# macro

Minority Rights and Conflict Prevention: Case Study of Conflicts in Indian Jammu and Kashmir, Punjab and Nagaland

By Maya Chadda

India is a land of myriad ethnic, religious, caste and linguistic minorities affiliated to distinct belief systems, sub-cultures and regions. Integration of these diverse communities – some large enough to aspire to a regional homeland and others content to remain as part of the Indian state – has been a central preoccupation of Indian governments since 1947. This study explores India's policies and practice towards minorities, and three violent ethnic conflicts: the Sikh struggle for an independent state in the Punjab region; the Kashmiri Muslim demand for the separation of the states of Jammu and Kashmir from India; and the Naga claims to an independent state of Nagalim in the north-east. While these regions have experienced turmoil, other parts of India have been peacefully integrated, or at least have witnessed no violent insurgencies. This study seeks to explain the failures in Punjab, Indian Jammu and Kashmir (IJK) and Nagaland[1] in the context of a representative case of comparatively successful ethnic integration of the Tamil people in the state of Tamil Nadu. It suggests that failures to integrate are caused by (1) denial of democratic rights to minorities, (2) lack of political participation on the part of minorities, (3) interference by the central government and also (4) serious human rights violations by the state.

Why focus on minorities?

It is important to understand the conditions and problems of minorities in India. First, despite a relatively impressive array of constitutional and legislative guarantees, and the establishment of a broad range of institutions, autonomous bodies and commissions to monitor and protect the rights of minorities, India's disadvantaged and marginalized segments find their access to power and judicial redress blocked by a coalition of powerful forces. Minorities face discrimination, violence and atrocities. Constitutional and legislative protections have not prevented periodic pogroms against religious minorities, as in Gujarat in 2002, when more than 2,000 Muslims were killed, or in the riots following Indira Gandhi's assassination that led to the murder of 3,000 Sikhs in Delhi alone. The government
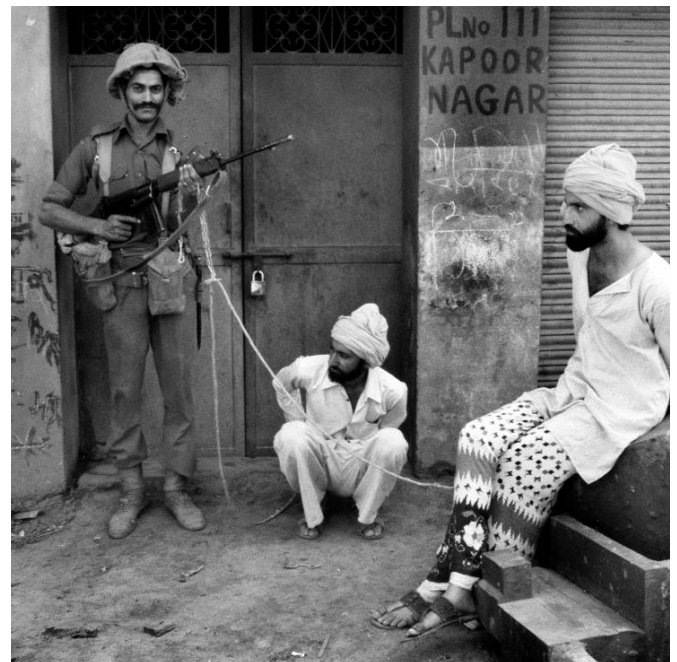
Sikhs being rounded up by the Indian Army in Amritsar, Punjab, 1984.
Raghu Rai/Magnum Photos

response to such riots has been ineffective. Nor have anti-discriminatory laws prevented caste wars in Bihar and atrocities against Dalits all over India. In protected tribal belts in Madhya Pradesh, Bihar, Jharkhand, Maharashtra, Gujarat and the north-east, hunger, joblessness, discrimination and violence are rampant. The tribal lands, which contain forests and rich mineral deposits, attract ruthless commercial interests with the resources to bribe local officials and subvert protective regulations.

Second, the wide gap between existing laws and the reality of minority conditions deserves attention. As a member state of the United Nations (UN), India is bound by the Universal Declaration of Human Rights (UDHR) and the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM). Of particular relevance to this study is Article 3 of the UNDM, which states:

'Persons belonging to minorities have the right to participate effectively in decisions on the national and, where appropriate, regional level concerning the minority to which they belong or the regions in which they live, in a manner not incompatible with national legislation.'

India has also ratified the International Convention on the Elimination of all Forms of Racial Discrimination (ICERD) (although it does not recognize that caste comes under the mandate of CERD), the International Covenant of Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), but for each of these India has made declarations, and it has not ratified the optional protocols of the ICCPR and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which provide for individual complaints.

India is also legally bound by treaties against torture, extra-judicial killings, illegal detention and targeted violence. However, India's anti-insurgency operations, as well as laws such as the Armed Forces Special Powers Act of 1958, lead to violations.

Third, human rights violations, oppression, atrocities and denial of political rights lead to violent protests that, in the three regions studied here, have developed into insurgencies. An understanding of how this happened will provide us with clues to avoiding and managing conflict.

It is necessary to explain why these cases have been chosen and why Tamil Nadu is regarded as an example of successful democratic integration. These three cases of ethnic conflict have continued throughout almost 60 years of post-independence history. During this time, economic and educational opportunities, as well as electoral rolls, expanded. How can we explain the persistence of these conflicts when democratic expansion should have provided ample room for ethnic representation? Almost six decades should have been enough time for Indian governments to find solutions to the conflicts. At a broader level, the failures in Punjab, Kashmir and Nagaland provide insights into difficulties emerging democracies have in reconciling territorial with religious, ethnic and linguistic nationalism; modernization with tradition; and democracy with security imperatives.

The Indian government did evolve institutional and ameliorative strategies to address the problems, but these were vitiated by the compulsions of competitive politics. One broad conclusion is that while democracy can be a solution to ethnic conflicts, it can also be a source of problems. The answer to this paradox is to deepen democracy further. The process of deepening worked reasonably well in Tamil Nadu. Although Tamil Nadu is by no means an ideal case of good governance, it is nevertheless a good case, within the Indian context, of conflict prevention via protection of minorities. This study thus demonstrates the need for an inclusive process of accommodation politics in line with commitments to protect minorities, including the weakest and most disadvantaged.

Although territorial autonomy can promote power-sharing where there is a large geographically based minority group, it doesn't guarantee change on the ground. It needs to be accompanied by human and minority rights protection and promotion for all communities, including the smallest and most marginalized. It must also be economically inclusive, and ensure political participation – access to power and self-government. Failure to address these structural aspects can contribute to motivating conflict.

Ethnic identities in historical context

Before the British arrived, India was divided into various large and small kingdoms, each multi-ethnic and multi-religious but with one or two linguistic groups that had gained dominance because of their size and royal patronage. For example, the current Indian Punjab is a small part of the original Sikh empire ruled by Maharajah Ranjit Singh (1779–1839). In 1849, the British divided the Sikh empire and created the kingdom of Kashmir. The kingdom of Kashmir is thus a recent construct, although the culturally distinctive identity of Kashmir can be traced back over many centuries. With the creation of the kingdom, the cultural and territorial identities melded into an aspiration for a separate nation-state. The kingdom consisted of diverse ethnic-linguistic and religious communities, but, for the Kashmiri Muslims who constitute a majority, partition and war in 1947 meant a repeat of the earlier tragedy: divisions and repression in the interests of external states. Similarly, the original Sikh kingdom is lost forever but the Sikhs carry within their historic consciousness the glories of the Sikh empire and memories of Muslim persecution.

British policies, such as the introduction of the census and recruitment into the colonial army along ethnic and religious lines, shaped ethnic self-definition. Many communities upgraded their caste status in registering for the census. The British had their own, often erroneous, understanding of India's social structure, for example, that the Sikhs were a 'warrior race'. These myths became a part of ethnic folklore and carried over into the political life of independent India. The British colonial rulers were sympathetic to the idea of quotas for the non-Brahmins represented by the Justice Party in Tamil Nadu. The establishment of caste quotas and separate electoral seats for Muslims and Sikhs was intended to divide and weaken the nationalist opposition to British rule represented by the secular and multi-ethnic Congress movement. However, this reinforced ethnic, caste and religious identities, and established a legacy of rivalry among these culturally defined communities.

INDIA

In the 1920s and 1930s, the nationalist leaders of the Congress movement delineated its provincial organizations along ethno-linguistic lines. For instance, the Maharashtra Provincial Congress committee brought the Marathi-speaking pro-Congress forces under a single umbrella, but did not merge its ethnic identity into an all India-identity. The nationalist era taught ethnic communities the value of mass mobilization against central governments, which they used to good purpose to demand equal status and treatment after independence. By this time, Brahmin–non-Brahmin differences had assumed political importance, the Sikhs were agitating for a separate state of their own, the Kashmiri nationalists were demanding independence from the newly established India and Pakistan, and the Nagas had refused to be included within the Indian Union. As border provinces, Kashmir, Punjab and Nagaland were important to India's security and international boundaries. The ethnic spread across the post-1947 borders, which were already disputed by Pakistan, China and Bangladesh, added a dangerous new dimension.

