



[ADRN Online Seminar] Democracy Cooperation Series 16: Protection of Minority Rights

## Protecting Minority Rights in Asia: Pressing Challenges and Emerging Trends

East Asia Institute (EAI)

### I. Overview

Democratic countries in Asia face unique challenges in protecting minority rights. Each country's historical background and cultural dynamics deeply influence the nature of inequality, advocacy, and reform within the state. To examine current issues in minority rights protection across Asia, the Asia Democracy Research Network (ADRN) hosted a webinar, inviting scholars from five countries to speak about minority rights and protections in their countries. The panel was moderated by Niranjana Sahoo, a Senior Fellow at the Observer Research Foundation in New Delhi.

### II. Case Studies: India, Bangladesh, Nepal, Mongolia, Thailand

#### India

*“India’s situation is very dire, and Muslims today are facing unprecedented threats and attacks”*

India is a Hindu-majority (80%) nation with large and diverse minorities, including Muslims, Christians, Sikhs, Buddhists, Jains, and Parsis. With boggling diversity, there are 30 major languages and 300 dialects used within the country. The Indian constitution has a pro-minority bias, providing numerous special privileges for minorities, especially linguistic and ethnic minorities. Part XIV of the constitution details an elaborate list of provisions protecting minority rights; Article 29 guarantees cultural and educational rights, and Article 25 protects the right to “freely profess, practice and propagate religion (subject to public order and morality).”

Though the Constitution grants various rights, due to weak policing, politicization, and the absence of an effective justice system, these rights are not honored. Projects are not “actively” implemented, and issues arise with resource allocations and spending. In addition to various structural barriers, the rise of majoritarian politics and increased political polarization have posed additional challenges to protecting minority rights.



Religious minorities—among them Muslims—receive no special attention in the constitution, only a “bundle of rights.” With a population of over 200 million (14% of the country’s population), Muslims are the largest religious minority group. However, Muslims currently rank among the lowest in socio-economic indicators. For example, less than 4% of Muslims serve in the police, judiciary, or elite civil services. In present-day India, Muslims are the most marginalized and excluded minority group, even more so than Dalits (those belonging to the “untouchable” caste) and Adivasis (indigenous peoples in India).

A key driver of Muslim marginalization is its long historical background. Prejudice and intolerance have emerged from extreme Hindu-right organizations since the 1950s, and have sharpened since the 1990s, particularly due to the Ram Janabhoomi movement. Polarization has further intensified since 2014, when Prime Minister Modi took power. Hindu Majoritarianism entails historic marginalization of minorities; shrinking political representation; stereotyping, stigmatizing and demonizing of minorities; growing intolerance (e.g. anti-conversion laws, bans on cow slaughters, and “love jihad” theories); and the collapse of inter-community relations and trust. India has taken a constitutional route toward majoritarianism; in recent years, there have been a series of new legislations targeting Muslims. For example, Article 370, which concerned India’s only Muslim-majority state, was abolished. Furthermore, the Citizen Amendment Act, which discriminates against Muslims living in India, was enacted in 2019.

## Bangladesh

***“I feel very strongly...that the majority population has a responsibility to protect the rights of the minority. Unless there are more...people standing up for the rights of minorities, I think that it will be very difficult to address it only through laws and policies”***

Bangladesh emerged from its 1971 split with Pakistan as a secular nation with a constitution guaranteeing equal rights for all. Shaheen Anam provided an overview of minority rights in present-day Bangladesh, focusing primarily on issues facing Bangladesh’s Hindu religious minority, who make up less than 10% of the population (as compared to the 90% Muslim majority). In her presentation, Anam explained that, though Bangladesh claims to be a country of religious and ethnic harmony, the constitution does not explicitly recognize minorities or provide separate provisions for their protection. In practice, the constitutional guarantee of equal rights has not been supported by proper policies and structures to uphold said rights.

Religious radicalism has been on the rise in Bangladesh over the last 20 years as a result of increased globalization, international events in Palestine and India, and social media, among other factors. In tandem, attacks on Hindus in Bangladesh have also risen. These attacks are typically not overt physical violence—like murders or riots—but rather land grabs of Hindu-owned property, often by or benefitting local vested interest groups. Over the last several years, social media has consistently been used to spread false news and instigate attacks.

