Introduction

Minority Rights in South Asia – Rough Road to Citizenship

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Despite many years of sustained growth and development interventions in South Asia, development indicators for the region remain dismal. The region, accounting for a fifth of the world's population, is one of its poorest parts (*see Table 1*). It is also where civil and political rights are severely restricted, with frequent reports of human rights violations across the region (Chakma, 2006:1; the World Bank 2009: 93).

Media reports, civil society programme reports, research studies and the odd official report, however limited, point to South Asia's minorities – religious, ethnic, linguistic and gender - being among the poorest and most vulnerable sections in the region; they are also victims of most conflicts and violence and atrocities by state and non-state actors. South Asia's minorities thus suffer doubly:

> South Asia is characterized by its large population, growing poverty, weak governance structures and feeble democratic institutions, increasing militarization and sectarianism.... Governments in South Asia have pursued national security through destructive military apparatuses, rather than (seeking) security for citizens by actualizing their creative potential.... Most important, the nations of South Asia are still in search of a social contract that can satisfy their people, regardless of gender, faith, ethnicity or religion (Nepali, 2009:4).

> Along with some of the oldest civilizations in the world, South Asia includes some of its poorest countries. Civil war, ethnic tension, religious persecution and terrorism are but some of the ailments of this region, as are the abuse of

Table 1. **South Asia development indicators**

	Afghanistan	Bangladesh	Bhutan	India	Maldives	Nepal	Pakistan	Sri Lanka	South Asia	Developing Countries
Population, 2010 (million)	28	151	0.72	1206	0.33	26.8	173	20.7	1609	-
Life expectancy at Birth, 2010	60	69	67	66	77	67	66	74	66	68
Adult literacy (2011)	32	59	-	63	98	57	55	91	61	80
Female literacy (2011)	18	55	-	51	98	47	42	90	50	75
Infant Mortality Rate, 2010	75	39	34	46	11	36	73	9	48	41
Gross Domestic Product per capita, 2011 ($)	1,637	2,459	6,516	4,638	10,681	1,999	4,220	7,572	4,331	7,347
Pop. below $1.25 a day, PPP%, 2010		43.3	10.2	32.7	-	23.7	17.2	4.1	31.5	19.2
Human Development Index, 2010	0.453	0.539	0.569	0.570	0.688	0.527	0.526	0.736	0.562	-
Gender Inequality Index, 2010	0.720	0.539	-	0.590	0.350	0.496	0.561	0.408	0.616	-

Source: Tabulated by author from Mahmudul Haq Human Development Centre (2015: (246-247, 264)

government power, censorship, and human rights violations. Disappearances, torture, police abuse... these are common practices in the nations of South Asia (the World Bank, 2009:93).

It is evident that the condition of minority communities in South Asia is grim. K.N. Panikkar (2005: 1) summarizes the situation as:

The increasing infringement of the rights of minorities in the countries of South Asia ... has been a matter of considerable concern. ...In fact, the history of minorities in South Asia is a history of increasing discrimination and deprivation.....

Questions about the rights of minorities (as citizens deserving equal treatment and as minority groups deserving special rights for the protection of their identity) and the safeguards necessary to ensure them, are central here (*see Box 1*).

Let us look at some recent evidence on the conditions of South Asia's minorities. In the absence of any authoritative and standardized reports on the situation of minorities in the region we have to rely on the evidence that is available. The United States Commission on International Religious Freedom (US Commission on International Religious Freedom, 2015) reports on foreign governments with serious abuses of religious freedom. Its 2015 report included five of the eight countries in South Asia as demonstrating serious concerns, either perpetrating or tolerating abuse of religious freedom. Pakistan was categorized as Tier 1 (most serious) recommended country of particular concern (CPC),[1] one of the 17 countries that according to the report meet this level. India and Afghanistan were both Tier 2,[2] two of the eight so identified by the report. Bangladesh and Sri Lanka were among the other six countries studied by the 2015 report, signifying concerns with regard to religious freedom there.

The Minority Rights Group publishes its annual Peoples Under Threat Index - a global ranking of countries most at risk of genocide and mass killings based on a set of indicators that are a combination of risks suffered by minority groups and the safeguards available to check mass violence (Minority Rights Group, 2016a). Its 2016 report lists two South Asian

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1. 'any country whose government engages in or tolerates particularly severe violations of religious freedom that are systematic, ongoing and egregious' (CPC: 5).

2. 'includes countries where the violations engaged in or tolerated by the government are serious and are characterized by at least one of the elements of the "systematic, ongoing, and egregious" standard, but do not fully meet the CPC standard' (CPC: 5).

Box 1. **Why are minority rights important?**

There are two aspects to minority rights: Firstly, minority rights are central to the democratization project; secondly, and following from that, minority rights are a tool of inclusive development.

a. Minority rights as central to the democratization project

'An important dimension to promoting an equitable, just and inclusive democratic ethos and fashioning institutions and practices intended to entrench it, is the protection and promotion of minority rights' (Salter, 2011: 5). As a corollary, it has also proved to be a tool for conflict prevention. The post-Cold War eruption of ethnic conflicts across Europe, Africa and Asia reflected in many ways the failures of states to tackle minority demands, concerns and grievances. This resulted in heightened attention to minority rights' protection and promotion – most advanced in Europe where over the past 20 years multilateral structures, notably the Council of Europe and the Organization for Security and Cooperation in Europe's (OSCE's) High Commissioner for Minority Rights, have assumed a leading role both in developing new regional instruments for promoting the protection of minority rights and in monitoring their implementation on the ground.[1] According to the Council of Europe (1995: 2), the grounds for devising a minority rights charter were an understanding based on upheavals of European history that 'the protection of national minorities is essential to stability, democratic security and peace in this continent.' It was hoped that the climate of tolerance and dialogue that these measures would enable would result in a situation where, 'cultural diversity is seen to be a source and a factor, not of division, but of enrichment for each society.' In other words, the ability of minorities to express, preserve and develop their ethnic, cultural, linguistic and religious identities is a hallmark of a genuinely plural and democratic society (Council of Europe, 1995).

These arguments are as valid today as they were in the past. As the Minority Rights Group (MRG) (2013: 3) notes, 'levels of inter-community and religious tensions are again rising fast. The resurgence of ethnic and religious nationalism, fractures associated with the "war on terror" and a backlash at growing levels of migration have all placed minority communities under renewed threat.' There is much that South Asian societies can learn from the past in terms of use of minority rights as they seek to prevent conflicts and for deepening democracy.

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1. A key example in this respect is OSCE's 1999 Lund Recommendations on the Effective Participation of National Minorities in Public Life (see http://www.osce.org/hcnm/32240. The Lund Recommendations have since become a central reference document for law and policymakers in the OSCE region and a widely cited model for how to develop policy in this area in other parts of the world.

...Box 1 continuied ...

b. Minority rights as instrument of inclusive development

Minority rights also have a more direct role to play in promoting inclusivity. Research is showing that 'a large and growing proportion of those communities left behind in the race to meet the millennium development goals (MDGs) are in fact minorities and indigenous peoples, with poverty rates typically double, the national'(Minority Rights Group, 2013:3). According to Rita Izak, UN's Special Rapporteur on Minority Rights , 'inequality, discrimination and poverty, disproportionately impact persons belonging to minorities who constitute hundreds of millions of the most economically and socially disadvantaged globally'(United Nations, 2014).

There are specific reasons for this. Minority communities – who represent excluded and marginalized sections – are unable to challenge systemic patterns of discrimination and disadvantage that keep people in poverty because being minorities they '....often lack the power, social or legal standing, or access to decision- making required to challenge their disadvantaged status....' (Mepham, 2014).

This brings us to the MDGs, the principle framework of the global fight against poverty. MDGs have achieved a great deal in directing attention and resources towards the fight for social and economic rights. But the criticism has been that because they prioritized social and economic rights (literacy, health, sanitation and so on) to the exclusion of civil and political rights (democratic participation and/or political freedom specifically); defined goals in technical terms that could be easily achieved and measured; and focused on aggregate whole-country/unit level improvements, MDGs have had little impact on the most disadvantaged sections of society. Aggregate outcomes may have improved (on health, education, incomes) but many sections have been left behind resulting in unequal development. This is truer of South Asia than other regions. Minorities make up large sections of those who have been left behind in the region even though sustained growth and development efforts might have helped society as a whole in improving their conditions. Izsak's point made in general terms applies especially to the region: 'One of the reasons states failed to reach their development targets was because the MDGs did not sufficiently take into account persons belonging to minorities' (United Nations, 2014).

The post-2015 development agenda seeks to chart a new course planning to focus attention on addressing inequalities through targeted interventions to bring hard to reach sections out of poverty and also focusing attention on civic and political rights to address the root cause of poverty so as to challenge discrimination and exclusion. Minority communities are a core constituency for this work. Hence, this is a good time to be talking about minority rights of equality, non-discrimination and effective participation, among others, in South Asia.

Table 2. **Status of ratification of major relevant international instruments**

1	2	3	4
	International Convention on the Prevention and Punishment of the Crime of Genocide (1948)	International Convention on the Elimination of All Forms of Racial Discrimination (1965)	International Covenant on Civil and Political Rights (1966)
Afghanistan	✓	✓	✓
Bangladesh	✓	✓	✓
Bhutan		✓	
India	✓	✓	✓
Maldives	✓	✓	#
Nepal	✓	✓	#
Pakistan	✓	✓	✓
Sri Lanka	✓	✓	#

Source: Tabulated by the author from the Minority Rights Group (2014: 226-228).