Determinants of majority/minority relations

There is no agreed definition for the term 'minority'.[2] Max van der Stoel, the Organization for Security and Cooperation in Europe (OSCE) High Commissioner on National Minorities, stresses his inability to describe what a 'national' minority is, but speaks of able to 'spot' one when

he sees one.[3] Francesco Capotorti suggests that a minority group is:

'numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the State – possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and show if only implicitly a sense of solidarity, directed towards preserving their culture, traditions, religion or language'.[4]

Today it is acknowledged that those denied citizenship can also be a minority. The essential elements of deciding who is a minority (and therefore should benefit from internationally recognized minority rights) are: (1) objectively, that a linguistic, national/ethnic or religious group exists; (2) subjectively, that individuals choose to define themselves as members of a particular group – the right to self-definition is crucial; (3) when such groups exist, that they are in a minority situation and lack power to decide their own affairs. Usually this will mean being a minority in a particular country but it can also mean being a minority in a part of a country if power is devolved.

How does democratic India understand the issue of group rights, particularly minority rights? As a state bound by many human rights standards, and as a secular federal democracy, India is committed – in its Constitution and by legislative policies – to prohibiting discrimination against, and providing equal protection for, minorities. India's social hierarchy and ethno-demography have affected the context of equal protection provisions. While it is not for the state to decide who is a minority, in the Indian context, the protection of groups requires codification in legislation and policies: minorities must be designated as such to gain state protection. India recognizes three types of minorities: religious, caste-based and linguistic.

1. *Religion based:* According to the National Minorities Commission, the designated minorities are the Muslims, Sikhs, Christians, Buddhists and Zoroastrians.[5] All religious minority groups are granted the right to personal laws. Of these, the Muslim civil code has proved the most controversial.

2. *Caste based:* Part XVI of the Constitution designates Scheduled Castes (SC) and Scheduled Tribes (ST) for protection. The Other Backward Castes (BCs) and Classes were added later by various acts of Parliament. These minorities have been targets of historical discrimination derived from the traditional caste hierarchy. The Indian Constitution seeks to reverse the wrongs by enacting affirmative action programmes[6] that provide not only equal protection in law but also 'reservation' of seats in the Assembly and national Parliament. Following an Act of Parliament passed in 1973, women, along with SCs and STs, are entitled to access what are now known as 'reservation' jobs in government, educational institutions and elected bodies. On 22 December 1992, the Congress

(I) government passed the Seventy-third Amendment, which gave Panchayats (village-level elected bodies) constitutional status and reserved 33 per cent of Panchayat seats for women and SC minorities. At the national level, the government has established nearly 35 bodies, such as the National Commission for Scheduled Castes, for Other Backward Castes, for Minorities and for Linguistic Minorities.[7]

3. *Language based:* There are two ways in which linguistic minorities are granted political space for participation and representation: through federal autonomy and by drawing up a schedule of languages and identifying minority languages for protection. The Indian federation privileges the dominant language groups that have numerical majorities in particular regions. The State Reorganization Commission, in its 1955 report, 'recognized linguistic homogeneity as an important factor conducive to administrative convenience and efficiency'.[8] Numerically large linguistic minorities with a distinctive history and regional identity have been entitled to a state-province within the federation, although the same communities may be divided in other ways based on caste and religion.

Overlapping minorities

How do the Sikhs, Kashmiris and Nagas fit into the Indian definition of protected minorities? All three are minorities in more than one sense. The Muslims, Sikhs and Christian Nagas are designated religious minorities and therefore entitled to cultural autonomy, control over their religious and community affairs, and to propagate their language and religion. The Nagas are a minority first as Nagas, but also as indigenous people in a designated special category state. IJK is also a special category state and, like Nagaland, receives 90 per cent of planned investments as grants from the central government and pays no central taxes. IJK is granted 'special status' by Article 370 of the Indian Constitution. As indigenous people, and by virtue of Article 371 (A) of the Indian Constitution, the Nagas in Nagaland state also enjoy special status within India.

While the Kashmiri Muslims, Sikhs in Punjab and Nagas are the regionally dominant communities, numerous other minorities are present in all three regions. In IJK, Hindus constitute 33 per cent, Buddhists 3 per cent and Kashmiri Muslims 60 per cent of the population. The Hindus are concentrated in Jammu, Buddhists in Ladakh and Muslims in the Valley, but there are other smaller ethnic minorities, as well as Shia Muslims, who have a different perspective on self-determination for IJK. Similarly, while the Sikhs dominate the state of Punjab, Hindus constitute a substantial minority. The Naga identity has evolved to bring many hitherto disparate Naga tribal groups, often speaking distinctive languages, under the umbrella of a single Naga identity. As the MRG report *Gender, Minorities and Indigenous Peoples* notes, 'Minorities

cannot be collapsed into one group or category'.[9] The construction of Naga identity, which now includes over 16 officially designated tribes within the state of Nagaland, suggests how complex and overlapping minority identities can be.

In 1955, India became a federation of 14 states and six Union Territories. Currently, the Indian Federation has 28 states and nine Union Territories and more may follow. The creation of new states has usually come about in response to demands by large and politically powerful ethnic communities, but the redrawing of internal boundaries without adequate attention to human and minority rights, good governance, and adequate political and economic participation have contributed to new conflicts. The turbulent history of Punjab, IJK and Nagaland underscores the limits of the territorial approach to integration in multi-ethnic India. Creating homelands for linguistic minorities within the federal framework is not enough – of equal importance is the policy of non-interference and good governance by both central and state governments.

Domestic compulsions

Why did confrontation and conflict in the three regions spiral out of control when India's Constitution and laws had explicitly extended empowerment and protection to minorities? Part of the answer is to be found beyond India's borders, in the involvement of ethnic kin states (Pakistan in IJK) or fellow ethnics (Burma/Myanmar Nagas), or the shifting balance of international politics. The second part of the answer is to be found in internal developments, particularly the rise and fall of leaders and parties during the years of violent conflict (which impeded delivery of minority rights) in Punjab (1982–93), IJK (1989 onward) and Nagaland (1960s and then again in the 1980s). These years were marked by a steady decline in the Congress Party's political fortunes, erosion of its electoral appeal, weakening of its organization and the centralization of power in the hands of the party high command. The Congress ceased to be a party of consensus and became a machine stuffed with sycophants and loyalists with little commitment to secularism, socialism or public welfare. Indira Gandhi, and then Rajiv Gandhi, arbitrarily dismissed elected state governments, appointed as chief ministers individuals with little popular support or appeal, and ruthlessly applied divide-and-rule tactics to protect and retain the Congress Party's pre-eminent position. This became increasingly difficult because of the expansion in the electorate and arrival of many hitherto excluded segments of the population in the political arena.[10] The trend away from the Congress gathered force in the late 1970s and 1980s to produce a multitude of powerful regional and ethnic political parties. In an attempt to outbid these parties, the Congress openly appealed to cultural and religious sentiments. This proved harmful for

India's secular democracy but was particularly disastrous in multi-religious IJK and Punjab, where the largest ethnic community also belonged to a minority religion.[11] India's ethnic conflicts can be explained in terms of centralization of power and erosion of capacity to resolve conflicts within the framework of its democracy.

In Tamil Nadu, by contrast, the separatist Tamil movement gave way to democratic integration within the union by the 1970s, when the drive toward centralization was at its peak. The following explains why integration failed in IJK, Punjab and Nagaland, while Tamil ethnic separatism was successfully integrated into mainstream India.

Why integration worked in Tamil Nadu

The total populations of IJK, Punjab and Nagaland constitute less than 4 per cent of India's billion plus people. The integrative strategies mentioned above have worked in large areas of India. Tamil Nadu underlines how scrupulous observation of ethnic autonomy, adequate representation at state and national level, inclusion of smaller minorities through ethnic power-sharing and shared access to state benefits can turn a separatist movement into a force for democracy and a willing part of the state.

The Tamil demand for a separate Dravida state dates back to the period before independence and persisted for two decades afterwards. The evolution of a self-conscious Tamil or Dravidian identity is rooted in the Tamil literary movement of the early nineteenth century and the subsequent establishment of the Justice Party in 1917 in what was then the Madras Presidency.[12] The original purpose of the Justice Party was to press the British administration for special quotas for non-Brahmins in civil service jobs and education; it was not separatist. Later, an offshoot of the party, the Dravida Kazhagam (DK) was built around the demand for a separate Dravida Nadu (Dravida Country). The Dravidian separatists argued that India's Dravidian south had little in common with its Aryan/Sanskritic north, and that its distinctive cultural and historical identity formed a legitimate basis for a separate state.[13] In the 1950s, India faced in Tamil Nadu a fiercely separatist movement that could have led to the unravelling of the Indian Union.[14] However, the Dravidian movement did not become popular in real political or electoral terms until it shed its separatism and focused on the social, economic and political problems of the Tamil people. Immediately after India's independence, the DK split. The splinter group, Dravida Munnetra Kazhagam (DMK), although it stuck to the separatist goal at that time, was for participation in independent India's new political processes like elections. It began to take up issues like caste and economic inequalities, Brahmin domination and the status of the Tamil language, with a view to contesting elections.

Participation in democratic politics and elections resulted in its playing down separatism and playing up other issues.

By the time it had gained control of state politics, in 1967, Tamil nationalism had become progressively integrated into the Indian mainstream. Even the outbreak of the Tamil–Sinhala civil war in Sri Lanka in the 1980s did not rupture Tamil Nadu's commitment to the Indian Union. How did this come about and what policies or developments converged to produce it?

