**Law and Policy Review (LPR)**
**Volume 4 Issue 2, Fall 2025**
ISSN$_{(P)}$: 2076-5614, ISSN$_{(E)}$: 3007-4290
Homepage: https://journals.umt.edu.pk/index.php/lpr


| | |
|---|---|
| **Title:** | **Internal Self-Determination and the Post-Colonial State: The Chittagong Hill Tracts in International Law** |
| **Author (s):** | A Z M Umar Faruque Siddiki |
| **Affiliation (s):** | Jahangirnagar University, Dhaka, Bangladesh |
| **DOI:** | https://doi.org/10.32350/lpr.42.06 |
| **History:** | Received: September 24, 2025, Revised: October 27, 2025, Accepted: November 17, 2025, Published: December 26, 2025 |
| **Citation:** | Siddiki, A. Z. M. U. F. (2025). Internal self-determination and the post-colonial state: The Chittagong Hill Tracts in international law. *Law and Policy Review*, *4*(2), 111–133. https://doi.org/10.32350/lpr.42.06 |
| **Copyright:** | © The Authors |
| **Licensing:** | This article is open access and is distributed under the terms of Creative Commons Attribution 4.0 International License |
| **Conflict of Interest:** | Author(s) declared no conflict of interest |

A publication of
School of Law and Policy
University of Management and Technology, Lahore, Pakistan

# Internal Self-Determination and the Post-Colonial State: The Chittagong Hill Tracts in International Law

A Z M Umar Faruque Siddiki*

Department of Law and Justice, Jahangirnagar University, Dhaka, Bangladesh

## Abstract

In international law, the nexus between self-determination and minority rights is persistently disputed, giving rise to a durable conflict between the prerogatives of state sovereignty and the entitlements asserted by internal groups. This challenge became acute in the post-WWII era with the emergence of the internal self-determination doctrine, which frames self-determination as a continuous right to political participation, distinct from external self-determination (secession). This paper critically examines how states and international bodies have articulated this internal dimension within the volatile context of post-colonial statehood. Using the case study of the Chittagong Hill Tracts (CHT) in Bangladesh, it analyzes the marginalization of ethnic minorities' rights amidst state-building processes. The study specifically investigates the impact of state-sponsored Bengali settlement on the region's demographic and rights equilibrium, arguing that such policies have systematically undermined the minority's claim to meaningful self-determination and exacerbated political instability.

***Keywords*:** Chittagong Hill Tracts, internal self-determination, land rights, minorities, territorial integrity

## Introduction

> By virtue of the principle of equal rights and self-determination of peoples, all peoples always have the right, in full freedom, to determine, when and as they wish their internal and external political status, without external interference, and to pursue as they wish their political, economic, social and cultural development. Helsinki Final Act (1975), Principle VIII (Hannum, n.d.)

Since the commencement of the U.N. Charter by the United Nations (1945), there is an apparent doctrinal consensus that the right to self-determination is recognized under international law (Laing, 1992). Put plainly, self-determination justifies a group asking for its own legal space.

*Corresponding Author: umar.faruque@juniv.edu

It's how cultural or ethnic groups protect their identity, whether within the state or sometimes beyond its territorial limits. Although self-determination, as a theory, was inevitably at war with itself since it was inextricably concomitant to secessionism. Kirgis (1944), though, curtailed its scope only when the State "fails to secure internal self-determination" for its people. That is mostly why the doctrine of self-determination is often arguably considered as a political principle rather than a legal norm (Koskenniemi, 1994; Roepstorff, 2013). The doctrine is now generally understood as a binding principle of international law, particularly within the human rights discourse (McCorquodale, 1994), drawing its normative force primarily from different treaties along with other important sources of customary international law (Fox, 1995).

As Buchheit (1978) argued, indigenous claims to territory in post-colonial states are mostly expressed with the connotation of the right to self-determination. Remarkably, the right itself encountered numerous modifications since its inception. Initially conceived as a tool of secessionism from the hegemonic colonial powers, it is now advocating for the accommodation of differing national identities within the precincts of the State. This doctrine was mostly celebrated when the legitimacy of the colonial relationships of the European empires with their colonies declined drastically in the 1960s and 1970s (Koskenniemi, 1994, pp. 241-243). Otherwise, the doctrine of self-determination has relevance beyond the colonial contexts, especially when it comes to justice for different minority groups within the State under a comparatively modified interpretation of the right – "internal self-determination". Its relevance can efficaciously be inferred *vis-à-vis* specific minorities within the domestic arrangements of a particular State grounding on how the State chooses to treat its minorities (Castellino & Gilbert, 2003). As of now, we have some basic doctrines to be followed by the States; correspondingly, the United Nations General Assembly (UNGA) has devoted an increasing concern for non-self-governing territory and other disputed claims by the minorities (UN Charter, 1945). The rise of internal self-determination as opposed to the traditional external view is vehemently echoed in these policies.

