

Executive Summary

1. South Asia's minorities - religious and linguistic groups, especially women and those from *Dalit* backgrounds amongst them, and the many indigenous / *Adivasi* communities, besides sexual minorities - make up disproportionate numbers of the poor and excluded in each country in the region, suffering discrimination in the socio-economic sphere, besides denial of the most basic human rights. They form the bulk of the marginalised in a region that houses over half the world's multi-dimensionally poor, and where country Human Development Index (HDI) rankings are among the worst. Yet, there is very little systematic documentation of the condition of minorities, and of discrimination in delivery of basic rights. Poor access of South Asia's minorities to socio-economic rights makes them vulnerable to violations of other critical rights too – life and security, freedom of religion, and to participation - a cycle we see playing out repeatedly in the entrenched exclusions and frequent targeted violence against minorities across South Asia.
2. *South Asia State of Minorities Report (SASoM 2018): Exploring the Roots* - the second in the series after South Asia State of Minorities Report 2016: Mapping the Terrain - is on the theme of socio-economic rights, aimed both to document evidence of denials as well as to act as a tool to galvanise action. *SASoM 2018* reports on the performance of each county in the region on equal and non-discriminatory access to socio-economic rights, specifically as it relates to their minorities. Using international treaties of direct relevance to socio-economic rights as basis for the assessment, *SASoM 2018* focuses on states promoting equality and non-discrimination in the provision of key rights - health, education, work, adequate standard of living and social security. The analysis here uses UN's Human Rights Indicators framework to report state performance, shedding light on *commitments* and *efforts* by state parties to deliver rights equally to their minorities, and the outcome of those measures. *SASoM 2018* uses official and non-official data, both qualitative and quantitative, and acknowledges the significant limitation of data, across the region, on socio-economic rights disaggregated by minority groups.

3. *Among South Asia's minorities are four major recurrent categories:*

- 3.1. Religion has been a major axis of contestation in South Asia. This has been aided by the multiplicity of religious identities in the region, and their politicisation. This results on the one hand, in fueling majoritarianism – much of it competitive across borders – and on the other, severely impacting minority outcomes. Discrimination based on religion has been the most enduring, marginalising religious minorities.
- 3.2. Caste discrimination adversely affects more than 260 million people globally, the overwhelming majority of victims being Dalits living in South Asia. Caste discrimination is not only a serious violation of human rights but also a major obstacle to achieving development goals.
- 3.3. Women and girls in South Asia suffer doubly, both on account of their being religious, caste, ethnic or linguistic minorities, and as women. Despite constitutional guarantees in several countries, gender-based violence and discrimination exists in its worst forms in the region, manifested as economic exploitation and trafficking, besides sexual violence and that at birth.
- 3.4. Refugees and the stateless in South Asia - estimated at some 50 million - suffer some of the worst vulnerabilities - denied the right to fully enjoy human rights and fundamental freedoms and to have access to remedy for human rights violations. A large section of the stateless in the region are drawn from the ranks of the minorities, being victims of conflicts, targeted violence, forced population movements and migrations.

4. *Country Status*

- 4.1 South Asian states' performance on minority rights is poor overall. Most states have ratified the more important conventions geared to socio-economic rights, but ratification of optional protocols accompanying these treaties is sparse. This has prevented states from having to improve their enforcement of the commitments. Demonstrating the poor commitment in the region to ending discrimination is also the fact that no country – throughout the region – has legislations against discrimination in access to socio-economic rights. Efforts - to translate the poor commitment into results are also mostly wanting. Below a snapshot of country findings:

- 4.1.1 Minorities in **Afghanistan** – Hindus, Sikhs, Shias and Hazaras, as well as small ethnic groups – are particularly deprived. Afghanistan’s commitment to protecting and promoting minority rights is newfound and still forming. The 2004 Constitution lays the foundation for equal rights to all citizens. Afghanistan has also ratified all key international covenants. But religious and ethnic minorities continue to be discriminated against, both in law and in effect, due mostly to poor effort to translate commitments into domestic laws and actionable programmes. Lack of socio-economic data disaggregated by minority groups is a serious barrier.
- 4.1.2 **Bangladesh** continues to refrain from endorsing the UN Declaration on the Rights of Indigenous Peoples (UNDRIP), jeopardising safeguards for indigenous peoples. There seems little resolve to enforce pro-minority laws and programmes, e.g. The East Bengal State Acquisition and Tenancy Act, 1950 and The Chittagong Hills Tribes Peace Accord (1997), among others. And whilst the Vested Properties Act, 1974 may have been replaced with Vested Properties Return Act, 2001, it is to be seen whether this new legislation has rolled back the mass dispossession that Hindus faced. Similarly, whilst Urdu-speaking population has gained citizenship status recently, it is excluded from welfare programmes, and only recently were token measures introduced for the country’s *Dalits*.
- 4.1.3 Rights of minorities in **Bhutan** must be seen against the backdrop of the stripping away of the citizenship of a sixth of the population, of Nepali-speaking Lhotsampas and their eventual expulsion in early 1990s. The 2008 constitution introduced nominal democracy – ‘democratic constitutional monarchy’ - restoring the rights of Lhotsampa. But minorities continue to be marginalised, with minority-concentrated districts being significantly deprived. Ultimately it is ironic that the country that devised the Gross National Happiness index continues not to ratify either CERD (1965) or CESC (1966), demonstrating its poor commitment to minority rights and against discrimination.