The first policy that undermined the demand for a separate Dravidastan was the grant of linguistic state-province in 1956. This undercut the alliance of southern separatists that had envisaged a state of Dravida Desam consisting of Telugu, Kannada and Malayalam speaking regions and people. The formation of linguistic states, with Madras state for the Tamil speakers, was one of the main reasons why the DMK formally gave up separatism in 1962. Still, demand for political self-rule and cultural autonomy remained strong and culminated in widespread rioting and violence in the 1960s, when the central government sought to impose Hindi as the national language.[15] Around 60 civilians died in language riots. The popular response in Tamil Nadu was similar to what transpired in IJK 30 years later, when protests against the rule of Governor Jagmohan and New Delhi led to a complete breakdown in law and order and eventually spiralled into an insurgency.

The language crisis was resolved by accommodating the Tamil demand to privilege the Tamil language as a medium of instruction and an official language in Tamil Nadu. In fact, the central government evolved a three-language formula that accommodated similar ethnic demands elsewhere. This weakened the extremists and strengthened the pro-integrationist forces within the Dravidian movement, and the leaders of the agitation won a landslide victory in the 1967 election. Had the central government remained intransigent, the language issue would have festered, creating the probability of yet another separatist conflict in India. The Lal Bahadur Shastri and then Prime Minister Indira Gandhi's government opted for a compromise and accepted an increasingly secondary role for the Congress in Tamil politics.

By the 1970s, Tamil Nadu had settled into a two-party system dominated by the DMK and AIDMK (an even more pro-poor offshoot of the DMK), each differing in local coalition partners and electoral base but subscribing basically to the same ideology.[16] The empowerment of the regional ethnic parties that broadly represented the ethno-linguistic identity of the majority Tamils fulfilled the first pre-condition for ethnic peace. The Congress Party tried to interfere with Tamil politics but the Dravidian parties were able to prevent this. Tamil Nadu has been able to wrest valuable concessions and economic projects through power-sharing at the centre. The institutionalization of a stable two-party system in the post-1967 era went a long way towards ensuring ethnic peace in Tamil Nadu.

An important feature of this evolution was the steady expansion in the vote base of the Dravidian parties and the flexibility and autonomy extended to their cadres.[17] A huge number of voluntary organizations – caste associations, literary societies, film fan clubs, farmers' and white-collar workers' unions – were established to increase participation of caste and class minorities. Political alliances formed during elections were cemented subsequently with the provision of 'reserved' seats to women and minorities in the state Assembly, in civil service jobs and educational institutions.[18] These policies fulfilled the second precondition, namely, minority protection and representation. They also prevented conflict between different religious, linguistic and caste communities within Tamil Nadu. The DMK and AIDMK had established mechanisms for ethnic accommodation and incorporated smaller minorities in the political process. This forestalled violent mobilization of smaller minorities within Tamil Nadu; a condition largely absent in the three regions of Punjab, IJK and Nagaland.

This is not to suggest that Tamil Nadu is a paradise for minorities. There have been clashes between the Vanniyars and Dalits or Dalits and Thevars.[19] What is paradoxical is that some of these incidents were in response to improvement in the conditions of the Dalit community, their consolidation as a political force and their state-protected access to benefits under the 'reservations' policies. While Tamil Nadu was generally free of communal conflicts, in the 1980s some Dalits (i.e. Hindu untouchables) converted to Islam because of indignities heaped on them by the upper-caste Hindus. There was a violent backlash by upper-caste Hindus against Muslims and these new converts. The 1990s also saw some clashes between Hindus and Muslims in Tamil Nadu,[20] but these are rare. Tamil Nadu has done more than most states to integrate minorities into the normal processes of party politics.

To sum up, a vigorous voluntary sector combined with flexible leadership, generally non-interfering central government and broadly shared state benefits were the elements of successful Tamil integration into Indian democracy. Unlike in IJK and Nagaland, the central government delivered on what it promised: autonomy and the sharing of power and office based on a general policy of non-interference. The state-level political parties, for their part, delivered participation, inclusion, distributive justice, minority protection and economic welfare, fulfilling the second condition for ethnic peace. Although Tamil Nadu has a long way to go in many aspects of good governance, such as transparency and ethical politics, it has an enviable record of anti-poverty programmes, literacy and rural uplift. Also, its political alliance system ensures representation for, and grants minorities access to, the state.

Case 1: Indian Jammu and Kashmir

IJK has been the focus of a dispute since 1947 among India, Pakistan and the Kashmiris. There are two intertwined dimensions to this dispute, one over sovereign territorial jurisdiction between India and Pakistan, both claiming all of IJK and Azad Kashmir, and the second largely between the Valley Muslims and the Indian government over the issue of self-determination. The Kashmir conflict also represents clash of ethnic, territorial and religious nationalism. Each ideology cuts across in different ways through the Valley, Jammu and Ladakh, the three areas that currently constitute IJK. During the past six decades, the dispute over territorial jurisdiction has led to three wars and periodic clashes between India and Pakistan; the struggle for self-determination, waged initially by the National Conference (NC) in the 1950s, has come to be dominated by extremist Islamic elements in the 1990s.

Although cross-border support and the increasingly 'Islamic' character of the struggle have prolonged the insurgency, Pakistan did not create it. For that we must look to the centralizing policies, erosion of promised autonomy and poor governance in IJK. Any solution to Kashmir will require reconciling not only the territorial claims but also the mutually excluding definitions of identities among IJK's diverse communities. The first is properly the province of governments and international agencies, although civil society groups can play a critical role in preparing the ground for negotiations. The second lies more within the purview of civil society organizations, which can promote communal coexistence and build networks of Hindu–Muslim–Buddhist cooperation to create progressively larger islands of peace and security amidst violence and repression.

Since 1989, Jammu and Kashmir, especially the northern Valley of Kashmir, has witnessed entrenched militancy and equally stubborn military repression by Indian security forces. The Kashmir insurgency 'demonstrates the dangers states face when political mobilization occurs' but political institutions and government policies fail to accommodate it. Popular mobilization can turn violent when multi-ethnic societies, like IJK, have only 'limited channels for minorities to express discontent', while expansion in education, incomes and joblessness have heightened expectations and resentment.[21] The dispute over Kashmir remains unresolved.

Close to two-thirds of the population of IJK is Muslim. The British sold the Valley of Kashmir to the Hindu Dogra ruler, Gulab Singh, in 1846. Maharajah Hari Singh, who ruled Kashmir until October 1947, could not decide whether to join India or Pakistan. As he dithered, tribal raiders, followed by Pakistan regular forces, moved towards Sri Nagar, the capital.[22] The Maharajah was already under

intense pressure from popular discontent in the Valley, led by Sheikh Abdullah. Fearing for his life, he fled the capital and pleaded for assistance from India, which was offered provided the Maharajah acceded to New Delhi. The accession was provisional and to be made permanent based on popular approval. The manner of this approval – whether elections under Indian administration can replace a plebiscite – remains a matter of debate.[23]

A UN supervised and monitored ceasefire was declared in January 1949. Patrolled by the UN Military Observer Group in India and Pakistan (UNMOGIP), the ceasefire line has remained in place until now as the Line of Control, albeit with frequent cross-border firing. Since 1949, two wars have occurred (in 1965 and then in 1971 over Bangladesh), as well as the 1999 Kargil clash, but the Line of Control has remained intact. Not all parts and communities of Kashmir desire independence, however. Generally, Ladakh and Jammu Hindus, who constitute a majority in Jammu, want to join the Indian Union; most Valley Muslims seek independence.

From protest to insurgency

Broadly speaking, one might identify six turning points in the long history of the Kashmir conflict.[24] (1) The first phase (1947–53) was decisive in producing the contradictions – partition and autonomy – that have remained unsettled since. (2) The second occurred in 1956–7 when Kashmir's Constitutional Assembly made IJK an integral part of India at the behest of the government in New Delhi. (3) In 1975 Sheikh Abdullah was released from jail and signed an accord with New Delhi promising not to raise the issue of independence for Kashmir. (4) The outbreak of a popular revolt led by the Jammu and Kashmir Liberation Front (JKLF) marked the next critical point. The years from 1989 to 2002 are marked by escalating tensions: the 1999 India–Pakistan armed clash in Kargil; Islamization of the dispute both within IJK and between India and Pakistan; and the growing cross-border support for the insurgency in IJK.[25] (5) The year 2002 brought hopeful signs of Kashmiris reclaiming their own struggle, evident in the free and fair elections that returned the first non-NC government to office in Sri Nagar. (6) The latest phase of the conflict is marked by a dialogue between India and Pakistan, a decline in the 'terrorist' attacks and a return to the electoral process in IJK. This study will touch on only key aspects of these events.

The first phase (1947–53)

Having accepted the UN-imposed ceasefire line, which approximates the areas of separate control, India and Pakistan moved to consolidate their parts of Kashmir. To do this, India added clause 370 to its Constitution and sealed the special status it granted to IJK by signing the 1952 Delhi Agreement with Sheikh Abdullah, the most

popular Kashmiri nationalist leader. The strategy was to enlist his support for India's stance on Kashmir. But the Agreement unravelled almost as soon as was signed. Sheikh Abdullah was placed under house arrest in 1953. Why was this?

One answer is as follows:

'Then as now the Indian government considers itself to be in the legal possession of the state of Jammu and Kashmir by virtue of the instruments of Accession of October 1947 signed by the Maharajah and then by the Governor-General Lord Mountbatten. The assistance which Pakistan gave to the tribesmen … was, according to the Indians, a hostile act and the involvement of the Pakistan regular army an invasion of Indian territory.' [26]

The UN Commission report concurs with this view. Pakistan, however, claimed that the instruments of Accession were signed under duress, that the revolt was indigenous and the Maharajah was obliged to maintain the status quo because he had signed a standstill agreement with Pakistan. In any event, he had fled Sri Nagar and was in no position to determine the fate of Kashmir.

