SELF-DETERMINATION, TERRITORIAL INTEGRITY AND ETHNICITY: A SOUTH ASIAN PERSPECTIVE

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Introduction
The concept of self-determination of nations and peoples played the decisive role in eliminating the curses of colonialism which hung over the world for more than three centuries. Elimination of the colonial system paved the way for emergence of a large number of independent and sovereign states which form the core of modern international political and legal order. The concept of self-determination which started gaining ground after the First World War primarily under the impact of Wilsonian doctrine of self-government of the nations and the peoples, was converted into a principle of positive international law after the Second World War. The United Nations Charter and the activities accomplished thereunder played a vital role in this process. Universal recognition of the rights inherent in the principle of self-determination and positive actions undertaken by the world body and the concerned states removed the yoke of colonialism.

Period of colonialism is over but the problems of the principle of self-determination are not. The rights of the colonised people to self-determination and separate statehood are only one though fundamental aspect of the contents of the principle of self-determination. Its contents are rich and varied but fluid that pose new challenges for international community. No principle of international law as such has separate or isolated existence. It is always to be understood and applied in the context of other principles which are equally important for international legal order to reach
higher human goals of peace, progress, security and development. The principle of self-determination is to be understood only in this context.

Potential of the principle of self-determination have not been exhausted even after the colonial period is over, inasmuch as there is a new clamour by various national and ethnic groups in the post-colonial sovereign states for the rights of self-determination. This has emerged as new phenomenon sweeping and shaking many newly independent states at their roots even before they had sufficient opportunities to consolidate their positions as nation-states.

Contemporary world witnesses a large number of movements allegedly based on the principle of self-determination. Some of them aim at extreme solution of their problems, i.e., secession and formation of separate political entity, while others will settle for autonomy. These movements, therefore, pose threats to status quo of established states. It seems that the right of self-determination in its diverse manifestations at a certain stage of national development came in conflict with state sovereignty and territorial integrity. This fact also brought into sharp focus yet another important principle of international law, i.e., non-interference in the internal affairs of another state, for any ethnic or national movement in one country tends to draw others to involvement. In the system of mutually committed modern states where one is obligated to respect other's sovereignty and territorial integrity, ethnic problems often acquiring forms of separatist militancy have added new dimension to the problems of self-determination which necessitates reevaluating its contents to make it harmonious with the principle of territorial integrity.

Principles of self-determination of nations and peoples and state territorial integrity are not meant to exclude each other, rather they are called for to complement each other. A state created on the basis of self-determination, as all modern states are believed to have been so created, must be guarded in its territorial integrity and sovereignty. This is not to raise road-blocks for those of the national or ethnic groups in a particular state whose appalling condition is a case prima facie and whose grievances genuinely warrant struggle for the rights of self-determination that must not exclude right to
secession. The crux of the problem is to find the limits of the principle of self-determination in a particular situation in order for it not to conflict with the demands of the territorial integrity. On the other hand, territorial integrity is no absolute category. Gross violations of human rights like genocide, apartheid, systematic annihilation of any minority communities, elimination of their language, culture and heritage may well justify secession and separate statehood. Protracted suppression of the rights of self-determination of such groups or community on the pretext of territorial integrity may pose greater threat to peace and security of the world community for which cause the principle of territorial integrity itself is held high in modern international law. What is important is to strike the right balance between the principle of self-determination and the principle of territorial integrity.

Growth of self-determination movements though a comparatively late phenomenon in South Asia is already acquiring a menacing character and poses serious threat to the security and integrity of the states of the region. The situation is aggravated by the cross-border implications of these predominantly ethnic and religious movements and an uneasy shadow of mistrust that prevails in the region. As facts show, countries of the region cannot evade responsibility for taking advantage of internal strife in the neighbouring countries and sometime for fomenting them which precipitate chain reactions creating and nourishing thereby constant intra-regional source of threat to security and integrity of themselves. These movements allegedly based on the principle of self-determination, therefore, call for fresh appraisal of the problems of self-determination and their implications for state territorial integrity in the South Asian region.

The present international legal order whose primary concern is peace, security and stability dictates precedence of territorial integrity over secessionists' rights of self-determination, if violence is applied for their realisation. Awareness by the countries of South Asia of this preemptory legal position as well as of political-security consequences of secessionist movements is indispensable. To know and respect
the law of self determination in correlation with territorial integrity is one of the primary conditions of peace and security in South Asia.

