential to move beyond the Westphalian World Order.

1. Beyond the Westphalian World Order

The development of the State has occurred largely within the context of the Westphalian World Order.⁵⁸⁵ For instance, "the universality of statist participation in the UN, as well as constitutive rules that make membership an exclusive prerogative of states, embodies the formal idea of a Westphalian World."⁵⁸⁶ The statist approach towards self-determination conflicts is "ill equipped" to fully understand and appreciate the peoples' aspirations for self-determination. The failure to understand is rooted in their essence, because while self-determination movements are by their "very essence, all about change, about challenging the contours and legitimacy of the existing political order,"⁵⁸⁷ the statist paradigm is in favor of maintaining the *status quo*. Trying to seek solutions within the status quo of the Westphalian State⁵⁸⁸ has proven to be problematic, and

⁵⁸⁵ Richard Falk says that the Westphalian World Order emerged as a result of the Treaty of Westphalia and "was a European regional system for most of its operative period, gradually developing a global outreach that attained its climax in the colonial era." Richard Falk, "Revisiting Westphalia, Discovering Post-westphalia," (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4), p. 346.

⁵⁸⁶ Ibid.

⁵⁸⁷ Ingrid Barnsley and Roland Bleiker, "Self-determination: from decolonization to deterritorialization," (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), pp. 126-127.

⁵⁸⁸ Falk says it will be "misleading to essentialize the Westphalian Reality as if it were not embedded in a changing historical matrix of ideas, technologies, ideologies, structures and practices." See, Richard Falk, "Revisiting Westphalia, Discovering Post-westphalia," (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4), p. 321.

rather than resolving conflicts, it has only created new ones as observed during the decolonization period.⁵⁸⁹

Any attempt towards enabling the shared language of self-determination as a resource for JustPeace implies going beyond the parameters established by the Westphalian World Order. It may be helpful to recognize that pre-modern States in Asia and Africa not only had the capacity to have shared jurisdiction with a variety of non-state entities, but also habitually negotiated terms of their relationship with the more or less autonomous communities that it enclosed.⁵⁹⁰ However, modern States derived from the Westphalian notion of a top down hierarchy and centralized authority organized loosely knit communities into a rigid structure with exclusive territorial domain by imposing boundaries that are arbitrary regardless of the cultural affinities that had existed prior to the State. This has meant that the relationship among the communities is now increasingly mediated through central authorities.⁵⁹¹

With the State regulating the relationship between the communities, the consequences for the people have been devastating. Respondent I, an international lawyer who also serves as mediator and facilitator for interstate conflicts, pointed out that one of the mistakes has been in “trying to fit or even force one model on all, often without any sensitivity or understanding for the needs of the people concerned, the historical realities and the demographic and geographical factors at play.”⁵⁹² Fastening notions of State sovereignty erodes the traditional relationship between the communities as the fixed and rigid State boundaries undermines the overlapping and shared

⁵⁸⁹ Barnsley and Bleiker points out, “decolonization was supposed to settle tensions surrounding self-determination claims, but because it was implemented through a problematic statist, nationalist discourse it actually led to further claims for self-determination.” Ingrid Barnsley & Roland Bleiker, “Self-determination: from decolonization to deterritorialization,” (Global Change, Peace & Security, formerly Pacifica Review: Peace, Security and Global Change, Vol. 20, Issue. 2, June 20, 2008), p. 129.

⁵⁹⁰ Maivân Clech Lâm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) pp. 165-166.

⁵⁹¹ Yash Ghai, “Reflections on Self-Determination in the South Pacific” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 196.

⁵⁹² Stating that the 21st century state needs to undergo important changes, the lawyer believes that the current concept of state is one inherited from a period in time that no longer corresponds to the globalized and more complex and democratic world of today. He says forms of governance should be adapted and designed to suit the specific needs of different populations so that they “are more responsive to the needs of their constituent populations, that are less insular, and that recognize the realities of today’s complex societies in which decisions are made at different and at multiple layers of society, both official and non-governmental and individual.” The responsiveness of the state requires a form of participatory democracy because “if a people cannot decide by whom and how it will be governed, then there is little scope for a meaningful democracy, other than in the false sense of a dictatorship of the majority.” Respondent I is an international lawyer, mediator, facilitator for interstate conflicts who did not want to be named, in his response to Questionnaire 4 on July 21, 2011.

boundaries between peoples; and in effect denies the right to “right relationship” between them. People are no longer able to choose what jurisdiction they would like to live under and unable to leave the domain they do not recognize.⁵⁹³

The State seeks to establish itself as all encompassing. Any protest against the State is quickly met with force, and in the event of a State-People conflict, it is coerced into a People-People conflict, with the State assuming the role of the mediator and the peacekeeper. This has been a common experience of peoples in the north-eastern region of the Indian sub-continent. Hoffman notes that “the concept of a ‘democratic state’ is paradoxical since it suggests that universal political rights can co-exist with an institution claiming a monopoly of legitimate force,”⁵⁹⁴ therefore, one questions how the values of self-determination and its objectives towards dignity and humanization co-exist with the State’s activity and character.

Drawing the need to make a distinction between the State, on one hand, and the Government on the other, Hoffman argues that “a society without a state is nevertheless a society which has a government.”⁵⁹⁵ He says that in stateless societies, the use of force is not decisive to governmental activities, but discussion, persuasion and negotiation with a view to reconciliation,⁵⁹⁶ since “peaceful relations are regarded as normal and the purpose of rules is to limit force.”⁵⁹⁷ From this viewpoint, a government in a stateless society is different from the State and functions on different values and principles. Furthermore, legitimacy is not acquired through the continuous exercise of force, but through peaceful means. The contradiction of force and legitimacy is central to the problem of the state.⁵⁹⁸

⁵⁹³ Ghai says, “secession in traditional societies were not a problem because, to some extent, people could choose what “jurisdiction” they would live under leaving the domain they were unhappy with. The hardening of state boundaries has made that difficult.”Ghai further adds that, these tensions have to a great extent weakened a peoples, who now consider that the reassertion of their rights may be easier through secession rather than negotiate with decision makers in the center. Subsequently, Ghai observes, “more is demanded than may be necessary, or even manageable, for their purposes.” See Yash Ghai, “Reflections on Self-Determination in the South Pacific” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 196.

⁵⁹⁴ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 209.

⁵⁹⁵ *Ibid.*, p. 47.

⁵⁹⁶ *Ibid.*, p. 40.

⁵⁹⁷ *Ibid.*, p. 41. Hoffman adds that “shaming, public ridicule, sorcery and the resort to supernatural agencies are related sanctions which may also be extremely unpleasant but they do not involve physical force.” In stateless societies force is seen as threatening to governmental processes and even in societies where violence is common, it is limited, ritualized and perceived as potentially harmful. In such societies, force is not concentrated into specialized agencies which stand permanently above and outside society. Hoffman points out that violence is contained so as to minimize disruption to the life of the community.

⁵⁹⁸ *Ibid.*, pp. 86-92. Hoffman says that “legitimacy is rooted in a non-relational concept of the individual who is equal, rational and capable of self-government” and that “laws are legitimate only when they have been authorized through

Falk points out that as a matter of historical experience the normative potential⁵⁹⁹ of the Westphalian World Order has “never been achieved, or even clearly and fully advocated, although the extent of failure has varied over time.”⁶⁰⁰ He says its main deficiency is the “war system of global security and the vulnerability of the peoples of the world to various forms of oppressive governance.”⁶⁰¹ However, in the same way that States have come to monopolize war, States have come to monopolize peace. When States claim to work for peace, it is very often as a way of solidifying their sphere of national interest. The Sri Lankan experience in which the government entered into a ceasefire with the LTTE, to solidify and prepare its military position, and eventually to defeat the LTTE is an example of State expediency.

Tidwell reminds us that the link between theory and praxis is profoundly influenced by societal and structural factors within which they operate.⁶⁰² Based on this premise, the State needs to be viewed and analyzed from both its functional ends and structural means. Hoffman says only a definition which focuses upon “both structure and function can capture the curious reality of the state as an institution which claims an end which its very means prevent it from actually realizing.”⁶⁰³ In other words, while a core function of the State is to respect that “all peoples have the right to self-determination” and to “take other appropriate measures to strengthen universal peace;” the very structural means of the State will ensure that these functional ends are never actually realized.

With the end of the Cold War, the States are becoming much more fluid, their borders are blurring, migration is diluting ethnic homogeneity and the growing reality of interdependence forces far-reaching international cooperation. Strobe Talbott says that the old Westphalian system

consent.” However, Hoffman says that “force is inimical to such an individual.” He says the opposition between force and legitimacy subjects the state to an “insoluble problem.” He adds, “On the one hand the state rests ultimately upon force; on the other hand it seeks to use this force to secure legitimacy. The one necessarily contradicts the other.” The State to increase its legitimacy “must first diminish the overall use of force.”

⁵⁹⁹ Falk notes that the normative potential of the Westphalian approach to world order implies “when governance at the state level is internally moderate, democratic, and observant of human rights (including economic, social, and cultural rights) and when leading states are externally dedicated to the promotion of global public goods as well as to the preservation of their specific strategic interests.” Richard Falk, “Revisiting Westphalia, Discovering Post-westphalia,” (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4), p. 316.

⁶⁰⁰ Ibid., pp. 316-317. Falk adds that “Genocidal policies and major international and civil wars are indicators of extreme failure, as assessed by common Westphalian standards of performance.”

⁶⁰¹ Ibid., p. 337. Also, Galtung, Jacobsen and Brand-Jacobsen claim that “States were not created to bring peace to the world, but to satisfy national interests’ as defined by their elites, if necessary by war.” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching for Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. xiii.

⁶⁰² Alan. C. Tidwell, *Conflict Resolved?: A Critical Assessment of Conflict Resolution* (London: Printer, 1998), p. 6.

⁶⁰³ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 71.

of nation-states “is giving way to a new system in which nations feel secure enough in their identities and in their neighborhoods to make a virtue out of porous borders and intertwined economies and cultures.”⁶⁰⁴ He cites the establishment of the euro as a common currency as an example of the “pooling of sovereignty in certain areas of governance.” Arriens foresees a decline in the importance of the modern State and says that humankind is moving towards a more federal world.⁶⁰⁵

Buttry points out that the modern State is being eroded from below and above.⁶⁰⁶ Consequently, he holds the opinion that “webs or networks might develop related to different aspects of social, political and economic life and how needs can best be met.” Buttry asserts that debates about self-determination will have a huge impact on how these relationships are negotiated and hammered out. On the other hand, Barбора expresses an opinion felt by many unrepresented peoples that the state will become more coercive and regulatory in the 21st century.⁶⁰⁷ Furthermore, he points out that in the absence of “calibrated and calculated responses” to conflicts arising out of the denial of self-determination, States will become more violent and predatory.

The modern State seems to be moving away from the classical understanding of State sovereignty and boundaries, but simultaneously numerous States are converging to form alliances or supra-states to protect their own interests. The underpinning reality is that the ‘form’ of the State is changing, but its ‘content’ remains the same. In other words, the outer ‘form’ of a State may be subsumed into larger blocks that will establish new borders while blurring old ones (as in the case of the European Union), but at its core it retains the monopoly to use legitimate force to retain its control and power over the people.

⁶⁰⁴ Strobe Talbott, “Self-Determination in an Interdependent World,” (Foreign Policy, Issue 118, Spring 2000), p. 156.

⁶⁰⁵ Jan Arriens in his response to Follow-up Questionnaire on May 16, 2011.

⁶⁰⁶ Buttry says that the State is being eroded from below by “smaller people’ groups that have their identity either through ethnic ties or more intimate geographic ties are wanting a stronger say in shaping their destiny.” He notes that marginalized people groups in particular are “feeling little connection to the mainstreams that govern larger states. Obviously the creation of smaller entities that still follow the state model is very likely.” On the other hand, Buttry says there is erosion from above—from supra-national entities and networks. This he points out can be seen through trans-national government bodies such as the United Nations, the various continental blocks (Organization of African Unity, Organization of American States, European Union) and other regional bodies (Association of South East Asian Nations) along with trade (North American Free Trade Act) and military (North Atlantic Treaty Organization) configurations. Furthermore, he notes that “the multinational corporations have limited the sovereignty of modern states by being larger than many nations in terms of economic activity and being able to move capital, jobs and goods easily across borders. Their accountability is not to nations but to their shareholders, and they can act often without impunity against the best interests of the nations in which they work or are even headquartered.” Dan Buttry, a Global Consultant, International Ministries (ABC), in his response to Follow-up Questionnaire on May 6, 2011.

⁶⁰⁷ Xonzoi Barбора, an independent researcher, in his response to Follow-up Questionnaire on May 15, 2011.

In this context, the challenge to exercise self-determination has only been elevated to the macro level.⁶⁰⁸ With the increasing alliances between States that seeks to protect their common interests, the challenge for peoples to exercise their self-determination increases manifold. For instance, the Kashmiri's aspiration to exercise their self-determination will not only affect India, but will also bear consequences on SAARC, of which India is a member. Likewise, for the Kachins to exercise their right to self-determination it will affect not just Burma, but ASEAN as well. Therefore, from an unrepresented peoples' perspective, the notion that the State is on the decline is misleading. This amplifies the need to look beyond the State, and hence, beyond the Westphalian World Order.

On the future of the State, Lisa Schirch sees "control over the state system as an ongoing battle between people's movements who long for real democracy and elite corporate interests who want a façade of legitimacy while they control state structures."⁶⁰⁹ While acknowledging the continuing struggle to redefine what the State is, Schirch pointed out the need to identify the difference between a "citizen-oriented state" and those that primarily serve corporate interests. She noted that "most governments do not want to let people have a robust participation in decisions that impact their lives" as they are made up of an elite group of people "who think they know what is best for others or who deny the interests and needs of some parts of their public."⁶¹⁰

Respondent I believes there are going to be "major changes in state structures, and in some places the replacement of the state by different forms of governance across former state lines," and says that "new states should have less absolute boundaries."⁶¹¹ The key principle of governance, in the lawyer's view, is legitimacy. While expressing that sources of legitimacy for governance may be very different, Respondent I emphasizes that it needs to include the "mandate of the people being governed." Respondent I foresees increasing conflict within States and other governance structures unless legitimacy is recognized as a central principle for governance. Self-determination when derived from the will of the people is inseparable from its legitimacy. Hence, replacing the State by a different form of governance as a legitimate expression of the people is essential towards humanization and transcending the Westphalian world order.

⁶⁰⁸ Respondent H is involved with peacebuilding and did not want to be named in his response to Questionnaire 3 on April 6, 2011.

⁶⁰⁹ Lisa Schirch, Professor of Peacebuilding at the Eastern Mennonite University, Harrisonburg, Virginia, in her response to Follow-up Questionnaire on May 6, 2011.

⁶¹⁰ Ibid.

⁶¹¹ Respondent I is an international lawyer, mediator, facilitator for interstate conflicts who did not want to be named in his response to Questionnaire 4 on July 21, 2011.

The right to self-determination, therefore, calls for considering alternatives for a shared future “based either on the relevance of ‘dreams’ or on leverage that might be exerted over time by transnational social forces.”⁶¹² Falk points out that “inclusive orientations, whether religious or secular humanist, emphasize human solidarity as desirable and possible, thereby challenging either directly or indirectly Westphalian complacency about radical inequality and war as intrinsic to international reality, as well as to the existential limits of community.”⁶¹³ The idea, Barbora points out “is not to be as arrogant as the State and put a flag in place of an earlier one, but to quietly take control of what we think is already ours and make these spaces self-regulating; self-organized and non-hierarchical and base it all on the principle of free association of individuals and collectives, so as to be able to ensure the emergence of a just, more ethical order.”⁶¹⁴

To contemplate a shared future beyond the Westphalian perspective it is important to think about the concept of common interests, which needs to be “conceived dynamically rather than statically”⁶¹⁵ and to involve the support and solidarity of transformative agencies.⁶¹⁶ A critical imagination is needed to realistically analyze the present world realities and stimulate widespread hope to look ‘beyond’ a world shaped by the Westphalian realities. Such an imagination calls for a number of people-oriented perspectives, includes:

- **A shared language of the Right to self-determination** through which all peoples can freely express their will and desire to determine their own future; exercise their right to determine their own political status and to freely pursue their social, economic and cultural rights in accordance to their own needs.
- **Dialogue of Civilizations**, as an effort to appreciate the relevance of the civilization’s interpretation of the historical situation⁶¹⁷ and to acknowledge the various indigenous and non-indigenous knowledge systems required for building a shared humanity.

⁶¹² Richard Falk, “Revisiting Westphalia, Discovering Post-westphalia,” (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4), p. 315.

⁶¹³ Ibid., p. 318.

⁶¹⁴ Xonzoi Barbora, an independent researcher, in his response to Follow-up Questionnaire on May 15, 2011.

⁶¹⁵ John Hoffman, *Beyond the State: An Introductory Critique*, (Cambridge: Polity Press, 1995), p. 13.

⁶¹⁶ Falk identifies two set of actors that “moving consciousness and perception” beyond Westphalia: global corporations and banks that conceive of the world as a marketplace for production, consumption, and investment; and civil society which are transnational actors that “conceive of the world as a human community in which the human needs and basic rights of all persons are upheld.” Falk notes that both these transformative agents seek alignment with governments, and both have had a measure of success. Richard Falk, “Revisiting Westphalia, Discovering Post-westphalia,” (The Journal of Ethics, ISSN 1382-4554, 2002, Volume 6, Issue 4), p. 321.

⁶¹⁷ Ibid., p. 323. Falk presented Dialogue of Civilization “mainly as a normative effort to appreciate the relevance of the civilizational interpretation of the historical situation, but at the same time seeking to avoid reproducing the Westphalian war system in the emergent inter-civilizational context.”

- **Globalization from Below**,⁶¹⁸ as a process that is peoples-oriented that is driven by the needs of the people, and not by the interests of the markets.
- **Human security**, as the norm for engagement in world politics where the needs, interests, and human rights of all peoples are respected and recognized as being paramount towards creating a JustPeace which addresses all forms of injustices fairly and stimulates the transformation of all unjust and unresponsive systems.
- **Consciously creating an international system** that will respect all of humanity and upholds the **relational web of interdependence**. This includes the democratization of the UN as a representative of States and Peoples. The contradiction in the UN between “what is”⁶¹⁹ and “what should be”⁶²⁰ can be used as a creative tension in which the UN fully embodies all peoples’ needs and aspirations.
- A language and application of transforming conflict that focuses on a **‘bottom-up approach’** where the people themselves are engaged in evolving a process which meets their aspirations and needs. This language needs to have the capacity and dynamism to respond and draw in knowledge, experience, aspiration and wisdom from the multiple cultures that constitutes humanity. The application of a “bottom-up” approach call for embracing values of justice, mutual respect and dignity by creating conditions for peaceful and just co-existence through transforming structures and building relationships that invites new patterns of human association and interaction.

The interplay of these various people-oriented initiatives should contribute in creating conditions and values that are an alternative to the Westphalian World Order while moving towards increasing humanization.

⁶¹⁸ Ibid., p. 340. Richard Falk says that Globalization from Below can be understood in two distinct ways: “as the normative strivings associated with the various elements of the movement resisting globalization-from-above or as the general populist orientations of the political culture that is operative within the world at this point in history, and is segmented in terms of state, religion, ethnicity, and class.”

⁶¹⁹ Lãm points out that the UN “formally privileges three kinds of discourse: the politically hegemonic, the politically democratic, and the “apolitically” technical. The first takes places in the Security Council, the second in the General Assembly, and the third in the several U.N. specialized agencies, ad hoc committees, and working groups. These discourses share one thing in common: being political, or utilitarian, or both, they focus on the narrow historical moment. Maivãn Clech Lãm, “Making Room for Peoples at the United Nations: Thoughts Provoked by Indigenous Claims to Self-Determination,” (Cornell International Law Journal, ISSN 0010-8812, 1992, Volume 25, Issue 3), p. 617.

⁶²⁰ Ibid., p. 622. Lãm is of the opinion that States are generally structured to function best in the realm of historical expediency, but that cultural communities remain the better guardians of the past [memory] and of the future [vision]. She asserts that “the United Nations – a pleasantly ambiguous term that covers both peoples and states – needs to bring them [States and Peoples] together in their separate but intertwining identities.”

2. *Strengthening the Language of JustPeace*

The cultural assumption of identifying and equating self-determination exclusively with secession has caused great fear in the heart of the States. Such an assumption has led to another questionable conclusion that the pursuit of self-determination is a cause of conflict that has influenced States to violently react to self-determination movements. While this assumption has proven to be misleading, its implications have been far reaching and have limited options for resolution, and also subdued related issues of human rights, democracy, competition of resources, internal power struggles, transparency, gender equality, etc. Furthermore, the images associated with self-determination (such as fragmentation, violence, ethnic exclusivity, parochialism, secessionist, etc.) have been negative and significant in shaping public opinion against the idea of self-determination. Ironically, self-determination itself has been dehumanized. This has encouraged States to approach self-determination conflicts only on an ad-hoc basis influenced by real politik.

From this standpoint, one agrees with Jacobsen that “today’s approaches to conflict ‘resolution’ are in most cases conflict-enhancing, providing short-and medium-term solutions responsive to power interests, while threatening longer-term destabilizations and escalation.”⁶²¹ In this way, States have attempted to undermine the relevance of self-determination in an increasingly interdependent world of blurring boundaries and fluid borders. While pointing out that most of the established power bases see self-determination as irrelevant, Lederach stresses its relevance “if we want a world where the quality of life of local communities and human security are keys to understanding how we decrease violence (both direct and structural) and increase justice.”⁶²²

Self-determination need not be viewed as a threat to governments or as a source of friction, but as a means which would eliminate conflicts in the future. No government has grounds for fearing a people’s right “to determine what it means to live humanly.”⁶²³ Indigenous activists argue that “rights to self-determination and territory would not be the end, but the beginning of a relationship, a starting point from which indigenous groups could properly negotiate more

⁶²¹ Brand-Jacobsen and Jacobsen adds that “conflict mediation, not peace-building or conflict transformation, is the dominant approach, accepted by states, peace researchers and NGOs alike.” See Kai Frithjof Brand-Jacobsen, with Carl G. Jacobsen, “Peacemaking as Realpolitik, Conflict Resolution and Oxymoron: the Record; the Challenge” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 51

⁶²² John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁶²³ Erica-Irene A. Daes, “Striving for Self-determination for Indigenous Peoples,” in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 58.

equitable futures for themselves.”⁶²⁴ Such recognition and application, they assert, “would enable the *resolution* of conflicts rather than provoke them and *build* peace rather than hinder it.”⁶²⁵

Respondent I points out that “conflicts arising out of the suppression of movements for self-determination of peoples cannot be resolved by denying the right to self-determination or refusing to at least acknowledge the existence and application of that principle.”⁶²⁶ Respondent I asserts that recognizing the right is a first step to reconcile with a people that feel marginalized or oppressed and emphasizes that “finding a political and constitutional solution that respects the right to self-determination can be a basis for a sustainable peace.” An Indian civil rights activist affirms that “in order to end conflict and ensure peace, self-determination becomes the means to unlock deadlocked situations.”⁶²⁷

Self-determination as a language of JustPeace should be approached as a relational process of dialogue rather than as an end or a single event. Self-determination is a “continuing right and process of dialogue and negotiation that result in mutually beneficial forms of sharing of sovereignty and governance.”⁶²⁸ Lederach says there are “no short cuts” and affirms that “self-determination requires commitment to inclusion, engagement and respectful dialogue.”⁶²⁹ Anaya notes “a process of negotiation that involves good faith dialogue toward achieving agreement helps to build mutual understanding and trust in what might otherwise be contentious and even volatile situations.”⁶³⁰ Good faith dialogue, Anaya claims, makes it possible to accord to historically aggrieved groups the dignity they need and to identify shared interests and objectives. Freire holds the view that a dialogue is meaningful when those involved in the dialogue not only retain their identity, but actively defend it.⁶³¹ While insisting that dialogue is “not a favor done by one for the other,” Freire affirms that it implies sincere and fundamental respect requiring a

⁶²⁴ Andrea Muehlebach, “What Self in Self-Determination? Notes from the Frontiers of Transnational Indigenous Activism Identities,” (Global Studies in Culture and Power, ISSN 1070-289X, 04/2003, Volume 10, Issue 2), p. 258.

⁶²⁵ Ibid.

⁶²⁶ Respondent I is an international lawyer, mediator, facilitator for interstate conflicts, who did not want to be named in his response to Questionnaire 4 on July 21, 2011.

⁶²⁷ Respondent B, an Indian writer and civil liberties activist and who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

⁶²⁸ Respondent I is an international lawyer, mediator, facilitator for interstate conflicts who did not want to be named in his response to Questionnaire 4 on July 21, 2011.

⁶²⁹ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁶³⁰ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 130.

⁶³¹ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), p. 117.

democratic relationship which provides “opportunity to open up the thinking, and not wither away in isolation.”⁶³²

Self-determination as a struggle for humanization is “possible only because dehumanization, although a concrete historical fact is not a given destiny, but the result of an unjust order that engenders violence in the oppressors, which in turn dehumanizes the oppressed.”⁶³³ The dehumanization process strips the humanity of both the oppressed, as well as the oppressor, as documented in situations of war; for instance, the role of the Nazis in the Holocaust. The recovery of the right to self-determination as a praxis with all its humanistic values is crucial to humanization, because ultimately the praxis of self-determination seeks to transform the unjust order and to free the oppressors from their own structures of violence.

Hart advocates that the paradigm of self-determination is a foundational one premised on relationship, and, therefore, imperative for all sides to realize that the “other” is *us*, and says “until all do this (or start the process toward this), true self-determination can’t take place.”⁶³⁴ This, Hart asserts, implies being “respectful to those who once dominated you, while at the same time holding them accountable for their unjust attitudes and actions.”⁶³⁵ This paradigm was applied by the people of South Africa after they successfully overcame the Apartheid State and regained their self-determining capacities and freedom to determine their own destiny, when they chose to create new relationships based on respect and acceptance, rather than taking punitive action. This experience shows that when a people regain their self-determination, they can consciously seek the humanizing path for both the oppressor and oppressed.

The South African experience further demonstrates freedom and the right to self-determination as interdependent values because only a people that are free can determine their destiny, and only a people that are self-determining can claim to be free. This is consistent with Freire’s opinion that freedom is an indispensable condition in the quest for human completion.⁶³⁶ The Apartheid structure in South Africa also demonstrates how peace cannot exist in States that lack legitimacy

⁶³² Ibid., p. 119.

⁶³³ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 26.

⁶³⁴ Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

⁶³⁵ Ibid.

⁶³⁶ Paulo Freire, *Pedagogy of the Oppressed: New Revised 20th-Anniversary Edition* (New York: Continuum Publishing Company 1970, Revised 1993, 2000), p. 29.

or whose governments threaten the lives or well-being of the very people it claims to represent. It is essential that any association between peoples or between Peoples and the State must be based on genuine consent through open participatory democratic processes.

Freedom and self-determination in the South African context proved to be the necessary conditions required for reclaiming human dignity and redefining the terms of respectful relations to enable peaceful co-existence. Paradoxically, while States are denying self-determination to peoples by saying that it would lead to instability, fragmentation and fragility, however, it is actually by granting all peoples the right to exercise self-determination which will prevent fragmentation and contribute towards creating world peace and human security. Respondent H holds the opinion that “peace results when self-determination is recognized at one degree or another. If not, then it is imposition or the exercise of imperial power that brings a cessation to the conflict.”⁶³⁷

Babbitt affirms that self-determination is clearly more than a legal challenge. She says it includes “struggles for economic and political power, the self-interest, as well as the altruistic interest of leaders and outsiders, and the challenge for ‘peoples’ to find ways to co-exist with respect and dignity.”⁶³⁸ In the process to find ways to peacefully co-exist, she urges to “recognize that all cultures are in a constant process of change, and drawing a wall around one’s perceptions of the ‘right’ culture is doomed to failure.”⁶³⁹

Self-determination as a language of JustPeace is about “justice and its central meaning of balanced and accountable relationships where no major power differentials exist, but exists as an *empowering function* through just structures and respectful, even compassionate interaction between and among people—within and across all levels of society.”⁶⁴⁰ This implies “safety and well-being, independence, interdependence and wholeness, as well as celebration” which can take place when “the importance of a *collective self identity* is realized and honored through

⁶³⁷ Respondent H is involved with peacebuilding and did not want to be named in his response to Questionnaire 3 on April 6, 2011.

⁶³⁸ Eileen F. Babbitt, “Negotiating Self-Determination: Is It a Viable Alternative to Violence” in Hurst Hannum and Eileen F. Babbitt, *Negotiating Self-Determination* (Lanham; Boulder; New York; Toronto; Oxford: Lexington Books, 2006), p. 165.

⁶³⁹ Ibid.

⁶⁴⁰ Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

acknowledgement of a people's need to be free of the bonds of another entity.”⁶⁴¹ Patrick Hoenig asserts that “self-determination, as all powerful medicines, needs to be administered on clearly understood terms and in line with peoples’ stated political aspirations.”⁶⁴²

Arriens notes that the present day challenge for those seeking self-determination is to use non-violence means, but recognizes it can be extremely difficult when violence and oppression are perpetrated on a people, as for example in Tibet.⁶⁴³ Buttry says when “revolutionary forces succeed in obtaining power through violence, it is often the case that the resulting government is more centralized, controlling and employs violence more extensively to maintain its new-found control.”⁶⁴⁴ For instance, Bangladesh gained independence, but its government does not recognize the right of self-determination for the people of the Chittagong Hill Tracts, neither does the Tanzanian government recognize that right to Zanzibar.

The praxis of self-determination as a language of JustPeace needs to be strengthened through nonviolent means as it tends to encourage broader-based peoples participation, including the shaping and owning of the vision of the future.⁶⁴⁵ The people's commitment to peaceful means is the paramount value.⁶⁴⁶ Buttry says that non-violence enables a broader process rather than one that is “narrowly-controlled by an elite vanguard.” The language of self-determination is the essence for creating a comprehensive and inclusive process for peaceful resolution of its conflicts.

Although the values of self-determination are necessary for establishing JustPeace, yet it becomes meaningful only when it is recognized and applied within the broader context of conflict transformation.⁶⁴⁷ Lederach believes that the present theories of conflict studies do not adequately

⁶⁴¹ Ibid.

⁶⁴²Patrick Hoenig, a visiting Professor at Jamia Millia Islamia, New Delhi, in his response to Questionnaire 2 on June 25, 2010.

⁶⁴³ Jan Arriens in his response to Questionnaire 2 on August 14, 2010.

⁶⁴⁴ Dan Buttry, a Global Consultant, International Ministries (ABC), in his response to Questionnaire 3 on February 15, 2011.

⁶⁴⁵ Ibid.

⁶⁴⁶Respondent F who did not want to be named in his response to Questionnaire 2 on July 28, 2010.

⁶⁴⁷ Lederach proposes that Conflict transformation means, to envision and respond to the ebb and flow of social conflict as life-giving opportunities for creating constructive change processes that reduce violence, increase justice in direct interaction and social structures, and respond to real-life problems in human relationships. For details see, John Paul Lederach, *The Little Book of Conflict Transformation* (Intercourse, PA: Good Books, May 2003). Also see, John Paul Lederach, *Preparing for Peace: Conflict Transformation Across Cultures* (Syracuse, New York: Syracuse University Press, 1995). Also, Mark Tamthai makes a distinction between conflict resolution and conflict transformation in their approach to self-determination. He says, conflict resolution “usually address issues of self-determination directly (for example using promises of future possibilities of self-determination) but in a shallow way, meaning that short term agreement is acceptable in order to bring about cessation of violence for a period.”Mark

address issues of self-determination. He says that the field of conflict studies is “much dominated by international relations, realist understandings of change and the default legitimacy of the existing states,” and points out that it has a long way to go for “rhetoric of democracy, deliberative dialogue, human rights to catch up with the practice and preference given to state structures of politics, economies, and use of natural resources.”⁶⁴⁸ Anderson laments that the current approach ignores the issues of justice and often makes the assumption of equal power and resources, while in reality, power is usually very uneven.⁶⁴⁹

While acknowledging the limitation of conflict studies, Respondent H states that the field contributes only to the extent that it recognizes the modern State’s limitations and requires the process theories to recognize the historical factors related to conflicts.⁶⁵⁰ By this, Respondent H says, “means that a lot of justice work would need to be done, which in the long term may show the processes to be inadequate.” Daniel Hunter further notes that conflict studies are focused merely on process, while self-determination is an interrogative model. He is of the view that “conflict studies analyze from the perspective of the *conflict*, not the actors. It’s as though their major interest is the shifting of conflict; not the outcomes themselves, which are naturally the actors’ considerations.”⁶⁵¹ Clem McCartney suggests “the main way that self-determination can work alongside conflict studies is in the idea of relating solutions to conflicts to the analysis of needs and fears and interests of all the parties.”⁶⁵²

Tamthai, Director, Institute of Religion, Culture and Peace, Payap University, Chiang Mai, Thailand, in his response to Questionnaire 2 on November 8, 2010.

