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MINORITY RIGHTS AND ETHNIC CONFLICT IN ASSAM, INDIA

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How will this nationality, the Assamese, be able to keep its numerical position as the majority in Assam in the face of uncontrolled and unassimilated immigration. . . . In the absence of any arrangement in the form of assimilation of immigrants into its linguistic fold or of a constitutional provision for maintaining its majority position, a weak nationality in the face of a ceaseless influx of people belonging to a strong linguistic nation may face another eventuality.¹

I. INTRODUCTION

From both a utopian ideal and a political necessity, India always has been committed to unity through diversity. Despite being a nation of people speaking twenty-four major languages, practicing a half dozen religions, and belonging to widely different ethnic groupings, India has maintained its coherence since gaining independence from Britain in 1947. Yet cultural differences, communal separatism, and competition among ethnic groups for jobs, social status, and political power nonetheless have resulted in bitter and violent struggles. In Assam,² these conflicts are compounded by immigration problems and demographic changes, which have pitted indigenous Assamese against migrant Bengalis, Hindus against Muslims, and Assam against India's central government. In 1983, this ethnic tension erupted into violence that led to the deaths of over seven thousand persons in less than a fortnight.³ Despite attempts to resolve the controversies, religious, linguistic, and cultural tensions in Assam remain high today. Unless steps

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¹ MYRON WEINER, *THE SONS OF THE SOIL* 113 (1978), quoted in BHABEN BARUA, *LANGUAGE AND THE NATIONAL QUESTION IN NORTHEAST INDIA* 4 (1971) [hereinafter *SONS OF THE SOIL*].

² Assam is one of the easternmost states of India, occupying a triangular region of 30,408 square miles. Assam is bordered on the northwest by the kingdom of Bhutan; on the northeast, east, and southeast by the small mountain states of Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, and Meghalaya; and on the west by Bangladesh. A narrow 40-mile corridor running through the foothills of the Himalayas in West Bengal connects Assam with the rest of the Indian Union. *Id.* at 83.

³ See SHEKHAR GUPTA, *ASSAM: A VALLEY DIVIDED* 15-16 (1984).

are taken to protect and preserve the existence and viability of Assam's different ethnic groups, this tension will almost certainly erupt again into even greater ethnic violence.

When the Assamese "movement against foreigners" was launched twelve years ago, it was labeled variously as secessionist, anti-Muslim, and anti-Bengali.⁴ The Assamese involved in the movement have long denied these characterizations. They insist that their struggle to "protect" Assam from non-Indians is not a religious, ethnic, or separatist movement. Rather, it is a *national* movement against the continued presence of foreigners in Assam, and is designed to succeed where both the Indian government and the Indian Constitution have failed.⁵

Indeed, there are millions of illegal Nepalese and Bengali immigrants in Assam, and the Indian government *has* failed in its duty to prevent this illegal migration.⁶ Nevertheless, it is also true that the Assamese have been agitating not only to expel foreigners, but also to protect the Assamese language and culture and preserve Assamese dominance in the state's political arena.⁷ It would be oversimplifying the issue to characterize the conflict in Assam solely as a matter of Indians versus non-Indians. A more honest approach recognizes that the growing non-Assamese groups in the state genuinely threaten the Assamese identity with extinction, and that the purpose of the movement is to stop this threat. Although the *casus belli* for the agitation might be Indian nationalism, it is Assamese subnationalism that is its driving force.⁸

Part II of this Note examines the Assamese search for identity, the nature of immigration and internal migration in northeast India, and

⁴ AMIYA KUMAR DAS, *ASSAM'S AGONY: A SOCIO-ECONOMIC AND POLITICAL ANALYSIS* at ix (1982).

⁵ See MAHESH JOSHI, *ASSAM: THE INDIAN CONFLICT* 51 (1981). The Assamese believe the conflict should be regarded as an issue of Indians versus non-Indians, and it is only because of political machinations that the issue has been deliberately confused with subnationalism. *Id.* at 50-51.

⁶ See BIMAL J. DEV & DILIP K. LAHIRI, *ASSAM MUSLIMS: POLITICS AND COHESION* 155-60 (1985); DAS, *supra* note 4, at 7.

⁷ See JOSHI, *supra* note 5, at 51.

⁸ UDAYON MISRA, *NORTH-EAST INDIA: QUEST FOR IDENTITY* 66 (1988). Subnationalism and minority rights are probably the most serious threats to Indian unity today. See Raju Gopalakrishnan, "Multi-Ethnic, Multi-Religious India Questions Future Unity," *REUTERS*, Jan. 21, 1992, available in LEXIS, Nexis Library, Reuter File. It is fair to say that how the Assamese situation is resolved will affect strongly how the national and state governments treat the issues of migration, subnationalism, and minority rights throughout India. The resolution to the conflict in Assam's Brahmaputra Valley will have considerable influence on those persons in Pakistani-occupied Kashmir trying to return to India, on the communal strife in the Punjab, and even with regard to Tamils leaving Sri Lanka and Indians emigrating from East Africa.

the problems created by Assam's increasing population. Part III presents an analysis of minority rights within Assam's ever-changing demography, and discusses what value these rights have within Assam's changing economic and political situation. Part IV introduces (1) the grassroots movement initiated to oust foreigners from Assam, (2) the violence that arose from this movement, and (3) the potential solution that was agreed upon by the Assamese and India's central government. Lastly, Part V offers some additional solutions on how to curb the current problems stemming from ethnic tension between the indigenous Assamese and the immigrant Bengali populations. Any steps designed to prevent the further alienation of the Assamese people will be difficult to undertake, and the following suggestions are intended only to be a starting point toward resolving Assam's problems of ethnic conflict. Nonetheless, these steps are necessary if the Assamese hope to stabilize the tensions between the different groups of the land.

II. ASSAM: THE LAND AND THE PEOPLE

Through long periods of history, different ethnic groups migrated to Assam and formed a composite population.⁹ These early migrants were few in number, and had no choice but to assimilate into the existing population and its culture in order to survive.¹⁰ As each of these groups integrated with the existing society, they lost their separate identities, and contributed to the growth of a common Assamese culture.¹¹ The political frontiers of Assam advanced and receded over the centuries depending upon the compulsions of history, but the geographical limits of the territory were confined by nature in such a way that the people retained their cultural distinctiveness.¹² Even the Ahoms from Burma, who conquered the region in 1228 and ruled for six hundred years, adopted the traditions, culture, and language of the original population.¹³ Until the nineteenth century, when other Indian

⁹ MRIDUL BHATTACHARJEE & SANJEEB GOSWAMI, *ASSAM, AGONIES AND GRIEVANCES* 2 (1985).

¹⁰ The major groups that migrated to Assam between the 13th and 16th centuries were the Brahmins and Kalitas from the Kanauj area of Uttar Pradesh, the Ahoms from Burma, and the Muslims from North India and Gaur in Bengal. DAS, *supra* note 4, at 12. All of them became immersed in the Assamese society and now form the core of that society. *Id.* at 13.

¹¹ BHATTACHARJEE & GOSWAMI, *supra* note 9, at 2.

¹² *Id.* Assam's Brahmaputra Valley is surrounded by mountain ranges on three sides.

¹³ *Id.*; MYRON WEINER, *WHEN MIGRANTS SUCCEED AND NATIVES FAIL: ASSAM AND ITS MIGRANTS* 10 (1975). Mughal power spread across northern India from the 13th to 18th centuries, yet the Ahoms (from which the word Assam is derived) successfully repulsed these invaders and resisted incorporation into the Mughal empire. "To this day, the Assamese speak with great pride of their resistance to 'Muslim aggression,' and to the successful spread of [Hinduism] throughout

ethnic groups expanded into Assam in greater numbers, the Assamese people formed a distinct homogeneous cultural and linguistic entity among the myriad groups of South Asia.¹⁴

A. *Immigration to Assam*

Far from being "instruments of cultural diffusion and social integration,"¹⁵ migrant groups often generate new tensions and increase racial, linguistic, and religious conflict. Clashes between indigenous and migrant communities have often been a prominent feature of politics in multiethnic countries. In Nigeria, violent attacks against immigrant Ibo settlers precipitated the country's 1967 civil war.¹⁶ In Malaysia, where many Chinese have lived for as long as the native Malays, "antagonism toward the Chinese is always defined in terms of a conflict between indigenous residents . . . and Chinese migrants."¹⁷ In Assam, the presence of migrant groups has caused similar tension. The vast number of "outsiders" in Assam has upset the state's once-existing demographic and economic balance, and threatens the Assamese culture with extinction.¹⁸ The growing numbers of various migrant and immigrant groups may already have reduced the Assamese people to an ethnic minority in their own homeland.¹⁹

1. Plantation Migrants

The first significant migration to Assam followed the British conquest in 1826.²⁰ Having discovered tea in Assam, the British wanted to

the Brahmaputra Valley . . . at a time when Muslim influence elsewhere [in India] was at its zenith." *Id.*

¹⁴ BHATTACHARJEE & GOSWAMI, *supra* note 9, at 3.

¹⁵ Donald J. Bogue, *Internal Migration*, in *THE STUDY OF POPULATION: AN INVENTORY AND APPRAISAL* 487 (Philip Hauser & Otis Duncan eds., 1969).

¹⁶ WEINER, *supra* note 13, at 1.

¹⁷ *Id.* at 1.

¹⁸ See BHAWANI SINGH, *POLITICS OF ALIENATION IN ASSAM*, at vii (1984).