Note: ✓ : Ratified; *: Signature not yet followed by ratification;
#: Ratification of ICCPR and the Optional Protocol

countries - Afghanistan and Pakistan - having serious threat, and Sri Lanka as posing a middle level threat (Minority Rights Group, 2016b). Notably, safeguards against 'threats' that include voice and accountability, political stability and rule of law, were weak or non-existent all across the region. The Minorities at Risk project also reports on conditions of minorities under severe threat. A long list of ethnic and religious groups from South Asia find mention in the project's reports, all at risk of violence and violations of basic rights of minority groups.[3]

Negative outcomes for minority groups in South Asia represent failures of national instruments for minority rights (constitutional guarantees of equality and non-discrimination among others) as well as of poor

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3. Minorities at Risk Project – mostly ethnic conflicts, armed conflict, hence Kashmiris, Nagas, Mizos, Assamese in India; Balochs in Pakistan; Pashtuns in Afghanistan; Tamils in Sri Lanka; and indigenous tribals in Bangladesh.

5	6	7	8	9
International Covenant on Economic Social andCultural Rights (1966)	Convention on the Elimination of all Forms of Discrimination Against Women (1979)	Convention on the Rights of the Child (1989)	ILO 111 Discrimination (Employment and Occupation) Convention (1958)	ILO169 Convention Concerning Indigenous and Tribal Peoples in Independent Countries (1989)
✓	✓	✓	✓	
✓	✓	✓	✓	
	✓	✓		
✓	✓	✓	✓	
✓	✓	✓	✓	
✓	✓	✓	✓	✓
✓	✓	✓	✓	
✓	✓	✓	✓	

enforcement of international treaties and agreements, instruments that most South Asian nations are signatories to (*see Table 2*). Rule of law is flouted with regularity – there is only selective application of laws – and citizenship rights are not yet available fully equally to all, as minorities are often denied these, fully or partially. The issue at hand is 'democracy deficit' which calls for a new approach to delivering minority rights.

Beyond the weaknesses of minority rights' protection and promotion regimes, common to states in South Asia, is another unique feature of minority rights in the region - its regional dimension. Many ethnic groups and communities are divided across national borders, themselves often artificial and arbitrary and mostly recently created, dividing long-established communities. Then there have also been significant intra-regional migrations historically. Some migration streams are on-going. These regional dynamics contribute to creating majorities and minorities, also contributing to a feature of the region where a majority community in one country could be a minority in another. This under-grids the issue of 'reciprocity' where the treatment of a minority in one country is contingent on how minorities

are treated in another, or subject to bilateral relations between two countries. All these have implications for the condition of South Asia's minorities and the rights available to them.

The regional dynamics of minorities in India, Pakistan and Bangladesh (given their common experience of the Partition in 1947 and the creation of Bangladesh in 1972) and how it affects respective minorities – Muslims in India, Hindus and Sikhs in Pakistan and Hindus and 'Urdu speakers' in Bangladesh - is well-known. A similar dynamic exists between India and Sri Lanka too impacting largely the Tamil minority in Sri Lanka; between India and Nepal, affecting Madhesis in Nepal and Nepalis in India; between Nepal and Bhutan, affecting Bhutan's largest minority, Ngalungs; and finally between Pakistan and Afghanistan, the Pashtun minority in Pakistan being the main one affected. Clearly minority rights in South Asia is also a trans-border issue.

And yet, there is no South Asia regional instrument for minority rights' protection, though regional and sub-regional instruments are common elsewhere (*see Boxes 2, 3 and 4 for a list of the International instruments and mechanisms for minority rights protection*). The absence of an effective forum for peaceful dialogue on minority rights results in accusations and counter accusations between countries and lack of traction on redress leading to endemic violations of minority rights. There is also little systematic tracking and reporting at country and regional levels, of the state of minorities and the violation of their rights in the region.

There are also very few studies on minority rights – academic or scholarly - that either compare or at least use a regional lens. And civil society space for advocacy, region-wide, is limited. Together, this means that the opportunities for spurring public debate in the region on the subject are lost and there is little push on states to improve rights' precepts and practices. Today the justifications for using a regional lens to look at minorities, even comparing and contrasting their conditions, is compelling.

Given the regional dynamic of minority rights violations in South Asia it is our contention that a regional, multilateral approach to constructing and entrenching minority rights' safeguards might be better suited to protect minorities, than national or international approaches that are clearly failing. A regional lens shifts the nature of the debate from the ethnic/religious character of a group (and its implications for the group's demands on the nation-state) to one of democratic rights and citizenship, equality and

non-discrimination – something that all South Asian states claim to provide. And a regional agenda on minority rights (with its positive implications for addressing cross-border 'reciprocity') is also potentially less threatening for South Asian states than the human rights agenda which is seen by states in the region as a foreign western imposition.

There are other arguments too for a regional approach. Minority rights today are understood to be no longer the sole preserve of the nation-state. Regional and international instruments and mechanisms for minority rights along with human rights are now legitimate platforms for discussions and problem solving. In the context of South Asia's minorities, with their strong regional dimensions, resorting to such a supra-national approach is all the more urgent. In any case, this is not the first time that national borders have been transcended in the region in finding solutions to minorities' plight. Various bilateral agreements (between South Asian nations) on the question of minorities speak to this history (*see Box 5*).

There is also much learning to be imbibed using a regional approach. The world over, regional mechanisms have been the principle pathways building on UN mechanisms for establishing and monitoring minority rights' standards and practices – a good example being Europe. South Asia lacks such a mechanism.

The principal official platform in the region is the South Asian Association for Regional Cooperation (SAARC), established in 1985 when seven South Asian nations signed the SAARC Charter. Afghanistan joined a little later. Commentators note that in its early years SAARC avoided any reference to 'contentious' issues - protection of human rights is not even mentioned in the SAARC Charter (Khan and Rahman, 1999: 93).

The Minority Rights Group (2016c) notes:

> SAARC has not adopted any human rights convention or charter. It has not agreed to create any regional institution or mechanism to monitor adherence to, and implementation of, the various UN human rights conventions already signed by its member countries. Although member states have introduced 'human rights' into their official discourse in relation to the Charter, it has been limited to the right to development.

Overall, SAARC has established a number of conventions though none of them specifically mentions minorities or minority rights. Of the six

Box 2. **Regional instruments on minority rights**

African Charter on Human and People's Rights (2003) African Charter on the Rights and Welfare of the Child (1990)
American Convention on Human Rights (1969) Additional protocol, re economic social and cultural rights (1988)
European Charter for Regional or Minority Languages (1992) European Framework Convention for the Protection of National Minorities (1995)
ASEAN Charter (2007) ASEAN Intergovernmental Commission on Human Rights (2009)
Arab Charter on Human Rights, 2008 Arab Human Rights Committee

Source: Tabulated by the author from the Minority Rights Group (2014:222-233) and United Nations (2012:87-88).

Box 3. **International instruments for minority rights protection**

1. Convention on the Prevention and the Punishment of the Crime of Genocide

Adopted in 1948, this was the first international attempt to affirm the rights of minorities to exist '...by outlawing the physical or biological destruction of national, ethnic, religious or racial group, this instrument formally recognized the right of minority groups to exist as group, which surely must be considered as the most fundamental of all cultural rights.'

2. Convention on the Elimination of all Forms of Racial Discrimination (CERD).

Adopted in 1965, CERD is best known for prohibiting discrimination on the basis of 'race, colour, descent, national or ethnic origin,' and provides for special measures for the advancement of racial or ethnic groups – an implicit acknowledgment of minority rights.

3. International Covenant on Civil and Political Rights (ICCPR)

ICCPR was adopted by the UN General Assembly in 1966. Article 27 of this legally binding instrument is the first international norm that universalizes the concept of minority rights:

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In those States in which ethnic, religious or linguistic minorities exist, persons belonging to such minorities shall not be denied the right, in community with the other members of their group, to enjoy their own culture, to profess and practise their own religion, or to use their own language.

But the rights guaranteed under this provision must be asserted individually.

Other provisions in ICCPR that have considerable relevance in protecting the rights of minority groups include, inter alia, the principle of non-discrimination (Article 2); freedom of thought, conscience and expression (Article 18); freedom of expression (Article 19); prohibition against any advocacy of national, racial or religious hatred that constitutes incitement to discrimination, hostility and violence (Article 20[2]); freedom of association (Article 22); right to equal suffrage and equal access to public service (Article 25); and equality before the law (Article 26).

4. Convention on the Rights of the Child (CRC).

Among the core human rights treaties with universal scope only CRC contains a provision (apart from Article 27 of ICCPR) specifically addressing the rights of minorities. Its Article 30 reads:

In those States in which ethnic, religious or linguistic minorities or persons of indigenous origin exist, a child belonging to such a minority or who is indigenous shall not be denied the right, in community with other members of his or her group, to enjoy his or her own culture, to profess and practise his or her own religion, or to use his or her own language.

5. Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM)

Adopted by the UN General Assembly in 1992, UNDM is the first instrument devoted exclusively to minority concerns. It is inspired by Article 27 of ICCPR, but goes on to elaborate and add to the rights. Although a non-binding instrument, UNDM carries considerable moral authority. It is a comprehensive document, setting out both rights of persons (Article 2) and duties of the states (Articles 1, 4 and 5). Whilst rights are set out as rights of individuals, duties of states are formulated, in part, as duties towards minority groups.

conventions, two are directly related to suppression of terrorism, one is on narcotic drugs and another is on criminal matters. In 2002, two human rights instruments were included: promotion of child welfare and preventing and combating trafficking in women and children for prostitution. In 2004, the SAARC Social Charter was signed with 21 objectives. They mostly relate to cultural, social and economic issues; there are none on political or human rights although some have a bearing on minority rights. Notably, and reflective of SAARC's effectiveness, there is little traction on implementation of even the current regional agreements (Khan and Rahman, 1999:93-94).

