**REGIONAL FORUM ON MINORITY ISSUES**

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***Ambika Satkunanathan***

Thank you for inviting me to be part of this discussion at the Forum. My presentation will revolve around the three core themes of the Forum- review, re-think and reform.

**Review**

One of the main challenges we face is that we have a Declaration and not a Convention. And that too in a context in which member states increasingly show little respect for even UN conventions. Globally, anti-minority action is becoming, if not part of state policy, definitely a part of state action or inaction. In the context of weak accountability mechanisms even in UN Conventions and the political will of the member state being the determinant factor whether or not the state adheres to international human rights standards, there are no accountability mechanisms tied to the Declaration. Violations of minority rights hence intensify not always due to gaps in the protection regime, but gaps in implementation; in many instances total non-implementation.

There is heightening social instability as a result of targeting minorities, which affirms the Preamble of the Declaration, which states that the protection of minorities contributes significantly to political and social stability. How has this happened? In order to undermine the rights of minorities, historically, states have taken legal measures, which have also centralised power and abolished checks and balances on the executive and public institutions. This in turn has led to economic instability. A case in point is Sri Lanka.

We also note that states are using mainstream and social media as proxies to propagate hate speech and create an environment conducive for violations to take place. What took place in Rwandan radio broadcasts decades ago can now be witnessed in many parts of the world, including in my region, South Asia. This has to be studied in the backdrop of majoritarian governments coming to and holding on to power, the erosion of secularism and multiculturalism, and the resultant surge in ethno-nationalism and communalism. Is the Declaration equipped to deal with these developments?

**Re-think**

Which aspects of minority existence need to be strengthened normatively is a question with which the Forum is concerned. It is the right of minority communities to exist itself that needs to be strengthened as many states are pursuing policies that seem to be focused on annihilating minority groups or assimilating them to the point their specific socio-cultural and linguistic features are erased.

Where the tension between the individualistic approach to persons belonging to minorities vs community protection is concerned, there is urgent need to focus on how it impacts women. We often encounter harmful community practices that deny women and girls their rights. Sometimes even the denial of the right to education is justified in the name of religious traditions. At the same time, women from besieged communities who might have been subjected to extensive state controls due to their ethnicity or religion, may take refuge in the private sphere of their communities. Hence, they may be reluctant to support legal reform that seek to strengthen their rights but impacts their particular communities in some way. This highlights the conflict between individual rights and the rights of the community and the politics of negotiating competing claims by contesting communities and interest groups.

It illustrates that mere law reform is inadequate to change the status of women, particularly in the eyes of the community, which might feel targeted and, therefore, take social measures to ensure the continuation of their practices which are detrimental to women. Being frequently caught between gender stereotypes and stereotypical perceptions of their community identities, many women from minorities feel exposed to the expectation that they have to choose one of two seemingly contradictory options: they can either emancipate themselves by what is viewed as abandoning their communities, or they can be part of their communities and thereby forfeit their rights. Such an artificial antagonism, however, fails to do justice to women’s multifaceted realities, experiences, challenges and wishes. Any assessment of conflicts in this area should therefore take into account the complexities of women’s lived experiences.

Human rights defenders from minority communities are particularly vulnerable in the context of systemic and targeted harassment and intimidation. In this regard, in the recent past we have also witnessed increased backlash against civil society movements, and initiatives, both by the state and non-state actors, such as right-wing and ultra nationalist groups, in the South Asian region. Where Sri Lanka is concerned, in the past several years due to the prevalence of increased military surveillance, intimidation and intervention, civil society organisations in the North and the East, where the Tamil community live, have curtailed their activities extensively.

The aforementioned national campaigns against civil society have gained strength from global trends, such as the global war on terror, which offer not only a political justification but also a moral standpoint from which to defend the curtailment of human rights, and label rights activists and those who oppose draconian measures that curtail civil liberties as traitors in the name of security. Minority communities are often targeted and impacted in such a heavily securitized environment, and movements for rights could be, and in fact are, in most if not all countries in the region, termed as threats to national security and subject to state harassment, intimidation and even violence. This climate also enables governments to dismiss the root causes of grievances of minority communities that led to conflicts as irrelevant, and label it as a terrorist problem rather than one that requires a solution that acknowledges and addresses historical and social injustices.

In re-thinking, we must acknowledge that the law, while being a tool for emancipation, can be used as a tool of oppression. For example, a number of countries have or are in the process of enacting legislation to restrict the activities of civil society, which can have a disproportionate impact on minority communities. Enacting laws and policies to prevent defamation of religions is one way in which states can restrict freedom of expression and legitimize draconian measures that impact religious minorities adversely. For instance, Ahamadis, Christians and Hindus in Pakistan are targeted for blasphemy- such laws can be used to target dissenters as well. Domestic laws that prohibit incitement on hatred are broad, leading to arbitrary application and even result in penalising those who need protection.

Another way in which minority groups are targeted is by ignoring that freedom of religion includes the freedom to change one’s belief as well as to invite others to reconsider their faith. We have seen in many parts of the world, including South Asia- for instance in Sri Lanka and India- attempts to prevent people from converting to another religion and forcibly converting them back to the religion of the majority- for instance the ghar wapsi- or home coming- drive organised by right-wing Hindu groups in India to ‘re-convert’ Muslims and Buddhists back to Hinduism. In Sri Lanka there have been many attempts to enact an Anti-conversion Bill prohibiting what is referred to as ‘unethical conversions’ by evangelical Christian groups.

**Reform**

Finally, where reform is concerned, according to General Comment 31 of the UN Human Rights Committee, the state’s obligation to provide an ‘effective remedy’ to violation of the rights enshrined in the Convention includes:

a. Cessation of the ongoing violations

b. Establishing appropriate judicial and administrative mechanisms for addressing claims of rights violations under domestic law

c. Investigating allegations of violations promptly, thoroughly and effectively through independent and impartial bodies

d. Providing reparations (to victims), which may include compensation, restitution, rehabilitation and ‘measures of satisfaction’, such as public apologies, public memorials, guarantees of non-repetition and changes in relevant laws and practices.

Minority communities in the aforementioned situations often have little to no access to these remedies nationally. At the same time international mechanisms too tend to be weak and most often unable to provide a substantive remedy.

Affirming and strengthening the right to a remedy of communities that have been historically and systemically marginalized and discriminated is hence a critical issue that needs to be addressed.