Tamils in northern Sri Lanka, Chakmas in Chittagong Hill Tracts (Bangladesh), Sikhs in the Punjab, Kashmiri Muslims, Assamese, Tripura National Volunteers (India) are some of the burning issues that have produced lately serious disquieting effect on the entire region. Claims of self-determination of these communities merit careful investigation. An appropriate qualification of them under international law may help determine responsibilities and obligations of the states of occurrence of these movements as well as of those of the neighbouring states.

Dialectics of Self-Determination and Territorial Integrity

The right of self-determination is the right of a people living in a territory to determine the political and legal status of that territory, for example, by setting up a state of their own or by choosing to become part of another state or by remaining within a state on the basis of autonomy. Before 1945 this right was conferred by a few treaties on the inhabitants of particular territories. The Treaty of Versailles, 1919, for example, provided for a plebiscite in Upper Silesia, to determine whether it should form part of Germany or of Poland. There was no legal right of self-determination in the absence of such treaty provisions. Until recently the majority of western jurists asserted that the principles of self-determination had no legal content, it being an ill-defined concept of policy and morality. Since 1945, developments in the United Nations and the influence of the Afro-Asian and socialist opinion, have changed the position, and now it is widely admitted that self-determination is a legal principle. The generality and political aspect of the principle do not deprive it of legal content.

Some of the important documents that have made it a legal principle are: (i) Article I, Paragraph 2 and Article 55 of the UN Charter where reference is made to 'the principle of equal rights and self-determination of the peoples'; (ii) Resolution 637 A VII of 16 December, 1952, of the General Assembly recommending, inter alia, that the State Members
of the United Nations shall uphold the principle of self-determination of all peoples and nations; (iii) Declaration on
the Granting of Independence to Colonial Countries and
Peoples adopted by the General Assembly in 1960 which is
considered by many not merely as a recommendation but
authoritative interpretation of the Charter provisions on self-
determination;9 (iv) Declaration of Principles of International
Law Concerning Friendly Relations adopted by the General
Assembly in 1970 (Part V, para.4); and (v) Article I common
to both the International Covenants on human rights --
Covenant on Civil and Political Rights and Covenant on
Economic, Social and Cultural Rights -- stating that 'all
peoples have the right of self-determination'. The Advisory
Opinion of the International Court of Justice relating to
Western Sahara confirms the 'validity of the principle of self-
determination' in the context of international law.10

As a concept, the principle of self-determination of the
peoples is very dynamic and has several facets. In the long
history of evolution of the concept, perhaps beginning with
the French Revolution of 1789, particular facets or aspects of
the concept have gained ascendancy in a given period and
played its relevant historical role.11

Modern indoctrination of the concept of self-determination
owes much to the idea of self-government propounded by
Widrow Wilson and his general views on a democratic world
order.12 These noble ideas were incorporated in his famous
Fourteen Points and later found expression in the Atlantic
Charter enunciated by F. Roosevelt and W. Churchill in 1941.
After the Second World War and the Charter of the United
Nations, the concept became a powerful weapon for fighting
colonialism to see through the end of this vice of civilisation.
The right of self-determination and the attainment of political
independence by the colonial people became almost
synonymous in political-legal parlance. Many, therefore,
believe that the right of self-determination is relevant only in
colonial context. In the post-colonial period, its relevance,
they argue, is confined to the right of each state to determine
its own political system as well as its economic, social and
cultural policies without any interference from outside. It is
thus believed by some that outside of the colonial context, the
right of self-determination is a 'used-up' concept and hardly has any relevance for the peoples, communities etc., living within the sovereign states.\textsuperscript{13}

The right of self-determination in fact is not a 'used-up' concept. It has not ended with the end of colonialism and with the implementation of the right of each state to determine its own political, social, economic and cultural model without outside interference. It concerns right of peoples within a state as well, i.e., equality of peoples within a state.\textsuperscript{14} In practice, it concerns rights of different ethno-religious and linguistic minorities in a state to determine and promote their own identities. Subsequent international instruments have amplified this particular aspect of the contents of the Charter concept of self-determination. The work being carried on in the agencies of the United Nations, especially in the Sub-Commission on the Prevention of Discrimination and Protection of Minorities testifies to importance being attached to this issue. International Labour Organisation is also doing commendable work on the status as well as the rights of indigenous peoples living in various states all over the world. The Economic and Social Council by its resolution No.1982/34 of May 7, 1982 authorised the Sub-Commission to establish a Working Group on Indigenous Populations with a view to reviewing the development concerning the human right situations of indigenous populations and to develop standards concerning indigenous rights.\textsuperscript{15} The Declaration on Principles of Indigenous Peoples' Rights adopted by the Fourth General Assembly of the World Council of Indigenous Peoples (WCIP), a non-government organisation formed the basis for the work of the UN Working Group. First of the seventeen principles of the Declaration asserts: All indigenous peoples have the right of self-determination. By virtue of this right they may freely determine their political status and freely pursue their economic, social, religious and cultural development".\textsuperscript{16}