To be fair, SAARC has been credited with having encouraged people-to-people contact in the region especially the growth of multiple stakeholders groups although it has been criticized for allowing very little official and sustained contact on the part of civil society actors. But its failures with state parties are more disabling. There has been little traction from state parties or the media on the SAARC agenda. SAARC also lacks the implementation ability to convert agreements into roadmaps for action working multilaterally. SAARC also lacks a mechanism to settle disputes within its organization, something that has hindered the development of a regional South Asian concept of peace and security (Minority Rights Group, 2016c).

What of civil society efforts towards strengthening rights' frameworks in the region? The first serious effort by civil society bodies from the region in this direction came with the organizing of the South Asian Forum for Human Rights (SAFHR) in Kathmandu in 1998. The conclave that had participants from all SAARC countries, urged states to:

- create an office of a special rapporteur for monitoring minority rights

- adopt a South Asian Charter for Human Rights

- establish a South Asian Human Rights Commission

- establish a forum for monitoring and preparing a people's report on the status of the condition of minorities

These have remained mere wish lists. Little headway has been made by civil society groups to successfully lobby member states and SAARC to adopt these issues for official engagement and to implement the recommendations.

Another notable attempt in this direction was the drafting of a Statement of Principles on Minority and Group Rights in South Asia by the

***Box 4*. International mechanisms for minority rights protection**

1. The Commission on Human Rights (CHR)

The CHR is the highest ranking UN forum dedicated to human rights; it was set up in 1946 by the Economic and Social Council (ECOSOC) as one of its subsidiary bodies. CHR's initial terms of reference included submission of proposals, recommendations and reports to ECOSOC concerning the protection of minorities. CHR was abolished in 2006 and converted to the Human Rights Council (HRC), a subsidiary body of the General Assembly.

2. Sub-commission on the Promotion and Protection of Human Rights (till 2007) and the Human Rights Council Advisory Committee (since 2007)

Both these bodies are made up of experts.

3. Working Group on Minorities (till 2007) and Forum on Minority Issues (since 2007).

The only minority specific UN body.

4. Independent Expert on Minority Issues (IEMI) in 2005.

IEMI is the first procedure mandate for minority issues. In its early works, it has focused on three broad strategic objectives:

increasing the focus on minority communities in the context of poverty alleviation, development and MDGs;

increasing an understanding of minority issues in the context of promoting social inclusion and ensuring stable societies; and

mainstreaming the consideration of minority issues within the work of the UN and other important multilateral forums.

IEMI functions under the auspice of the Human Rights Council.

5. Human Rights Treaty Bodies

The following are committees of particular relevance for the implementation of minority rights:

Human Rights Committee (overseeing implementation of ICCPR);

Committee on Economic, Social and Cultural Rights (overseeing implementation of ICESCR);

Committee on the Elimination of Racial Discrimination (overseeing implementation of CERD); and

Committee on the Rights of the Child (overseeing implementation of CRC).

Box 5: **Bilateral treaties affecting South Asia's minorities**

India-Pakistan

The Liaqat-Nehru Pact (1950)

Also called the Delhi Pact, this was bilateral treaty between India and Pakistan 'whereby refugees were allowed to return unmolested to dispose of their property, abducted women and looted property were to be returned, forced conversions were unrecognized, and minority rights were confirmed.' Its provisions read like a 'bill of rights' for the minorities of South Asia, with the aims of alleviating the fears of religious minorities, elevating communal peace and creating an atmosphere for the two countries to resolve their other differences. An underlying driver for the pact was avoiding a war between the two countries. According to the agreement, governments of India and Pakistan agreed to ensure to their minorities, 'complete equality of citizenship, irrespective of religion; a full sense of security in respect of life, culture, property, dignity; guaranteed fundamental human rights of the minorities, and participation in the public life of their country, to hold political or other offices and to serve in their country's civil and armed forces'

India-Bangladesh

The India-Bangladesh Land Boundary Agreement (1974)

Meant to resolve territorial disputes between India and Bangladesh through the exchange of 162 enclaves between the two countries affecting some 50,000 persons in all. Given effect in 2015.

India-Sri Lanka

The Bandaranaike (Srimavo)-Shastri Pact (1964)

On the status of Indian Origin Tamils (IOTs), paved the way for citizenship rights to Indian Tamils living in Sri Lanka. It apportioned IOTs between Sri Lanka and India – 600,000 Tamils were to be repatriated to India, whilst 375,000 were to be granted citizenship of Sri Lanka. The pact was followed with a goodwill Bandaranaike-Gandhi Pact in 1974 that had left 150,000 IOTs out of it ambit.

...Box 5 continued ...

The Indo-Sri Lanka Accord (1987)

Also called the Rajiv-Jayewardene Accord, this treaty was signed between the two countries to ambitiously decide the political future of Sri Lanka's Tamil minorities. Though reduced to the status of a memorandum of understanding later on, the accord was to have paved the way for greater recognition of the rights of the Tamil minority with the accord being a significant recognition by the Government of Sri Lanka of the northern and eastern regions of the country as areas of historical habitation of the Tamil people in the country as well as repatriation of Sri Lankan and Indian Origin Tamils.

Pakistan-Bangladesh

Agreement on 'stranded Pakistanis'

The New Delhi Agreement (1973) between India and Pakistan for a three-way repatriation of refugees and prisoners of war, specifically Bangladeshis in Pakistan, Pakistanis (non-Bengalis) in Bangladesh and Pakistani prisoners of war. This was followed up by the Tripartite Agreement between Pakistan, Bangladesh and India in 1974 to further the three-way repatriation. Pakistan agreed to take back Urdu-speaking non-Bengalis from Bangladesh, although limited to 147,000, mostly those originally domiciled in West Pakistan or belonging to the central government or of divided families. Over time this has facilitated the repatriation of some 170,000 'stranded Pakistanis' to Pakistan and since 2008 notably, citizenship rights for those who chose to make Bangladesh their home in Bangladesh.

India–Nepal

The Indo-Nepal Treaty of Peace and Friendship (1950)

The treaty allows free movement of people between the two nations and gives mutual privileges to citizens of the two countries to travel, work, settle, buy property and do business.

Nepal-Bhutan

The 1993 agreement between Nepal and Bhutan for verification of Bhutanese refugees in camps in Nepal to facilitate their repatriation to Bhutan. In 2000, the process of joint verification promised by the 1993 agreement was initiated after much delay but has since failed to make any headway.

International Centre for Ethnic Studies (ICES). In 2008, this was developed into the South Asian Charter on Minority and Group Rights. The charter, instead of formulating new norms for the protection of minority and group rights, built on existing instruments such as the SAARC Social Charter, ICCPR, ICESCR, CERD and CEDAW and adapted them to the specific context of South Asia. Yet again, in the absence of a set of binding instruments and implementation mechanisms, the charter has remained unfulfilled (Khan and Rahman, 1999: 95). Recently, there has been some movement in civil society circles to form a 'People's SAARC' as a forum for regional civil society to engage SAARC and state parties, including on the issue of minority rights through its Working Group on Minority Rights. But the challenge of getting state parties to take notice is not new. In sum, no civil society effort has been able to make much traction with respective state parties or even SAARC towards taking on board minority rights as an issue for multilateral regional engagement, let alone crafting a regional instrument for minority rights. Getting states to agree to a set of good practices and grievance redressal procedures protecting minority and human rights has remained a pipe dream.

As a way around this problem and to build a people's movement to advocate and push for a regional mechanism on minority rights, a group of civil society organizations made up of minority rights activists and researchers from across the region came together in 2015 on a platform – the South Asia State of Minorities Report Collective - to systematically document the condition of minorities in the region and use the report, planned to be produced periodically, as an advocacy tool for change. This trans-regional platform made up of research bodies and human rights and activist group working in the spirit of volunteerism seeks to push the agenda on minority rights in the region, to document and track performance, hold state parties to account and build local and regional advocacy and related capacity on the subject. The current South Asia State of Minorities Report (2016) (and its future editions) is planned as the collective's principal tool for advocacy. It is hoped that the periodic reports on the outcomes for minorities and the quality of state provisioning for them (that is locally led, well researched and grounded in facts using international benchmarks and sustained to build a body of evidence), will spur public debate on the subject in the region and create the conditions for state parties and SAARC to agree to give serious consideration to issues of minorities and how to deliver for them.

Studying citizenship and minorities in South Asia

The *South Asia State of Minorities Report* has been planned as a people's report on the condition of South Asia's minorities put together by a multi-national collective of civil society organizations from the region – research, advocacy and activist groups with interest in minority and human rights.[4] The objective is to document and track the conditions of minorities in South Asia and the quality of state provisioning for them, benchmarking international standards and covenants that member states are signatories to in order to show breaches (where they exist) both in the laws and in their implementation. The wider objective of the report and the collective is to create public awareness on the subject of minority and human rights in the region and locally so as to act to improve the practice of minority rights' protection and promotion. Given its region-wide scope, besides documenting how minorities in each country perform, the focus of the report is also strongly on issues that have a regional and trans-border import and appeal.