India pointed out that Pakistan did not withdraw its troops in preparation for the plebiscite as the UN resolution required; Pakistan argued that they would withdraw when the Indian forces withdrew. Nor did India support the idea of regional plebiscites subsequently proposed by the UN-appointed Dixon Commission. A referendum would have split IJK along religious lines,[27] a prospect that filled Indian leaders with dread because of the communal holocaust of 1947. The focus in the post-1990s period is on Kashmiri self-rule in the context of joint India–Pakistan control, a loose co-federal arrangement and soft international borders.[28]

The question of why the power-sharing arrangements of 1952 failed and Sheikh Abdullah was arrested, has two possible answers. First, the growing cooperation between the US and Pakistan in the wake of the Cold War alarmed the Indian elites and made them less tolerant of IJK's autonomy. Second, Sheikh Abdullah's resurrection of the question of independence, despite Article 370 and the Delhi Agreement, led to the belief that he could not be depended upon to integrate IJK into the Indian Union. Nehru succumbed to the pressures from the hardliners in the Congress Party and arrested the Sheikh. External events had intervened to end all possibilities of a bilateral resolution of the Kashmir conflict between India and Pakistan.

Autonomy: granted and withdrawn

IJK's legal status within India remained premised on Article 370, which promised:

1. A unique place for Kashmir within the federal system, and its autonomy in the face of powerful centripetal forces.

2. Certain titles for office holders, the use of the old flag, tax and settlement rights, restrictions on land purchase and migration into the Valley from India.

3. That, unlike other states within the Union, the Kashmir government could be dismissed only if its own state Assembly ratified the central government's dismissal.

In imprisoning Sheikh Abdullah, India had violated the first critical element of ethnic peace: it had granted IJK a special status but then gutted that promise of any real autonomy. The events of 1950s set a pattern that continued until the outbreak of the insurrection.

Implications for 'other' minorities

IJK's minorities, the Jammu Hindus and Buddhist Ladakhis, reacted with hostility to the granting of Article 370. Each feared that special status meant official sanction for domination by Valley Muslims over Jammu and Ladakh. Sheikh Abdullah's actions did not help matters: he denied Praja Parishad, a Jammu Hindu party, the chance to put up candidates in elections to the first Constituent Assembly.[29] The Parishad launched a full-scale agitation to reverse Article 370,[30] which was supported by the Ladakhi Buddhists. The NC responded with mass arrests. The Parishad agitation mobilized the Jammu Muslims to reassert their solidarity with the NC.

Unlike the Dravidian parties in Tamil Nadu, the NC failed to develop institutions of ethnic accommodation that could have straddled Kashmir's ethnic plurality. Both relationships, New Delhi's with the NC and the NC's with IJK's minorities, spelt a reversal of India's commitment to minorities. The accumulation of grievances over the following decades culminated in the outbreak of popular revolt in 1989.

Interference and denial of democratic opposition

The next two phases of development, the first beginning in 1956 and the second in 1975, witnessed the steady erosion of IJK's political autonomy. The elections of 1957, 1962, 1967 and 1972 were fraudulent.[31] Notwithstanding Article 370, between 1954 and the mid-1970s, India passed '28 constitutional orders' and 262 laws applicable in IJK.[32] There were also two wars between India and Pakistan during these years, which had the most profound implications for the Kashmir dispute and for the rights of minorities and their demand for autonomy in IJK.

In many ways, the 1965 war was a repeat of the Pakistan strategy in 1947: cross-border infiltration followed by Pakistan regular forces to settle the status of IJK in its favour. But there was no popular Kashmiri support for Pakistan. The second war was not about Kashmir. However, India used its victory in the war to make the Line of Control a permanent border between India and Pakistan. Having reduced the threat from Pakistan, Indira Gandhi released Sheikh Abdullah from house arrest in 1975 and agreed to make him the chief minister on condition that he refrained from raising the issue of independence.

Toward insurgency

Interference in and manipulation of IJK's internal affairs became worse when the Congress and Indira Gandhi returned to office after the brief interlude of Janata rule in 1977–9. Sheikh Abdullah had died in 1982 and Farooq Abdullah, his son, had assumed the party's leadership. What followed was reprehensible, and stood in complete contrast to the policies that had persuaded the Tamil separatists to integrate within India.

In the run-up to the 1984 elections, Indira Gandhi openly appealed to Hindu sentiments to mobilize pro-Congress votes in Jammu; the NC leader, Farooq Abdullah, resorted to similar tactics to mobilize Kashmiri Muslims. In June 1984, the Congress, now allied with the NC in a coalition government in IJK, engineered a split and replaced Farooq with G.M. Shah. The Shah government lasted for just under two years and was dismissed in March 1986. These were the years of rapid concentration of power in the hands of central governments and growing intolerance toward all opposition. As a prelude to the 1987 elections, the Congress forced the NC to forge an electoral alliance that destroyed whatever claims the NC had to be an independent force in IJK. The election itself was rigged and fraudulent. New Delhi's tactics triggered a wave of popular anger in IJK, exacerbated by poor governance, widespread corruption and lack of jobs. The fraudulent elections acted as a trigger that set IJK on a violent course.

Between 1987 and 2002 the democratic process broke down altogether.[33] IJK witnessed instead a genuinely popular revolt against Indian control.[34] The struggle took on an increasingly communal tone, both because of the growing support for the Hizbul Mujahdeen in the Valley, who were the military wing of the Jamat-i-Islami Party, and because of government policies, particularly those imposed by Governor Jagmohan, who believed in responding to the militants with bullets and curfews. Pakistan's nuclear tests in 1989 and the 1999 Kargil conflict made the popular insurgency in IJK even more threatening to India. The events of 9/11 and the US war in Afghanistan brought new uncertainties.

The stage was thus set for the extremist *Jihadi* elements to marginalize the original leaders of revolt and take over the struggle against New Delhi. But they had a different agenda. They proposed an Islamic Kashmir joined with Pakistan. As the violence escalated, deaths and detentions multiplied, and close to 250,000 Kashmiri Hindus fled to the displacement facilities of Delhi.[35] Governor Jagmohan is said to have encouraged the Valley Hindus to leave, a charge he vehemently denies; circumstantial evidence suggests otherwise.[36] According to Hurriyat (a coalition of pro-Pakistani and pro-independence groups), close to 80,000 fatalities occurred in these years, with 10,000 more between 1989 and 2002.[37] The civilian component of these

fatalities was generally three times that of the security personnel.

The years of insurgency have turned IJK into a garrison state with widespread human rights abuses. The insurgency itself has been transformed from a genuinely home-grown revolt into externally driven *Jihadi* violence. But since the 2002 elections in IJK and the resumption of a serious Indo-Pakistan dialogue the following year, there has been a new quest for peace. If the People's Democratic Party and Congress coalition government in IJK can deliver on justice by persuading the central government to release the detainees, restore law and order, ensure public safety and regenerate IJK's economy to produce jobs for the educated unemployed, it will win back public faith in government. Clearly, the principles of ethnic accommodation which turned Tamil Nadu away from separatism did not obtain in Kashmir; instead, Kashmir turned to violence.

India, Pakistan and Kashmiris in dialogue

According to several observers, popular participation in the revolt led by JKLF all but ended in 1992 and, in the next phase, it was dominated by the Hizbul Mujahadeen who reflected more radical views, although they too were rooted in the Valley. From 1993 until 2003, the insurgency was driven first by Afghan and then Lashkar-e-Toiba elements, representing the uncompromising Islamic fundamentalist forces across the border in Pakistan. During this phase, attacks on minorities – Hindus and Sikhs – increased. Between 1989 and 2005, 571 political activists were killed in IJK, setting back many attempts to hold elections.[38] Currently, the Hurriyat leaders estimate the militant strength to be about 2,000 to 2,500, of which close to 1,500 are believed to be cross-border Lashkar elements. These figures were confirmed by the deputy head of the Research and Analysis Wing of India.[39] Current and former Hurriyat leaders (Shabir Shah, Abdul Ghani Butt) or those close to them (Naim Khan, of the People's League, and Azami Inqilabi, a veteran pro-independence militant) suggested in conversations with the author that: (1) the India–Pakistan thaw offered a new opportunity; (2) people in Kashmir were tired of the violence; (3) Prime Minister Manmohan Singh should talk to Hurriyat directly about the political arrangements for a settlement and that Pakistan Kashmir (PK) would have to be brought in at some point; (4) there would be no peace unless negotiations included Pakistan Kashmir, first, because many Valley Kashmiris languished across the border and, second, because peace could not be obtained without Pakistan's participation. It was, nevertheless, clear that they separated themselves from the *Jihadi* militants from across the border or those ensconced in the Valley. Human rights abuses and the ubiquity of the security forces, not to mention widespread corruption, were, in their view, prolonging the conflict.[40]

Although the violence has not ended, India and Pakistan have held talks and points of convergence have been identified. Leaders in both countries agree that Kashmiris must participate in the solution and find ways to exercise self-rule within the sovereign boundaries of India and Pakistan, and that the boundaries should be made redundant by encouraging trade and travel. India has also held inter-regional talks, encouraged civil society groups to facilitate track II discussions and abandoned its insistence that Pakistan cease cross-border terrorism before it will talk. Pakistan has abandoned insistence on a plebiscite and tried to curb cross-border terrorism. Most importantly, it has rejected the idea of independence for Kashmir. There is no consensus, however, among Kashmir's different regions, on how to reunify the currently divided parts of the former kingdom of Kashmir, devolve power to minorities within it or ascertain a popular mandate for these arrangements. Any workable formulas for peace will ultimately require an agreement between India and Pakistan, India and IJK, IJK and PK, including Gilgit and Skardu, and between the Valley, Ladakh and Jammu. While these regional conversations proceed, there is the pressing issue of alleviating the suffering of the people, restoring freedom of movement and contact[41] across the border, and protecting people's dignity, safety and rights. These restorative measures need not await the final settlement.

