

Kashmir 5/9/04 News Conflict resolution models and Kashmir

As the issue of Kashmir remains stalled within the overall euphoria and empty rhetoric of the Pakistan-India dialogue, some members of the international community are beginning fresh efforts to provide Pakistanis and Indians with their own ideas of possible solutions to the Kashmir issue. While the US focus has been primarily on "the LoC as the international border" solution, with the Kashmir Study Group providing a few variants but primarily sticking to the notion of Indian sovereignty, the Europeans are determined that South Asians need to follow their examples in conflict resolution. And some Northern European countries are once again attempting to thrust these solutions down South Asian minds! Never mind that the historical context of South Asia is completely different from that of Europe.

So how feasible are the European conflict resolution models that are generally touted in the Kashmir context? By examining the ones most often cited, one can evaluate their degree of relevance or irrelevance in the Kashmir context.

The Aland Island case

For many years Pakistanis visiting Sweden were cited the case of the Aland Islands, which were part of the territory ceded to Russia by Sweden in September 1809, and they became part of the semi-autonomous Grand Duchy of Finland. From 1917, the primarily Swedish-descent residents of the Islands kept up efforts to have the Islands ceded back to Sweden. A petition for succession from Finland was signed by 96.2 % of Aland's native adults. Swedish nationalism grew as anti-Swedish sentiment grew in Finland, as a result Finland's own struggle to retain its autonomy in the face of Russification. Finland was not prepared to cede the Islands but was prepared to give them an autonomous status instead of renewing them. The dispute was brought before the League of Nations in 1921 and the decision was to allow Finland to retain sovereignty over the province but within this framework, the Aland Islands were made an autonomous territory. So Finland had to ensure that the Aland residents maintained the Swedish language, as well as their own culture and heritage. Also, the Islands were to be given a neutral and demilitarised status. Aland has its own flag, issues its own postage stamps, has its own police force and is a member of the Nordic Council. Having visited Aland in 1989, one saw the whole arrangement for oneself. Obviously it works well for Sweden and Finland, but how relevant is this example in the context of Kashmir.

The relevancy is simply not there. To begin with, Kashmir was not ceded to India through a treaty between Pakistan and India in the aftermath of a war. Geographically, also, islands can be granted autonomy and be demilitarised more rationally than landlocked territories contiguous to both antagonists. Also, and most importantly, the Kashmir issue is not a territorial dispute but an issue of the right of self-determination for the people of Kashmir - a right given to them by the international community through UNSC resolutions. The Aland solution would mean continuation of Indian sovereignty over Kashmir - something the Kashmiris have never accepted. The only relevancy of the Aland Islands case is that it went before the League of Nations, which offered a solution and both parties to the dispute accepted the solution. India took the Kashmir issue to the UNSC under Chapter VI of the Charter, relating to Pacific Settlement of Disputes. This signified that India accepted Kashmir as a dispute between itself and Pakistan and sought a peaceful resolution through UN intervention. It did not appeal to the UN under Chapter VII, accusing Pakistan of aggression against Indian "sovereign" territory. So the historical context of Kashmir and the prevailing dynamics make the Aland Islands solution inapplicable in this region.

The Trieste case

In 1921 Italy had formally annexed parts of Austria-Hungary that it had captured in World War I, including the city of Trieste. The area's population comprised mainly Slovenians with some Croats and a large number of Italians who lived mainly in the city itself. After World War II the area was claimed by Yugoslavia, mainly because the population outside the city of Trieste was predominantly Slovenian. The Western powers opposed this claim. Hence, the Free Territory of Trieste was established after World War II in 1947, under the protection of the UNSC, as neutral state which comprised the city of Trieste, a narrow strip of coastal territory connecting it to Italy, Slovenia and Istria. However, when the UNSC was unable to agree on a governor for the Territory, Anglo-American forces occupied Zone A, which com-



Shireen M Mazari

The writer is Director General of the Institute of Strategic Studies, Islamabad
smnews80@hotmail.com

prised Italian-speaking city of Trieste and its surrounding areas, while the Yugoslavs occupied Zone B, which was the remainder of the Free Territory. Tension between Italy and Yugoslavia continued till 1954 when a compromise solution was reached in the Treaty of Osimo. The

territory was formally divided along the zone border and basically this amounted to a partition of the Free Territory, which then ceased to exist.

Again, this was primarily a historical territorial dispute between two member states of the UN, so it is not applicable to the Kashmir dispute. Also, a Trieste-type solution basically means legitimisation of the existing status quo and division of Kashmir - which would not address the root cause of the problem: that of the right of self-determination. Nor does the Trieste-type solution allow for the option of a future referendum.

The Andorra case

This is a lesser known case, but is extremely interesting and may well have a greater relevance within the Kashmir context. Andorra is located in the Pyrenees Mountains on the French-Spanish border and is a parliamentary co-principality comprising the Bishop of Urgel (Spain) and the French President. This joint suzerainty (but not sovereignty) of the French state and the Spanish Bishops of Urgel has prevailed since 1278. Andorra has closer ties to Spain with Catalan as its official language and has, over the decades, become an important tourist and winter sports destination, as well as a wealthy international financial centre because of its banking facilities, low taxes and no customs duties. In 1993, a constitution was ratified and approved which made Andorra a sovereign parliamentary democracy that retained the "co-princes" as heads of state, but the head of government retains executive power. It became a member of the UN in 1993 as a sovereign state. The "two princes" serve coequally with limited powers that do not include veto over government acts. They are represented in Andorra by a delegate. Defence of the country is the responsibility of France and Spain, and Andorra has no currency of its own but uses that of its two neighbours - which effectively now means a single currency, the euro.

The Andorra model has a certain attraction, especially for those who advocate the Independence option for a united State of Jammu and Kashmir. It also offers India a less unpalatable option than seeing the whole of the State of Jammu and Kashmir becoming a part of Pakistan - which would in all probability, still be the outcome if a general plebiscite was held in that State. But the stumbling block is on the issue of Independence - which both Pakistan and India have not conceded to, as this option is not part of the UNSC resolutions. Interestingly, some Kashmiris are also now referring to the Andorra model. It certainly needs greater exploration, with alternatives to full sovereignty in the form of UN trusteeship for a limited period, and so on.

The Good Friday Agreement (Northern Ireland)

The Good Friday Agreement, which resolved the problem of Northern Ireland, has a direct relevance to the case of Kashmir because it is premised on two interrelated principles. One, it recognises "the legitimacy of whatever choice is freely exercised by a majority of the people of Northern Ireland with regard to its status, whether they prefer to continue to support the Union with Great Britain or a sovereign united Ireland" (that is going with the Republic of Ireland). There is also a provision for a periodic holding (every seven years) of a referendum in case the people of Northern Ireland appear to change their minds. Two, that dewatering will follow the implementation of the settlement. Through this agreement the government of Ireland Act of 1920 was repealed.

The principles underlying this settlement are extremely relevant to Kashmir and need to be the basis of any substantive solution relating to this dispute. In fact, out of all the conflict resolution models, this is the only one that is premised on the right of self-determination and not on territorial control. As such it is a good starting point for concrete moves forward in resolving the Kashmir dispute. The time has come for India to stop seeking refuge behind empty rhetoric and other evasive measures intended to prevent any serious discourse on the resolution of the Kashmir conflict. There is too much at stake for the people of South Asia.

The views expressed by the writer are her own