Bangladesh, with reference to this doctrinal notion, could be an interesting case study as this country had some major issues with ethnic minorities since her inception. This is significant to clarify at the outset that among three dimensions (i.e. ethnic, religious, and linguistic) of minorities

identified by Capotorti, the concept of minority would be exclusively interpreted *vis-à-vis* the "ethnic minority" in this articulation (Rahman, 2011). Undoubtedly, the ethnic minority groups in Bangladesh have been ineffective in determining policies, confirming the "non-dominant" dictum too. The prospects for self-determination of these minorities (particularly the CHT minorities) within the aforementioned backdrop of theoretical developments and modifications shaped the premise for this articulation. While Bangladesh's constitutionalism and the Chittagong Hill Tracts (hereinafter CHT) have been studied quite a lot, few works doctrinally map how internal self-determination specifically applies to CHT minorities within Bangladesh's unitary integrity framework.

Primarily, this study examines competing avenues of the right to self-determination and their viability for minorities' claims. Methodologically, it uses doctrinal legal research and a focused case study of CHT, analyzing UN instruments, ICJ opinions, regional and domestic constitutional and statutory materials, leading cases, and scholarly/NGO reports through comparative and interpretive reading. It first traces the evolution of the right to self-determination and the customary approaches that shaped it, then explains the move from an *"isolationist"* model to contemporary understandings of internal self-determination to delineate minority concerns. The analysis pays particular attention to Bangladesh's post-colonial reluctance to embrace internal self-determination, where nineteenth- and twentieth-century commitments to *"one nation, one state"* and state integrity have tended to eclipse internal claims (Thornberry, 1989).

Finally, the study evaluates state-sponsored Bengali settlement in the CHT against these legal frameworks and asks how far internal self-determination could accommodate indigenous participation and autonomy. As for the limitations, this is a desk-based doctrinal analysis with a focused case study; it does not include fieldwork or interviews. It focuses on publicly available sources and the Bangladesh/CHT context, so its conclusions are contextual rather than universally generalizable.

## The Paradigm Shift of Self-Determination: From Political Principle to Legal Norm

The concepts embodied in the principle of self-determination are rooted in the model of popular sovereignty asserted by the French Revolution since

both the views voted for a government based on the will of the people (Berman, 1988). On that note, it must be elucidated that self-determination in most of the cases stands for representative democracy in its popular sense. Wilson considered this right "entirely a corollary of democratic theory" and "almost another word for popular sovereignty (Evans, 2010). Democratic government, therefore, would be the only guarantee for securing self-determination rights (Evans, 2010, pp. 177-179). The Wilsonian concept of self-determination, while foundational, contains a critical flaw in its linkage to representative democracy. Its emphasis on a government reflecting the "will of the people" often equates to majoritarian rule, which risks marginalizing non-dominant groups. True representativeness requires more than the mere formal recognition of diverse communities within a state. It necessarily demands their *effective and meaningful participation* in political processes. As Castellino (2008) suggests, the right to collective self-determination is an extension of the inherent liberties of individuals, implying a deeper, more substantive engagement than simple majority vote.

A significant evolution in Wilson's own thought became evident by 1916, when he asserted that "every people has a right to choose the sovereignty under which they shall live" (Heater, 1994). This emphasis on "*every people*" marked a conceptual shift toward a more inclusive interpretation of the right, one that would later be crucial for minority claims. However, the legal status of self-determination remained contested. Prominent scholars like Schwarzenberger rejected its utility as a binding legal norm, describing it instead as "a formative principle of great potency but not part and parcel of international customary law" (Laing, 1992). Verzijl similarly denied its "enforceable universal validity and binding authority" (Laing, 1992).

Despite this scholarly skepticism, the principle was progressively codified in international law. Instruments such as Article 1(1) of the International Covenant on Civil and Political Rights (1966) (United Nations, 1966) unequivocally state that "all peoples have the right to self-determination," enabling them to "freely determine their political status." This was reinforced by the Declaration on the Granting of Independence to Colonial Countries and Peoples and the Declaration on Principles of International Law. The incorporation of the right into these key documents signaled its ascent from a political principle to a recognized norm of international law, particularly in the context of decolonization (Castellino,

2008).

A critical reading of Article 1(1) reveals that its primary focus is *political* self-determination. This political dimension is a *conditio sine qua non* -an essential precondition for the meaningful realization of economic, social, and cultural rights. It is this very interpretation that elevates self-determination from a malleable political policy to a mandatory legal norm (Fox, 1995), establishing the legal groundwork for the later development of the *internal* self-determination doctrine, which prioritizes political participation within existing state boundaries.

**The Post-Colonial Metamorphosis: From External Secession to Internal Self-Determination**

At its core, self-determination signifies freedom of choice. Its *external* dimension- the right of a people to determine their international political status free from external interference- proved instrumental in dismantling colonial empires. However, this very power also rendered the principle "potentially explosive" in a world order predicated on the stability of sovereign states, as it created an inherent tension with the sacrosanct norm of territorial integrity (Chesterman et al., 2008).

This common association with decolonization, however, tells only part of the story. The concept's origins, traceable to the American and French Revolutions, initially framed it as a tool for *unification* and popular sovereignty within a state, grounded in notions of equality (Cassese, 1995). The complexity of self-determination lies in this duality. It can justify both the creation of states and challenge their internal foundations.