¹⁹ *Id.* Few tribal groups remain in Assam today, and since the early 19th century, the main linguistic conflict in Assam has been between the two predominant languages: Assamese and Bengali. WEINER, *supra* note 13, at 5-7. Although Assamese is the language of most of the indigenous people, Bengali-speakers have registered a steady increase in numbers since Indian independence. See SINGH, *supra* note 18, at 4. One difficulty in determining the number of Bengali-speakers is that many illegal immigrants to Assam from Bangladesh hide their linguistic identity and declare Assamese to be their mother tongue so as to escape detection. *Id.* Whereas Bengali Hindus have received sanctuary in Assam under the cover of Indian government policy directives that prohibit the deportation of Hindu refugees, this facility never has been extended to Muslim refugees. *Id.* "A sense of insecurity thus compels a Bengali Muslim migrant to declare Assamese his mother tongue in order to escape detection and eventual deportation. This has complicated the language question in Assam and added an inflammable dimension to it." *Id.*

²⁰ BHATTACHARJEE & GOSWAMI, *supra* note 9, at 20. At this time of early British imperial

cultivate and sell the commodity, but the local Assamese had no interest in working on tea plantations.²¹ Eventually, the British resorted to recruiting indigent tribespeople from Bihar to work in Assam as indentured servants.²² As the tea industry boomed, so did the influx of millions of migrant Bihari tea workers.²³ They never posed an economic, cultural, or political threat to the Assamese, however, because many of these migrants were seasonal laborers who returned to their home states in the off-season.²⁴ The ones who did remain generally assimilated into the Assamese way of life by learning the Assamese language and adopting Assamese Hindu rituals into their own Hindu culture.²⁵ To this day, these plantation migrants do not live in areas inhabited by the Assamese nor do they engage in labor ordinarily undertaken by Assamese, and therefore they are in no sense rivals to the Assamese.²⁶

2. Bengali Hindu Migrants

After annexing Assam in 1826, the British recruited Bengali officials for Assam's administration.²⁷ Bengal had been the first region in India conquered by the British, and by the time Assam was incorporated into the British Raj, Bengalis had already had extensive contact with the English people.²⁸ Many were educated in missionary schools and had received British administrative training.²⁹ As Assam needed more clerks, judges, tax collectors, and so forth, greater numbers of Bengali officials and their families migrated to the province, assuming

expansion in India, it was necessary for East India Company officials to form political subdivisions of the country. They had no perspective of India as a British dominion (because it had not yet become one), but nevertheless needed to provide a suitable administration machinery for the territory that came intermittently into their hands. *See id.* In the case of Assam, the territory was simply incorporated into the already-existing province of Bengal. WEINER, *supra* note 13, at 11. No thought was given to Assam's homogeneity or the problems the Assamese might face under Bengali domination. M.R. PALANDE, *INTRODUCTION TO THE INDIAN CONSTITUTION* 205 (1956).

²¹ *See* WEINER, *supra* note 13, at 15. Epidemics and invasions from Burma in the past had depopulated much of the region, and there was little incentive for the local Assamese to work as low-income wage laborers in unhealthy jungle terrain, when there was much available land and better prospects elsewhere. *Id.*

²² *Id.* at 16.

²³ *See id.* at 17.

²⁴ WEINER, *supra* note 13, at 18.

²⁵ SINGH, *supra* note 18, at 78.

²⁶ WEINER, *supra* note 13, at 18. Quite the opposite, the Assamese regard them as "model migrants." SINGH, *supra* note 18, at 78.

²⁷ WEINER, *supra* note 13, at 19.

²⁸ SINGH, *supra* note 18, at 69.

²⁹ *Id.* Because the revenue administration and judiciary offices in Assam were based on the administrative structure of neighboring Bengal—which had operated already for 70 years—the British thought it obviously best to recruit Bengalis for Assam's administration. *Id.* at 68–69.

most of Assam's administrative positions and monopolizing Assam's professional positions.³⁰ By the beginning of the twentieth century, practically all of Assam's doctors, lawyers, teachers, and journalists, as well as railway and post office workers were Bengali Hindu migrants.³¹ Because the Bengali and Assamese languages have many similarities, the Bengalis were able to convince the British that the Assamese language was merely a "corrupt and vulgar dialect" and that Bengali should become the official language of courts and schools in Assam.³² When the Government of Bengal designated Bengali as Assam's official language in 1831, the services of Bengalis became indispensable in government schools because local teachers were not available in adequate numbers to impart lessons in Bengali, which had become the medium of instruction.³³ For the next forty years, the majority Assamese were unable to use their own language in public schools, courts, and government offices.³⁴ It was not until 1873 that the Assamese succeeded in persuading the British to recognize Assamese as a separate language, and to establish it again as the medium of instruction in schools and as the language of administrative affairs.³⁵

Although the number of educated Assamese entering the teaching profession and Assam's administrative services has grown since Indian independence in 1947, economic competition between Bengali Hindus and the Assamese for public employment remains keen.³⁶ To this day, the Assamese are resentful of the nineteenth-century attempt at "Bengalization" of the Assamese people and the efforts of the Bengalis to treat the local population as culturally inferior.³⁷

³⁰ *Id.* at 69.

³¹ *Id.* The majority of educated Bengalis were Hindus. Most Bengali Muslims (disenchanted after British military victories over the Muslim Mughals) rejected Western education, and therefore did not aspire to the Indian Civil Service. See R.A. SCHERMERHORN, *ETHNIC PLURALITY IN INDIA* 162-63 (1978).

³² E.A. GAIT, *CENSUS OF INDIA: ASSAM, 1892*, at 157 (1892), cited in WEINER, *supra* note 13, at 20.

³³ H.K. BARPUJARI, *ASSAM: IN THE DAYS OF THE COMPANY* 266-67 (1963), quoted in DAS, *supra* note 4, at 25.

³⁴ See JOSHI, *supra* note 5, at 43.

³⁵ MAHESWAR NEOG, *PLEAS FOR ASSAM AND ASSAMESE* 22-23 (1977). In 1874, a separate province of Assam was established, and, except for a brief period, remained intact until the partition of India in 1947. DAS, *supra* note 4, at 13. In 1905, the Governor General of India, Lord Curzon, partitioned Bengal into a predominantly Bengali Muslim province in the east that included Assam, and a predominantly Hindu province in the west. WEINER, *supra* note 13, at 11. Bengali Hindus resented partition of their province, and the Assamese also resented incorporation into partitioned Bengal. In 1912, the arrangement was annulled, and the provinces reverted to their pre-1905 borders. DAS, *supra* note 4, at 13.

³⁶ See JOSHI, *supra* note 5, at 162; WEINER, *supra* note 13, at 39-40.

³⁷ See WEINER, *supra* note 13, at 21. Because Bengalis were considered more skilled, better

3. Bengali Muslim Migrants

At the turn of the nineteenth century, most of Assam's countryside remained relatively sparsely populated. As such, great numbers of Bengali Muslim farmers migrated to the western regions of Assam to take advantage of the available land.³⁸ During these early years, lack of communication facilities and transportation opportunities compelled these Bengali Muslims to sever all links with their former homeland.³⁹ Although necessity forced these early migrants to assimilate into the Assamese language and culture, the process of assimilation stopped after the Bengalis began arriving in larger numbers.⁴⁰ By the early 1900s, East Bengali (Muslim) migrant settlers constituted twenty percent of the border district populations.⁴¹ As they gained possession of land rights, they concentrated in certain areas of Assam and formed linguistic-cultural "islands" within the larger Assamese community.⁴² Thereafter, they functioned as self-contained communities, speaking the Bengali language and enjoying their own cultural traditions.⁴³

B. Population Increases in Assam

During the first half of the twentieth century, the nonindigenous population of Assam grew from a half million (out of a total population of 2.2 million),⁴⁴ to three million (out of a total population of seven million).⁴⁵ Even at this early stage, the British were not indifferent to the tensions developing between the indigenous inhabitants and the immigrants. In 1920, they initiated the "Line System," a measure that protected the Assamese by prohibiting migrants from settling in particular regions of the province.⁴⁶ In 1928, the British inaugurated a

educated, and harder working than the Assamese, it was natural that tensions would rise between the two ethnic groups. See DAVID L. HOROWITZ, *ETHNIC GROUPS IN CONFLICT* 172 (1985). Myron Weiner reflected the feelings of the Assamese in *Sons of the Soil*, describing the existence of "migrants [as] psychologically threatening because their very presence may imply a defect on the part of the local people." *SONS OF THE SOIL*, *supra* note 1, at 353.

³⁸ See WEINER, *supra* note 13, at 24.

³⁹ MISRA, *supra* note 8, at 60.

⁴⁰ See *id.* at 60-61.

⁴¹ See WEINER, *supra* note 13, at 24.

⁴² MISRA, *supra* note 8, at 60.

⁴³ See *id.*

⁴⁴ See AMALENDU GUHA, *PLANTER-RAJ TO SWARAJ: FREEDOM STRUGGLE AND ELECTORAL POLITICS IN ASSAM, 1826-1947*, at 39-45 (1977) (figures are from 1901 census), *cited in* DAS, *supra* note 4, at 26.

⁴⁵ See DAS, *supra* note 4, at 26 (figures are from 1947 estimates).

⁴⁶ See GUPTA, *supra* note 3, at 102-04; see generally DEV & LAHIRI, *supra* note 6, at 23-32.

"compact colonization scheme," which allotted specific areas for migrant settlement, and "outlined land that would be left vacant to accommodate the future progeny of the Assamese people."⁴⁷ Neither of these systems, however, successfully prevented immigrant encroachment onto Assamese-held lands.⁴⁸ In sparsely populated Assam, immigration was bound to continue as an unavoidable economic imperative.⁴⁹

After India's partition in 1947, the Indian and Pakistani governments established a two-year "grace period" during which Hindus in Pakistan could settle in India and Muslims in India could emigrate to Pakistan.⁵⁰ Pakistanis who migrated to India during the grace period automatically became Indian citizens.⁵¹ After July 26, 1949, however, immigration was possible only by completing certain legal procedures (visa applications, for example), and unrestricted cross-border migration should have ceased.⁵² This was not the result. In terms of both natural resources and opportunities for cultivating land, economic imbalances between East Pakistan and Assam remained sufficiently great so that "even the existence of an international boundary, the imposition of a variety of legal restrictions, and the presence of an Assamese government [all failed to] stem the flow of Bengali Muslims into Assam."⁵³

Estimates indicate that Assam's population increased from 14.6 million to 22.9 million during the 1970s.⁵⁴ This increase of 56.6% in one decade cannot be attributed to a natural population growth alone, especially when the rest of India registered an increase of 24.7% during the same period.⁵⁵ Illegal immigration is the only explanation that accounts for the discrepancy. Conservative estimates place the total number of illegal immigrants currently in Assam (almost all of them Bengalis) at over six million persons.⁵⁶ Combined with the five million legal Bengali migrants, the total number of Bengalis now living in Assam almost certainly outnumbers the number of indigenous As-

⁴⁷DAS, *supra* note 4, at 27.

⁴⁸See GUPTA, *supra* note 3, at 102. In many places, the scheme failed to prevent the indigenous population from selling its landholdings to immigrants who offered good prices. In addition, demarcation maps were drawn crudely by hand, and were altered by corrupt officials at will. *Id.*

⁴⁹See DAS, *supra* note 4, at 31.

⁵⁰See *id.*

⁵¹*Id.*

⁵²See *id.*

⁵³WEINER, *supra* note 13, at 29.

⁵⁴See DAS, *supra* note 4, at 38.