In the atmosphere of world wide concern and struggle for human rights, world community has become more sympathetic and attentive to the cause of different countries who are fighting for their various rights which have not found adequate realisation within the established nation-state.
Wide scope of the principle of self-determination combining with negative or even hostile response of many governments to the grievances of various ethnic minorities of modern states has produced one of the fundamental contradictions of modern world development -- contradiction between the principle of self-determination and the principle of territorial integrity. Resolution of this contradiction is necessary for peace and security.

Self-determination is an evolving concept and reached its peak in the process of decolonisation. Modern states are for the most part creations of the principle of self-determination. Principle of sovereign equality and territorial integrity is a guarantee for the security and stability of these states. It is argued that while the principle of self-determination acts as the standard for the acquisition of rights, territorial integrity deters the violations of those rights. Fruits of self-determination, therefore, can be best guarded by strict adherence to the principle of territorial integrity. International instruments which provide for the realisation of the principle of self-determination are not averse to the principle of territorial integrity, rather they underscore the need and importance of strict adherence to the principle.

In the present-day volatile international situation, a search for conditions of peace, security and stability is of primary and prime consideration. Too idealistic and liberal attitude to the principle of self-determination may prove counter-productive for the ethno-religious militancy with easy access to sophisticated weapons and with extreme emotions added to their cause will pose real threat to territorial integrity and sovereignty of states considered so fundamental as to outweigh all other conditions of peace. On the other hand, plea for territorial integrity must not justify gross violations of human rights like genocide, apartheid, systematic annihilation of minority communities, their cultures and identities.

UN Charter in Article 2, Paragraphs I and 4, more than any other international documents specifically provides for sovereign equality and territorial integrity of states. Declaration on the principles of international law is considered authoritative interpretation of the UN Charter
concerning international relations and international law. The Declaration while elaborated upon the multi-dimensional contents of the principle of self-determination recognising the rights not only of the colonial peoples but also of the peoples within the sovereign states as well, emphatically states:

Nothing in the foregoing paragraphs shall be construed as authorising or encouraging any action which would dismember or impair, totally or in part, the territorial integrity or political unity of sovereign and independent states conducting themselves in compliance with the principle of self-determination and thus possessed of a government representing the whole people belonging to the territory without distinction as to race, creed to colour.\(^{19}\)

Even the Declaration on the Granting of Independence to Colonial Countries and Peoples, document considered a charter on self-determination, states that "any attempt aimed at the partial or total disruption of the national unity and the territorial integrity of a country is incompatible with the purposes and principles of the Charter of the United Nations".\(^{20}\)

Concerning the internal aspect of the principle of self-determination, i.e., right of the peoples within a state as against external aspect of the principle, i.e., freedom from foreign domination, the problem is often the identification of the `self`.\(^{21}\) Who are the peoples whose rights are to be attended to? Even if they are identified and they have a cause, does it justify secession? World community is justifiably sensitive to this question. Any form short of secession seems more likely to fit in the contemporary international system when it is faced with the problems of self-determination. It may be interesting here to quote from the Report of the Special Reppporter, Jose Martinez Cobo on Study of the Problem of Discrimination against Indigenous Populations. The report in part states:

.... It must also be recognised that the right to self-determination exists at various levels and includes economic, social, cultural and political factors. In essence, it constitutes true exercise of free choice by indigenous people who must, to a large extent, create the specific content of this principle, in both its internal and external expression, which do not necessarily include the right to secede from the state in which they live and to set themselves up as sovereign entities. This right may, in fact, be expressed in various forms of autonomy within the state, including the individual and collective right to be different and to be considered different.\(^{22}\)
A realist's view as against that of an idealist is what is necessary for reaping the benefits of self-determination. Fixity of national boundaries and of national allegiance, together with political stability, would disappear if this principle were indiscreetly applied. Impelled by new social conditions, by economic interests, by racial and ethnic prejudices and by the various forces which affect society, change and uncertainty would result from an attempt to follow the principle in every case to which it is possible to apply it. The realist argues that various problems of self-determination should be solved solely by reference to the objective 'national interest', and no scope should be allowed for internal political pressures favouring the interests of one or another of the claimant "selves". Every demand for self-determination involves some countervailing claim, usually that of the territorial integrity of some other 'self'. This dilemma is proposed to be resolved by the realists on the basis of the pragmatic considerations of 'national interest' as decisive criteria.