Following the major wave of decolonization, the principle did not fade into obsolescence but instead transformed into a disputed 'conceptual weapon' (Roepstorff, 2013). Minority groups and secessionist movements began invoking it, though with limited success. International law, prioritizing stability through principles like *uti possidetis juris* (the maintenance of pre-existing administrative boundaries), largely resisted these claims. A critical turning point was the 1970 Declaration on Principles of International Law concerning Friendly Relations, which explicitly defined self-determination as a right of *'all'* peoples, thereby stretching its ambit beyond the colonial context. This expansion was later affirmed by the International Court of Justice (ICJ) in advisory opinions like *Western Sahara* and the *East Timor* case, which cemented self-determination as a

"binding and irreproachable principle of international law" applicable in non-colonial situations.

This created a central paradox of the post-colonial era- "while self-determination is a fundamental legal right, existing states remain overwhelmingly unwilling to countenance any interpretation that compromises their borders". The succeeding tension between these two interpretations forced a critical re-evaluation of the doctrine. Ultimately, it suggested the development of a more lenient understanding that could accommodate the rights of people within existing states.

The intellectual response to this paradox coined *internal self-determination*. As Cassese (1995) rightly commented, "In the hands of would-be States, self-determination is the key to opening the door and entering into that coveted club of statehood. For existing States, self-determination is the key for locking the door against the undesirable from within and outside the realm." This distinction demarcates the secessionist, external model from the internal model, which functions as a safeguard within sovereignty.

Internal self-determination is conceived as the right of a people *within* a sovereign state to choose their government freely and participate meaningfully in their political system. For minority groups, it translates to the right not to be oppressed and to have their identity and interests accommodated within the state's framework. Kalana Senaratne (2013) defines it as the right of a people to freely choose their *"political and economic regime",* irrespective of discriminatory practices.

This conceptual shift offered a solution to the doctrinal deadlock. If we can't agree on who exactly counts as a "people," and external model of this right keep pushing for breakaways, self-determination can end up doing more harm than good in the post-colonial world. The "internal" approach, however, provided a path forward. It reconceptualized self-determination not as a right to separate territory, but as a right to full and effective political participation, cultural preservation, and self-government *within* the existing state.

This view gained significant juridical support. The Supreme Court of Canada (1998), in its seminal "*Reference re Secession of Quebec"*, powerfully endorsed this interpretation, stating that "international law expects that the right to self-determination will be exercised by the peoples

within the framework of existing sovereign States and consistently with the maintenance of the territorial integrity of those States." Thus, while extreme circumstances might theoretically justify secession as a last resort (Shaw, 2008), such exceptions are narrowly construed. The primary and prevailing understanding in contemporary international law is that internal self-determination is the standard. Through this metamorphosis, the doctrine of self-determination evolved to address minority claims without necessitating state fragmentation, thereby evading its predicted demise and finding renewed relevance.

## Minority Concern in Self-Determination: An Interpretation of "People" and "Self"

The application of self-determination to minorities hinges on the interpretation of two ambiguous terms- *"peoples"* and *"self"*. Article 1 of the International Covenant on Civil and Political Rights, 1966 (United Nations, 1966) grants the right to self-determination to "peoples," but does not define this term. During the decolonization era, this ambiguity was largely inconsequential, as the "people" were understood as the entire population of a colony seeking freedom from a colonial power. However, in the post-colonial context, this ambiguity became central. Newly independent states, often comprising multiple distinct groups, faced a fundamental tension- the commitment to maintain borders under *uti possidetis juris* clashed with internal claims of "peoplehood" from minorities and indigenous people (Cassese, 1995).

This tension sparked a scholarly debate over the entitlement of minorities to the right. One school of thought, pointing to the Vienna Declaration which reaffirms self-determination as an inalienable right, argues for a wide interpretation of "peoples" that includes minorities. This view is backed by the development of other minority rights in international law. These include the rights to physical survival and to keep a distinct identity and culture. From this perspective, these rights form the very core of what self-determination means for minorities, justifying their inclusion within an extended definition of "people" (Cassese, 1995).

A more direct path was proposed by Addo (1988), who argued that the right could belong to "different group(s) of the people" within a colony, distinct from the population as a whole. This contribution was significant as it unlocked the potential for minorities to claim self-determination *as*

*minorities*, without needing to first win the argument over the definition of "people."

Parallel to the question of "people" is the question of the "self." The 1960 Declaration on the Granting of Independence to Colonial Countries and Peoples clearly favored the *state* as the primary unit for self-determination, fearing that a "national" interpretation would lead to infinite fragmentation in fragile post-colonial states (Mullerson, 1993). However, the post-WWII expansion of human rights law, with its emphasis on individual rights and the equal protection of minorities, prompted a paradigm shift. The meaning of "self" widened gradually. It began to cover national minorities, though narrowly. That shift shaped the modern view of internal self-determination inside current states.

This theoretical expansion of "peoples" and "self" to include minorities under the concept of internal self-determination provides the essential legal framework for analyzing specific conflicts. The case of the CHT in Bangladesh offers a critical test for this framework. It demonstrates the acute tension that arises when the international legal entitlement of a minority group clashes with a post-colonial state's rigid interpretation of sovereignty and territorial integrity. The historical disregard for the CHT's unique status during decolonization represents a foundational denial of this right, setting the stage for the contemporary conflict analyzed in the following section.