⁵⁵See *id.*

⁵⁶SANJAYYA, ASSAM: A CRISIS OF IDENTITY 10 (1980).

samese.⁵⁷ Although the 1991 census figures are not yet available (nor even the 1981 figures), the general consensus today is that Assam's population is one-third indigenous Assamese and tribals, one-third legal non-Assamese, and one-third illegal foreigners.⁵⁸

C. *The Balkanization of Assam*

The problem the Assamese face today is that it soon may be themselves who constitute an island within a sea of Bengalis. The constant stream of immigrants from across the Bangladesh border has altered the demographic composition of Assam, transforming the once-dominant Assamese into a minority group within Assam.⁵⁹ The Assamese fear that being reduced to an ethnic minority in their own homeland will lead to the extinction of their culture and their identity.⁶⁰ Ironically, the Assamese themselves have been guilty of ethnic domination over minority cultures. Forty years ago, Assam comprised a much larger area than it does today.⁶¹ Ethnic tension and violence between the Assamese and indigenous tribal groups, however, forced the balkanization of what was once India's only province east of Bengal.⁶²

When Assam was established as a full-fledged state in the Indian Union in 1947, the Assamese realized that they had significantly more power under the new Indian Constitution than ever before under the British. Possessing independent power for the first time in 120 years, the majority Assamese were blind and indifferent to the claims of the Bengali minority groups and the tribal communities for a share in the fruits of independence.⁶³ Instead of trying to integrate the minority tribal groups within Assamese society, the Assamese endeavored to acculturate them by imposing the Assamese language upon them.⁶⁴ But whereas the British had controlled the Assamese mountain tribes by wielding forcefully the power of central imperial authority, independent India instituted a policy of conciliating these subnationalities rather than alienating them by force.⁶⁵ Feeling the Assamese political

⁵⁷ *Id.*; DAS, *supra* note 4, at 3.

⁵⁸ See DAS, *supra* note 4, at 39; see also SAROJ CHAKRABARTY, *THE UPHEAVAL YEARS IN NORTH-EAST INDIA* 206 (1986).

⁵⁹ See DAS, *supra* note 4, at 3.

⁶⁰ *Id.*

⁶¹ SINGH, *supra* note 18, at 10.

⁶² See generally *id.* at 10-14.

⁶³ See B.M. PUGH, *THE STORY OF A TRIBAL* 30 (1971), quoted in GUPTA, *supra* note 3, at 76.

⁶⁴ SINGH, *supra* note 18, at 14.

⁶⁵ *Id.* at 13. This afforded the minority tribes of Assam the freedom to demand a separate place in the Indian Union to ensure that their cultural distinctiveness would be maintained.

embrace tighten, the minority hill tribes of Assam mobilized in the late 1950s for greater autonomy and for *their* share in Indian independence.⁶⁶ The passing of the Assam Official Language Act in 1960 raised fears and suspicions in the minds of the different hill tribes, and accelerated tribal separation from Assam.⁶⁷ The Act specified Assamese as the official state language and the medium of instruction in schools throughout Assam.⁶⁸ In the mountainous regions where Assamese was not the native language, this chauvinistic move on the part of the Assamese-dominated provincial legislature was met with great opposition.⁶⁹ Fearing that Assamese linguistic expansion would eventually lead to the elimination of their own cultural identity, the tribal groups increased their agitation for the creation of new states within Assam wherein they could practice self-determination of language and culture.⁷⁰ As tribal riots and violence escalated during the 1960s, the central government finally intervened, and Assam underwent a process of phased vivisection.⁷¹ One by one, the government excised the tribal areas from the existing body of Assam and constituted them as separate states and Union Territories.⁷² Today, most Assamese still suffer from a deep sense of hurt over the breakup of their state, and generally hold the central government responsible for Assam's "humiliating reduction to the status of a mini-state, one amongst many under shared governors [that is] not *primus inter pares*, but a mere equal."⁷³

⁶⁶ See *id.* at 14.

⁶⁷ MISRA, *supra* note 8, at 122.

⁶⁸ GUPTA, *supra* note 3, at 76. The Act did not apply to the Bengali-dominated district of Cachar, where protests resulted in Bengali remaining the language of instruction and administration. See BHATTACHARJEE & GOSWAMI, *supra* note 9, at 42.

⁶⁹ GUPTA, *supra* note 3, at 76.

⁷⁰ SINGH, *supra* note 18, at 14.

⁷¹ *Id.* at 10-11.

⁷² NARI RUSTOMJI, *IMPERILLED FRONTIERS* 11 (1983). Mountain range areas dominated by different tribes were formed into separate political identities. Nagaland was carved out of Assam as a separate state in 1962-63. Meghalaya came into existence in 1971. The Union Territories of Mizoram and Arunachal Pradesh followed soon after in 1972. Today's Assam is much smaller than it was following Indian independence. By 1978, the state's real area had shrunk from 223,590 to 78,523 square kilometers. SINGH, *supra* note 18, at 10-11.

⁷³ RUSTOMJI, *supra* note 72, at 12. It is misleading, however, to place the entire blame for Assam's dissolution on the Central Indian government. The hill states' movements, which began during the mid-1950s, were discouraged actively by Prime Minister Jawaharlal Nehru, and there is little reason to believe that the breakup of Assam was solely the result of political machinations by the Central Indian government. GUPTA, *supra* note 3, at 77-78. Indeed, New Delhi can cite that it was the Assamese leadership, which (having inherited the mantle of the "guardian of the region" from the British) failed to keep its state borders intact, because of its inability to gauge tribal aspirations coupled with its policy of linguistic majority domination. *Id.* at 75, 77.

D. *Official Indifference and Political Connivance*

The creation of separate tribal states both reduced Assam's cultural heterogeneity and brought tensions between the Assamese and Bengali communities into sharper relief.⁷⁴ Considering the previous Assamese disdain for the central government's intrusion into Assam's internal affairs, it is ironic that the Assamese people's most furtive complaint today is that there is insufficient central government intervention in Assam to protect the Assamese people from "foreign" domination.

Efforts have been made in the past to prevent illegal immigration. In 1950, the Indian Parliament passed the Immigrants (Expulsion from Assam) Act, which granted the central government the power to remove from India or Assam immigrants whose stay in Assam was detrimental to the economic interests of India.⁷⁵ The Act allowed immigration to Assam only for those Pakistanis displaced because of civil disturbances.⁷⁶ Deciding that this legislation discriminated against Muslims in favor of Hindus, however, the Parliament repealed the law in 1957.⁷⁷

A plan that initially had more success was the Prevention of Infiltration to Assam Plan (PIP), adopted by the central government in 1964.⁷⁸ Under this scheme, hundreds of border watch posts were constructed, a Border Security Force was established, and infiltrators who were caught were expelled from India immediately.⁷⁹ During the first three years of the plan's implementation, 190,000 illegal immigrants were identified, arrested, and deported.⁸⁰ But the scheme soon fell victim to corruption and inefficiency: from 1968 to 1971, 20,800 infiltrators were detected—a mere tenth of the number of infiltrators caught during the first three years.⁸¹ In 1975, only 405 persons were intercepted, and in 1976, only one person was detained by the Border Security Force and subsequently returned to Bangladesh.⁸² The role

⁷⁴ WEINER, *supra* note 13, at 14.

⁷⁵ See CHAKRABARTY, *supra* note 58, at 130; see also Mahesh Joshi, *Cost of Being Reasonable*, PATRIOT (New Delhi), May 28, 1980, cited in JOSHI, *supra* note 5, at 66.

⁷⁶ DAS, *supra* note 4, at 56.

⁷⁷ *Id.* The law was discriminatory because Hindus could claim displaced status more easily than Muslims. *Id.*; see also GUPTA, *supra* note 3, at 111.

⁷⁸ See GUPTA, *supra* note 3, at 201 (full text).

⁷⁹ See DAS, *supra* note 4, at 57; GUPTA, *supra* note 3, at 165.

⁸⁰ DAS, *supra* note 4, at 57.

⁸¹ *Id.* at 57.

⁸² *Id.* at 59. This last statistic attests to the complete uselessness of the PIP, especially considering that—based on the increase of voters registering with the election commission—officials estimated the number of illegal immigrants to Assam to be 7500 per day at that time. *Id.*

and usefulness of the Border Security Force today is essentially nonexistent.

Blame for the failure of these official acts should lie with the national government, which is responsible for maintaining secure international borders with India's neighboring countries.⁸³ Nevertheless, the local Assamese state government is not entirely without fault. In some cases, Assam's Congress Party and Muslim members of Assam's Legislative Assembly have encouraged the migration by helping settle the Bangladeshis, by arranging for them to receive ration cards, and by illegally enrolling thousands of them on voting lists.⁸⁴ In return, they have demanded the immigrants' loyalty and their votes.⁸⁵ If the government imposed tighter measures to stem the flow of Bengali immigrants, and prevented illegal immigration by so doing, these politicians would lose their electoral base. Not wanting to jeopardize their political power, local politicians therefore have remained largely indifferent to the issue of illegal immigration.⁸⁶

III. INDIVIDUAL AND GROUP RIGHTS IN INDIA

In India, the residents of each state directly elect the members of state legislatures.⁸⁷ These legislatures have significant powers regarding the function and administration of their states.⁸⁸ The Assamese therefore fear that the loss of their political power would result in the loss

⁸³Not only was the preventative work beyond the financial resources of Assam's state government, the responsibility for PIP was given to India's national army, thus making the plan specifically devoid of any local cultural and political commitment on the part of those charged with the responsibility of preventing infiltration. JOSHI, *supra* note 5, at 74.

⁸⁴Sanjoy Hazarika, *India Admits Failure to Cut Bangladesh Influx*, N.Y. TIMES, Dec. 16, 1992, at A1.

⁸⁵*Id.* These immigrants have voted consistently for the ruling Congress Party under the direction of village chiefs "with whom the Congress Party established close political links." MISRA, *supra* note 8, at 77.

⁸⁶For a descriptive analysis of how the Congress Party has tried to legitimate illegal immigrants to secure massive electoral support, see SINGH, *supra* note 18, at 70-76.

⁸⁷PALANDE, *supra* note 20, at 418. Legislative representation is based on the population of constituencies as determined by the most recent census. As in the United States, the representation of the Indian states and union territories is readjusted at both the national and state levels in light of the new population figures. *Id.* at 419.

⁸⁸These powers include, *inter alia*, the regulation of land revenues, official state language recognition, and taxes on agricultural income, professions, and trades. *Id.* at 227, 489. Bills passed by the directly elected Legislative Assembly also must be approved by the State Governor (who is appointed by the Indian President), but this is largely a formality. The Governor may assent to the bill, withhold his assent, or reserve the bill for the consideration of the Indian President (if, and only if, the bill might derogate from the powers of the Supreme or High Courts). *Id.* at 433. The Legislative Assembly can still override the Governor if the bill is not accepted, but the Assembly has no power to override a presidential veto. *Id.* at 434.

of their linguistic and cultural privileges. Without weighted representation or reserved seats in the State Assembly, a "new" Assamese minority would have no recourse should a Bengali majority choose Bengali to be the official government language, or impose taxes on traditional Assamese occupations that favor the Bengali community over the Assamese.⁸⁹ The Assamese, however, are not alone in possessing such a fear. Each minority group in Assam already suffers this same disadvantage. In deciding what rights should be guaranteed to each ethnic group of Assam, it is important to examine first what individual and group rights already exist in the state, and who is entitled to these rights.