Per Anam, the “most damaging” phenomenon is that the Hindu minority population feel they are not equal citizens, not as a result of state-sponsored oppression, but rather a *social* and *economic* problem left inadequately addressed by the state. She argued that, though the



government sets up investigation commissions and vows to punish the perpetrators of crimes, it does not do enough to *prevent* crimes, and the justice process is slow and not impartial. Current mechanisms to improve the conditions of minorities in Bangladesh include the National Human Rights Commission and an elaborate system of Civil Society Organizations (CSOs) who monitor and push for better government response. Moving forward, Anam advocated for more open dialogue and initiatives to embrace diversity, including revising educational curricula. Within the justice system, she called for violence to be prosecuted strongly and swiftly. Anam closed her presentation by sharing her conviction that the majority population has a responsibility to protect the rights of the minority. She believes that more people need to stand up for the rights of minorities—meaningful change will be difficult to accomplish through laws and policies alone.

## Nepal

***“Although untouchability was declared illegal more than a decade ago in Nepal, caste-based discrimination persists across the country, with lingering prejudice contributing to...significant violence in Nepali society”***

In his presentation, Pradip Pradiyar provided an overview of caste-based discrimination (CBD) and minority rights in Nepal. Despite the abolition of CBD, untouchability continues to be deeply entrenched in Nepalese society. Dalits in Nepal face the worst form of discrimination across social, economic, administrative, religious, and political spheres: Nepal’s lower castes do not enjoy equal access to education or jobs; their skills, labor, and human rights are exploited; they are unable to access decision-making and justice processes; and they are not properly represented in the political system. Cases of rape or murder perpetrated against Dalits are not uncommon, and Dalit women face three-fold, intersectional discrimination due to their class, gender, and caste. Discrimination against Dalits is a deeply important problem in Nepalese society that needs to be discussed, but current conversations are not enough.

Social, economic, and health indicators demonstrate the effects of this discrimination. Dalit literacy rates, life expectancy, mortality rates, immunization rates, and nutritional access all fall below the national average. 42% of Dalits live below the poverty line, in contrast with the national absolute poverty rate of 35%. The discrimination-induced challenges to finding a good job or getting a good education perpetuate a cycle of poverty. These harmful long-term trends are accompanied by ongoing atrocities committed against Dalits. People are being killed in the name of caste; Pariyar highlighted the case of Sundar Harijan, a Dalit man who was wrongfully jailed as a minor, then had his identity switched with someone who had committed a much more serious crime, leading him to serve an extended prison term. Harijan was found hanging in the prison bathroom.

Recent developments regarding the status of Dalits in Nepal are complex. The COVID-19 pandemic raised new problems, and though Nepal’s constitution serves as a legal instrument protecting Dalit rights, the law has not been *implemented*, and those responsible for implementation are not knowledgeable about Dalit issues. Pariyar called for the implementation of these fundamental rights to be ensured via direct order, and for the



constitution to be further amended to protect Dalit rights. He also highlighted the need for proportional representation of Dalits in politics, especially in local government, as well as in bureaucracy and law enforcement. Pariyar closed by calling for three key measures: first, to raise awareness on Dalit issues; second, to increase Dalit's access to resources; and finally, to ensure that laws, policies, and programs promoting Dalit rights are actually implemented.

## Mongolia

*“In comparison with...heterogeneous societies, we have fewer problems, but still we have some concerns, mainly related to education...and getting higher education for the minorities”*

Damba Gambat, Chairman of the Board at the Mongolia Academy of Political Education (APE), joined the ADRN workshop to present on a paper prepared by Ukhnaa Tuya, his colleague at APE. Gambat first provided an overview of Mongolia's history, demographics, and cultural dynamics. Mongolia is fairly ethnically homogenous; though it has 24 ethnic groups, many have only minor cultural differences. The Khalkh majority consider themselves to be direct descendants off Genghis Khan, and therefore the benchmark for “standard” Mongolian culture and “official” Mongolian tradition. Khalkh Mongolian is the nation's official language, the language of government administration and national exams, and is used for instruction in most schools. The Khalks are generally not challenged on these claims, though occasionally ethnic minority groups will push back against their lack of political representation or particular government decisions. Similarly, racial tensions exist, but disputes are almost always resolved peacefully.

The Tsaatan, Tuva, and Kazakh groups, concentrated mostly in the Northwest, are the most culturally distinct. Kazakhs and Tuva speak Turkic languages, rather than Mongolian dialects. Religion also plays into minority distinctions—after the end of one-party communist rule in the 1990s, there was a popular resurgence of Tibetan Buddhism. As of 2020, 50% of Mongolians were Buddhist, and 40% were non-religious. In contrast, 82% of Mongolian Kazakhs practice Islam, and 27% of Tuvans and 60% of Tsaatans practice Shamanism.