It appears from various international instruments and state practices as well as from scholarly opinions that while rights of ethnic minorities are universally recognised, their realisation would not be encouraged in the form of separate statehood, if the means is not non-violent. Autonomy would be a preferred form. What exact form or degree of autonomy would be appropriate would depend on the respective fact-situations. Much depend on the policies of particular governments in power. Some argue that the guarantee of territorial integrity is, in substantial degree, contingent upon the existence of a representative government. This view, however, creates opportunities for secession. Unrepresentative government in the context of gross violations of human rights may provide good ground for secessionists' movements that are likely to earn wide international support.

Many states accord a high level of self-determination to ethnic groups in their constitutional law, though autonomy is not widely perceived as an obligation in general international law. These remarks also apply to indigenous populations — though there is a stronger international movement in their
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favour than for minorities in general. UN Working Group on Indigenous Populations is at present drafting a set of principles. A key concept in process of elaboration is that of "ethnodevelopment": the development of ethnic groups within the larger society as a compromise between ethnic self-determination and the nation-state. For both categories, there is need to strengthen implementation procedures, to amplify and specify norms, and to press for just treatment of groups. Attempts are to be made to convince states that maltreatment of their minorities is a primary cause of internal and international strife.

The member states of the United Nations are more inclined to address themselves to existing political realities and to give greater weight to recent historical considerations. The underlying consideration is obviously to stabilize community expectations on the basis of current history. The UN practice has generally been that the principle of territorial integrity takes precedence over that of self-determination if the issue of secession involves a member-state.

When a sovereign state applies for membership of the United Nations and the latter accepts the applicant-state, the entire UN membership tacitly accept the new member-state as distinct political unit and become committed to safeguarding its sovereignty and territorial integrity.

The two doctrines of self-determination and territorial integrity defined the right of colonies to become independent within their already established colonial boundaries. Once the majority have exercised their right to self-determination within a given geographical entity the United Nations has generally supported the peaceful existence of the sovereign state. It is, therefore, held that a state which intervenes to aid a rebellious group to break away from another state is itself committing an illegal act. Secession by violence could not be recognised as a legal right.

Charter of the Organisation of African Unity emphasises the principles of "Sovereignty and territorial integrity of African States and the preservation of existing de facto colonial boundaries". The OAU's position with regard to self-determination is that once the peoples had availed themselves of this right and became independent, the principle
had little further relevance. The right to self-determination, therefore, became identified with colonialism. Once the right to self-determination was exercised and independence achieved, "the doctrine of territorial integrity clearly meant that a Katanga-like secession could not be justified by claims to self-determination." Self-determination movements of ethnic minorities in different countries and regions are not equal in merit, nor their dynamics follow any set pattern. Each case is peculiar in itself. Their character and genuineness is contingent upon individual fact-situations. Objectives of these movements must be tested on the touchstone of territorial integrity. Contents of the principle of self-determination are to be adjusted with the demands of state territorial integrity and peace and security in general. Various ethnic movements in South Asia with their cross-border implications offer interesting study in this regard.

Self-Determination and Territorial Integrity in South Asia

South Asia is a region of mutual mistrust. This is its colonial legacy which still hangs heavy on the region. Various separatist movements which have grown in the region in the last two decades have further aggravated the situation and have made the region look ominously militant. The principles directly at issue are that of self-determination of the various ethno-religious groups within the states of the region and territorial integrity of these states as it is threatened by self-determination claims. These movements have acquired special dimensions due to their cross-border origins and effects; 'policy of sustenance' pursued by the neighbours against one another and the lack of mutual confidence and trust that generally characterises the relations amongst the states of the region.

Some of the movements that have in the recent years posed formidable problems for the respective governments are Tamils' armed insurgency for separate Tamil state in Sri Lanka, Chakma militancy for autonomy in Chittagong Hill Tracts (Bangladesh), struggle of the Indian Sikhs in the Punjab for establishing their own state Khalistan, ULFA movement for the separation of Assam and Kashmiri
Muslims' claims of self-determination. These movements with the exception of Kashmir, do not date back very far and they did not emerge first as separatist movements. They mostly concentrated on civil, economic, ethnic and religious rights. Mishandling of them by the respective governments and outside interference have made these movements what they are today. It is notable that these movements, again with the exception of Kashmir, were never discussed in any competent international forum like the United Nations and their claims to separate statehood have not received any international recognition.