4.1.4 **India's** commitment to protecting and promoting rights of minorities, including socio-economic rights, is strong, but this excludes religious minorities. Muslim and Christian Dalits are excluded by law from the Scheduled Caste category, depriving them of preferential benefits in education, jobs, welfare programmes, and protection against violence that Dalits are entitled to. Other laws, such as provincial ones for cow protection and against beef, discriminate against religious minorities. There is also no anti-discrimination law in the country, despite the Constitution guaranteeing equality and India having ratified most key international treaties. The laws that do exist are poorly enforced, and there is little targeting of minorities for improved access to services and benefits. There is also only a poor regime of monitoring, evidence gathering and assessment of the impact of efforts on minorities, and data disaggregated by religious groups, is poorly available, resulting in the poor showing on socio-economic outcomes, especially for poorer Muslims.

4.1.5 *Tarai Dalits*, Muslims and *janjatis* (indigenous peoples), are among the most deprived sections in **Nepal**. The poor outcomes for them and other deprived minority groups, can be traced to both inadequate commitments, especially for specific minority groups and the poor implementation of laws and policies, representing weak and flawed effort. Nepal has taken various steps to ensure equality and non-discrimination, including constitutional provisions, and ratifying several international conventions to ensure non-discrimination. Yet the 2015 Constitution's flawed definition of secularism privileges Hinduism, creating openings for discrimination against religious minorities. And despite putting in place strong measures to translate good intentions into outcomes for minorities, weak provisioning, poor minority representation in government and the deep-seated bias against minorities, comes in the way of rooting out discrimination.

4.1.6 There is significant poverty in **Pakistan**, and large regional variations, with minorities suffering most. Minorities particularly targeted are religious - Christians and Hindus, and Ahmadis besides Shia. Baloch and Pashtun

ethnic minorities too are targeted. When exclusions intersect: Hindu brick kiln workers in Sindh, and Christian sanitation workers, including women among them, in Punjab, Karachi and elsewhere. Pakistan has ratified most key treaties, and the constitution guarantees equality, but there is a significant gap between ratification, legislation and implementation. An example is bonded labour and minimum wages acts that are not implemented for many reasons, including poor effort. Dearth of relevant data – disaggregated by social groups - is a barrier to analysis and planning.

- 4.1.7 Despite development outcomes being positive for **Sri Lanka** as a whole, they are poor for districts with high minority concentration, especially tea estates districts. Eastern districts are the worst affected, with food security and malnutrition being particularly problematic, as is land alienation. Poor commitment is a problem. The Constitution guarantees equality, and Sri Lanka has ratified most international treaties, but their translation into domestic law is poor. And there is only poor effort. For example. allocation of health personnel to minority concentrated districts is poor, as is that for education. And since data on socio-economic rights disaggregated by minority groups or by region is not available, it is difficult to make deductions on efforts and outcomes for minority groups.

5 *Conclusion: South Asia and its minorities*

Behind poor national commitment and effort for minority outcomes is the play of majoritarian nationalism in South Asia, much of it competitive across borders, that disincentivises action perceived as favouring minorities. Economic policies followed by South Asian states – neo-liberal, privileging private capital and outsourcing of services to private providers, besides heavy military spending, in place of redistributive policies and effective universal services for all – too have a role to play. As a consequence, minorities suffer in silence, unable to challenge the systematic patterns of discrimination and disadvantage due to the lack of power.

5.1 Below some preliminary thoughts on recommendations for action:

5.1.1 For state parties

Commitment:

- South Asian states need to strengthen their commitment to minority rights protection and promotion, in the first instance by ratifying all relevant international treaties, specifically the ones that bind state parties to ensuring equality and non-discrimination provisions, viz CERD (1965), CESCR (1966), CEDAW (1979), CRC (1989), CMW (1990) and CPRD (2006), including signing relevant optional protocols.
- This must be followed by writing these commitments into domestic laws, including amending national laws that discriminate against specific minorities, and addressing the key lacunae across the region of the absence of equality and anti-discrimination legislations, including mechanisms for their effective enforcement.

Effort

- Shore up policies and programmes, to operationalise the equality and non-discrimination commitments – through schemes and projects that meet the specific needs of minority groups; greater investment in those efforts; and appropriate institutional mechanisms. This must include greater minority representation in public services, and measures to change attitudes and behaviour of duty bearers, through training, exposure and appropriate incentives.
- Improved outcomes also require better observation and measurement, creating data disaggregated by individual groups and monitoring and measuring efforts using those data to provide an accurate picture of performance and outcomes.

5.1.2 Regional actors

But South Asian states only have poor incentives for improving their minority outcomes – due primarily to the rise of majoritarian nationalism across the region, mostly competitive, that sees deepening democracy and strengthening minority safeguards as unwelcome concession. Regional actors, especially civil society – given formal networks like SAARC have little interest – can play a role

in disrupting this stalemate and engendering debate and dialogue across borders:

- Debates and discussions, based on new data, findings, analysis and insights, to educate the public and policy community, pushing the envelope on minority rights
- Sharing of experiences and good practices in providing for minorities, through South Asia-wide networks
- Regional networks and alliances, debate and discussions, developing common ground, voicing demands, creating collective pressure on duty bearers, and reaching out to international entities on the condition of minorities in the region

5.1.3 International community

International community must support this enterprise, through creating right incentives for state parties in the region and encouraging regional civil society efforts.

- a UN led effort to get members states in the region to agree on a charter of minority rights, and a mechanism and process for enforcing those.
- UN handholding the process, providing technical and legitimacy support, and other multilateral bodies as well as the rest of the international development community, supporting the process.
- This to include supporting minority-focused regional and national civil society networks, capacity building and shoring up their strengths

5.2. Minority communities and civil society

Ultimately minority communities and individuals and groups representing them need to take charge

- improve their capacity to act as effective CBOs, documenting evidence, mobilising support, networking with stakeholders, and raising demands.
- Rights-minded NGOs and civil society platforms supporting community-led effort, through handholding, signposting, investment and networking.