The government has been paying increased attention to respecting and protecting the languages and cultural rights of Kazakhs, Tuvans and other minorities. The first democratic constitution of Mongolia guarantees the rights of ethnic minorities to practice their own culture and use their own language “in education and communication and in the pursuit of cultural, artistic, and scientific activities.” The constitution bans discrimination, and the most recent labor and criminal codes also guarantee equality among ethnic groups. However, in the early 2010s, international organizations found that there was a lack of policies addressing challenges to minority interests, such as poverty and unemployment. In his presentation, Gambat highlighted issues surrounding education equality and the lack of native-language education—compared to the national average, fewer Kazakhs, Tsaatans, and Tuvans have access to primary, general, and higher education. As for particular areas of concern, Gambat explained that there are no curricula optimized to support children of ethnic minorities who are learning multiple languages, no mechanisms collecting data specifically to evaluate the academic achievement



of minorities, and no programs available to improve the bilingual education skills of teachers catering to these populations, contributing to the lack of access to high quality education for minority groups.

## Thailand

*“Especially in terms of minority rights, Thai law is still dominated...by conservative, heterosexual assumptions”*

Over the last century, Thailand has had about 20 constitutions—despite the changes, every version has emphasized protecting human dignity and the peoples’ rights and liberty. On the other hand, Thai law, developed during Southeast Asia’s colonial era as part of an effort to avoid colonization, has not changed significantly; unfortunately, these laws have since prevented human rights development, infringing on gender, linguistic, and ethnic minority rights. Traditionally, crossdressing, gender fluidity and homosexuality were not cultural taboos, but they were criminalized with the introduction of this “modern” colonial legal system. They have since been decriminalized, but the LGBT community is still excluded from basic rights. As such, since 2012, the Thai LGBT community has been fighting for the right to marry, sparking a public debate on minority rights.

Pre-colonial Thai society was androgynous and quite accepting of non-heteronormative behaviors. LGBT identity was considered a private matter and did not concern the state. In the 19<sup>th</sup> century, the arrival of Western colonialism replaced informal Thai moral concepts of gender with Western understandings of “virtue” and sexualities. By 1917, a person’s gender was officially recognized and associated with their identity at birth, and gender identity and sexuality norms began to emerge. In 1953, private and non-commercial sodomy between consenting adults was decriminalized.

There was no major Thai LGBT advocacy movement in the 1960s and 1970s. This is perhaps, Sinthuphan posits, because the Thai LGBT community enjoyed a comfortable level of social space and freedom, leading to the absence of an LGBT advocacy group or political union. The official LGBT movement started in the 1980s with the outbreak of the HIV/AIDS epidemic, which had been labelled as a homosexual or a “sinner’s” disease. The Rainbow Sky Association of Thailand is one of the oldest LGBT advocacy groups, and has campaigned for equal social protection and legal rights for the LGBT community since the 1990s.

In Thailand, the issue of same-sex marriage rights entered public discourse around 2012. Since the first draft of same-sex marriage legislation was proposed in 2013, there have been several further drafts. The bill, which came to be known as the “Civil Partnership Bill,” as well as a reformed Civil and Commercial Code, have received preliminary approval from Parliament as of March 2022, though a longer process remains before they can be fully passed and implemented.

There are several key challenges to the protection of LGBT rights in Thailand. Conservative and heterosexual majoritarianism among Thai legislators and legal practitioners and resistance to reform are two key areas for improvement. Sinthuphan also argued that the lack of a unified core movement or nationally recognized LGBT coalition poses an obstacle to



progress, and finally, closed by asserting that policymakers should separate their personal religious and moral worldviews from their civil rights obligations. ■

### III. Speakers and Moderators Biographies —————

- **Niranjana Sahoo** is a Senior Fellow at the Observer Research Foundation in New Delhi, India.
- **Shaheen Anam** is the Executive Director at the Manusher Jonno Foundation in Dhaka, Bangladesh.
- **Damba Ganbat** is the Chairman of the Board at the Academy of Political Education in Ulaanbaatar, Mongolia.
- **Pradip Pariyar** is the Executive Chairperson of the Samata Foundation in Patan, Nepal. He is an alumnus of American University and Tribhuvan University. He specializes in youth empowerment, peace building and capacity building of media professionals.
- **Jirayudh Sinthuphan** is an assistant professor at the Chulalongkorn University Institute of Asian Studies in Bangkok, Thailand.



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