## The CHT Experience: A Historical Disregard for Self-Determination in Favor of Territorial Integrity

The contemporary conflict in the CHT over the self-determination claim is not solely a product of post-1971 Bangladeshi nationalism. Its roots are deeper, embedded in the historical disregard for the region's unique status during the decolonization of British India (Abraham, 2014). Under colonial rule, the CHT was an autonomously administered district (a status reinforced by the Government of India Act of 1935) which was designated as a *"totally excluded area"* (Gain, 2000). It's ironic, but the people in the CHT had more control over their own affairs under colonial rule than they did when the country was moving toward independence. The abrupt dismissal of this historical autonomy during the partition of 1947 represents the initial and fundamental denial of the CHT peoples' right to determine their political status.

Scholars have offered various explanations for this failure. Some attribute it to the predominantly *"territorial approach"* to self-determination during decolonization, which prioritized the transfer of administrative units as whole territories to new states. Others point to the geopolitical context of the post-World War II era. As Heraclides (1991) argued, the international system resorted to "hasty retrenchment" to control the potentially disruptive force of self-determination. This rushed process, focused on creating sovereign states quickly, overlooked the complex internal demographics of these territories. Shahabuddin (2013) clarifies this shift, noting that while the interwar period linked self-determination to minority protection, the post-WWII era channeled it almost exclusively into the process of decolonization, thereby disenfranchising minorities within the newly drawn states.

This historical divergence created a lasting political discrepancy regarding the interpretation of self-determination. Western states, secure in their sovereignty, increasingly embraced "internal self-determination" as part of human rights discourse. In contrast, many post-colonial states like Bangladesh, born from an *external* self-determination struggle against Pakistan, viewed any internal claim with suspicion, often equating it with secessionism (Kohen, 2006). As Cassese (1995) observed, for these states, self-determination rhetoric was primarily external, a tool to end foreign occupation or racist rule. The CHT experience unambiguously testifies to this discrepancy, where the state's fear for its territorial integrity overrode any consideration of internal self-determination for its minorities.

The application of *uti possidetis juris* during the partition of India compounded this problem. As Shahabuddin (2013) argues, this principle was applied as a rigid extension of the territorial approach, demarcating boundaries with little to no consideration for the wishes of the people living within them. It is within this long historical context of disregard, from the partition to the post-colonial state-building era, that the Bengali settlement policy of the late 1970s must be understood. This policy was not an isolated event but the culmination of a prolonged deprivation of the CHT people's right to self-determination.

However, the evolution of international law away from secessionist interpretations offers a path for mitigation. The International Court of Justice (1965, para. 160) has clarified that self-determination requires respecting the integrity of a territory based on the freely expressed will of

its people, prohibiting its partition without consent. This underscores that contemporary international law prioritizes the self-determination of *peoples* over the integrity of *territory* as an abstract concept. The principle of *uti possidetis* is no longer seen as a justification for ignoring internal claims. Therefore, the historical denial of the CHT people's rights does not foreclose a solution. However, it makes the case for a feasible and appropriate mechanism for *internal* self-determination within the constitutional framework of Bangladesh all the more urgent.

This historical journey of the self-determination doctrine, from a tool of decolonization to a perceived threat to state sovereignty, and finally to its modern form as "internal self-determination"- sets the stage for the central dilemma this paper addresses. Having established that self-determination can and should be realized within existing states, the critical question becomes whether *minorities* like those in the CHT are entitled to this right, and on what basis. It is therefore evident that secessionism finds little relevance in contemporary interpretations of the self-determination doctrine. For the CHT minorities, the relevant framework is that of internal self-determination, which demarcates a right to meaningful political, cultural, and administrative autonomy *within* the sovereign state of Bangladesh. However, applying this doctrine requires a clear distinction between self-determination and self-government. This distinction became critically important during the first formal negotiations between the Government of Bangladesh and the Parbatya Chattagram Jana Samhati Samiti (PCJSS) in 1988 (Mohsin, 2003). The failure of these negotiations was due, in part, to demands by the PCJSS that were perceived to cross the line from internal self-determination into claims for self-government that challenged the state's constitutional integrity, demonstrating the practical difficulties of articulating a claim that is both effective for minorities and acceptable to the state (Mohsin, 2003).

Consequently, it is imperative to define the actual entitlements for minorities under the internal self-determination doctrine to reconfigure a viable claim for the CHT peoples. While no precise checklist exists, international law elucidates core components. A primary element is the right to a genuinely representative government (Moris, 1997) which entails effective participation in the political process on a basis of equality, rooted in Wilsonian principles and codified in instruments like the International Covenant on Civil and Political Rights. Beyond political participation, the

preservation of distinct culture and language is not a mere derivative of self-determination but often its fundamental core (Moltchanova, 2009). This paper will therefore evaluate the CHT experience against these thresholds of political representation and cultural-linguistic rights.

Crucially, these entitlements are not absolute. The internal self-determination doctrine inherently incorporates limitations: it must be exercised with regard for the rights of others and the general interests of society as a whole (McCorquodale, 1994). Any claim, including those of the CHT minorities, must substantiate its compatibility within the state's existing legal and political framework. Heraclides (1991) aptly described this as the "domestication of hydra-like self-determination," ensuring it strengthens rather than destabilizes the post-colonial state. A legitimate claim for internal self-determination must therefore demonstrate its sustainability and alignment with the broader interests of the state.