On the other hand, Tamthai emphasizes conflict transformation talks about “the issue of self-determination as one of the transformations that need to take place in order to bring about a sustainable peace.” He however laments that such “theories do not seem to tackle the difficult challenges raised by trying to combine both self-determination and political reform, such as democratization.” Mark Tamthai, Director, Institute of Religion, Culture and Peace, Payap University, Chiang Mai, Thailand, in his response to Questionnaire 2 on November 8, 2010. Also Hoenig says that “conflict resolution has always been a bit like doing a survey in geology ...[where]... you examine the surface material of a certain site, you dig it up and take for testing what you think you can handle in your lab, and you come up with a study with a pre-conceived outcome ...[and] ... you will find that the key to a solution invariably is sustained and comprehensive dialogue and negotiations among all stakeholders in the conflict.” Patrick Hoenig, a visiting Professor at Jamia Millia Islamia, New Delhi, in his response to Questionnaire 2 on June 25, 2010.

⁶⁴⁸ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

⁶⁴⁹ Shelley Anderson in her response to Questionnaire 2 on August 9, 2010.

⁶⁵⁰ Respondent H is involved with peacebuilding and did not want to be named in his response to Questionnaire 3 on April 6, 2011.

⁶⁵¹ Daniel Hunter, a trainer with “Training for Change,” in his response to Questionnaire 3 on February 10, 2011.

⁶⁵² McCartney further says “if self determination is seen as a solution without farther analysis then it complicates the processes of conflict transformation.” He feels that conflict studies can start with the concerns and interests of the party and then look at different ways that self-determination could be expressed and how these different approaches would be helpful to the meeting of the different interests of each party then the parties might more easily find an option which would work for them all. He cites the process of resolving the Bougainville conflict is a good example of such a process. Clem McCartney, an independent consultant, in his response to Questionnaire 2 on June 24, 2010.

In the current situation where “earned Sovereignty” is emerging as the applied approach to address self-determination conflicts, it becomes necessary to strengthen and broaden its understanding. As a conflict resolution approach, this “managed devolution” of sovereign authority and functions from a State to a sub-state entity provides flexibility both in terms of process and time period. The flexibility in approach,⁶⁵³ process⁶⁵⁴ and time period⁶⁵⁵ allows it to be a relevant and meaningful framework to address the “unique circumstances of the conflict and to the particular needs of the parties involved,”⁶⁵⁶ and to “provide a focal point for the

⁶⁵³ Williams points out that the earned sovereignty approach is defined by three core elements: (1) Shared Sovereignty: “Earned sovereignty is characterized by an initial stage of shared sovereignty, whereby the state and substate entity may both exercise some sovereign authority and functions over a defined territory. Sometimes international institutions may also exercise sovereign authority and functions in addition to, or in lieu of, the parent state.” In almost all instances, an international institution is responsible for monitoring the parties exercise of their authority and functions. The period of shared sovereignty may provide the substate entity to consider lessening its interest in outright independence and eliminate the causes of conflict through some form of perpetual autonomy or serve merely as a way station to independence. (2) Institutional Building: During the period of shared sovereignty the “substate entity, frequently with the assistance of the international community, undertakes to construct new institutions for self-government or to modify those already in existence.” It is a process “intended to create the capacity for the assumption of sovereign authority and functions necessary for the establishment of an autonomous entity, or a future independent state.” (3) Determination of Final Status: “The eventual determination of the final status of the substate entity and its relationship to the parent state is also an essential element of earned sovereignty. In many instances, the status will be determined by a referendum. In others, it may involve a negotiated settlement between the state and substate entity, often with international mediation. Invariably, the determination of final status for the substate entity is conditioned on the consent of the international community in the form of international recognition.” Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), pp. 135-136.

⁶⁵⁴ Ibid., pp. 136-137. Williams notes the earned sovereignty process may also encompass three optional elements: (1.) Phased Sovereignty: “Phased sovereignty involves the measured devolution of sovereign functions and authority from the parent state or international community to the substate entity during the period of shared sovereignty and prior to the determination of final status.” (2.) Conditional Sovereignty: “Conditional Sovereignty may be applied to the accumulation of increased sovereign authority by the substate entity, or it may be applied as a set of standards to be achieved prior to the determination of the substate entity’s final status.” (3.) Constrained Sovereignty: Constrained sovereignty “consists of applying limitations on the sovereign authority and functions of the new state.” It is “often required as a guarantee for the parent state and the international community.”

⁶⁵⁵ Ibid., pp. 137-142. The period from the time the parties set out the ground work for implementing the earned sovereignty approach until the time final status is determined is usually referred to as the “interim period.” In the case of Kosovo, through the UNSC Resolution 1244 the entire interim period was for nearly nine (9) years. In South Sudan, the Comprehensive Peace Agreement between the National Congress Party and the Sudan People’s Liberation Movement was for a six-year interim period. Also, in the East Timor experience, the UNSC through Resolution 1272 provided a two and one half year period of “shared sovereignty between the United Nations and East Timor, during which East Timor was able to construct the institutions necessary for independent self-government.” In Serbia and Montenegro, the Union Treaty between Serbia and Montenegro provided three (3) years of shared sovereignty before the final status was to be determined through a referendum. In Northern Ireland, the Good Friday Agreement provides the people of Northern Ireland with the right to decide the issue of unification with the Irish Republic through a referendum to be held in seven years. In Bougainville and Papua New Guinea, the Comprehensive Agreement for Bougainville states that within 10-15 years, and after the completion of the weapons disposal plan, Bougainville may undertake to secede from Papua New Guinea via referendum. In Western Sahara, the UN sponsored Baker Peace Plan states that the determination of the final status will be held within five (5) years through a referendum. See Paul R. Williams and Francesca Jannotti Pecci, “Earned Sovereignty: Bridging the Gap between Sovereignty and Self-Determination,” (Stanford Journal of International Law 347, Volume 40, Issue 2, 2004), pp. 356-360.

⁶⁵⁶ Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), p. 135.

development of a more effective international approach.”⁶⁵⁷ The limitation of “earned sovereignty” seems to be its inability to go beyond the Westphalian World Order. The approach seems to be primarily focused on determining the “political status,” and, therefore, indicates that the international community is still focusing on the remedial aspects of self-determination as an outcome. The transformative nature of self-determination does not receive the support needed for a meaningful and sustainable peace. Furthermore, the space necessary for a people to determine and create their own political apparatus and structures seems to be inadequate.

While “earned sovereignty” as an approach is aimed at resolving the conflict, it needs to be simultaneously strengthened in areas that concern transforming structures and power relationships, which will enable the process to explore alternatives that move beyond the State. The experiences of East Timor and South Sudan provide important learning experiences. Although they were successful in freely determining their political status, it brought them independence, but not peace. Though their political aspirations were secured, unresolved differences at various levels of society meant that armed violence continued to be an impediment to peace. The growing need to “develop early and effective mechanisms for violence prevention, to identify patterns and to transform the underlying structures and causes of violence,”⁶⁵⁸ invariably implies the urgency to engage the State at the given transition point, and not at a later stage.

Since self-determination is the manifestation of the peoples’ will and the founding right of all other rights, it is important that any process seeking to resolve self-determination conflicts should keep in mind the people’s aspirations and needs. Hoenig notes, “what is important to keep in mind though is that the study of conflict, just as the generation of elements for its solution, much benefits from being community-driven because only such an open approach ensures that the people who suffer from conflict the most, civilians as it stands in modern inter- and intra-state conflict, are empowered to define its scope themselves and a way to frame it for analysis and ultimate resolution.”⁶⁵⁹ In the struggle for self-determination, it is essential that a peoples’ sense

⁶⁵⁷ Paul R. Williams and Francesca Jannotti Pecci, “Earned Sovereignty: Bridging the Gap between Sovereignty and Self-Determination,” (Stanford Journal of International Law 347, Volume 40, Issue 2, 2004), p. 372.

⁶⁵⁸ Kai Frithjof Brand-Jacobsen, with Carl G. Jacobsen, “Peacemaking as Realpolitik, Conflict Resolution and Oxymoron: the Record; the Challenge” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 51.

⁶⁵⁹ Patrick Hoenig, a visiting Professor at Jamia Millia Islamia, New Delhi, in his response to Questionnaire 2 on June 25, 2010.

of shame, grievances and their basic need to be fully human are duly reflected, that solutions embody their rights, and are not super-imposed by the State.

Hart says that the current theories of change in the peacebuilding field are about “interdependence, importance of culture and structures that work for everyone, and leadership that creates the space for healing the past and dialogical spaces to discuss future possibilities.”⁶⁶⁰ In this, he says, we see the centrality of human needs theory and “points to the need to give power to a people to practice their culture, create the structures that best meet their political and socio-economic and needs, all of which addresses self-determination at its core.” Laura Brenneman affirms that a true elicitive approach within conflict transformation is at its root about self-determination, but laments that the principle has however been mostly used on an inter-personal level, and holds the opinion that self-determination has more potential than has been tapped to be a resource for JustPeace.⁶⁶¹

In the final analysis the vision to move towards increasing humanization implies the need to seek alternatives beyond the Westphalian World Order. While there are contesting views on the unfolding developments of the State, the unrepresented perspective is quite clear in its articulation that though the State has taken a significant step in softening its territorial boundaries it has retained its monopoly to use legitimate force thus ensuring that it retains its ability to control and dominate. To create and sustain peaceful co-existence the need to look beyond the Westphalian World Order is imperative by seeking alternatives where the underlying issues of consent, legitimacy and right relationship between the governed and the “unconstructed state” is respected and upheld. Simultaneously, self-determination as a language and resource of JustPeace needs to be strengthened. However, this means that the inherent relation of self-determination with the ideals of JustPeace needs to be expressed through a sustained and evolving space of conflict transformation which seeks to transform not just the conflict, but to change power relations and structures towards the ideals of JustPeace.

⁶⁶⁰ Barry Hart, associated with the Center for Justice and Peacebuilding, Eastern Mennonite University, Harrisonburg, Virginia, in his response to Questionnaire 3 on April 3, 2011.

⁶⁶¹ Laura Brenneman, Associate Professor of Religion and Director of Peace and Conflict Studies, Bluffton University, Bluffton, Ohio, in her response to Questionnaire 3 on May 28, 2011.

Conclusion

The conflicts between States and Peoples have come to occupy a central place in international relations. The primary factor has been the right to self-determination with States seeking to restrict its meaning and application, and Peoples hoping to implement it according to their aspirations. The denial of self-determination has been one of the main causes of conflicts in the world, and when allowed to precipitate into armed violence, it has proven to have grave consequences. Self-determination conflicts are among the most violent and the most difficult to resolve since it involves issues around identity and deeply held values which are often not open for negotiations. The State practice of approaching self-determination on an ad-hoc basis has not proven to be helpful, since it has only obstructed the path towards enabling creative and transformative approaches to engaging with self-determination conflicts.

The process towards an evolving synthesis of a shared language of self-determination, however, provides an understanding of self-determination as a value-based praxis that is relational, humanizing and transformative in nature. Since self-determination represents a spectrum of life giving values, it provides a people the opportunity to demonstrate the richness of life, and its contextual application gives it flexibility and creativity in addressing conflicts. The relevance of self-determination as a resource of JustPeace, however, becomes meaningful when it is incorporated into the broader application of conflict transformation. This strengthens self-determination as a language of JustPeace and it opens up possibilities for self-determination to become the means to unlock deadlocked situations and to transform the conflict by addressing the structures of violence and injustice.

The foundation of self-determination as an expression of the people's free will provides the moral grounds to challenge the State which derives its legitimacy through the use of force, rather than the consent of the people it seeks to govern. Hence, the exercise of self-determination provides the impetus to seek alternatives that goes beyond the Westphalian World Order. This transcendence is crucial to the vision of a peaceful and just world where human affairs are not based on dominance, but through the mutual acceptance of each side's concerns about survival, status, legitimacy, and cultural and political rights.

The Naga Caravan and its Search for Humanization

Introduction

In the previous chapter, the shared language of self-determination as an evolving synthesis has been argued as having transformative qualities necessary for addressing conflicts in a manner consistent with values of JustPeace and humanization. Self-determination as a praxis embraces the necessity of not just ending a conflict, but addressing peoples' aspirations and rights which led to the conflict in the first place. As a result, self-determination itself becomes the mechanism by which States and Peoples have the opportunity to explore creative and imaginative ways of reaching a settlement that is consistent with the principles of justice. Based on its evolving synthesis as a shared language with the inherent capacity of transforming conflicts between States and Peoples, this chapter will explore the possibilities of self-determination being a potential resource of JustPeace in the Naga context.

The Naga struggle for self-determination is said to be “one of the most persistent and least-known struggles of indigenous peoples in the world today,”⁶⁶² and “constitutes an important part of Asia where oppression is still in evidence.”⁶⁶³ The Naga conflict is “one of the world’s least-known but longest-running and bloodiest armed conflicts [and] one that has cost thousands of lives”⁶⁶⁴ represents the “first major challenge to the Indian state’s integrationist project.”⁶⁶⁵ In the face of an overwhelming power imbalance and the deafening indifference of the UN, the Nagas refuse to part ways with their aspirations to determine their own destiny. The purpose of this chapter is not to write the narrative and history of the Naga people,⁶⁶⁶ there are authors and scholars who have written and continue to write on Naga history from Naga perspective.⁶⁶⁷

⁶⁶² Maya Chadda, “Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland,” (Minority Rights Group Report, 2006), p. 12.

⁶⁶³ IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 1.

⁶⁶⁴ Sanjib Baruah, “Confronting Constructionism: Ending India’s Naga War,” (Journal of Peace Research, Volume 40, Issue 3, 2003), p. 321. Also, Das says that the Naga national movement is considered to be “one of the oldest unresolved armed conflicts in the world.” He further adds that “the Nagas and many other tribes of north-east India claim that their territories did not form part of the lawful territory of India at the time of the transfer of power from the British crown.” N.K. Das, “Naga Peace Parleys: Sociological Reflections and a Plea for Pragmatism,” (Economic & Political Weekly, Volume XLVI, Issue 25, 2011), p. 70.

⁶⁶⁵ Manchanda and Bose add that the “Naga conflict is the oldest of the self-determination struggles.” Rita Manchanda and Tapan Bose, “Expanding the Middle Space in the Naga Peace Process,” (Economic & Political Weekly, Volume XLVI, Issue 53, 2011), p. 51.

⁶⁶⁶ Most of Naga history has been written by anthropologist, scholars and researchers from the outside. In the process the Naga perspective have not been adequately represented. In most cases, it has been the victor’s narratives and understanding of the Nagas that have been offered. While there have been an increasing number of Naga writers and researchers that have been consciously attempting to rewrite Naga history and experience from the Naga perspective, ironically, they still have to rely mostly on European anthropologists’ and American missionaries’ accounts of the

The intent of this chapter is to analyze how colonial intrusions have systematically stripped away the Naga peoples' self-determining capacities through force, deception and peace. It further seeks to provide an 'unrepresented' perspective of Naga men and women's understanding and aspirations for self-determination and JustPeace. This is fundamental because the nature of the State, media, and the international community is to focus on individuals and organizations who have taken up the armed struggle. The 'powers that be' rarely provide the space to actively listen to the 'voices' of ordinary people who are most affected by the conflict, and yet, whose participation is essential to finding a sustainable settlement. The rationale for this deliberate shift in focus is to take the Naga issue back to the people. Finally, based on the 'unrepresented' perspective in the previous chapter on self-determination as a resource for JustPeace, a framework will be proposed as an alternative for the Naga caravan moving towards humanization.

While acknowledging that the Naga territory and peoples are divided by imposed boundaries and are currently living under the divided rule of India and Burma, the scope of this chapter is limited to the Naga experiences on the Indian side of the border.

Nagas during the Colonial period. Most literature on the Nagas that is available is limited to two periods: the Colonial period until the British left the sub-continent; and the period after the Ceasefire Agreement was signed in 1997 to the present time. This means that very little literature is available that provides an accurate narrative of the Naga experience during 1947-1997. During this period when the Naga territory was virtually sealed off from the international community no independent media, journalists or human rights groups were allowed inside to witness firsthand the context in which the Nagas were struggling to survive. Only in 1960 a group of twelve foreign correspondents were allowed on a guided tour into the Naga Hills. It must be mentioned that 1947-1997 was the most difficult period for the Nagas where they suffered severe violations of human rights and systematic destruction of their homes, culture, economy and their social and political life. Today, the young Nagas who are growing up after the Ceasefire in the post 1997 period are doing so without reading or learning about this most difficult period in recent Naga history.

It is pertinent to cite here the observation that Marcus Franke noted on the literature about the Nagas. He says, "one encounters mostly three independent arguments appearing in different compositions: First, in good imperialist manner, the Nagas themselves are blamed for their own subjugation, by claiming at least implicitly that they should be ruled by others for their own good, even if against their will. This is connected to the second, that the violence that necessarily must be employed to bring them to order, or into one's own state, is the necessary price to pay for the larger good of good governance that comes once successfully incorporated. For the second argument to be tolerable, requires the third, that is the trivialization of the war, the denial that there is anything like a war or excessive violence going on there at all." See, Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 1.

⁶⁶⁷ For example: Kaka D. Iralu, *Nagaland and India: The Blood and the Tears* (Privately Published, September, 2002); R. Vashum, *Nagas's right to Self-determination* (New Delhi: Mittal publication, 2000); Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009); A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005); Abraham Lotha, *History of Naga Anthropology, 1832-1947* (Dimapur: Chumpo Museum, 2007).

The Naga Caravan: A Peoples!

Inspired by Mazrui's caravan of culture,⁶⁶⁸ let us imagine that the Naga caravan of culture is meandering towards its own destination under the stars of history. In the course of its journey, a major interruption takes place and the Naga caravan has been overcome and hijacked by outsiders. These intruders diverted the Naga caravan from its natural route taking it into an alluring but strange destination. They have brought the Naga caravan some considerable distance from what seemed to be its original route. Should the Naga caravan continue along the path of diversion? Or should the people seeking justice and peace try to bring the Naga caravan under their control and once again decide their own destiny by creating an alternative route?

For close to 190 years at a stretch starting with the British⁶⁶⁹ colonial project that was followed by political subjugation from India and Burma, the Nagas have not been able to freely express and exercise their self-determining capacities as peoples. For most of these 190 years the outcome has been war, militarization, oppression, domination, suffering, trauma and destruction that fragmented human lives. Yet, in the midst of this, there are stories of courage, resistance, dissent, forgiveness, healing, spirituality, the desire and will to become fully human, the ability to appreciate the gifts of life, laughter and the eagerness to seek peace at every given opportunity. Nandita Haksar, a lawyer in the Supreme Court of India, says anyone wanting to understand the Naga spirit should "read Asterix and Obelix, about the little Gaul village which defied the Roman Empire."⁶⁷⁰

Even today in the 21st century, the inability of States and dominant forces to see indigenous peoples as peoples with the right to self-determination and the right to choose non-Westphalian state systems have created conditions that compel them to explain they are a *peoples*. The Nagas find themselves in this quandary. Since little is known about the pre-colonial history⁶⁷¹ of the

⁶⁶⁸ For Ali A. Mazrui's depiction of the caravan of culture. Ali A. Mazrui, *Cultural Forces in World Politics* (Oxford: James Currey Ltd., 1990), p. 244.

⁶⁶⁹ Burman says, "... the Naga conflict appears to have surfaced right after the British East India Company started flexing its politico-territorial control after defeating the Burmese and signing of the Yandobo treaty in 1826." See, J.J. Roy Burman, "Contours of the Naga Upsurge," (Asia Europe Journal, ISSN 1610-2932, Volume 6, Issue 1, 04/2008), p. 147.

⁶⁷⁰ Nandita Haksar in her Foreword in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 15.

⁶⁷¹ It is stated that the "entry of the Nagas into the written history of the world can be dated to 24th February 1826" in Michael Oppitz, Thomas Kaiser, Alban von Stockhausen and Marion Wettstein (eds.), *Naga Identities: Changing Local Cultures in the Northeast of India* (Gent: Snoeck Publishers, 2008), p. 11. Also, Sanjib Baruah points out that, "perhaps because Nagas are free of the burden of a frozen hegemonic and national narrative – thanks to the lack of a long literary history – Naga narratives are willing to live with remarkable ambiguity and uncertainty about their past."

Naga peoples, the British constructed a language and image of the Naga with stereotypes and prejudices that was consistent with their colonial project. This colonial language continues to be perpetuated and influenced by India, Burma and other dominant cultures when approaching, understanding and relating to the *Naga*.⁶⁷² As part of their struggle towards humanization and self-determination, it is only natural for Nagas to reclaim their stories and their right to self-definition.

Transcending all colonial constructs, the name *Naga* from a Naga perspective is a generic term that represents the self-conscious collective political identity⁶⁷³ of sovereign “village-states”.⁶⁷⁴ While each of these ‘village-state’ (which were later grouped and categorized into ‘tribes’ by the British) has their own language, culture and social system, they have, by way of historical forces, been consciously representing their “common public character”⁶⁷⁵ through an active self, namely, *Naga*. Therefore, having a common past and historical inheritance, the Naga “cultural community” by virtue of exercising their right to self-determination is transformed into a

Sanjib Baruah, “Confronting Constructionism: Ending India’s Naga War,” (Journal of Peace Research, Volume 40, Issue 3, 2003), p. 335.

⁶⁷² To the outside world, the name ‘Naga’ is shrouded in mystery and there has been much debate over its meaning and origin. John Henry Hutton wrote that “the expression ‘Naga’ is useful as an arbitrary term to denote the tribes living in certain parts of the Assam Hills, which may be roughly defined as bounded by the Hokong Valley and the northeast, the plain of the Brahmaputra Valley to the northwest, of Cachar to the southwest and of the Chindwin in the east.” Quoted in Sanjib Baruah, “Confronting Constructionism: Ending India’s Naga War,” (Journal of Peace Research, Volume 40, Issue 3, 2003), p. 322. Also, W.C. Smith says, “According to the annals of the Ahoms, when the Ahoms invaded Assam in 1215 A.D. the different Naga tribes were settled in their different habitats, and from all that we can gather they were the same Nagas which the British found when they took possession of Assam several centuries later.” W.C. Smith, *The Ao Naga Tribe of Assam* (London: Mac Millan and Co., 1925), p. xxi. Also, this region is referred to as “The Realm of the Naked,” by Claudius Ptolemaeus in 150 A.D., in his geography (VII, 11, 18) as quoted in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 27. A dossier on the Nagas say that, for a long time, the name ‘Naga’ was associated with stereotypes and prejudices, but the Nagas themselves identify with this name to symbolize their distinct and collective cultural and political identity. See, “Naga Resistance and the Peace Process,” A Dossier, (New Delhi: Other Media Communications, 2001), p. 2.

⁶⁷³ Abraham Lotha, “Naga Identity: Enduring Heritage,” in Michael Oppitz, Thomas Kaiser, Alban von Stockhausen and Marion Wettstein (eds.), *Naga Identities: Changing Local Cultures in the Northeast of India* (Gent: Snoeck Publishers, 2008), p. 54.

⁶⁷⁴ Before the advent of the British, the Nagas lived in permanently established “village-states, much like the Greek City states, perched high over the valleys.” Colin Johnson, “A Captured Nation: The Naga Dilemma,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 12. Also, Vashum informs that archaeological findings point the cultural age of the Nagas to at least 10,000 B.C. R. Vashum, “Challenges and Prospects of Peace Process in Nagalim (Nagaland),” paper submitted at ‘Indigenous Rights in the Commonwealth Project, South and South East Asia Regional Expert meeting’ at the India International Centre, New Delhi, March 11-13, 2002.

⁶⁷⁵ Miller points out that Belief, Historical Continuity; Active Identity, A Particular Geographical Space and a National Character are characteristics pertinent to the making of a member of National Community. David Miller, *On Nationality*, (New York: Oxford University Press Inc, 1995), p. 22.

“political community.”⁶⁷⁶ The Nagas as a “political community testifies to the existence of a common project for the future,”⁶⁷⁷ which is reflected in their struggle to freely determine their own political status, as well as, pursue their social, economic and cultural future.

Self-determination means not only the right to self-definition, but also determining the territory on which the *self* inhabits. Like most indigenous cultures, the Nagas share an intimate and sacred relationship with the land which constitutes an integral part of who they are as peoples. In the Naga cultural worldview, it is not the territory that defines the people, but it is the people who define the land and its destiny based on the historic continuity and relationship they share.⁶⁷⁸ The ancestral land where Nagas are presently living is a geographically compact territory “straddling the official boundary of India and Burma/Myanmar, from just south of the Chinese border,”⁶⁷⁹ is a homeland called Nagaland⁶⁸⁰ (See Figure I.). With its present population of about 3.5 to 4 million

⁶⁷⁶ Mamdani Mamdani notes that a nation with a common past and a common historical inheritance is a “cultural community” and it is the cultural identity that remains the “bedrock of political identity.” He says the distinction between a cultural community and a political community is “often blurred because the past flows into the future, as it always does, creating a significant overlap between cultural and political communities.” Yet, Mamdani says, “there are instances when there is a radical rupture between the two.” For details see, Mahmood Mamdani, *When Victims become Killers: Colonialism, Nativism and the Genocide in Rwanda*. (Princeton: Princeton University Press, 2001), pp. 21-23.

⁶⁷⁷ Ibid., p. 23.

⁶⁷⁸ Unlike modern States that derives its political identity on the basis of territory, the Naga political identity is based on the expressed will and consent of the people; and therefore, an evolving process. A State is comprised of many different nations and cultures and yet its political identity is primarily and exclusively territorial. It is for this reason that the notion of State territorial integrity is essential for its continued existence. History has adequately shown that force and coercion has been used for State-building, and in the process destroying nations and peoples. Also, Freeman cautions that the conceptual problem of defining ‘nations’ based on territory is reflected at the level of practical politics, for instance, he cites the example of the state of Yugoslavia. He notes “those who had the right to determine the destiny of Yugoslavia were members of the Yugoslav nation. When Yugoslavia began to disintegrate, the Slovene, Croat, Serb, Bosnian and Macedonian ‘nations’ were recognized by the international community, and accorded the right to self-determination.” He says “these ‘nations’ were defined, however, not by self-identification, but by the internal territorial boundaries of the defunct Federal Socialist Republic of Yugoslavia.” Freeman points out that this method of definition left a large minority of self-defining Serbs in the new state of Croatia, and a complex mixture of self-defined groups in Bosnia-Hercegovina. He notes “a combination of reasonable fears and the manipulation of these fears by ambitious politicians led to the hardening of national identities, the intensification of hatreds, the assertion of self-determination claims, and a terrible war,” which led to the Dayton Agreement. For details see Michael Freeman, “The Right to National Self-Determination: Ethical Problems and Practical Solutions,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), pp. 46-47.

⁶⁷⁹ Maya Chadda, “Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland,” (Minority Rights Group Report, 2006), p. 12.

⁶⁸⁰ According to Shimray, the Nagas live in the present administrative state of Nagaland, in the Naga Hills of Manipur [comprised of the following districts: Senapati, Ukhrul, Tamenglong and Chandel], in North Cachar and Mikir Hills, Lakhimpur, Sibsagar, in Nowgong in Assam, in the northeast of Arunachal Pradesh [Tirap and Changlang districts], in the Somra tracts and the Nagas in Burma who occupy and areas from the Patkai range in the North to the Thaungthut State in the south, and from the Nagaland state border in the west to the Chindwin river (and beyond), in the east. A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), pp. 30-31. The Naga territory lies approximately between Latitude 23.5°N to 28.5°N and Longitude 92.5°E to 97.5°E. The Naga territory, a geographically compact area is about 120,000 square kilometers.

people⁶⁸¹ the Nagas are embedded in a network of social relationships and have soft and fluid boundaries which allowed for a process of fusion,⁶⁸² and have consciousness as being self-producing and culturally and politically different from their surrounding neighbors.⁶⁸³

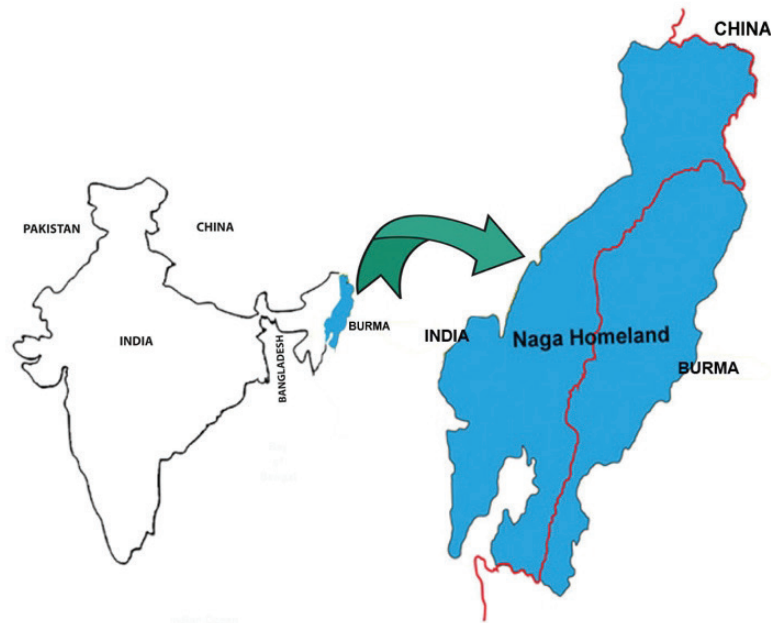


Figure I. shows the geo-political location and territory where Nagas are ancestrally and presently living. The Naga homeland which is a geographical compact area of about 120,000 square kilometers straddles the “official boundary of India, Burma and just south of the Chinese border.” This map shows the Indo-Burma “international boundary line” (in red) which splits the Naga homeland under two States India and Burma. Please note that this map is NOT to scale, and is only to provide a visual image of where the Nagas are living. The outline of the Naga homeland depicted in this map is referred from “Naga Resistance and the Peace Process,” A Dossier, (New Delhi: Other Media Communications, 2001), p. 5.

Marcus Franke says this “consciousness of being different qualifies to be called national, in the sense of a self-conscious political community.”⁶⁸⁴ Bound together by the awareness of their distinct languages and cultures, a common history of being free peoples, and a well defined contiguous territory, and subjective criteria such as shared preferences, values, shared aspirations

⁶⁸¹ Baruah however adds that “there are no precise official figures, not only because there is no good census data on Burma, but also because the Indian census data do not correspond with the category ‘Naga.’” Sanjib Baruah, “Confronting Constructionism: Ending India’s Naga War,” (Journal of Peace Research, Volume 40, Issue 3, 2003), p. 322.

⁶⁸² Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 55.

⁶⁸³ Neighboring peoples may have called *Nagas* according to their own language. For instance, Pu Chin Sian Than, Chairman of the Zomi National Congress based in Burma informs that the Nagas are called *Gelleng* in the Zomi language, which means warriors. He said that Nagas are honest and brave people and their resistance spirit is matchless. He believes that the Nagas can lead the ethnic people of Burma towards a common destiny. Pu Chin Sian Thang, Chairman of the Zomi National Congress, in his interview on March 23, 2011, which was conducted in Burma by Neichü Dz. Angami, on behalf of the researcher.

⁶⁸⁴ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 6.

and common destiny, the Nagas are a peoples.⁶⁸⁵ The Nagas have demonstrated their collective consciousness and will to be identified as peoples through their resistance against colonial forces and their liberation⁶⁸⁶ struggle to regain their self-determining capacities.⁶⁸⁷ By asserting the right of self-definition with collective and individual rights to self-determination, Nagas highlight their difference from minorities and establish their status as free peoples.

This is consistent with Walker Connor's assertion that "the self-determination principle holds that any people, simply because it considers itself to be a separate national group, is uniquely and exclusively qualified to determine its own political status, including, should it so desire, the right to its own state."⁶⁸⁸ The principle of self-determination is, therefore, more than a mere recognition; it is an assertion that they are entitled to it.⁶⁸⁹ Freeman argues "it is surely better that nations should determine their own destinies than that foreigners should determine their destinies for them, because nations know their own interests best and are best motivated to serve them."⁶⁹⁰ This argument validates the Naga understanding that the Naga people should determine their own destinies because they know best their own interests and are best motivated to serving them.