(a) Tamils in Sri Lanka

Long drawn ethno-political turbulent in Sri Lanka is a constant reminder of the complicated question of self-determination of minorities in multi-national and multi-ethnic states. It has also once again brought into sharp focus a very sensitive issue, i.e., outside interference or involvement in such cases.

Geographical proximity of India to the problem-area and her Tamil connection involved India in the Sri Lanka affair since the very early days of the trouble. This involvement grew with time ending in intervention. In the peculiar circumstance of India becoming too important a factor to be ignored by Sri Lanka in her pursuit for resolution of the Tamil problem, was signed the controversial Indo-Sri Lanka Agreement to Establish Peace and Normalcy in Sri Lanka with subsequent sending of Indian troops there. Changing behavioural pattern of India to the gradual development in Sri Lanka since violence had erupted in the island in early eighties calls for a careful study by political as well as legal analysts. Matters which merit careful investigation are (i) legitimacy of Tamils' claim for a separate statehood (Eelam), (ii) means they are applying for reaching their goal, (iii) Indian attitude to the problems and (iv) security implications for the region.

Tamils, a minority group in Sri Lanka comprising 20% of the population, but forming an overwhelming majority (92%) in the Northern Province of Jaffna and a substantial minority (40%) in the Eastern Province of Batticaloa, have been engaged in armed struggle for the creation of a separate
Tamil state (Eelam) in the Northern and Eastern Provinces. Initially, they fought politically, and within the concept of a united Sri Lanka. Failing to achieve politically what they considered their legitimate objectives, and victims of frequent ethnic violence, Tamils resorted to arms for an extreme solution of their problems -- creation of a separate Tamil state. With this end in view, various guerilla groups were organised of which Liberation Tigers of Tamil Eelam (LTTE) emerged as the most dominant.

The Tamil issue in Sri Lanka derives its Indian dimension by virtue of the fact that (a) there is a large Tamil population in South Indian state of Tamil Nadu, separated from the Tamil populated northern region of Sri Lanka only by the 22-mile Palk Strait, (b) the Tamils in Sri Lanka have always looked beyond the Palk Strait as land of their origin and for reassurance, (c) militant Tamils sought and got shelter and arms from India and (d) following trouble in Sri Lanka there was a huge influx of refugees, about 1,50,000, into the southern parts of India.

Huge influx of Tamil refugees into India in mid-eighties provided her the primary ground for expressing legitimate concern. Gradually this concern deepened and India started giving the militant Tamils arms as well as training. Subsequently, Indian diplomacy succeeded in superimposing herself as an active mediator in the negotiations between the Tamils and Sri Lankan Government. India manipulated the situation to secure for her a position in relation to Sri Lankan Government as well as the Tamil guerillas from where she could mould events in Sri Lanka. The Indian position and posture developed so actively as to reach a point where she allowed herself to cross over Sri Lankan air-space (4 June 1987) without the prior permission of the Sri Lankan Government and dropped food and medicine for blockaded Jaffna people. This was followed by the controversial Indo-Sri Lanka Agreement which sought to solve the problem of Tamils' right to self-determination within one Sri Lanka. Even Indian troops were sent to Sri Lanka under the Agreement in order to tame the guerillas. But the efforts did not extinguish fire in Sri Lanka. India was compelled to withdraw her troops. Fire and blood is still the harsh reality.
in the island state.

It is to be remembered that creation of a separate state is not the only means for the realisation of the rights of self-determination of the people. Tamils in Sri Lanka while established genuineness of their struggle for achieving certain rights, could not however establish legitimacy of their claim for a separate state, nor did their armed insurgency received any wide international recognition. In the post-colonial period, under the conditions of modern state-system and international legal order, the principle of territorial integrity of a state has clear precedence over right of self-determination, this being understood as the right to separate statehood, unless the creation of a separate state is the only way capable of implementing the contents of the right of self-determination. Tamils have failed prima facie to establish their case of separate statehood. Sri Lankan Government, initially averse to various demands of the Tamils, ultimately took full stock of the situation and became agreeable to their original demands for economic, ethnic and linguistic rights. This was reflected in the Indo-Sri Lanka Agreement. While the Agreement was in many respects concessionary in character favouring India that provided serious controversy about its validity, it also secured substantial autonomy for the Tamils. Many Tamil political and guerilla groups accepted the accord. But the LTTE rejected it. So the civil war in Sri Lanka drags on.

