

ASIA-PACIFIC REGIONAL FORUM ON MINORITY ISSUES

Thematic Session 1: Normative framework: existing norms and interpretations | 14 June 2022

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1. Thank-you, Mr Chairperson! Thanks also to the office of the UN Special Rapporteur on Minority Issues and the Tom Lantos Institute for inviting me to the Asia-Pacific Regional Forum 2022.

2. The Asian context:

States in Asia, like many other postcolonial states in Africa and Latin America, had to grapple with the inherent tension between two sets of ideologies in the nation-building process: ethno-religious nationalism and liberal universalism.

Majoritarian ethno-religious nationalism served not only as the vehicle of liberation movements against colonial rule and subsequent oppressive regimes but also as the key to independent statehood. In contrast, post-Second World War liberal universalism, which promised a more egalitarian world order and offered a template for the internal organisation of minority relations in post-colonial states, remained the normative backdrop against which the nationalist politics advanced.

To address the 'minority problem', which emanates from these unreconciled positions, nationalist ruling elites in most states in this region conceived of the post-colonial state itself as an ideology, claiming that the unified homogeneous national state, its liberal constitutional structure, and the developmental agenda will solve the minority problem.

In asserting their faith in the healing power of the post-colonial state, the elites conveniently avoided crucial questions about the continuation of colonial political order, the class character of the economic structure, and the hegemony of nation-building projects – factors that lead to the minority problem in the first place.

3. As part of this larger story, in this presentation today, I would like to specifically focus on one of the important blind spots of contemporary minority rights discourse: socio-economic rights of minorities in relation to 'economic progress' and 'development'. And let me do this through a critical engagement with relevant provisions of the UNDRM.

4. Article 4(5) of the UNDRM:

'States ****should consider**** ****appropriate measures**** so that persons belonging to minorities may participate fully in the economic progress and development in their country.'

Now, if we compare the language with other provisions of the Declaration on state responsibilities to minorities, this comes across as the weakest. The language moves from 'shall take' to 'should take' to 'should consider taking' appropriate measures

5. Article 5 of the UNDRM:

Article 5(1) of the Declaration stipulates that the planning and implementation of national policies and programmes will take into account the 'legitimate' interests of persons belonging to minorities. Ironically, 'legitimate' interests of minorities are frequently quashed by 'more legitimate' national interests. Developmental burdens are often imposed on politically marginalised communities and legitimised in the name of national economic growth and prosperity.

On the other hand, **Article 5(2)** calls upon development agencies, financial institutions, and others involved in international cooperation to plan and implement their programmes of cooperation and assistance in a way that pays attention to legitimate interests of persons belonging to minorities. The neoliberal economic agenda of these development actors generally acts as an important catalyst for land grabbing, forced displacement, and overall economic marginalisation of minorities in many postcolonial states.

It is hardly surprising now that the most ecologically devastating development projects in Asia, such as hydroelectricity producing dams, have been regularly funded by IFIs over many decades. While **Article 5(2)** of the Declaration makes sense in this context, to what extent the provision is likely to have any deterrence on powerful financial institutions and their neoliberal economic agenda in postcolonial states is a different question.

6. Developmentalism in Asia:

As the horrific experiences of numerous minorities in Asia tell us, they are routinely the foremost victims of development activities, even as various atrocities against minorities are justified in the name of economic growth.

The formal merger in the 1980s of the development discourse with human rights, in the form of the *right to development*, put the liberal individual at the centre of the development discourse, while postcolonial elites continued to argue for and maintain the centrality of the national state in development. *In this dichotomy of the state and the individual, minorities and their life, culture, and livelihood are frequently sacrificed at the altar of economic growth.*

In the current era of **neoliberal economy**, the situation of minorities and other vulnerable groups has only worsened. Development-induced persecutions of the minority cannot be fully addressed in isolation from the hegemonic neoliberal economic structure at the global scale. As the recent examples of the Rohingya exposed, gross violations of human rights and the destruction of life and nature took place in the name of market liberalisation, privatisation of lands, increased connectivity with regional and global markets, and the promotion of foreign direct investment.

This is a global phenomenon. Global action and solidarity is required. It is also essential to problematise and challenge the dominant idea of 'development' as the ultimate end of human progress, to counterbalance its tendency to commodify, and to expose its capacity to articulate state power in terms of economic growth rather than welfare.

7. Concluding remarks:

Unless something is done soon, a vast number of minorities and indigenous peoples – along with their cultures and traditions – will be wiped off the planet. Pushed to the edge, some of the deprived and oppressed communities also have recourse to resistance that ultimately results in violent conflicts.

In this regard, the Declaration on Minorities reminds us of the pragmatic aspect of minority protection in its Preamble: 'the promotion and protection of the rights of persons belonging to national or ethnic, religious and linguistic minorities contribute to the political and social stability of States in which they live'.

As we celebrate the 30th anniversary of the Declaration, perhaps it is important to reflect on this and take concrete actions before it is too late. Here are a few concrete recommendations in this regard:

8. Recommendations:

- (i) Constitutional recognition and protection of the minority identity and culture should be guaranteed to mitigate problems emanating from the hegemonic process of homogeneous nation-building in majoritarian terms
- (ii) More rigorous legal norms must be developed on state responsibility and state accountability in the area of economic development affecting minority interests
- (iii) Building on Article 2(3) of the Declaration of Minorities dealing with the right to participate in decision decision-making processes, a more specific provision needs to be devised for meaningful participation in development decision making – both in individual and collective capacities
- (iv) Minorities and indigenous peoples are the primary victims of damaging impacts of environmental catastrophe, emanating from reckless exploitation of natural resources often in minority areas. Normative frameworks for minority protection should, therefore, engage with and build on the legal architecture for climate justice.

***** Thank you! *****