Colonial Intrusion

Colonialism is not just a question of one culture taking over and imposing itself over the 'cultural other.' It involves a series of cultural, economic and political relations which work against self-determinations' values and praxis. Consistent with the Colonial project of terming indigenous peoples as 'tribes' and 'savages,' the British characterization of Nagas as "savages who were

⁶⁸⁵ J.H. Hutton who lived and worked with the Nagas from 1913 to 1930 wrote in his essay "The Mixed Culture of the Naga Tribes" some thirty five years later, that "it is possible to look back and take a wider view and see the Nagas as a people rather than an assortment of tribes or even of villages." See J.H. Hutton, "The Mixed Culture of the Naga Tribes," (The Journal of the Royal Anthropological Institute of Great Britain and Ireland, ISSN 0307-3114, Volume 95, Issue 1, 01/1965), p. 16.

⁶⁸⁶ Tran Van Dinh says 'liberation' in Chinese-Vietnamese-Japanese is made of two words: one meaning breaking the encirclement or fetters, and the other to set free. It implies two interrelated stages: to break the fetters and to set free. See Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p. 114.

⁶⁸⁷ UNESCO, International Meeting of Experts on Further Study of the Concept of the Rights of peoples: Final Report and Recommendations UNESCO doc. SHS 89/conf.602/7, pp. 7-8.

⁶⁸⁸ Walker Connor quoted in Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, Revised Edition, 1990), p. 7.

⁶⁸⁹ Ali A. Mazrui, *Towards a Pax Africana: A Study on Ideology and Ambition* (Chicago: The University of Chicago Press, 1967), p. 5.

⁶⁹⁰ Michael Freeman, "The Right to National Self-Determination: Ethical Problems and Practical Solutions," in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 45.

head-hunters⁶⁹¹ was another justification on their part for ignoring the rise of Naga collective consciousness for self-determination. The British kept the Nagas “isolated and underdeveloped” and were set “apart from the political movements taking place in British India through a set of regulations which were meant to ‘protect’ them.”⁶⁹²

Since the British “did not extend more than a shadow of state apparatus to the Naga areas” Luingham Luithui and Nandita Haksar asserts that the British administrative network, which was the “one and only factor” linking the Nagas and the rest of British India, was “too fragile to be of any concrete value in the building of claiming of a common identity.”⁶⁹³ The British approach of non-interference provided Nagas the space to continue an almost independent existence outside the British sphere of authority and yet it is reflective of the “two-edged sword of imperial rule.”⁶⁹⁴ Gray points out that the 19th century saw the Naga peoples’ physical subjugation and their oppression⁶⁹⁵ to conform to British administrative patterns, while the 20th century saw a “benign and relatively sensitive administration,” which for the most part took place under anthropologists.⁶⁹⁶ Under this “anthropological rule” Gray points out that Nagas were “only allowed to practice their own self-development in as far as it coincided with the anthropological framework of the administration.”⁶⁹⁷

⁶⁹¹ Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 49.

⁶⁹² Colin Johnson further points out that the colonial policy of the British on the Nagas may be divided into three periods: (a) control by means of punitive expeditions, that is pacification through force rather than direct control, (b) a short period of non-interference, and (c) direct administrative control. See, Colin Johnson, “A Captured Nation: The Naga Dilemma,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 12.

⁶⁹³ Luithui and Haksar say that “there hardly was a time when more than five officials were posted from outside the area. Even these officials had to work in close consultation with the Naga elders.” Luingham Luithui and Nandita Haksar, *Nagaland File: A Question of Human Rights* (New Delhi: Lancer International, 1984), p. 20.

⁶⁹⁴ Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), pp. 37-41.

⁶⁹⁵ To make Nagas comply, the British launched ‘punitive expeditions,’ which according to Franke involved “foraging into the Nagas’ territory, destroying their villages and defences together with their grain stores, leaving them resourceless and defenceless, at the mercy of often hostile neighbors, and trying to overawe them into subjugation.” Franke adds, “when this also failed to achieve the desired effect, the British added to their strategy the component of the economic break-up and incorporation of the Naga hills into their market sphere, combined with the threat of military force. Simultaneously they were closing in on the Naga hills by settling other cultivator populations around them, as well as allowing the extensions of the tea estates up to the foothills. But this was all to no avail.” See Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 5.

⁶⁹⁶ Gray points out this ‘sensitive administration’ for the most part took place under two anthropologist: J.H. Hutton and J.P. Mills. He also notes that the 20th century saw oppression replaced by repression. Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 38.

⁶⁹⁷ For a more detailed account of British direct and indirect rule on the Nagas see, Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), pp. 37-64.

Andrew Gray notes “it was the Naga people themselves who, understanding the nature of the colonial rule, mapped their independence which they had had before the British came onto a national identity which arose within the conditions of colonialism.”⁶⁹⁸ Subsequently, the British sought to repress the Naga’s “unifying nature of emerging nationalism” by encouraging and feeding notions of “tribal identity” and “tribalism,” which was used as a tool “against creating larger unities of political organization.”⁶⁹⁹ This is very clearly demonstrated in the practice of categorizing independent Naga ‘village-states’ into a parochial and exclusive categorization of a tribe,⁷⁰⁰ and later drawing boundaries along tribes. Until today, this colonial policy of ‘tribalism’ continues to have far reaching consequences on the present Naga generation. Furthermore, as a “product of a well-aimed, divide-and-rule policy carried out by the Indian state, tribalism today provides one excuse for the Indian administration not to tackle the Naga question in earnest.”⁷⁰¹

The Naga territory⁷⁰² under the British was fragmented to “satisfy their allies and each time the lines inevitably moved further inside the Naga country.”⁷⁰³ They were then divided and arbitrarily placed under two sovereign States – India and Burma,⁷⁰⁴ with the international boundary running through people’s homes, for instance, in the Naga village of Lungwa, the Indo-Burma border divides the village Angh’s (Chief) home into two parts. The portion of the Angh’s house facing the Chindwin River falls under Burma, while the portion facing the Brahmaputra River is in India

⁶⁹⁸ Ibid., p. 44. Gray goes on to add that “independence and nationalism are not necessarily the same and it was the Naga people through organizations such as the Naga Club and the Naga National Council who forged a national identity on the basis of opposition to the differentiating influence of indirect rule.”

⁶⁹⁹ Ibid., p. 45.

⁷⁰⁰ Franke argues that “where the colonial powers did not encounter central organized polities, their personnel set out to bring what lay before them into a meaningful order. They assumed that these stateless societies were organized in tribes, and tribes were socially, politically, culturally, and even biologically bounded units.” He adds that the British administrators, who turned into anthropologists, “were to identify and understand these tribal units as a basis for indirect rule.” Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), pp. 47-48.

⁷⁰¹ Ibid., p. 53.

⁷⁰² By the end of the nineteenth century almost all Nagas came under British rule with the exception of Nagas in Tuensang, Arunachal and Burma, which is referred to as ‘Free Naga Territory.’ A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 41.

⁷⁰³ Luingham Luithui and Nandita Haksar, *Nagaland File: A Question of Human Rights* (New Delhi: Lancer International, 1984), p. 18. Also, Luithui and Haksar points out that “The British placed portions of the Naga territory under parts of Assam and Manipur, which was further divided. Therefore, Tamenglong, Mao, Tangkhul and Tengnopal Naga areas were demarcated into Manipur, whereas Kohima and Mokokchung Naga Areas also called ‘Naga Hills’ and the Zemi Naga area (the Asaloo Area) were put under Assam.” See Luingham Luithui and Nandita Haksar, *Nagaland File: A Question of Human Rights* (New Delhi: Lancer International, 1984), pp. 15-20.

⁷⁰⁴ According to Yhome and Zhimomi the Naga territory has been “left internationally divided by British colonialists through the Treaty of Peace at Yandaboo in 1826, the Pemberton Line in 1934, the Government of Burma Act 1935, and, latterly, through the Indo-Burma Border Agreement of 1978.” They add that “On 10 March 1967, the Indo-Burmese Border Agreement was arbitrarily signed, consolidating and legitimizing the division of Nagas into the international boundary between India and Burma.” Kekhrie Yhome and Inotoli Zhimomi, “Indigenous Education and the Formation of Naga Identity,” a paper presented at the conference on Impact of ‘Globalization, Regionalism and Nationalism on Minority Peoples in South East Asia,’ Chiang Mai, Thailand, November 15-17, 2004.

(See Figure I.). Between the two countries, the Naga territory lies in what nowadays is referred to as the Northeast region⁷⁰⁵ of the Indian Sub-continent and the Northwest region of Burma. The Naga peoples and their land is the meeting point of interconnection and interdependence between the two regions of South Asia and South East Asia. Nagas were further divided after the British departed, when the emerging Indian State claimed inheritance over the colonial territories⁷⁰⁶ (See Figure II.). A similar policy was also imposed on the Nagas living in Burma by the Burmese State⁷⁰⁷ (See Figure II.).The divided territory has caused the meaning of Nagaland to signify different things to different people.⁷⁰⁸

⁷⁰⁵ According to Kikon, “the Northeastern region of India is home to around 350 ethnic communities with an approximate population of around 35 million people.” This region shares only 2% of its borders with India while 98% of its borders are shared with Bhutan, China, Bangladesh and Myanmar. Dolly Kikon, “Carnival of Nationalism From the Northeastern Frontiers of India: Interpreting Naga Nationalism, Questioning Indian Autonomy and Three Suggestions for the Indo-Naga Peace Talk” paper presented during the ‘2nd International Conference on Regional Autonomy and Ethnic Minorities,’ Uppsala, Sweden, June 10-13 2004.

⁷⁰⁶ After India’s independence in 1947, the Indian State further divided the Naga territory falling on the Indian side and placed them under four different administrative states: Arunachal Pradesh, Assam, Manipur and the present ‘Nagaland State.’ Except in present ‘Nagaland State,’ the Nagas are a minority in the other three states. For instance, as a consequence of imposed boundaries, Means says “Manipur contained within its boundaries large numbers of Nagas who were subject to a state administration which traditionally has been unsympathetic, if not hostile, to the demands and needs of its hill peoples.” Gordon P. Means, “Cease-Fire Politics in Nagaland,” (Asian Survey, Volume 11, Issue 10, 1971), p. 1016. Also, Yhome and Zhimomi point out that “Nagaland state became the first administrative unit to be carved from erstwhile Assam through the 13th Constitution Amendment Act of 1962, which refers to the same as an agreement of duress reached between the Government of India and the Naga Peoples’ Convention. Through the North Eastern Area (Reorganization) Act of 1971, which was promulgated through the 27th Constitution Amendment Act, the administrative unit of Manipur was formed as a full-fledged state in January 1972. Arunachal Pradesh, similarly was given statehood in 1987 through the 55th Constitution Amendment Act of 1986.” Kekhrie Yhome and Inotoli Zhimomi, “Indigenous Education and the Formation of Naga Identity,” a paper presented at the conference on Impact of ‘Globalization, Regionalism and Nationalism on Minority Peoples in South East Asia,’ Chiang Mai, Thailand, November 15-17, 2004.

⁷⁰⁷ The Naga Youth Organisation-Burma in their report on “Life under Military Rule,” lists 22 Naga “tribes” in Burma and points out that the “Burmese General Ne Win divided the Naga territory within Burma between Kachin State and the newly created Sagaing Division.” Furthermore, as part of the policy to assimilate the Nagas into the “Burmese fold,” the military created a “Naga Self-Administrative Zone,” which, however, excluded most of the important townships and mineral rich areas of the Nagas. A Report on “Life Under Military Rule: Human Rights Violations of Nagas In Burma,” (Naga Youth Organisation-Burma, October 2010), p. 9. Also, Shimray says that without the consent of the Nagas, their Naga territory in Burma was further divided and placed under Kachin State and Sagaing Division. A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p.39.

⁷⁰⁸ The name Nagaland means different things for different people. For the Nagas, Nagaland means the territory where Nagas are ancestrally and presently living which transcends the artificial boundaries that have been forcefully imposed upon them. The Naga territory, a geographically compact area is about 120,000 square kilometers. Nagaland also refers to ‘Nagaland State’ which is administrative state that was created by the Indian State in 1963 through the 16-point Agreement which was signed in 1960 between the Government of India and the Naga People’s Convention. ‘Nagaland State’ is an area of 16,579 square kilometers, which was carved out by the Indian State. To avoid confusion and to provide a clear distinct image between Nagaland and ‘Nagaland State,’ the Naga Students’ Federation first used the word Nagalim (Lim means Land in one of the Naga languages) to refer to the Naga territory, and it is now officially used by one of the Naga national political groups of the Naga movement.

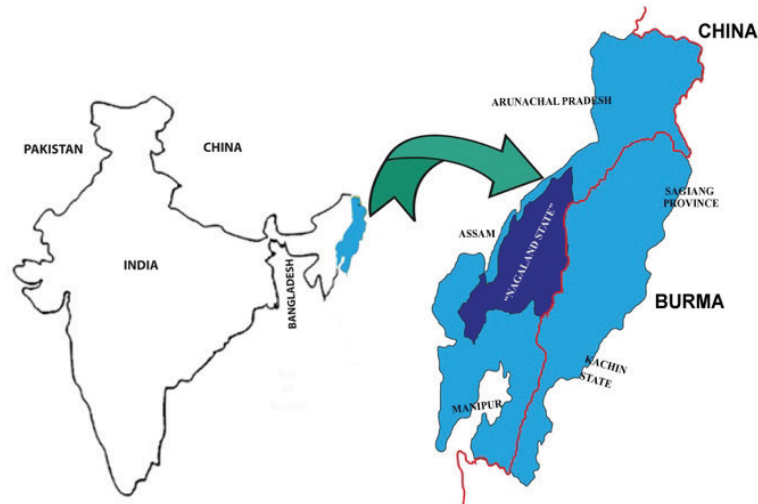


Figure II. shows how the Naga homeland has been divided into different administrative units by both India and Burma. For instance, geographically compact area is about 120,000 square kilometers an area of 16,579 square kilometers, which was carved out by the Indian State to form 'Nagaland State,' an administrative state that was created by the Indian State in 1963 through the 16-point Agreement which was signed in 1960 between the Government of India and the Naga People's Convention (Refer to details under the section 'The Violence of Peace' in this chapter). The rest of the Naga areas on the Indian side fall under the administrative states of Assam, Arunachal Pradesh and Manipur, while the Nagas on the Burmese side have also been divided under Sargiang Province and Kachin State. The outline of the Naga homeland depicted in this map is not to scale and has been referred from "Naga Resistance and the Peace Process," A Dossier, (New Delhi: Other Media Communications, 2001), p. 5.

The policy of dividing a peoples into different State imposed boundaries was crucial in fragmenting the peoples' collective identity and character.⁷⁰⁹ By imposing arbitrary boundaries through force,⁷¹⁰ the State was denying the right to self-definition, and simultaneously creating new identities based on state formation and how power is organized.⁷¹¹ Through imposing these new state-identities, the Indian and Burmese States undermined the Nagas' collective rights and weakened their solidarity. Importantly, by fragmenting the compact geographical Naga territory into different units, India and Burma were implementing the state-centric territorial dictum as a

⁷⁰⁹ Jayawickrama reminds us that many such boundaries are man-made by victors of the great wars and notes that most boundaries had been drawn in a "very arbitrary manner, slashing across ethnic settlements regardless of the cultural affinities that had existed from time immemorial." He asserts that "most ethnic groups precede contemporary national boundaries by hundred, if not thousands, of years." See Nihal Jayawickrama, "The Right of Self-Determination: A Time for Reinvention and Renewal" in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin's Press, INC., 1996), pp.362-363.

⁷¹⁰ Johan Galtung points out that the division of a people among two or more States and that their separation is by "structural violence (often supported by direct violence) of forcing apart those who want to live together is similar to the structural violence (also supported by direct violence) of forcing together those who want to live apart." Johan Galtung, "The State/Nation Dialectic: Some Tentative Conclusions" Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 127.

⁷¹¹ For instance, a Naga on the Indian side of the border is known as an "Indian Naga," while on the Burma side, is known as a "Burmese Naga." Furthermore, in India, since they are placed in different administrative states, the state identity precedes their political identity, eg. "Nagaland Nagas," "Manipur Nagas," "Arunachal Nagas," etc.

territory that determines the peoples' destiny. Means, however, says, "... practically no Naga believes that the present boundaries of the state are appropriate."⁷¹²

The colonial legacy of fragmenting Naga territory and people has had far reaching consequences even in the present day relationships with neighboring peoples such as the Ahom, Meitei, Chin, Kuki, and Dimasa, etc. The traditional and organic relationship that Nagas shared with their neighbors took a more formal structure even as their mutually recognized and respected overlapping spheres of boundaries turned rigid and inflexible. This has undermined their relationships of interdependency, interconnectedness and interrelationship, thereby leading to exclusive politics and the breakdown of harmony and balance. In this manner, the State-People conflict has been engineered into a People-People conflict with the State intervening as a mediator. Consequently, not just the Nagas, but the rights of all peoples in the region have also been violated by State policies.

Through this interplay of oppression and repression the British constructed a language to define the Nagas as objects of history with no inherent capacity to determine their own destiny. Did Francisco de Vitoria's perception that indigenous peoples "were incapable and unfit to administer a lawful State," influence the British position that they needed someone else to take responsibility for the Naga affairs on their departure? This is substantiated by Franke's view that the "British officers thought they actually had the task of arranging matters for the hills in relation to the new state of Independent India; they were searching frantically for a solution."⁷¹³ He adds, "there had never been serious contemplation on the side of the British decision-makers to give back the Nagas their independence."⁷¹⁴

In the freedom struggle to exercise the right to self-determination, the Naga Club⁷¹⁵ made a submission to the Simon Commission on January 10, 1929, stating that the Nagas "should not be

⁷¹² Gordon P. Means, "Cease-Fire Politics in Nagaland," (Asian Survey, Volume 11, Issue 10, 1971), p. 1015.

⁷¹³ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 43.

⁷¹⁴ *Ibid.*, p. 46.

⁷¹⁵ The Naga Hoho is a Naga institution that is trans-national in character is today represented by approximately sixty six "tribes" from India and Burma, out of which some are fully affiliated and the rest are associates. The Naga Hoho has pointed out that during World War I, in 1917 over 2000 Nagas from all tribes were deployed in the war in Europe as part of the Labor Corps. On their return, in 1918, the Naga Club was formed in a search for a new and independent Naga identity. Naga Hoho, "White Paper On Naga Integration," Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 19. Also, Johnson says that the Naga Club was "not in conflict with the British rulers, rather it sought British protection to save the Nagas from being assimilated into an

thrust to the mercy of the people who could never subjugate us” and to be left alone “to determine for ourselves as in ancient times,”⁷¹⁶ (See Appendice II). Rather than addressing the aspirations of the Nagas to freely determine their own political destiny, the Simon Commission responded by declaring the Naga territory as “excluded areas.”⁷¹⁷ The Nagas remain determined to be free, and rejected the idea of a *Crown Colony*⁷¹⁸ and a *Trust Territory*.⁷¹⁹ Had the Nagas agreed to either one of these ideas, they would have had, according to international law, the right to exercise the UN General Assembly resolution 1514. This twist of fate once again demonstrates that the State and international law were only interested in recognizing and upholding the legal entity as defined by a Sovereign State. In this manner, many unrepresented peoples have been left outside the realm of the decolonization process.

In their desire to reclaim their right as a people, the Nagas organized themselves and through the Naga National Council⁷²⁰ made an appeal to the British government and the Government of India to “set up for the Naga people an Interim Government for a period of ten years, at the end of

India.” See, Colin Johnson, “A Captured Nation: The Naga Dilemma,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 18.

⁷¹⁶ See, Memorandum of the Naga Hills to the Indian Statutory Commission dated January 10, 1929, submitted by the Naga Club; generally referred to as the Memorandum to the Simon Commission.

⁷¹⁷ The Naga Club appealed to the Simon Commission to be excluded from the proposed ‘Reformed Scheme’ of India and to left on their own, with their rights protected and their lands guarded against encroachment by non-Nagas. However, the Naga Hill Districts were merely categorized as an “Excluded Area” in 1937, which was on a par with various other “Excluded Areas throughout the rest of British India.” R. Vashum, *Nagas’s Right to Self-determination* (New Delhi: Mittal publication, 2000), pp. 65-66. The Naga Hoho informs that in accordance with the Government of India Act of 1935, the Naga Hills district was treated as “Excluded Area,” with the main objective of protecting the people from economic exploitation. See, Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p.20.

⁷¹⁸ Glancey informs that Sir Robert Reid, a former deputy commissioner for the Naga Hills recommended a new Crown Colony carved from the Naga Hills, the North-East Frontier Agency and upper Burma and directly administered from Whitehall, but the Nagas opposed the idea. Jonathan Glancey, *Nagaland: A Journey to India’s Forgotten Frontier* (London: Faber and Faber Ltd., 2011), p. 115. The Naga Hoho informs that the principles of the Crown Colony proposal in 1941 were: (a) The Basis – Consolidation of all the Nagas into a federal structure; (b) The Responsibility of the Structure – “The Crown Colony;” (c) The System of Governance – The Naga tribal system of self-governance; and (d) The means to do it – By formation and extension of Tribal councils. Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 21.

⁷¹⁹ The Naga Hoho has pointed out that “in recognition of the services rendered by the Nagas in World Wars I and II, Sir Reginald Coupland, a British Constitutional expert, revived Sir Robert Reid’s earlier proposal of Crown Colony, and proposed the Coupland Plan. The Coupland Plan envisaged that the Government of India and Burma would have a treaty with British Government to share the responsibility for the Naga inhabited areas as *Trust Territory*.” The Naga Hoho further says that though the proposal carried the principle of the Crown Colony, the Nagas made a firm decision and were adamant on the decision that the British must leave their land. Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p.22.

⁷²⁰ The Naga Hills District Tribal Council which was formed in April 1, 1945, was rechristened as Naga National Council in February 1946. See, R. Vashum, *Nagas’s Right to Self-determination* (New Delhi: Mittal publication, 2000), p. 68. For details see, Naga Hoho, “White Paper on Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002).

which the Naga people will be left to choose any form of Government under which they live,”⁷²¹ (See Appendice III). Fearing that the “Nagas with their unique custom of life will be wiped out of existence” if thrown among the Indians, this appeal for an Interim Government was to enable the Nagas to grow to a “fuller stature.”⁷²² It said that an Interim Government – “Government of the People” be set up “in view of the isolated geographical position of Nagaland and taking into consideration the unique characteristics of the Naga policy and the compact block of Nagaland” (See Appendice III).

Through this appeal, Colin Johnson says “A Captured Nation” was making “provisions for a period of ‘protection’ by Britain or India during which time the guardian power would give monetary aid for the independent development of the Naga Nation. After this period the guardian power would withdraw to leave the Nagas to work out their own future.”⁷²³ The Naga leaders then were quite realistic about their political and economic situation and seemed rational when exploring alternative political associations that would allow them the time and space to exercise their self-determining capacities.

On the basis of this appeal for an Interim Government under a “guardian power,” a Nine-Point Agreement was formulated in June 27-29, 1947 (See Appendice IV). Also known as the Hydari Agreement, it was the outcome of a negotiation between the Naga National Council and Sir Akbar Hydari, the Governor of Assam Province. The Hydari Agreement recognized “the right of the Nagas to develop themselves according to their freely expressed wishes,” and further called for Nagas to be under “one unified administrative unit” with “all the areas so included.” For a period of ten years, this Agreement “accepted the complete authority of the Naga National Council over Naga territory and its resources ... [and] included, as far as possible all areas inhabited by the Nagas.”⁷²⁴

⁷²¹ Memorandum to the Case of the Naga People for Self-determination and an appeal to the H.M.G. and the Government of India by T. Sakhrie, Secretary, Naga National Council. V.K. Nuh, W Lasuh (ed.), *The Naga Chronicle* (New Delhi: Regency Publications, 2002), pp.63-66.

⁷²² Memorandum to the Case of the Naga People for Self-determination and an appeal to the H.M.G. and the Government of India by T. Sakhrie, Secretary, Naga National Council. See, V.K. Nuh, W. Lasuh (ed.), *The Naga Chronicle* (New Delhi: Regency Publications, 2002), pp. 63-66.

⁷²³ Colin Johnson, “A Captured Nation: The Naga Dilemma,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 22.

⁷²⁴ Kumar Sanjay Singh, “Naga Accords: An Instance of Domination through Negotiation,” paper presented at ‘A South Asian Peace Audit Exercise,’ organized by South Asia Forum for Human Rights (SAFHR), at Dhulikhel, Nepal, September 8-11, 1999.

The content of the Hydari Agreement implied that the Nagas freely develop and express themselves.⁷²⁵ However, point 9⁷²⁶ relating to the “Period of Agreement” became a bone of contention with each party interpreting it according to their own understanding. While the Indian State saw this as a step towards bringing the Nagas under their fold;⁷²⁷ the Nagas on the other hand understood this clause to mean that after the period of ten years, they would be free to decide their own future. The most difficult aspect of the Agreement arose in terms of implementation and ownership. Given that it was signed during the transitional phase from British India to Independent India, the Hydari Agreement, according to Kumar Sanjay Singh, became an “unwanted child.” Singh points out that since the Hydari Agreement was signed at the twilight of British Rule, the “most severe impediment before the accord was that the signing authority and the implementing authority was different.”⁷²⁸

Despite efforts by Naga leaders to find a peaceful transition, Indian leaders were determined that the Naga territory became a part of India,⁷²⁹ and by the time India attained her political freedom, Mahatma Gandhi was already marginalized⁷³⁰ and the Nagas simply ignored.⁷³¹ Within such a

⁷²⁵ Wati Aier, *A Cry from the Rice Fields: A Call of Freedom for the Nagas* (Dimapur: Universal Printers, 1989), p.63.

⁷²⁶ Point 9 of the Hydari Agreement reads as, Period of Agreement: The Governor of Assam as the Agent of the Government of the Indian Union will have special responsibility for a period of ten years to ensure the due observance of this Agreement; at the end of this period the Naga National 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 the Naga people arrive at.

⁷²⁷ Sir Akbar Hydari explained Point 9 to mean that after the expiry of ten years the Nagas might change their administrative status within India but not outside. See, Colin Johnson, “A Captured Nation: The Naga Dilemma,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 23.

⁷²⁸ Kumar Sanjay Singh says that the Hydari Agreement was signed during a “transitional phase with the colonial structure virtually withdrawn, but the new disposition yet to be established.” He points out that since the signing authority and implementing body were different, the transitional character of the phase created a division of responsibility between British India who signed the agreement and was therefore responsible for honoring it; and the Indian government who was not party to the agreement, but had the onus of implementing it. Kumar Sanjay Singh, “Naga Accords: An Instance of Domination through Negotiation,” paper presented at ‘A South Asian Peace Audit Exercise,’ organized by South Asia Forum for Human Rights (SAFHR), at Dhulikhel, Nepal on September 8-11, 1999. The Naga Hoho informs that a 3-member Naga delegation was informed on November 3, 1949, that the Hydari Agreement was no longer considered to exist by the Indian government. Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 25.

⁷²⁹ Jawaharlal Nehru who later became the Prime Minister of India in his letter to NNC stated that the Naga territory is “much too small to stand by itself politically or economically.” He further stated that the Naga territory lies between two huge countries, Indian and China, and part of it consists of rather backward people who require considerable help. When India is independent, it will not be possible for the British Government to hold on to the Naga territory or any part of it. They would be isolated there between India and China. Inevitably, therefore, this Naga territory must form part of India.” Murkot Ramunny, *The World of Nagas* (New Delhi: Northern Book Centre, 1988), p. 32.

⁷³⁰ B.K. Roy Burman in his Foreword in R. Vashum, *Nagas’s right to Self-determination* (New Delhi: Mittal publication, 2000), p. vii. Also, when a Naga delegation met Mahatma Gandhi on July 19, 1947, Gandhi had assured the delegation that, “Nagas have every right to be independent. We do not want to live under the domination of the

context, the Naga people unilaterally declared Naga Independence on August 14, 1947. According to the cable sent to the UN Secretary General, the Naga National Council clearly stated on the record that “Nagas will be independent” and that “discussion with India are being carried on to that effect.” The cable to the UN further declared that “Nagas do not accept Indian Constitution” and that the “right of the people must prevail regardless of size.”⁷³²

On the eve of India becoming a Republic,⁷³³ the Nagas informed the Indian State, the UN and all foreign embassies in New Delhi on January 24, 1950, that “the Nagas do not accept the Indian Constitution.”⁷³⁴ In the midst of claims and counter claims, the Nagas through the Naga National Council launched a Naga Voluntary Plebiscite on May 16, 1951, in which the Naga people unanimously expressed their aspiration for independence.⁷³⁵ The peoples’ verdict was seen as the mandate for the “constitution of Nagaland into a separate sovereign state in which they can live their own lives, and guide their own destiny.”⁷³⁶ This demonstrates that India and Burma have no valid historical claim over the Nagas. Gray asserts that “self-determination is a right to which one is born and cannot be negotiated or bartered away.”⁷³⁷ The Nagas as a people under colonial subjugation and capable of a plebiscite affirmed their “independence as the chosen manifestation of their self-determination.”⁷³⁸

British and they are not leaving us. I want you to feel that India is yours. I feel that the Naga Hills are mine just as much as they are yours, but if you say “it is not mine,” then the matter must stop here. I believe in the brotherhood of man, but I do not believe in force or forced unions. If you do not wish to join the Union of India, nobody will force you to do that.” Jonathan Glancey, *Nagaland: A Journey to India’s Forgotten Frontier* (London: Faber and Faber Ltd., 2011), pp. 114-115.

⁷³¹ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), pp. 81-82.

⁷³² V.K. Nuh, W Lasuh (ed.), *The Naga Chronicle* (New Delhi: Regency Publications, 2002), p. 115. Also see, Naga National Council, “The Naga National Rights and Movement,” (Kohima: Publicity and Information Department, Naga National Council, 1993), p. 16.

⁷³³ Though India declared Independence from British India on August 1947, India became a republic and a new constitution came into effect only on August 26, 1950.

⁷³⁴ Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 25.

⁷³⁵ Ibid. India was given prior information about the plebiscite on January 1, 1951, and on March 30 and April 11, 1951, India was requested to send it representatives and observers to the Naga Voluntary Plebiscite on the issue of Naga independence. Also, Wati Aier says that the Naga Plebiscite was a mandate for self-determination. Wati Aier, *A Cry from the Rice Fields: A Call of Freedom for the Nagas* (Dimapur: Universal Printers, 1989), p. 65.

⁷³⁶ Gordon P. Means and Ingunn N. Means, “Nagaland – The Agony of Ending a Guerrilla War,” (Pacific Affairs, University of British Columbia, Volume 39, Issue 3/4, 1966), p. 293.

⁷³⁷ Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 64.

⁷³⁸ Ibid., pp. 63-64.

The Indian stand “was (and is) that the Indian Union legally includes all the territories formerly embraced by British India,”⁷³⁹ and holds the view that “Nagaland forms an integral part of India and that complete independence for the Nagas is a preposterous proposition.”⁷⁴⁰ The Naga peoples maintain that “when the British left India, Nagaland was not part of India, but under direct occupation,”⁷⁴¹ and were part of the unfinished decolonization of the Indian subcontinent.”⁷⁴² The Naga position is elucidated by Naga leader A.Z. Phizo’s view, “We shared our house with the British and when they vacated, the whole house became ours once more.”⁷⁴³ The Naga stand received a negative and coercive response from the holds of State power that further polarized the confrontation between the Indian and Burmese attempt to consolidate its territorial integrity and the Naga desire to determine its own future.

*The Elephant and the Mouse*⁷⁴⁴

The Nagas treated the colonial intrusions into their territories as ‘invasions’ and recognized that the British would not remain in the subcontinent forever, and, therefore, Nagas had initiated “their own national movement for regaining of their sovereignty.”⁷⁴⁵ When colonial power departed, both British India and the Nagas exercised their self-determination by declaring their independence, but India denied the Naga right claiming that the Naga people and their land were part of British India. According to Visier Sanyü, the argument that India had the right to inherit British India is faulty on the grounds that former territories under British India, such as Pakistan and Burma, and subsequently Bangladesh all became independent.⁷⁴⁶ Disrespecting the Naga version of history and their denial of self-determination was prompted by India’s desire for “territorial expansion”⁷⁴⁷ in defiance of international law and her attitude that “might is right.”⁷⁴⁸

⁷³⁹ Gavin Young, “Indo-Naga War: A Journalist Account (1961),” (Gase Publications, 2001), p. 15.

⁷⁴⁰ Gordon P. Means and Ingunn N. Means, “Nagaland – The Agony of Ending a Guerrilla War,” (Pacific Affairs, University of British Columbia, Volume 39, Issue 3/4, 1966), pp. 290-291.

⁷⁴¹ Ibid., p. 290.

⁷⁴² Nandini Sundar, “Interning Insurgent Populations: The Buried Histories of Indian Democracy,” (Economic & Political Weekly, Volume XLVI, Issue 6, 2011), p. 48.

⁷⁴³ A.Z. Phizo quoted in Gordon P. Means and Ingunn N. Means, “Nagaland – The Agony of Ending a Guerrilla War,” (Pacific Affairs, University of British Columbia, Volume 39, Issue 3/4, 1966), p. 290.

