APPENDIX-I

THE SIXTEEN POINT AGREEMENT

"The Sixteen Point Agreement arrived at between the Naga People's Convention and the Government of India in July 1960".

The points placed by the delegates of the Naga People's Convention before the Prime Minister on 26 July 1960, as finally recast by the Delegation in the light of discussions on 27th and 28th July 1960 with the Foreign Secretary runs as follows:

1. The Name:
The territories that were heretofore known as the Naga Hills Tuensang Area under the Naga Hills Tuensang Area Act 1957, shall form a State within the Indian Union and be hereafter known as Nagaland.

2. The Ministry Incharge:
The Nagaland shall be under the Ministry of External Affairs of the Government of India.

3. The Governor of Nagaland:
1) The President of India shall appoint a Governor for Nagaland and he will be vested with the executive powers of
the government of Nagaland. He will have his headquarters in Nagaland.

2) His administrative secretariat will be headed by a Chief Secretary stationed at the Headquarters with other Secretariat Staff as necessary.

3) The Governor shall have special responsibility with regard to law and order during the transitional period and for so long as the law and order situation continues to remain disturbed on account of hostile activities. In exercising this special responsibility, the Governor shall, after consultation with the Ministry, act in his individual judgment. The special responsibility of the Governor will cease when normalcy returns.

4. Council of Ministers:
   1) There shall be a Council of Ministers with a Chief Minister at the head to assist and advise the Governor in the exercise of his functions.
   2) The Council of Ministers shall be responsible to the Naga Legislative Assembly.

5. The Legislature:
   There shall be constituted a Legislative Assembly consisting of elected and nominated members as may be deemed necessary representing different tribes (further a duly constituted
body of experts may be formed to examine and determine the principles of representation on democratic basis).

6. Representation in Parliament:
Two elected members shall represent Nagaland in the Union Parliament, that is to say one for the Lok Sabha and the other for the Rajya Sabha.

7. Acts of Parliament:
No Act or Law passed by the Union Parliament affecting the following provisions shall have legal force in the Nagaland unless specifically applied to it by a majority vote of the Nagaland Legislative Assembly:
2) Naga Customary Laws and Procedure.
3) Civil and Criminal Justice so far as these concern decisions according to Naga Customary Law.
The existing laws relating to administration of civil and criminal justice as provided in the Rules for the Administration of Justice and Police in the Naga Hills District shall continue to be in force.
4) The ownership and transfer of land and its resources.

8. Local Self-Government:
Each tribe shall have the following units of rule-making and administrative local bodies to deal with matters concerning
the respective tribes and areas:

1) The Village Council;
2) The Range Council (now abolished) and
3) The Tribal Council (now abolished).

These councils will also deal with disputes and cases involving breaches of customary laws and usages.

9. Administration of Justice:

a) The existing system of administration of civil and criminal justice shall continue.

b) Appellate Courts:

1) The District Court-cum-Sessions Court (for each district), High Court and Supreme Court of India.

2) The Naga Tribunal (for the whole of the Nagaland) in respect of cases decided according to customary law.

10. Administration of Tuensang District:

1) The Governor shall carry on the administration of the Tuensang District for a period of 10(ten) years until such time when the tribes in the Tuensang District are capable of shouldering more responsibility of the advanced system of administration. The commencement of the ten-year period of administration will start simultaneously with the enforcement of detailed workings of the constitution in other parts of the Nagaland.
2) Provided further that a Regional Council shall be formed for Tuensang District by elected representatives from all the tribes in Tuensang District, and the Governor may nominate representatives to the Regional Council as well. The Deputy Commissioner will be the Ex-Officio Chairman of the Council. The Regional Council will elect members to the Naga Legislative Assembly to represent Tuensang District.

3) Provided further that on the advice of the Regional Council, steps will be taken to start various councils and courts, in those areas where the people feel themselves capable of establishing such institutions.

4) Provided further that no Act or Law passed by the Naga Legislative Assembly shall be applicable to Tuensang District unless specifically recommended by the Regional Council.

5) Provided further that the Regional Council shall supervise and guide the working of the various councils and tribal courts within Tuensang District and wherever necessary depute the local officers to act as Chairman thereof.

6) Provided further that councils of such areas inhabited by a mixed population or which have not as yet decided to which specific Tribal Council to be affiliated to shall be
directly under the Regional Council for the time being. And at the end of ten years the situation will be reviewed and if the people so desire the period will be further extended.

11. Financial Assistance from the Government of India:
To supplement the revenues of the Nagaland, there will be need for the Government of India to pay out the consolidated fund of India:

1) A lump-sum each year for the development programme in the Nagaland, and

2) A grant-in-aid towards meeting the cost of administration.