A. *Constitutional Rights for Minorities in India*

The Indian Constitution allows absolute freedom of movement and settlement in any part of the country for all Indian citizens.⁹⁰ Despite India's reorganization of states along linguistic lines, this freedom of movement has led to the widespread growth of ethnic minority communities far removed from their original home states. Therefore, it has become very important for the government to secure and enforce the protection of minority groups.

The primary right of all groups in India is the right to equality.⁹¹ Article 14 of the Indian Constitution asserts that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." Article 15 expands upon the concept of equal protection by stating that "the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them." Article 29 of the Indian Constitution establishes that linguistic, cultural, and religious minorities of India have the right to preserve their language, script, and culture. This right includes "the protection and preservation of religious views, moral

⁸⁹ As stated in PALANDE, *supra* note 20, at 172:

It is generally agreed that mere counting of heads is not necessarily an infallible guide for the assessment of ability and for the assurance of fair play and justice. It may be that, infatuated by a sense of profound self-esteem and of self-righteousness and by a consciousness of power which springs from the strength of numbers, the majority may make, wittingly or unwittingly, serious encroachments on the legitimate freedom of the individual, particularly on the freedom of those who differ from them. A great danger to democracy lies in its tendency to be misunderstood and misconstrued as being essentially the rule of numbers, whereas the emphasis should really be on rule by argument, persuasion and consent.

⁹⁰ PALANDE, *supra* note 20, at 178.

⁹¹ JAY A. SIGLER, *MINORITY RIGHTS: A COMPARATIVE ANALYSIS* 140 (1983).

beliefs and cultural practices."⁹² Article 30 guarantees that "all minorities, whether based on religion or language, have the right to establish and administer educational institutions of their choice," and that the government must subsidize these institutions to some extent. The Indian Parliament cannot, in granting aid, discriminate against any educational institution on the ground that it is under the management of a minority.⁹³ Furthermore, the Constitution requires state and local governments to "provide adequate facilities for instruction in the mother tongue at the primary stage of education to children belonging to linguistic minority groups."⁹⁴

There have been instances throughout the world where equality has been granted to minorities under law, yet has not been manifested in fact.⁹⁵ This situation exists in Assam today. Although linguistic minorities in Assam are granted certain privileges to help secure cultural protection, disparities still exist among ethnic groups in terms of educational opportunity. The predominantly Bengali-speaking district of Cachar in Assam is the only district where Bengali is the language of instruction beyond primary school.⁹⁶ In many other regions of Assam, Bengali communities do not have the financial ability to establish their own schools. Thus, that a certain group in Assam has the "right to establish and administer an educational institution" does not always mean that the group will be able to exercise this right.⁹⁷

B. *Economics and Economic Rights as a Catalyst for Ethnic Tension*

Another cause of ethnic tension in Assam is the lack of legislation guaranteeing economic rights to Assam's competing ethnic groups. The blame for Assam's economic woes lies in part with the central government, which is not paying Assam enough for the goods and

⁹² *Id.* at 141. The Indian judiciary has interpreted this right broadly so as to include the right to agitate for the protection of a particular language. *Id.*

⁹³ INDIA CONST. art. 30(1), (2).

⁹⁴ INDIA CONST. art. 350A.

⁹⁵ For example, the original goal of the 1960s U.S. civil rights legislation was to unify, remove discrimination, and provide equality under the law. See Civil Rights Act of 1964, 42 U.S.C. § 2000e *et seq.* (1988). Yet, it is naïve to believe that genuine equality has actually resulted for minorities in the United States with regard to jobs, housing, and educational opportunities.

⁹⁶ GUPTA, *supra* note 3, at 137. An attempt in 1972 by the Academic Council of Gauhati University—which has jurisdiction over Cachar—to deny students the option of taking examinations in Bengali was blocked when the Supreme Court granted a stay order affirming that the university's decision to restrict the medium of instruction to Assamese was in violation of Article 30 of the Indian Constitution, which assures protection of linguistic minorities. WEINER, *supra* note 13, at 47.

⁹⁷ INDIA CONST. art. 30(1), (2).

energy resources the state produces.⁹⁸ Assam is one of India's richest resource states, yet the Assamese people have never received a fair share of the development resources generated by the state.⁹⁹ Migrant communities, however, also have had an adverse impact on Assam's economic situation.¹⁰⁰ The presence of Bengali migrants has exacerbated the deteriorating economic condition of skilled and unskilled indigenous Assamese laborers: millions of illegal immigrants not only have caused massive unemployment in Assam, but also have lowered Assam's standard of living.¹⁰¹ State government spending on education, health programs, and other social services for non-Indians is increasing at the expense of native Assamese, who still provide most of the state revenues.¹⁰² To redress the situation, the Assamese have demanded that the central government create a "right of access" to Assam's natural resources, limited to those who can prove themselves to be "authentic" Assamese.¹⁰³ Granting special economic privileges to the Assamese, however, would certainly raise constitutional questions.

Originally, under the Indian Constitution, every Indian had the same rights of citizenship regardless of the state or part of India in which he or she resided.¹⁰⁴ Recent events and the rise in state parochi-

⁹⁸ DAS, *supra* note 4, at 225.

⁹⁹ See generally DAS, *supra* note 4, at 221-42. Although Assam produces more oil, tea, and plywood than any other state, it consistently has had net deficits in revenue. *Id.* at 222. These deficits "amounted to 180 million rupees in 1981-82. The corresponding deficits in 1980-81 and 1979-80 were 669 and 401 million rupees respectively. This can be compared with the revenue surpluses in the same years registered in the two other equally underdeveloped states of India, viz. Bihar and Orissa." Jyotirindra Das Gupta, *Ethnicity, Democracy, and Development in India: Assam in a General Perspective*, INDIA'S DEMOCRACY 158 n.24 (Atul Kohli ed. 1988) [hereinafter *Ethnicity, Democracy, and Development*].

¹⁰⁰ See generally WEINER, *supra* note 13, at 61-62.

¹⁰¹ With the rush of immigrant labor into the labor market, especially in the agricultural sector where the wage rate is determined by comparative bargaining, the wage level tends to be lower than marginal productivity—even to subsistence level. See Binay Kumar Nath, *Impact of Immigration on Assam's Agricultural Economy*, 1 E. VOICE 50 (1980), quoted in DAS, *supra* note 4, at 47.

¹⁰² DAS, *supra* note 4, at 47.

¹⁰³ Indigenous peoples worldwide have often been granted privileges extending to the use of the natural resources of their homeland (e.g., traditional hunting of particular animal species). Extending this privilege to the Assamese poses two problems. First, the Assamese are not "indigenous" people. Second, the oil, tea, and plywood industries of Assam have nothing to do with the ethnicity of the Assamese people. It must be remembered that ethnic claims and ethnic action generally are designed to serve the ethnic collectivity, but are not necessarily natural expressions of ethnicity. See *Ethnicity, Democracy, and Development*, *supra* note 99, at 145.

¹⁰⁴ PALANDE, *supra* note 20, at 170. Although India is a federation with autonomous constituent units, there is no dual citizenship envisioned by the Indian Constitution. There is only one citizenship for the whole of India. In the United States, each state has its own citizenship and has the right to grant to its citizens a number of privileges that it may legally deny to others, even

alism, however, have subjugated this principle. Although the constitution provides freedom of movement to all Indians, this no longer means that a citizen will enjoy equal rights in every part of the country. The Indian Parliament recently barred Indian migrant settlers in Nagaland from running for elected positions in that state.¹⁰⁵ The Meghalayan Legislative Assembly has adopted a residential permit bill that requires citizens from outside the state to obtain a permit if they reside in the state for more than four months.¹⁰⁶ In West Bengal, the Assembly has passed a law stipulating that anyone living in the state for more than ten years will be treated as a "son of the soil," thus entitling him or her to preferential treatment in employment.¹⁰⁷ Each of these examples refers to situations where state citizens are favored over non-state citizens. If Assam's minority groups fear for their future economic prosperity and cultural integrity, they could agitate together for political and economic restrictions against migrants to Assam from other parts of India. Such legislation probably would be constitutional, however, only if it was not ethnically biased and if it applied equally to all nonresidents of Assam.¹⁰⁸

IV. THE ASSAM MOVEMENT

A. *A Call to Arms*

The failure of Assamese politicians to compel the national government to promote and protect Assamese interests led eventually to the rise of grassroots organizations devoted to maintaining the status and position of the Assamese in Assam.¹⁰⁹ The first popular movement

though they may be citizens of the U.S.A. No state of the Indian Federation possesses such a right. *Id.*

¹⁰⁵ Sanjoy Hazarika, *India's Assam State Demanding Ban on Migration*, N.Y. TIMES, Sept. 13, 1987, at 12.

¹⁰⁶ SONS OF THE SOIL, *supra* note 1, at 267.

¹⁰⁷ *Id.*

¹⁰⁸ Although such restrictions would certainly be favored by most of Assam's ethnic minorities (primarily the Assamese), they probably would be opposed by the Bengali Muslims, who favor the continued immigration of other members of their community. It should be noted, however, that the Bengalis are one of the most mobile linguistic groups in India, while the Assamese are one of the least mobile. SINGH, *supra* note 18, at 68. Whereas one out of eight Bengalis, both in India and Bangladesh, lives outside of Bengal, 99.7% of all Assamese live in Assam. *Id.* This explains further the Assamese attitude toward non-Assamese. Being averse themselves to settling elsewhere, they are therefore less favorably disposed to those who do settle outside their homeland.