The report aspires to be objective in its reporting and grounded in facts to build a body of evidence on outcomes for minorities and state provisioning that is well researched and uses robust methodologies and sources. It is hoped that this focus on facts and aspiring to be seen to be objective will help turn the debate on and around minority rights in the region from one of ethnic identity affiliation and accommodation that often mars any discussions of minority rights to that of citizenship rights – in essence, equality and non-discrimination - regardless of identity affiliations. In the context of South Asia's fraught post-colonial history, often centred on majority-minority relationships we think that it is important to transcend identity contestations and look at the subject of minority rights in terms of its rights, safeguards and non-discrimination core. This is really about promoting citizenship, a central challenge of the 'deepening democracy' agenda in the region.

We hope that in the long run public debates and discussions on questions of minority rights that the report will help engender will result in

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4. South Asia State of Minorities Report Collective (henceforth the South Asia Collective) made up of the following individuals and organizations, arranged alphabetically: Law and Society Trust, Colombo; Misaal-Centre for Equity Studies, New Delhi; Nagorik Udyog, Dhaka; National Commission for Justice and Peace – Women in Struggle for Empowerment, Lahore; Omer Sadr, Kabul; and Social Science Baha, Kathmandu.

individual South Asian states taking steps to create and strengthen national as well as regional instruments, structures and mechanisms for minority rights' protection and promotion. But for that to happen we will have to sustain the pressure so to speak – produce reports at short yearly or biennial intervals – to be able to build for the collective and create a profile in the media and among relevant policy circles besides the wider public as a credible source of information and insight on minority rights regionally. The collective is determined to do this and produce report cards periodically to lobby stakeholders for improved minority rights' outcomes.

Given this long term vision, the present first edition of the report (2016) seeks to establish a baseline on minority groups and minority rights' regimes, mechanisms and practices across country contexts in the region by mapping the terrain. Subsequent reports will build on this to assess country performance on minority rights based on events in the past year (country overviews) whilst also providing thematic analyses of a subject of topical interest for the region as a whole using a regional lens.

This report has many limitations, not least the absence of disaggregated data by minorities, especially official data. This varies significantly across countries (also by minorities within the same country). With so little disaggregated data available, our claim to provide hard evidence on minority rights has been tested. Mostly there is little hard evidence available especially from official sources and we had to rely on a mix of micro-case studies, sample surveys and programme reports of civil society groups besides media reports to base many of our arguments on. Secondly, given the voluntary nature of the present enterprise we have not had the resources to conduct research of our own to fill the big gaps in data. Almost all our data is sourced from secondary sources and these anyways are limited. Consequently, the evidentiary basis of much of our findings and arguments might appear to be weak. However, what working on the report has done is to help us map the state of data availability by thematic areas and countries so that we are in a good position now to be able to identify gaps in data for any robust evidence building exercise. In our subsequent reports we look forward to taking further steps in partnership with our partner groups to fill the data gaps. This is a large agenda and time taking but desirable, given our long-term objectives.

This introductory chapter lays out the research agenda of the report, summarizes its findings and seeks to provide a regional overview using a regional lens to tease out key patterns and trends in minority rights' precepts and practices in the region, concluding with a set of region-wide recommendations.

The introduction is followed by six country chapters reporting on the condition of minorities (except for Bhutan and Maldives) following a common structure and providing as a conclusion country level recommendations. Country chapters also contain profiles of select marginalized groups and good practice case studies to showcase how minorities suffer disabilities and how they cope and to profile successful campaigns and interventions by and for minority groups for rights' protection and promotion to provide lessons for others to follow.

Research objectives, scope and data collection

Research objectives

The South Asia State of Minorities Report is envisioned as a people's report on the conditions of minorities in South Asia and their access to rights guaranteed by international minority and human rights instruments. The periodic report seeks to track and report the status of minorities by country on a range of internationally guaranteed rights while also providing regional insights and perspectives on the success and denial of rights and their possible solutions.

The goal is to contribute to advocacy for establishing South Asia-wide minority rights standards and instruments through building a body of evidence and spurring public debates and discussions including in and through the media. The focus is on collecting facts on enforcement (or denial) of minority rights; accounts of the processes of those denials; and the resultant conditions of minority groups, individually and collectively. Through this process we hope to bring facts to the notice of national, regional and international actors; advocate for better disaggregated data gathering and strengthened national level tracking and reporting of the condition of minorities; and develop regional perspectives and a constituency for solutions for minorities.

Linked to the last aspiration is an associated objective of the periodic reporting - to mobilize civil society across the region around minority rights' protection and promotion and aid in their advocacy work. We hope to support minority rights' networks - grassroots as well as policy groups – to document, report and raise their voices for minority rights. The report thought of as a periodic document aims to give voice to minority groups and civil society entities working on minority rights including to those working to

develop models for effective delivery of minority rights' programmes. The attempt is also to foreground minorities' voices and concerns along with deploying cold facts and hard evidence of how minority rights are provided or denied and how minority groups and their members cope.

Scope of the report and plan

The report provides a descriptive examination of both the theory and practice (laws and policies and their implementation) of minority rights' protection in respective countries in South Asia, specifically within the SAARC region, looking at a range of rights guaranteed by international minority rights instruments particularly the United Nations Minorities Declaration 1992 (United Nations, 1992) the four rights to life and security; equality and non-discrimination; participation; and identity and culture.

We cover all eight SAARC member countries (Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka) although practical concerns meant that we could not cover Bhutan and Maldives in our detailed country reporting.[5] The report also makes comparisons on outcomes across countries to draw out regional patterns, strengths and weaknesses to better understand the dynamics and to propose nuanced recommendations. The country reports cover a range of minority groups – determined by religion, ethnicity, language and caste, as the case may be - to evaluate how a particular country's laws and practices impact on them. Here, given the salience of inter-sectionality we seek especially to focus on groups that suffer aggravated exclusions as a result of their minority status on multiple counts - religion and caste; caste and ethnicity; and religion and gender, among others.

We provide country overviews about the conditions of minorities supported by data tables on a range of minority rights, on a year on year basis, based on events of past years. We also profile severely marginalized minority groups to provide a rich account of the lived experiences of very excluded minority groups to demonstrate how denial of rights impacts the lives of vulnerable groups and how they cope. And lastly, we survey and report on good practices in minority rights protection, especially community-led efforts by minority groups and by other civil society entities to point ways to change.

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5. In Bhutan's case at least, this also represents the degree to which minority voices are absent from political, development or minority discourses in the country Despite repeated attempts we were not able to identify minority rights' partners in the country to work together on the report.

Given the significant challenges involved in reporting on the state of minority rights, year on year, due in part to less than robust availability of most relevant data in the most appropriate form we devote the first report (2016) to mapping the terrain to establish a baseline in terms of minority groups in a country and their rights' concerns; the structures of minority rights protection available in a country (laws, institutions, policies and mechanisms); the institutional environment (the political economy of minority rights' policymaking and implementation); rapid assessment of the working of laws and mechanisms using secondary data; and the availability of data in different sectors. This account takes a historical approach. With the baseline established, it will be easier to produce subsequent reports and also plan for efforts to create evidence and generate 'data', where availability is a problem. In the process of this mapping we also hope to build partnerships with stakeholders to help facilitate generation of new knowledge and evidence establishing alliances for minority rights advocacy.

Subsequent annual reports will assess performance on 'minority rights' by country based on events of the particular year using data and case studies to provide a snapshot of how the country performed. This country reporting will be preceded by an analysis of a thematic subject, a new one every year, on how different countries in the region performed on the subject using an explicit regional lens. This combination of cross-country regional and country-specific local perspectives and in-depth analyses of a thematic area and a broad-brush checking out of the performance on a range of minority rights based on events of a particular year should provide us a good balance of reporting and analyses of minority rights which will be useful for our larger advocacy work.

Methodology, data collection and sources

The current report, 'Mapping the Terrain' of minority rights protection in South Asia, entails three levels of analyses:

i.   Firstly, assessing constitutional provisions and legal frameworks (the theory) determining minority rights protection in a particular country and checking them for compliance against international instruments for range, scope and depth. This analysis examines national laws and statutes against UNDM and other international instruments. Here we also look, although briefly, at the history of the development of the legal framework in a country to put the country's minority rights framework in a historical perspective. The aim is to provide a sense of movement

on whether the minority space has widened or narrowed and the factors influencing those changes. This section is based on a detailed review of literature.

ii. Secondly, checking out how national instruments (laws, policies and programmes in place) for minorities are being implemented across a range of minority rights (life and security; identity and culture; equality and non-discrimination; and effective participation) to determine the effectiveness of enforcement and how it measures up to the intent of international instruments. This analysis is based on an examination of public data (where available) disaggregated by minority groups; accounts of the working of agencies and programmes of the state as they relate to minority communities; case study research and programme reports of non-governmental organizations; and media reports and published works by national and international research and advocacy groups.

iii. Thirdly, we also attempt to determine how the working of laws, and policies and practices are impacting outcomes for minorities at macro level – school dropouts, infant mortality, poverty incidence and employment – against national averages. Given that the availability of disaggregated data on various well-being indicators is so severely limited this analysis mostly uses case studies and media reports to make the connection. But as we come out with more reports over time the attempt will be to try to strengthen our disaggregated data capturing and analysis capacity to make this aspect of the reporting more systematic. Ultimately, this analysis will be data intensive putting together standardized statistical tables on a range of well-being outcomes using datasets on various measures of well-being to compare outcomes across countries (and sub-national entities) and temporally by year.