The post-WWII expansion of human rights law, emphasizing individual rights and equal protection for minorities, was the catalyst for this paradigm shift, bringing minorities unequivocally under the protective ambit of internal self-determination. While a few justified this through a broad interpretation of "people," numerous international instruments now confirm this right for minorities *per se* (Saladin, 1991). This clarified legal standing contrasts sharply with the historical experience of the CHT. The claims of the PCJSS were met not with negotiation on these terms, but with outright rejection, culminating in the government's decision to implement the Bengali settlement scheme under the guise of *"fair assimilation."*

This pivotal policy decision marks the transition from theoretical entitlement to practical violation. It is therefore imperative to evaluate this government-sponsored settlement scheme, as it represents the primary mechanism through Bangladesh systematically undermined the internal self-determination of the CHT minorities. The following section will analyze the implementation and impact of this settlement policy, examining its effects on demographics, political representation, and cultural rights.

## Demographic Engineering as State Policy: Undermining Internal Self-Determination in the CHT

The Chittagong Hill Tracts (CHT) is a geographically and culturally distinct region in southeastern Bangladesh, encompassing the three hill districts of Rangamati, Khagrachari, and Bandarban. Comprising

approximately ten percent of the country's total land area, it is home to thirteen distinct tribal minority groups. The conflict over self-determination in this region escalated shortly after Bangladesh's independence in 1971, when M Narayan Larma, a member of parliament from the CHT, lobbied the new government for official recognition of the region's autonomy and for an absolute ban on Bengali migration into the area (Shahabuddin, 2009). The utter rejection of these two foundational claims marked the initial encroachment upon the CHT people's right to self-determination, a process that would reach its culmination with the state-sponsored Bengali settlement program initiated in the late 1970s (Mohsin, 2003, pp. 20-25).

This rejection can be interpreted from several perspectives. The intense Bengali nationalism forged during the nine-month liberation war likely contributed to a limited appreciation for the self-determination claims of minority groups. Furthermore, given that the birth of Bangladesh itself was a manifestation of the secessionist aspect of self-determination, the state perceived any analogous claim from within its own borders (especially so soon after independence) as a direct threat to its fragile national integrity. The very nature of the CHT demand thus appeared to justify the state's fear and preemptive suppression.

In September 1979, this policy stance was formalized through a decisive and clandestine move. The government of Bangladesh, operating under two secret memorandums, decided to settle 5,000 Bengali families from the plains into the CHT, offering them multiple incentives (Burger & Whittaker, 1984, pp. 23–29). While the official memorandums did not explicitly state the rationale for this policy, the subsequent implementation and the mode of execution made the objectives clear. A phenomenal intensification of this settlement program occurred between 1979 and 1984, leading to an influx of approximately 400,000 Bengali settlers by the end of this phase (Mohsin, 2003, pp. 30-33). The demographic consequence was profound and predictable- by 1991, the Bengali settler population had become numerically equal to the indigenous minorities, representing the largest demographic shift in the region since the partition of India in 1947 (Mohsin, 2003, pp. 30-33). This deliberate population engineering prompts critical questions- what were the underlying motives of the Bangladeshi government, and what has been the impact of this policy on the native inhabitants?

The implicit expectation was that the indigenous people of the CHT

would relinquish their claims to self-determination and assimilate into the dominant drift of Bengali nationalism. For some scholars, this policy marked the initiation of a state-driven "assimilation" project, which was met with immediate and steadfast opposition from the CHT people. M Narayan Larma articulated this resistance vehemently in a parliamentary session, stating: "You cannot impose your national identity on others. I am a Chakma not a Bengali. I am a citizen of Bangladesh, Bangladeshi. You are also Bangladeshi, but your national identity is Bengali… they (the CHT people) can never become Bengali" (Amnesty International, 2013, pp. 14-16).

The government's subsequent claim that the settlement program constituted a "fair assimilation" scheme was undermined by a lack of practical credibility and, most importantly, the complete absence of consent from the CHT minorities. Instead of fostering integration, the implementation revealed a contrasting and more sinister approach. Amnesty International alleged that most settler families were strategically placed in "cluster villages" surrounding army camps, effectively making them a first line of defense against the ongoing insurgency (Amnesty International, 2013). This strategy predictably generated deep-seated mistrust and an acute sense of discrimination between the newcomers and the natives, fissures that were never mitigated. Over time, compounded by aggregated discriminatory practices from both military and civil administrations and numerous allegations of human rights violations documented by Amnesty International, a pervasive sense of "internal colonization" took root among the CHT minorities. Mohsin (2003), The Hill people believe that through Bengali settlement the government aims to 'colonize' the CHT by bringing about a demographic shift in the region. A demographic shift has indeed taken place in the CHT… This change in the region's demographic composition is viewed with alarm by the local people and considered as a part of government policy of 'ethnocide'."

While classic state-level colonialism may have become irrelevant, the dynamics of domination and resistance have found new forms within states. Ethnic hegemony and the suppression of pluralism often lead states to impose a form of "colonial dominion" over minority groups, denying their right to self-determination. The case of the CHT presents a compelling inquiry into the extent to which Bangladesh maintains such an internal colonial dominion, principally through the 1979 settlement policy. The role

of the military, allegedly resorting to "divide and rule" tactics by polarizing minority subgroups to dilute their collective voice for self-determination, has unquestionably aggravated this situation (Mohsin, 2003). Given these factors, it would be imprudent to characterize the Bengali settlement as a benign "fair assimilation" initiative.