Proposals for the above grants shall be prepared and submitted by the Government of Nagaland to the Government of India for their approval. The Governor will have general responsibility for ensuring that the funds made available by the Government of India are expended for purposes for which they have been approved.

12. Consolidation of Forest Areas:
The delegation wished the following to be placed on record:
The Naga delegation discussed the question of the inclusion of the Reserve Forests and of contiguous areas inhabited by the Nagas. They were referred to the provisions in Articles 3 and 4 of the Constitution,
prescribing the procedure for the transfer of areas from one state to another.

13. Consolidation of Contiguous Naga Areas:

The delegation wished the following to be placed on record:

The Naga leaders expressed the wish for the contiguous areas to joint the new State. It was pointed out to them on behalf of the Government of India that Article 3 and 4 of the Constitution provided for increasing the area of any State, but that it was not possible for the Government of India to make any commitment in this regard at this stage.

14. Formation of Separate Naga Regiment:

In order that the Naga people can fulfill their desire of playing a full role in the defence forces of India, the question of raising a separate Naga Regiment should be duly examined for action.

15. Transitional Period:

a) On reaching the political settlement with the Government of India will prepare a Bill for such amendment of the Constitution, as may be necessary, in order to implement the decision. The Draft Bill, before presentation to Parliament, will be shown to the delegates of the NPC.

b) There shall be constituted an Interim body with elected representatives from every tribe, to assist and advise the
Governor in the administration of the Nagaland during the transitional period. The tenure of office of the Interim body will be 3 (three) years subject to re-election.

16. **Inner Line Regulation**: Rules embodied in the Bengal Eastern Frontier Regulation, 1873 shall remain in force in the Nagaland.
APPENDIX-II

NAGALAND AND THE SPECIAL CONSTITUTIONAL PROVISION
(Article 371-A)

It has become almost second nature, during the past
decade or more, for politicians and officials addressing
audiences in Nagaland to remind the Nagas of the special
provisions that have been incorporated for their benefit in
Article 371-A of the Constitution of India. In their
advance into self-fulfillment in this modern world - so
aptly described as the transition from "closed centuries to
opening years" - the Nagas secured from the Government of
India for their territory the status of a full-fledged State
within the Indian Union. On 1st December 1963, the Nagas
took their place as an equal partner with other Indian
states, big or small, powerful or weak. After much turmoil
and bloodshed, this settlement was brought about by a
section of the Naga intelligentsia and Naga public leaders
of moderate views, who felt that the time had come for a
fresh initiative to be taken to restore peace in this
strife-torn corner of India.

In this respect, the text of the Thirteen Amendment
Act 1962 of the Constitution is quoted here in full to aid
better comprehension as follows:
Article 371-A

1) Notwithstanding anything in this Constitution:
   a) No Act of Parliament in respect of:
      i) religious or social practices of the Nagas,
      ii) Naga customary law and procedure,
      iii) administration of civil and criminal justice involving decisions according to Naga customary law,
      iv) ownership and transfer of land and its resources, shall apply to the State of Nagaland unless the Legislative Assembly of Nagaland by a resolution so decides;
   b) The Government of Nagaland shall have special responsibility with respect to law and order in the State of Nagaland for so long as in his opinion internal disturbance occurring in the Naga Hills Tuensang Area immediately before the formation of that state continue therein or in any part thereof and in the discharge of his functions in relation thereto the Governor shall, after consulting the Council of Ministers, exercise his individual judgment as to the action to be taken: Provided that if any question arises whether any matter is or is not a matter as respects which the Governor is, under this sub-clause required to act in the exercise of his individual judgment, the decision of the Governor in his discretion shall be final, and the validity of anything done by the Governor shall not be called in question on the ground that he ought or ought not to have
acted in the exercise of his individual judgment: Provided further that if the President on receipt of a report from the Governor or otherwise is satisfied that it is no longer necessary for the Governor to have special responsibility with respect to law and order in the State of Nagaland, he may by order direct that the Governor shall cease to have such responsibility with effect from such date as may be specified in the order;

c) in making his recommendation with respect to any demand for a grant, the Governor of Nagaland shall ensure that any money provided by the Government of India out of the Consolidated Fund of India for any specific service or purposes included in the demand for a grant relating to that service or purpose and not in any other demand;

d) as from such date as the Governor of Nagaland may by public notification in this behalf specify, there shall be established a regional council for the Tuensang District consisting of thirty-five members and the Governor shall in his discretion make rules providing:

i) the composition of the regional council and the number in which the members of the regional council, shall be chosen: Provided that the Deputy Commissioner of the Tuensang District shall be the chairman of the regional council elected by the members thereof from amongst themselves;
ii) the qualifications for being chosen as, and for being, members of the regional council;

iii) the term of office and the salaries and allowances, if any, to be paid to members of the regional council;

iv) the procedure and conduct of business of the regional council;

v) the appointment of officers and staff of the regional council and their conditions of service;

and

vi) any other matter in respect of which it is necessary to make rules for the constitution and proper functioning of the regional council.