Our 'profiles' of severely marginalized minority groups embedded in the chapters are designed to provide a window to understanding minorities' life stories and how the working of minority rights' regimes impact the groups to provide an account of the human impact of the quality of provisioning for minorities and how the groups cope. These accounts use multiple qualitative approaches and tools – ethnographic, as well as case study design – sourced largely from research and media reports and the working of the civil society/NGO sector to foreground minority voices and the case stories of their struggles for improved outcomes.

The 'good practice case studies' of minority rights' mobilization and advocacy use the case study method to provide a rich account of community-led efforts for minority rights to draw out lessons for replicating their success in comparable situations. These are based solely on programme reports of minority rights' NGOs and community organizations and interviews with programme staff, supported where available by media reports.

Overall, we rely wholly on secondary sources for our reports – official and non-official datasets; case studies; official and non-official evaluations and reports; media reports; NGO programme documents; and published works. The biggest challenge in this context is availability of disaggregated data (and insights) on the condition of minorities and the working of laws and programmes for them. This is an outcome we hope to encourage as we work across multiple countries and partners.

Who are South Asia's minorities?

Before we delve into a survey of the condition of minorities in South Asia, let us understand who they are. There is great variation in terms of distinguishing their ethnic, religious and linguistic characteristics reflecting the diversity in the region. But as with other situations, it is a particular group's self-identification as a group and its numerical inferiority and ultimately non-dominant position that determines its minority status (*see Box 6*). This naturally relates to who the majority is in a particular country, a dynamic with connections to how national identities are constructed and defined. This is not to say that minorities are in any way monolithic categories or that they are fixed – there are many differences within groups and the categories can also be dynamic with changing identities. Table 3 gives a list of the principal minority groups by country.

Let us quickly review the situation of who the minorities are, by country.

Afghanistan

The Afghan Constitution (of 2004) does not define minorities, but it does identify 14 ethnic groups and nationalities. Ethnicity (based on language) determines the construction of much of Afghanistan's identity although religion too has played an important role. Pashtuns and Tajiks are the main

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6. Whilst Pashtuns are politically dominant, Tajiks could be said to dominate in the realm of socio-cultural life and in people to people interactions. Persian/Dari/Farsi - the language spoken by Tajiks and Hazaras - is the lingua franca for all groups.

> ***Box 6*. Minorities - a definition**
>
> There is no universally accepted legally binding definition of minority and minority rights. According to the Minority Rights Group (2015: 267), minorities are 'disadvantaged ethnic, national, religious, linguistic or cultural groups who are smaller in number than the rest of the population and who may wish to maintain and develop their identity.'
>
> The most well accepted definition of minorities, that by the Special Rapporteur on Prevention of Discrimination and Protection of Minorities is:
>
>> a group numerically inferior to the rest of the population of a State, in a non-dominant position, whose members – being nationals of the state - possess ethnic, religious or linguistic characteristics differing from those of the rest of the population and maintain, if only implicitly, a sense of solidarity, directed towards preserving their culture, traditions, religion or language (Capotorti, 1991:98).
>
> As Khan and Rahman note (1999:3), this definition implies that the factors that must be taken into account in identifying minorities are:
>
> i. Numerical inferiority: Minorities are almost always imagined as numerically inferior although this is determined by reference to the size of 'the rest of the population of a state'.
>
> *... contd. ...*

ethnic groups, with Pashtuns being dominant.[6] In the absence of a national Census, it is difficult to say what their exact numbers are but estimates put the Tajik population at 35 per cent (Pashtuns by the same reckoning are anywhere between 40-45 per cent of the population). There are a large number of ethnic minorities. As for religious minorities, these are mostly small groups with Sikhs and Hindus being the principal ones as also Baha'is. Shias (Hazaras mostly, but also Qizilbashs) are also seen as religious minorities.

Bangladesh

Bangladesh's Constitution makes Islam the state religion. However it protects the rights of all citizens. Article 28 (1) states 'The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex or place of birth.' Bangladesh's national identity has been influenced by Bengali

...Box 6 continued ...

ii. Non-dominant position: At the core, 'minority' is a political and sociological reality and is not merely numerical. The determining factor is the degree of political participation and social inclusion. 'In fact, minorities are possibly undermined not so much by their weaknesses in numbers, but by their exclusion from power' (Khan and Rahman, 1999:16).

iii. Distinguishing ethnic, religious or linguistic characteristics: Only those groups within a population are considered minorities who differ from the rest of the population of the state in which they exist by reference to ethnicity, religion or language. In Article 1, the United Nations Minorities Declaration refers to minorities as based on national or ethnic, cultural, religious and linguistic identity.

iv. Nationality: Minorities are citizens of the state that they live in. They generally exclude refugees, foreigners and migrant workers, although some formulations are more inclusive and also include non-citizens (see United Nations 2010:4-5 on this).

When applied to South Asia, this definition means disadvantaged religious, linguistic and ethnic groups are minorities as are Dalits (literally 'broken people' or 'crushed'); as well as indigenous people, variously called Adivasi.

language and culture, with the former playing a central role. More recently, religion – Islam in this case – has been increasingly becoming a central element of national imagination so much so that commentators talk of a change in national imagination from 'Bengali' nationalism to 'Bangladeshi' (Bhardwaj, 2010:3). Non-Bengali speakers – indigenous groups and Urdu speakers – are the principal linguistic minorities, and Hindus and Buddhists are the main religious ones.

Bhutan

Bhutan does not have a written Constitution but its national identity under the monarchy is constructed around Buddhism and the dominant Dzongkha linguistic identity. Interestingly and bucking the trend of numerical dominance marking majorities, Ngalungs, the dominant group in the kingdom

– living in the north-west, who profess Buddhism and speak Dzongkha – make up only 15 per cent of the population and are thus really a minority ruling elite. Sharchops (who are Buddhists but speak a minority language, and inhabit the north-east) are demographically the dominant group. They make up 50 per cent of the population and are the principal minority. But it is the Lhotsampas (the southerners professing Hinduism and speaking Nepali), making up 30-35 per cent of the population at last count, who are minorities in the true sense. (*see Box 7*)

India

India's Constitution defines minorities as religious and linguistic, and these besides ethnicity, are the main markers of minorities in the country. The Constitution defines itself as secular in religious terms, with Hindi language and taking the pre-eminent, although not the sole position. But increasingly, the national identity is being sought to be redefined in Hindu religious terms. Muslims (14 per cent of the population, 2011 Census), Christians (2.3 per cent), Sikhs (1.72 per cent) and Buddhists (0.7 per cent) are the main religious minorities, there also being a large number of linguistic and ethnic minorities. Although not officially defined as such, Dalits and Adivasis (included largely within the Hindu fold, but a significant section also professing minority faiths) form the largest section of the 'minority' population with a small upper caste elite dominating power and influence.

Maldives

Maldives defines itself as an Islamic state. And despite the apparent homogeneity of a largely Muslim population there is significant ethnic and linguistic diversity – Sinhalese, Dravidians and Arabs with overlays of respective languages. These are also the lines along which minorities are defined. (*See Box 8*)

Nepal

Nepal's new Constitution (2015) defines the country as 'a nation of minorities' given that no single group in the new dispensation is overwhelmingly dominant. The old order, recently pulled down, saw Nepal largely as a nation of Hindu hill-castes. The new Constitution recognizes minorities and bases this on multiple axes of caste, geography, ethnicity, language and religion in an effort to include them all. In that sense, Nepal's is a case of an expanded concept of national identity and of the definition of minorities.

***Box 7.* Minorities in Bhutan**

The Bhutan Constitution deems Buddhism as the state's 'spiritual heritage' and aims to develop a society 'rooted in Buddhist ethos.' There is forced participation of children and government employees in Buddhist prayer meetings and restrictions are put on activities of groups that are not Buddhist. In any case, there is the imposition of Ngalung language/and dress code overall.

Bhutan is a unique case, with a minority elite (the Ngalungs making up 15 per cent of the population) being the dominant power in what is essentially a three-way ethnic make-up (Buddhist Ngalungs in the north-west: Buddhist Sherchops in the north-east; and Nepali speaking, Hindu Lhotsampas in the south). Sharchops (who speak a minority language) are demographically the dominant group making up 50 per cent of the population. They are the principal minority. But it is the Lhotsampas (the southerners, professing Hinduism and speaking Nepali), making up 30-35 per cent of the population at last count, who are minorities in the true sense.

Language and Buddhism form the bedrocks of the Ngalung state that seeks a homogenized society around Dzongkha language, dress code and Buddhist religion.

The homogenizing trend is so strong that in the late 1980s, a sixth of the population of the Nepali speaking Lhotsampas were stripped of their citizenship, paving the way for their expulsion in 1991-92. The backdrop to this was discrimination against Lhotsampas increasing from the late 1980s in the context of Bhutanese elite's fears of Nepali domination and of political/armed movements in the region. This resulted in land and jobs being taken away and the Lhotsampas being disenfranchised. More than 100,000 Lhotsampas turned stateless as a result of the disenfranchisement and were forced to take refuge in UN refugee camps in Nepal. This was one of largest forced migrations in history. Not one refugee has still been allowed to return. Some 60,000 have relocated to western countries including US and Canada. But with the media not covering the plight of the remaining Lhotsampas in Bhutan, the movement of international visitors being restricted in the south and those in Bhutan not wishing to share information on their conditions by phone or mail for fear of retribution, it is difficult to say what the situation of Lhotsampas in Bhutan is today. Other minorities too suffer disabilities particularly religious minorities barring Hindus who are prevented from freely practising their faith.

Source: US Commission on International Religious Freedom (2015); Mishra (2013).