¹⁰⁹ See *Ethnicity, Democracy, and Development*, *supra* note 99, at 159.

directed at the problem of illegal immigration was launched by such an organization: the All Assam Student Union (AASU).¹¹⁰ In 1979, with illegal immigration at an all-time high, the AASU began agitating for the government to evict all illegal aliens from Assam.¹¹¹ The AASU's main demands were (1) the detection of foreign nationals on the basis of the 1951 National Register of Citizens, (2) the disenfranchisement of foreigners by removing their names from Assam's electoral rolls, and (3) the deportation of foreign nationals.¹¹²

When elections were scheduled for Assam's Legislative Assembly in late 1979, the AASU campaigned to postpone the elections until the foreigner issue was resolved.¹¹³ Despite tremendous demonstrations, mass picketing, and civil disobedience throughout Assam, the Indian Parliament ignored the demands of the popular movement and decided to elect new representatives for India's Union Legislature as scheduled.¹¹⁴ The AASU responded by protesting the legitimacy of the election and by initiating a blockade of all oil exports from Assam to other parts of India.¹¹⁵ The strategy succeeded and forced a meeting between the Indian government and the AASU. When Prime Minister Indira Gandhi met AASU leaders in February 1980, she insisted that 1971, not 1951, be used as the cutoff year for determining foreign nationals.¹¹⁶ The AASU leaders, however, insisted on the expulsion of all foreigners who had immigrated illegally to Assam since just after India's independence.¹¹⁷ Central government representatives and Assamese leaders met more than twenty times during the next three years, yet they could not agree on the date after which immigrants who came to Assam illegally would be deported.¹¹⁸ Both sides agreed that the people of Assam had the right to demand the expulsion of foreigners, but the positional negotiation strategies used by both the central

¹¹⁰ DAS, *supra* note 4, at 4.

¹¹¹ *Id.*

¹¹² *Id.* In 1979, the All Assam Gana Sanram Parishad (AAGSP) was formed as an umbrella organization and coordination committee for pursuing the AASU's agitation. T.S. MURTY, *ASSAM: THE DIFFICULT YEARS—A STUDY OF POLITICAL DEVELOPMENTS IN 1979–83*, at 12 (1983). For the remainder of this Note, these organizations and others will be referred to collectively as the "AASU" or the "Assam movement." The AASU was organized originally in 1960 during the movement to establish Assamese as the official state language and the medium of instruction in schools. For more details of the AASU and its demands, see SANJAYYA, *supra* note 56, at 33–37.

¹¹³ DAS, *supra* note 4, at 70.

¹¹⁴ MURTY, *supra* note 112, at 25.

¹¹⁵ DAS, *supra* note 4, at 77.

¹¹⁶ See SINGH, *supra* note 18, at 99.

¹¹⁷ *Id.*

¹¹⁸ See MURTY, *supra* note 112, at 266.

government and the Assam movement leaders prevented the formation of any constructive solution to the problem at that time.¹¹⁹

B. *What Kind of Movement?*

Whether a solution to Assam's immigration problem exists will be discovered only by concentrating on the motivation behind the Assam movement. This, in turn, involves an analysis of whether the movement is driven by Indian nationalism, or is rooted in deeper issues of subnationalism and the rights of ethnic minorities within India. In formulating an answer, it is important to acknowledge that individuals in India have multiple identities in terms of community, class, and caste, and will choose their particular identity depending upon how it is to be used and for what particular purpose. Bengali Hindus in Assam might support Bengali Muslims in a linguistic struggle, yet support the Hindu Assamese if the conflict were religious. If a conflict emerged between the urban elite and the rural peasantry, there would be like classes of Assamese and Bengalis on each side of the issue. Individual multiethnicity in India—both in terms of plural social divisions and multiple personal identifications—has permitted the development of fluid loyalties.¹²⁰ Any legal solution to the social, political, and economic movements in India therefore will have a wide range of support depending upon the root of the conflict.

During the 1950s and 1960s, the focus of the nascent Assam movement was on the urgent need for establishing Assamese supremacy in the areas of state services and the official state language.¹²¹ The goal of the movement was to affirm the right of the Assamese to control the resources and culture of the state.¹²² The targets of the early movement were the tribal minorities as well as the settled Bengali population, who continued to dominate Assam's bureaucracy, professional positions, and agricultural economy.¹²³ The tremendous influx of Bengali Muslims during the 1970s, however—especially following the war for Bangladeshi independence from Pakistan—finally tipped the ethnic balance against the Assamese.¹²⁴ Importantly, in addition to the economic, political, linguistic, and national forces already strug-

¹¹⁹ See SINGH, *supra* note 18, at 98–106.

¹²⁰ See SONS OF THE SOIL, *supra* note 1, at 124.

¹²¹ See WEINER, *supra* note 13, at 39–40.

¹²² *Id.* at 41–42.

¹²³ *Id.*

¹²⁴ See SINGH, *supra* note 18, at 77; DAS, *supra* note 4, at 58.

gling within Assam, the emergence of the "illegal" Muslim community added a religious dimension to the conflict.¹²⁵

A feeling had begun to grow toward the end of the 1970s that, since independence, the minorities had been pampered at the cost of the Hindu majority. The charge of appeasement for electoral gain was brought particularly against the Congress, which had always sought and got the vote of the minorities. The highly publicized conversions to Islam of a few hundred untouchables in the Tamil Nadu village of Meenakshipuram in 1981 was propagated as the final straw. Hindu revivalists began saying that in Hindu-majority India, it was Hinduism, not Islam, that was now in danger.¹²⁶

This rising national communalist sentiment came at the appropriate moment for the Assam movement, which probably was searching for further justification and support in its efforts to expel Bengali immigrants. Attacks against Muslim minorities in the early 1980s may have been deliberate attempts by the Assamese to use the Hindu element of their multiethnicity to create nationwide sympathy for the Assamese movement—sympathy that would not have existed had they emphasized only the linguistic aspects of the conflict.¹²⁷ But by playing upon the communal aspects of the conflict in Assam, the Assamese revealed that their movement was not purely a "national" one. That the Assamese committed violence against legal as well as illegal Muslim residents of Assam confirmed that the issue in Assam was not just an Indian versus non-Indian conflict, but one based deep in ethnic nationalism.¹²⁸

C. *From Ethnic Tension to Human Carnage*

From 1981 to 1983, illegal immigrants continued to cross into Assam from Bangladesh, tensions continued to build, and sporadic violence and communal clashes claimed the lives of hundreds of people.¹²⁹ In February 1983, despite enormous opposition from ethnic Assamese, the central government again decided to hold elections in Assam without first settling the foreigner issue and revising the elec-

¹²⁵ See DEV & LAHIRI, *supra* note 6, at 156.

¹²⁶ M.J. ARBAR, *INDIA: THE SIEGE WITHIN (CHALLENGES TO A NATION'S UNITY)* 197 (1985).

¹²⁷ See Stuart Auerbach, *Thousands Arrested by Indian Army in Crackdown on Unrest in Northeast*, WASH. POST, Apr. 19, 1980, at A24; *Bengalis Go Home*, ECONOMIST, Sept. 13, 1980, at 44.

¹²⁸ See CHAKRABARTY, *supra* note 58, at 107.

¹²⁹ See generally GUPTA, *supra* note 3, at 39–62; CHAKRABARTY, *supra* note 58, at 146–78.

toral rolls.¹³⁰ Anger within the Assamese community at the government's imposition of elections turned violent.¹³¹ Initially, the violence was directed against the government and its election machinery, but Assamese anger soon turned against the tribal and foreign communities.¹³² On February 14, 1983, the first day of the elections, violence spread quickly in areas dominated by antielection Assamese.¹³³ In several villages, dozens of Bengali Muslim voters were killed by armed gangs of Assamese-speaking tribals. Muslims retaliated by kidnapping and killing many Assamese, and the violence soon escalated beyond control. Over the next two weeks, as the elections continued, approximately seven thousand people lost their lives.¹³⁴

On February 22, 1983, both houses of the Indian Parliament adopted resolutions condemning the killings and violence in Assam.¹³⁵ Home Minister Prakesh Sethi appealed to the people of Assam to cooperate with government attempts for new elections, and promised that the central government would resume dialogues to resolve the foreigner issue as soon as the situation in Assam calmed.¹³⁶ Sethi emphasized at the same time, however, that any new dialogues would not be held with the Assam popular movement leadership, but instead with members of the newly elected Assam Legislative Assembly and representatives of tribal and other non-Assamese minority groups.¹³⁷ Prime Minister Indira Gandhi observed at the time that "no group of people or movement could hold the country to ransom, however legitimate its demand might be."¹³⁸ Justifying the government's decision to hold elections in Assam, Gandhi added that "it was an inescapable constitutional obligation on the part of the Government . . . and that agitation leaders by their own action (leading to the outbursts of violence) had stalled the solution of the problem."¹³⁹

By encouraging the growth of communal feelings and intercommunity hatred, the Assamese have prevented the emergence of a multiethnic Assam composed of varied religious and linguistic groups. The more desperate their movement was to deport illegal immigrants or to

¹³⁰ See SINGH, *supra* note 18, at 113.

¹³¹ *Id.* at 115.

¹³² *Id.*

¹³³ See GUPTA, *supra* note 3, at 15-16.

¹³⁴ *Id.*

¹³⁵ CHAKRABARTY, *supra* note 58, at 192.

¹³⁶ *Id.*

¹³⁷ *Id.*

¹³⁸ *Id.*

¹³⁹ *Id.*

restrict their rights, the more it encouraged the formation of an opposition coalition that could easily dominate the Assamese.¹⁴⁰ The escalation of violence and destruction in Assam has ended progress toward a peaceful resolution and has succeeded only in further separating the different communities. The ethnic conflict in Assam is no longer an Assamese majority versus minority struggle for dominance, but has become a minorities versus minorities struggle for rights.

D. *The Assam Accord*

The first real step toward a solution to the ethnic conflict in Assam was the 1985 Assam Accord ("Accord"), which was brought about by the new national leadership of Rajiv Gandhi.¹⁴¹ The Accord called for (1) the expulsion of all immigrants who had entered Assam illegally after March 24, 1971; and (2) a ten-year disenfranchisement of illegal immigrants who had entered the state between 1966 and 1971.¹⁴² Those who came to Assam before 1966 were granted Indian citizenship.¹⁴³ The Bengali Muslim population, which had previously looked to Indira Gandhi for protection, withdrew its support for the Congress Party.¹⁴⁴ When elections were held a few months later, the Assam Gana Parishad, a political party formed mainly of activists from the Assam movement, surprisingly won a majority in Assam's Legislative Assembly.¹⁴⁵ With an Assamese nationalist party in control of the state assembly, the central government was faced again with the possibility of ethnic tensions and violence in Assam, and Parliament therefore delayed the implementation of the Accord.¹⁴⁶ This, in turn, led to re-

¹⁴⁰ *Ethnicity, Democracy, and Development*, *supra* note 99, at 160. Such a coalition would comprise Bengali Hindus, Bengali Muslims, Assamese Muslims, and even the remaining Assamese tribal groups.

¹⁴¹ When Indira Gandhi was assassinated by Sikh terrorists in 1984, Rajiv Gandhi inherited an India divided by the worst communal violence seen in the country since partition. His Congress Party was widely disliked for its corruption and abuse of power, and his efforts to achieve a political settlement in Assam may have been intended as much to regenerate support for the Congress Party as to solve Assam's ethnic problems.