2) Notwithstanding anything in this Constitution, for a period of ten years from the date of the formation of State of Wagaland or for such further period as the Governor may, on the recommendation of the regional council, by public notification specify in this behalf,

a) the administration of the Tuensang District shall be carried on by the Governor;

b) where any money is provided by the Government of India to the Government of Nagaland to meet the requirements of the State of Nagaland as a whole, the Governor shall in
his discretion arrange for an equitable allocation of that money between the Tuensang district and the rest of the State;

c) no Act of the Legislature of Nagaland shall apply to the Tuensang district unless the Governor, on the recommendation of the regional council, by public notification so directs and the Governor in giving such direction with respect to any such Act may direct that the Act shall in its application to the Tuensang district or any part thereof have effect subject to such exceptions or modifications as the Governor may specify on the recommendation of the regional council: Provided that any direction given under this sub-clause may be given so as to have retrospective effect;

d) the Governor may make regulations for the peace, progress and government of the Tuensang district and any regulation so made may repeal or amend with retrospective effect, if necessary, any Act of Parliament or any other law which is for the time being applicable to that district;

e) i) one of the members representing the Tuensang district in the Legislative Assembly of Nagaland shall be appointed Minister for Tuensang affairs by the Governor
on the advice of the Chief Minister and the Chief Minister in tendering his advice shall act on the recommendation of the majority of the members as aforesaid;

ii) the Minister of Tuensang affairs shall deal with, and have direct access to the Governor on all matters relating to the Tuensang district but he shall keep the Chief Minister informed about the same;

g) in Article 54 and 55 and clause (4) of Article 80, references to the elected members of the Legislative Assembly of a State or to each such member shall include references to the members or member of the Legislative Assembly of Nagaland elected by the regional council established under this Article;

h) i) clause (i) shall, in relation to the Legislative Assembly of Nagaland, have effect as if the word 'sixty', the words 'forty-six' had been substituted;

ii) in the said clause, the reference to direct election from territorial constituencies in the State shall include election by the members of the regional council established under this article;

iii) in clause (2) and (3), reference to territorial constituencies shall mean references to territorial constituencies in the Kohima and Mokokchung districts.
3) If any difficulty arises in giving effect to any of the
foregoing provisions of this article, the President may
be order do (anything, including any adaptation or
modification of any other article) which appears to him
to be necessary for the purpose of removing that
difficulty; Provided that no such order shall be made
after the expiration of three years from the date of the
formation of the State of Nagaland.

Article 371-A of the Constitution is in fact a double-
faceted provision.

The Dual Purpose of Article 371-A:
Its constitutional privilege side, namely, Article 371-A (1)
(a) made Nagaland's view constitutional position of full-
fledged State within the Indian Union acceptable to most of
that section of the Nagas who had been constantly expressing
doubts whether the Naga people could achieve full autonomy
in any way other than by pursuing their ultimate goal of
independence and sovereignty.

The Need for Governor's Special Responsibility for Law and
Order:
Its transitional side, namely, Article 371-A (1) (b), (c)
and (d) and 371-A (2) catered to the needs of the situation
as it then prevailed in 1960-61. This was, partly, the
backwardness of Tuensang District vis-a-vis Kohima and
Mokokchung Districts; and mainly the existence of a peculiar law and order situation arising from the functioning of a completely parallel Naga Underground government, which inhibited the effective functioning of the erstwhile Naga Hills and Tuensang Area (NHTA) Administration that the Government of India had set up in December 1957. It was then well known that by day and the writ of the NHTA Administration run hardly a few miles beyond the boundaries of the district and sub-divisional towns and of some administrative centers, while by night the administration's presence could be felt hardly anywhere, not even in those areas of Nagaland which were continuously kept curfew-bound.

The Context which made Article 371-A a Special Necessity:

In 1960-61, when the negotiations for the grant of full-fledge statehood began to make some headway with the Government of India the Underground Nagas had all the possible governmental paraphernalia—a "Parliament", a "President", a "Prime Minister", and "Commissioner", "Deputy Commissioners" and the like who were actually exercising control over the villages with the backing of a powerful well-led guerrilla army of some 5,000 hand-picked men to enforced their writ on the whole population in Nagaland.
APPENDIX-III

LEADING CASES

Illustration No.1

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<th>Sangpang Sector</th>
<th>Vs</th>
<th>Imrong Sector</th>
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<td></td>
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<td>of Lungkhum village of Lungkhum village</td>
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The question for determination in this case was whether a construction may be made in a plot of land as a place for the performance of ritual sacrifice etc. It was held by the village council customarily that it is not. This case involved the village council, the District court and the high court of Nagaland(in).