India while expressing sympathy for Tamils, never supported their claim for a separate Tamil state. India reiterated her position on many occasions. She took active interest in seeing Tamils' demands met within the concept of one Sri Lanka. The question then is why India had been nourishing the guerilla forces, if she was not interested in a Tamil success in the struggle for a separate state. By her material and moral support to the militants was India then attempting to strengthen the negotiating position of the Tamils making herself at the same time a strong factor in any settlement of the ethno-political impasse in Sri Lanka? Whatever were the motives, Indian involvement in the matter was clear.

In spite of the fact that India at no stage seemed aiming
at the dismemberment of Sri Lanka, her role complicated the whole situation. Declared Indian position on the right of self-determination is that this right applies only to peoples under foreign domination and does not apply to sovereign independent states or to a section of the people or nation which is the essence of national integrity. Such position and policy is founded on her national interests, since there are sufficiently strong ethno-religious forces militantly active inside India to keep her on constant vigilance and any dismemberment of the neighbours on ethnic issue will only worsen her own case. Still Indian record on the issue is far from being fair.

Ethno-religious issues are very touchy and sensitive. Any disregard of the identity of these communities is likely to make them all the more aggressively committed to their cause. Negative attitude of the government concerned towards resolution of their problems coupled with deliberate incitement and assistance from outside will turn any of the groups' movements for the implementation of the rights of self-determination within united state structure to separatist militancy which may not eventually be supported by the instigating or interfering power itself. Movements develop by their own laws. This is exactly what seems to have happened in Sri Lanka. By extending material assistance to Tamil guerillas, India not only interfered in the internal affairs of Sri Lanka, itself a violation of one of the principles of international law, i.e., non-interference in internal affairs of another state, but has also prepared the ground for a protracted separatist civil war threatening the territorial integrity of Sri Lanka. If India truly believes the realisation of the Tamils' rights of self-determination are possible within one Sri Lanka, and she has repeatedly stated so, Indo-Sri Lanka Agreement is the proof, then her fundamental mistake, deliberate or otherwise, has been to supply arms to the Tamil guerillas and to train them for war. India cannot evade responsibility for putting the principle of territorial integrity at stake for which she advocates so much.

(b) Chakmas in the Chittagong Hill Tracts

In view of almost monolithic character of the demographic element of the state of Bangladesh, it is interesting that
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ethnic problem should have at all grown in this country. But it has and continues to remain one of the main security concerns of Bangladesh.

Bengalees in Bangladesh form more than 98% of the population of the country while remaining are ethnic minorities predominantly Chakmas and mostly concentrated in the Chittagong Hill Tracts (CHT). A section of these minorities resorted to arms when they considered their grievances were not sufficiently taken care of. These grievances concentrate on threat to their cultural identity, de-tribalisation through Bengalee settlement and insufficient economic development. \(53\) Protests began to be voiced immediately after the liberation of Bangladesh with the formation of the Jana Sanghati Samiti under the leadership of charismatic Chakma leader Manabendra Larma. In 1976, a military wing was added to this association which was named Shanti Bahini. With it began sporadic and later massive guerilla activities by the ethnic militants in the large area of the CHT. \(54\)

There is no denying the fact that at no stage of the historical development of the South Asian sub-continent, sufficient attention was accorded to the ethnic minorities of the CHT. They always remained an exploited and humiliated mass. After the liberation of Bangladesh, their dreams and expectations naturally swelled up, but to their utter dismay situation remained for them as before, in some cases worsening further.

Fundamental problem of the ethnic minorities in the CHT is their alienation \(56\) alienation from land, from their economic life, from their life-style and culture. First major thrust of alienation came from the construction of Kaptai Dam in the early sixties which submerged a huge area of 350 sq. miles totally disrupting life of about 100,000 tribal people, mostly Chakmas. The area was essentially arable -- a fact which is significant in view of the general intractability of the hilly region. Alienation from land by Bengalee settlement was always there but the process intensified under government land policy after the emergence of Bangladesh. Situation worsened when post-liberation Government in Bangladesh pursued a policy of Bengalisation \(56\) of the ethnic minorities posing grave threat to their age-old separate identity. This
coupled with economic hardships led to militancy.