¹⁴² See *Details of Assam Accord Given to Parliament*, BRIT. BROADCASTING CORP., Aug. 17, 1985.

¹⁴³ *Id.*

¹⁴⁴ Jonathan S. Landay, *Gandhi Loses an Election to Party Favoring Expelling Moslems*, UPI, Dec. 18, 1985, available in LEXIS, Nexis Library, UPI File.

¹⁴⁵ *Id.*

¹⁴⁶ Mani Deb, *Assam's Patience with Delhi Grows Increasingly Thin*, FIN. TIMES, Feb. 3, 1988, at I4. In new electoral rolls, originally due to be published in September, 1993, up to one million people, mostly Muslim immigrants, had been disenfranchised. The Assam High Court, however—in cases challenging the Indian Election Commission's "special guidelines" for registration in Assam, which included possessing a valid Indian passport, a citizenship certificate, or an Indian birth certificate—ordered the suspension of the publication of the new rolls. Subir Bhaumik,

newed agitation by the AASU. It also led to the emergence of the United Liberation Front of Assam (ULFA), a terrorist and secessionist organization, which continues to operate today in the more mountainous regions of Assam.¹⁴⁷

V. SOLUTIONS

Any ethnic group must have certain resources before it can affirm itself as a group. This means that for a group's survival, the government must remove the conditions that lead to the group lacking the resources necessary for sustaining itself.¹⁴⁸ In Assam, ethnic conflict will continue as long as the various communities do not have the rights and resources necessary to affirm their cultures and secure their survival.

A. *Land Suggestions*

With no compromises foreseeable in the near future among Assam's minorities, one solution to Assam's problems of ethnic conflict would be to break the state apart again: to divide it further into smaller states for each of Assam's various ethnic groups. India's Constitution gives the federal legislature the power to form new states by any of a number of methods.¹⁴⁹ The Indian Parliament can increase or diminish the size of any state, alter state boundaries, and change state names.¹⁵⁰ If necessary, Parliament can enact such changes even without the consent of the populations concerned.¹⁵¹ All that is needed is for the President of the Parliament to ascertain the views of the affected states with regard to the introduction of such a bill, and then for the bill to be passed by Parliament.¹⁵²

India's Assam Fears New Trouble Over Poll Rolls, REUTERS, Sept. 28, 1993, available in LEXIS, Nexis Library, Reuter File.

¹⁴⁷ Brahma Chellaney, *Internal Unrest Poses Threat to India Unity*, WASH. TIMES, Sept. 20, 1991, at A8. In recent years, ULFA has continued a campaign of extortion directed at the Assamese tea plantations (ULFA objects that most of the tea industry profits are taken out of the state and are not being reinvested in Assam to help the Assamese people), has kidnapped several government officials, and has assassinated the local leader of the human rights group Amnesty International. *Id.*

¹⁴⁸ Adeno Addis, *Individualism, Communitarianism, and the Rights of Ethnic Minorities*, 66 NOTRE DAME L. REV. 1265 (1991).

¹⁴⁹ See PALANDE, *supra* note 20, at 165.

¹⁵⁰ *Id.* The Indian Parliament used these powers to create the new states and union territories that were once a part of Assam. See SINGH, *supra* note 18, at 10-12; see also *supra* notes 71-73 and accompanying text.

¹⁵¹ See PALANDE, *supra* note 20, at 166.

¹⁵² *Id.* Because the legislative views of the states affected by the proposed changes need only

The primary purpose of the Assam movement is to ensure the continued cultural identity of the Assamese people and the betterment of their future economic opportunities. The best way to achieve these goals without creating special rights or privileges for the Assamese community within Assam—to the detriment of other minorities—would be to carve out a new Assam based again on linguistic and cultural lines. A monolingual Assam would facilitate administration and obviate the ethnic jealousies and anxieties present in multilingual Assam. While it is possible that such “linguism” might accentuate disruptive tendencies and destroy the sense of a common Indian nationhood, such a result is far from certain. Most of the states in north India—Uttar Pradesh, Bihar, Bengal, Rajasthan, etc.—are monolingual, but it cannot be said that because of this factor the outlook of their people is less national and more separatist.¹⁵³ On the contrary, it is in the heterogeneous provinces where linguistic hostilities derogate from a sense of healthy national solidarity.¹⁵⁴ Such hostilities might be avoided if people speaking different languages were not “unnecessarily huddled together.”¹⁵⁵

A second option would be for the three million residents of the Cachar District of Assam—almost all of them Bengali speakers—to be constituted into a separate state or Union Territory.¹⁵⁶ The separation of Cachar would relieve the strain on Assam’s resources and make available more state jobs for Assamese.¹⁵⁷ At the same time, whatever shape the new unit of Cachar takes, its people would also have greater opportunity to fulfill their aspirations, free from Assamese control.¹⁵⁸ Such a partition of Assam will not necessarily create a permanent solution to the problems of ethnic conflict.¹⁵⁹ Nevertheless, the estab-

be “ascertained,” state opinion may or may not have any influence upon federal legislative action. Individual minority groups therefore have no legal right to decide the status of their states within the Indian Union. In the case of Assam, Parliament might not feel the urgency of the ethnic conflict with the same degree of intensity that is felt by Assam’s various minority groups. If changes in Assam’s boundaries were thought to be in the best interest of the nation, it is conceivable that such changes could be brought about by parliamentary legislation even in direct opposition to the opinions of the parties interested and affected. *Id.*

¹⁵³ PALANDE, *supra* note 20, at 208.

¹⁵⁴ *Id.*

¹⁵⁵ *Id.* at 209.

¹⁵⁶ GUPTA, *supra* note 3, at 137.

¹⁵⁷ This is true only for the reason that many Bengali civil servants would probably find employment in the new Cachar government.

¹⁵⁸ GUPTA, *supra* note 3, at 137.

¹⁵⁹ No matter how carefully the lines of the new states might be drawn, there will always be ethnic minority communities that will be separated from their larger self. Creating smaller units might therefore only reproduce the issue at a smaller level, rather than solve it. In addition,

ishment of a more linguistically homogeneous state would effect at least a temporary solution to a problem that is currently out of control.

When ethnic conflicts escalate to a certain level—as in the case of Assam where thousands have been killed—they assume a status different from similar, but less violent, situations; dire situations occasionally demand drastic solutions. Nevertheless, there would be significant opposition to any moves to partition Assam. Certainly, the leadership of the Assam movement would contest fiercely the separation of Cachar.¹⁶⁰ They have a genuine fear that allowing Cachar to become an independent region within the Indian Union would lead only to greater Bengali immigration to Assam.¹⁶¹ By surrendering jurisdiction over Cachar, the government of Assam would have no control over the number of immigrants whom the new Cachar government might “allow” to enter India from bordering Bangladeshi districts. Once the Cachar government permitted these immigrants to become Indian citizens, they could then continue on to Assam with impunity under their right to “freedom of movement” as Indian citizens.¹⁶²

Other arguments exist against dividing Assam into smaller states. If the area reserved to form post-partition Assam was too small, then the new Assam might not be economically self-sufficient or politically viable. Its administrative machinery might prove inadequate to meet the various needs of social uplift according to modern standards.¹⁶³ Such a state might then become a burden to the rest of the Indian Union.¹⁶⁴ Furthermore, abridging Assam to create a special state for the Assamese might trigger a domino effect. There are hundreds of ethnic groups in India which might then also demand similar state status. U.N. Secretary-General Boutros Boutros-Ghali recently stated the problem succinctly: “If every ethnic, religious or linguistic group claimed statehood, there would be no limit to fragmentation; and peace, security and economic well-being for all would become ever more difficult to achieve.”¹⁶⁵

freedom of movement would always allow “outsiders” in already-existing Assam to migrate to the new Assam, and again create linguistic tension.

¹⁶⁰ GUPTA, *supra* note 3, at 138.

¹⁶¹ *Id.*

¹⁶² PALANDE, *supra* note 20, at 178.

¹⁶³ *Id.* at 207.

¹⁶⁴ This issue is debatable, but the certainty of financial stability and solvency is an indispensable prerequisite in the granting of autonomy or self-government to any minority group. If only for the reason that the rest of the country might suffer from the existence of a poor, economically unviable state.

¹⁶⁵ Michael Reisman, *My Self-Determination, Your Extinction*, L.A. TIMES, Aug. 12, 1992, at B7. These arguments notwithstanding, such turmoil might be the “necessary pain attending the birth

Finally, maintaining the status quo in Assam has advantages in a larger national sense. Assam brings together two major regional groups under one administrative system. A capacity for assimilation and integration is as essential for India's continued development as is the strength that derives from a nation's innate coherence.¹⁶⁶ Rather than derogate from a sense of healthy national solidarity, continued contact between the Assamese and the Bengalis may be beneficial because it helps "round off the angularities of a narrow ethnocentricity and inculcates a broader national vision, which is so urgently needed in India."¹⁶⁷

Regardless of what happens to Assam's borders, the Assamese do not want their political dismemberment. It would be unfortunate if their natural and cultural evolutionary process was hampered by any further dissipation of their collective strength. If Assam is to be broken up, the Assamese community should be separated intact—it would be unfortunate and wrong if their composite culture split into ineffective political fragments.

B. Language Suggestions

The survival of a group's culture depends in large part on its language, because language is the means by which meaning and structure are given to cultural activities.¹⁶⁸ Ensuring the use and preservation of Assam's various languages would lessen minority dissatisfaction with the lack of respect for their cultures. Therefore, if altering Assam's borders proves infeasible, another option to curb ethnic conflict would be to change once more Assam's official language.

Any change to Assam's official language, however, would be met with substantial opposition. The Assamese language movement of the 1950s evolved from a deep-seated feeling of inferiority among Assamese-speaking people of the relative excellence of Bengali-speaking people, who surpassed them in the economic field and outperformed them in civil service and educational examinations.¹⁶⁹ It was thought that "once Assamese emerged as the official language, the Bengalis,

of a genuinely new world order [I]t is possible to see moves toward self-determination as a net gain for liberty . . . and in any case, the day seems to be past when rebellious people can be forced to remain in a state they want no part of." George J. Church, *Splinter, Splinter, Little State*, TIME, July 6, 1992, at 36.

¹⁶⁶ PALANDE, *supra* note 20, at 207.

¹⁶⁷ *Id.*

¹⁶⁸ Addis, *supra* note 148, at 1270.