Case 2: Punjab

If we consider exogenous factors as at least partly responsible for the violence in IJK then ethnic conflict should never have occurred in Punjab. There are no irredentist connections between east and west Punjab divided by the Indo-Pakistani border. That Punjab went through a period of intense violence causing thousands of deaths and murders, suspension of democratic rights and imposition of draconian legislation, only shows that ethnic conflict can arise for wholly internal reasons and because of mismanaged majority/minority relations. Punjab reinforces the importance of preventive strategies, underscored in the case of IJK, and warns against securing peace at the expense of the minority population. In Punjab, peace was won through a coercive pacification that witnessed the brutal elimination of a separatist insurgency between 1987 and 1992.

Antecedents of the Sikh nationalist movement

Unlike Kashmir and Nagaland, Punjab does not enjoy a special status within India, but the Punjabi Sikh demand for a separate state (Sikhistan, subsequently called Khalistan) pre-dates independent India. Prior to 1849, the Sikhs had built their own empire which was dismantled by the British. The pre-eminent Sikh religious and political organization, Shromani Akali Dal (SAD), formed in 1920, had pressed the British colonial authorities to provide for a Sikh state in the late 1940s, but neither the British nor the

Indian National Congress took these statements seriously. Following partition in 1947, millions of Hindus and almost all Sikhs fled from the new Pakistan into India.[42] The aftermath of partition witnessed close amity between Sikhs and Hindus. Sikh aspirations, however, resurfaced in the mid-1950s as the State Reorganization Commission (SRC) began its deliberations to federalize India. The SRC created linguistic states in India, but not a Punjabi one. The SRC rejected the notion of a Sikhistan (because it was based on the criterion of religion rather than language) and instead merged parts of Himachal Pradesh and Rajasthan to create a larger Punjab in which the Sikhs would be a minority.[43] Sikh agitation for a Suba (a Punjabi-speaking state) took place largely at a political level, despite attempts by both Sikh and Hindu ethnic leaders to sow the seeds of distrust by appealing exclusively to the interests of their own community.[44] It is noteworthy that, in the census carried out in the 1950s in Punjab, the Hindus who speak Punjabi, the same language as the Sikhs, had declared *en masse* that Hindi was their first language. Egged on by Hindu nationalist organizations, the Hindu community sought to marginalize the Sikhs by undermining the ethno-linguistic grounds for a separate Suba.[45] Religious identities played a role in these events, but at this point they did not create inter-ethnic violence. These early agitations eventually secured for the Sikhs a Punjabi Suba in 1966.[46] However, SAD's ambition to form a government in Punjab could not be realized. New Delhi and Indira Gandhi had ceded the Suba but not electoral primacy to the SAD, which wanted to emulate the Dravidian parties.[47]

Indira Gandhi's Congress Party assumed an inflexible stance in the face of rising SAD demands for more favourable agricultural extension services and higher grain procurements prices. Sikhs, in turn, opposed Gandhi and her internment of political opponents. Gandhi lost Punjab and the next election in 1977. The scene was finally set for Sikh popular resistance to Indian rule by the rejection of the Anandpur Resolution, presented by Sikhs, that asked for greater autonomy and equal rights for Punjab in line with Hindu majority states.

Congress–SAD rivalries and interference

In 1967 the SAD had formed a state government in coalition with Jan Singh, but the Congress and its cohorts in Punjab engineered defections and brought it down within nine months; the next government collapsed in 1972.[48] The Congress remained an overwhelming presence in state politics and won a fair share of the popular vote, drawn largely from Hindus, secular Sikhs and SCs and other Backward Castes in Punjab.[49] Congress straddled the Hindu–Sikh divide by drawing on the low-caste and poorer segment of the Sikh population. This prevented the polarization of Punjab politics.[50]

However, other developments converged to transform Sikh politics in the 1970s. Unable to win a majority or

form a government, the SAD leadership began to appeal to Sikh ethnic nationalism. The Congress also manipulated sectarian loyalties in attempts to ideologically outflank the SAD. This set the stage for violence in Punjab. The economic transformation caused by the introduction of the green revolution in early 1960s had already laid the basis for an aggressive assertion of Jat caste Sikhs, who came to dominate the SAD and Punjab's political economy.[51] However, agricultural modernization did not create the requisite jobs; in fact, mechanization sent many to urban centres in search of employment. Frustration among the educated unemployed was then a ready source of sectarian and radical mobilization.[52]

Confrontation between the government in New Delhi and the Akali Dal began when the latter passed the Anandpur Sahib Resolution in 1973, calling for greater autonomy for all federal states, but particularly for a 'Sikh Autonomous Region' with its own Constitution. SAD demanded the transfer of Chandigarh, a union territory, to Punjab as the state's capital – as promised by the central government in 1970 – and asked for a more favourable allocation of river waters between Rajasthan, Harayana and Punjab. The resolution demanded inclusion of explicit recognition of Sikhism in the Constitution and control over management of all the Gurdwaras under SAD's auspices. The last was important because it bestowed moral and political authority and access to all the funds and accumulated assets of the Sikh Gurdwaras, which were considerable. These demands reflected the agenda of the Jat Sikh peasant proprietors while ignoring, for the most part, the interests of minorities: the Scheduled Caste Mazhabis (24 per cent), Ramgarhias, Lohar, Rai, Cheema and Labana Sikhs. These minorities are 'hostile to Akali capitalist farmers and oppose them politically … [they] vote for Congress (I) or for communist parties'.[53] Gender issues such as women's education, health, equal opportunity, domestic violence and the issue of honour killings did not figure in the Anandpur Sahib Resolution, nor were women representatives at the table when the resolution was drafted. The Congress government viewed the Anandpur Sahib Resolution as a challenge to its political prominence in India.

Coercion and escalation to insurgency

The narrow base of the Anandpur Sahib Resolution was bound to produce problems. The SAD grew strong and Congress (I) acted to prevent its ascendancy by bagging the minority vote and manipulating the SAD factional fights. As a part of this strategy, Congress leaders promoted a fiery Sikh preacher, Sant Jarnail Singh Bhindranwale, but the ploy went awry. In 1978, Bhindranwale precipitated a violent confrontation with the Nirankaris, a sect among the Sikhs. Within three years, Bhindranwale had become one of the most popular Sikh leaders in Punjab.[54] He developed a mass base among the emerging underclass of educated

Sikh youths; the Akali Dal, in contrast, looked to the middle class and urban dwellers, as well as prosperous farmers. The manipulation of Punjab politics gained the Congress a temporary advantage, but Bhindranwale soon plunged the state into mayhem.[55] The Indian army attacked the holy shrine of the Sikhs in a battle with Bhindranwale in June 1984, killing close to 1,200 pilgrims, caught in the crossfire. Bhindranwale was also killed, but the desecration of the holy shrine of the Sikhs led to the revenge murder of Indira Gandhi and unleashed anti-Sikh violence that took close to 3,000 lives, mostly innocent Sikhs in New Delhi. The perpetrators have yet to face justice for their crimes.

In 1985, the newly elected Prime Minister Rajiv Gandhi signed an accord with Sant Longowal, ceding most of the cultural, economic and political demands that had been non-negotiable earlier. Militants, however, murdered Longowal and Punjab descended into violence. How did the situation normalize and militancy end?

Coercive pacification and Punjab's return to democratic politics

Clearly, denial of democratic rights, representation and autonomy precipitated the crisis; coercion aggravated it further. In a multi-religious region, where the Hindus constitute about 40 per cent and the Sikhs close to 60 per cent of the population, political manipulation proved disastrous. Assumption of direct rule (the president's rule) and dismissal of the SAD governments was a serious mistake since even the pretence of autonomy had been lost. This created a cycle of coercion and repression that took a heavy toll in civilian lives and property. The return to democracy in Punjab was achieved by two complementary methods: brutal repression and the resumption of competitive electoral process.

In 1992, the government decided to restore a semblance of local authority to Punjab. State elections were held (20 per cent turn-out) and the Congress won because the SAD boycotted the elections and people refused to vote. But the return of the state to an electoral process permitted the central government to use it as a buffer as well as an instrument to eliminate the militancy. The new Punjab government gave full rein to the 'decapitation' strategy advocated by Police Commissioner K.P.S. Gill, who succeeded in infiltrating the militants and capturing and killing close to 4,000 of them.[56]

Recent findings by the National Commission on Human Rights reveal that during these years, 2,097 individuals disappeared or died in extra-judicial killings and 1,238 unidentified bodies were cremated at two locations in Amritsar District of Punjab.[57] Between 1984 and 1995, 'Indian security forces illegally detained, tortured, extra-judicially executed, and "disappeared" an estimated 25,000 Sikhs in the context of counter-insurgency operations.'[58] The ENSAAF report of October 2005 notes, 'though all Punjabi Sikhs were vulnerable to disappearances and

extrajudicial executions, police especially targeted *Amritdhari*, or initiated Sikhs, those who were politically active with the Akali Dal parties, and families and friends of suspected militants'.[59]

The Punjab Congress government offered huge subsidies to the remaining disgruntled factions to join the political process. Largely because of popular fatigue with violence and criminalization of the militancy, not to mention its physical elimination, the turn-out in the September 1992 municipal elections and January 1993 Gram Panchayat (village-level) elections exceeded 70 per cent. The SAD returned to rule, unencumbered by coalition partners, but the return to democracy had come at a cost of great human suffering.