But the situation was not as alarming as to defy an internal solution of the problem. Even in 1973, Sheikh Mujibur Rahman, the first Prime Minister of Bangladesh, initially averse to minorities' specific demands, started showing understanding of their problems and hinted at a policy of rationalisation of Bengalee settlement which was one of the primary concerns of the minorities. But his Government was short-lived.

Subsequent Governments in power did little to stop the process of Bengalee settlement. In fact, it was not possible to do so altogether in view of the over-population situation generally prevailing in Bangladesh and under-population of the CHT. Flooding of the region by an alien Bengalee population was no doubt an encroachment on their traditional life-style. But a rational policy of controlled Bengalee settlement in specific areas accompanied by a long-term planning of socio-economic development of the minorities keeping in view their cultural, religious and linguistic identities within a broader government policy of adjustment of national interest with that of ethnic minority interests is capable of serving the general interests of the state of Bangladesh. After initial misgivings and mistakes, successive Governments in Bangladesh ultimately showed proper appreciation of the fact and undertook concrete steps for improving the situation. Nevertheless, bloodshed and instability in the CHT during the last decade has been a harsh reality for the nation.

It is a well-known that growing militancy amongst ethnic minorities in CHT, intensification of guerilla operations, Government's stern attitude and military actions against Shanti Bahini guerillas, retaliatory actions and killings of both innocent tribals and non-tribals, influx of refugees into the Indian state of Tripura all have occurred in the context of deteriorating Indo-Bangladesh relations after August 1975. This is one single most glaring example of an outside power becoming a major, if not the sole, factor of sustaining an awesome militancy in another country. In view of the geography of the region and the meagre size of the ethnic population involved, it does require one only to apply simple
logic and common sense to understand ‘the source of force’ of the militants. Actual facts too do not draw any different picture.\textsuperscript{58}

It is notable that Chakmas’ struggle for the rights of self-determination never turned into a separatist movement. They claimed substantial degree of autonomy within the concept of united Bangladesh, to safeguard their traditional right to land and to protect their representation submitted to the Constitution Draft Committee on 15 February 1972.\textsuperscript{59} They have essentially not deviated from the original stand, but their means of reaching the objective turned violent. Non-separatist character of the movement unlike many others in the region of South Asia provided sufficient reasons for an early solution of the problem. Autonomy is nothing but a bundle of rights and obligations whose contents are a function of negotiations and understanding between central authority and the entity claiming autonomy. Unless a powerful extraneous factor is superimposed, negotiations are likely to lead to understanding and agreement which has unfortunately not yet happened in the case of Chakma issue.

There have been excesses on both sides--militant Chakmas and Government forces -- one to press home their demands and the other to crush them. Violations of human right in CHT have been recorded and reported by various human rights groups and agencies.\textsuperscript{60} Realising the gravity of the situation, Government side has undertaken series of initiatives to facilitate negotiated settlement. Government through a contact group initiated negotiations with the militants in October 1985.\textsuperscript{61} Several meetings were held several including one in December 1988. All failed. Negotiations were then discontinued. Latest Government move in resolving the problem is the enactment of Chittagong Hill Tracts Local Govt. Act (March 1989) under which elections were held to three District Councils. These legal measures delegated considerable degree of self-governance to the elected local bodies whose composition and representation have guaranteed overwhelming majority (2/3) of the ethnic minorities in these bodies.

While the various moves by the Bangladesh Government have not finally solved the problem, they have certainly
created an atmosphere of confidence amongst the minorities. Recent move by the Government to reopen talks with the representatives of *Jana Sanhati Samity* and formation of an eight-member committee for the purpose is an encouraging development. Creation of the elected local government councils under newly enacted law received wide acceptance amongst tribal people. Their substantial participation in the District Council elections and later in General Elections to *Jatiya Sangsad* are indicative of the process of normalisation taking place in CHT. But the *Shanti Bahini* members despite large number of their ranks deserting and responding to Government's amnesty offer, have not surrendered arms in general and are still active. A large number of refugees have returned home, but a lot more, by some account 20,000 of them, are rotting in the camps in Tripura under threat from *Shanti Bahini* men should they move to return home.

Continuation of guerilla activities in CHT is not commensurate with the general improvement of the situation there. India, it is evident, "has not abandoned her policy of capitalising on the *Shanti Bahini* and the refugees which continue to provide convenient leverage to India to use them in her relations with the neighbour. So they persist. This is a policy which is counter-productive in politics and is a violation of the norms of law. Given the initial discontent of the ethnic minorities, the members of *Shanti Bahini* with training and constant supply of arms from India should be in a position to wage a prolonged war against Bangladesh posing serious threat to her poor economy and territorial integrity.