The profound significance of this settlement policy lies precisely in the type of "assimilation" it represents- a forced integration achieved through demographic engineering. The resulting catastrophe has been more diverse and severe than initially estimated (Shelley, 1992). Its impact on the concept of "representative government," a cornerstone of the internal self-determination doctrine, is particularly alarming (Mohsin, 2003). The majoritarian democratic system practiced in Bangladesh inherently risks overriding minority interests. With Bengalis constituting roughly 53 percent of the CHT population, the guarantee of genuine political representation for the indigenous minorities becomes structurally complicated, if not impossible (Shahabuddin, 2009).

Furthermore, other vital components of internal self-determination, such as the prerogative to maintain a distinct culture and language, have been systematically eroded by what methods that Moltchanova considered "coercion" (Moltchanova, 2009). This erosion is often justified by the new demographic realities created by the settlement policy itself. Shahabuddin (2013) conceived this cultural and linguistic invasion as "a part of macro-objective of nation building through forced assimilation and forced expulsion". The most severe consequence of this policy is that many CHT minorities, facing cultural annihilation and displacement, were forced to seek refuge in neighboring states (Amnesty International, 2013), completing a cycle of dispossession that fundamentally undermines their right to internal self-determination.

The demographic engineering analyzed above demonstrates a comprehensive assault on the political and cultural pillars of internal self-determination. By altering the population balance, the state structurally compromised the possibility of genuine political representation for the CHT minorities within a majoritarian democracy. Simultaneously, the influx of settlers and the imposition of Bengali language and culture systematically eroded the distinct identity of the indigenous communities. However, this analysis of political and cultural marginalization remains incomplete without addressing its most tangible and devastating foundation- *the*

*dispossession of land*. For the CHT minorities, land is not merely a political or cultural symbol. It is the material and spiritual bedrock of their existence, the prerequisite for their economic survival, social organization, and cultural practices. Therefore, the demographic shift was not an abstract exercise of sovereign power by the state. It was executed through the physical transfer of people onto lands traditionally occupied and cultivated by the indigenous communities. Consequently, the policy of settlement is fundamentally linked to the violation of land rights. State-sponsored migration is central to this denial. It produced systematic land alienation. As a result, the dispute moved from political representation and cultural preservation to subsistence and place-based rights. The following section will argue that the unfulfilled core of the CHT peace process lies in this indivisible connection between self-determination and the restoration of land rights.

## The Indivisibility of Land Rights and Self-Determination: The Unfulfilled Core of CHT Peace

For a state to achieve lasting stability, it must effectively accommodate the rights of all its stakeholders, including minority populations. For the indigenous minorities of the CHT, this accommodation is inextricably linked to land. Their traditional way of life is fundamentally land-based, centered on small-scale traditional agriculture known as "*jhum"*. Beyond being their primary source of livelihood, this land is antecedent to their spiritual worldview and social identity (Roy, 2000). Therefore, when the land rights of the CHT minorities are rendered unsettled and uncertain through consistent land grabbing by state-sponsored settlers, establishing a meaningful notion of self-determination becomes not merely unwise, but fundamentally unattainable. The violation is multidimensional; land dispossession is coupled with systematic social exclusion and neutralization. Once their land is taken, the minorities face social ostracization, inevitably triggering a struggle for basic human needs such as food security, housing, and sanitation (Mohsin, 1997). This multi-faceted marginalization signifies a profound failure by the state to comply with its core international law obligations to secure minority rights.

This strategy of social exclusion directly impacts future generations. It is undeniably linked to the deprivation of quality primary education for CHT minority children and the imposition of "Bangla" as the medium of instruction, supplanting their native languages. Consequently, the education

system in the CHT fails in one of its basic purposes- to minimize racial discrimination and foster a sense of brotherhood, as has been attempted in other nations with minority tensions. This policy also constitutes clear non-compliance with the "choices of languages" principle, a key component of cultural self-determination protected under international law (Cristescu, 1981).

Globally, there are successful precedents for reconciling indigenous land claims with state sovereignty, demonstrating that self-determination can be realized internally. Indigenous peoples in various parts of the world have successfully negotiated the recognition of their identity and secured land rights *within* existing states, without prejudice to national sovereignty. A seminal example is the creation of Nunavut in Canada. On June 10, 1993, the Nunavut Act and the Nunavut Land Claims Agreement Act (NLCAA) were passed by the Canadian Parliament. These initiatives were inextricably linked, vesting the Inuit people with ownership of 350,000 square kilometers of land while also making them responsible for wildlife preservation and environmental management (Dewar, 2009). The significance of the NLCAA extends beyond mere land ownership. It represents a holistic confirmation of indigenous rights under frameworks like the Draft Article on Indigenous Rights. Crucially, it is entirely devoid of secessionist intent, instead confirming an internal re-arrangement of power and rights under the absolute jurisdiction of the state. The claim for internal self-determination for the CHT minorities, as argued in this paper, impeccably mirrors the Nunavut experience in this regard.

