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Kosovo to Kashmir: Self-determination dilemma

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Consider this sequence of events. The central government of a country removes the political leadership of an autonomous province of the country in a purge-like act. It then sets about revoking the self-rule powers of the province, which has a different ethno-religious majority from the population of the country as a whole. Public protests in the province are met with heavy-handed police tactics. A repressive regime is instituted in the province, with both democratic institutions and the civil rights of citizens effectively suspended.

Eventually, political radicalization sets in and some among the misruled province's younger generation pick up the gun to fight for "liberation". The nascent insurgency draws a fierce response from the state's military and police organs. The security forces crack down hard, and in so doing victimize the civilian population. Massacres of civilians and other serious abuses occur. The militants are not stamped out; instead, their struggle evokes large-scale popular support. A major crisis has developed.

This may read like a potted history of Kosovo between 1989 and 1999. It is, however, a potted history of Indian policy towards Kashmir, and its consequences, between 1953 and 1990. So do the United States and its allies in Europe support self-determination for Kashmir, and threaten multilateral intervention to that end?

Of course not. The oft-stated American position on Kashmir is that India and Pakistan should negotiate a bilateral solution to the Kashmir dispute while taking into account the wishes of "the Kashmiri people" (a description that itself grossly over-simplifies the society and politics of Kashmir, which contains a diversity of regions, religions, ethnicities and languages, and whose citizens are split into pro-independence, pro-Pakistan and pro-India segments).

Nonetheless, the caution and circumspection that define the stance of the United States and major European Union countries towards the Kashmir dispute are typical of the attitude of the "international community" and its dominant players towards claims to self-determination.

The record of the international order since 1945 is that self-determination movements tend to receive a skeptical hearing at best, and no hearing at all in many cases. The vague and somewhat outdated principles of international law relevant to the issue of secession are broadly supportive of the territorial integrity of states, and recognize the legitimacy of self-determination only in situations of colonialism.



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Between 1945 and 1990 the only fully realized case of national self-determination outside the decolonization framework was Bangladesh in the early 1970s, facilitated by an Indian military intervention that resulted in the total defeat of Pakistani forces in the former East Pakistan. During those decades, dozens of other self-determination movements struggled in vain.

This status-quo proclivity of the international system is not surprising. The most influential member-states of the international system have an obvious interest in not rocking the boat, and this is reflected in the behavior of international institutions.

The international system is apprehensive of encouraging, or seeming to encourage, instability and fractiousness. It is alive to the sensitivities and clout of major states, such as India or China, that contain groups seeking self-determination. It is acutely conscious of the risk of regional destabilization - the blocked independence aspirations of the Kurds of northern Iraq are a case in point. And it is reluctant to admit new members to the club of sovereign states except in instances of a fait accompli on the ground - such as Bangladesh, Eritrea in the early 1990s, the break-up of the Soviet Union, or the "velvet divorce" of the Czechs and Slovaks.

That is why it may seem anomalous that the most powerful actor of the international system and most of its significant allies in Europe actively sided with and endorsed the state-seeking nationalism of the Kosovo Albanians after their declaration of independence on 17 February 2008.

But in fact this stance is not anomalous when viewed in its essential context - the history of American and EU policy towards the region that was Yugoslavia ever since the terminal crisis of federal, multinational Yugoslavia in 1991. That policy sanctioned the conversion of the internal borders of what had been the Yugoslav state into international frontiers between sovereign states. By recognizing Kosovo as sovereign, these countries have simply extended the policy of recognition beyond the full-fledged units, or republics, of the former Yugoslav federation to a sub-unit, a province of Serbia.

The orphans of secession

Aggrieved minorities - the "orphans of secession", as one scholar has called them - have always been both the collateral damage and the volatile discontents of this policy, starting with the Serbs of Croatia. It is this series of precedents that United Nations special envoy Martti Ahtisaari's 2007 recommendation of "supervised independence" for Kosovo indirectly alludes to when it asserts that "concluding this last episode in the dissolution of the former Yugoslavia will allow the region to begin a new chapter in its history."

The recognition of Kosovo as sovereign by some of the wealthiest and most prominent states in the international system, including its sole superpower, is (as was



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the recognition of Slovenia and Croatia in early 1992) a validation of an ethno-nationalist claim to self-determination based on the will of the majority ethnoses.