Bangladesh taking certain steps in substantial fulfilment of minorities' claims of self-determination would stand a better chance of success, if she is backed by neighbour's moral and political support. Should that happen, it could be a good precedent for a region which is infested with ethnic hot-spots. On the contrary, policy of taking advantage and inciting discontented groups and communities in neighbouring countries in disregard of the norms of international law and practice ignites chain reactions threatening regional security. Domestic turmoil and turbulence in one country has spill-over effects in its neighbourhood, and South Asia being an Indo-centric region, the turmoil in any one of India's
neighbours affects India, and vice versa. Under the circumstances, India is presented with multiple options which she has not always applied rationally.

In both the cases - Tamils in Sri Lanka and Chakmas in Bangladesh—transborder factor has emerged as the fundamental determinant for the prolongation of the problems. India occupying a pivotal geo-political location in South Asia is capable of playing the determining role in defusing tensions in the region. This potential role of India has remained largely unexplored. India's lack of political will to see a speedy end to the ethnic problems in her neighbourhood and her desire to preserve them as 'leverages' has not earned her rich dividends either. A different role played by India in these two cases could have generated confidence amongst the neighbours from which she could have only gained.

India is not free from ethnic problems. In fact, they are many and some of them are shaping to pose considerable threat to India's territorial integrity. These too have transborder qualifications, specially in India's western border areas. Had India played her part more reasonably and with foresightedness, it is highly improbable that ethnic issues would have acquired the magnitude they have acquired now in many countries of the region including India herself.

**Conclusion**

The principle of self-determination playing the decisive role in breaking the colonial empire and in creating a large number of sovereign states, has not cultivat itself. It is still relevant in relation to peoples inside a sovereign state. The principle stands for equality of peoples and realisation of their rights in various forms. But it comes in conflict with the principle of territorial integrity when the pursuit of minority or community rights in a particular state goes so far as to seek separate statehood. Resolution of this conflict requires striking the right balance between the contents of self-determination and demands of territorial integrity.

Contemporary international law tends to proclaim precedence of the principle of territorial integrity over the secessionists' rights of self-determination if the means applied for their realisation are violent. This is largely due to threat
to peace and stability that too idealistic and liberal view of self-determination might lead to by disrupting state territorial integrity. This makes any other means or forms short of secession preferable for the realisation of self-determination right. This is not to permanently seal the fate of the minority communities in a state where Government in power is undemocratic, repressive, and intolerant of minority right. Extreme cases would justify secession by whatever means. But they would be unlikely to set norm creating precedents. They would be considered permissible exception, rather than rule of law.

Ethnic problems in South Asia are highly influenced by their cross-border origins and effects, making the external factor of the problems more dominant than the internal. This coupled with general mutual mistrust that prevails in interstate relations in South Asia, has made the ethnic self-determination movement a major intra-regional source of threat to territorial integrity and security of the states of the region. True understanding of the balance between the contents of the principle of self-determination and that of territorial integrity and strict adherence by the countries of South Asia to the principles of territorial integrity and non-interference in the internal affairs of other states as well as a rational policy pursued by the respective governments in relation to the ethnic minorities can eliminate this threat-source.
Notes and References


10. ICJ Reports, 1975, pp. 31-33.


19. UNGA Resolution 2625 (XXV), Part V. UNDOC A/8018.

20. UNGA Resolution, 1514 (XV), Para. 6.


29. East Pakistan Case (1971) is a good example.
31. Ibid.
32. Ibid., p. 889.
34. Ibid., p. 432.
37. Korwa Gombe Adar, ibid., p. 446.
38. Michael M. Gunter, op. cit., p. 204.
43. The Tamils Fight for National Freedom, a memorandum submitted by the LTTE to the 7th Summit Meeting of Non-Aligned Nations held in New Delhi, 7-15 March, 1983.
47. Shah Alam, op. cit., p. 349.
49. Korwa Gombe Adar, op. cit., p. 446.
52. Patrick Thornberry, op., cit., p. 879.
54. Ibid.
56. Sunday 6-12, July 1986, Calcutta, p. 35; Upendra Lal Chakma, Address by the Chief Guest at the Seminar in Calcutta (f.n. 53) p. 3.
59. Bizhu (in Bengali), Tribal Students Council, Chittagong University, April 1989, pp. 16-25.
62. Ibid.
64. Ibid.