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Shadows in the Valley

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Newspapers have reported *azadi* protests cascading across the Kashmir Valley for the past weeks, with each rally more strident than the last. The dispute over land transfer to the Amarnath Shrine Board has turned into a crisis over the future of Kashmir. In the words of one demonstrator: "We are not pro-Pakistan, we are for independence, but those supporters of Pakistan are running away with the agenda, demanding immediate self-determination for Kashmiris on both sides of the line of control." Whether it is autonomy or integration with Pakistan, where does the concept of self-determination fit in with the doctrine of territorial integrity, and to what extent does it accommodate separatist aspirations?

A pointer to the answer is the rumbling dispute between the United States of America and Turkey, before the Iraq war, over the future status of Kurdish-occupied northern Iraq. That provides a contemporary illustration of continuing political difficulties and the need for complex power-sharing as the only possible solution. The Kurds believe that they have been robbed of the right to self-determination conceded to them at the Versailles peace conference after World War I because of the need to appease Turkey, first under Ataturk, and now as a Western ally. This means that the Kurds, whether in Iraq or in Turkey and elsewhere, will be denied any political status beyond recognition of their cultural and language rights.

International society is composed of sovereign states and not their populations. Sovereignty in the exercise of force and jurisdiction within recognized boundaries is central to the idea of a modern nation state, and states do not favour a carve-up of themselves or others unless it suits their interests. After 1919, there was the collapse of the dynastic principle; territory could no longer be treated as real estate to be determined on the battlefield, or bought and sold like Oregon or Alaska. This led to the theory of popular sovereignty, but it left unexplained what constituted the collective selves whose wishes were to be ascertained. In the make-believe world of popular sovereignties, the people who were to be asked to decide could not in practice do so until someone determined who the people were. The idea of plebiscites was flawed because states had no intention of testing the legitimacy of their title in their own possessions by this methodology.

In the course of de-colonization, referenda were occasionally used to settle national identities as in Cameroon and Togo, but few governments insisted on a democratic test before extending recognition to states that underwent revolutions, not even, eventually, the US and the People's Republic of China. Irredentism got equally short shrift, though some former colonies consolidated their territory without serious international consequences. Countries that continue to make irredentist claims, like Morocco to Mauritania, Philippines to Sabah and Ireland to Ulster, face formidable constraints because the vast majority of states are hostile to any re-drawing of the political map. In independent states, the right of self-determination has very rarely been invoked to settle rival territorial claims, and in the absence of negotiated settlement, states have accepted the borders inherited after independence, if only to avoid opening a Pandora's box. Under conditions of democratic government, there is



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nothing so difficult to change as an international border. This is probably clearly understood by realists in Pakistan and India, though apparently not in Kashmir.

International society in the post-colonial period has no appetite for determining settlements in conflicts where people identify themselves in ethnic or communal terms. Those decisions that have been taken, like creating the state of Kosovo by invoking an ambiguous security council resolution of 1999, have been deeply controversial and unsatisfactory, evidently to subserve the short-term interests of a major power. The Kosovo precedent has led to the pseudo-independence of South Ossetia and Abkhazia. There is no analogous situation in Kashmir. The future of Indian Kashmir will be determined by the Indian government and nowhere else.

The main challenge to the view that self-determination is confined in context only to the process of de-colonization comes from the separatists and secessionists, who regard this as a fundamental human right applicable in all circumstances. Since the American civil war, unilateral secession has not been countenanced, both to avoid anarchy and in the interest of public welfare. Of the three cases of secession that erupted on the world stage during the Cold War, Katanga, Biafra and Bangladesh, the first was supported by not one African state, the second only by four, and Bangladesh succeeded by securing the support of a powerful external patron that was prepared to defy international opinion. After 1990 and the democracy dividend that still influences discussions at the United Nations security council, future claims to self-determination would have to be cast in a democratic form to be acceptable – thus Eritrea's separation from Ethiopia, Timor Leste's from Indonesia, and Quebec's failure to separate from Canada.

Where do the Kashmiris agitating for *azadi* or for uniting with Pakistan stand in this international climate? The only way a secessionist minority can succeed is to use free speech and other democratic norms to convince the electorate and become a majority opinion at elections. Empirically, of course, this is difficult, if not impossible, especially in societies that are structurally deeply divided. The argument that Jinnah advanced on behalf of the Muslim League was that Indian Muslims were a separate people, and could not hope to become a majority under any foreseeable circumstances. This was the basis of the subcontinent's partition, but surgery in that case was in the process of de-colonization, when the colonial power was in a position to enforce such a decision, however unpalatable.

The Kashmiri separatists should realize that secession is not in fashion in world affairs. The area occupied by the Turkish Cypriots has been recognized as a state by only Turkey even after 45 years. The odds in favour of the separatists swinging public opinion behind them at the polls are long, so the other option has been taken to resort to mass agitation. These militants will reconcile themselves to the existing situation only if there is some overarching community sentiment that is stronger than the conflicts of ideological, economic or political interest that divide people, and, in the case of Jammu and Kashmir, religious interest to boot. This is why it was profound folly on the part of the state authorities, irrespective of judicial wisdom and religious pressures, to attempt to change the status quo in this volatile region.

It is impossible to devise a set of rules for re-drawing the political map to accommodate the aspirations of all self-conscious groups. The answer has to lie in complex power-sharing, sometimes of a federal or con-federal kind, or even a con-associational kind. Initially, the agitators, who are accustomed to insurgency and



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levels of external support, are unlikely to desist from continuing their confrontation in uncompromising terms, because they see advantages in violence rather than in peace. But when the window is eventually open for rational cogitation, it is imperative for the Union government to engage in original and unorthodox thinking on the subject. There has apparently been discussion on such matters in the back-channel between India and Pakistan. Innovative solutions need to be explored and implemented, even unilaterally if necessary. And obviously, without delay.

The author is former foreign secretary of India.