¹⁶⁹ Suship Kumar, *Formation of State Politics*, in STATE POLITICS IN INDIA 41 (Iqbal Narain ed., 1967) cited in HOROWITZ, *supra* note 37, at 220.

for want of efficiency in it, would automatically be put at bay."¹⁷⁰ Such linguistic chauvinism should not be allowed to continue today, especially in the face of growing ethnic tension. It would be not only insensitive and impractical to try to impose either the Assamese or Bengali language over both linguistic groups as the only "official" language, but the extent to which any language can be imposed is constitutionally limited.¹⁷¹

Because Bengalis now constitute the largest linguistic group in Assam, one way to curtail Bengali animosity against the Assamese would be to establish Bengali as an alternative official language in Assam. There is a constitutional right in India to the official recognition of the use of a language.¹⁷² A state legislature may, by law, adopt any one or more of the languages in use in the state as the language to be used for any or all of the official purposes of that state.¹⁷³ There is also a constitutional provision for the recognition of any other language "for the official purposes of a State upon a substantial popular demand for it being made to the President [of India]."¹⁷⁴ What is needed for Bengali to achieve official language status, therefore, is for the Indian President to be satisfied that a substantial proportion of Assam's population desires the use of Bengali to be recognized by the state.¹⁷⁵ Certainly, the sheer numbers of Bengalis in Assam would justify this counterclaim for linguistic parity.¹⁷⁶

The Indian Constitution also contains a safeguard that empowers the President of the Indian Parliament to appoint a special officer

¹⁷⁰ *Id.*

¹⁷¹ See PALANDE, *supra* note 20, at 490.

¹⁷² SIGLER, *supra* note 91, at 142.

¹⁷³ INDIA CONST. arts. 347, 348.

¹⁷⁴ DURGA DAS BASU, INTRODUCTION TO THE CONSTITUTION OF INDIA 339 (1976).

¹⁷⁵ INDIA CONST. art. 347.

¹⁷⁶ Instead of promoting Assamese and Bengali to one level of official parity, another option would be to choose an official language that only a small minority of the people speak as their mother tongue. This solution would give advantages to a small segment of society, but it might prove better to elevate the status of a small group rather than continue to enforce the domination of a large one. A common language used in the government and taught in the schools would foster a deeper sense of common statehood. At the same time, the varied linguistic traditions of Assam could be preserved by insisting that all students also learn their parents' tongue as a second language. This strategy of nominating a minority language as the official language has worked well in Singapore (where only 15% of the population speaks the national language of Malay), and the possibility exists that this policy could enjoy equal success in Assam. See Jose Katigbak, *Singapore's "Speak Mandarin if You are Chinese" Slogan Upsets*, REUTERS, Dec. 23, 1990, available in LEXIS, Nexis Library, Reuter File. The official language to be chosen could be Hindi or one of a number of tribal languages. Whereas the indigenous Assamese speakers might initially reject this idea as further eradicating their cultural heritage, they might eventually find it more preferable than Bengali language domination.

whose responsibility it is "to investigate all matters relating to the safeguards provided for linguistic minorities."¹⁷⁷ This enables the central government to intervene to prevent linguistic minorities from actual or potential language discrimination.

If these constitutional methods fail to create "official language" parity among Assam's competing linguistic groups, then Assam's legislature could consider other ways to grant greater privileges to linguistic minorities. For example, the legislature could ensure that all legal residents of Assam have the same access to and opportunity for education in their native languages.¹⁷⁸ This could be achieved by legislation specifying that adequate facilities for instruction in the mother tongue of minority groups be available not only at the primary education level, but also in the state's secondary schools and universities.¹⁷⁹ Bengali-speaking, Nepalese-speaking, and tribal schools would receive the same financial assistance as that now granted to state-sponsored Assamese schools, so that all the linguistic groups of Assam receive equal educational opportunity under the law. Measures such as this are imperative: because language helps define cultures, no solution to Assam's cultural conflict will be complete unless it includes a linguistic dimension.

C. *Political Suggestions*

Granting minority groups greater rights within the political system is another way to ensure that ruling parties in the Assam Legislative Assembly and dominant groups in Assamese society do not take advantage of their superior numbers to oppress minority groups actively or exclude them passively. A first step would be to reserve seats in the Legislative Assembly for representatives of ethnic minorities. Under the Indian Constitution, seats are apportioned at the national level to Scheduled Castes and Scheduled Tribes,¹⁸⁰ which also have reserved

¹⁷⁷INDIA CONST. art. 350B.

¹⁷⁸Assam could follow the example of Northern Ireland, where both public and private parochial schools (but not other private schools) receive almost equal funding from the government. See Edgar Graham, *Religion and Education—The Constitutional Problem*, 33 N. IR. LEGAL Q. 20, 31–33 (1982).

¹⁷⁹See INDIA CONST. art. 350A. There is an international legal basis for such legislation. Under the UNESCO Convention Against Discrimination in Education, to which India is not a party, states have agreed that it is important to allow minorities to use and teach their own language. UNESCO Convention Against Discrimination in Education, *opened for signature* Dec. 14, 1960, 429 U.N.T.S. 93 (entered into force May 22, 1962).

¹⁸⁰INDIA CONST. art. 330. Although the Indian Constitution does not define these groups or provide detailed standards by which they may be determined, it does provide an agency and a method for designating them. MARC GALANTER, *COMPETING EQUALITIES: LAW AND THE BACKWARD CLASSES IN INDIA* 121 (1984). Generally, these "categories are intended to comprise those

seats in state governments.¹⁸¹ In an initiative recently passed by the Indian Parliament, but still awaiting ratification by several of India's states, a quota system ensures the election of women to local village councils.¹⁸² Devising a similar system of reserved seats or weighted representation for subnationalities at the state level in Assam would not necessarily ensure equality in all matters, but it would ensure minority representation and political participation in affairs of the state and provide a framework for the development of full equality.

D. *Economic Suggestions*

Even with political and linguistic reform, ethnic conflict in Assam will continue unless there is also an abatement of competition among the various groups over economic concerns. One solution to the economic rivalry in Assam would be for the central government to ensure more fairness to ethnic groups in the area of public employment. A principal complaint of the Assam movement is that not enough of the bureaucratic administration of Assam is in the hands of native Assamese.¹⁸³ In 1988, sixty-two percent of the state administrative personnel were native Bengali speakers.¹⁸⁴ Although almost all of these public employees were legal residents of Assam, it is a source of constant friction that native Assamese speakers are vastly outnumbered in these important positions.¹⁸⁵ If job reservations were made in public employment for ethnic groups in proportion to their percentage of Assam's total population, then tensions surrounding the employment and placement of Assamese civil service personnel might relax. Equal op-

who were at the bottom or the margins of the Indian social order—those groups who because of their low ritual status in the traditional Hindu hierarchy or their spatial and cultural isolation were subjected to imposition of disabilities and lack of opportunity." *Id.* at 122. Since Indian independence, "backward classes" has retained a multiplicity of meanings, generally used "to describe the totality of groups entitled to preferential treatment on the basis of their 'backwardness.'" *Id.* at 185-86; see also SIGLER, *supra* note 91, at 141.

¹⁸¹ INDIA CONST. art. 332(1), (2), (3). Originally, these provisions were supposed to cease to have effect upon the expiration of a period of 10 years from the commencement of the Indian Constitution. They have been extended for successive 10-year periods by the Constitution (Eighth Amendment) Act, 1959; the Constitution (Twenty-Third Amendment) Act, 1969; and the Constitution (Forty-Fifth Amendment) Act, 1980. GALANTER, *supra* note 180, at 572.

¹⁸² This quota scheme has already been implemented in several Indian states, including Assam. Jeremy Clift, *Quotas to Help Indian Women to Grassroots Power*, REUTERS, May 28, 1993, available in LEXIS, Nexis Library, Reuter File.

¹⁸³ *Id.* at 158.

¹⁸⁴ *Id.*

¹⁸⁵ Assamese personnel in railroad, postal, and nationalized banking services in Assam constitute only 10% of the total employees. The leadership of the Assamese movement considers this continued imbalance to be further evidence of Bengali "encroachment." See *id.*

portunity in public employment is guaranteed to all citizens of India, however, and any kind of quota system would be met with strong opposition.¹⁸⁶ Affirmative action in public employment in India, however, is not without precedent: provisions have been permitted in the Indian Constitution for the reservation of appointments or posts at the state and national level in favor of Scheduled Castes and tribal groups.¹⁸⁷ Although a plan at the national level to expand such reservations to "other backward classes" failed two years ago, similar attempts at the state level have succeeded.¹⁸⁸ It follows that reserving government positions for ethnic minorities at the state or local level might also succeed. A more practical solution to advance the economic interests of Assam's competing ethnic groups would be for the national or state governments to sponsor programs that allocate certain amounts of money to businesses owned by the various groups.¹⁸⁹ Guaranteeing such rights to the Assamese (or any minority group) would ensure their active representation and participation in the administration of the state, and grant them greater economic opportunity.

This raises the question, however, of whether it is appropriate to set aside employment for a particular ethnic group merely because it speaks a different language or practices a different religion. The First Amendment to the Indian Constitution, inserted as Article 15(4), established the legal right of affirmative action in India by providing states the right to make reservations in educational institutions and government posts for certain segments of society.¹⁹⁰ The amendment states that "nothing shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes."¹⁹¹ Article 46, reflecting the same spirit, reiterates that "the State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, the Scheduled Castes and the Scheduled Tribes, and shall protect them from social

¹⁸⁶ Under the Indian Constitution, no person may be discriminated against in the matter of public employment on the grounds of race, religion, or caste. INDIA CONST. art. 16(2).

¹⁸⁷ INDIA CONST. art. 16(4).

¹⁸⁸ Reservations in state legislatures for "other backward classes" have had their greatest successes in Kerala and Bihar, where affirmative action policies have been utilized to galvanize support for political parties. For more on the constitutional treatment of the backward classes of India, see SIGLER, *supra* note 91, at 143-45.

¹⁸⁹ John B. Attanasio, *Foreword to Symposium, The Rights of Ethnic Minorities*, 66 NOTRE DAME L. REV. 1205 (1991). For example, the Assam legislature could require private firms to use minority-owned businesses. See, e.g., *Fullilove v. Klutznick*, 448 U.S. 448 (1980).

¹⁹⁰ INDIA CONST. art. 15(4).

¹⁹¹ *Id.*

injustice and all forms of exploitation."¹⁹² Although these two provisions present a rubric under which Parliament might make special provisions for ethnic minorities in Assam, it would be very difficult (in a legal and moral sense) to equate the Assamese people themselves with "the weaker sections of the people" or "the socially and educationally backward classes of citizens." The Assamese claim that they have been oppressed economically, and that the future of their culture and language is at stake in Assam.¹⁹³ Nevertheless, it is wrong to view the Assamese in the same light as India's backward classes. If the Assamese people hope to achieve greater rights, their chances would be better if they worked not just for their individual ethnic community alone, but for greater rights for all the citizens of Assam.