> ### *Box 8*. Minorities in Maldives
>
> Despite the apparent homogeneity of a largely Muslim population in the Maldives there is significant ethnic and linguistic diversity – Sinhalese, Dravidians and Arabs with overlays of respective languages. Maldives' indigenous population of some 393,595 (2011 count) is overwhelmingly Sunni Muslim with a Constitution that recognizes only Islam. This restricts freedom of religion and conscience. The law prohibits citizens from practicing any religion other than Islam and Islam itself can only be practised in the government version of Sunni Islam. The public practice of any other faith including other varieties of Islam is banned. And propagation of any religion other than Islam is a criminal offence. The government controls all religious matters including the practice of Islam. Recently the Parliament enacted a law on religious unity centralizing the control of all mosques and prayer houses taking powers away from local councils.
>
> Of late, the absence of religious freedom provisions has been further reinforced (US Commission for International Religious Freedom, 2014:4). The government is beginning to monitor and restrict any act deemed by it to be unIslamic or anti-Islamic including blogs and Facebook pages. The Constitution stipulates that non-Muslims cannot become citizens. All public offices such as the president, ministers, judges and Members of Parliament are reserved solely for followers of the Sunni school of Islam. The US Commission for International Religious Freedom notes: 'There were reports of societal abuses and discrimination based on religious affiliation, belief, or practice, particularly incidents against those who did not conform to a strict, conservative interpretation of Islam.'

Pakistan

Pakistan's Constitution defines Pakistan as an Islamic republic and recognizes minorities – religious and ethnic. The former are principally Hindus, Christians and Sikhs, and the latter Baluchs, Sindhis, Pakhtuns and Mohajirs. The national identity is centred around Islam – Pakistan's self-image of being the land of Muslims - with Punjabi language (and ethnicity) providing the glue. Defining national identity purely in religious terms has however not helped Pakistan bridge its ethnic and religious divides and crucially is now leading to contestations around religion too with Sunni identity taking precedence to the exclusion of other Islamic sects, Ahmadis and Shias most prominently. These communities increasingly find themselves in a state of limbo neither included in dominant imaginations of the nation, nor clearly defined as minorities with clear rights.

Sri Lanka

In Sri Lanka, national identity is an amalgam of Buddhist and ethnic Sinhalese elements. The Constitution defines itself as secular, but gives foremost place to Buddhism. The Tamil speaking population –mostly Hindus, inhabiting the country's north-east – is the principal minority that has felt largely excluded, the outcome of which and also the cause of continuing exclusion being the long standing armed ethnic movement that the Sri Lankan state has recently crushed militarily. Other minorities that have also felt wronged, more so recently, are Muslims dispersed across the country as well as Christians.

De-jure and De-facto Status of minorities in South Asia

Some conclusions can be draw from the previous section based on what the national identities are, how these influence the definition of minorities – de-jure and de-facto - and what that means for minorities and their ability to access citizenship rights:

i.   In most cases, national constitutions define the communities, hence that is a good starting point to identify minority communities to focus on and assess their conditions. However, at other places identification is itself problematic. The Ahmadis' case in Pakistan is a peculiar one where a group is forcibly and officially turned into a de-facto minority and refused identification within the larger and dominant Muslim identity. They suffer a double jeopardy when they are neither officially declared a minority – thus accepting them as citizens entitled to basic rights – nor being able to access those rights without denouncing their religious beliefs.

ii. Similar is the case of Bhutan where Nepali speaking Lhotsampas have been declared non-citizens and large sections have been forced out of the country effectively making them stateless. In Bangladesh, Urdu-speakers, otherwise called 'stranded-Pakistanis' and in Sri Lanka, 'Indian' or 'estate' Tamils, have similarly been disenfranchised denying them the basic rights of citizens – most are 'stateless' - not to talk of any special protective measures. Likewise, large sections of Muslim Bengali speakers in the Indian state of Assam are often labelled 'Bangladeshi', implying illegal migrants questioning their citizenship. This is taken to its extreme in the case of Maldives where all non-Muslims are non-citizens. There are other albeit less fraught cases too: In India, although Jews and Baha'is are clearly religious minorities they are not declared so

officially whereas smaller groups with similar socioeconomic conditions (such as Jains, considered a branch of Hinduism) have been categorized as a minority. This, within India's regime of minority rights has implications for protective and promotional rights for the groups such as 'personal laws' that govern family law matters as well as rights to manage their own educational institutions.

How do minorities in South Asia fare?

In this section we provide a broad-brush survey of the conditions of minorities in the region, summarizing the findings of the country surveys on minority rights treating the material analytically to try and draw out patterns and trends across the region, using a regional rather than a country lens. Like the country reports to come, this survey too uses as its framework the UN Minorities Declaration 1992 and its four-fold categorisation of minority rights of life and security, identity and culture, participation and non-discrimination in the socioeconomic sphere (*see Box 9*).

Life and security

All countries in the region provide a guarantee of life and security to all their citizens. This includes minorities. Yet there is widespread physical violence and denial of right to life disproportionately of members of minority communities across the region. Minorities also suffer disproportionately when they are denied civil and political rights. We notice three broad trends here:

i. Violence against minorities is, in essence, about state failure, that is, the state's inability to protect minority groups from violence by private parties. This is an aspect of state failure given that the police is unable to protect vulnerable minorities from attacks by non-state parties (mostly militant arms of fundamentalist groups movements and individual and group acts of violence), and that law courts are unable to hold the perpetrators to account, thus failing in the state's foremost duty to protect. In these situations state agencies are either overwhelmed by non-state actors or have weak capacity to protect minority citizens to begin with. Examples here include the violence by Afghan Taliban on Hazaras and women and other minorities in Afghanistan; by groups such as the Ansarullah Bangla Team and the Jamaat-ul-Mujahideen Bangladesh (JMB) on minorities and progressive bloggers in Bangladesh; by Bajrang Dal, Shiv Sena and other Hindu right wing groups affiliated to the Rashtriya Swayamsevak Sangh against Muslims and Christians in India; by militant Islamist

***Box 9*: Categories of Minority Rights**

There are principally four 'minority rights'. Taken together, these are established rights under international law; they are inter-related and built on the framework of individual human rights.

i. Protection of life and security

Genocide Convention 1948, the United Nations Declaration on Minorities (UNMD) 1992 and the Durban World Conference Against Racism (WCAR) 2001[2] attempt to operationalize the right to survival and existence.

Article 1 of the UN declaration states: 'States shall protect the existence....of minorities, within their respective territories....' (United Nations, 1992).

The guidance for implementation on UN minorities declaration states:

'Protection of minorities should focus primarily on the protection of the physical existence of persons belonging to minorities, including protecting them from genocide and crimes against humanity' (United Nations, 2010:7).

The 2001 Durban Declaration and Programme of Action (DDPA) affirms that:

'.....minorities, where they exist, must be protected and that persons belonging to such minorities should be treated equally and enjoy their human rights and fundamental freedoms without discrimination of any kind' (para 66, p.13). It calls on states to protect the physical existence of minorities, including from genocide and crimes against humanity.

ii. Protection and promotion of identity and culture

UNDM (1992) recognizes that persons belonging to national or ethnic, religious and linguistic minorities have the right to enjoy their own culture, to profess and practise their own religion and to use their own language in private and in public freely and without interference or any form of discrimination. These provisions are further strengthened by DDPA (2001) affirming that 'the ethnic, cultural, linguistic and religious identity of minorities, where they exist, must be protected and that persons belonging to such minorities should be treated equally and enjoy their human rights and fundamental

... contd. ...

groups such as Sipah-e-Sahaba, Lashkar-e-Jhangvi and Pakistan Taliban against Shias, Hazaras and other minorities in Pakistan; and in Sri Lanka in recent years against Muslims and Tamils by Buddhist nationalist groups such as the Bodu Bala Sena and Sinhala Ravaya.

ii. Besides poor state capacity, violence against minorities also represents weak rule of law, specifically the selective application of laws by agencies of the state denying minority groups' protection under the law and access to justice. Poor efforts by the police and security forces to prevent anti-minority violence (either directed at individuals or the entire community) from breaking out, and once it has, weak efforts to contain it, is one aspect of this weak rule of law. Equally, other aspects of the criminal justice system including recording of crimes, investigating them and prosecuting perpetrators are all fraught, especially when it affects minority groups, in effect denying members of minority groups the right to equal protection under law. This selective application of the law is much more than weak capacity to protect; in most cases it represents collusion between state actors and anti-minority groups resulting in systematic erosion of the rights of minorities to equal citizenship. These take many forms – state actors being influenced by majoritarian anti-minority ideologies and biases in discharging their responsibilities at best, to state actors abdicating their responsibilities allowing anti-minority groups to overwhelm state institutions and using those against minorities in its worst form. Biased policing and delivery of justice, much normalized across South Asia, is a good example of the former and genocides and pogroms not uncommon in the post-colonial history of the region that of the latter.

iii. In some cases, it is not so much the weak application of the laws that is problematic, but the laws themselves contain the seeds of violence against minority groups. Blasphemy and anti-Ahmadi laws in Pakistan, Vested Property regulations in Bangladesh and laws against cow slaughter and conversions in India are examples of regulations that provide opportunities (in how they are applied) for biased state actors colluding with private anti-minority groups to perpetrate violence against vulnerable members of minority groups.

iv. Finally, cases where the state directly denies the right to life to members of minority groups. Illegal detentions, torture, custodial deaths, extra-judicial killings and fake encounters and enforced disappearances are all human rights violations that occur with regularity in the region with

freedoms without discrimination of any kind' (para 66). DDPA enjoins upon states 'to prevent forced assimilation and the loss of cultures, religions and languages' and encouraging conditions for the promotion of national, ethnical, cultural, religious and linguistic identities of such minorities and for diversity and plural identities to be protected and respected (United Nations, 2010:7).