⁷⁴⁴ Sir Charles Pawsey said that trying to deal with the Naga [guerrillas] by means of a mechanized army is like using an elephant to hunt a mouse. The image of the elephant and the mouse is apt even in terms of the sheer power that the British colonial forces, India and Burma have, compared to the Nagas who are only struggling to exist. Yet, it is also worth mentioning, just in the same that that the mouse cannot defeat the elephant, the elephant, too, cannot defeat the mouse.

⁷⁴⁵ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 39.

⁷⁴⁶ Visier Sanyü, a Refugee Coordinator, Act for Peace, Australia, in his interview on February 17, 2011.

⁷⁴⁷ Barbora cited the cases of Jammu and Kashmir, Goa and Sikkim as an instance of India’s expansionist policy. Xonzoi Barbora, an independent researcher, in his response to Questionnaire 1 on July 5, 2010.

⁷⁴⁸ Visier Sanyü, a Refugee Coordinator, Act for Peace, Australia, in his interview on February 17, 2011.

Respondent B said that “by boxing itself into the colonial mindset which regarded the territorial integration of the empire as being a major constant, Indian authorities have ended reading every demand for opting out as an act of high treason.”⁷⁴⁹ Hence, the Indian State approached the Naga position to be anti-Indian and secessionist with the view of disintegrating India. The Nagas assert they are not secessionist and claim that their position was made clear before India became independent and emphasize that they are not trying to secede from a union of which they had agreed to be a part. Niketu Iralu, a Naga elder in an interview to an Indian newspaper stated,

... we are a neighbor of India, admittedly a tiny one, but with a definite idea about ourselves which we concluded long ago. India calls our struggle insurgency. But we say it is a fight for our history, dignity and human rights ... We are not fighting with you [India]. We are only fighting for our position⁷⁵⁰ (See Appendice IX).

Ironically, India through a nonviolent struggle had won her political freedom. But by this time, Burman said that Mahatma Gandhi and his vision for India⁷⁵¹ were already marginalized. Thereafter “free India, pushed aside the heritage of her own freedom struggle and went all-out for state building in the conventional way, rather than promoting a multi-civilizational communitarian social order.”⁷⁵² He argues that there was “no India as we know it of today before August 15, 1947,” and affirms that there was “no Indian nation-state prior to 1947.”⁷⁵³ Burman further adds that “India tried to forge an artificial homogenized nation in the Western sense of the term and create a nation-state for this artificial entity.”⁷⁵⁴ In the final analysis the Indian freedom struggle did not imagine beyond the Westphalian World Order, and inevitably, inherited the colonial structures of governance, in which coercive force assumed the mainstay to manufacture consent and State legitimacy.

⁷⁴⁹ Respondent B, an Indian writer and civil rights activist, who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

⁷⁵⁰ Niketu Iralu further adds that the denial of legitimacy and facts of Naga struggle has provided determination on the part of the Nagas to defend their honor and dignity. Niketu Iralu’s interview by the Times of India in “Naga Resistance and the Peace Process,” A Dossier, (New Delhi: Other Media Communications, 2001), p. 121.

⁷⁵¹ Burman believes that Gandhi through his “multifarious activities” projected to the people of India the goal of the struggle was “not mere acquisition of power, but of attainment of emancipation.” He adds that “Gandhi wanted a minimal state for free India” and had “great distrust about state as an institution,” but “for the management of human affairs on a large scale ... accepted minimal state apparatus as a necessary evil.” B.K. Roy Burman in his Foreword in R. Vashum, *Nagas’s right to Self-determination* (New Delhi: Mittal publication, 2000), p. vi.

⁷⁵² Ibid.

⁷⁵³ J.J. Roy Burman, “Contours of the Naga Upsurge,” (Asia Europe Journal, ISSN 1610-2932, Volume 6, Issue 1, 04/2008), p. 154.

⁷⁵⁴ B.K. Roy Burman in his Foreword in R. Vashum, *Nagas’s right to Self-determination* (New Delhi: Mittal publication, 2000), p. vii. Also, Hannum observes that “India may be the most culturally, ethnically, and religiously diverse state in the world, and perhaps nowhere else has this diversity led to as many violent clashes.” Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, Revised Edition, 1990), p. 171.

As a result of this historical accident⁷⁵⁵ and imperial history,⁷⁵⁶ the Nagas knew that the Indian State had come to stay.⁷⁵⁷ This was clearly demonstrated by India's "actions to effectively incorporate them into the economy and administration of the new polity."⁷⁵⁸ Gray points out that "structurally-speaking, the Indian take-over of Nagaland from the British has actually followed the historical pattern set up by the British of oppressive 'conquest' followed by a repressive indirect rule."⁷⁵⁹ However, there is one fundamental difference. While the British ruled the Nagas through the pre-existing indigenous structures, the Indian State imposed their system of governance upon the Nagas. This raises the question of India's legitimate claim over the Naga people.

Imperialism ends where consent begins.⁷⁶⁰ The Nagas throughout their history have shown that they have not given their consent to be part of the Indian Union. The India State resorted to the use of military force; and their policy to impose their administration system upon the Nagas clearly revealed that imperialism had not ended for them. Rather than demonizing the people and their movement for self-determination, if India perceived the Naga assertion as a means to re-define relationship, Respondent B says there would have been greater possibilities of solutions. Therefore, "what could have been resolved through negotiations between 1947-1950 was turned into a process to suppress the movement and usher in military crackdown."⁷⁶¹

Despite her long struggle for independence, India has taken a state-centric approach by opposing the right to self-determination for peoples and territories within a sovereign and independent state. Upadhyaya notes that as early as the Cairo nonaligned summit in 1964, the Indian Prime Minister Lal Bahadur Shastri urged limiting the scope of self-determination and said: "Self-determination was the right of any country dominated by another, but it could not be claimed by different areas

⁷⁵⁵ Maxwell quotes an English man who observed that "it is only by historical accident that they [Nagas] have been tacked on to an Indian province." Neville Maxwell, "India and the Nagas," (London: Minority Rights Group Report Number 17, November 1973), pp. 5-6.

⁷⁵⁶ Ibid., p. 18.

⁷⁵⁷ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 25.

⁷⁵⁸ Ibid., p. 82.

⁷⁵⁹ Gray says the "savagery aspect has been preserved for those Nagas supporting independence while the nobility aspect has been used for those who conform to the goal of indirect rule under the Indian Union." Andrew Gray, "The British in Nagaland – Their Anthropology and their Legacy," in IWGIA, "The Naga Nation and its struggle against Genocide," (Copenhagen: IWGIA Document 56, 1986), pp. 58-60.

⁷⁶⁰ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 145.

⁷⁶¹ Respondent B, an Indian writer and civil rights activist, who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

and regions within a sovereign and independent country.”⁷⁶² Upadhyaya informs that the Indian representative to the Security Council at that time emphasized that, “the principle of self-determination is applicable to nations and nation-states and cannot be used for breaking up a state or fragmentation of peoples.”⁷⁶³

The lack of consensus in the international forum on the right of self-determination and persistence in territorial understanding of peoples continued to ensure that unrepresented peoples like the Nagas were denied self-determination. For instance, Rosalyn Higgins while seeking to identify the unit to which self-determination applies as a right in contemporary international law, cites the Nagas as an instance to emphasize that small communities living within an internationally recognized State cannot claim self-determination as a right.⁷⁶⁴ Such a perspective denies the *self* the right to self-definition and self-determination as a right of all peoples. Also, this rationale based on the size of a people is flawed and contradictory because on April 6, 1984, the UN supervised a “self-determination vote” in the Indian Ocean coral island cluster known as the Cocos Islands with a population of 261 people.⁷⁶⁵

Furthermore, Higgins claims,

... if then right of self-determination is the right of the majority within an accepted political unit to exercise power within an accepted political unit to exercise power, there can be no such thing as self-determination for the Nagas. The Nagas live within the political unit of

⁷⁶² Anjoo S. Upadhyaya, “Quest for Self-Determination in the Indian Subcontinent: The Recent Phase” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 169. Also, note that the Government on India has reservations on Article 1 of the International Covenant on Civil and Political Rights on the understanding that “the right to self-determination applies only to peoples under foreign domination and those words do not apply to sovereign independent states or to a section of a people or nation which is the essence of national integrity.” As quoted in Nihal Jayawickrama, “The Right of Self-Determination: A Time for Reinvention and Renewal” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd. and United States: St. Martin’s Press, INC., 1996), p. 366.

⁷⁶³ Anjoo S. Upadhyaya, “Quest for Self-Determination in the Indian Subcontinent: The Recent Phase” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 169.

⁷⁶⁴ Rosalyn Higgins as cited in Shyamon Jayasinghe, “The future of self-determination,” (Contemporary Review, ISSN 0010-7565, 03/2002, Volume 280, Issue 1634), pp. 170-171.

⁷⁶⁵ David B. Knight informs that the self-determination vote was organized because the Cocos Islands were regarded as a “colonized territory.” He further adds: “with 100 percent voter turnout, 231 people opted for union with Australia, 21 voted for free association with Australia (under which Australia would have managed the external affairs of Cocos), and 9 voted for independence.” If the majority of the people had voted for independence, the Cocos Islands would have become the world’s least populous state. See David B. Knight, “Territory and People or People and Territory? Thoughts on Postcolonial Self-Determination,” (International Political Science Review, ISSN 0192-5121, 1985, Volume 6, Issue 2), p. 261.

India, and do not constitute the majority therein. Their interests are to be safe-guarded by Indian obligations on human rights and the protection of minorities.⁷⁶⁶

Gray, however, responds stating that within the Naga context, the “Nagas are not a minority and according to the views of the nationalists, India is an invading colonial power.”⁷⁶⁷ Gray questions whether India constitutes a political unit of which the Nagas are a part, and adds that the Naga Voluntary Plebiscite of May 16, 1951, held within the unit “could be argued as a vote for accepting independence as the mode of self-determination.”⁷⁶⁸

Upadhyaya expressed concern that the Indian State “has not been able to respond to today’s realities in a decisive manner,”⁷⁶⁹ and says “over-centralization and the reactive application of state-terror, which frequently transcends the moral bases of the modern state, is no answer to resurgent ethno national assertions.”⁷⁷⁰ Referring to the centralizing character of the Indian State, Hannum says, “unlike the United States, which is an indestructible union of indestructible states, the Indian union is an indestructible union of destructible states.”⁷⁷¹ Based on his experience in Kashmir, Galtung observes that, “for the centre in New Delhi to have the same relations to all states makes sense in a colonial/bureaucratic setting, but guarantees continued violence.”⁷⁷²

In the period from 1947 to 1954, the confrontation between Nagas and the Indian State was primarily political through acts of persuasion and negotiations; and, although, there were simmering tensions, threats and arrests of Naga leaders, the situation remained relatively nonviolent. The Nagas and the Naga National Council were committed to nonviolence through the means of civil-disobedience, non-cooperation, no-taxes and boycotting Indian elections as the best

⁷⁶⁶ Higgins quoted in Andrew Gray, “The British in Nagaland – Their Anthropology and their Legacy,” in IWGIA, “The Naga Nation and its struggle against Genocide,” (Copenhagen: IWGIA Document 56, 1986), p. 61.

⁷⁶⁷ Ibid.

⁷⁶⁸ Ibid.

⁷⁶⁹ Anjoo S. Upadhyaya, “Quest for Self-Determination in the Indian Subcontinent: The Recent Phase” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 170.

⁷⁷⁰ Ibid.

⁷⁷¹ Hannum cites Article 3 of the Indian Constitution as an example of the extent to which sovereignty remains with the central government. Under this Article, the Parliament may form new states by partition or merger, increase or diminish the area of any state, and alter the boundaries or name of any state – makes clear the extent to which sovereignty remains with the central government. Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, Revised Edition, 1990), p. 153.

⁷⁷² Johan Galtung states that the ‘guaranteed continued violence’ in this case “should not be construed as a demand for secession/independence when autonomy in some fields is what is asked for.” See Johan Galtung, “TRANSCEND: 45 Years, 45 Conflicts” Johan Galtung, Carl G. Jacobsen, Kai Frithjof Brand-Jacobsen, *Searching For Peace: The Road to TRANSCEND* (London; Sterling, Virginia: Pluto Press, New Edition, 2002), p. 217.

way to regaining their self-determining capacities. However, on April 4, 1954, the Naga Hills were declared as a Disturbed Area⁷⁷³ and India resorted to military means to contain the Nagas.

Overwhelmed by the compelling situation, the Naga movement organized in response to the situation of war. The Federal Government of Nagaland with a Naga army was formed in 1956, and armed confrontation began. Over the years, the Naga national movement has established closer ties with other peoples struggling for their basic rights. Subsequently, this has also led to the formation of a “web of relationships between armed groups and insurgents in the north-east”⁷⁷⁴ region of the sub-continent. Chadda observes, “...this is largely a result of prolonged militarization of the north-east and enduring confrontations between the insurgent Nagas and the Indian security forces.”⁷⁷⁵

Referring to India as a “garrison state,” Franke says it “had to fight the people as a whole, and since it had to pretend to fight on behalf of the very people it was actually fighting, it had to employ terror to deter and criminalize those who resisted.”⁷⁷⁶ Haksar says that “like the Roman Empire, the Indian State has tried every dirty trick to divide the Nagas against each other, undermine their unity by psychological warfare and have tried to crush the Naga national movement by using its military might.”⁷⁷⁷ She adds that the “Indian State has tried to crush the Naga national movement with brute military force, from using strafe bombing⁷⁷⁸ to burning down

⁷⁷³The imposition of the Disturbed Area was a consequence of a symbolic act of nonviolence by the Nagas. On March 30, 1953, the Indian Prime Minister Jawaharlal Nehru and Burmese Premier Thakin U. Nu came to Kohima. The Naga people that had gathered at the Kohima ground to meet them were informed by an Indian administrator that Nagas were denied the opportunity to make a statement and submit representation to the Indian and Burmese leaders. As a result, the Naga people left the Kohima ground just at the time the two leaders arrived. Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 26.

⁷⁷⁴ Maya Chadda, “Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland,” (Minority Rights Group Report, 2006), p. 12.

⁷⁷⁵ Ibid. Also, Kolås adds that the Northeast region today is “a zone of conflict involving numerous armed groups advocating the right to a separate territory or independent state, based mainly on claims of indigeneity or nationhood.” Åshild Kolås, “Naga militancy and violent politics in the shadow of ceasefire,” (Journal of Peace Research, Volume 48, Issue 6, 2011), p. 784.

⁷⁷⁶ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), pp. 79-80.

⁷⁷⁷ Nandita Haksar in her Foreword in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 15.

⁷⁷⁸ Proof of the bombing on Nagas is clearly indicated in a letter by an Indian Air Force pilot to A.Z. Phizo, while seeking his intervention for their early release on humanitarian grounds. A Dakota aircraft carrying supplies belonging to the Indian Air Force was shot down by the Naga Army and captured the entire crew who were held as prisoners of war. The captain of the Dakota Flt. Lt. A.S. Singha in his letter to the Naga leader A.Z. Phizo dated January 10, 1962, pointed out that between December 11, 1961, and January 6, 1962, the Indian Air Force aircrafts had bombed and fired rockets on seven occasions by a total number of 25 jet aircrafts operating at different times.

of villages⁷⁷⁹ and torturing men, women and children.”⁷⁸⁰ The Indian State adopted the policy of strategic “grouping”⁷⁸¹ on the Nagas which uprooted the people and relocated them. This left them without any resources and access to their traditional land and livelihood, thereby creating dependency on the State.

The human rights situation⁷⁸² of Nagas both in India and Burma is deplorable. Means observes that “the Indian Army is a powerful and ever-present force in Nagaland [and] has the power to act quite independently of the Nagaland Government, even in matters related to the administration of justice, and is responsible for its actions to the Government of India.”⁷⁸³ Dessan Tagore points out that,

Nagaland has seen the worst horrible form of state terrorism – women are raped, men and children tortured, and people moved into concentration camps. The Nagas have no recourse to civic justice. All this persecution is to force the Naga people to surrender to India and to accept the Indian rulers as their masters. The Nagas never will.⁷⁸⁴

The letter stated that the Naga people are “facing many hardships and sufferings.” The full text of the letter can be read in, Gavin Young, “Indo-Naga War: A Journalist Account (1961),” (Gase Publications, 2001), pp. 37-39.

⁷⁷⁹ Kaka D. Iralu writes that from 1955 to 1956 the Indian security forces burnt down 645 Naga villages out of the 861 villages existing those days. Furthermore, all village granaries were razed. He points out that within one year over 100,000 Nagas died from bullets, aerial bombardments, rape, torture, murder, starvation and disease. Cited in J.J. Roy Burman, “Contours of the Naga Upsurge,” (Asia Europe Journal, ISSN 1610-2932, Volume 6, Issue 1, 04/2008), p. 150. For details read, K. D. Iralu, *Nagaland and India: The Blood and the Tears* (Privately Published, September, 2002).

⁷⁸⁰ Nandita Haksar in her Foreword in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 21.

⁷⁸¹ “Grouping” also known as “strategic hamletting,” and “forced population removal” is a special counter-insurgency strategy which has been applied in various parts of the world. This policy of “strategic hamletting” was first used by the British in Malaysia and the US in Vietnam. In India, this policy has been used extensively against the Mizos and the Nagas to weaken their struggle for independence. According to Bela Bhatia, the forced amalgamation of villages, called “groupings” proved to be one of the most trying experiences that Naga civilians were subjected to. For details see, Bela Bhatia, “Awaiting Nachiso,” (Kathmandu, Nepal: Himal Southasian publication, August 2011, <www.himalmag.com/component/content/article/4575-awaiting-nachiso.html>; Nandini Sundar, “Interning Insurgent Populations: The Buried Histories of Indian Democracy,” (Economic & Political Weekly, Volume XLVI, Issue 6, 2011).

⁷⁸² Despite repeated appeals for international observers and fact-finding teams to ascertain the human rights conditions in the Naga territory, the Indian State remains determined in its position not to allow any such groups into the Naga context. Nonetheless, there have been initiatives to record human rights violations in the Naga territory. Some of these are documented in: A Report on “Life Under Military Rule: Human Rights Violations of Nagas In Burma,” (Naga Youth Organisation-Burma, October 2010); Luingham Luithui and Nandita Haksar, *Nagaland File: A Question of Human Rights* (New Delhi: Lancer International, 1984); “Where ‘Peacekeepers’ Have Declared War: Report on Violations of Democratic Rights by Security Forces and the Impact of the Armed Forces (Special Powers) Act on Civilian Life in the Seven States of the North-East,” Fact-Finding Report by the National Campaign Committee Against Militarization and Repeal of Armed Forces (Special Powers) Act, (New Delhi, April 1997); Neville Maxwell, “India and the Nagas,” (London: Minority Rights Group Report Number 17, November 1973), Michael Scott’s *Report to the Prime Minister of India* (1966); <www.npmhr.org>; etc.

⁷⁸³ Gordon P. Means, “Cease-Fire Politics in Nagaland,” (Asian Survey, Volume 11, Issue 10, 1971), p. 1021.

⁷⁸⁴ Dessan Tagore quoted in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 71.

The experiences of the Nagas under India prompted Charles Pawsey to say, “the Indian Army’s behavior will never be forgotten or forgiven by the Nagas.”⁷⁸⁵

The Indian State has legitimized its policy of militarization primarily through the Armed Forces Special Powers Act (AFSPA)⁷⁸⁶ and other draconian legislations.⁷⁸⁷ The AFSPA which was passed by Parliament gives Indian armed forces the power to “shoot and kill” on mere suspicion to “maintain law and order,” and provides impunity from any legal proceeding for acts legally perpetrated under this Act. The AFSPA has not only failed in its objective to curb “hostility,” but has also undermined the democratic character of the Indian State, further demonstrating her belief in the use of force to protect her territorial integrity.⁷⁸⁸ The hegemonic centralized approach has contributed to an atmosphere of distrust, thereby, deepening the sense of alienation and isolation.⁷⁸⁹ Burman has expressed that martial law has failed to combat insurgency and should be repealed, but says the Indian State refuses to do so due to their “ignorance, arrogance and the willingness to act irresponsibly out of political expediency.”⁷⁹⁰

Hutton notes that the attempt to contain the Nagas by bringing in the Indian army made matters “infinitely worse” and “the bitterness which has been engendered by the army occupation is

⁷⁸⁵ Ibid. Charles Pawsey quoted in A.S. Shimray.

⁷⁸⁶The Armed Forces Special Powers Act (AFSPA), which comes into effect when an area is declared as “Disturbed Area,” violates the Fundamental Rights of the Indian Constitution and does not provide citizens with any safeguards that are basic mechanisms for protecting fundamental human rights. In 1991, when the UN’s Human Rights Commission questioned India on the validity of the AFSPA, the response of India’s Attorney General was that the agitation for secession in the North East needed to be addressed on a “war footing.” By its form and application, the AFSPA violates international documents including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention Against Torture, the UN Body of Principles for Protection of All Persons Under Any Form of Detention, and the UN Principles on Effective Prevention and Investigation of extra-legal and summary executions. In 1982, the Naga Peoples Movement for Human Rights filed a Public Interest Litigation in the Supreme Court of India, challenging the constitutional validity of the Act which legitimises powers “to shoot and kill” any Naga on mere suspicion. After fifteen years in the Supreme Court of India, in 1997, the highest court of the land upheld the Act saying “the act in itself is good.” As a student of law and human rights activist, this researcher was present in all the hearing sessions in the Supreme Court of India, New Delhi. For more details see, Peoples Union for Democratic Rights report on AFSPA “An Illusion of Justice” (New Delhi: May, 1998); <www.pudr.org>

⁷⁸⁷ Some of the other legislations are Assam Maintenance of Public Order 1953, National Security Act, Nagaland Security Regulation 1962, Unlawful Activities Prevention Act.

⁷⁸⁸ Maongsangba adds that “the Armed Forces Special Powers Act invoked by the Indian Government to suppress a political movement added fuel to the fire and compounded the conflict.” Maongsangba, Assistant Professor in the Department of Political Science, Dimapur Government College, in his response to Questionnaire 1 on September 27, 2011.

⁷⁸⁹ Respondent C, an Indian woman activist, in her response to Questionnaire 1 on July 16, 2010.

⁷⁹⁰ Roy Burman quoted in Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 124.

perhaps one of the major obstacles in obtaining a settlement.”⁷⁹¹ In their 1995 submission to the Commission on Human Rights, the Society for Threatened Peoples⁷⁹² pointed out that “the root cause of most of the cases of gross violations of human rights in the world today is the suppression of the right of self-determination of aggrieved peoples by stronger ones,” (See Appendice VIII). Referring to the Naga situation, the Society expressed regret that decades of “genocidal campaigns of the Indian and Burmese armed forces against the Naga people have never been called into question by the Commission on Human Rights.”⁷⁹³ It urged “that the danger inherent in the suppression of the people’s rights be looked into before it is too late, if peace and justice are to prevail.”⁷⁹⁴

The Violence of Peace

The Indian State’s strategy to exercise territorial and political control over the Nagas is not limited to military campaigns. The Naga relations with India have from time to time been punctuated by agreements. The interplay of military force and peace agreements form the parameters on which India defines its relationship with the Nagas. It is a classic “carrot and stick policy”⁷⁹⁵ where the exercise of military force induces some form of peace agreement, which in turn provides the claim for State rule and legitimacy. The Naga peoples’ historical experiences indicate that the Indian State approaches negotiations with a colonial mindset based on a position of perceived fear and insecurity with the intent to win time through using divide and rule tactics.⁷⁹⁶ A critical dimension in this statecraft is that people are often left out of the peace process, thereby confining it only to power-blocs.

⁷⁹¹ Furthermore, Hutton in the same Letters to the Editor of The Assam Tribune, he said that the “Indian Army naturally unable to cope with extremely mobile guerillas took to burning villages and destroying crops, no doubt behaving in many cases with great brutality.” Professor J.H. Hutton, “Solution to Naga Problem,” (Gauhati: The Assam Tribune, August 18, 1966).

⁷⁹² A European based non-governmental organization having consultative status (category II) in the UN.

⁷⁹³ United Nations Economic and Social Council, “Submission by the Society for Threatened Peoples on The Human Rights Situation in Nagaland,” to the Commission on Human Rights, Sub-commission on Prevention of Discrimination and Protection of Minorities, Forty-seventh session, Agenda item 6, E/CN.4/Sub.2/1995/NGO/35 on August 10, 1995.

⁷⁹⁴ UN’s Economic and Social Council, “Submission by the Society for Threatened Peoples on The Human Rights Situation in Nagaland,” to the Commission on Human Rights, Sub-commission on Prevention of Discrimination and Protection of Minorities, Forty-seventh session, Agenda item 6, E/CN.4/Sub.2/1995/NGO/35 on August 10, 1995.

⁷⁹⁵ Maongsangba, points out that “India had adopted a ‘carrot and stick policy’ on the issue of Naga self-determination.” Maongsangba, Assistant Professor in the Department of Political Science, Dimapur Government College, in his response to Questionnaire 1 on September 27, 2011.

⁷⁹⁶ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 126.

Given the asymmetrical balance of power and the absence of third party mediators, the Indian State has used the language of peace agreements to strengthen its grip over the Nagas. In the midst of an intense and brutal military campaign against the Nagas from 1954 to 1964, India signed an agreement with the Naga People's Convention⁷⁹⁷ in 1960, known as the Sixteen Point Agreement, (See Appendice VI). The Naga People's Convention did not represent the expressed aspirations of Naga Independence – 1947, and the Naga Voluntary Plebiscite – 1951. However, in the vacuum that was created by sustained military operations, the Sixteen Point Agreement was signed without the peoples' consultation and participation. This Agreement led to the formal fragmentation of Naga territory on the Indian side by carving out the present 'Nagaland State' in 1963 (See Figure II.).

Subsequently, the formation of 'Nagaland State' was projected as an act incorporating Nagas into the Indian State, thereby ending the conflict.⁷⁹⁸ Nagas continue to assert that 'Nagaland State' was not a political settlement and did not have the freely expressed will and consent of the people. Gray points out that 'Nagaland State' is a "transformation of the notion of indirect rule in that Nagas are nominally in charge of a state which has its ultimate control in New Delhi,"⁷⁹⁹ and where the "Indian army is necessary to keep it in existence."⁸⁰⁰ Even though the Naga people declared that the Agreement did not address their desire to determine their own future, the impact has been far-reaching as their voices have gone unheard for generations.

⁷⁹⁷ The Naga Peoples Convention was formed in 1957, under the guidance of S.M. Dutt, Deputy Director of the Intelligence Bureau, Government of India. The main objective of the Naga Peoples Convention was to bring the Indian State and the Naga national movement to the negotiating table and to explore possibilities to work out a negotiated settlement. The Naga Peoples Convention, however, failed to persuade the Naga national leaders to negotiate with India. The government of India saw the Naga Peoples Convention as the "only chance to deal with a set of Naga leaders who abjured violence and did not demand complete independence." See Ram Narayan Kumar with Laxmi Murthy, "Four Years of the Ceasefire Agreement between the Government of India and the National Socialist Council of Nagalim: Promises and Pitfalls," Civil Society Initiatives on the Naga Peace Process, (New Delhi: Other Media Communications, 2002), p. 52.

⁷⁹⁸ Based on this impression, Hannum says "... Nagas were among the last groups to be incorporated into India, after long periods of armed resistance, as their tribal cultures has always successfully resisted encroachment by the social and economic forces of the subcontinent to their south and west." Hurst Hannum, *Autonomy, Sovereignty, and Self-Determination: The Accommodation of Conflicting Rights* (Philadelphia: University of Pennsylvania Press, Revised Edition, 1990), p. 173.

⁷⁹⁹ Andrew Gray, "The British in Nagaland – Their Anthropology and their Legacy," in IWGIA, "The Naga Nation and its struggle against Genocide," (Copenhagen: IWGIA Document 56, 1986), p. 58.

⁸⁰⁰ Ibid., p. 60.

An underlying consequence of the Sixteen Point Agreement was to reduce the Naga peoples' status as peoples to a "scheduled tribe"⁸⁰¹ under the "Sixth Schedule"⁸⁰² of the Indian Constitution. Lima Imchen says the "establishment of a legalistic custodianship" under this "Sixth Schedule" created a "legal category which imposes limitations and facilitates state control ... to define Naga history, Naga identity, and Naga aspiration."⁸⁰³ He defined it as a "form of internal colonialism," which "seeks to dissolve Naga cultural distinctiveness," and leads to dependency on the State. Imchen points out that this category presents the tribes "selective or positive discrimination" with "special welfare measures to emerge from a deprived social aggregate to become full-fledged individuals within the so-called mainstream" without "providing for recognition of scheduled tribes' inherent rights."⁸⁰⁴

In order to establish legitimacy over the Nagas, specific provisions of the Sixteen Point Agreement were incorporated into the Constitution of India under Article 371(A). This Article contains what it terms as "special provisions to protect religious or social practices of the Nagas, Naga customary law and procedure, and ownership and transfer of land and its resources."⁸⁰⁵ The "special provisions" under Article 371 (A) confers no creative power required to translate the Naga peoples' aspirations into lived reality. It only grants what may be considered a form of autonomy that is essentially a gift by the Indian State and not the result of a negotiation to redefine the relationship between India and the Nagas.⁸⁰⁶ Rather it was imposed to politically trap the Naga national movement.⁸⁰⁷

⁸⁰¹ India has maintained that the scheduled Tribes are not indigenous peoples and that, "the entire population of India [is] indigenous to the country." Maya Chadda, "Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland," (Minority Rights Group Report, 2006), p. 12.

⁸⁰² The Sixth Schedule status is for those who have been categorized as "Scheduled Tribe" and "Schedule Caste" by the Indian State. According to Das, the "scheduled status provides numerous special provisions in government employment, educational institutions, and participation in democratic framework. However, the "official" ethnic-names, most of which were invented in the colonial era, are regarded by the people to be flawed." N.K. Das, "Naga Peace Parleys: Sociological Reflections and a Plea for Pragmatism," (Economic & Political Weekly, Volume XLVI, Issue 25, 2011), p. 71.

⁸⁰³ Lima Imchen, "The Nagas: People Without a State," (Cultural Survival Quarterly, Issue 25.2, 2001).

⁸⁰⁴ Ibid.

⁸⁰⁵ Maya Chadda, "Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland," (Minority Rights Group Report, 2006), p. 12.

⁸⁰⁶ Kumar Sanjay points out that the Sixteen Point Agreement is neither seen as "a result of the negotiation nor can it be portrayed as a special liberal package for the Nagas." Kumar Sanjay Singh, "Naga Accords: An Instance of Domination through Negotiation," paper presented at 'A South Asian Peace Audit Exercise,' organized by South Asia Forum for Human Rights (SAFHR), at Dhulikhel, Nepal, September 8-11, 1999.

⁸⁰⁷ According to B.N. Mullick former Intelligence Chief Bureau and personal secretary to Jawaharlal Nehru, the Sixteen Point Agreement was a "political trap." He stated: "Instead of the hostile Nagas surrendering to the administration, it was the administration which almost surrendered to the hostile Nagas ... the inevitable result was that the Prime Minister had to take the best political step of forming Nagaland into a separate state." Mullick quoted

The Sixteen Point Agreement did not address the root causes of the conflict. Most importantly, it did not end the Indian State's desire to exert authority and control over the Naga people. India only sought to legitimize imposing an alien system upon Nagas and denying their right to decide not only the form of government, but also the right to decide who should govern them. Chadda says the Naga see these "special provisions" as a "tool to further divide the Nagas, since the article is limited to Nagas living in the state of Nagaland."⁸⁰⁸ In forming 'Nagaland State' the Sixteen Point Agreement arbitrarily decided who is in and who is out from these 'special provisions' on the basis of territorial boundaries. Through this Agreement, India was seeking to break the collective Naga identity by creating new territorial based identities, and to demoralize the Naga spirit by allowing a limited Naga population to and enjoy these 'special provisions.'

Neville Maxwell observes that, "given a choice, the great mass of the Nagas would opt for total independence from India: those who have accepted statehood [refers to 'Nagaland State' created by India through 16 Point Agreement] had done so as the lesser of two evils, the other being indefinite continuation of guerrilla war and all the miseries upon it."⁸⁰⁹ Burman believes that the formation of "Nagaland State" did not bring any significant change in the mindset of the Nagas. He says that Nagas by and large "refused to accept the Indian Constitution and kept on fighting for their independence," while the Indian State "refused to accept this and treated it as a law and order problem."⁸¹⁰

The 'Nagaland State' structures have "demonstrated its power to co-opt and tame the civil society."⁸¹¹ The Indian State has poured money through these imposed structures that corrupts the Naga society so that people will become complacent about their political struggle.⁸¹² Related to

by Naga Hoho in Naga Hoho, "White Paper on Naga Integration," Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 31.