The facts of the case may be briefly stated as follows. It was stated in the petition that originally there was only one moiety in Lungkhum, which in due course was divided into two sub-moieties namely, Imrong and Sangpang. The village as a whole resolved to construct a Meeting Hall at a convenient place. The members of the Sangpang sector appealed to the village court claiming that, they have a right to use the land as a place for ceremonial sacrifice by the non-Christians, and as such, no construction ought to be allowed to be erected by the members of the Imrong sector.
Consequently, the village court held that "the Mongsen clan consisting of 12 sub-clans (lineages) used the side in question since the establishment of Lungkhum village for the performance of Ao ritual sacrifice etc. Hence Imrong sector should not raise any building".

Further, against the decision of the village court, the Sub-Divisional Officer of the district administration was moved to make an inquiry and passed a decree thus; it is, therefore, ordered that the building now under construction should be completed by the Imrong sector since they were doing it without help from Chongli and Sangpang sector to construct the building. However, I would (the SDO) appreciate if the people of the two sectors lend hands voluntarily for the sake of maintaining harmony. The sub-divisional officer further asserted that, after the completion of the building, no party would have any exclusive claim over the ownership of this Meeting Hall for the entire village. All records of general meeting, customary trials, council proceedings, government orders, etc. will be kept in this hall. Apart from the plot of land (now already occupied) for the construction of the building or any other development of this site will be carried out within this jointly owned plot of land acknowledged by all.

Later, an appeal was made by the Sangpang sector against the order. The Deputy Commissioner heard both the
parties testimony and the appeal was admitted, and a decree was passed as follows:

"The judgment of the sub-divisional officer is set aside. In a place of worship and sacrifice for the village, no construction can come up against the wishes of the worshipers. Hence, the Meeting Hall shall therefore be constructed elsewhere".

The Imrong sector thence appealed to the High Court of Nagaland at Guwahati for the impugned judgment and the order of the Deputy Commissioner should be set aside and stated that, the site has been taken up by the village for construction was not intended to interfere the customary rites of the worshipers. However, the opposite party pointed out the evidence on record provided that, in the beginning the worshiping place was in the Chongli sector, which indicate the dispute in question.

The Imrong sector claimed exclusive right over the land in dispute, though the evidence points otherwise and contrary to the findings of the village court, sub-divisional officer's court, and the Deputy Commissioner's court (i.e. District Court). Hence, the judgment passed by the Deputy Commissioner was upheld and the petition was dismissed in the Guwahati High Court.
This dispute involved the right to worship, land rights and most important of all, the utility of the "Rules for the Administration of Justice and Police in the Naga Hills District 1937" has been exercised and shown. In this connection, the Rule 26 of the said Rules runs as follows:

"All proceedings shall be viva-voce, and the Mauzadars, Gaonburas, Chiefs, headmen of the Khels or other recognized village authorities shall not be called upon to make either record or registry of their witnesses, if any, they shall pronounce a decision forthwith".

The decision of the village council in the instant case was upheld by the Deputy Commissioner, confirms to Rule 26.

Illustration No.2

Mokokchung Dobashi Court Case No.78, Dated 28.8.1931

Aier clan of Mongsentsung vs Walling clans of Sungratsu village

The dispute about division of ceremonial meat share in question was enunciated in this case. The fact is that, plaintiff Shri Watisangba as Chief Barik (councillor) and
head of the Walling clan claimed the chief share of meat. This was found to be merely a cry by Watisangba on behalf of his clan because from the past, the Walling clan did not have any right over and above what was traditionally theirs.

This dispute involved the right of traditional system of meat share which were divided according to custom hence tradition, normally after the establishment of village council at variance to different Naga villagers. Usually, when the whole village is involved in a particular dispute, and thus, ultimately, it is difficult to settle in the village itself, particularly so in the contemporary times. Such cases are normally brought to the Dobashi court guided by the SDO, ADC and DC as district administrative officers under the District Administrative Court in accordance with the customary law and usages. As such, it was upheld that no party more or less can be devoid of claiming what was traditionally theirs.

Illustration No.3:
Sungratsu Village Council Case No.11, Dated 23.6.1990

Village council authority | of Sungratsu village
Vs |
Shri Sashimeren |

In this case, the ignorance of village customary laws during assembly was enunciated.
The defendant Shri Sashimeren, speaking haughtily, though without any bad or actual intention, threatened the village councillors during its assembly. In such a situation of council assembly, the dignity and authority of the village council is absolute and sacrosanct and thus privileged to take action on anybody accused and proved of any wrong behaviour. The council held that the defendant was guilty of untoward behaviour and was penalized by a fine of Rs.25/- in lieu of one domesticated animal (either a pig or a cow).