iii. Equality and non-discrimination in the socioeconomic sphere

UNDM (1992) provides that persons belonging to minorities may exercise their rights individually as well as in a community with other members of their group without any discrimination. Non-discrimination and equality before the law are the basic principles guiding human rights. Discrimination can take many forms – formal and substantive discrimination; direct and indirect forms of differential treatment; de-facto and de-jure; and discrimination in the private and public spheres (United Nations, 1992:11). For minorities to enjoy non-discrimination there should be formal freedoms and equality (such as equal access to social services and employment in the public and private sectors) and programmes for empowerment of those who in the past have been the subject of discrimination or who suffer persistent discrimination. This might call for differential treatment of such groups such as through 'affirmative action'. The International Convention on the Elimination of All Forms of Racial Discrimination allows for 'special measures' as does the Convention on the Elimination of All Forms of Discrimination against Women ('temporary special measures') and the Human Rights Committee that enjoins states to take affirmative actions to diminish or eliminate conditions that are discriminatory (United Nations, 1992:10).

iv. Effective and meaningful participation

UNDM (1992) affirms that persons belonging to minorities have the right to participate effectively in cultural, religious, social, economic and public life. Herein, the right to participate in 'public life' includes, among other rights, those relating to elections and to being elected, the holding of public office and other political and administrative domains. Also the right to participate effectively in decisions on the national, and where appropriate regional level, concerning the minority to which they belong or the region in which they live. This right, according to UNDM is 'in fact essential to preserving minorities' identity and combat social exclusion' (United Nations, 1992:12).

minority groups disproportionately affected. Much of this takes place in the context of nationalistic conflicts – in Kashmir and the North East in India, Baluchistan, Karachi and NWFP in Pakistan, against Tamils in Sri Lanka (and in the past in the Chittagong Hill Tracts in Bangladesh, besides against Maoists in Nepal). The global 'war against terror' has provided another setting for subversion of justice with national security providing a cover for large-scale violations of the right to life, minorities again suffering the most. In both contexts, harsh 'extra-ordinary laws', devised by the state to counter 'anti-state' violence provide the basis for systematic violations. The Armed Forces Special Powers Act, 1958, 1990, the (J&K) Public Safety Act 1978 and the Unlawful Activities Prevention Act 2004 in India; Protection of Pakistan Ordinance 2013 and its amendment, the Actions (in Aid of Civil Power) Regulations 2011 and Anti-Terrorism Act 1997 including its many amendments in Pakistan; Public Security Ordinance 1947,Prevention of Terrorism Act 1979 and Emergency Regulations, 2000, 2005 in Sri Lanka; and the Nepal Public Security Act 1989 and the Anti-State Crimes and Penalties Act 1989 in Nepal are instruments used by South Asian states against their peoples, mostly minorities. Besides violating due process, state impunity is a key factor here with law and the criminal justice system aiding impunity of state actors (to violate rights) and the systematic denial of justice, either juridical or compensatory.

Identity and culture

Right to identity, culture and conscience, is a key minority right. It is particularly important for multi-ethnic societies and in helping promote diversity ensuring that these rights are available equally to all, including minorities. Overall, South Asia fares poorly on the right to identity and culture. Most states provide some sort of freedom of identity, but the general trend is to promote the identity and culture of the majority community towards integrating the various diversities into a homogenized conception of the nation. Majoritarian ideas and imaginations, themselves the outcome of the peculiar history of the region, are behind much of this push for assimilation. These result in severe restrictions placed on minorities. Let us look at the different arenas closely.

i.   Religious freedom is a key marker of right to identity and culture. There exists a wide spectrum here with Maldives disallowing in law any practice that is non-Islamic; poor in Bhutan where registration requirements mean that only Buddhist and to some extent Hindu groups are allowed freedom of religious practice; poor again in Pakistan against

...Box 9: Categories of Minority Rights continuied ...

These provisions imply that mechanisms are required to ensure that the diversity of society with regard to minority groups is reflected in public institutions such as national parliaments, the civil service sector, including the police and the judiciary and that persons belonging to minorities are adequately represented, consulted and have a voice in decisions which affect them or the territories and regions in which they live.

Participation must be meaningful and not merely symbolic and recognize, for instance, that minorities are commonly under-represented and that their concerns may not be adequately addressed. The participation of women belonging to minorities is of particular concern. What is needed is not just their formal representation in governing institutions but effective participation in decision making so as to promote among minority communities the ownership of decisions.

Ahmadis who are prevented from practicing their faith; to availability of formal religious freedoms in Afghanistan, Bangladesh, India and Sri Lanka (and Pakistan for religious minorities) but practical restrictions on freedom of religion there, given the atmosphere of fear and intimidation against religious minorities in all these countries.

ii. Language affiliations and freedoms is another key right to identity. It is also mixed up deeply with issues of ethnicity and in the context of South Asian history, has been an important trigger of conflicts. Bangladesh's is the most famous case with the Liberation War (1971-72) waged by Bengali nationalists against, among others, the linguistic assimilationist policies of the Pakistan state. Tamil ethnic conflict in Sri Lanka too had its roots in the linguistic policies of the Sri Lankan state restricting Tamil language. Other prominent ethnic movements in the region – Kashmir and those in north-eastern India for instance - draw sustenance from perceived assimilationist policies and practices of the national government. In non-conflict contexts too language and ethnicity continue to be sites of discrimination and denial for minorities. This is reflected in language homogeneity and domination against minority languages. Urdu and other non-Bengali languages in Bangladesh; Baluchi in Pakistan; Nepali-speaking Lhotsampas in Bhutan; and minor languages

in Afghanistan are examples of this. India has shown the way in accommodating linguistic demands and autonomy through administrative decentralization and by creating linguistic/ethnic provinces but the fate of dispersed minority languages, especially Urdu, has been harsh worsening with the growing hegemony of Hindi, the dominant language.

Socioeconomic rights

Non-discrimination in accessing services and opportunities is a key minority right. This has implications for the socioeconomic condition of minorities and their well-being. Across the region, laws promise equal access and non-discrimination to all in public services and opportunities. And yet minorities make up disproportionate sections of the poor and excluded in all countries. Hindus and Christians in Pakistan, Muslims (besides Dalits and Adivasis) in India, Dalits and Muslims in Nepal and Dalits and indigenous groups in Bangladesh suffer the worst socioeconomic drawbacks. Their access to services such as health and nutrition, sanitation and education, as well as to opportunities such as remunerative employment, credit and markets, is limited. Discrimination is at the heart of exclusion with minorities denied equal access to services and opportunities that the rest of the population expects as a matter of right. Discrimination works at multiple levels – local, where services are provided, but also at the policy level, where absence of a mechanism to identify and check discrimination enables discrimination to play out unfettered.

Across the region there is a dearth of efforts to address the deprivations faced by minority groups in the socioeconomic sphere. It is possible to deal with the situation through targeted programmes aimed at the specific disabilities and discriminations that minority groups face. India has an elaborate programme of support for Dalits and Adivasis including better access to services, housing, employment and education. In comparison, recent support programmes for minorities seem to be very modest in their design. Their implementation leaves much to be desired. Across the region there is little policy focus on addressing minority disabilities including poor documentation, tracking and reporting of data disaggregated by minority groups and little attention to cast the spotlight on how universal anti-poverty programmes and services work especially for minority groups. Overall, minorities and minority well-being are not a policy priority. This is a serious weakness.

Effective participation

Participation in public life including adequate representation and role in decision making in governing institutions is a key determinant of minorities' realization of equality and well-being. Most South Asian constitutions profess equality and non-discrimination to all citizens, including minorities. Yet, minorities' exclusion from participation in public life including in governing institutions is widespread. This has a wider impact on the realization of all other minority rights. Here we focus on the representational dimension of participation, looking at:

- political representation in elected bodies at the national and lower levels

- representation in civil services

There are broadly two trends here:

i. Legally denied, where the law itself discriminates between groups and minorities are denied equal treatment, for example, in accessing public office. Pakistan does not allow a person of any other faith but Islam to stand for office as President. In the case of the Prime Minister though the law does not prevent non-Muslims, restrictions kick in in terms of preventing non-Muslims from taking oath of office thus effectively keeping this position out of reach of minorities. Ahmadis, given that they are deemed non-Muslims, too are denied this right of standing for office. Their exclusion in participation runs deeper as they are denied even the right to vote in elections. And whilst the Constitution puts in place mechanisms for protection of minority representation in national and provincial assemblies through separate quotas these are not robust enough to ensure either proportionate or meaningful representation of religious (and ethnic) minorities in these houses. Similarly Maldives, Bhutan and Afghanistan discriminate against minorities when they restrict their access to political office.

ii. Denied in practice: India does not discriminate formally against minorities in access to political and public office including the highest ones. And yet minorities, especially Muslims, are very poorly represented in elected assembles at national, state and local levels effectively blocking them off both from decision making and from a sense of being wedded to national processes. Critics have pointed to the design of the electoral system that encourages majoritarian outcomes combined with the absence of any proactive efforts to bring minorities, especially religious

minorities, into governing institutions as being the cause of much of this poor representation.

iii. Nepal is charting a new course in the region in terms of crafting an inclusive regime of political representation and participation for minority groups. It seeks to do this through devising an electoral system that seeks not only to keep the doors to political representation open to all (through the first-past-the-post system) but combines that with measures for positive support to traditionally marginalized groups (Dalits, religious minorities and women among others) to be better represented in Parliament and newly devolved provincial assemblies through a combination of 'proportional representation' and 'quotas' for marginalized groups. The new arrangement is already showing results with a marked increase in the representation of Dalits, women and minorities. This is still an evolving system but one that holds promise for a region where the norm is for minorities to be kept out of political power.