⁸⁰⁸ Chadda adds that "there are no mechanisms created to disseminate information on these rights and to implement them, and hence, they are not a reality to the civilian population. Maya Chadda, "Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland," (Minority Rights Group Report, 2006), p. 12.

⁸⁰⁹ Neville Maxwell quoted in A.S. Shimray, *Let Freedom Ring: Story of Naga Nationalism* (New Delhi: Promilla & Co., Publishers, 2005), p. 75.

⁸¹⁰ J.J. Roy Burman, "Contours of the Naga Upsurge," (Asia Europe Journal, ISSN 1610-2932, Volume 6, Issue 1, 04/2008), p. 151.

⁸¹¹ Rita Manchanda and Tapan Bose, "Expanding the Middle Space in the Naga Peace Process," (Economic & Political Weekly, Volume XLVI, Issue 53, 2011), p. 54.

⁸¹² Abraham Lotha, the Vice Principal of St Josephs College, Jakhama, in his response to Questionnaire 1 on July 24, 2010.

this is the design to create a new set of elites within the Nagas⁸¹³ through appeasing and co-opting an amenable section of Naga political society.⁸¹⁴ Hence, ‘Nagaland State’ has become the most convenient tool in the hands of India to ‘manage’ the conflict and suppress Naga rights through a group of political elite. Barbora says, “As long as there is an alliance between the Naga political elite and the colonizers, the simplicity of the description of the problem will continue to be obfuscated in favour of dishonest descriptions (of the problem).”⁸¹⁵

The Sixteen Point Agreement is inconsistent with the principles of justice. Chadda points out that the “forced incorporation of the Naga areas was the principal cause of armed confrontation” and that “over time, coercion and militarization created vested interests that have sustained the violence.”⁸¹⁶ This raises the question of legitimacy because when a State resorts to using force to extract the people’s will to govern them, it implies that the State does not represent the will and interest of the governed. Under these circumstances, the Indian State can no longer justify the issue of State territorial integrity in the Naga case.

On September 6, 1964, first Ceasefire Agreement⁸¹⁷ was signed between the Government of India and the Federal Government of Nagaland through the Peace Mission⁸¹⁸ by pursuing settlement through peaceful means. During the talks, Naga leaders spoke about the two-nation theory and the need to co-exist peacefully through friendship, while the Indian representatives replied, “all we are trying to persuade you to realize is that we are really not two nations living side by side.”⁸¹⁹

⁸¹³ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸¹⁴ Xonzoi Barbora, an independent researcher, in his response to Questionnaire 1 on July 5, 2010.

⁸¹⁵ Ibid.

⁸¹⁶ Chadda in her report notes that “denial of democratic rights and autonomy, treatment of protests as a ‘law and order’ problem, regarding all Naga grievances as a security issue and the failure to create good governance have prolonged the conflict in Nagaland.” She adds that the introduction of competitive party politics also contributed to the conflict. Maya Chadda, “Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland,” (Minority Rights Group Report, 2006), p. 13.

⁸¹⁷ The 1964 Ceasefire was not confined to only ‘Nagaland State,’ but extended to all Naga areas on the Indian side of the border.

⁸¹⁸ The Peace Mission comprised of Bimla Prasad Chaliha, Jayaprakash Narayan and Michael Scott. The Peace Mission while appreciating and understanding the desire of the Nagas for self-determination appealed to both India and the Nagas to consider seriously a meeting point in the pursuit of an acceptable settlement to both sides through peaceful means. V.K. Nuh, W Lasuh (ed.), *The Naga Chronicle* (New Delhi: Regency Publications, 2002), pp. 218-222. Also, Maxwell informs that the Peace Mission was dissolved first with Narayan’s resignation, followed by Chaliha’s resignation, and in May 1966, with the arrest of Scott who was deported from India. All his papers, recordings, etc., were seized, in a breach of understanding by which the Peace Commission had been operating. Neville Maxwell, “India and the Nagas,” (London: Minority Rights Group Report Number 17, November 1973), p. 16.

⁸¹⁹ Gordon P. Means and Ingunn N. Means, “Nagaland – The Agony of Ending a Guerrilla War,” (Pacific Affairs, University of British Columbia, Volume 39, Issue 3/4, 1966), p. 300.

When the Naga leaders demanded that India or a UN member submit the Naga problem to the International Court of Justice, the Indian representatives responded saying that Naga conflict is a domestic, not an international issue.⁸²⁰

With both sides remaining inflexible, and unable to make any progress the political negotiations broke down after six rounds of talks. On June 1, 1972, the affairs of Nagaland were transferred from the Office of the External Affairs Ministry to the Ministry of Home Affairs.⁸²¹ The Ceasefire, however, continued until India unilaterally terminated the ceasefire from September 1, 1972, and declared the Naga National Council and the Federal Government of Nagaland as unlawful organizations and resumed military operations against the Nagas. In May 1975, the President's Rule was imposed in 'Nagaland State,' and within the same month a National Emergency was declared in India.

Within this climate of political turmoil, fighting and intense military operations on the Nagas began, and the Shillong Accord between the Government of India and an undefined "Representatives of Underground Organizations"⁸²² with no specific affiliation was signed on November 11, 1975 (See Appendice VII). The Accord states that these representatives conveyed their decision, "of their own volition, to accept without condition, the Constitution of India." It further agrees on depositing arms at appointed places; and that "underground organizations should have reasonable time to formulate other issues for discussion for final settlement." The Shillong Accord was rejected by the Naga people, consequently the struggle for their historical and political rights continued.

Ranabir Samaddar observes that India's approach to negotiations reveal a process rooted in asymmetrical power and lack of transparency that ultimately impel bureaucratic solutions which leads to peace without justice and democracy.⁸²³ Kumar Sanjay Singh points out that negotiations with India have the "classic ingredients of keeping discontent in check" and coupled with the

⁸²⁰ Ibid, p. 301.

⁸²¹ The External Affairs Ministry was responsible for looking after the "Excluded Tribal Areas" since the British Days. Ram Narayan Kumar with Laxmi Murthy, "Four Years of the Ceasefire Agreement between the Government of India and the National Socialist Council of Nagalim: Promises and Pitfalls," Civil Society Initiatives on the Naga Peace Process, (New Delhi: Other Media Communications, 2002), p. 62.

⁸²² Until today, no Naga national political group has officially claimed responsibility for the Shillong Accord.

⁸²³ By bureaucratic solutions, Samaddar meant the assumption that a peace accord is often achieved as a "managing exercise" by the state after the conflict has already passed through the stage of denial, the stage of ignoring the early warning signals, the stage of surprise, and stage of brisk activities. Ranabir Samaddar, "Governing through Peace Accords – A Democratic Inquiry," (<www.mcrg.ac.in/rana7.htm>, last accessed on November 18, 2012).

“carrot and stick policy,” the Sixteen Point Agreement and the Shillong Accord are nothing more than an “instance of domination through negotiations.”⁸²⁴ Singh points out that while the Sixteen Point Agreement in 1960 was to divide the Naga polity and society by separating their lands into different administrative units, the Shillong Accord in 1975 was designed to divide the Naga national movement. The divisions within the Naga National Council⁸²⁵ after the Accord, led to the formation of the National Socialist Council of Nagaland in 1980,⁸²⁶ and resumption of armed struggle.

Tran Van Dinh is of the view that States have “recourse to the old principle of ‘divide and rule’ to exasperate conflicts among struggling nations within their border.”⁸²⁷ The Indian State’s sophistication of co-opting, repressing, and encircling, in combination with the Naga peoples’ inability to overcome them has caused divisions within the Naga fabric. Like any liberation movement organized to carry out an independence struggle, the Naga national movement has confronted both internal and external forces with the same intensity. This has resulted in internal violence among the Nagas, thereby weakening the common struggle for self-determination. Burman observes that the Nagas perhaps would not have become as fractured as they are today if the Naga leaders had stayed on their original path of nonviolence.⁸²⁸

The Naga Students’ Federation⁸²⁹ describes the Naga experience of living under State domination,

The stratagem of the enemy is vicious and vulnerable. It uses charm and deceit. It engages and betrays. It divides and rules. But worst of all, it poisons the mind so that you can doubt your own people, so that you let down the struggle and right that you stood for, initially. It

⁸²⁴ Kumar Sanjay Singh, “Naga Accords: An Instance of Domination through Negotiation,” paper presented at ‘A South Asian Peace Audit Exercise,’ organized by South Asia Forum for Human Rights (SAFHR), at Dhulikhel, Nepal, September 8-11, 1999.

⁸²⁵ For details see, Naga Hoho, “White Paper On Naga Integration,” Adopted at the 7th Naga Hoho General Assembly, Senapati, May 20-22, 2002, (Senapati: Naga Hoho, 2002), p. 39.

⁸²⁶ The Vice President of the Naga National Council, Isak Chishi Swu and its General Secretary, Th. Muivah along with the President of the Eastern Naga National Council SS. Khaplang (based in Burma) formed the National Socialist Council of Nagaland in 1980, with Swu as Chairman, Khaplang as Vice-Chairman and Muivah as General Secretary. While the National Socialist Council of Nagaland was the organization, they also established the Government of People’s Republic of Nagaland. In 1988 the National Socialist Council of Nagaland further split into two: National Socialist Council of Nagaland led by Isak Chishi Swu as Chairman and Th. Muivah as General Secretary, and is commonly referred to as NSCN (Isak and Muivah). The other National Socialist Council of Nagaland is led by SS Khaplang as Chairman and Kitovi Zhimomi as General Secretary and is commonly referred to as NSCN (Khaplang).

⁸²⁷ Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p. 139.

⁸²⁸ B.K. Roy Burman in his Foreword in R. Vashum, *Nagas’s right to Self-determination* (New Delhi: Mittal publication, 2000), p. ix.

⁸²⁹ Like the Naga Hoho, the Naga Students’ Federation is trans-state and is a body that is represented by Naga students from all across the Naga territory, irrespective of the imposed boundaries.

makes you feel good and important and arrogant too, in the tools of the oppressor. We have been brutally divided not because we consented for it. We have accused each other not because we lack the spirit of independence. We have lost some of our cultural value not because it is not good for us. We have been what we do not want to be because the stratagem of the enemy is vicious and vulnerable.⁸³⁰

The failure of imposed agreements to pacify the Nagas and the limitations of military campaigns to contain the armed struggle combined with the growing realization to reach out to the Southeast Asian region for economic interests has compelled India to use new ways of engaging the Nagas and other armed struggles in the Northeast region. The Indian State moved away from its traditional approach of defining the Nagas as a “law and order” issue by acknowledging it as a political problem requiring a political solution through negotiations and peace process.⁸³¹ To enable negotiations, a mutually decided bilateral Ceasefire Agreement was signed between the National Socialist Council of Nagaland (Isak and Muivah)⁸³² and the Indian government as two entities, which came into effect from August 1, 1997. Subsequently India signed another Ceasefire Agreement with the National Socialist Council of Nagaland (Khaplang) on April 28, 2001,⁸³³ the latter has also signed a bilateral Ceasefire Agreement with Burma on April 9, 2012.

So far, India has engaged in formal political negotiations with the National Socialist Council of Nagaland (Isak and Muivah) on the following terms of reference:

- (i.) the political talks shall be unconditional;
- (ii.) the talks shall be at the highest level; that is, at the Prime Minister’s level; and
- (iii.) the venue of the talks shall be anywhere in the world, outside India.

On July 11, 2002, in a Joint Communiqué, the Indian State declared it “recognizes the unique history and situation of the Nagas”⁸³⁴ and went on to say that both the entities have “agreed that

⁸³⁰ Frans Welman, *Out of Isolation: Exploring a Forgotten World, Uncovering a Culture in Conflict* (New Delhi: HPC Imprints, 2007), pp. 128-130.

⁸³¹The objective of this research is not to analyze the current peace process between the Government of India and the NSCNs, but to focus on the Naga peoples’ struggle for self-determination.

⁸³² Refer to footnote 825.

⁸³³ In June 2011, the National Socialist Council of Nagaland (Khaplang) was split through a series of expulsions and counter expulsions of its senior members. One group of the National Socialist Council of Nagaland continues to be headed by S.S. Khaplang that is based in the Naga areas of Burma. The other group is headed by Gen. (Retired) Khole Konyak as Chairman and Kitovi Zhimomi as General Secretary, based in the Naga areas of India. Both the groups have entered into a ceasefire agreement with India, while S.S. Khaplang has also signed a ceasefire agreement with Burma in 2012.

⁸³⁴ This is the first time that the Indian State has officially and publicly recognized the uniqueness of the Naga history and situation. There are differing opinions on this recognition and what it actually implies for the peace process. One opinion says that recognizing the uniqueness of the Naga history and situation implies that India has recognized the Naga position, and, therefore, implies a unique solution based on those rights. While the other opinion feels that such

talks should proceed in an accommodative and forward-looking manner so that a lasting and honorable solution can be arrived at.” However, even after fifteen years, the ongoing peace process has shown no significant indications that India is willing to recognize the Naga peoples’ right to self-determination. In fact, all symptoms point to India’s increasing desire to control the process and outcome of this peace process.

Haksar holds the opinion that “the Indo-Naga political negotiations which started off as being a unique democratic experiment has been sabotaged by intelligence agencies to serve their Machiavellian politics of divide and rule.”⁸³⁵ Ceasefires are generally an integral step to provide conducive conditions under which negotiations can take place. Kolås points out that in the case of the Nagas and the Northeast region of the sub-continent, “ceasefires should be understood as a part of the dynamics of conflict, rather than a basic step to facilitate ‘real’ peace negotiations.”⁸³⁶ She informs that the Indian State currently describes “ceasefire agreements and negotiations alongside ‘improved counter-insurgency’⁸³⁷ measures’ as its strategy to ‘restore normalcy’ in the region.”⁸³⁸ As a result, ceasefires in the Naga context have only demonstrated power imbalance,⁸³⁹ divide and rule⁸⁴⁰ and the “continuation of conquest and subjugation of segmentary societies at the hands of centralized states.”⁸⁴¹

recognition has only weakened the negotiating process by limiting the scope of a possible settlement within the Indian understanding of what constitutes “uniqueness” of the Naga history and situation.

⁸³⁵ Nandita Haksar, “Machiavelli’s Ceasefire and the Indo-Naga Peace Process,” (Mainstream, Volume XLVII, Issue 16, 2009). Hekani and Joshua share the view that “Nagas fell to the technique of the divide and rule policy played by India; the same fate which India suffered in the hands of the British.” Hekani Jakhalu, Director of YouthNet and Joshua Shequi, Advocacy Program Coordination, YouthNet, in their interview on February 22, 2011.

⁸³⁶ Åshild Kolås, “Naga militancy and violent politics in the shadow of ceasefire,” (Journal of Peace Research, Volume 48, Issue 6, 2011), p. 781.

⁸³⁷ Baruah says in the Northeast the goal of counter-insurgency is limited to “creating conditions under which particular insurgent groups or factions surrender weapons, come to the negotiation table on the government’s terms and make compromises in exchange for personal gain.” Baruah quoted in Åshild Kolås, “Naga militancy and violent politics in the shadow of ceasefire,” (Journal of Peace Research, Volume 48, Issue 6, 2011), p. 782.

⁸³⁸ Ibid.

⁸³⁹ The terms of the ground rules for implementing the Ceasefire indicates a clear power imbalance. For instance, while cadres of the Naga army are confined to “designated camps” the Indian military continues to operate in civilian areas rather than being confined to their “barracks.” Furthermore, representatives of the Naga national group having ceasefire with India are provided with identification cards to facilitate their movement, whereas no such identification card is required for the Indian military. Also, while the Naga army is confined to their “designated camps,” the Indian military has been involved in development and civic activities such as providing health care, construction work, and other civilian related activities. A ceasefire agreement between equal partners would actually mean that the military forces of both sides would be restricted to their camps, pending a political settlement that will determine the status of the military forces.

⁸⁴⁰ Neichü Dz. Angami observed that talking only to one group of the Naga national movement and ignoring the others has only created more divisions. Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

⁸⁴¹ Marcus Franke, *War and Nationalism in South Asia: The Indian State and the Nagas* (London, New York: Routledge, 2009), p. 1.

During the present ceasefire period, while physical force has been suspended, there has been sustained psychological warfare,⁸⁴² rising corruption,⁸⁴³ increasing breakdown of the social support systems, and economic classes have become distinct.⁸⁴⁴ Ultimately, India through ‘Nagaland State’ has wrested more control over the lives of the people. The Indian electoral system based on competitive party politics which is different from the Naga system of consensus-based democracy, has greatly impacted the Naga values of governance and leadership.⁸⁴⁵ Although the Naga territories are supposed to be protected from non-Nagas, the demography is rapidly changing during ‘peace time’ as there has been a rush of illegal immigrants from countries such as Bangladesh, thereby threatening to make the indigenous peoples a minority in their own land.⁸⁴⁶ Furthermore, with the number of stakeholders increasing in the Naga situation, the conflict has become an industry where various vested-interest State and non-state groups try to extend the conflict for their own benefit.⁸⁴⁷ In other words, the conflict has led to creating structures of violence which are responsible for perpetuating structural injustice, thereby strengthening the culture of impunity.

India’s approach to the idea of peace is aimed at bringing the conflict to an end without addressing why the conflict occurred and how it can be averted in the future. In avoiding the issues of self-determination, India is not recognizing the Nagas as an “equal partner,”⁸⁴⁸ but as a matter of “internal dissent.”⁸⁴⁹ Subsequently, since the Indian State’s priority is to bring the conflict to an end, she tends to limit the peace process and negotiation space only to the armed

⁸⁴² In the Naga context psychological warfare seems to be based on spreading rumors which is meant to generate confusion, and, in turn, causes divisions. The intent of the psychological warfare is to cause friction within the society and to also create differences between those in the negotiating process and the people in order to weaken and reduce the negotiation space. Psychological warfare is inherently a military operation.

⁸⁴³ One of the responses of the Indian State to Naga self-determination has been to pour money into Naga society. Hekani and Joshua say “there is a saying that Nagas can overcome anything but money! Money has made Nagas idle ... The neo-colonialism strategy of India has weakened the Nagas morale to the extent that when money speaks truth becomes silent!” They add that “No freedom struggle or the fight for the right to self determination for the people can survive or fight on with the weakened morale of its people!” Hekani Jakhalu, Director of YouthNet and Joshua Shequi, Advocacy Program Coordination, YouthNet, in their interview on February 22, 2011. This researcher adds that the use of money as a way of confronting the Nagas has increased during the ceasefire period in the name of development and peace, thereby increasing corruption. It has contributed to a culture of unaccountability and lack of transparency.

⁸⁴⁴ Respondent D points out the increasing corruption, the dire situation of higher education, the inaccessibility of good primary and school education for all, the negligibility of industrial activity and the poor health infrastructure of the people. Respondent D, a young Naga journalist with special interests on indigenous issues, in his response to Questionnaire 1 on July 5, 2010.

⁸⁴⁵ Ibid.

⁸⁴⁶ Ibid.

⁸⁴⁷ Abraham Lotha, the Vice Principal of St. Josephs College, Jakhama, in his response to Questionnaire 1 on July 24, 2010.

⁸⁴⁸ Grace Jajo, an activist, in her interview on May 4, 2011.

⁸⁴⁹ Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

groups thereby, leaving out a large section of interested groups and individuals within the affected society.⁸⁵⁰ This often results in no one taking ownership of the peace process, and the Indian State frequently ends up denigrating efforts of the peace constituency.⁸⁵¹

A decisive obstruction reflective in the negotiating process is the inability to understand and appreciate each other's worldviews.⁸⁵² For instance, from Naga worldview, sovereignty lies with the people through their villages, whereas for India, like most other States, their sovereignty is derived from the Treaty of Westphalia. Consequently, this affects their approach to the negotiations. India's approach is from the perspective of national security; and the Nagas from the perspective of rights. As a result, the negotiation process fails to address deeply held values, which, although, seemingly non-negotiable requires mutual understanding as they involve the peoples' survival, status, legitimacy and rights. This failure categorically limits negotiations to exclusively focusing on instrumental modalities of State apparatus which excludes the peoples' rights and aspirations.

Contextual 'Voices' for Self-Determination and JustPeace

Like many unrepresented peoples around the world the Naga peoples' rights continue to be relegated to the past, where the State system "constrains the development of indigenous societies by allowing only those activities that supports its own necessary illusion."⁸⁵³ Anaya points out that "historical violations of self-determination do not necessarily entail a reversion of the status quo ante, but rather are to be developed in accordance with the present-day aspirations of the aggrieved groups, whose character may be substantially altered with the passage of time."⁸⁵⁴ The Nagas' recovery of their language of self-determination, therefore, needs to be in accordance with present aspirations so that the exercise of their right responds to the people's needs. This section explores some of the key themes and ideas that emerged from the data analysis.

⁸⁵⁰ Pongen points out the failure of both Indian and Naga leaders to involve all sections of their respective civil society in the efforts to build peace. Aosenla Jennifer Pongen, Associate Durable Solutions Officer, UNHCR, Indonesia, in her response to Questionnaire 1 on June 15, 2011.

⁸⁵¹ Xonzoi Barbora, an independent researcher, in his response to Questionnaire 1 on July 5, 2010.

⁸⁵² Luithui notes that decision makers in India fail to understand the Naga worldview since they come from an entirely different perspective, informed by a society where caste hierarchy is the norm. Consequently, they fail to integrate the more egalitarian nature of Nagas where politics, culture, economy, and social existence intrinsically go together. Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸⁵³ Taiaiake points out the State illusion are "that indigenous peoples today do not present a serious challenge to its legitimacy." Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 59.

⁸⁵⁴ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p. 83.

Naga life today is framed by two value systems that are fundamentally opposed: one that is rooted in traditional teachings, social structures and cultural relations and practices; while the other is imposed by Indian and Burmese State structures, culture, education and electoral politics. This makes the Naga people's recovery of their values, spirituality, stories and traditional wisdom all the more relevant. The emphasis and focus may change and its understanding may alter, but the purpose remains the same – to secure the Naga peoples' destiny. The danger lies in self-doubt and the crisis of confidence. July points out that African nationalist leaders realized that “self-respect was companion to self-determination, while economic growth and technological advance might falter among a people who lacked confidence in their destiny.”⁸⁵⁵ The process of rediscovering self-respect and self-confidence with self-determination can build a consciousness that translates into the dignity that comes with self-governance, and collective contentment that are inherent in the expression of Naga culture and values.

The protracted nature of subjugation has had consequences on the Naga mind and spirit at both the individual and collective level, and has presented a number of dilemmas. For instance, while the Naga struggle focuses on addressing the injustices from without, there is a parallel truth, that injustice is also being perpetuated from within. Hence, there is apprehension that when self-determination is restricted to a remedial aspect of statehood, the “recognition of the Naga peoples right to self-determination may lead to resolution” of the political conflict but “not necessarily mean it will bring about peace.”⁸⁵⁶ This argument raises the imperative for Nagas to go beyond classical self-determination which is rooted in the state system; and to recover the values and praxis of self-determination.

Luihui argued that Nagas have no fixed idea of self-determination and emphasizes there really should not be one.⁸⁵⁷ This is consistent with self-determination as an evolving praxis that is keeping pace with the dynamism of human cultures. Kaka D. Iralu described the Nagas' “ancient self-determination”⁸⁵⁸ tradition as one, “where every village was a sovereign democratic republic

⁸⁵⁵ Robert W. July, *An African Voice: The Role of the Humanities in African Independence* (Durham: Duke University Press, 1987), p. 130.

⁸⁵⁶ Abraham Lotha, the Vice Principal of St Josephs College, Jakhama, in his response to Questionnaire 1 on July 24, 2010.

⁸⁵⁷ Chingya Luihui, convener of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸⁵⁸ When Kaka D. Iralu mentioned “ancient self-determination,” he is referring to the values and principles that were practiced by Naga villages during the ancient times even before, they came to hear the word “self-determination. This is consistent with Ali Mazrui's observation as stated in the chapter “The Language of Self-determination,” that the values were practiced must before the formulation and coinage of the term.

with its own set of laws and governmental system through democratic principles. Within the village, no clan ruled over any other clan, no family ruled over any other family.”⁸⁵⁹

In traditional Naga society, each person was an individual within a larger community. The individual took care of the community and the community, in return, took care of the individual in a reciprocal manner.⁸⁶⁰ Consequently, there was no need or desire to exploit another human being. The values of mutual respect, non-interference and independence were reciprocal, thereby, creating a relational praxis of shared belonging which was imperative for peaceful co-existence. K. D. Iralu reiterates that this philosophy of life handed down by the ancestors is Naga peoples’ foundational heritage and legacy.

Affirming that “sovereignty must be situated within the historical and cultural relationship in which it is articulated,” Joanne Barker calls for respecting “the unique cultural identities that continue to find meaning in those histories and relations.”⁸⁶¹ From the Naga perspective, the concepts of self-determination and sovereignty are seen to be emerging from within the people⁸⁶² and constantly evolving where processes of consensus decision-making and restorative justice are critical for maintaining harmony and sustaining balance among all relations. Venuh, points out that “peoples’ self-determination is more than State sovereignty because it enables a people to determine themselves.”⁸⁶³ By implication, since sovereignty and self-determination are rooted in the people’s will, generous means should be provided for their expressed will to ensure that the Naga alternative is not in conflict with the people.⁸⁶⁴

Self-determination is fundamental for the Nagas in order for the conflict with India and Burma to be transformed using nonviolent approaches. Naga self-determination means exercising collective choice-making,⁸⁶⁵ and, if that right involves integration – physical and political – of their lands

⁸⁵⁹ Kaka D. Iralu, a free lance journalist, in his interview on June 18, 2011.

⁸⁶⁰ Hekani and Joshua qualify this view stating that “Nagas at large fights for recognition of our political rights and also recognition as people with unique history and identity. While at the same time, each individual at home too yearns for individual freedom of speech and expression and equal opportunities.” Hekani Jakhalu, Director of YouthNet and Joshua Shequi, Advocacy Program Coordination, YouthNet, in their interview on February 22, 2011.

⁸⁶¹ Joanne Barker (Lenanpe), “For Whom Sovereignty Matters” in Joanne Barker (ed.), *Sovereignty Matters: Locations of Contestation and Possibility in Indigenous Struggles for Self-Determination* (Lincoln; London: University of Nebraska Press, 2005), p. 26.

⁸⁶² A number of Naga respondents have also reaffirmed the notion that for the Nagas the right to self-determination is paramount for their sovereignty, which is rooted in the people.

⁸⁶³ N. Venuh, Head of the Department of History, Nagaland University in his interview on February 2, 2011.

⁸⁶⁴ Wati Aier, Convenor of the Forum for Naga Reconciliation, in his interview on September 27, 2011.

⁸⁶⁵ Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

and peoples,⁸⁶⁶ it should not be denied since the people's lives should transcend the integrity of [state territories]. Yet, the Nagas are not referring to boundaries that are rigid and inflexible as established by the State. They are in essence conveying their traditional understanding of overlapping, fluid, and shared boundaries, which, in turn, influences relationships with their neighbors, so that respectful co-existence is possible.

Naga self-determination spiritually⁸⁶⁷ connects everything around them where everyone is responsible for one another⁸⁶⁸ in order for pluralism to flourish in every aspect of life,⁸⁶⁹ and to contribute towards a shared vision and responsibility to make peace possible.⁸⁷⁰ At its core, Aier says that “Naga self-determination without a shared humanity is totalitarianism, and the reality of this shared humanity will depend upon an alert and responsible populace.”⁸⁷¹

The power relation between Nagas and the Indian State is one of force and domination. The struggle for self-determination is to be free from this ongoing relationship, but such a struggle cannot be argued from within the framework of State sovereignty. Michel Foucault provides a direction away from this framework,

If one wants to look for non-disciplinary form of power, or rather, to struggle against disciplines and disciplinary power, it is not toward the ancient right of sovereignty that one should turn, but towards the possibility of a new form of right, one which must indeed be anti-disciplinary, but at the same time liberated from the principle of [state] sovereignty.⁸⁷²

This affirms that Naga people should return to their traditional teaching where the source of sovereign power rests with the Peoples.

⁸⁶⁶ Respondent D, a young Naga journalist with special interests on indigenous issues, in his response to Questionnaire 1 on July 5, 2010.

⁸⁶⁷ While specific details and aspects of the colonial project are not discussed in detail, it is important to note that Nagas were greatly influenced by Christian missionaries from the outside, which impacted how their cultures were shaped during the late 19th and the 20th centuries. In fact, Naga indigenous cultural practices, belief systems, and ways of living were to a large extent destroyed and a new missionized culture was formed in its place. Nagas were originally animists and practiced their beliefs celebrating nature.

⁸⁶⁸ Respondent A, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on June 3, 2011.

⁸⁶⁹ Respondent D, a young Naga journalist with special interests on indigenous issues, in his response to Questionnaire 1 on July 5, 2010.

⁸⁷⁰ Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

⁸⁷¹ Wati Aier, Convenor of the Forum for Naga Reconciliation, in his interview on September 27, 2011.

⁸⁷² Michel Foucault quoted in Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. 49.

Acknowledging the need to transcend the State system, Naga “voices” for self-determination are pointing to the growing realization that their aspirations for humanization can best find meaningful expression and emancipation from values embedded in non-Westphalian patterns of association. Luithui asserts that,

Nagas need to be very clear that a mere transfer of state power or state structures from the Indian State to a future Naga State does not mean self-determination—such would only be a continuation of the state centric arrangement that does not ensure equity and justice for the Naga people.⁸⁷³

A state-centric solution caresses the fear that it could result in a situation of “intra-tribal war ... result[ing] in more bloodshed before some kind of normalcy takes place”⁸⁷⁴ and possibly even “dictatorship.”⁸⁷⁵ This emphasizes the need for disconnecting self-determination and sovereignty from its Western legal roots.

A Naga alternative to a Westphalian State is required so that it can respectfully accommodate the “incredible range of diversity among Nagas,” and to “celebrate that diversity at the same time as lifting up the common bonds.”⁸⁷⁶ Respondent K affirms this view by asserting that, “for Nagas, self-determination embraces a broader value than independence and [State] sovereignty.”⁸⁷⁷ Jajo adds that while “Independence and [State] sovereignty are usually static political status,” Naga self-determination “can actually absorb new variations and thus continue to be a dynamic living value, endorsing the authority to the peoples.”⁸⁷⁸ The Naga alternative should be flexible to the extent that if one of the entity (tribe) constituting the Naga political identity desires to part ways, it should be considered,⁸⁷⁹ because the very nature of the Naga people is federal. The continuing exercise of self-determination depends on how the system of governance is established and the kind of democratic space that is available for the people to participate in the new framework.

⁸⁷³ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸⁷⁴ Abraham Lotha, the Vice Principal of St Josephs College, Jakhama, in his response to Questionnaire 1 on July 24, 2010.

⁸⁷⁵ Respondent A, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on June 3, 2011.

⁸⁷⁶ Dan Buttry has worked close with Naga churches and civil society groups and has been associated with the Naga Reconciliation process. He has also been involved in facilitating training on nonviolence and peacebuilding. Dan Buttry, a Global Consultant, International Ministries (ABC), in his response to Questionnaire 3 on February 15, 2011.

⁸⁷⁷ She adds that “A nation may be independent but may still be an impoverished state, while it may be a thriving economic player even while under another country’s rule, like the case of Taiwan.” Respondent K, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on January 31, 2011.

⁸⁷⁸ Grace Jajo, an activist, in her interview on May 4, 2011.

⁸⁷⁹ Respondent D, a young Naga journalist with special interests on indigenous issues, in his response to Questionnaire 1 on July 5, 2010.

James Pochury says that self-determination is the key to peace, without it, you cannot open the door to peace.⁸⁸⁰ He qualifies it by giving the illustration that peace for Nagas is to be the drivers of our own destiny, not being in the passenger seat with others driving for us. K. D. Iralu, however, cautions that the realization of self determination would not be the end of all problems and neither would it mean eternal peace for all times to come. He says that “self-determination means responsibility and accountability over our own social, economic and political affairs” and “therefore can only be a means and not an end towards peace.”⁸⁸¹

This means there should be justice in self-determination. Sanyü says, “peace as we understand is not just the absence of war, but the wholeness of living and it embraces a whole lot of complex ideology and philosophy.”⁸⁸² Sanyü adds that Nagas have tried peace and failed because the “old method of peace has not worked for a complex problem such as the Naga movement which is engulfed in both internal⁸⁸³ and external violence.” JustPeace is an outcome of a perpetual process of dialoguing on the ideas of justice and peace, than arriving at a negotiated consensus which makes it relevant, applicable and enduring. This involves drawing collective attention to shared histories and the inextricable linkages that exists among the people. In the Naga situation, this might even mean the difficult and daunting task of sitting down, negotiating and reconciling with the same person who harmed your family.⁸⁸⁴

The implication of this in the Naga context means upholding the dignified existence of all sides. Angami points out that without acknowledging the wounds of history, no nation can move forward.⁸⁸⁵ A JustPeace for Nagas would “include India’s categorical acknowledgement that the Nagas made their position clear before the British left their empire on the subcontinent,” and, therefore, “the Naga struggle was just and without any intention to harm India.”⁸⁸⁶ Sanyü asserts that JustPeace involves decolonization of the Nagas, followed by a State apology for atrocities committed on the Nagas, as well as reparations for the crimes and losses; and the need for the

⁸⁸⁰ James Pochury, a Naga participant in the First Focus Group on Self-determination as a Resource for JustPeace on March 29, 2011, in New Delhi.