Perspectives on militancy and violence

There are many views on how the Sikh militancy came to an end. Opinion is also divided as to why the militancy came about in the first place. Most observers agree that scrupulous observation of the provision of autonomy and rights, meaningful participation, inter-ethnic peace and justice are the most effective strategies. Had the Congress Party retained the support of low-caste and poorer segments of Sikhs, and refrained from making sectarian appeals, militants would have had a hard time unifying the community behind their cause. Appeals to communal sentiments by ostensibly secular Congress leaders destroyed the only alternative for inter-ethnic cooperation in Punjab. Once the region became polarized along religious lines, voluntary organizations and grassroots leaders lost any leverage they might have had against advocates of violence.

The manner of ending the insurgency provides valuable insights. Had the insurgents not become part of the social fabric, aided and abetted by political parties, including the Congress politicians, the ruthless tactics used in crushing them would not have caused so many civilian deaths. As in IJK, insurgency and counter-insurgency became money-making propositions for many. This mercenary and criminal turn to what was an authentic expression of popular grievances has been most harmful to innocent civilians. It is they who have paid in blood and tears, displacement and reduced incomes. High-level political compromise has restored the electoral process to Punjab, but to restore peaceful coexistence among Punjab's ethnic communities two things are immediately needed: rebuilding inter-community cooperation and prompt adjudication of human rights cases pending before the justice system in India.

Case 3: India and the Nagas

On 14 August 1947, the Naga Nation declared its independence from British colonial rule. On the following day, India declared its independence, including Naga areas that had been very lightly administered by the colonial

authorities. This was the beginning of the confrontation between the Nagas and the independent state of India, although the Naga demand for self-determination can be traced back to the 1930s. At issue was the Indian attempt to consolidate the nation-state, and the Naga desire for complete independence. It must be noted that, even at this point, the Naga population remained divided over the status of Naga homelands. Since the mid-1950s, this conflict has been violent, sometimes genocidal.[60] The post-1947 history of the Naga struggle for self-determination can be divided into separate phases: the first is from the mid-1950s, when armed conflict began, until the latter half of 1970s, when the Nagas became highly factionalized. According to the National Socialist Council of Nagaland (NSCN), between 1954 and 1964, over 150,000 lives were lost through armed conflict, torture and other forms of political terror throughout Nagaland. However:

> 'the lines between the independentist and the integrationist factions in Naga politics have remained blurred … a failed peace process in the mid 1960s and an accord signed in 1975 – between the Indian government and a few individual leaders … was interpreted as a sell-out by many and … it re-energized the rebellion'.[61]

The second phase began from the early 1980s, when the underground 'national workers', as the guerrillas were called, began to split up and form factions under rival leaderships. These factions then merged to constitute the main groupings found today: the National Socialist Council of Nagalim, which is negotiating for an overall settlement with the Government of India; the NSCN (Khaplang) and several others. The Khaplang faction publicly warned that, 'If the Centre arrives at a unilateral settlement with the NSCN-IM, it [the NSCN-K] would "start a revolution"'.[61] The Khaplang faction fears being excluded from a deal and maintains that the Naga conflict is 'an "Indo–Naga–Myanmar issue"'.[63]

Over the years, the Naga insurgency has established close ties with other disaffected groups and created a web of relationships between armed groups and insurgents in the north-east. This is largely a result of prolonged militarization of the north-east and enduring confrontations between the insurgent Nagas and the Indian security forces. The Naga insurgent groups have established sanctuaries in Naga-inhabited areas of Burma/Myanmar. According to a 2001 report in the *Statesman*:

> 'The NSCN-K general secretary and "prime minister" of the "government of People's Republic of Nagaland", Mr. N. Kitovi Zhimomi, stated … that "half the Naga population lives in Myanmar and his organisation cannot rest till they [Nagas in Myanmar] and their land are freed from Myanmarese occupation and integrated with other Nagas and the areas inhabited by them in

> *Assam, Arunachal Pradesh, Manipur and the present state of Nagaland as one sovereign nation…"'*[64]

The western Nagas have also clashed with the Government of Burma/Myanmar, particularly since the 2005 India–Burma/Myanmar agreement of mutual support against the Naga insurgency. There has also been an attempt to find an inter-tribal consensus within the larger Naga nation. The Naga Hoho (the apex council) initiated a reconciliation campaign and held talks with all factions and groups to prevent internecine clashes and to present a united Naga voice while negotiating with New Delhi.[65] Simultaneously, the Naga leaders held talks with Indian envoys outside India, while both sides have adhered to a ceasefire in Naga areas.

The Naga population in Nagaland is over 1 million according to the 2001 census; a further 1 million are scattered over Assam, Manipur and Burma/Myanmar.[66] They are spread over an area of some 37,000 square miles straddling the official boundary of India and Burma/Myanmar, from just south of the Chinese border. The conflict between the Nagas and India is as one of the most persistent and least-known struggles of indigenous peoples in the world today. As a signatory to international conventions protecting rights of indigenous peoples, and in accordance with the provisions of the Sixth Schedule of the Indian Constitution, the Indian government is obliged to protect the tribal rights and land rights of the Nagas. India has signed and ratified the International Labour Organization (ILO) Convention No. 107, Concerning the Protection and Integration of Indigenous and other Tribal and Semi-tribal Populations in Independent Countries. However, it has held back on signing the revised ILO Convention No. 169 of 1989 because of the use of the term 'self-determination' in it. This is sometimes interpreted as the right to secede, which is unacceptable to New Delhi.[67] In the UN Working Group on Indigenous Peoples forum, India has maintained that the STs are not indigenous peoples and that, in fact, 'the entire population of India … [is] indigenous to the country'. The 1989 ILO Convention No. 169, Concerning Indigenous and Tribal Peoples in Independent Countries, relates to economic and social rights, participation, property and citizenship.[68] The federal status of Nagaland is governed by Article 371 (A), which parallels Article 370 for IJK and contains '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'.

The Nagas, however, view Article 371 (A) as window-dressing; it is associated with the same controversies as were involved with the creation of the state of Nagaland. It is seen as a tool to further divide the Nagas, since the article is limited to Nagas living in the state of Nagaland. 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. Furthermore, these

rights cannot be enjoyed in a protracted conflict situation, where draconian laws like the Armed Forces (Special Powers) Act, 1958 remain in force and where basic civil and political rights are being violated. Hence these federal arrangements failed to prevent the Nagas from demanding independence.

Ceasefire and peace talks

Since 1997 there has been a ceasefire between the Indian government and Naga militants, and a dialogue to end the conflict. The Naga leaders seem willing to consider a loose arrangement that recognizes their right to self-determination and co-sovereignty short of absolute independence. But the peace process has run up against a serious obstacle, namely the Naga demand for the unification of all Naga-inhabited areas. This would mean redrawing the territorial map of the north-east to which Manipur, Assam and Arunachal Pradesh would strongly object. This is not unlike the Kashmiri demand for reunification of all the areas that belonged to the original kingdom of Kashmir. Until recently, the Naga conflict has attracted little attention within or outside India, partly because coverage and visits from outsiders is restricted under a number of laws – the Restricted Area Permit (also called the Protected Area Permit) and the Inner Line Permit, which have closed off the region from any scrutiny.

Causes of conflict

Clearly, forced incorporation of the Naga areas was the principal cause of the armed confrontation. Over time, coercion and militarization created vested interests that have sustained the violence. The introduction of competitive party politics also contributed to the conflict. Modern voting procedures were never properly understood by the Naga villagers, but their local bodies were now taken over by the new 'parties' that had connections beyond the village. This led to an emptying out of the real authority lodged by tradition in the local tribal agencies. Although this was an unintended consequence of developmentalist policies, India faced the same dilemma that other countries with a significant indigenous population have faced: the need to reconcile modernization and traditions without undermining the traditional way of life, kinship and clan organizations.

Weak governance has been a contributing cause to violence in Punjab and IJK as well, but in Nagaland it has assumed huge proportions. According to Ajay Sahni, the vast official machinery 'appropriates a large segment of the States' revenues, and distributes it within a nexus of politicians, administrators and banned militant organizations, often with the mediation of a variety of contractors and commercial front organizations of the terrorists themselves'.[69] Under the circumstances, neither the corrupt officials nor the militants have a stake in ending the conflict.

Internecine tribal violence and extreme factionalism is another reason why peace negotiations have failed to bear fruit. According to members of the Naga People's Movement for Human Rights (NPMHR) interviewed by this author, there is an urgent need to establish a reconciliation mechanism to bring the various factions to foster better understanding among various tribes to strengthen the peace process. Inter-ethnic conflict has brought untold misery to the Naga people.[70] Paradoxically, Nagaland scores relatively better than many other states for life expectancy at birth, adult literacy and per capita income.[71] It is, nevertheless, deficient in infrastructure and industrial growth. As in Punjab and IJK, a high rate of unemployment among educated youth is a matter of serious concern.[72]

It is important to note that women and smaller tribes have suffered enormously from the violence and corruption. A 2005 report of the National Commission for Women notes:

> 'Women face violence and humiliation as victims of war, first at the hands of the enemy and then as an object of shame within their communities and homes. This difference in treatment is embedded in patriarchal norms and the ideology that governs states, communities and families.'[73]

To sum up, 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.

