

A MORE PRECARIOUS CITIZENSHIP

Relevant for: Indian Polity | Topic: Indian Constitution - Features & Significant Provisions related to The Preamble, Union & its Territories and The Citizenship

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The writer is professor of political studies, Bard College, New York

The phrase “India’s internal matter” has featured prominently in the country’s diplomacy in recent days. It cropped up repeatedly in the government’s responses to the international fallout of the moves on Jammu and Kashmir: To scrap [Article 370](#) and downgrade the state to a Union Territory. The country’s diplomats have pointed to the Simla Agreement of 1972 and the Lahore resolution of 1999 to assert India’s jurisdictional competence to take those actions.

“Every new agreement overtakes the past,” says India’s ambassador to the UN regarding the international commitments made in an earlier era. But whether the Centre’s unilateral action—and the communication blockade and security crackdown imposed on the people most affected by it — is consistent with the commitment to resolution of differences through peaceful and bilateral means is quite another matter.

Last week, the “internal matter” formulation also surfaced in a somewhat novel context. In statements made in Dhaka, External Affairs Minister S Jaishankar described the process of the identification of citizens and non-citizens in Assam as India’s internal matter.

The use of the phrase in the case of Kashmir is quite familiar: To make a jurisdictional assertion of India’s power to act on matters affecting that area. The claim is that Kashmir comes under India’s “domestic jurisdiction” in the sense of Article 2(7) of the UN Charter, which excludes UN intervention in matters that are “essentially within the domestic jurisdiction of any state”. But there are no jurisdictional challenges to the process of citizenship documentation in Assam. The citizenship practices of states and the power to define the rules of entry into a country are widely seen as matters of sovereign discretion.

Jaishankar’s statement in Dhaka was clearly intended for a different purpose: To ease Bangladesh’s fears. It was a promise that the fallout of the citizenship documentation process in Assam will be contained; it will not extend to Bangladesh. Home Minister Amit Shah had previously raised India’s concerns about unauthorised immigration with his Bangladeshi counterpart. The news of the [NRC](#) — and that millions of suspected Bangladeshi unauthorised immigrants may be excluded — has received wide media coverage causing significant consternation and confusion in Bangladesh.

Not surprisingly, the media there made a point of putting Jaishankar’s comments in that context. According to the Daily Star, when the minister was “asked about concerns that some four million Bangla-speaking people are at the risk of losing Indian citizenship as they were left out of the [National Register of Citizens](#) in Assam,” he said, “This is an internal matter of India”. Bangladesh Foreign Minister Abul Kalam Abdul Momen was quoted as telling reporters that when he pointed out that his country was “already in serious trouble with 1.1 million Rohingyas,” Jaishankar replied, referring specifically to the NRC, “you don’t worry at all about it”.

Of course, Article 370 featured prominently on Jaishankar’s agenda in Bangladesh. His comment that the Kashmir decisions were India’s internal affair was the focus of newspaper

headlines in Bangladesh. The country's Ministry of Foreign Affairs expressed his country's support for that position: "Bangladesh maintains that the abrogation of Article 370 by the Indian government is an internal issue of India."

But what does it mean to suggest that the NRC and related efforts to harden the Indo-Bangladesh border and to curb unauthorised immigration will not impact Bangladesh? At least the Indian Supreme Court order that re-energised the NRC process does not support such a reading. The NRC was only one element of that 2014 ruling. The Court, acting on the far-reaching powers given to it by Article 142 of the Constitution, gave a number of directions including one on the "mechanism of deportation of declared illegal migrants". By no stretch of imagination can this instruction be construed as a matter of domestic policy.

"While taking note of the existing mechanism/procedure for deportation keeping in view the requirements of international protocol," said the order, "we direct the Union of India to enter into necessary discussions with the Government of Bangladesh to streamline the procedure of deportation". The issue, however, has taken a backseat during the Court's monitoring of the implementation of its directions. The updating of the NRC—India's largest ever judiciary-led bureaucratic operation — has taken most of its energy and attention.

India's efforts to tighten border enforcement and curb irregular migration parallel similar moves by a few other countries. The impact of these actions on regional neighbours has rarely been benign. In the most extreme case, the Donald Trump Administration's clampdown on unauthorised immigrants has had profound effects on countries south of the US border. The single most important factor negatively impacting Central American countries like Honduras and El Salvador has been the return of deportees.

Understandably, one message that Jaishankar tried to convey to Dhaka was that no matter what, Indian policies will not include deportation— at least not to any noteworthy extent. This won't come as a surprise to many. That India does not have large-scale deportations in mind has been quite evident for a while.

India's diplomatic priorities vis-à-vis Bangladesh are simply much too high to risk alienating that country by deporting its nationals. The Modi government has clearly made a decision that the question of unauthorised immigrants is best left as India's internal matter. Many would welcome the fact that deportation is now off the agenda. But the full implications of this shift will not be apparent for a while.

Viewed in comparative terms, regularisation or legalisation is one obvious alternative. Irregular migration is to a significant extent a component of labour migration. Faced with a choice between ignoring tax evasion in the underground economy that frequently employs irregular migrants, or exercising control over it, governments have sometimes found regularising the status of unauthorised migrants to be an attractive policy option. Amnesty is its synonym. But lately it has become a controversial word, at least in the US.

There are no signs that a general amnesty will be among the options that India will consider. But defining hundreds and thousands of people living in the country as non-citizens will create a new form of precarious citizenship — people with fewer rights and entitlements. This is an uncharted and potentially dangerous territory for a democracy. The growing talk of detention camps and the rapid normalisation of the idea does not bode well.

However, given the ruling party's ideological predilections, it is clear that the aborted citizenship amendment bill will be reintroduced in the near future, and it is likely to get Parliament's approval quite easily. What will then effectively become a faith-based selective amnesty will radically

change the meaning of being excluded from the NRC.

Given this outlook, those who once supported the Assam Movement will be hard-pressed to claim that the completion of the NRC will mark the successful achievement of their goals. Whatever one thinks of the movement's famous demands for the "three Ds, detection, deletion and deportation," the future of Assam will be very different from what supporters of the movement had imagined.

Popular protest movements — like revolutions — it seems, can also end by devouring their own children.

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