⁸⁸¹ Kaka D. Iralu, a free lance journalist, in his interview on June 18, 2011.

⁸⁸² Visier Sanyü, a Refugee Coordinator, Act for Peace, Australia, in his interview on February 17, 2011.

⁸⁸³ The internal violence which stemmed out of the broader political conflict will can best be addressed taking into account the indigenous forms of peacebuilding based on values of restorative justice and building new relationships based on the traditional values of interdependence and interrelationship through indigenous forms of mediation.

⁸⁸⁴ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸⁸⁵ Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

⁸⁸⁶ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

internal healing of the Naga people.⁸⁸⁷ Such recognition and acknowledgement helps humanizing the survivors of violent conflicts through addressing actual and perceived forms of historical injustice committed against the people.

The consequences of such acknowledgements include changes in attitudes that provide space in ensuring a tangible and acceptable ‘outside the box’ process. This process should not invalidate the right to self-determination, nor should it be the only consideration; rather it needs to include the restorative and democratic values of justice to be the defining factor in the outcome. This invites Nagas to re-establish and negotiate ‘right relationships’ with their environments, neighboring communities and peoples crossing many current political jurisdictional boundaries that are built on principles of justice⁸⁸⁸ in order to make peace possible. Consequently, establishing JustPeace, according to Venuh, “means to be self determining, which is the first step to bring peace.”⁸⁸⁹ Kheshili Chishi says this “would mean Nagas become self-governing and free from military occupation which will release psychological tensions.”⁸⁹⁰

Self-determination as a relational praxis is an important resource for JustPeace and humanization in the Naga context which is realizable “when we learn to accommodate each other and not exercise our superiority over the other.”⁸⁹¹ Jakhalu and Shequi pointed out that this is “only to win mutual respect and be granted our wishes to live in a larger human society as happy and contended beings.”⁸⁹² Adani Mao asserts that peace for Nagas is not just absence of violence, but one in which “the rights of the Nagas is as important as that of others in the world. Peace that is

⁸⁸⁷ Sanyü says that JustPeace for Nagas need to involve: “Firstly, Nagas would like see justice done to them as a nation. They would like their right to self-determination, as a result of decolonization, is recognized by the international community like any other colonized nations. Secondly, perhaps more important is, for the Government of India to acknowledge and apologize for the atrocities and the crimes committed by the Indian army during the worst years of the struggle. In order to have a JustPeace there must be some forms of reparations/compensations for these crimes and loss. Thirdly, there must be healing and forgiveness for the fratricide committed by the different [Naga armed] factions. All the [Naga armed] factions are guilty of murder in one way or the other. There cannot be peace unless internal wounds are healed. What I am saying is that this fratricide is as real as the wounds inflicted by our enemies and even more painful. Unless these real tragic and ugly issues are dealt there cannot be justice and there not be peace.” Visier Sanyü, a Refugee Coordinator, Act for Peace, Australia, in his interview on February 17, 2011.

⁸⁸⁸ Daniel Hunter, a trainer with “Training for Change,” has been involved in facilitating training on nonviolence and peacebuilding. He says it means for Nagas and their neighbors to view each other with equal respect in every sphere. He adds, “One does not go over to the house of someone who you respect, and take their water. If you respect them, you consult, you beg, you plead, you negotiate, you even accept if they ultimately say no.” Daniel Hunter, a trainer with “Training for Change” in his response to Questionnaire 3 on February 10, 2011.

⁸⁸⁹ N. Venuh, Head of the Department of History, Nagaland University in his interview on February 2, 2011.

⁸⁹⁰ Kheshili Chishi, convenor of the Indigenous Women Forum of North East India, in her interview on May 30, 2011.

⁸⁹¹ Hekani Jakhalu, Director of YouthNet and Joshua Shequi, Advocacy Program Coordination, YouthNet, in their interview on February 22, 2011.

⁸⁹² Ibid.

invigorating and not enervating.”⁸⁹³ For Nagas, JustPeace would imply peace that is based on the notion of an understanding of justice.⁸⁹⁴ Luithui adds, “JustPeace negotiates to draw consensus on the idea of peace and justice itself located on the contexts of its application thus making it more relevant, applicable, and also more enduring.”⁸⁹⁵ Angami points out that self-determination is the beginning of seeking JustPeace. She adds “unless Naga people experience a collective choice-making and contribute towards shared vision and responsibility, peace is not possible.”⁸⁹⁶

Luithui asserts that JustPeace is possible through involving the whole Naga society where the grassroots are empowered to participate, not just formally, but substantively.⁸⁹⁷ He adds that the process requires addressing the core causes of why the conflict occurred in the first place and how it can be averted in the future, and not just attempting to end conflict. To achieve JustPeace, Luithui says “one needs to really poke at all the crevices that results in larger cracks, however uncomfortable and unsettling it may be.”⁸⁹⁸ One democratic and nonviolent approach of involving the Naga people and seeking an intervention to shake the impasse is a plebiscite. Mao affirms this “approach which can debunk a State’s counter claim that a demand for self determination does not have popular support. But it requires the intervention of the international community, mobilizing which by itself is neigh impossible for a people with limited resources.”⁸⁹⁹ The plebiscite is the most direct method of democracy and is the instrument through which each and every Naga man and woman can choose to decide their future.⁹⁰⁰

Buttry admits that “while it is hard to imagine exactly how such a vision would take shape in the end,” he says, “the key thing is to establish processes with integrity based on the values of

⁸⁹³L. Adani Mao, Member, Committee for Alternative Arrangement, United Naga Council, in his interview on February 22, 2011.

⁸⁹⁴Respondent O, a social worker in issues of AIDS, who did not wish to be named, in her interview on April 12, 2011.

⁸⁹⁵ Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his interview on February 26, 2011.

⁸⁹⁶ Neichü Dz. Angami in her response to Questionnaire 1 on July 10, 2010.

⁸⁹⁷ Chingya says that “One of the perceptions (whether misplaced or correct) which has hindered peace initiatives in the past is that such initiatives were seen to be elitist, involving only a few people who do not necessarily reflect the views of the whole Naga society. In such a process, there is bound to be dissatisfaction.” Chingya Luithui, convenor of the Naga Peoples Movement for Human Rights (South), in his Follow-Up Questionnaire on May 15, 2011.

⁸⁹⁸ Ibid.

⁸⁹⁹L. Adani Mao, Member, Committee for Alternative Arrangement, United Naga Council, in his interview on February 22, 2011.

⁹⁰⁰Respondent K, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on January 31, 2011.

JustPeace, self-determination and free association.”⁹⁰¹ With definiteness, Aier stresses that the struggle for JustPeace must be carried on with a sense of humility, and “as a logical consequence of the JustPeace, it has greater implication in the over all areas of things being as they ought to be.” This, Aier says “simply means, constructing just structures and systems in which peace can be experienced.”⁹⁰²

For the ‘voices’ of self-determination and JustPeace to be strengthened, the fractured Naga national movement needs to recover the values and characteristics of ‘unity in purpose,’ that has nourished the Naga struggle in the first place. The internal divisions have extracted a heavy toll on human life. Maongsangba notes that the “divide and rule policy of the government of India scuttled peace efforts as they successfully divided the Nagas and kept them in perpetual conflict amongst themselves. The dismemberment of Naga solidarity through external forces played havoc towards peace efforts.”⁹⁰³ He further points out that the constant divisions among the Nagas and their inability to reconcile has strengthened India’s position over the Nagas and the conflict continues much to the detriment of both the parties involved.⁹⁰⁴ This view gains affirmation that “the solution of the problem at this stage without unity in our society will be an end towards more murders and chaos in our small fragmented society.”⁹⁰⁵

Dinh observes, “Unity is the foundation of people’s wars, but it is not a unity based on vague sentimental grounds, but on precise ideological directions. The former collapses under pressure; the latter grows deeper under adversity.”⁹⁰⁶ The purpose of unity is “winning together independence, freedom and happiness.”⁹⁰⁷ Freedom and happiness are after all neither “abstract dogmas nor the ignorance of realities ... but are rooted in the human capacity to endure, to enjoy the fruits of labor, to love and to share as fellow human beings, as friends, as comrades.”⁹⁰⁸ It is in the pursuit of such a vision that the Nagas have since the mid-1990s been involved in

⁹⁰¹ Dan Buttry, a Global Consultant, International Ministries (ABC), in his response to Questionnaire 3 on February 15, 2011.

⁹⁰² Wati Aier, Convenor of the Forum for Naga Reconciliation, in his interview on September 27, 2011.

⁹⁰³ Maongsangba, Assistant Professor in the Department of Political Science, Dimapur Government College, in his response to Questionnaire 1 on September 27, 2011.

⁹⁰⁴ Ibid.

⁹⁰⁵ Hekani Jakhalu, Director of YouthNet and Joshua Shequi, Advocacy Program Coordination, YouthNet, in their interview on February 22, 2011.

⁹⁰⁶ Tran Van Dinh, *Independence, Liberation, Revolution: An Approach to the Understanding of the Third World*, (Norwood, New Jersey: Ablex Publishing Corporation, 1987), p. 84.

⁹⁰⁷ Ibid., p. 84. Viet Chung quoted in Tran Van Dinh.

⁹⁰⁸ Ibid., p. 107.

reconciliation efforts to nurture understanding, unity in purpose and consensus among the different groups of the Naga national movement.

The present Naga Reconciliation Process⁹⁰⁹ has created a safe space for the groups to address their differences through nonviolent means, and to build unity in purpose by forging solidarity on the basis of their historical and political rights.⁹¹⁰ The process has offered space for Nagas to think differently and realize that the policy of divide and rule can be overcome even in the midst of conflict.⁹¹¹ Aier says, “Nagas can be made free through reconciliation ... this secret is our hope for a divided Naga house,” and asserts that “creative freedom, peace and unity originate out of reconciliation and not out of law and order.”⁹¹² Reconciliation in the Naga context can be seen as a means of reclaiming the language of self-determination and humanization.⁹¹³

Imagining a Pathway to the Future

In their search for humanization, the Nagas need not romanticize or glorify their past, but seek to return to the core of their values, where all contradictions are addressed and from there, develop with clarity based on present day aspirations. The Nagas need to retrieve their self-image, and possibly even create a new one if necessary for their empowerment to define their existence from within, and not permit it to be imposed from without. The Naga must be its own, unique and

⁹⁰⁹ The Naga Reconciliation Process is an ongoing process under the theme, “Naga Reconciliation: A Journey of Common Hope” was initiated by the Forum for Naga Reconciliation (comprising of representatives of different Naga churches, traditional institutions, women and civil society organizations) in March 2008. The Forum for Naga Reconciliation has been engaged with the different armed groups of the Naga national movement and has been facilitating a process by which the groups can reconcile on the basis of the “historical and political rights of the Nagas.” Consequently, factional violence has decreased and while the groups have recognized the necessity for reconciliation and expressed willingness to work together, the process is still underway to evolve an inclusive mechanism in which all the groups can jointly pursue the common cause of realizing and determining Naga historical and political rights. For details see, Wati Aier, “Naga Reconciliation and Peace: The Journey of Common Hope” and Aküm Longchari, “Reflections on Peacebuilding and Reconciliation” in A Report on “Sitting Around the Fire: A Dialogue on Politics, Peace & Reconciliation,” (Dimapur: The Morung Express, May 2011).

⁹¹⁰ Iralu points out, “If the different Naga factions can reach a common position on the specific terms for a settlement of the Indo-Naga conflict, what is right and needed at this stage will become possible.” Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

⁹¹¹ Generally, there is a strong assumption that reconciliation is a post-conflict peacebuilding activity. However, there is an urgency to broaden the understanding that reconciliation takes place throughout the peacebuilding process addressing issues of injustice. Given the nature of conflicts in the 21st century, the process of reconciliation has acquired new relevance in the search for human security

⁹¹² Wati Aier, “Naga Reconciliation and Peace: The Journey of Common Hope” in A Report on “Sitting Around the Fire: A Dialogue on Politics, Peace & Reconciliation,” (Dimapur: The Morung Express, May 2011), p. 37.

⁹¹³ Xonzoi Barbora says that as an interested and external observer, “the ‘Naga Reconciliation’ is a classic case of people coming together in the absence of a state-sponsored script for such an event. It is not chaotic, because it is based on consultations that are ever expanding outwards to include not merely those who exercise power, but even those upon whom power is exercised over. It is, in essence, a dynamic and self-regulating model of social and political reorganization in a situation marked by the kind of conflict and violence that lead to anti-utopian environment. So, the emergence of this constituency that seeks *just peace* is commendable.” Xonzoi Barbora, an independent researcher, in his response to Follow-up Questionnaire on May 15, 2011.

identifiable, existing through self-definition with the ability to re-invent and re-create their struggle for humanization through nonviolent peaceful means.

It is in imagining a new path that leads to the conception of a self-directed alternative system of human interaction and human organization. This self-directed alternative will naturally lead to a federation because Naga ethos is one; and the Naga peoples shared future lies in the praxis of power sharing. Taiaiake says “we cannot preserve our nations unless we take action to restore pride in our traditions, achieve economic self-sufficiency, develop independence of mind, and display courage in defence of our lands and rights.”⁹¹⁴ He adds “only by committing ourselves to these goals can we hope to look into the future and see ourselves re-emerging as peoples ready to take our rightful places in the world.”⁹¹⁵

The Naga experience reminds States of the limitations of a territorial and military approach to State-building. The tension between State territorial sovereignty and Peoples’ self-determination calls for an imagination that allows a new language to transform this tension into a creative energy for peacebuilding. A peoples’ destiny “should not be confined to the prison of a nationality which they do not wish to have [and] should not needlessly be locked into the falsehoods and potential oppression of living together with other peoples in a political organization”⁹¹⁶ to which they did not consent.

Negotiations in the Naga context have failed to engage in a process that upholds genuine dialogue to mutually define, address and respond to the underlying issues of conflict and the factors that have sustained it. In limiting the negotiating space only to the parties directly involved, the State side-steps the democratic characteristics of a peace process and increases the already existing asymmetrical power. In this manner the State restricts the scope of negotiations to questions of legality and modalities concerning state formation. This means it succeeds in avoiding the political community’s issues of rights, interests, needs, and aspirations. When these central elements of a peoples’ struggle are kept away from the negotiation table, then the negotiations

⁹¹⁴ Alfred Taiaiake, *Peace, Power, and Righteousness: an indigenous manifesto* (Canada: Oxford University Press, 1999), p. xii.

⁹¹⁵ Ibid.

⁹¹⁶ Michael Kirby, “Self-Determination: A Consideration of the Present and a Glimpse into the Future” in Donald Clark and Robert Williamson (ed.), *Self-Determination: International Perspectives* (Great Britain: Macmillan Press Ltd., and United States: St. Martin’s Press, INC., 1996), p. 381.

cannot enable self-determination. Ultimately, the final outcome is defined and determined by the State at the expense of justice.

The limitations of negotiations in the context of protracted and complex conflicts are very revealing. At best, it can only facilitate empowering and enabling the parties to mutually agree upon a transformative and creative process that best responds to their given situation. Such a process can occur when the popular will coincides with “the presence of a leadership blessed with discernment, and the propitious historical moment.”⁹¹⁷ Respondent B laments,

... were Indian authorities and political elite to accept that military suppression and political manipulation has needlessly prolonged a conflict and people have had to pay a heavy price, harming India’s own enlightened self-interest, and, therefore, opts for ascertaining the will of the people (referendum) it would most certainly enable people to feel that justice has been done to them and peace stands better chance of being achieved.⁹¹⁸

Successive Indian Prime Ministers, since the time of PV Narasimha Rao to Manmohan Singh, have categorically ruled out violence and military solutions, while expressing their conviction to use peaceful means and political talks to finding a mutually acceptable political solution in the Naga case, with the latter calling for an ‘outside the box’ approach to the Naga issue. Naga leaders cutting across all segments of the Naga political community have also reiterated similar sentiments for a peaceful political solution that is honorable and just. However, the fact remains that they need to find new ways to engage with a situation that has been deadlocked since the colonial powers left British India. The protracted and complex nature of the conflict between the Indian State and the Nagas is such that that a one-time political solution may end the armed confrontation, but will not lead to an enduring JustPeace. Neither will it de-structure the structures of violence, nor will it radically alter the power-relations between India and Nagas.

While the international community and the UN have resisted territorial separation in non-colonial settings, the current trends since the post-Cold War situation have created exceptions for

⁹¹⁷ A peoples struggle should work towards a clear sense of historical opportunity. Freire says that such a historical opportunity “does not exist outside of ourselves”; it is an opportunity “waiting for us to pursue it” and “waiting precisely in the relationship between ourselves and time itself.” It is an opportunity deep in the heart of events, in the interplay of contradictions and one that “we ourselves create, right in history – in a history that punishes us both when we fail to take advantage of the opportunity, and when we simply invent in our heads, without any foundation in social fabrics.” Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), pp. 167-171.

⁹¹⁸ Respondent B, an Indian writer and civil rights activist, who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

“remedial secession”⁹¹⁹ as a last resort. Nanda has reiterated that when it is clear that an “ethnic group” is deprived of the right to participate “all value processes, power, wealth, and resources, respect and rectitude, enlightenment and skill, and affection and well-being,” its right to secede is established.⁹²⁰ He further points out that with a “growing recognition of the close link between human rights and international peace and security ... it is not premature to accord recognition to the right to secession in an effort to promote these goals.”⁹²¹

The Naga relationship with India over the last sixty years has shown:

- (i.) A pattern of flagrant State violations of human rights through the Armed Forces Special Powers Act;
- (ii.) The inability to participate effectively in decisions affecting their lives;⁹²² and
- (iii.) An absence of peaceful mechanism to address historical injustices and to reconcile competing rights through the process of negotiation.

These three aspects of the Naga experience provide grounds for lawful secession. However, the Nagas because of their historical, cultural and geographical realities do not have access to the typical legal solutions of “remedial secession.” More importantly, Nagas are not seeking secession because they have always maintained that they had never agreed to be part of the Indian Union. Furthermore, a legalistic solution would not lead to emancipating the Naga people and peacefully transforming their situation.

⁹¹⁹ While the international legal community continually fights for preservation of territorial integrity of a State, it has recently started supporting “remedial secession.” Karen Heymann points out, “Where a self-identified group of people with territorial connection repeatedly is denied the right to exercise self-determination and can articulate a legitimate basis for its secession ... the group may legally be entitled to self-determination. If that group is systematically refused basic human rights and access to democratic process, that group may legally be entitled to secession and international recognition.” See, Karen Heymann, “Earned Sovereignty for Kashmir: The Legal Methodology to Avoiding a Nuclear Holocaust,” (American University International Law Review, Volume 19, Issue 1, 2003), pp. 153-200.

⁹²⁰ Ved P. Nanda, “Revisiting Self-Determination as an International Law Concept: A Major Challenge in the Post-Cold War Era,” (ILSA Journal of International & Comparative Law, ISSN 1082-944X, Volume 3, Issue 2, 1997), p. 452.

⁹²¹ Ibid., pp. 444-445.

⁹²² Naga peoples’ numerical representation in the Indian Parliament, where policies are determined, is negligible and irrelevant. The Nagas have only one seat in the one seat in the Rajya Sabha, upper house of the Parliament (comprising of 250 members) and one representative in the Lok Sabha, the lower house of the Parliament comprising of 545 members). The total number of two Naga representatives in a combined maximum strength of 795 members in the Indian Parliament means the Naga realities, experiences, aspirations and interests are not heard by the Indian decision-makers. The centralizing character of the Indian State only strengthens in establishing a relationship of dependency and control over the Nagas.

What is required is the self-awareness and realization that continuing the conflict is not in either side's best interest. The inability to address the Naga case at the time when Britain was leaving the sub-continent has had far reaching consequences. In such a situation where the armed conflict has gone on for an extended period of time, and where negotiations are unable to reach a settlement, the rational way forward is to refer to the 'common will' of the people. This implies that "self-determination becomes the means to unlock deadlocked situations"⁹²³ and a "democratic and peaceful mechanism to resolve problems and seek the mandate of people."⁹²⁴ The view that self-determination is fundamental to transforming conflicts is also shared by Pu Chin Sian Than, Chairman of the Zomi National Congress. The Chairman believes that self-determination is always applied on the basis of power sharing and points out that a referendum is the only way to determine peoples' decision. He adds that self-determination of ethnic groups is the only and best solution for Burma.⁹²⁵

As a peacebuilding resource, self-determination provides a dynamic web of processes that reflects peoples 'voices' and their "influence" in decision-making. These processes need to be implemented through participatory nonviolent infrastructures that are designed to respond with the objective of ending the conflict, transforming power-relations and forming new patterns of associations and just structures where peace can be enduring. Eventually, it is to empower the people to freely determine their own status, and decide the system of government and who should govern them.

Imagining a pathway to the future implies such an alternative that integrates the 'voices' for self-determination and JustPeace,⁹²⁶ the approach of "earned sovereignty,"⁹²⁷ and the praxis of a 'bottom-up' peacebuilding. The future, while it cannot be foreseen, can be designed in the present. The intertwining of these three elements based on the integration of empirical data and the

⁹²³ Self-determination was applied as means to unlock the deadlocked situations in East Timor, Kosovo and South Sudan by seeking the mandate of the people, through the democratic mechanism of a referendum.

⁹²⁴ Respondent B, an Indian writer and civil rights activist, who did not want to be named, in his response to Questionnaire 1 on June 3, 2011.

⁹²⁵ Pu Chin Sian Thang, Chairman of the Zomi National Congress, in his interview on March 23, 2011, which was conducted in Burma by Neichü Dz. Angami, on behalf of the researcher.

⁹²⁶ Refer to the sub-section Contextual "voices" for Self-determination and JustPeace of this chapter and based on the empirical findings collected for this research and also the chapter on Towards a Shared Language of Self-Determination in this dissertation.

⁹²⁷ "Earned Sovereignty" in this context implies as a means of bridging the impasse between self-determination and territorial integrity; as an option for ending the conflict and reducing the accompanying human rights violations and violence; to transform the power-relations between the State and Peoples and to develop within the peace process a multistage approach to address the issue of the ultimate political status of the people. Also, refer to the chapter Self-Determination as a Resource for *JustPeace* in this dissertation.

theoretical concepts that emerged out of the data analysis decisively contributes towards an evolving process which also includes the following:

- The necessity to approach **negotiations as an open-ended process** that deliberately creates the space for all parties to dialogue on the ethos, values, belief systems and aspirations. This will increase the possibilities for mutual understanding and respecting each other's right to determine their own destiny. The purpose of this form of negotiation is not to formulate a one-time solution. Rather it is to recognize and establish a mutually agreed negotiated process where India and Nagas are guided through a transition that does not undermine the legitimate interests of India, Nagas and the international community. At the end of the agreed transition period, the Nagas will have the freedom to exercise their right to freely “choose any political status their history entitles them to claim.”⁹²⁸
- The **virtues of trust** are critical and effective for peacebuilding when it is reciprocal. An official acknowledgement from India taking full responsibility for perpetrating human rights violations would be a significant first step in demonstrating the seriousness and political will in transforming the conflict. Likewise, the Nagas too will need to reciprocate by acknowledging the hurtful acts they have committed in the course of their struggle. Translating these symbolic gestures into lived reality will lead to increasing trust. For instance, India repealing the Armed Forces Special Powers Act and demilitarizing the Naga territories and the Nagas on their part decommissioning their armed wing and committing to nonviolent means⁹²⁹ are necessary to transform the situation.
- For the Nagas, the **process of dialogue** is no longer just another political option; it is an existential and historical imperative as a continuing process to widen one's point of view and to open the thinking process. Deliberative dialogue as a peoples' initiative is to form **right relationships** with the intent of building mutual understanding, respect and trust even during contentious and volatile situations. History has taught the Nagas that artificial divisions and arbitrary boundaries are impermanent. What does remain firm is the land with which they share a sacred relationship and the permanency of their neighbors. The Naga dialogue process with their neighbors is crucial in establishing new relationships, not by avoiding issues of disagreement, but by responding to the perceived and real

⁹²⁸ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

⁹²⁹ Hunter express his view that the path of nonviolence is a more effective one for the Nagas, because unlike violence it carries more chance of earning others' respect, as opposed to fear, which is a far weaker position. Daniel Hunter, a trainer with “Training for Change,” in his response to Questionnaire 3 on February 10, 2011.

differences. The deliberative dialogue between the Nagas and their neighbors is to forge solidarity across such differences by identifying shared interests and objectives. It implies building relationships that provides mutually beneficial forms of sharing sovereignty, territory and governance, with shared responsibility.

- The Naga reality requires a sustained process of **‘bottom-up’ peacebuilding** initiatives that addresses their needs and interests and seeks to transform the asymmetrical power relations and economic inequalities that have been systematically perpetuated since the conflict. The process should engage in the acts of **truth-telling, re-writing history, addressing internal human rights violations,**⁹³⁰ **trauma healing and reconciliation** as a continuous process of constructing a new path dialogically that leads to an inclusive and pluralistic society. The **grassroots approach to peacebuilding** further means building just structures and systems based on **‘power-with’** the people to enhance participatory democracy, enable economic sufficiency and relevant education. This process should empower the values of JustPeace to become a way of life, transforming problems that might be inherent; and enabling humanity.⁹³¹
- The **partnering framework of “earned sovereignty,”**⁹³² includes an initial stage where India and Nagas share sovereign authority and functions over the Naga territories. During this period of shared sovereignty, the peacebuilding activities previously mentioned can be actively pursued and implemented. Given this creative space, the democratic processes of consultation within the Nagas could take place at all levels across all territorial boundaries – domestic and foreign. This would allow for decisions to be made collectively regarding the direction for the Naga caravan to proceed. Furthermore, intentional ‘institutional building’ can be initiated to construct, recreate, modify institutions for self-government based on principles of Naga federal structures, values of restorative justice, and democratic practices of consensus decision-making. This involves assistance in developing human

⁹³⁰ Human Rights violations have been committed by external and internal forces. The researcher believes that all human rights violations and wrongs committed by Naga individuals and organizations on the people in the name of the Naga people must be addressed and the perpetrators must be held accountable on the values of restorative justice. The researcher further holds the opinion that all human rights violations committed by the State and its agencies should be addressed in accordance to the standards set by international law and human rights.

⁹³¹ Wati Aier, *A Cry from the Rice Fields: A Call of Freedom for the Nagas* (Dimapur: Universal Printers, 1989), pp. 60-61.

⁹³² Paul Williams points out that the “earned sovereignty” approach is defined by three core elements: (1.) Shared Sovereignty, (2.) Institutional Building, and (3.) Determination of Final Status. The earned sovereignty process may also encompass three optional elements: (a) Phased Sovereignty (b) Conditional Sovereignty, and (c) Constrained Sovereignty. See, Paul R. Williams, “Earned Sovereignty: The Future of Sovereignty-based Conflict Resolution,” (Denver Journal of International Law and Policy. 40.1-3, Winter 2011), pp. 135-137.

resources and the capacity to assume full authority and functions necessary to meet challenges of the newly determined political status.

- The final stage of ‘earned sovereignty’ involves the Nagas **freely determining their political status**. Conscious that they alone have the right to freely determine their political destiny, Nagas need to carefully and consciously examine existing political options, and if necessary, create new ones that will empower them to freely exercise and sustain developing their social, economic and cultural future in accordance to their needs. Nagas will be able to choose which status they prefer and should not be constrained by any superior power to do otherwise. In the presence of external and internal observers, a **plebiscite**⁹³³ **as an expression of self-determination** would be the most relevant and democratic means to reflect the Naga peoples’ collective choice.⁹³⁴

The plebiscite gives people ownership to be partners in the making and the opportunity to freely choose between alternatives. For instance, the freedom to choose between: (i) becoming a full sovereign and independent entity; (ii) establishing a just and acceptable power sharing agreement. Irrespective of the outcome, the people should be the final source of legitimacy to decide their future. Based on the plebiscite’s outcome, negotiations would be initiated to define the functional aspects of future India-Naga relations. For instance, to allay India’s overarching security concerns, “Nagas could make a categorical undertaking that they would not make any treaty or enter into agreement with any power that would prove to be a security treat to India.”⁹³⁵

- An important inductive finding from the primary data reflecting the views of several Naga participants emphasized that **self-determination is not an end, but a process** that embraces values that surpasses concepts such as independence and State sovereignty. They further articulated that self-determination is not the transfer of power; nor can it be limited to creating another State system. This **new vision of self-determination** includes the right of Naga peoples to construct systems that reflect their cultural values, aspirations and understanding of power relations. Within the Naga context this represents a new

⁹³³ Karen Heymann says the United Nations Secretary-General’s “involvement as moderator of the East Timor plebiscite confirms the United Nations’ acceptance of plebiscites as legal solutions to self-determination conflicts.” Karen Heymann, “Earned Sovereignty for Kashmir: The Legal Methodology to Avoiding a Nuclear Holocaust,” (American University International Law Review, Volume 19, Issue 1, 2003), p. 177.

⁹³⁴ This is not to undermine the effort, process and decision of the May 16, 1951 Naga Voluntary Plebiscite. The need for a fresh plebiscite is necessitated by the present situation where the conflict has reached an impasse and it is only through the collective decision of the people that the conflict can be transformed.

⁹³⁵ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

imagination which essentially **goes beyond the realms of the Westphalian World Order**. At its heart this vision calls for a non-Westphalian State model based on consent, overlapping boundaries, and structures where power is shared with the people. Such a vision requires dialogue among the Nagas with the view to intentionally build a consensus on the alternative patterns of association and governance to which they aspire.

- This imagination needs to **return to the roots of Naga nationalism**. Aier asserts that Naga nationalism means “the building of our nation; it means the effort to provide equal esteem to our peoples; it means the determination to embrace the future in peace with our neighbors.”⁹³⁶ Aier goes further to say that as a struggling peoples, nationalism for Nagas “is the main spring of our right to exist ... understanding this is to know the simple secret to peace and common humanity.” The Naga peoples need to recover their self-determining capacities in order to harness the courage to share dreams and strengthen visions and to imagine a different world.

For such an imagination to be transformed into reality, it requires both India and Nagas to realize that their futures are interwoven. India can only truly be free when the Nagas are free from the yoke of oppression. Nagas, too, can reclaim their humanity only when India, too, becomes fully human again as both India and Nagas need healing from their past. As a State of many nations, India needs to heal from their history of colonial conquest and rule; Nagas need healing from their history of subjugation and self-inflicted wounds. Only a strong India can embrace an imagination that demands a radical shift from national security to human security, and from a position of fear to one of self-belief and self-confidence. It requires an India that has the courage to recognize its internal contradictions and to respond to it in transformative ways.

Imaging a way to the future is believing that, Indian leaders have the will to go the ‘extra mile,’ and Naga leaders the wisdom to be united in purpose by removing the burdens of the past and together paving a way together toward a shared future. This imagination is historically viable.

⁹³⁶ Aier further clarifies that “Nagas want to make it clear that we do not equate nationalism with chauvinism, and we do not interpret nationalism as meaning the superiority of our people over others.” Wati Aier, “Unification of Naga Areas,” in his address to the people during the Rally for Unification of Naga Areas organized by the Naga Hoho in Kohima, Nagaland, August 31, 2005.

Conclusion

The Naga history of colonial rule and State oppression is not unique; it only reflects the common experiences of indigenous peoples. The Naga peoples struggle for self-determination is not distinct; it is only a thread in the web of the most basic human desire to be fully human and self-determining. What will decide Naga uniqueness is how imaginatively it engages with its history and creatively shapes a future that embraces self-determination in its fullest expression as the source of all other rights. In the final analysis there is no other alternative to the Universal Declaration of Human Rights, which says: “All human beings are born free and equal in dignity and rights.” The praxis of self-determination is the essence towards evolving a process that will nonviolently and respectfully resolve and transform one of the longest, yet least-known armed conflict in the world.

