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Kashmir: is secession the answer?

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It would be foolish to argue that the secession of a people is ruled out forever. It would be equally foolish to choose secession without a careful thought of the larger ramifications.

The protests and violence in Jammu and Kashmir have once again raised the issue of the State's secession from India. While the Amarnath shrine dispute is clearly the trigger for the secessionist calls in the Valley, the agitation there seems to be part of a deeper malaise.

Recognising this, a body of opinion outside Kashmir argues that it is probably time to let the State go. A sense of fatigue over Kashmir and a feeling of discomfort over compelling people to stay within the Indian Union when they want to leave are evident in these arguments. This is understandable: it has been 20 long years of conflict and pain; and it is discomfiting to think that we are holding a people within a community when they are unhappy.

However, secession is never simply a choice internal to the community seeking it because the consequences may well be felt in the larger community from which it is separating and in the international community which it seeks to join. This does not mean that secession is ruled out forever. There are times when it may well be necessary.

Under what circumstances can (or should) a people secede? Political theorists argue that in the face of genocidal violence, a people has a right to secede. They also suggest that massive discrimination and denial of human rights are grounds for secession. But is Kashmir an instance of genocide, discrimination, and egregious human rights abuses?

Have Indian actions in Kashmir amounted to genocidal violence? There has certainly been violence in the Valley, by both the militants and the agencies of the Indian state. While it is true that there has been provocation from the militants and, on occasion, from protesters, there is no avoiding the conclusion that innocents have been illegally detained, there have been rape and pillage, there has been torture, there are people missing, and there are those who have died in faked encounters. Does this amount, though, to genocide? The roll-call of abuses is a melancholic one, but it is not genocide — either in intent or in practice. The Indian government has not sought the extermination of the Kashmiri people whatever its motives and actions over the past 20 years.

Can the government be accused of massively discriminating against them? It would be hard to show that this is the case. If anything, it is the opposite. Article 370 of the Constitution gives the State special rights and privileges. Kashmir has its own Constitution, the only State to have one. No Central law can apply there without the assent of the State legislature.

Indians from other States cannot own property in Kashmir (there are other States in the Union where this is true). The Union government's responsibilities are restricted to foreign policy, defence, and communications. It is true that New Delhi has fiddled with Article 370 or at least with the spirit of it, but it would be an exaggeration to say this amounts to a case for secession.

Economically better placed

Economically, Kashmir is better placed than most other States. It has amongst the lowest levels of poverty. It gets more per capita transfers from the Central government than virtually any other State. One might argue that it could have done better economically; but so could have many other States. The development problems of Kashmir — poverty, lack of education, bad infrastructure, not enough industrialisation and private investment, poor governance, and rampant corruption — are hardly unique to the State. These cannot be attributed to a policy of government vindictiveness.

Human rights violations might be a ground for secession even if discrimination is not. Indian government agencies have a lot to answer for, as noted above. But are their actions a case for secession though? If the government made no attempt to improve its record and if it is true that the Indian political system is without resources and methods to improve its approach to Kashmir, then the case for secession would be strengthened.

Once again, it would be hard to show that the Indian government has been unwilling to rein in its agencies and make restitution for earlier lapses and mistakes. It has prosecuted some members of the police and armed forces who committed human rights excesses. It has got rid of two draconian laws, TADA and POTA, which gave the authorities the power to detain and hold citizens preventively (although there are special powers in place that have not been dismantled).

New Delhi has also tried to educate the army and para-military forces on human rights conduct. Crucially, despite its earlier electoral record of manipulation, the Indian government has held free and fair elections in the State, and the media continue to report on Kashmir, including the excesses of the government. This is not a brilliant record, but it does suggest that the system can be made more accountable.

Even if the government's record does not justify the case for secession, we might still support the separation if it is shown that those who claim to lead or might come to lead the independent state are representative and responsible agents who would make life better for Kashmiris.

The All Parties Hurriyat Conference (APHC), which claims to represent Kashmiri opinion and which might lead an independent Kashmir, has never been tested electorally, principally because it has chosen not to contest. While it is a coalition of parties, there are parties which are members of the APHC and which do not necessarily support secession. The militants, who are fighting for secession, are even more unknown; evidently, they are more feared than loved. Finally, whatever support the APHC and the militants enjoy in the Valley, their base in Jammu and Ladakh is much smaller.

How representative?

How confidently can we say the APHC and the militants would be better than the present dispensation in giving Kashmir democracy and good governance? Would there be a

constitutional government, elections, an independent judiciary, an active media, and public debate? Would religious and ethnic minorities be protected?

The APHC has been remarkably coy about its political values and preferences, so it is hard to tell how respectful it is of democracy. It is ridden with internal conflicts and has displayed little coherence. Perhaps, as a result, it has failed to articulate a cogent view of politics in an independent Kashmir. As for the militants, they have attacked not only the agencies of the Indian government but also unarmed civilians, Muslim and Hindu, with great regularity. Violence against unarmed people is terrorism pure and simple and is surely not encouraging in terms of the political values of these groups. The rising influence of fundamentalist Islam in the Valley also does not augur well for a democratic, pluralist, and open Kashmir.

Before we countenance secession, let us also ask whether or not the geopolitical setting of an independent state would be conducive to independence. Kashmir would be surrounded by three regional powers, two of which are mega states, India and China, and the third is Pakistan, the eighth biggest country in the world in population terms. All three will have claims to Kashmiri territory and allegiance, and will exert enormous pressures on the state in their own strategic interests. That Kashmir is landlocked will not help. Whatever the rights of landlocked states and upper riparians under the international law, Kashmir will be dependent on the goodwill of India and Pakistan, if not China.

Secession is not simply a choice that a community makes of its own free will. Since the effects of secession may be felt far and wide, the international community has a right to bear on the issue. It has a right to ask if the new government will be stable and well organised and capable of preserving its independence. It must also ask whether the effects of secessionism are, on the whole, positive for those near and far. Secession from India could well have calamitous effects within India and Pakistan and on their mutual relations: the fragility of these states and their relationship makes it almost certain that the independence of Kashmir will lead to massive political convulsions. The effects of Kashmiri secession may not be restricted to South Asia. It may flame Islamic militants all over the world. And it could energise separatists well beyond the region.

Kashmiris in the Valley and Indians outside the Valley must consider these issues before accepting the case for secession. It would be foolish to argue that the secession of a people is ruled out forever. It would be equally foolish to choose secession without a careful thought of the larger ramifications.

(The author writes on foreign policy and security issues.)

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