Restoration of land rights is therefore the non-negotiable core of self-determination for the CHT minorities. Theirs is an exclusive *land claim*, focused on livelihood and identity, not a *territorial claim* implying a future state. This distinction makes the Nunavut model highly relevant for CHT. Land is a cross-cutting issue that dictates the enjoyment of other rights and is undeniably associated with the very identity of a people. For the CHT minorities, land is simultaneously a source of livelihood, the foundation of economic rights, and a spiritual anchor (Roy, 2000). It is no surprise that international law instruments consistently recognize indigenous land rights as a "fundamental concern." Bangladesh itself endorsed this principle shortly after independence by ratifying ILO Convention No. 107, Article 11 of which explicitly confirms the right of ownership, collective or individual, of the members of the populations concerned over the lands which these

populations traditionally occupy shall be recognized. The dispossession and internal displacement of the CHT minorities without due process or consent is a direct violation of these obligations.

Acknowledging this failure, the legal regime established by the CHT Peace Accord of 1997 and the (amended) Hill District Local Government Councils Act of 1998 placed an absolute restriction on the 'further transfer' of land without authorization. However, these laws primarily served to prevent future alienation, effectively circumventing the claims of those who had already lost their lands. The CHT Land Dispute Resolution Commission, established to resolve existing disputes, has thus far contributed little to restitution. Therefore, guided by international precedents like Nunavut and grounded in existing international legal obligations, a credible pathway must be found to restore the land rights of the CHT minorities. Without this fundamental step, any aspiration for peace remains devoid of justice, and the internal self-determination of the CHT people will continue to be an unfulfilled promise.

## Conclusion

The journey of the right to self-determination in international law reflects a profound metamorphosis, essential for its survival and relevance beyond the colonial era. This paper argued that the evolution from an exclusively external, secessionist right to the doctrine of internal self-determination provides the critical legal framework for understanding and addressing the claims of minority peoples within post-colonial states. The shift redefines self-determination as ongoing and internal. It guarantees participation, cultural safeguarding, and economic rights within sovereign limits. It thus bridges CHT Indigenous aspirations and the state's territorial integrity and sovereignty.

The CHT experience makes it evident that neglecting the internal dimension has severe consequences. The historical disregard for the region's autonomy during decolonization, compounded by the post-1971 state's prioritization of a homogenized Bengali national identity, created a legacy of grievance. The state-sponsored Bengali settlement policy initiated in 1979 was not an isolated act of assimilation but the culmination of this denial, serving as a deliberate instrument of demographic engineering. This policy systematically undermined the very pillars of internal self-determination. By precipitating a massive demographic shift, the policy

questioned the possibility of genuine political representation for the CHT minorities within a majoritarian system. Furthermore, it directly attacked the cultural and linguistic prerogatives central to their identity, leading to forced assimilation, social exclusion, and a palpable sense of internal colonization.

At the heart of this conflict lies the tricky link between self-determination and land rights. For the CHT minorities, land is not merely an economic asset but the foundation of their spiritual, social, and cultural existence. The widespread dispossession through land grabbing has therefore rendered the right to self-determination hollow and unattainable. The 1997 Peace Accord, while a significant political gesture, has failed to ensure internal self-determination precisely because it has not effectively reversed this foundational injustice. The inability of the CHT Land Dispute Resolution Commission to restore alienated lands highlights the gap between legal recognition and practical implementation.

Ultimately, a peace devoid of justice is unsustainable. The internal self-determination of the CHT minorities remains an unfulfilled promise, contingent upon a genuine commitment to restorative justice. This requires a credible land restitution mechanism. Cultural and linguistic rights must be protected. Institutions must guarantee meaningful political autonomy. Under the contemporary human rights regime, Bangladesh bears an obligation to guarantee this right for all its citizens. Fulfilling this obligation requires moving beyond a securitized approach to one that embraces pluralism, ensuring that the distinct identity of the CHT peoples is not merely tolerated but actively protected within the Bangladeshi polity. Only through such a commitment, which harmonizes the state's sovereignty with the internal self-determination of its minorities, can a lasting and just peace be achieved.

**Author Contribution**

**A Z M Umar Faruque Siddiki:** sole author

**Conflict of Interest**

The authors of the manuscript have no financial or non-financial conflict of interest in the subject matter or materials discussed in this manuscript.

**Data Availability Statement**

Data availability is not applicable as no new data was created.

**Funding Details**

No funding has been received for this research.

**Generative AI Disclosure Statement**

The authors did not used any type of generative artificial intelligence software for this research.

## References

Abraham, I. (2014). *How India became territorial: Foreign policy, diaspora, geopolitics.* Stanford University Press.

Addo, M. K. (1988). Political self-determination within the context of the African Charter on Human and Peoples' Rights. *Journal of African Law*, *32*(2), 182–193.

Amnesty International. (2013). *Pushed to the edge: Indigenous rights denied in Bangladesh's Chittagong Hill Tracts* (Index: ASA 13/005/2013). Amnesty International.

Berman, N. (1988). Sovereignty in abeyance: Self-determination and international law. *Wisconsin International Law Journal*, *7*(1), 51–103.

Buchheit, L. C. (1978). *Secession: The legitimacy of self-determination.* Yale University Press.

Burger, J., & Whittaker, A. (1984). *Chittagong Hill Tracts: Militarization, oppression, and the hill tribes.* Anti-Slavery Society.

Cassese, A. (1995). *Self-determination of peoples: A legal reappraisal.* Cambridge University Press.