Two crucial factors here are the overwhelming extent of this majority (it is doubtful that the Ahtisaari proposal could have been floated if Albanians were a 67 percent majority of Kosovo's people, as they were in 1961 according to the Yugoslav census of that year, rather than the 90 percent majority of today); and the unanimous and adamant insistence of that huge majority on the maximal version of self-determination.

President Bush's praise of the Kosovo Albanian leadership's "embrace of multi-ethnicity as a principle of good governance" in his letter to Kosovo's president endorsing the declaration of independence, puts no more than a poor gloss on this reality. Multi-ethnicity as a principle of governance was extinguished across the region of the former Yugoslavia more than fifteen years ago.

In this respect, the European commission's statement after the disturbances in the Serb-dominated part of the northern Kosovo town of Mitrovica on 17 March 2008, a month after the declaration - "Violence is unacceptable. All parties should work together to build a multi-ethnic Kosovo based on the rule of law and respect for democracy" - can be read as an expression either of naiveté or evasion.

Condemning the Serbs of northern Kosovo who attacked border-posts between Kosovo and Serbia manned by international personnel, or protested in Mitrovica, for trying to force the "partition" of Kosovo betrays a one-sided perspective. These Kosovo Serbs are agitated over what they regard as the partition of their state and national homeland, Serbia, with the complicity, as they see it, of powerful Euro-Atlantic states.

Contested sovereignty

Sovereignty has two aspects: the juridical (which depends on international recognition) and the empirical (which depends on the capacity of the state's authorities to control and administer its territory). Both aspects are political battlegrounds in the Kosovo controversy. The world is divided on the juridical issue, and there is a minority group of dissenters even among the EU states. Belgrade's rejection of the 17 February 2008 declaration in Pristina is a crucial factor reinforcing the divide.

Within the last decade, East Timor's internationally supervised independence (1999-2002) was made possible by Indonesia's acquiescence to that process. Three decades ago, Pakistan's recognition of Bangladesh's sovereignty - given in February 1974, just two years after the end of armed hostilities, once Pakistan received guarantees about the repatriation of its 90,000 prisoners of war from the December 1971 conflict - paved the way to Bangladesh's membership of the United Nations in September 1974.



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As long as Serbia continues to declare Kosovo a renegade province, on the lines of China's position vis-à-vis Taiwan, the juridical issue cannot be settled.

The juridical dispute is, of course, closely intertwined with the empirical dimension - the existence of the Serb-populated area in northern Kosovo, and the enclaves dotted across the rest of Kosovo in which two-thirds of Kosovo's Serbs reside. It is possible that this tangled skein of conflicts can be constructively addressed only through renewed regional and international diplomacy.

The case for compromise

The global controversy over Kosovo has aroused much excitement among aspirants to self-determination worldwide, and, concurrently, considerable alarm in capitals where such state-seeking movements are a long-term headache, from Ottawa and Madrid to Delhi and Beijing. But both the excitement and the alarm are unwarranted.

The position of the United States and most of its major allies on this matter does not signal the emergence of a more general permissiveness towards self-determination claims among these influential players in the international system (at the other end of the spectrum, Russia's position on Kosovo is determined by the Kremlin's decision to promote a muscular foreign policy in Europe and Eurasia; remote and peripheral Kosovo is merely a pawn in that strategy). So while the Ahtisaari plan describes Kosovo as "a unique case that demands a unique solution," its recommendation of "independence, to be supervised for an initial period by the international community," can be characterized as a nearly unique solution to a not particularly unique case.

And that is where the espousal by most of "the west" of Kosovo's independence throws up some troubling questions.

During a conversation in Helsinki a few days before the declaration of independence in Pristina, Martti Ahtisaari noted that Kosovo has a compelling moral case for independence, given the escalating mistreatment and injustice suffered by its vast Albanian majority at the hands of an authoritarian Serbian regime between 1989 and 1999. To be sure; but then, don't many other self-determination movements across the world have a similar case? The comment, at once petulant and poignant, of a veteran of the Palestinian national struggle in the wake of 17 February is relevant here: "Kosovo is not better than Palestine."

The Israeli-Palestinian impasse can indeed be ended only by an equitable two-state solution, but the vast majority of confrontations between states and self-determination movements in the contemporary world can be assuaged without creating new states. Kashmir, again, is a prime example: there, territorial autonomy combined with internal power-sharing and cross-border institutions linking Indian and Pakistani-administered Kashmir constitutes a necessary and sufficient solution. If only such



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compromises were to come to pass, the world would be a much more democratic and much more peaceful place.

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