Conclusion

All three ethnic conflicts originate in the denial of democratic rights and the scuttling of power-sharing agreements guaranteed in the Constitution and buttressed by promises made by the Indian government. In Kashmir, it was reneging on the Delhi Agreement and the gutting of Article 370; in Punjab, crass political interference, manipulation and use of religious polarization weakened inter-ethnic accommodation; in Nagaland, forced integration, lack of implementation of Article 371 (A) and militarization led to the conflict. In each case, the Indian government failed to replicate the strategies that had worked well in Tamil Nadu: empowerment and protection of minorities; extension of participation and representation; and more even distribution of economic growth and development funds. Women and disadvantaged groups were protected in Tamil Nadu through expanding job 'reservation' operated by the Dravidian parties. They made inclusive inter-ethnic alliances in which women and small vulnerable minorities found reasonable space. None of these features emerged in the three regions under study.

Instead, minorities were denied participation, autonomy and justice. Force was applied when political manipulation failed. Over time, violence became institutionalized in the corrupt collusion between insurgent factions, local government and security personnel. This collusion has undermined informal understanding and mutual tolerance between communities, and denied smaller minorities adequate access to power.

Restoration of peace in the three regions will require reconstituting these shared associations. In IJK it would mean creating structures that will permit self-rule within the parameters of existing sovereignties of India and Pakistan, and in Nagaland it would mean establishing a mechanism that can reconcile the demands of large and small minority tribal and plains communities. Although Punjab is peaceful now, the wounds inflicted by the brutal counter-insurgency operations continue to fester. All three regions need prompt delivery of social justice, monetary restitution for loss of life, limb and livelihood, and the bringing to book of those guilty of human rights abuses. Speedy delivery of justice is needed for civilians caught in counter-insurgency operations and wrongly detained in IJK and Punjab. Complete transparency is required in resolving the matter of illegal cremations (Punjab), custody deaths and extra-judicial killings. From all the accounts this author has heard, and from the interviews conducted, it is evident that the psychological damage from counter-insurgency operations goes deep, both at the group and individual level.

One of the most important demands by ethnic minorities is recognition of their unique history and identity and their claims to traditional homelands. While granting recognition is fraught with legal and political difficulties, as in case of Nagalim, a way must be found to assuage the hurt and heal the wounds, and to provide at least symbolic recognition of their cultural nation.

Notes

1   It is important to distinguish between Nagaland, a province-state within India created in 1963, and Nagalim, the Naga homeland demanded by the Naga leadership as its cultural homeland. The exact status of Naga-inhabited areas beyond the state of Nagaland are in dispute since they are currently included in the adjoining province states of Arunachal Pradesh, Manipur and Assam.

2   See Eide, A., 'Commentary to the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities', E/CN.4/Sub.2/AC.5/2000/WP.1, p. 2.

3   Stoel, M. van der, Address at the CSCE Human Dimension Seminar: 'Case Studies on National Minority Issues: Positive Results', Warsaw, 24 May 1993. See http://www.osce.org/hcnm/speeches/1993/24may93.html

4   Capotorti, F., Study on the Rights of Persons Belonging to Ethnic, Religious and Linguistic Minorities, Geneva, UN Center for Human Rights, 1991, UN Doc. E/CN.4/Sub.2/384/Add.1–7.

5   The Ministry of Welfare, now the Ministry of Social Justice and Empowerment, issued a Notification to this effect on 23 October 1993. See: http://ncm.nic.in/html/fr_minority.html (accessed 17 March 2006).

6   The National Minority Development and Finance Corporation (NMDFC) was set up by the Government of India to provide a 'special focus to economic development of minorities'. See: http://socialjustice.nic.in/obcs/minority.htm#mino1, accessed 17 March 2006.

7   Ministry of Social Welfare and Empowerment, Annual Report, 2005–2006, New Delhi, Government of India, p. 2.

8   Report of the States Reorganization Commission, New Delhi, Government of India, 1955, p. 46.

9   Banda, F. and Chinkin, C., Gender, Minorities and Indigenous Peoples, London, MRG, August 2004, p. 5.

10 Corbridge, S. and Harris, J., Reinventing India, Oxford, Blackwell Publishers, 2000, p. 106.

11 Shakir, M., 'Congress and minorities', in R. Joshi and R.K. Hebsur (eds) Congress in Indian Politics, Riverdale, MD, Riverdale Publishing Co., 1988, p. 163.

12 For the early Dravidian movement see Hardgrave, R., The Dravidian Movement, Bombay, Popular Prakashan, 1965; Irschick, E.F., Politics and Social Conflict in South India: The Non-Brahmin Movement and Tamil Separatism, 1916–1929, Berkeley, University of California Press, 1969.

13 Chadda, M., Ethnicity, Security and Separatism in India, New York, Columbia University Press, 1997, pp. 72–3.

14 Hardgrave, R., 'DMK and the politics of Tamil nationalism', Pacific Affairs, vol. 37, no. 4, 1964–5, p. 396.

15 Dasgupta, J., Language Conflict and National Development: Group Politics and National Language Policy in India, Berkeley, University of California Press, 1970, pp. 159–96.

16 Subramanian, N., 'Ethnicity and pluralism: an exploration with reference to Indian cases', Canadian Journal of Political Science, vol. 32, no. 4, 1999, p. 729.

17 Government of Tamil Nadu, Public (Elections) Department, General Elections to the Tamil Nadu Legislative Assembly 1952–84, Statistical Abstract, Madras, Tamil Nadu Government Press, 1986, pp. 11–13.

18 Government of Tamil Nadu, Backward Classes, Most Backward Classes and Minorities Welfare Department, Policy Note 2006–2007, Demand No. 9, http://www.tn.gov.in/policynotes/ bc_mbc_welfare.htm, accessed 17 March 2006). In 2001, in Tamil Nadu, 46 per cent of the population was BC, close to 18 per cent were most Backward, about 4 per cent were denotified communities, and 20 per cent were SCs and STs. Tamil Nadu had 69 per cent reservations assigned to them all. The Tamil Nadu Assembly unanimously passed a bill to enable the government to continue the reservation at 69 per cent, which became the Tamil Nadu Act 45 of 1994.

19 Vincentnathan, S.G., 'Caste politics, violence, and the Panchayat in a south Indian community', Comparative Studies in Society and History, vol. 38, no. 3, 1996, p. 484.

20 The attack, allegedly carried out by Muslim fundamentalist groups, came three months after 18 Muslims were killed in the city in November–December 1997 in a pogrom unleashed by a section of the police in concert with Hindu militants following the killing of a police constable, by three Muslim youths.

21 Ganguly, S., 'Explaining the Kashmir insurgency: political mobilization and institutional decay', International Security, vol. 21, no. 2, 1996, p. 77.

22 Schofield, V., Kashmir in the Crossfire, London, I.B. Tauris, 1996, p. 142.

23 Jha, P.S., Kashmir 1947, New Delhi, Oxford University Press, 1996; Lamb, A., Kashmir: A Disputed Legacy, 1846–1990, London, Roxford Books, 1991.

24 For India's Kashmir policy and an analysis of the insurgency, see Wirsing, R., Kashmir in the Shadow of War, New York, M. E. Sharpe, 2003; Schofield, V., Kashmir in Conflict, India, Pakistan and the Unending War, London. I.B. Tauris, 2003. For inter-regional conflict between the Kashmir Valley and Jammu and Ladakh, see Behera, N.C., State Identity Violence: Jammu, Kashmir and Ladakh, New Delhi, Manohar, 2000; Bose, S., Kashmir, Cambridge, MA, Harvard University Press, 2003.

25 Conversations with Shabir Shah, Naim Khan, Hameeda Khan, Azam Inquilabi and M. Butt (Kashmiri separatists) in Sri Nagar, 1–5 June 2006. Army Core Commander Dhillon and Intelligence Bureau chief Nichchal Sandhu in Kashmir also confirmed that about 1,500 to 2,500 militants continue to operate in the Valley. The bulk of these were from the Valley, but about 1,000 were trans-border Jihadis operating largely with support from Islamic groups in Pakistan. All confirmed that the cross-border infiltration had diminished considerably since President Musharraf withdrew support for the Jihad in IJK.

26 Schofield, Kashmir in Conflict, op. cit., pp. 162–3.

27 Crisis Group, Kashmir: Learning from the Past, International Crisis Group Asia Report no. 70, 4 Dec. 2003, p. 8, http://www.crisisgroup.org/ home/index.cfm?id=2409&l=1, accessed August 2006.

28 Conversations with former justice of the Azad Jammu and Kashmir Supreme Court, Center for Dialogue and Reconciliation meetings, New Delhi, 30 May 2006.

29 Bose, *op. cit.*, p. 57.

30 *Ibid.*, p. 58.

31 *Ibid.*, pp. 62–88.

32 *Ibid.*, p. 88.

33 Conversation with Suba Chandra, IPCS expert on IJK and insurgency, New Delhi, 24 May 2006.

34 Schofield, *Kashmir in the Crossfire*, *op. cit.*, pp. 233–5.

35 Voice of the Asia-Pacific Human Rights Network, *Collective Rights in India: A Re-assessment*, Human Features, a joint initiative of South Asian Human Rights Documentation Center and Human Rights Documentation Center, New Delhi, 2001.