E. National Question

The ease with which political issues in India can splinter into regional, linguistic, and communal conflicts has led the central government to impress a secular nationalist ideology upon the Indian people.¹⁹⁴ During the 1950s, Prime Minister Nehru stressed repeatedly that in a country of hundreds of subnationalities, the most important factor was the unity of India. Nehru regarded political expressions of ethnicity as "reflections of parochial sentiments unworthy of a modernizing nation seeking to realize developmental objectives."¹⁹⁵ Although ethnic groups have claimed success in India at various levels,¹⁹⁶ the underlying imperative to forge a national unity has forced the government of India to maintain a strong central authority over the numerous Indian states.¹⁹⁷ The federal arrangement is particularly well suited for this purpose, because it effects a reconciliation between local patriotism and the need for an indivisible union of local entities in the interest of defense, development, and the growth of a common culture.¹⁹⁸ The structure of the Indian Constitution offers the constituent Indian states the necessary freedom to develop in their own way and to govern themselves, yet it still provides a central government to guard and advance the interests of all.¹⁹⁹

¹⁹² INDIA CONST. art. 46.

¹⁹³ See JOSHI, *supra* note 5, at 50-51.

¹⁹⁴ See PALANDE, *supra* note 20, at 160-62.

¹⁹⁵ *Ethnicity, Democracy, and Development*, *supra* note 99, at 148.

¹⁹⁶ Most importantly, state boundaries were redefined along linguistic lines. Erosion of support for the Congress Party during the 1950s gradually led India's national leaders to concede the demand for linguistic states. See AKBAR, *supra* note 126, at 81.

¹⁹⁷ PALANDE, *supra* note 20, at 214.

¹⁹⁸ *Id.*

¹⁹⁹ The different responsibilities of the Indian Union and the states are clearly demarcated

Nevertheless, it is overcentralization and the sense of not belonging to Delhi's power structure that makes certain Assamese join extremist groups like the United Liberation Front of Assam.²⁰⁰ The central government has been taking away many "state powers," and as a result, even a small demand for genuine rights takes the form of separatism and secession.²⁰¹ So far, the central government has been unable to cope with the rise in intensity of India's various ethnic movements and their increased demands for greater autonomy and self-determination.²⁰² Arguably, the solution is more federalism and greater decentralization. The central government should be urged to relax its rigid financial and administrative grip over India's twenty-five states and seven Union Territories. The problem, of course, is that the rise of violent separatist movements has strengthened arguments for a stronger and more powerful national government and against devolution of powers to the states.

Because Assam was never part of the Mughal empire, did not come under British control until 1826, and is in a remote corner of India, the region has always maintained a certain independence from central government control. This independence has been interpreted occasionally by the central government as disloyalty toward the Indian Union.²⁰³ Surrounded by Burma, Bangladesh, Bhutan, and China, Assam occupies a strategic position on the subcontinent. Accordingly, it is important for the Indian government to preserve the Assamese peoples' identity as Indian citizens. This policy continues to present a great paradox for the Indian government. If the central government

in the Indian Constitution. See PALANDE, *supra* note 20, at 221-29. Some of the responsibilities of the Indian Union include admission into, and emigration from, India; citizenship; naturalization; and aliens. *Id.* The more important State responsibilities include the administration of justice (except for the High and Supreme Courts); education; religious/social associations; local government; and public order. *Id.* When intergovernmental disputes arise, the Indian Union authority typically controls. R. HARGRAVE, JR., *GOVERNMENT AND POLITICS IN A DEVELOPING NATION* 87-88 (3d ed. 1980).

²⁰⁰ Kate Webb, *Soviet Breakup Sparks Debate Over Split-Up of India*, Agence France Presse, Dec. 30, 1991, available in LEXIS, Nexis Library, AFP File.

²⁰¹ Raju Gopalakrishnan, *Multi-Ethnic, Multi-Religious India Questions Future Unity*, REUTERS, Jan. 21, 1992, available in LEXIS, Nexis Library, Reuter File.

²⁰² In addition to the conflict in Assam, the central government faces separatist movements in Punjab, Tamil Nadu, and Jammu and Kashmir. It should be noted, however, that modern political practice does not consider purely ethnic rights of national groups to be an exhaustive foundation for self-determination to the extent of claiming the right to create an independent state. See *Western Sahara* (Advisory Opinion), 1975 I.C.J. 12, in *The International Recognition of National Rights: The Baltic States' Case*, 66 NOTRE DAME L. REV. 1392 (1991).

²⁰³ DAS, *supra* note 4, at 190. In BETWEEN THE LINES, Kuldip Nayan quotes the full text of a letter addressed to Prime Minister Nehru by the Home Minister Vallabhai Patel, in which Mr. Patel mentions the doubtful allegiance of the people of the northeastern region and suggests measures to "Indianize" them. *Id.*

grants special rights and privileges to the Assamese people, it will enhance their traditional isolation and increase their desire for greater autonomy from the rest of India. On the other hand, if the central government denies the Assamese any rights for the protection of their language and culture, thereby allowing the Bengali language and culture to eventually assume dominance, then the Assamese will be alienated further and will resist even more their incorporation within the Indian Union.²⁰⁴ One strategy that nations have used in the past to destroy the ethnic separation of subnationalities is to encourage migration to the subnationality region.²⁰⁵ The objective is to swamp the "locals" with large numbers of immigrants—usually ethnic groups loyal to the government—for the purposes of diluting the local culture and forcing the acculturation of the people of that area.²⁰⁶ It is unlikely that this is the Indian government's purpose in allowing the "Bangladeshization" of Assam, but as long as illegal immigration continues and as long as the various groups of Assam are not given the rights and privileges necessary to ensure the preservation of their languages and cultures, Assam will remain weak and fragmented. Whereas a strong Assam might harbor dreams of secession, a weak Assam can only remain loyal to the Indian Union. It is for this reason that the Assamese people fear that the central government will never make a concerted effort to resolve Assam's ethnic conflict.²⁰⁷

India will gain its minorities' loyalty according to its courage to grant minority rights, and it must be aware that such an attitude may

²⁰⁴ India cannot let Assam secede for fear that it would be followed by an independent Kashmir, Khalistan, Tamil Nadu, Nagaland, Tripura, a greater Bengal united with Bangladesh, and so on. Raju G.C. Thomas, *Why India Resists Kashmiri Separatism*, CHRISTIAN SCI. MONITOR, July 22, 1991, at 19. An arrangement based on "territorial autonomy" for Assam is similarly unsuitable. Although such autonomy—created through legislation or by a constitutional amendment—applies when minority guarantees are seen as the answers to nationality problems, as functions of self-determination, it does not apply where the territory comprises scattered immigrants seeking assimilation or when territorial self-government simply meets the demand for local administration. See ISTVAN BIBO, *THE PARALYSIS OF INTERNATIONAL INSTITUTIONS AND THE REMEDIES: A STUDY OF SELF-DETERMINATION, CONCORD AMONG THE MAJOR POWERS, AND POLITICAL ARBITRATION* 97 (1976).

²⁰⁵ See DAS, *supra* note 4, at 190.

²⁰⁶ This is taking place in Tibet, for example, where the Chinese government continues to encourage the settlement of millions of Han Chinese within the Tibetan society. Guy Dinore, *Dalai Lama Accuses China of Overrunning Tibet*, REUTERS, Aug. 25, 1992, available in LEXIS, Nexis Library, Renter File.

²⁰⁷ At the diplomatic level, the central government has requested Bangladesh to take suitable measures to stop the immigration of Bangladeshis into India. See *India's "Very Serious Problem" of Bangladeshi Immigrants*, BRIT. BROADCASTING CORP., Oct. 5, 1992. Nevertheless, "Delhi has been pussyfooting this issue on the plea of maintaining good-neighborly relations. . . . Dhaka needs to be told in no uncertain terms that India cannot bear any more burden." *Id.*

be rewarded as much by stabilization and a strengthening of the minorities' civil loyalty as by increased separatism. India must be aware that the more these rights are denied, the stronger the possibility that a minority movement will become a separatist one.²⁰⁸ The Indian central government therefore must walk a fine line to preserve ethnic diversity and, at the same time, ensure national unity. In deciding on an appropriate path, the Indian government must remember that movements for the preservation of ethnic identity are not always secessionist. Quite often such movements may help in restructuring national identity and, instead of disintegrating, may actually reintegrate national sovereignty in such a manner that ethnic identities become stronger without weakening the "center" or jeopardizing its overall authority.

VI. CONCLUSION

Although some elements within the Assam movement have continued to alienate the tribal groups remaining in Assam by propounding ultra-Assamese nationalism, a much larger section has attempted to understand tribal cultures and aspirations, and to integrate them with their own.²⁰⁹ As a result, the Assam movement has received support from the tribal population in many districts.²¹⁰ Indeed, it is a positive sign that there is a growing awareness among the Assamese intelligentsia today regarding the aspirations of the tribal population of the state, and it is reassuring that efforts are being made to institute and implement measures designed to preserve and develop tribal language and culture.²¹¹ Although it is true that the tribal groups in Assam do not pose the same threat to the Assamese that the immigrant Bengalis do, the acceptance by the Assamese of tribal culture within Assam indicates that there may be room for the Assamese and Bengalis to coexist without conflict as well. This will not be possible, however, until a new legal framework exists in Assam to protect and preserve the different ethnic minority cultures, so that no group fears cultural domination by another.

The Assamese want nothing more than the right to preserve their identity in their home state within the framework of the Indian Constitution. Attempts to deny them their place within the Indian Union, however, will only accelerate the process of alienation. This necessitates

²⁰⁸ See BIRO, *supra* note 204, at 98.

²⁰⁹ MISRA, *supra* note 8, at 59.

²¹⁰ *Id.*

²¹¹ *Id.*

the search for a solution that, while fulfilling the legitimate aspirations of the Assamese people, will not involve the wholesale deportation of illegal residents. Assam's problems will not go away by determining which immigrants are actually "foreigners" and then expelling them. There are distinct divisions among the various ethnic-linguistic groups in Assam that must be addressed regardless of the issue of illegal immigration. It would be wrong to classify the Assam movement purely as one directed against outsiders when the major motivating force is Assamese chauvinism. The conflict must therefore be seen within the broader question of Assamese and Bengali subnationalisms. The ethnic conflict in Assam will be solved only when no group feels that its language is threatened or the future of its culture is at risk. This can be achieved only if greater rights and privileges are granted to all of Assam's minorities to ensure the protection and preservation of their ethnic identities.