Sharing Dreams, Strengthening visions

Introduction

Historical experience has demonstrated the 20th century to be a century of ‘State-determination,’ and one that is now known to have been the cruelest, bloodiest, and violent ever in human history. Yet in this second decade of the 21st century the world is witnessing an unprecedented upsurge of democratic consciousness and the desire for human liberation in various parts of the world. These conditions present potentials for the 21st century to be the century of ‘peoples-determination,’ which, in turn, could lead to constructive dialogue, peaceful solutions and JustPeace. The 21st century calls for new ways of conducting politics that requires the intentional political will toward realizing self-determination for all peoples.

The dialectical interplay of the forces of history, geography and politics have shaped and reshaped the language of self-determination. As a right attributed to all peoples, the praxis of self-determination is constantly evolving in order to meet the conditions and realities in which the *self* exists. More recently, the events of Kosovo and South Sudan forged landmark definitions which indicate that the right to self-determination is slowly freeing itself from the remnants of colonialism. The Scottish ‘voice’ that has called for a plebiscite in 2014 to freely decide their political status so that they can ‘influence’ the future course of their development reaffirms that people want to recover their self-determining capacities and take ownership deciding their destinies.

In the context of these changing realities and keeping the research aim, objective and questions in perspective, this concluding chapter summarizes some of the essential ideas and understandings that have emerged out of this exploratory research study. With the view to contribute towards a meaningful dialogue and a contemplative pedagogy of self-determination, the ideas that were generated from the research data and data analysis are interwoven within the context of the sections entitled: The Future of the Right to Self-determination; Self-determination and Peacebuilding: Partners in JustPeace; and Self-determination as A Bridge to a Shared Humanity.

The resurgence of self-determination in the post-Cold War era is taking place at a time when the State boundaries are blurring and their borders are becoming more open and flexible. This change is, however, cosmetic in nature since it has been accompanied by the simultaneous increase of

State power through strengthening military powers and enacting stringent legislation that has limited civil and democratic rights. Ironically, when State boundaries were more rigid, the territorial jurisdiction within which the State could use legitimate force was quite clearly demarcated. Now, with the blurring of boundaries, the territorial demarcation under which a State can exercise legitimate force has become increasingly more difficult to define, and they have been operating with near impunity. These examples of circumstances in today's changing times makes it even more imperative to reclaim the praxis of self-determination.

With this supposed decline of the State system, it is accompanied by an assumption that the relevance of self-determination is also declining. This assumption is contrary to the people's reality and provides an opportunity for the language of self-determination to be freed from the legal paradigm which has limited and restricted self-determination to state-building concepts such as homogeneity, secession, territoriality and State-sovereignty. Rather, in today's world of globalization that has enhanced interaction, heterogeneity, interdependency, pluralism and communication among peoples, it brings to the forefront the inclusive character and scope of self-determination which has the potential to benefit all of humanity. This invariably implies critiquing the European cultural construct of self-determination and creating a shared language of self-determination that embraces humanizing values.

The Future of the Right to Self-Determination

The right to self-determination in the 20th century was seen primarily through the eyes of the Westphalian State as the principle actor in world politics. In a State dominated world that emerged from the anti-colonial imperative, self-determination was developed within a strong legal framework which usurped its humanizing values, and formed a stereotype associated with processes of State-building. Hence, while self-determination was one of the foundations on which friendly relations could be developed, unfortunately any people's struggle for self-determination was seen as a desire to fragment an existing State by creating a new one. The Westphalian State generally reflected the traditional European culture by demonstrating its priority in establishing and maintaining rigid boundaries, control over spaces, and economic privileges before addressing human needs and dignity which pushed the praxis of self-determination to the margins.

The UN was caught in this dilemma, and, inevitably, a state-centric approach to self-determination ensured that its application was determined by real politik. The inability of the UN to implement the right of self-determination for all people has undermined its credibility and

limited its ability to contribute to world peace. Self-determination was closely identified with the State, and by the end of the Cold War, when the State no longer occupied center stage in world politics, there was growing speculation that the relevance of self-determination would diminish. However, the post-Cold War era has proved such speculation to be erroneous since there have been more instances where people successfully exercised their self-determination. This affirms the view that in the post-Cold War era, self-determination is no longer equated exclusively with ‘secession,’ but with the ideals and values of human rights and democracy.

In a world that is increasingly becoming aware of the need to place humanity at the center of world affairs, the concept of peoples requires transcending State boundaries. When peoples are placed at the center of the humanizing process, the praxis of self-determination is capable of embracing shared interpretations and contextual applications that are consistent with the dynamics of an interdependent world. In such an interdependent world where the quality of peoples’ lives and human security are fundamental to understanding how to decrease violence and increase justice, self-determination becomes more relevant.⁹³⁷ By recovering its ideals as a revolutionary and a basic humanizing need, self-determination as an evolving synthesis, renews its relevancy in humanity, and also helps address the aspirations of many unrepresented peoples that were bypassed during the decolonization process.

The evolving synthesis points to self-determination as a pre-requisite for enjoying all the other rights and freedoms that ‘influences’ all aspects of human development and interaction that are cultural, social, political and economic. This entails the commitment to using a bottom-up approach based on inclusion, full participation and dialogue as a catalyst for responding to human needs and aspirations. The *self* in self-determination is the thread that is woven through all basic needs, and, therefore, requires the right to self-definition. The ‘voice’ of the *self* is seeking life in all its fullness that reflects equity and justice throughout all peoples’ lived experiences. Self-determination stands for the dignity and freedom of everyone which includes ‘the other.’ Its praxis is relational in nature, and the South African experience has shown that it is not retributive, but seeks accountability through ‘right relationship’ and ‘greater responsibility’ to one another.

⁹³⁷ John Paul Lederach, Professor of International Peacebuilding at the Kroc Institute for International Peace Studies, University of Notre Dame, in his response to Questionnaire 2 on November 8, 2010.

The right to self-determination does not need to be viewed as a threat to governments, since no government should fear the peoples' will and their right "to determine what it means to live humanly."⁹³⁸ The systems of government, institutions and forms of governance should reflect and facilitate the peoples' aspirations in order to realize their self-determining capabilities. The praxis of self-determination implies recognizing that the legitimacy of any political status and political arrangement depends on the peoples' will, and cannot be acquired through the use of force or coercion. The peoples' expressed consent is crucial to legitimacy. The ultimate purpose served by the peoples' right to self-determination is to ensure that progress is made towards humanization that takes place as people pursue their aspirations.

Self-determination is not just an end, but a means. It refers to a praxis where self-determination is an aspiration that is not limited to a static political goal, but as a continuing process towards realizing aspirations through transformative approaches that touch upon the many facets of human life. As an end, self-determination is not pre-conditioned, but evolves through encounters with various influences and possibilities, which results in creating the new. Self-determination is located in a humanizing process, whereby it is transformed in order to transform. Self-determination is, therefore, in a condition of constant transformation so that it can respond to the peoples' aspirations, which includes transcending the Westphalian World Order and imagining the 'unconstructed state.'

Iralu, a Naga elder, points out, "there are indications that in a rapidly globalizing world, a leveling of distinctions is inevitably taking place in which the value of self-determination is going to increase simply because it is more people-friendly ... and its potential as an imaginative concept of restructuring the world along creative lines."⁹³⁹ The very act of self-determination is a transforming process in the peoples' search for their self-definition, and the right to freely exercise their self-determining capacities. Self-determination as a means and an end towards securing a peoples' aspiration through a process of transformation implies the humanizing dream is always a process of becoming. This research clearly indicates that future of the right to self-determination has found greater relevance in the search for humanization.

⁹³⁸ Erica-Irene A. Daes, "Striving for Self-determination for Indigenous Peoples," in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC., 2000), p. 58.

⁹³⁹ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

Self-Determination and Conflict Transformation: Partners in JustPeace

The praxis of self-determination is concerned with peoples' rights and interests. When the State does not reflect and respond to peoples' aspirations, self-determination is systematically denied, thereby bringing peoples' aspirations into conflict with the State's interest. Human experience informs us that the process of State-building has consistently established power-relations based on the concept of power-over the peoples, which prevents peoples from charting their own destiny. Without a dignified self, the people usually find themselves caught up in structures of domination that are manipulative, violent, oppressive and humiliating, and the people, in turn, often react with violence to reject this shame and to restore their dignity. The denial of self-determination has consistently led to conflict and violence where the State's use of force and control effectively eliminates people, but not their aspirations. This approach has not led to peace; rather, it has only provoked the conflict to further escalate.

From this perspective, the praxis of self-determination is interrelated, interconnected and interdependent with the quest for JustPeace, and, is only natural for self-determination and peacebuilding to be intertwined. However, both these discourses appear to be making assumptions about each other. Because of the way State has restricted and equated self-determination to notions of secession, and conflict theories are assumed to affirm 'state-building,' they do not intersect in its present form. Consequently, self-determination is left out as a potential resource for JustPeace, thereby weakening conflict transformation and peacebuilding processes in addressing self-determination conflicts. As relevant as self-determination is to conflict transformation theory, each is working within their respective paradigm and are often pitted against each other as opposing values, which only strengthens the status quo.

Throughout the analytical process, it was quite clear that the relationship between conflict transformation theory and self-determination is much greater than what was found in the literature review. The evolving synthesis of self-determination as a shared language clearly shows that self-determination and conflict transformation as bottom-up approaches require each other. Further exploration is needed to learn how to bridge them, because they are opposite sides of the same coin that need to work together for JustPeace to be realized. For instance, the approach of 'earned sovereignty' is a concept towards ending self-determination conflicts from the perspective of self-determination. While this approach has been used quite effectively in a variety of situations, such as East Timor, Kosovo and South Sudan, to end the political conflict, these experiences also show that 'earned sovereignty' accompanied with bottom-up peacebuilding would strengthen JustPeace.

Self-determination as a relational, multi-cultural and inter-disciplinary praxis is crucial to JustPeace due to its ability to transform structures of violence and conflict while working towards enabling creative and viable alternatives of human association. With a bottom-up approach that reflects the peoples' will, self-determination represents a pedagogy that empowers people to learn how to live amidst complex, diverse and interconnected identities. This pedagogy needs to be exercised sensitively and responsibly as it offers the opportunity to develop the capacity to move among different worldviews, transcend particular identities, while simultaneously acknowledging and respecting each of them. As a liberating praxis, self-determination seeks to promote respect for all people, and, therefore, requires finding new solutions to old problems that go beyond the current and limited domain of international law. This means being cognizant of State sovereignty's changing nature, while adapting to the implications of an increasingly interdependent world where borders have become increasingly fluid.

In a multi-lateral world where bi-lateral negotiations have been unable to resolve self-determination conflicts, the process of referring to the peoples will as a means to unlock the deadlocked situations is imperative. The plebiscite, as an act of self-determination has been one of the mechanism by which people have expressed their free will to determine their future. By seeking the mandate of the people to find a democratic and peaceful settlement, self-determination becomes the mechanism by which States and Peoples can explore creative and imaginative ways of reaching a settlement that is consistent with the principles of justice. As a people-centered praxis, self-determination is essential to transforming conflicts, realigning power relationships, as well as strengthening and generating new approaches and new visions for human interaction in which all of humanity can respectfully co-exist through mutually beneficial forms of sharing of sovereignty and governance.

There is greater danger for humanity to cling on to an unresponsive status quo of injustice. However, the peoples' right cannot be the only consideration, because at the core of peace lies not *right*, but *justice*. There is a need for sincere and fundamental dialogue to open spaces where 'the powers that be' that define conflict, peace, and power relations are themselves critically analyzed and consciously transformed. If human security is to be ensured in a world of JustPeace, then all peoples' cultural and political identities need to be respected. Peacebuilding and self-determination are crucial towards this process of acknowledgement, self-criticism and taking ownership in order to be transformed. It is in their ability to be transformed that the bottom-up approach to peacebuilding and self-determination become transformative processes towards

respecting differences, forming right relationships, and respectful coexistence that honors the power and dignity for all within the circle of interdependency.

Through the analysis of self-determination's evolving synthesis, the values of conflict transformation and self-determination are revealed as being essential to each other. They are vital pieces of a jigsaw puzzle, without which the peacebuilding process is incomplete. On their own, they will wither away in isolation, but, together, by invoking the principles, values and humanizing character, self-determination and conflict transformation can become partners in JustPeace.

A Bridge to a Shared Humanity

In the course of this research study the concepts of dehumanization and humanization has consistently emerged in the data. The evolving synthesis has shown that self-determination's central objective is to empower a peoples' capacity to be fully human. It is, therefore, imperative that the desires for today's self-determination struggles should not be seen as 'ethnic aspirations;' rather as aspirations for humanization. Subsequently, the praxis of self-determination opposes all patterns of imperialism through conquest and empire-building, and has at its center the right of all peoples to decide their own future. Such a principle and right are said to be meaningfully applied only when exercised in right relationship with the 'other.' This empowers a peoples' effort "to secure a future in which they may retain their unique characteristics and develop freely in coexistence with all of humankind."⁹⁴⁰ Self-determination is undoubtedly an essential bridge towards creating and enabling a shared humanity.

Stating that the self-determination is a peoples' right to ensure their continued evolution and existence on earth, Joshua Cooper notes that this right is deemed 'radical,' yet founded on a belief that "all humanity is equal, born in dignity and deserves respect."⁹⁴¹ Thus, self-determination can provide the "language to free humanity,"⁹⁴² and "cannot be turned into an instrument of intolerance."⁹⁴³ Self-determination without a shared humanity is totalitarianism.⁹⁴⁴ This means

⁹⁴⁰ S. James Anaya, *Indigenous Peoples in International Law* (New York: Oxford University Press, 1996), p.183.

⁹⁴¹ Joshua Cooper, "The Right of Self-determination in Ka Pae Aina," in Y.N. Kly and D. Kly (ed.), *In Pursuit of the Right to Self-Determination, Collected Papers and Proceedings of the First International Conference on the Right to Self-Determination and the United Nations* (Atlanta, Geneva: Clarity Press, INC, 2000), p. 150.

⁹⁴² *Ibid.*, p. 156.

⁹⁴³ Emilio J. Cardenas and Maria Fernanda Canas, "The Limits of Self-Determination" in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 108.

that the people responsibly exercise their right to self-determination, asserting both justice and equality, defying any form of imposition, while seeking to foster respectful co-existence and upholding the dignified existence of all peoples. By being woven into a web of interdependency, it can guide a peoples' to evolve upholding values of diversity, and rather than trying to assimilate or eliminate the 'other,' creating an inclusive space for all 'voices' to be heard. Embracing the values of a shared humanity will help strengthen responding to basic human needs, as well as, eradicate poverty, militarism, corruption, racism and other forms of discrimination.

Self-determination is the 'central point'⁹⁴⁵ of a shared humanity that keeps all else from falling apart.⁹⁴⁶ It is not possible for people to feel they are part of a shared humanity if they are denied the right to determine their own identities.⁹⁴⁷ The acceptance of self-determination automatically recognizes a peoples' collective personality, while denying this basic minimum, is a cruel act of humiliation.⁹⁴⁸ Schirch argues that "in order to have peaceful relations between people, each individual and group needs to have some influence on decisions that impact their life via participatory decision-making structures."⁹⁴⁹ This, she says, will enable a people to understand each others' different points of view and interests, and a way to work out mutually satisfying solutions to conflicts.

Dialogue across civilization is no longer a political option; it is an essential and historical imperative in our current realities. In today's world, a peoples' that can learn how to deal with cultural pluralism will become stronger and better able to handle the intense challenges of the 21st Century, whereas those that are rigid, exclusivist and domineering will find that they do not have the flexibility or creativity to meet its challenges.⁹⁵⁰ Therefore, accepting the existence of more than one nation within a State is a prerequisite to identifying, addressing and resolving the problem of domestication and other manifestations of the State's denial of peoples' rights.

⁹⁴⁴ Wati Aier, Convenor of the Forum for Naga Reconciliation, in his interview on September 27, 2011.

⁹⁴⁵ Respondent K, a Naga woman who did not wish to be named, in her response to Questionnaire 1 on January 31, 2011.

⁹⁴⁶ Respondent O, a social worker in issues of AIDS who did not wish to be named, in her interview on April 12, 2011.

⁹⁴⁷ Laura Brenneman, Associate Professor of Religion and Director of Peace and Conflict Studies, Bluffton University, in her response to the Follow-up Questionnaire on June 9, 2011.

⁹⁴⁸ Niketu Iralu, member of the Peace Committee of the Nagaland Baptist Church Council, in his interview on June 14, 2011.

⁹⁴⁹ Lisa Schirch, Professor of Peacebuilding at the Eastern Mennonite University, in her response to Questionnaire 2 on August 3, 2010.

⁹⁵⁰ Dan Buttry, a Global Consultant, International Ministries (ABC), in his response to Follow-up Questionnaire on May 6, 2011.

Unrepresented peoples assert that they need to become legitimate actors in their future relationships to their present encompassing States. This means they need to achieve an international legal personality, which the unqualified recognition of their right to self-determination would in principle confer.⁹⁵¹

With the growing realization that humanity is one collective entity, the emancipated world order has to be perceived in totality.⁹⁵² As a result, the State as an institution requires transformation, and the UN needs to embrace and represent all humanity. The process of self-determination, therefore is, crucial that it enables creating alternative institutions of governance so that the “vacuum created in the socio-political space through the retreat of the State is not usurped by global hegemonies.”⁹⁵³ Hoenig emphasizes that “the full realization of individual rights, such as the freedom ‘to share dreams and strengthen visions’, as well as collective rights, such as the right to self-determination, will depend on the rebuilding of international law into a system reflecting the interests of entities other than states, primarily individuals, groups and peoples.”⁹⁵⁴

With a vision to realize the humanization of humanity, self-determination requires embracing and recognizing all human cultures through “the realization of freedom, in the guaranteed right of each culture to move in mutual respect, each one freely running the risk of being different, fearless of being different, each culture being for itself.”⁹⁵⁵ A shared humanity which upholds cultural pluralism in thought and action “calls for a [transformation] of the State and its institutions, and a reconstruction of the public sphere, in ways which allows members of all groups to bring their particular identities, cultures, histories, [and] languages.”⁹⁵⁶ A shared and peaceful humanity can be made possible when “differences are not only recognized but respected and in which an underlying solidarity is forged across such differences.”⁹⁵⁷ In essence, a shared

⁹⁵¹ See Maivân Clech Lãm, *At the Edge of the State: Indigenous Peoples and Self-Determination* (New York: Transnational Publishers, 2000) p. 59.

⁹⁵² B.K. Roy Burman in his Foreword in R Vashum, *Nagas’s right to Self-determination* (New Delhi: Mittal Publication, 2000), pp. ix-x.

⁹⁵³ *Ibid.*, p. x.

⁹⁵⁴ Patrick Hoenig, a visiting Professor at Jamia Millia Islamia, New Delhi, in his response to Questionnaire 2 on June 25, 2010.

⁹⁵⁵ Paulo Freire, *Pedagogy of Hope: Reliving Pedagogy of the Oppressed* (New York: Continuum Publishing Company, 1992), p. 156.

⁹⁵⁶ Yael Tamir, “The Age of Atonement,” in Desmond M. Clarke and Charles Jones (ed.), *The Right of Nations: Nations and Nationalism in a Changing World* (New York: St. Martins Press, 1999), p. 95.

⁹⁵⁷ Emilio J. Cardenas and Maria Fernanda Canas, “The Limits of Self-Determination” in Wolfgang Danspeckgruber (ed.), *The Self-Determination of Peoples: Community, Nation, and State in an Interdependent World* (London: Lynne Rienner Publishers, 2002), p. 118.

language and understanding of self-determination that cultivates right-relationship, mutual understanding and respectful coexistence serves as a bridge to a shared humanity.

Conclusion

In this exploratory study, the outcomes of the analysis affirm that the United Nations' approach to self-determination does not lead to world peace; rather it only serves the States' interests. Self-determination within the confines of existing international law and European jurisprudence will only ensure the continued imprisonment of peoples within States that they never consented to be a part of. However, the evolving synthesis that emerged from the analysis points to a shared language of self-determination that seeks to reclaim the liberative and dynamic characteristics and values that are inherent within the right to self-determination.

The 21st century praxis of self-determination implies a shared language that embraces right relationships and interdependence guided by the values and experiences of restorative justice, shared responsibility, cultural pluralism, human rights, legitimate structures, and peaceful coexistence. They are applied through a contextual praxis that is inherently imaginative, dynamic and constantly transforming. This evolving synthesis of self-determination is a relevant imperative in the human search for humanization and JustPeace, and which serves as the bridge to a shared humanity between the various segments of human cultures and associations.

This research study has indeed been a personal journey of learning, exploration and examination. It has greatly contributed to my personal growth and enriched my understanding of the language of self-determination. The inner force that propels us to reflection and action stems from our most basic desire to determine our own destinies. Yet, as an individual, I am only one strand in the web of life, and, therefore, it is imperative that I exercise my aspirations with utmost responsibility and with respect to the many other strands that make up the circle of interdependence. I have come to appreciate even more the fact that the right to self-determination is not a unilateral concept, but a relational value. It is these relational aspects of truth-telling, transparency, accountability, respect and justice which make self-determination a potent force to be respected and revered by *the powers that be*.

DREAMS

Hold fast to dreams
For if dreams die
Life is a broken-winged bird
That cannot fly.
Hold fast to dreams
For when dreams go
Life is a barren field
Frozen with snow.

James Mercer Langston Hughes
(February 1, 1902 – May 22, 1967)

APPENDICES

Nagas Communicating with India

New Delhi, January 29, 2000

A representative group of today's Nagas have come on a yatra of faith to Delhi to communicate with the people of India. We are conscious of our serious inadequacies and shortcomings. But we sincerely want this reaching out to our neighbours to be the start of a pilgrimage of conscience for understanding, friendship and peace.

The Naga Peoples Movement for Human Rights (NPMHR) has initiated this process of transparent people-to-people conversations. We believe that in doing so our relationship will be mended, and an acceptable way will be found towards resolving the conflicts between us and India. The outcome should safeguard the vital interests of both sides.

We do not expect the exercise will be simple and pleasant. Our controversial struggle and its historical facts, precious to us and therefore defended with desperate heroism for over half a century, clash with India's geopolitical imperatives. We have come to try to help the Indian people to understand that we are not, cannot be a threat to India. But that if India will heedlessly choose to crush us, India will win to lose more than she can afford.

Our struggle is the child of our ancestral land and its history. Both of them are remote and virtually meaningless to you but they are so important to us as they define who we are. It represents the daring resolution of our elder pioneers who chose to be true to what they believe most deeply to be the right, natural and honourable course for their people. It was to declare Naga nationhood and to pay the price for it. We honour them for their courage and sacrifice as we honour those who have sustained the struggle upto this day with the same courage and sacrifice.

We need to recognize that our inability to handle the awesome impacts of changes within ourselves, our society and beyond have fragmented our struggle and our identity. As our identity is in its formative stage its youthfulness is its strength and weakness.

Delhi's response to the Naga struggle has been a crude combination of all-out suppression and pacification with gifts. The gifts took the Nagas by surprise as they were not expected. We must admit we have become addicted to the gifts and have dragged Delhi into a relationship of messy co-addiction with us.

We have interacted only with the Government of India all these years. We have discovered that the political setup in Delhi cannot say anything new to us without the support of the Indian people who after all have the final say on issues such as ours. We have not come to the Indian people before because of our unawareness of the role of the Indian public in a complicated issue like ours. Perhaps the Indian people have not come to us because you have assumed what we feel is irrelevant or illegal which India cannot entertain.

There has been denial of legitimacy and of facts of the Naga struggle, which has provoked determination on the part of the Nagas to defend the honour and dignity of their stand. The price they have paid for doing so constitutes the heart of what the government and the media call "Naga insurgency". Nagas call it, their struggle for freedom, human rights, honor, identity and so on.

We fully understand and appreciate Delhi's over-riding concern for the territorial integrity of the India the British on their departure in 1947 bequeathed to the new India. We realize this is an issue no nation treats lightly, least of all can India with her multi-racial, -cultural and ethnic composition. But without giving the simple recognition the Naga case deserved on grounds of its unique antecedents, administrative officials in Delhi branded us as secessionists, anti-national hostiles and worse, and adopted the unwise principle of giving a dog a bad name and shooting it.

We are starting by clarifying the central facts of our position to facilitate reflection and rational conclusions.

When the British Simon Commission came to Kohima in 1929 in the course of its tour across the sub-continent to assess public opinion on certain proposed measures for reforms, the Nagas replied in writing that they were not to be included in any reform scheme as they claimed the right to decide their future on the basis of their pre-British status.

The Akbar Hydari-Naga Pact/Agreement of 1947 which was drawn up at the initiative of India, and which Nagas considered accepting on the basis of certain clarifications, came to an ignoble end when the Government of India declared it had nothing to do with it. The distrust that resulted then has influenced Naga attitude towards Delhi ever since. Nagas have asked whether it was Delhi's first attempt to trap the Nagas in an attractive-looking agreement which Nagas looked into too closely?

Sensing that any ambiguity would result in serious complications, the Naga National Council declared Naga independence on August 14, 1947, establishing a fact of no small importance to them, namely that their struggle is not one of secession from India. India's independence and tryst with destiny started the next day on August 15th. The fight of the Nagas to uphold their position, their conviction and their honour as a people ever since are vivid history that needs no elaboration.

The simple, correct and legal steps Naga leaders took to make their position abundantly clear were automatically viewed by certain Indians as the surest signs that the Nagas were simply mouthing ideas put into their simple heads by foreign missionaries bent on sabotaging India's "security environment." Nagas have resented this blatantly feudal attitude towards them.

The main point Nagas want to get across to the Indian people is that our elders made known our position before India became independent on August 14. So Delhi cannot treat us as traitorous secessionists, separatists, and anti-nationals. We are not against the Indian nation. We are not trying to secede from a union we agreed to be a part of. We are a neighbour of India, admittedly a tiny one, but with a definite idea about ourselves which we concluded long ago.

We have chosen Delhi as the starting point of our yatra to India because here lies interred the mortal remains of Mahatma Gandhi. He instantly understood us. He did not underestimate what he sensed in what our leaders said to him. He understood our history. We established a human relationship with India through him. We have come because we want to build on that relationship that gave us hope. If India can respond to us in a manner worthy of her heritage, perhaps India will discover a key that will open doors for solutions to the mounting conflicts preventing her from going forward today.

Naga Memorandum to Simon Commission

To,
The British Statutory Commission
Camp-India

10 January, 1929

Subject: Memorandum of the Naga Hills.

Sir,

We the undersigned Nagas of the Naga Club at Kohima, who are the only persons at present who can voice for our people have heard with great regret that our Hills is included within the Reformed Scheme of India without our knowledge, but as administration of our hills continued to be in the hands of British Officers, and we did not consider it necessary to raise any protest in the past. Now, we learn that you have come to India as representatives of the British government to enquire into the working of the system of Government and the growth of Education, and we beg to submit below our view with the prayer that our Hills may be withdrawn from the Reformed Scheme and place it outside the Reforms but directly under the British Government. We never asked for any reforms and we do not wish for any reforms.

Before the British Government conquered our country in 1879-1880, we were living in a state of intermittent warfare with the Assamese of the Assam Valley to the North and west of our country and the Manipuris to the South. They never conquered us nor were we ever subjected to their rule. On the other hand we were always a terror to these people. Our country within the administered area consists of more than eight regions, quite different from one another with quite different languages which cannot be understood by each other, and there are more regions outside the administered area which are not known at present. We have no unity among us and it is only the British Government that is holding us together now.

Our education at present is poor. The occupation of our country by the British Government being so recent as 1880, we have had no chance or opportunity to improve in education and though we can boast of two or three graduates of an Indian University in our country, we have not got one yet who is able to represent all our different regions or master our languages much less one to represent us in any council of a province. Moreover, our population numbering 102,000 is very small in comparison with the plain districts in the province, and any representation that may be allotted to us in the council will be negligible and will have no weight whatever. Our language is quite different from those of the plains and we have no social affinities with Hindus or Mussalmans. We are looked down upon by one for our 'beef' and the other for our 'pork' and by both for our want in education which is not due to any fault of ours. Our country is poor and it does not pay for its administrations.

Therefore if it continues to be placed under the Reformed Scheme we are afraid that new and heavy taxes will have to be imposed on us and when we cannot pay them, then all our lands will have to be sold and in the long run we shall have no share in the land of our birth and life will not be worth living then.

Though our land at present is within the British territory, the government have always recognised our private rights in it, but if we are forced to enter the council of the majority, all these rights will be extinguished by unsympathetic council, the majority of whose number is sure to belong to the

plains districts. We also have much fear the introduction of foreign laws and customs to supersede our own customary laws which we now enjoy.

For the above reasons, we pray that the British government will continue to safeguard our rights against all encroachment from other people who are more advanced than us by withdrawing our country from the reformed Scheme and placing it directly under its own protection. If the British government however, want to throw us away, we pray that we should not be thrust to the mercy of people who could never have conquered us themselves and to whom we were never subjected; but to leave us alone to determine for ourselves as in ancient times. We claim (Not only the members of the Naga Club) to represent all those regions to which we belong; Angamis, Kacha Nagas, Kukis, Semas, Lothas and Rengmas.

Signed by/-

1. Nihu Angami, Head Interpreter
2. Hisale Peshkar
3. Nisier Angami, Master
4. Khosa Angami, Doctor
5. Gepo Kacha Naga, Interpreter
6. Vipunyu Angami, Potdar
7. Goyiepra Angami, Treasurer
8. Ruzhukhrie Angami, Master,
9. Dikhrie Angami, Sub-Overseer
10. Zapuzhulie Angami, Master
11. Zepulie Angami, Interpreter
12. Katsumo Angami, Interpreter
13. Nuolhoukielie Angami, Clerk
14. Luzevi Sema, Interpreter
15. Apamo Lotha, Interpreter
16. Resilo Rengma, Interpreter
17. Lengjang Kuki, Interpreter
18. Neikhriehu Angami, Interpreter
19. Miakrao Angami, Chaprasi
20. Levi Kacha Naga, Clerk.

Memorandum of the Case Of the Naga People For Self-Determination And An Appeal to H.M.G and the Government Of India

Pursuant to a resolution passed by the Naga National Council at Kohima on the 19th Day of February 1947, this memorandum has been prepared by the National Council, which is the National Organisation of the Naga people and is the embodiment of expressed desire of the mass of the Naga Nation. The National Organisation has its roots among masses through (I) Village Council (II) Sub-Tribal Council (III) Tribal Council (IV) Central Council (V) The Naga National Council.

The Memorandum seeks to present the case of the Naga people for Self-Determination, for the realisation of which an appeal is made to H.M.G and the Government of India to set up for the Naga people an Interim Government for a period of ten years, at the end of which the Naga people will be left to choose any form of Government under which they will live.

The Land and the People

Anyone who turns his eye on the map of India will find Assam as the Province of this Sub-Continent, and one of her eastern districts is the present Naga Hills. The district was carved out arbitrarily for administration purposes. But the Naga people are spread over a wider area and they are found to be in the Naga Hills District proper, the un-administered area between Assam and Burma, in the North Cachar Hills and even in the contiguous parts of Burma. The area covered by the Nagas people will thus extend to some thirty thousand square miles, though the Naga Hills District (administered) portion alone covers an area of over four thousand square miles people have grown into more than two lakhs. Competent observers' place that the population of the un-administered territory as double the number in the administered area; while the number of Nagas within the Burma boundary is nearly three lakhs. The future of these million souls is going to be seriously affected in the proposed new constitution for Burma and India. The Naga people were Independent and their country was not subjugated by the Ahom Kings of Assam Valley, who ruled for seven hundred years. The Naga Hills never formed part of Assam or India at any time before the event of the British suzerainty over the Assam Valley by the treaty of the Yandabu. The British first attacked the Naga people in 1839, but the fight went on till 40 years till the Ao Naga country was taken over in 1889. Since then the Naga people have remained loyal, friendly and peaceful.

In the first Great War, 2 thousands of Naga people served in distant France to help the British and Allied causes. In the recent Global war, when the Japanese army attempted to invade India through the Naga Hills, it was the co-operation of the Nagas both in intelligence and jungle warfare which enabled the British Forces to halt the invasion at Kohima, the headquarters station of the district, thus saving Assam and the rest of India from the devastation of war.

These freedom loving Nagas look up to His Majesty's Government and the Government to do the just and the proper thing and grant them their just demand for setting up an Interim Government of the Naga people.

Psychological Factor and Relationship with the Plain People of Assam

The modern world recognises the importance of psychological implications in dealing with states and nations. To have peace within and without, it is necessary to know the tradition and national aspiration of people and respect them. The country is extremely hilly, without good roads and the people simple, primitive and divided into tribes and clans. Parts of Nagaland are so inaccessible

that the authorities have left them undisturbed, and it is popularly known as the 'unadministered territory' even now.

Mr. Mills in his monograph on the Lotha Nagas defines the area inhabited by the Naga tribes as bounded by the Hukawng Valley in the North East, the plains in the Brahmaputra Valley to the North West of Cachar of the South West of the Chinwin to the east. In the South Manipur Valley roughly marks the points of the contact between the 'Naga' tribes and the very much more closely inter-related group of 'Kuki' tribes vide page xvi of the monograph.