Civil services and the public sector in general are equally unrepresentative in the region mirroring the barriers that minorities face to political representation. There seems little effort by states to encourage greater minority engagement through programmes such as quotas. India, with an elaborate system of 'reservations' for Dalits (Scheduled Castes) and Adivasis (Scheduled Tribes) and other 'backward' groups in Parliament and state assemblies fails to provide anything similar for religious minorities. The handful of countries that do reserve quotas among other measures to encourage minority representation seem not to be able to show many results of those policies - quotas for religious minorities in Pakistan in the army and civil services and for adibashis in the Chittagong Hill Tracts in Bangladesh, have not resulted in great improvements in their representativeness.

Scope of the Issue of Minority Rights in South Asia

Several conclusions can be made drawing on the analysis presented in this introduction:

i. The poor condition of minorities in the region effectively means denial of basic rights to vast numbers of people (mostly on account of the discrimination that minority groups face). These are rights that most states provide in their constitutions and that which they are committed to providing (through international covenants that they are signatories to).

In sheer numbers alone we are talking hundreds of millions of citizens who are denied basic rights to life, security, identity and culture, socio-economic well-being and participation. The vast scale of the denials also contributes to the poor ability of South Asian countries to meet their national development and well-being goals.

ii. Poor rights for minorities have implications for conflicts. Behind many of the ethnic conflicts in the region – those fighting for greater autonomy within nation-states as well as movements for self-determination seeking independent states for themselves – are minorities and their perceived sense of grievances. Most negotiated solutions to these challenges – the Mizo Peace Accord, and that for linguistic accommodation in India; the Chittagong Hill Tracts Peace Accord in Bangladesh; and the Comprehensive Peace Accord in Nepal, for example – have been about agreements on arrangements that purport to provide better for minorities. Clearly, efforts at minority rights' protection and promotion are steps towards conflict prevention too.

iii. Underlying this poor show of minority rights are weak policy commitments to delivering for minorities with little resort to robust institutional mechanisms for minorities or to targeted programmes and projects and poor attention to reviewing outcomes including through collecting and reporting data disaggregated by minority groups. In other words, minority rights, indeed human rights, are not a policy priority for most South Asian states.

iv. Part of the reason for the weak policy priority for minority rights by South Asian states is the region's strong majoritarian atmosphere. Nationalistic mobilization, both ethnic and religious, seeks to create homogenous societies and the first victims of this dynamic are usually minority groups. In recent times, majoritarian mobilization has intensified across the region. As the Minority Rights Group (2010:110) notes, 'a growing trend of radical, sometimes militant, nationalism and religious extremism throughout the region, is posing a major threat to religious minorities.' Islamist mobilization in Pakistan, Bangladesh and Afghanistan, the Hindu right wing in India and Buddhists in Sri Lanka, all seek to move towards hegemony of one religion and culture at great cost to the countries' minorities. In this context, any talk of minority rights is seen by majoritarian groups and state actors as challenging the state and hence it is quickly delegitimized.

Majoritarianism and minority rights in South Asia

Majoritarian impulse is inherent in nation-states. In the case of South Asian states, historical legacies strengthen the majoritarian trend. These are about the region's colonial encounter (including anti-colonial struggles) politicizing ethnic and religious identities. But more important as a factor was the creation of the post-colonial states through partition of much of the subcontinent splitting up ethnic groups across new and arbitrary borders and fears of the political elites all-around of further disintegration of successor states. Given this history the trend across the region has been for antagonistic nationalism (between successor states) with frequent conflicts (inter-state as well as against minorities) all with adverse consequences for minorities. As a result, denial of minority rights in practice even though guaranteed in law carries on with impunity.

There are other factors too which contribute to the rising trend of majoritarian nationalism in the region:

i.   Institutional design: Parliamentary democracy with the first-past-the-post electoral design which is common to most South Asian nations favours 'majority take all' outcomes and 'ethnic outbidding' with contestants pandering to majority votes even at the cost of marginalizing minorities. It is no wonder then that elections and electioneering in the region are the sites of much minority bashing.

ii. Clash between elites for control over the state – related to the above is the tendency of elites in their contests over control of state institutions to pander to majority interests and sentiments even at the cost of minorities. Elite contests with their narrow interests have a tendency to structure national debates along ideological lines that then end up benefiting majorities at the cost of minorities.

iii. The media across the region is a reflection of and a driver of populist sentiments. The media– print and electronic - fuels jingoistic nationalism again ending up working adversely for minorities.

iv. Finally a word about democracy in the region and the place of minority rights in it. South Asia has had a mixed experience with democracy. Some states have had long experiences with democracy although mostly in its formal sense (of holding elections and periodically changing governments). Others have had a more chequered history where even formal democracy is only a recent phenomenon. The poor condition of

minorities across the region then is a reflection of South Asia's 'democracy deficit', with the idea and practices of citizenship and equal rights not having taken roots and access to rights, justice and opportunities contingent on peoples' ascriptive identities (Manchanda, 2010: 12).

Given these adversities, the protection and promotion of minority rights then is going to be about deepening democracy. In the current context that would imply developing the state to treat all groups equally by putting in place systems to check differential treatment such as anti-discrimination laws and mechanisms and affirmative action policies to help marginalized groups overcome exclusions and disabilities. Central to this venture must be creating and entrenching safeguards including minority rights' protection regimes, strong mechanisms for protecting human rights, establishing the rule of law, entrenching an independent judiciary, establishing non-discrimination policies and mechanisms, providing affirmative action policies and promoting diversity and multi-culturalism.

Recommendations

Given that national laws that impinge on minority rights are vastly different between countries and the ground realities for minority and human rights are so challenging it will be important for any meaningful regional endeavour for improved minority outcomes to start small and build on the gains. What will also aid this process is if traction on outcomes overall is not made contingent on state-led efforts.

i.   Working to document and shine a light on minority rights' outcomes and the processes that lead to denial in each country should be a helpful starting point. This will require efforts towards establishing systems and processes for collecting disaggregated data on a range of relevant indicators as well as on insights on the processes through which minority rights are delivered or denied. Also helpful would be systematically documenting and reporting countries' performance on relevant international instruments and getting a conversation going on them. Given the wide variation in data availability by domain across countries with some countries quite advanced in specific domains and others without much of a system for data collection, collation, analysis and reporting, it will help to share experiences and insights on data collection and analysis across countries as a first step towards building a regional partnership that can also facilitate systematic documentation and reporting.

ii. Effective documentation and tracking of outcomes and provisioning around minority rights can also contribute to raising awareness on the subject, especially when used with effective media strategies to educate people within individual countries and across on issues impinging on minority rights that have a regional and/or cross-cutting import. We noticed earlier how polarized public opinion is reflecting the jingoism prevalent in the media as well as society. Finding an entry point then to creating public opinion conducive to finding a common cause across borders on issues relevant to minority rights that are cross-cutting will be a necessity.

iii. There are currently no regional forums specifically working on minority rights, especially those to undertake sustained practical work and advocacy with stakeholders. A number of loose civil society platforms and campaign networks exist mostly around human rights and regional peace. However, in the absence of sustained and programmatic work and the capacity for advocacy, their gains are minimal and fragmented There is clearly need for region-wide platforms with a clear focus on minority rights to act as regional champions to enable systematic experience-sharing and collective brain-storming on minority and human rights' issues at the regional level, building consensus, lobbying with policy networks, preparing the ground and pushing the envelope on minority rights' issues with multiple stakeholders.

iv. Equally, there is need for regional programmes supporting grassroots organizations of minorities to build community capacity and empowering minority groups to organize and raise their voice for their rights. There is a rich portfolio of grassroots activism throughout the region and many opportunities for experience sharing and learning from each other. A regional programme supporting community capacity building region-wide will contribute to enhanced outcomes for minorities at the grassroots level given the commonalities in the issues confronting minorities.

v. This ground work for enabling minority rights' protection and promotion should pave the way for more concerted regional efforts for creating conditions for improved outcomes. These should start with actions on generic problems that result in minority rights' violations in the region using existing national laws and international and regional frameworks before moving on to creating new ones. Among these generic problems are impunity of state actors in cases of rights' violations; lack of

transparency across state sectors facilitating arbitrary state actions; discrimination in application of laws, provision of services and in enabling opportunities; and homogenizing policies and practices that restrict diversity and promote cultural homogeneity. Effective work on these issues will entail sustained and systematic civil society activism for better documentation of these pathologies (cases of impunity, discrimination and the like) to create a body of evidence to use as advocacy material for engaging with state actors to redress them using national laws and international conventions; and then public education and alliance building, to keep up the pressure on state parties for changed behaviour, improving results for minorities.

vi. In parallel, and given the challenges involved in minority rights' delivery, it will be necessary to strengthen safeguards for minorities where they exist and create new ones where they do not, at the national level. These are potentially about human rights' sensitization and training; targeted programmes for minority well-being; directed investments for these programmes; institutional mechanisms catering to minorities; a representative bureaucracy; and grievance redressal mechanisms. At the regional level this could take the form of a South Asia charter of minority and human rights, defining a basic minimum programme for minority rights protection and promotion along with an associated set of institutions to adjudicate and oversee the enforcement of the charter.

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