36 Schofield, *op. cit.*, p. 245.

37 See South Asia Terrorism Portal: http://www.satp.org/satporgtp/India/states/jandk/data_sheets/annual-casualties.htm, accessed 29 May 2006.

38 See: http://www.satp.org/satporgtp/India/sates/Jandk?data_sheets/political-assassinations.htm, accessed 30 May 2006.

39 Conversation with Nichhal Sandhu, the Deputy Director of the RAW in IJK, Sri Nagar, May 2006.

40 Conversations with Shabir Shah, Naim and Hameeda Khan of the People's League; Azam Inquilabi, of the Mahze Azadi; Abdul Ghani Butt, Muzamil Jamil of the Indian Express in Sri Nagar, May 2006.

41 See Article 2.5 of the UNDM: 'Persons belonging to minorities have the right to establish and maintain, without any discrimination, free and peaceful contacts with other members of their group and with persons belonging to other minorities, as well as contacts across frontiers with citizens of other States to whom they are related by national or ethnic, religious or linguistic ties.'

42 Singh, H., *The Heritage of the Sikhs*, New Delhi, Manohar, 1985, p. 302.

43 Chadda, M., *Building Democracy in South Asia: India, Nepal, Pakistan*, Boulder, CO, Lynne Reinner, 2000, p. 157.

44 Chadda, *Ethnicity, Security and Separatism*, *op. cit.*, p. 124.

45 Pal Dang, S., 'Hindu organizations in Punjab', in G. Singh (ed.), *Punjab Today*, New Delhi, Intellectual Publishing House, 1987, p. 233.

46 *Ibid.*, p. 158.

47 The chronological construction and analysis of this section draws on Brass, P., *Language, Religion, and Politics in North India*, Cambridge, Cambridge University Press, 1974, pp. 277–336; Verma, P.S., 'Akali Dal: history, electoral performance, and leadership profile', in G. Singh (ed.), *op. cit.*, pp. 257–84; Jeffrey, R., *What's Happening to India?*, London, Macmillan, 1986.

48 Chadda, *Ethnicity, Security and Separatism*, *op. cit.*, p. 124.

49 Brass, P., 'Ethnic cleavages in the Punjab party system, 1952–72', in M. Weiner and J. Osgood Field (eds), *Electoral Politics in the Indian States: Party Systems and Cleavages*, vol. IV, New Delhi, Manohar, 1975, pp. 39–45; Nayar, B.R., *Minority Politics in the Punjab*, Princeton, NJ, Princeton University Press, pp. 300–1.

50 *Ibid.*

51 For a succinct account of the political implication of the green revolution, see Wallace, P.,'The Sikhs as a "minority" in a Sikh majority state in India', *Asia Survey*, vol. 26, no. 3, 1986, pp. 366–9.

52 *Ibid.*

53 Singh, *op. cit.*, p. 12.

54 Hamish, T., 'The political economy of Punjab: creating space for Sikh militancy', *Asian Survey*, vol. 32, no. 11, 1992, pp. 974–6.

55 See Tully, M. and Jacob, S., *Amritsar: Mrs Gandhi's Last Battle*, London, Vision Books, 1984, p. 70.

56 *Ibid.*, p. 488.

57 National Commission for Human Rights, Case No, 1/97/nhrc, 8 March 2006, http://nhrc.nic.in, accessed 24 April 2006.

58 Kumar, R.N., Agrawaal, A., Singh, A. and Kaur, J., *Reduced to Ashes: The Insurgency and Human Rights in Punjab*, South Asia Forum for Human Rights, May 2003, pp. 56, 58. For other reports on abuses by Indian security forces, see, Human Rights Watch/Physicians for Human Rights, *Dead Silence: The Legacy of Abuses in Punjab*, May 1994; Human Rights Watch, *Punjab in Crisis: Human Rights in India*, August 1991; Amnesty International, *Human Rights Violations in Punjab: Use and Abuse of the Law*, May 1991, *Punjab Police: Beyond the Bounds of Law*, August 1994, *Break the Cycle of Impunity and Torture in Punjab*, January 2003; see also ENSAAF's Punjab human rights library at: http://www.ensaaf.org/punjabhr.html, accessed 30 September 2005). All of the above cited from ENSAAF report, June–August 2005, *Punjab Police: Fabricating Terrorism Through Illegal Detention and Torture*, http://www.ensaaf.org/fabricatingterrorism.pdf, accessed 8 March 2006.

59 Human Rights Watch/Physicians for Human Rights, *Dead Silence*, *op. cit.*, pp. 4–5, cited from ENSAAF report, *op. cit.*

60 The Assam Maintenance of Public Order (Autonomous District) Act was promulgated in the Naga Hills in 1953; the Assam Disturbed Area Act in 1955 and the Armed Forces (Special Powers) Act in 1958. Since then Naga areas have been intermittently under the AFSPA, which was amended in 1972.

61 Baruah, S., 'Confronting constructionism: ending India's Naga war', *Journal of Peace Research* (International Peace Research Institute, Oslo, Norway), vol. 40, no. 3, 2003, p. 321.

62 'NSCN (IM) – Delhi can't bring peace', *Sentinel*, 24 October 2003.

63 'NSCN-IM is government sponsored, they are betrayers: NSCN-K', *Times of India*, 29 July 2003.

64 Roy, D., 'After India it is Mynamar: NSCN-K', *Statesman*, 2 July 2001.

65 Conversations with Joyson and Chon, active members of the Naga People's Movement for Human Rights, New Delhi, 26 May 2006.

66 South Asia Media Net, 'The Naxalite movement', http://www.southasiamedia.net/profile/india/india_intrastateconflicts.cfm, accessed 30 August 2006.

67 Bhengra, R. and Bijoy, C.R., *Adivasis of India*, London, MRG, 1999.

68 These international conventions focus on the social, cultural, religious and spiritual values and practices of indigenous peoples. Attempts to reach agreement on a further legally binding instrument on the rights of indigenous peoples have been unsuccessful since the Sub-Commission on Human Rights adopted the Draft Declaration on the Rights of Indigenous Peoples in 1994.

69 Sahni, A., 'Terrorist economy in India's north-east: a preliminary exploration', Manipuronline, 4 November 2005, http://www.manipuronline.com/features/November2005/northeastec}onomy04_1.htm, accessed 28 May 2006.

70 Conversations with Joyson and Chon, Naga People's Movement for Human Rights, New Delhi, 26 May 2006.

71 State Government of Nagaland, *Nagaland*, State Human Development Report, New Delhi, 2004, pp. 25–7.

72 'Go for it Nagaland', 19 February 2005, http://www.hinduonnet.com/thehindu/thscrip/print.pl?file=2005021901951000.htm&date=2005/02/19/&prd=th&, accessed 8 April 2006.

73 National Commission for Women, *Impact of Armed Conflict on Women in the Northeast, Cases from Nagaland and Tripura*, pp. 12–13, http://www.ncw.nic.in, accessed 26 May 2006.

working to secure the rights of
minorities and indigenous peoples

minority
rights
group
international

Recommendations

To the Central (GOI) and State governments of India:

Political participation, non-interference and inclusion:

1. In order to end ethnic conflicts a political solution that guarantees minority rights is essential; ceasefires and peace agreements should be negotiated with full, free and effective participation of minority groups.

2. The central state government must fulfil its constitutional obligations and promote genuine autonomy at the state level, permitting minorities space for self-rule. To uphold this commitment there should be explicit constitutional provision for separation of powers and non-interference of the central government in autonomous regions' governance. The Government of India should also repeal anti-terrorism legislation such as the Armed Forces Special Powers Act, which has the effect of negating autonomous states' control over their own affairs.

3. All communities, including the smallest and most marginalized minorities, have a right to participate in public and political affairs (UNDM Articles 2.2, 2.3); electoral systems and methods of governance should provide for political representation of all (including minority women and men) at state and central state level, and should provide incentives for political parties and democratic institutions that appeal to all communities across ethnic, religious and linguistic lines.

4. To ensure accountability, there should be effective and accessible consultative and complaints mechanisms for all communities, allowing men and women a space to voice concerns. These may include consultative bodies, inspection panels on development projects and Ombudspersons.

Justice and anti-discrimination:

5. Victims of discrimination should be compensated, those arbitrarily detained should be released and the worst perpetrators of human rights abuses should be brought to justice. The Government of India should immediately sign and ratify the Rome Statute of the International Criminal Court.

6. The Government of India should make deliberate use of hate speech (in particular in the media and by politicians) a criminal offence.

7. There should be effective anti-discrimination legislation and mechanisms to challenge discrimination at all levels to uphold Constitutional provisions. This should be accompanied by special measures where minorities have been excluded, as the means to overcome inequalities.

Identity

8. The Government of India should implement its obligations to promote minorities' rights to practise their culture, religion and language (ICCPR Article 27).

Cross-border relations

9. In keeping with India's duty under Article 2.5 of the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, the government should place no restrictions on the rights of minorities to maintain kinship links across borders. Such links may also be promoted by setting up cross-border bodies to address issues of common interest, which have an important role in facilitating openness and supporting identities.

Status of India with regard to international minority rights standards

10. The Government of India should ratify: ILO 169 for the rights of indigenous peoples, the first optional protocol of the ICCPR and the optional protocol for CEDAW for individual complaints mechanisms.

To IGOs, INGOs and NGOs:

11. Civil society should play a role in promoting inter-community cooperation and supporting positive relations across ethnic, religious and linguistic lines, and should work to increase the capacity of marginalized minorities to advocate for their rights.