The Naga tribes are not a single tribe, but a whole group of them, Angami, Rengma, Sema, Tangkhul, Mao, Bhums, Konyak, Lothas, Sangtam, Chang, Zemis, Kabui, etc., each different from the other in custom and dialect, but all clearly related from the others in forming a distinct block. They have a distinct culture of their custom and ways of living are widely different from those of the plains people of Assam or others of India.

The Naga people in the administered area of Naga Hills District number 189641, according to the census of 1941. Mr. T.O. Hudson in his volume on the 'Naga Tribes of Manipur,' published in 1911, mentions the State.... contains about 8,000 square miles of which 7,000 square miles are Hill territory as opposed to Valley territory are inhabited by Naga and Kuki tribes, hill people who number slightly more than one lakh. While accepting with due reserve the familiar distinction between Naga and Kukis it may be pointed out that the tribes commonly classed together as Naga and Kukis occupy definite area in these hills, vide page 1. Now these attitude of the people and to respect them.

The attitude of the people has a great bearing in the formation of the national politics in framing the future constitution for India certain thought provoking factors must not be ignored.

- (1) Ethnically the Nagas are from a distinct stock.
- (2) The Nagas have distinct Social life, manner of living, laws and customs; and even the method of governance of the people is quite different.
- (3) In religion, the majority of the Nagas are Animists; but Christianity which was introduced by the American Baptists long before the event of the British is now speedily spreading. Such factors as the above make it imperative that Nagas have a separate form of Government.

Naga System of Administration

The Nagas have an efficient system of administration. Most of the tribes retain to a considerable degree their ancient laws and customs and village organisation which have lasted through centuries, and these form an integral part of their life, and, once destroyed or allowed to decay can never be replaced by a system so suitable to them. Democracy in its purest form exists among Nagas.

The basis of the Naga system is the village organisation. Every Village is an independent unit in the tribes. Villages are managed by a council of elders and men of influence, elected by the people.

Such policy, such a state of society and democracy life cannot be found in any other part of India.

Our Case

In the 1935 constitution for India and Assam, the areas inhabited by Nagas were kept outside the jurisdiction of the provincial and Central Popular Government, and were formed into 'Excluded

Area' where the legislature had no sway and the Nagas were kept as the special responsibility of the Governor of the province in his capacity as the Crown Representative.

In other words, the Naga people have no connection with the policies of different groups of Indian politicians. Ought the British Government or the Government of India to throw this society into the heterogeneous mixture of Indian Races?

A constitution drawn by the people who have no knowledge of the Naga Hills and the Naga people will be quite unsuitable and unacceptable to the Naga people.

Thrown among forty crores of Indians, the one million Nagas with their unique custom of life will be wiped out of existence. Hence this earnest plea of the Nagas for a separate form of Interim Government to enable them to grow to a fuller stature.

In the light of the facts stated in the fore-going paragraph and in view of the isolated geographical position of the Nagaland and taking into consideration the unique characteristics of the Naga policy and the compact block of the Nagaland.

This memorandum is placed with the authorities for setting up of an Interim Government, GOVERNMENT OF THE PEOPLE, with financial provisions for a period of ten years, at the end of which Naga people will be left to choose any form of Government under which they themselves choose to live.

Nagaland, Kohima
20th February, 1947

T. Sakhrie
Secretary
Naga National Council

The Nine Point Agreement

(The Nine Point Agreement arrived at between the Naga National Council and the Governor of Assam, Sir Akbar Hydari in June 27-29, 1947)

PREAMBLE

The right of the Nagas to develop themselves according to their freely expressed wishes is recognized.

1. Judicial

All cases whether civil or criminal arising between Nagas in the Naga Hills will be disposed of by duly constituted Naga courts according to Naga customary law, or such law as may be introduced with the consent of duly recognized Naga representative organizations, save that where a sentence of transportation or death has been passed there will be right of appeal to the Governor.

In cases arising between Nagas and non-Nagas in (a) Kohima and Mokokchung town areas, and (b) in the neighbouring plains districts, the Judge if not a Naga, will be assisted by the Naga assessor.

2. Executive

The general principle is accepted that what the Naga National Council is prepared to pay for the Nagas National Council should control. The principle will apply to work done as the staff employed.

While the District Officer will be appointed at the discretion of the Governor, Sub-Division of the Naga Hills should be administered by Sub-Divisional Council with a full-time Executive President, paid the Naga National Council, who would be responsible to the District Officer, for all matter falling within the latter's responsibility, and to the Naga National Council for all matters falling within their responsibility.

In regard to:

(a) Agriculture

The Naga National Council will exercise all the power now vested in the District Officer.

(b) Public Works Department (PWD)

The Naga National Council will take over full control.

(c) Education and Forest Department

The Naga National Council is prepared to pay for all the services and staffs.

3. Legislative

That no laws by the Provincial or Central Legislature which would materially affect the terms of this agreement or the religious practices of the Nagas shall have legal force in the Naga Hills without the consent of the Naga National Council.

In case of dispute as to whether any law did so affect this agreement, the matter would be referred by the Naga National Council to the Governor who would then direct that the law in question should not have legal force in the Naga Hills pending the decision of the Central Government.

4. Land

That land with all its resources in the Naga Hills should not be alienated to a non-Naga without the content of the Naga National Council.

5. Taxation

That the Naga National Council will be responsible for the imposition, collection and expenditure of land revenue and house tax, and such other taxes as may be imposed by the Naga National Council.

6. Boundaries

The present administrative divisions should be modified so as to

- (i) Bring back into the Naga Hills District all the forest transferred to the Sibsagar and Nowgaon District in the past, and
- (ii) Bring under one unified administrative unit, as far as possible, all Nagas. All the areas so included would be within the scope of the present proposed agreement.

No areas should be transferred out of the Naga Hills without the consent of the Naga National Council.

7. Arms Act

The District Officer will act on the advice of the Naga National Council in accordance with the provisions of the Arms Act.

8. Regulations

The Chin Hills Regulations and the Bengal Eastern Frontier Regulations will remain in force.

9. Period of Agreement

The Governor of Assam as the agent of the Government of India will have a special responsibility for a period of ten years to ensure the due observance of this agreement; at the end of this period, the Naga National 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 the Naga people arrived at.

A Letter to The President of India

Naga National Council, Naga Hills, Kohima

To,
The President
Republic of India
New Delhi.

Your Excellency,

The Naga National Council desires to invite the attention of the government of India to the position taken as early as 14th August 1947, by the people of Nagaland and subsequently endorsed by the Naga National Council from time to time to the effect that Nagaland shall be constituted into an Independent sovereign State(separate from the Union of India)and also the resolution of this same council dated December 11, 1950, which is to the effect that with a view to furnishing the people and Government of India with evidential and conclusive proof of their national aspiration and for independence, the popular desire of the Naga people in this behalf shall be presented in a collective verdict of the adult population of Nagaland which shall be obtained through the recognised democratic method of plebiscite.

The plebiscite shall be a voluntary plebiscite on the part of the Naga people and the purpose of holding the same on a voluntary basis are expressly to remove from the minds of the people and Government of India any possible difficulty to accept and recognise the genuinely representative function of the Naga National Council for its nationals in Nagaland, to remove any possible element of doubt as to the passionate desire in the hearts of the Naga People for freedom and independence from India, and lastly but with a genuine feeling of goodwill to avoid any possible injury that may otherwise be done to the reputation of India in the event of a plebiscite held under international auspices should such a reference to the people result in a hundred percent Nagas being in favour of severing governmental connections with India.

A plebiscite such as now being proposed to be voluntarily taken by the Naga people has been brought to a regrettable necessity by the scant attention paid to the case of the Naga people by the government of India despite very fervent and earnest pleadings with India for a friendly understanding of the issue.

Throughout these recent years of their direct association with India, the people of Nagaland, while keeping the goal of Independence uppermost in their minds, have repeatedly offered to make concessions in order to secure an honourable agreement on a basis which will provide scope for their growth towards full independence while maintaining the most friendly and cordial relations with India.

In an attempt to implicate the Naga people in their constitution and thus curb the Naga right to self-determine their own future, India has handled the Naga political issue in a manner contrary to the spirit underlying the pains the Nagas have taken to resolve the difficulties which stood in the way of the parties arriving at an agreed solution. The Naga people had made it clear that recognition by India of Naga right to Independence was the basic issue and any arrangement which ignores or runs contrary to this basic issue would be unacceptable to the Nagas. It came as a matter of great surprise, therefore, that India sought to incorporate the Naga territory and coerce Nagaland into a forcible union by the compulsion of a constitution even while the issue of Naga political independence was still under the process of negotiation. However, the people of

Nagaland, to whom the question of having a common constitution with India never existed, have made it perfectly clear to the government of India and their accredited representatives that in so far as Nagas are concerned the Indian constitution neither affects the status of Nagaland nor alters the basic issue.

The people of Nagaland are keenly aware of the paramount need of India for strong and secure frontiers in this side of her territory and not only are they aware of this, they are anxious to strengthen India's hands to achieve the desired need. It would however be foolish on the part of India to be deceived into the belief that the Nagas would make their honour and right to freedom. The political independence of Nagaland and the manner in which that independence is to be inaugurated are, therefore, matters of vital importance to both India and Nagaland. Accredited representatives of the Government of India have admitted that if Nagaland should elect to be independent, she has the right to do so. This approach is important as it points the way to reconciling the anxiety of the Government of India for strong frontiers with the Naga case for independence.

The fate of the free Nagas occupying a country contiguous with Naga Hills and having common boundaries with Burma and China cannot also be betrayed by the British conquest of the Nagas. Of these Nagas India knows nothing except the fact of their existence and their independence. The fact that Free Nagaland has no international status does not entitle India to incorporate it in her Constitution.

As such, it would be a dastardly act of aggression on the part of India to gratify her inordinate desire for territorial expansion, if free Nagaland should be ravished. The respect which Burma and China have for the independence of Free Nagaland should be emulated by India as well. We are certain India will benefit from her doing so. That will gain for India the goodwill of the British conquered Nagas too, for sooner or later the now separated Nagas will unite and be free.

So important an announcement as this communication conveys would, under normal conditions deserve to be delivered to Your Excellency in person by a representative of the Naga National Council. That this could not be done has been due to the indecent receptions representatives of the Naga people have had the misfortune to experience in the past on a number of occasions at the hands of India's high Officers. The Naga National Council could not be certain the Government of India might not again refuse to grant to the representatives to seat an interview with Your Excellency. The Naga delegation which was in Delhi seeking an audience with the last British Governor-General in 1947 and later another Naga delegation with his successor were persistently prevented from doing so. The Naga delegation sent to Shillong was also similarly denied (by the Government of Assam) a meeting with the first President of the republic of India. But these incidents, however insulting to our national self respect, fall into insignificance when it is remembered that the Government of India did not hesitate to use even the army to slaughter the nationals in cold blood.

Another possibility that could not be overlooked was the Government's habit of arresting Naga political workers while at large in Indian cities- an incident not incapable of repetition. In order, therefore, to avoid similar insults this communication is being sent to Your Excellency the Governor of Assam who- advisedly- in the words of the Secretary of the Ministry of External Affairs, Government of India "shall have to be in the full picture".

The plebiscite that will soon take place in Nagaland is intended to reaffirm the position of the Nagas and to bring to India the urgent need of their undertaking the immediate setting up of a

Naga Sovereign State. The exact date on which the plebiscite will commence will be announced before long. It is the desire of the Naga National council that the government of India will send their observers to witness the plebiscite from beginning to the end. It shall be the privilege of the Naga National Council to give every possible facility to such observers to enable them to achieve their purpose with complete satisfaction.

Yours faithfully,

A.Z. Phizo
President,
Naga National Council
Kohima

1 January, 1951

The Sixteen Point Agreement

The Sixteen Point Agreement arrived at between the Government of India and the Naga People's Convention, July, 1960.

The points placed by the delegates of the Naga People's Convention before the Prime Minister on 26 July 1960, as finally recast by the delegation in the light of discussions on 27 and 28 July 1960 with the Foreign Secretary.

1. The Name:

The territories that were heretofore known as the Naga Hills-Tuensang Area under the Naga Hills-Tuensang Area Act, 1957, shall form a State within the Indian Union and be hereafter known as Nagaland.

2. The Ministry In-charge:

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

3. The Governor of Nagaland:

(a) The President of India shall appoint a Governor for Nagaland and he will be vested with the executive powers of the Government of Nagaland. He will have his headquarters in Nagaland.

(b) His administrative secretariat will be headed by the Chief Secretary stationed at the Headquarters with other Secretariat Staff as necessary.

(c) The Governor shall 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. In exercising this special responsibility, the Governor shall, after consultation with the Ministry, act in his individual judgement. This special responsibility of the Governor will cease when normalcy returns.

4. Council of Ministers:

(a) There shall be a Council of Ministers with a Chief Minister at the head to assist and advise the Governor in the exercise of his functions.

(b) 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 different tribes. (Further a duly constituted body of Expert may be formed to examine and determine the principles of representation on democratic basis).

6. Representation in Parliament:

Two elected members shall represent Nagaland in the Union Parliament, that is to say, one for the Lok Sabha and the other for the Rajya Sabha.

7. Acts 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 Nagaland Legislative Assembly:

(a) The Religious or Social Practices of the Nagas.

(b) The Customary Laws and Procedure.

(c) Civil and Criminal Justice so far as these concern decisions according to the Naga Customary Law.

The existing laws relating to administration of civil and criminal justice as provided in the Rules for the Administration of Justice and Police in the Naga Hills District shall continue to be in force.

(d) The ownership and transfer of land and its resources.

8. Local Self-Government:

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

(a) The Village Council;

(b) The Range Council; and

(c) The Tribal Council.

These Councils will also deal with disputes and cases involving breaches of customary laws and usages.

9. Administration of Justice:

(a) The existing system of administration of civil and criminal justice shall continue.

(b) Appellate Courts:

(i) The District Court-cum-Sessions Court (for each district), High Court 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:

(a) The Governor shall carry on the administration of the Tuensang District for a period of 10 (ten) years until such time when the tribes in the Tuensang District are capable of shouldering more responsibility of the advanced system of administration. The commencement of the ten-year period of administration will start simultaneously with the enforcement of detailed workings of the constitution in other parts of Nagaland.

(b) Provided further that a Regional Council shall be formed for Tuensang District by representatives from all the tribes in Tuensang District, and the Governor may nominate representatives to the Regional Council as well. The Regional Council will elect Members to the Naga Legislative Assembly to represent Tuensang District.

(c) Provided further that on the advice of the Regional Council, steps will be taken to start various Councils and Courts, in those areas where the people feel themselves capable of establishing such institutions.

(d) 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

(e) Provided further that the Regional Council shall supervise and guide the working of the various Councils and Tribal Courts within Tuensang District and wherever necessary depute the local officers to act as Chairmen thereof.

(f) Provided further that Councils of such areas inhabited by a mixed 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. And at the end of ten years the situation will be reviewed and if the people so desire the period will be further extended.

11. Financial Assistance from the Government of India:

To supplement the revenues of 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 Nagaland; and

(2) A grant-in-aid towards meeting the cost of administration. Proposals for the above grants shall be prepared and submitted by the Government 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 purposes for which they have been approved.

12. Consolidation of Forest Areas:

The delegation wished the following to be placed on record:

The Naga delegation discussed the question of the inclusion of the Reserve Forests and of contiguous areas inhabited by the Nagas. They were referred to the provisions in Article 3 and 4 of the Constitution, prescribing the procedure for the transfer of areas from one state to another.

13. Consolidation of Contiguous Naga Areas:

The delegation wished the following to be placed on record:

The Naga leaders expressed the wish for the contiguous areas to join the new state. It was pointed out to them on behalf of the Government of India that Article 3 and 4 of the Constitution provided for increasing the area of any state, but that it was not possible for the Government of India to make any commitment in this regard at this stage.

14. Formation of Separate Naga Regiment:

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

15. Transitional Period:

(a) On reaching the political settlement with the Government of India, the Government of India will prepare a Bill for such amendment of the Constitution, as may be necessary, in order to implement the decision. The Draft Bill, before presentation to Parliament, will be shown to the delegates of the NPC.

(b) There shall be constituted an Interim Body with elected representatives from every tribe, to assist and advise the Governor in the administration of Nagaland during the transitional period. The tenure of office of the Interim Body will be 3 (three) years subject to re-election.

16. Inner Line Regulation:

Rules embodied in the Bengal Eastern Frontier Regulation, 1873, shall remain in force in Nagaland.

The Shillong Accord of 11 November, 1975 between the Government of India and the Underground Nagas

1. The following representatives of the underground organisations met the Governor of Nagaland, Shri L.P. Singh representing the Government of India, at Shillong on 10th and 11th November, 1975.
 1. Shri. I. Temjenba
 2. Shri. S. Dahru
 3. Shri Veenyiyl Rhakhu
 4. Shri. Z. Ramyo
 5. Shri M. Assa
 6. Shri Kevi Yalley

2. There were a series of four discussions. Some of the discussions were held with the Governor alone; at other, the Governor was assisted by the two Advisors for Nagaland, Shri M. Ramunny, and Shri. H. Zopianga, and Shri M.L. Kampani, Joint Secretary in the Ministry of Home Affairs. All the five members of the Liaison Committee, namely Rev. Longri Ao, Dr. M. Aram, Shri. L. Lungalang, Shri Kenneth Kerhuo, and Shri Lungshim Shaiza, participated in the discussions.

3. The following were the outcome of the discussions:
 - i. The representatives of the underground organisations conveyed their decision, of their own volition, to accept, without condition, the Constitution of India.
 - ii. It was agreed that the arms, now underground, would be brought out and deposited at appointed places. Details for giving effect of this agreement will be worked out between them and representatives of the Government, the security forces, and members of the Liaison Committee.
 - iii. It was agreed that the representatives of the underground organisations should have reasonable time to formulate other issues for discussion for final settlement.

Dated Shillong,

November 11, 1975

I. Temjenba
S. Dahru
Z. Ramyo
M. Assa
Kevi Yalley

L.P. Singh

On behalf of the Representative of the Underground organisations.

Representative of Government of India

Annexure ‘G’

Supplementary Agreement to the Shillong Accord on 5 January, 1976

Implementation of Clause II of the Shillong Accord of 11 November, 1975.

1. It was decided that the collection of arms, initially at collection centres, would commence as early as possible, and will be completed by 25th January, 1976. Initial places of collection to be decided through discussion between Commissioner, representatives of underground organisations and the members of the Liaison Committee.
2. Once all arms are collected, these will be handed over to Peace Council team at the respective places of collection.
3. Peace Council team will arrange to transport the arms from collection centres to Chedema peace camp and arrange guards, etc., for safe custody of arms.
4. Similar arrangement at agreed place/places will be made in Manipur with the concurrence of the Manipur Government.
5. The underground may stay at peace camps to be established at suitable places, and their maintenance will be arranged only by the Peace Council. Any voluntary contribution from any source will be made to the Peace Council who will utilize the fund according to necessity.

Biseto Medom Keyho
Pukrove Nakru
Z. Ramyo
I. Temjenba

L.P. Singh
Governor

Place: Shillong
Dated: 5 January, 1976

COMMISSION ON HUMAN RIGHTS

Sub-Commission on Prevention of Discrimination and Protection of Minorities Forty-seven session
Agenda item 6.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION AND OF APARTHEID, IN ALL COUNTRIES WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES : REPORT OF THE SUB-COMMISSION UNDER COMMISSION OF HUMAN RIGHTS RESOLUTION 8 (XXIII)

Written statement submitted by the Society for Threatened Peoples, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following communication, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV) (3 August 1995)

The human right situation in Nagaland

1. The occupation of free Nagaland by the Indian and Burmese armed forces in violation of Naga nationhood and the stubborn resistance put up by the Naga people has lasted 47 years. The atrocities perpetrated in the course of this time on the Nagas are little known to the outside world. Situation is precarious because the Naga people have been put under "State of emergency", "President's rules", "disturbed area", and so on for most of the last 41 years. The situation is dangerous again due to the renewed declaration since 1 April 1995 of a fresh Nagaland "disturbed area", in an effort to suppress the Naga people and their right to self-determination.

2. In the past three years, more than 1,000 innocent Nagas have been killed. Over 100 villages were incinerated, thousands are uprooted and homeless, indiscriminate killing continues with impunity. No fact-finding mission has ever been allowed to enter Nagaland. There is no regard for human rights, we can describe a few recent incidents out of many:

a. On 27 December 1994, at 9 a.m. the 16th Battalion of Maratha Infantry in Mokochung rounded up local people and beat them up. Shops were looted and burnt. The Naga army then arrived and engaged the troops. Lt. Col. Boonacha, the commander of the Indian armed forces was killed, but 8 innocent civilians

were killed and 4 were burnt alive by the Indian troops, 3 women were raped and many taken into custody, 48 residential houses and 89 commercial properties were burnt.

b. On 23 January 1995, Indian forces fired indiscriminately at Akuluto town, which resulted in one dead and massive destruction of public properties.

c. On 5 March 1995, an Indian army convoy carrying 600 soldiers of the Rashtriya Rifles entered Kohima town. The tyre of one of the lead vehicles got punctured, which was mistaken for an attack by the Naga Army. Thereupon, the Rashtriya Rifles opened indiscriminate fire from the back of the truck. Within minutes all vehicles behind followed suit, directing their fire at random towards any Naga pedestrians who happened to be at the roadside. During the first fusillade 13 Naga civilians sustained wounds and 4 were shot dead. The Indian soldiers then started shelling with mortars and RPGs into the populated area of Kohima town. Two Naga children were killed through the streets, wounding a further 10 civilians and killing 2 more. In the ensuing period, lasting over 2 hours, 136 Nagas were taken into custody by the 29th Assam Rifles and the Central Reserve Police Force and subjected to various forms of torture. Many more were just beaten in town with rifles butts. Homes were looted and over 50 houses damaged by shellfire.

d. On 19 June 1995, Mr. Shelly Chara was shot dead at Imphal by secret Indian agents. He was an outstanding student leader and a prominent human rights activities. He attended the Working Group on Indigenous Peoples in Geneva last year (1994). He spoke so well in the meeting that there was prolonged applause from the audience. The Indian Government took serious exception to his speech. He was due to attend this year's session also. Presumably he was killed on that account. Such an act is pure and simple criminal treachery against the cause of humanity which deserves outright condemnation.

It is profoundly regretted that four decade long genocidal campaigns of the Indian and Burmese armed forces against the Naga people have never been called into question by the Commission on Human Rights. We urge that the danger inherent in the suppression of the people's rights be looked into before it is too late, if peace and justice are to prevail. The fact is that the root cause of most of the cases of gross violations of human rights in the world today is the suppression of the right of self-determination of aggrieved peoples by stronger ones. Therefore, we earnestly appeal to the sub-Commission of Prevention of Discrimination and Protection of Minorities to send a fact finding mission to Nagaland to see the conditions there in the right perspectives.

Proximity & Distance

Niketu Iralu, who describes himself as a social educationist, has been closely associated with the Naga 'struggle' for many years. He is also involved in drug de-addiction counseling in Nagalim. As peace talks in the strife-torn state have failed time and again, Iralu has formed the **Naga Peoples' Movement for Human Rights (NPMHR)** and undertaken a 'journey of conscience'. Iralu, in a conversation with **N C Satpathy**, tries hard to assert that Nagalim is not a part of India and spells out his vision of the Naga struggle in future.

Why talk of secession in the first place?

We are not secessionists. Our elders made known our position before India became independent. We are not trying to secede from a union we agreed to be part of. We are a neighbor of India, admittedly a tiny one, but with a definite idea about ourselves, which we concluded long ago. India calls our struggle insurgency. But we say it is a fight for our history, dignity and human rights. There has been a denial of legitimacy and of facts of the Naga struggle, which has provided determination on the part of the Nagas to defend the honor and dignity of their stand. The price they have paid for doing so constitutes the heart of what

the government and media call Naga insurgency. We are all for India as a strong neighbor, a country that is so great and ancient. We thank God for you. We are not fighting with you. We are only fighting for our position.

Could you elucidate that position?

When the Simon Commission came to Kohima in 1929 to assess public opinion on creating measures for reforms, the Nagas replied in writing that they want the right to decide their future on the basis of their pre-British status. The Akbar Hydari-Naga pact of 1947, which was drawn up at the initiative of India, and which Nagas considered accepting on this basis of certain clarifications, came to an ignoble end when the Indian government declared it had nothing to do with it. The distrust that resulted then has influenced Naga attitude towards Delhi ever since. Sensing that any ambiguity would result in serious complication, the Naga National Council declared Naga independence on 14 August 1947, establishing a fact of no small importance to them, namely that their struggle is not one of secession from India. India's 'tryst

with destiny' started the next day.

Is it a people's struggle or a struggle led by insurgent groups?

It is very good for India to find out whose struggle it is. Nagas have made it abundantly clear in 1947, 1951 and in 1961. The Indian Government and people in the media have projected the image that 'these' tribal people cannot think for themselves and the foreign missionaries have put these political ideas into their mind. This is insulting to the Asian intelligence and very feudal. **Don't you think secession will upset the geo-political equilibrium in the region?**

We fully understand and appreciate Delhi's over-riding concern for the territorial integrity of the India the British on their departure bequeathed to them; we realize this is an issue no nation treats lightly, least of all can India with her multi-racial, cultural and ethnic composition. But the Naga case deserves the simple recognition

diction and extortion. We have interacted with only Indian government all these years. We have discovered that the political set up cannot say anything new to us without the support of the Indian people who after all have the final say on issues such as ours. Whenever we go to the Indian government, they send us back saying, 'We have enough of you, go away.' That is why the NPMHR has decided to take this 'journey of conscience' where we will talk to the people of India. We will convince them what we want and then talk it out. We believe that in doing so our relationship will be mended, and an acceptable way will be found towards resolving the conflicts between us and India.

Any specific reason why you chose Mahatma Gandhi's death anniversary to launch this journey?

Gandhiji understood us. He did not underestimate what he sensed in what our leaders said to him. He understood our history. We established a human relationship with India through him. He taught us this. But Gandhiji also taught non-violence. Certainly. The conscience journey means that. It is not only a journey to Indian people, it is also a journey into our own conscience. We are hopelessly divided at this moment. We will reunite ourselves. I am optimistic we

will renew and reform ourselves. We will repair the moral fiber that has been damaged.

NSCN (IM) leader Th. Muivah was a party to the cease-fire agreement with the Center. Now, he has been held in Thailand for traveling from Karachi on a fake passport. How do you expect the Center to take him seriously when he has unlawfully gone to a rival country?

It is an unhappy development altogether. But the widespread feeling among Naga people is he was held on a tip-off by the Indian government. They suspect India's hand in his arrest. I admit like other Naga leaders, Muivah has also made mistakes. We will tell him where he is wrong. But he is our leader representing us at the peace talks. Nagas feel India wants to weed him out of the talks by getting their leader arrested. Dirty games like this do not take the peace talks anywhere. Our sense of honor is at the heart of the problem. If that honor is belittled, denied or suppressed, then the process will be flawed; talks will have no meaning and the fruit will be poisonous. Northeast India will be ungovernable.



"Delhi's response to the Naga struggle has been a crude combination of all-out suppression and pacification with gifts. The gifts took the Nagas by surprise as they were not expected. We have become addicted to the gifts and have dragged Delhi into a relationship of messy co-addiction with us."

A. Raj

on grounds of its unique antecedents. However, Delhi has adopted the unwise principle of giving a dog a bad name and shooting it.

You talk about a strong yearning for your rights to freedom, respect, equality and justice. But, these are already guaranteed under a special Act of the Constitution. The Center pumps in the funds needed for development of the region. Why not use the funds and think of prosperity?

Yes, it is there, but we do not want it. Delhi's response to the Naga struggle has been a crude combination of all-out suppression and pacification with gifts. The gifts took the Nagas by surprise as they were not expected. We have become addicted to the gifts and have dragged Delhi into a relationship of messy co-addiction with us. You cannot quieten us every time with ladoos and rasgullas.

Insurgency has spread its tentacles in Nagalim ever since Phizo gave the call for independence a long time back. What has insurgency achieved?

Absolutely nothing in terms of freedom. Or maybe we have achieved rampant corruption, lawlessness, ad-

Naga Reconciliation Meeting

February 29, 2012, Dimapur, Nagaland

The Naga Reconciliation Meeting, called by the Forum for Naga Reconciliation and supported by the signatories of the “Covenant of Reconciliation”, the “Naga Concordant”, churches, Naga peoples and its tribe organizations, women organizations, student bodies, youth organizations, the Dubashis and the Gaon Buras and village leaders on February 29, 2012, at Dimapur, Nagaland, resolves the following:

Resolution 1:

ADMITS a long history of Naga conflict that has broken relationships, robbed identities, stripped dignity, and inflicted deep and inexpressible pain to the Naga people.

CONFESSES our own sinful silence and deeply regrettable history of implicit and complicit involvement leading to deepening divisions and suspicions.

ACKNOWLEDGES AND APPRECIATES those who have already publicly and formally apologized and sought forgiveness from each other and repented for their and their government’s involvement in these bitter conflicts.

APPLAUDS those who have walked the Journey of Common Hope and stand for Naga Reconciliation. Although often left nameless, their story is truly powerful.

INVITES as always, all Naga national political groups to the Naga Reconciliation: A Journey of Common Hope, for a shared future. Naga Reconciliation will not be complete if all groups do not respond to the call for reconciliation.

CALLS on all Nagas and their neighbors to stand against pervasive elements, support endeavors to eradicate it, and responsibly take steps to create a common humanity.

WE RESOLVE to prayerfully join hands together and walk the path of Naga Reconciliation.

Resolution 2:

MAINTAIN ongoing concern about the armed conflicts and other human rights violation in Naga areas and for this the Naga people express abhorrence.

CALLS upon all armed confrontations to cease with immediate effect, from this day February 29, 2012, and to decisively take steps towards Naga reconciliation.

ENCOURAGES all Naga Church, civil organizations and the public to pursue its course to ensure cessation of armed confrontation among the Naga groups.

Resolution 3:

ACKNOWLEDGES the monumental role of the Naga National Council (NNC) and its contribution under the presidencies of Mr. T Aliba Imti, Mr. Mhondamo Kithan, Mr. Visar Angami and Dr. AZ Phizo, for upholding the historical and political rights of the Nagas and their lands.

RECORDS the commitment and contribution of other Naga national political groups and their leaders –Mr. SS Khaplang, Gen (Retd) Khole Konyak, and Brig (Retd) S Singnya, in safeguarding the historical and political rights of the Naga people and their lands.

RECOGNIZES that sovereignty of the Naga people is at the core of the uniqueness of the Naga historical and political rights. This right was officially validated by the Government of India when it recognized the “Unique History and Situation of the Nagas” in Amsterdam on July 11, 2002. While acknowledging and putting into record the achievement of Mr. Isak Chishi Swu and Mr. Th Muivah for securing this recognition from the Government of India, this right belongs to the Nagas.

AFFIRMS that Nagas are a sovereign people who uphold the principle that sovereignty lies with the people and hence abide by the concept that the will of the people is supreme.

EMPHASIZES that the historical and political rights of the Naga should form the basis of any political solution. Founded on this premise, any negotiation process must focus on how Nagas can determine, safeguard and exercise their historical and political rights in a contemporary and inter-related world.

THEREFORE CALLS upon all Naga national political groups and the people henceforth, to jointly pursue this common cause of realizing and determining our Naga historical and political rights.

Resolution 4:

OFFER sincere thanks to the NBCC, other Church bodies, the Naga Hoho, ENPO, tribe Hohos, GB’s and DB’s and all other women, students, village organizations for their tireless support to the Naga Reconciliation process.

EXPRESSES sincere gratitude to the concerned Nagaland State Government for logistic support for the cause of peace and reconciliation.

GIVES THANKS to all the people living in Naga areas and our neighbors in supporting Just Peace and Reconciliation in the land.

APPRECIATES the GOI for its commitment to solve the Indo-Naga political matter without further delay through the path of non-violence.

Recommendation:

EXPRESSES concern for the next step in the Journey of Common Hope and therefore, the FNR recognizes the urgency of all Naga national political groups and the people to render support to the Naga reconciliation process. In that spirit, we therefore recommend as a matter of urgency the formation of a new expert body to consult, provide and ensure all intellectual, spiritual, logistic and technical expertise necessary towards the next step of the Journey of Common Hope for a shared common future in all urgency and concern.

IMPLORES upon all Naga groups to join “Naga Reconciliation: A Journey of Common Hope” and to ensure that the reconciliation process become truly inclusive and liberative in its implementation.

Forum for Naga Reconciliation, February 29, 2012

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