Castellino, J. (2008). Territorial integrity and the right to self-determination: An examination of the conceptual tools. *Brooklyn Journal of International Law*, *33*(2), 503–568.

Castellino, J., & Gilbert, J. (2003). Self-determination, indigenous peoples and minorities. *Macquarie Law Journal*, *3*, 155–178.

Chesterman, S., Johnstone, I., & Malone, D. M. (2008). *Law and practice of the United Nations: Documents and commentary*. Oxford University Press.

Cristescu, A. (1981). *The right to self-determination: Historical and current development on the basis of United Nations instruments* (Sales No. E.80.XIV.3). United Nations Publications.

Dewar, B. (2009, July 1). *Nunavut and the Nunavut Land Claims Agreement: An unresolved relationship.* Policy Options. https://policyoptions.irpp.org/2009/07/nunavut-and-the-nunavut-land-claims-agreement-an-unresolved-relationship/

Evans, M. D. (2010). *International law.* Oxford University Press.

Fox, G. H. (1995). Self-determination in the post-Cold War era: A new internal focus? *Michigan Journal of International Law*, *16*(3), 733–780.

Gain, P. (2000). *The Chittagong Hill Tracts: Life and nature at risk.* Society for Environment and Human Development.

Hannum, H. (n.d.). *Legal aspects of self-determination*. Retrieved August 10, 2025, from https://pesd.princeton.edu/node/511#:~:text=%5B21%5D%20Among%20the%20%22Principles,freedom%2C%20to%20determine%2C%20when%20and

Heater, D. B. (1994). *National self-determination: Woodrow Wilson and his legacy.* Palgrave Macmillan.

Heraclides, A. (1991). *The self-determination of minorities in international politics.* Routledge.

International Court of Justice. (2019). *Legal consequences of the separation of the Chagos Archipelago from Mauritius in 1965*. https://www.icj-cij.org/node/105780

Kirgis, F. L. (1994). The degrees of self-determination in the United Nations era. *American Journal of International Law*, *88*, 304–310.

Kohen, M. G. (Ed.). (2006). *Secession: International law perspectives.* Cambridge University Press.

Koskenniemi, M. (1994). National self-determination today: Problems of legal theory and practice. *International and Comparative Law Quarterly*, *43*(2), 241–269.

Laing, E. A. (1992). The norm of self-determination, 1941–1991. *California Western International Law Journal*, *22*, 209–308.

McCorquodale, R. (1994). Self-determination: A human rights approach. *International and Comparative Law Quarterly*, *43*(4), 857–885.

Mohsin, A. (1997). *The politics of nationalism: The case of the Chittagong Hill Tracts, Bangladesh.* The University Press Limited.

Mohsin, A. (2003). *The Chittagong Hill Tracts, Bangladesh: On the difficult road to peace.* Lynne Rienner Publishers.

Moltchanova, A. (2009). *National self-determination and justice in multinational states.* Springer.

Moris, H. (1997). Self-determination: An affirmative right or mere rhetoric? *ILSA Journal of International & Comparative Law*, *4*(1), 201–220.

Mullerson, R. (1993). The continuity and succession of states, by reference to the former USSR and Yugoslavia. *International and Comparative Law Quarterly*, *42*(3), 473–493.

Rahman, M. (2011). *Struggling against exclusion: Adibasi in Chittagong Hill Tracts, Bangladesh* [Doctoral dissertation, Lund University]. Research Portal. https://lucris.lub.lu.se/ws/files/5302318/1963907.pdf

Roepstorff, K. (2013). *The politics of self-determination: Beyond the decolonization process.* Routledge.

Roy, R. C. K. (2000). *Land rights of the indigenous peoples of the Chittagong Hill Tracts, Bangladesh.* International Work Group for Indigenous Affairs.

Saladin, C. (1991). Self-determination, minority rights, and constitutional accommodation: The example of the Czech and Slovak Federal Republic. *Michigan Journal of International Law*, *13*, 172–217.

Senaratne, K. (2013). Internal self-determination in international law: A critical third-world perspective. *Asian Journal of International Law*, *3*, 305–339.

Shahabuddin, M. (2009). International law and ethnic conflicts in a world of multi-nation states: The case of Chittagong Hill Tracts (CHT), Bangladesh. In J. Parry & W. Zeydanlioglu (Eds.), *Rights, citizenship, and torture*. (pp. 301–329) Inter-Disciplinary Press.

Shahabuddin, M. (2013). Liberal self-determination, post-colonial statehood, and minorities: The Chittagong Hill Tracts in context. *Jahangirnagar University Journal of Law*, *1*, 77–97.

Shaw, M. N. (2008). *International law* (6th ed.). Cambridge University

Press.

Shelley, M. R. (1992). *The Chittagong Hill Tracts of Bangladesh: The untold story.* Centre for Development Research, Bangladesh.

Supreme Court of Canada. (1998). *Reference re Secession of Quebec,* [1998] 161 DLR (4th) 385.

Thornberry, P. (1989). Self-determination, minorities, human rights: A review of international instruments. *International and Comparative Law Quarterly*, *38*(4), 867–889.

United Nations. (1945, November 24). *Charter of the United Nations.* https://www.refworld.org/docid/3ae6b3930.html

United Nations. (1966, December 16). *International covenant on civil and political rights*. https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights