

# Introduction

Rising majoritarian nationalisms have accompanied severe challenges to freedom of religion or belief (FoRB) in most of South Asia. Religious minorities are at particularly high risk of violent attacks, hate speech, and intimidation, and these violations are frequently met with lack of accountability. This occurs against a backdrop of long-standing social, economic and cultural marginalisation and exclusion, particularly for those who face intersectional discrimination, such as women from religious minorities, indigenous peoples adhering to minority religions, and those facing caste-based discrimination.

In India, there has been a rise in vigilante violence since the election of the Bharatiya Janata Party (BJP) in 2014, particularly targeting the Muslim (14.2 per cent) and Christian (2.3 per cent) populations. Divisive rhetoric on the part of the ruling party coupled with discriminatory legislation, including anti-cow slaughter and anti-conversion laws, have emboldened vigilante groups, fostering hostility towards religious minorities who have been targeted by these laws and also face vigilante mob violence. With the return of the BJP to power following the 2019 election, its anti-Muslim rhetoric has escalated and rapidly transformed into action through measures such as the implementation of the National Register of Citizens (NRC)<sup>1</sup> in the state of Assam and the federally mandated Citizenship Amendment Act (CAA), which appears driven by the sole objective of discriminating against Muslims by granting citizenship to those belonging to almost all other major religious groups other than Muslims.<sup>2</sup>

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<sup>1</sup> The NRC was prepared after the 1951 Census of India as a registry containing information on the citizens of India. The update was conducted in Assam following a 2013 Supreme Court order and was conducted in the backdrop of decades-long anti-foreigner sentiments in the state.

<sup>2</sup> The CAA states that 'any person belonging to Hindu, Sikh, Buddhist, Jain, Parsi or Christian community from Afghanistan, Bangladesh or Pakistan, who entered into India on or before the 31st day of December, 2014' will receive

Political instability and the entrenchment of an increasingly narrow understanding of national identity has, similarly, undermined FoRB in other countries of South Asia. Religious minorities (including atheists), and in particular Hindus, are frequently victim to reprisals and attacks in Bangladesh, particularly during election cycles, with the highest levels of such violence recorded during national level elections in 2014. In Pakistan, religious and sectarian minorities such as Christians, Hindus, Ahmadiyas, and Shias have suffered alarming attacks by militant groups, as well as individual targeted attacks and vigilante violence. This violence is often linked to discriminatory provisions and legislation, such as blasphemy laws and Ordinance XX, which provide a cloak of legality to such actions. Violations of religious minority rights and discrimination have inhibited Sri Lanka's transition to peace. Christians (7.6 per cent) and Muslims (9.7 per cent) face FoRB violations including hate speech, discriminatory practices, destruction of property, threats and intimidation, and physical violence perpetrated by both state actors and Buddhist nationalist groups such as the? Bodu Bala Sena, as highlighted by anti-Muslim violence in late February/early March 2018 in Eastern and Central provinces, sparking a state of emergency. The situation for Muslims has worsened since the Easter bombings of April 2019, which targeted Christian places of worship by radical Islamists, with the general Muslim population viewed with suspicion by their compatriots. The failure to prevent such attacks was partly responsible for the election of the Sinhala nationalist leader, Gotabaya Rajapaksa, who despite having taken pains to assure that he will serve as the leader of everyone, decided to scrap the singing of the national anthem in the Tamil language in the first independence celebrations since his coming to power.<sup>3</sup>

In Afghanistan, the Constitution does not uphold individuals' rights to FoRB, and minorities including Hazara Shi'a are often

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'a certificate of registration or certificate of naturalization' from the central government.

<sup>3</sup> Krishan Francis, 'Sri Lanka scraps Tamil national anthem at Independence Day,' *The Washington Post*, February 4, 2020, [https://www.washingtonpost.com/world/asia\\_pacific/sri-lanka-scraps-tamil-national-anthem-at-independence-day/2020/02/04/084f5caa-4728-11ea-91ab-ce439aa5c7c1\\_story.html](https://www.washingtonpost.com/world/asia_pacific/sri-lanka-scraps-tamil-national-anthem-at-independence-day/2020/02/04/084f5caa-4728-11ea-91ab-ce439aa5c7c1_story.html).

victims of violence, primarily by non-state actors, and the remaining small numbers of Christians, Sikhs, and Baha'i populations often live covertly. Aspects of Nepal's new Constitution (2015) have a discriminatory impact on the country's religious minorities, in particular Muslims (4.4 per cent) and Christians (1.4 per cent) who have reported fear of rising hostility in recent years. For example, despite being declared a secular state in 2006, Article 26(3) of the 2015 constitution has carried over provisions from previous constitutions criminalising all forms of proselytization while the Criminal Code, adopted in 2017, banning religious conversion has contributed to a reported increase in police harassment of Christians accused of conversion activities.<sup>4</sup> In Bhutan and the Maldives, efforts to homogenise society have severely curtailed FoRB, and even the ability of non-Buddhists and non-Muslims, respectively, to acquire citizenship.

One of the historically time-honoured ways of dealing with discrimination, particularly religious discrimination, is to seek refuge in a third country, and South Asia is no stranger to this phenomenon. With the exception of Bhutan and the Maldives, all South Asian countries are home to voluntary and involuntary migrants, most of whom not only do not enjoy the same rights as the citizens of the country where they have sought refuge, but are also generally looked upon with suspicion by the host communities. Apart from Afghanistan, none of the other South Asian countries are party to the 1951 Convention Relating to the Status of Refugees or its 1967 Protocol, thereby absolving themselves of any responsibilities towards them.

All South Asian countries have also contrived to render stateless various groups of people, whether it be based on religion, ethnicity, gender, or otherwise. No country from South Asia is party to either the 1954 Convention on Stateless Persons or the 1961 Convention on the Reduction of Statelessness. The countries of South Asia, thus, contribute to the global and regional refugee population and, at the same time, are also home to a large number of refugees (Table 1). Although Bhutan and the Maldives do not serve as destinations for

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<sup>4</sup> See, for instance, 'Foreign Christians arrested on charges of "converting" in Nepal', *The Pathway*, August 8, 2019, <https://mbcpathway.com/2019/08/08/foreign-christians-arrested-on-charges-of-converting-in-nepal>.

refugees, these are countries that have seen people leave in search of a more secure life.

## **Migrants, Refugees, and the Stateless: Definitions and Numbers**

The International Organisation for Migration (IOM) defines a migrant as:

a person who moves away from his or her place of usual residence, whether within a country or across an international border, temporarily or permanently, and for a variety of reasons.<sup>5</sup>

According to the UN Convention Relating to the Status of Refugees, a refugee is:

...someone who is unable or unwilling to return to their country of origin owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group, or political opinion.<sup>6</sup>

There are overlaps between the two definitions but with the crucial distinction, as in the words of the former Director General of IOM, William L. Swing: ‘All refugees are migrants, but not every migrant is a refugee.’<sup>7</sup> International movements of people occur in ‘search of new economic opportunities and horizons’, ‘to escape armed conflict, poverty, food insecurity, persecution, terrorism, or human rights violations and abuses’, and still others ‘in response to the adverse effects of climate change, natural disasters, or other environmental factors’.<sup>8</sup> In most cases, a combination of these reasons apply.

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<sup>5</sup> ‘Key Migration Terms,’ Migration, International Organisation for Migration, accessed February 20, 2020, <https://www.iom.int/key-migration-terms>.

<sup>6</sup> United Nations High Commissioner for Refugees, *Convention and Protocol Relating to the Status of Refugees*, (Geneva: United Nations High Commissioner for Refugees, 1951) <https://www.unhcr.org/3b66c2aa10>.

<sup>7</sup> ‘What is the meaning of “migrants”?’ Meaning of Migrants, accessed February 20, 2020, <https://meaningofmigrants.org>.

<sup>8</sup> United Nations General Assembly, *New York Declaration for Refugees and Migrants: Draft resolution referred to the high-level plenary meeting on addressing large movements of refugees and migrants by the General Assembly at its seventieth*

The numbers involved are staggering. According to the latest estimates available, the number of migrants globally was over 244 million in 2015. In the same year, there were roughly 65 million forcibly displaced people, a figure that included over 21 million refugees, 3 million asylum seekers, and more than 40 million internally displaced persons.<sup>9</sup>

By 2018, the number of refugees worldwide had increased to 25.9 million, with half of them under the age of 18. Four fifths of all the refugees live in countries neighbouring their own, and this phenomenon is true for South Asia as well. South Asia is home to 2.6 million migrants—10 per cent of the world's total. Of these 2.6 million, Pakistan hosts 54 per cent and Bangladesh 35 per cent.<sup>10</sup>

Perhaps the most vulnerable are people who are known as the stateless. As defined by the UN, a stateless person is one 'who is not considered as a national by any State under the operation of its law'.<sup>11</sup> She may be a refugee having fled persecution in one state, but not recognised by the host country; denied citizenship in her country of birth, because the state does not recognise her;<sup>12</sup> or simply an undocumented person, without formal recognition in her own country. Common to these pathways is the active denial of nationality to specific groups, since the right to nationality is essential to facilitating the actualisation of all other fundamental human rights. While international law provides that all persons have the right to a nationality, states still retain the right to determine how nationality is acquired.<sup>13</sup>

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session, (New York: United Nations General Assembly, 2016) <https://reliefweb.int/report/world/new-york-declaration-refugees-and-migrants-draft-resolution-referred-high-level-plenary>.

<sup>9</sup> Ibid.

<sup>10</sup> 'About Us: Figures at a Glance,' United Nations High Commissioner for Refugees, accessed February 11, 2020, <https://www.unhcr.org/en-us/figures-at-a-glance.html>.

<sup>11</sup> United Nations High Commissioner for Refugees, *Convention Relating to the Status of Stateless Persons*, (Geneva: United Nations High Commissioner for Refugees, 1954) <https://www.unhcr.org/en-lk/protection/statelessness/3bbb25729/convention-relating-status-stateless-persons.html>.

<sup>12</sup> This includes the refusal to recognise the offspring of female citizens and their foreign spouses as citizens, a category in which lies Nepal, the only such South Asian country.

<sup>13</sup> Asha Bangar, 'Statelessness in India: Statelessness Working Paper Series' (Institute on Statelessness and Inclusion, 2017), accessed February 25, 2020, [http://www.institutesi.org/WP2017\\_02.pdf](http://www.institutesi.org/WP2017_02.pdf).

Table 1: Refugees in South Asia

Year	Afghanistan		Bangladesh		Bhutan		India		Maldives		Nepal		Pakistan		Sri Lanka	
	In	From	In	From	In	From	In	From	In	From	In	From	In	From	In	From
1990	50	<b>6,339,095</b>	145	477	-	-	212,743	198	1	17,800	-	-	<b>3,255,975</b>	486	-	208,271
1995	19,605	2,679,133	51,118	56,956	-	104,750	227,480	5,011	-	124,754	27	1,202,493	5,277	16	107,589	
2000	-	3,587,336	21,627	5,401	-	108,945	170,941	11,399	4	129,237	235	2,001,466	10,133	16	124,160	
2005	32	2,166,149	21,098	7,304	-	106,537	139,283	16,285	13	126,436	2,065	1,084,694	29,913	106	108,139	
2010	6,434	3,054,709	229,253	10,049	-	75,070	184,821	17,769	19	89,808	5,889	1,900,621	39,982	223	141,074	
2015	257,554	2,666,305	231,958	12,173	-	17,720	201,381	9,881	42	32,667	9,063	1,561,162	297,899	784	121,443	
2016	59,771	2,501,445	276,207	13,850	-	11,757	197,851	7,291	57	25,249	8,377	1,352,560	105,428	604	117,479	
2017	75,927	2,624,225	<b>932,209</b>	16,755	-	7,929	197,122	7,891	54	21,467	8,399	1,393,132	128,886	820	115,612	
2018	72,231	<b>2,681,269</b>	<b>906,645</b>	21,036	-	7,104	195,891	9,602	73	20,808	8,594	<b>1,404,019</b>	132,259	800	113,963	

Source: 'Refugee population by country or territory of asylum (1990-2018)', The World Bank, accessed on 17 February 2020, <https://data.worldbank.org/indicator/SM.POP.REFG>; 'Refugee population by country or territory of origin (1990-2018)', The World Bank, accessed on 17 February 2020, <https://data.worldbank.org/indicator/SM.POP.REFG>.  
OR.

### **Relevant International Standards**

The 1951 Convention relating to the Status of Refugees and the 1967 Protocol thereto are the foundation of the international refugee protection regime. The Convention, originally put in place to protect post-World War refugees in Europe, provides an internationally accepted definition of who qualifies as a refugee and who does not (for example, war criminals). It specifies certain rights that accrue to all those who qualify as refugees, some of which are: the rights to access employment, housing, education, public relief and assistance, freedom of religion, access to courts, movement, identification and travel documents. The Convention also restricts contracting States from certain actions, such as: discrimination, imposition of taxes different to those of nationals, and imposition of penalties on refugees who have entered illegally if they present themselves to authorities without delay. The cornerstone of the Convention is the principle of non-refoulement, now considered international law applicable even to non-contracting States, which prohibits forcible return of the refugees to the country from which they have fled. The 1967 Protocol removes all geographic limitations from the original Convention.

The 1954 Convention relating to the Status of Stateless Persons, and the 1961 Convention on the Reduction of Statelessness, along with UN's Campaign to end Statelessness provide the foundation for the international regime to end statelessness. The 1954 Convention, signed against the backdrop of the 1948 Universal Human Rights Declaration which stated that everyone has the right to a nationality, provides the legal definition of who qualifies as a stateless person, and who does not (for example, war criminals). It also specifies certain minimum rights that accrue to all those who qualify as stateless persons, including but not limited to: the rights to education, employment, housing and public relief, all on par with nationals. They are also entitled to identification and travel documents, and administrative assistance, and to generally be accorded the same treatment as is given to other aliens generally. The 1954 Convention also specifies that stateless persons are not to be expelled, except on grounds of national security or public order. The 1964 Convention furthers the provisions of the 1954 Convention and specifies certain measures to reduce the incidence of global statelessness. States are to grant nationality to all persons, otherwise stateless, who are born in their territory, and are also prohibited from depriving people of their nationality rendering them stateless.

Denied a nationality, stateless persons are among the most excluded of peoples, vulnerable to discrimination, violence and persecution. According to the latest (2017) figures from the United Nations High Commissioner for Refugees (UNHCR), there are 3.9 million people who belong to the category of ‘stateless’.<sup>14</sup> But the UN agency admits that this figure is a gross underestimate and the actual figure could be as high as 12 million.<sup>15</sup> The discrepancy in figures is mainly due to the fact that,

Fewer than half the countries in the world possess government data on stateless populations. The most populous countries with suspected stateless populations do not report on statelessness, among them China, India, Indonesia and Nigeria (together accounting for 42 per cent of the entire world population).<sup>16</sup>

Significantly, according to the UNHCR’s 2017 figures, more than 75 per cent of the estimated global stateless population belong to national or ethnic, religious, and linguistic minorities. This has contributed to the conclusion from the current Special Rapporteur on Minority Issues, Fernand de Varennes, that statelessness is a disproportionately minority issue. The key role of discrimination in contributing to statelessness has also been recognised by the UNHCR’s #IBelong Campaign, which seeks to eradicate statelessness by 2024.<sup>17</sup>

The officially recognised population of the stateless in South Asia is close to 1 million, with all of them being Rohingyas who have fled to Bangladesh from Myanmar, which itself is likely to be a gross underestimate.<sup>18</sup> Apart from this group, there is no recognised group

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14 Lily Chen, Petra Nahmias and Sebastian Steinmueller, ‘UNHCR Statistical Reporting on Statelessness’, *UNHCR Statistics Technical Series*, no.1 (October 2019), accessed February 25, 2020, <https://www.unhcr.org/5d9e182e7.pdf>.

15 United Nations News, ‘12 million stateless people globally, warns UNHCR chief in call to States for decisive action’, *United Nations News*, November 12, 2018, <https://news.un.org/en/story/2018/11/1025561>.

16 Lily Chen, Petra Nahmias and Sebastian Steinmueller, ‘UNHCR Statistical Reporting on Statelessness’, *UNHCR Statistics Technical Series*, no.1 (October 2019), <https://www.unhcr.org/5d9e182e7.pdf>.

17 ‘Four years into its #IBelong Campaign to end statelessness, UNHCR calls for more resolute action by states’, UNHCR, November 13, 2018, accessed February 25, 2020, <https://www.unhcr.org/news/press/2018/11/5be95d7c4/four-years-its-ibelong-campaign-end-statelessness-unhcr-calls-resolute.html>.

18 Institute on Statelessness and Inclusion, ‘Statelessness in Numbers: 2018



of the stateless in the region.<sup>19</sup> Yet, conditions leading to statelessness are apparent in all countries with instances of ‘statelessness or virtual statelessness’ continuing in the case of Indian Tamils of Sri Lanka, Indians in Myanmar, Urdu-speaking minorities (often referred to as ‘Biharis’) of Bangladesh, and Chakmas of Arunachal Pradesh.<sup>20</sup> There also exists a large group of people in Nepal without citizenship papers,<sup>21</sup> which does not render them stateless per se but given the paramount importance of the citizenship certificate to establish one’s identity and access almost any and every public service, it makes them virtually stateless. Recent developments in India are more troubling. With the NRC complete in Assam,<sup>22</sup> the central government is now planning a country-wide exercise to be followed by the application of the CAA. With plans already afoot to set up mammoth detention centres in Assam to house those who did not make it to the NRC, and the intention behind the NRC extension to the entire country being a thinly veiled attempt to declare all Muslims without the required papers as foreigners,<sup>23</sup> the possibility

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An Overview and Analysis of Global Statistics’, 2018, [https://files.institutesi.org/ISI\\_statistics\\_analysis\\_2018.pdf](https://files.institutesi.org/ISI_statistics_analysis_2018.pdf).

<sup>19</sup> United Nations High Commissioner for Refugees, *UNHCR: Statistical Yearbook 2016* (Geneva: United Nations High Commissioner for Refugees, 2017), accessed February 25, 2020, <https://www.unhcr.org/en-lk/statistics/country/5a8ee0387/unhcr-statistical-yearbook-2016-16th-edition.html>

<sup>20</sup> Partha S. Ghosh, *Migrants, Refugees, and the Stateless in South Asia* (New Delhi: SAGE, 2016). Ghosh also includes the enclave people in Indian and Bangladeshi enclaves but this issue has been resolved since his book was published.

<sup>21</sup> A 2013 study put that number to be 4.6 million, or 23 per cent of the total national population. Sabin Shrestha and Subin Mulmi, *Acquisition of Citizenship Certificate in Nepal: Estimation and Projection* (Kathmandu: Forum for Women, Law and Development, 2015).

<sup>22</sup> The NRC, however, did not turn out the way the BJP wanted it to in terms of identifying Bangladeshi Muslims as non-citizens. Of the 1.9 million Assam residents left out, half were Hindus and many others belonging to tribal groups indigenous to the state. See Kaushik Deka, ‘Why the nationwide NRC proposed by Amit Shah is being criticised,’ *India Today*, November 22, 2019, <https://www.indiatoday.in/india-today-insight/story/why-the-nationwide-nrc-proposed-by-amit-shah-is-being-criticised-1621483-2019-11-22>.

<sup>23</sup> Home Minister Amit Shah is on record stating: ‘All the Hindu, Sikh, Buddhist, Christians...will get citizenship...We want to walk up to them and give them citizenship. They wouldn’t be asked for any documents.’ See Rohan Venkataramakrishnan, ‘Who is linking Citizenship Act to NRC? Here are five times Amit Shah did so,’ *Scroll.in*, December 20, 2019, <https://scroll.in/article/947436/who-is-linking-citizenship-act-to-nrc-here-are-five-times-amit-shah-did-so>.

of millions being suddenly stateless is very real.<sup>24</sup>

The regional impact of such an exercise cannot be overstated. The two countries likely to be immediately affected by the Assam NRC are Bangladesh and Nepal. The intent behind the CAA is, clearly, to target Muslims who cannot prove residence in India. But since it does not cover migrants of Nepali origin within its ambit and even though the presence of Nepalis in India is governed by a bilateral treaty, given the overall sentiment against outsiders in India's northeast, there is a clear and present danger that both Bengali- and Nepali-speakers are likely to find themselves tarred as foreigners. While the immediate fallout on such an eventuality could be the targeting of Hindus by radical Islamists in Bangladesh, a country where this religious minority has always lived in constant fear, the larger consequence of rendering potentially an immensely large number of people suddenly stateless could have huge implications on the region's stability, both political and demographic.

The Indian example is but the most visible at the moment since it is only emblematic of a process that has been ongoing in different South Asian countries over decades, with the delegitimation of the claims over equal citizenship by various groups of people. This is partly a result of historical processes that have both political and social roots. But, it is also, to a large extent, due to political developments that have seen the nationalist-majoritarian agenda that have been successfully framed by political leaders in most of the countries, to the detriment of all kinds of in-country minorities.

## **The Report**

The *South Asia State of Minorities Report 2019* deals with the theme of migrants, refugees and the stateless. The particular focus of the report is on religious persecution or discrimination on the basis of religion contributing to those conditions for significant sections of the population in six of the eight countries in South Asia: Afghanistan, Bangladesh, India, Nepal, Pakistan and Sri Lanka. Bhutan and the Maldives do not feature in this publication since as

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<sup>24</sup> For a discussion on the links between the NRC and the CAA, see Rohan Venkataramakrishnan, 'Who is linking Citizenship Act to NRC? Here are five times Amit Shah did so,' *Scroll.in*, December 20, 2019, <https://scroll.in/article/947436/who-is-linking-citizenship-act-to-nrc-here-are-five-times-amit-shah-did-so>.

seen in Table 1, neither country hosts any refugees within its border even though both countries have contributed to the global refugee population in some small measure. As much is evident in the case of Bhutan, which is detailed in the country chapter on Nepal that also deals with Bhutanese refugees. Depending on context, the country chapters deal either with refugee populations that have left the country or are in the country, or with conditions that have left their minority populations in a state of (virtual) statelessness. Further, while the primary focus of the publication is on religious minorities, the contributions adopt an intersectional approach to deal with other minorities—national, ethnic and linguistic—and attempt to examine the particular conditions facing those most marginalised.

The selection of the 2019 theme was done through a consultative process involving the South Asia Collective (SAC). After initial discussions held remotely, members of the SAC came together in Kathmandu for the Regional Network Meeting in February 2019. Besides the launch of the *South Asia State of Minorities Report 2018*, the meet also provided an opportunity for SAC members to discuss the future plan of action as well as agree on a common theme that would have resonance in all the countries in the region. Accordingly, ‘migrants, refugees and the stateless’ was chosen as the subject for the 2019 report.

It was agreed that the country chapters would be drafted based primarily on secondary sources. Where required, either due to lack of information or to capture new developments, primary research consisting mainly of interviews was to be conducted to provide a more updated perspective on the situation. Some of the writing teams faced difficulties due to the absence of recent data, most tellingly in the case of Afghanistan, or lack of access to key groups, as in Bangladesh with regard to the Rohingya.

Although intended to highlight the scale and kinds of issues faced by migrants, refugees and the stateless, given the paucity of available information, the country chapters were not able to deal with all the groups in equal measure and do justice to them. Every attempt, however, has been made at the very least to either identify all the groups that fall in these categories or include them in the discussions otherwise.

The country chapters are followed by an annual update on the situation of minorities in South Asia. These updates highlight the major developments that took place in each country that had a direct impact on the minorities either through acts of commission or omission.

## **Migrants, Refugees, and the Stateless<sup>25</sup>**

### ***Afghanistan***

Afghanistan has no majority ethnic group but in terms of religion, Muslims form an absolute majority. Sunnis form the majority with 80-90 per cent of the population while Shias are at 10-20 per cent. Specific data on the composition of ethnicities is unavailable as no national census has been conducted in Afghanistan since a partial count in 1979, and years of war and population dislocation have made an accurate ethnic count impossible. The chapter on Afghanistan reviews the situation of three minorities in the country—the Hazaras, Ismaili Shias and Hindu-Sikhs. Due to the absence of comparability at present, the chapter does not dwell on the issue of the more than 72,000 people from Pakistan’s North Waziristan who have sought refuge in Afghanistan since 2014.

Minority rights in Afghanistan were historically curtailed; improved during the communist regime (1978 -1992); worsened after the Taliban takeover and their rule (1996-2001); has improved comparatively since the collapse of the Taliban regime in 2001 (specifically due to an international presence); and is again in jeopardy as the Islamic State (IS) gains control over parts of the country. The Afghan constitution has several contradictory provisions since it prohibits discrimination and commits to protection of the rights of all Afghans irrespective of their ethnicity, religion and language, yet puts the tenets of Islam above the law and limits the presidency of the country only to Muslims.

The three specific groups that the Afghanistan chapter deals with are the Shia Hazara, the Ismaili Shias, and the Hindus and Sikhs. The suppression of ethnic Hazaras in Afghanistan can be traced back to the 1880s. Branded ‘infidels’ by the majority

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<sup>25</sup> All the sources cited have been retained in the individual country chapters and removed from the introduction in order to avoid duplication.

Sunnis, Hazaras were barred in practice from holding office, enrolling in universities and joining the armed force even until the 1970s. Their social, economic and political situation improved during communist rule, but after the civil war began in 1992 and subsequent takeover by the Taliban in 1998, it worsened—with massacres, forced conversions and eviction. The post-Taliban years had been a respite, but with the IS on the rise in the region, Hazaras are again being persecuted as ‘infidels’.

The Ismailis are a small minority within the Shias and as such are among the most oppressed religious minorities in Afghanistan. One branch of the Shias, the Imami, consider the Ismailis to be ‘unclean’ while a majority of Sunnis consider Shias to be ‘unreal’ Muslims. Ismailis are still excluded and barred from positions of political authority.

Historically, the attitude toward Hindus-Sikhs in Afghanistan has been tolerant, though they have had to pay a non-Muslim tax to the state. The civil war in 1992 upended that status and they became prime targets for kidnappings, extortion and banditry. Their temples were destroyed and they were harassed to an extent that it led to a mass exodus by them to India and other places. Their situation worsened after the Taliban took control in 1996 with Hindus-Sikhs even being forced to wear yellow badges to distinguish them from Muslims. After the Taliban fell, many Hindus-Sikhs returned to Afghanistan but with the emergence of IS, their security has deteriorated. They have been constantly targeted by violent Islamist groups, prompting many to move to India.

Afghanistan is also home to refugees from Pakistan’s North Waziristan. But, due to a boundary dispute between the two countries, Afghanistan has not recognised this group as refugees, preferring instead to call them internally displaced people but without providing them with the required identification necessary to access government services. (It should be noted that a discussion of the larger Afghan refugee population takes place in the Pakistan and India chapters.)

### ***Bangladesh***

Bangladesh has no specific law on statelessness, and a stateless person is regarded as a foreigner. This chapter identifies the

vulnerabilities and challenges faced by several groups such as the Urdu-speaking minorities ('Biharis'), Dalits and Rohingyas in the country. The chapter looks at the available literature and examines the existing legislative and administrative measures with regard to these three groups.

Biharis are a linguistic minority of Urdu-speaking persons and their descendants who emigrated from India during and after the partition of the subcontinent in 1947 to what was then known as East Pakistan (now Bangladesh), and who are citizens of Bangladesh in accordance with the relevant national laws. The Supreme Court and the High Court of Bangladesh have affirmed that all members of the Urdu-speaking community were nationals of Bangladesh in accordance with its laws. However, due to the provisions in the Citizenship Bill of 2016, which envisage the revocation of citizenship as a result of the actions or identities of someone's parents, if adopted, many Biharis could see their citizenship rights being repealed.

There has been a lack of political will to recognise the existence of Dalits in Bangladesh as seen by the fact that the caste was not included in the 2011 Census. A majority of Dalits lack access to education, health care and other basic amenities, employment, the right to own property or land and are excluded from political power or influence. They are also denied access to hotels and restaurants, hairdressers, temples, public places, vehicles, trading, etc. The Constitution of Bangladesh does not have an anti-discrimination act, and despite attempts from human rights groups, the government has shown no inclination to introduce such acts. Furthermore, Dalit settlements are subjected to ad hoc evictions and resettlements, as cities continue to expand.

Only those Rohingya refugees living in the official UNHCR camps have secured official recognition through photo ID cards issued to all refugees above the age of five. Though these cards do not grant immunity from arrest or provide the right to freedom of movement, refugees in possession of a card stand a better chance of being released and/or granted bail once arrested. There are between 200,000 and 500,000 unregistered Rohingyas in Bangladesh who do not have any legal status and are categorised as 'illegal foreigners'. For the unregistered stateless Rohingya, there is no

official permission or prohibition on their freedom of movement. However, for those in makeshift camps, stepping outside of the camp places them at risk of arrest and detention under the Foreigners Act, which is an issue as lack of income generation within camps compels them to venture outside with these significant risks.

In addition to arrest and detention by the police, Rohingya are at risk of being bullied, harassed and beaten by the local population. The 'Rohingya Resistance Committees' in different areas of Cox's Bazaar lead hate campaigns against the Rohingya. More recently, the Bangladeshi government's stance toward the Rohingya has hardened following the failure of the latest repatriation attempt. Bangladesh has imposed a ban on the activities of scores of non-governmental organisations in Rohingya camps, limited mobile phone services to Rohingya, and is even planning to set up barbed wire around the camps to prevent their movement.

### ***India***

Refugees in India include, though are not limited to, Tibetans, Tamils from Sri Lanka, and Chakma and Hajongs from the Chittagong Hill Tracts of Bangladesh, all of whom receive full protection by the Indian government; Afghans and Rohingya, whose presence is acknowledged by the UNHCR; Chins, Rakhines and Nagas from Myanmar, who are not officially recognised as refugees as they have assimilated into the local communities; and ethnic Nepalis from Bhutan and religious minority refugees from neighbouring countries who live in unofficial camps in India. Among and beyond these, several groups are threatened by statelessness. There is also a marked contrast in the stated government policy towards persecuted non-Muslims, who are viewed favourably, and Muslims, who are viewed negatively. Yet, the living conditions reported by all of them are broadly similar and depressing: poor security, lack of basic amenities, poor healthcare and education facilities, and limited employment and livelihood opportunities.

Chakma and Hajongs can legally receive citizenship due to a 1996 order from the Indian Supreme Court. Yet, resistance from local student groups in the Indian northeast and politicians have resulted in these groups living in limbo, unable to access services and jobs. Kashmiri ex-militants and their families, too, remain in

a state of uncertainty. The Jammu and Kashmir State government had announced a rehabilitation policy for the group, along with their families, promising rehabilitation, citizenship and essential documents, besides education, employment and financial assistance in 2010—which is yet to materialise until now. Sri Lankan Tamil refugees have been granted citizenship and the receptive Tamil Nadu government has been providing ration cards and free access to government hospitals as well as some monetary aid. However, problems persist as the aid is inadequate and they are unable to find gainful employment.

Pakistani Hindus and Bangladeshi Hindus in India live in squalid camps with no sanitation facilities or reliable electricity. Local NGOs and social workers have had to step in in the absence of tangible action by the state or national governments. One non-Muslim group that has received local pushback in India has been Hindus from Bangladesh, whose presence is resisted in the state of Assam, where influential student organisations have spearheaded a campaign since 1978 against the ‘invasion’ of Assam by ‘land-hungry Bengali immigrants’.

Afghan refugees do not live in camps and there are a few significant government measures for Afghan nationals in India. Those registered with UNHCR are able to live and find work in the informal economy, and also access government healthcare and education system. A notable government initiative has been the announcement of scholarships for 1,000 Afghan students to study in Indian universities.

Rohingyas are among the most harshly treated groups in India. Most Rohingyas live in camps with squalid conditions and report exploitation at the hands of locals. Yet, Rohingyas have also been the target of state ire as they have been forced by Indian authorities to return to Myanmar, even without any guarantee of improved situation for them in that country. While in the past, Indian courts have upheld the principle of non-refoulement, the Supreme Court did not intervene in one case involving the deportation of Rohingya. Furthermore, the recent rise in anti-Muslim rhetoric across the country since the assumption of power by the BJP, has resulted in increased hostility among the local population about the presence of the Rohingya in India.



Of all the groups, only the Tibetans seem to have relatively good access to rights and services. The Tibetan government-in-exile is based in Dharamshala and the Indian government has been friendly to the cause of Tibet. Hence, the needs of the community in healthcare, education, culture, and religion have been met. The Indian Government's recently formalised Tibetan Rehabilitation Policy has promised to allow the Tibetans to undertake any economic activity and pursue jobs in any field in which they are proficient, yet it has failed to result in any tangible change so far.

Since India has neither signed the 1951 UN Convention on Refugees nor devised its own domestic refugee law, refugees and forced migrants are treated on par with other foreigners, governed by the outdated Foreigners Act 1946. Some fundamental rights guaranteed by the Indian Constitution that are denied to foreigners are also denied to refugees and asylum-seekers. Likewise, India has also not ratified the 1954 and 1961 Conventions on Statelessness, meaning there is no legal recognition of statelessness persons—a prerequisite to access many rights. However, there have been cases where the judiciary has recognised the rights of refugees and protected refugees to a certain extent.

The BJP government has slowly turned this humanitarian issue into a religious one. In 2015, the BJP government decreed through executive order on 'humanitarian considerations', to allow Afghan, Bangladeshi and Pakistani nationals belonging to non-Muslim minority communities (specifically Hindu, Sikh, Jain, Buddhist, Parsi and Christian) to stay on in India even without proper documentation, though this meant difficulties in getting jobs and so on. This consideration was not extended to persecuted Muslim communities.

Furthermore, India has also been disenfranchising some of its own citizens arbitrarily, making them foreigners in their own land, incarcerating them in detention centres, and putting them at risk of statelessness. The National Register of Citizens (NRC) drawn up in Assam, which the current regime now wants to scale up nationally, with 'illegal immigrants', a dog-whistle term in public discourse used in India for Muslims, as the stated target. Its implementation, however, has cut across religious, ethnic and linguistic divisions, affecting the poor and the vulnerable most,

who cannot afford effective legal representation. Taken together with the passage of the Citizenship (Amendment) Act 2019, this arbitrariness and discrimination, mostly directed at Muslim groups, is being institutionalised under the current Hindu-majoritarian dispensation, with citizenship laws effectively being used for political ends, significantly amplifying the mass production of statelessness.

### ***Nepal***

While Tibetan and Bhutanese refugees account for almost all of Nepal's refugee population (64 per cent and 31 per cent respectively), more than 500 refugees and asylum-seekers from other countries have been living in Nepal since the early 1990s. Nepal has also been hosting a small community of Rohingya refugees who have made their way into Nepal since 2012.

Both Tibetan and Bhutanese refugees in Nepal had been subject to religious persecution and human rights violations prior to their exodus from their home countries. Currently, there are over 13,000 Tibetan refugees, spread in 14 different settlements across Nepal. At present, the Nepal government recognises only those Tibetans who crossed the border before 1989 as refugees; anyone coming in after that year is considered an illegal immigrant. After 1994, Nepal stopped issuing refugee cards (RCs) to children who turned 16 even if they were born to parents holding RCs, leaving many stateless. Fewer than 25 per cent of the Tibetans in refugee settlements hold RCs, which provide the holder with the right to reside and travel in Nepal. Without RCs, refugees live in constant fear of deportation and are subject to exploitation by authorities.

Of the over 108,000 Bhutanese refugees initially housed in seven camps in Nepal, only an estimated 6,500 remain in Nepal. The rest have now left for third-country resettlement to eight countries around the world. Many of the refugees remaining in Nepal are those who were unable to apply for third-country resettlement owing to lack of valid RCs. For others, the reasons for staying back are varied. Many of the Bhutanese refugees in Nepal await one of three solutions: repatriation to Bhutan, resumption of the third-country resettlement programme or assimilation in Nepal as Nepali citizens.

Assistance from international donor agencies and organisations in the Bhutanese refugee camps has been extensive ever since the arrival of the refugees in early 1990s. However, as the refugee population began to shrink with the launch of the third-country resettlement programme, most donors have now withdrawn their services from the camps. Funding for the Tibetan settlements comes from the Central Tibetan Administration based in India along with several international donor agencies.

As a result of their refugee status, both groups of refugees report being cut off from economic opportunities in Nepal. Relations with local communities are cordial but unlike in the case of the Bhutanese, Tibetan refugees report facing restrictions in voicing their political opinions, increasingly so over the years. Even peaceful protests are met with police interventions. In addition, there is also some reportage of deportation of Tibetan refugees by Nepali authorities. There have been instances in the past when the refugees have been barred from celebrating the birthday of their spiritual leader, the Dalai Lama. They also claim that they are also under high police surveillance around 10 March every year, the national uprising day in Tibet. Most recently, the Tibetan refugees report to have been under strict surveillance and monitoring during the Chinese president's visit to Kathmandu in October 2019.

### ***Pakistan***

Pakistan is a highly diverse country, specifically in terms of religious beliefs. According to available statistics, as recorded by the National Identity Card (NIC) registrations, the Hindu community is the largest religious group after Muslims, with 1.4 million adherents. Second is the Christian community with 1.3 million followed by Ahmadiyas, declared to be non-Muslims in the 1970s, of whom there are 125,681. Over 33,000 Pakistanis are followers of the Baha'i faith, 6,146 of Sikhism, and over 4,000 are Zoroastrians, or Parsis. Lastly, around 1,500 Pakistanis have declared themselves Buddhists.

The constitution of Pakistan states that the minorities are subject to the principles of 'democracy, freedom, equality, tolerance and social justice as enunciated by Islam'. This has an effect of alienating those belonging to other faiths, since such a clause, at best, gives

them the status of second-class citizens in comparison to Muslims. Taken together with other laws, the constitution works to sustain the place of Muslims as higher than the others.

Since 1986 when an amendment to the Blasphemy Law made the punishment for insulting the Prophet Muhammad equivalent to ‘death or imprisonment for life’, 776 Muslims, 505 Ahmadiyahs, 229 Christians and 30 Hindus have been accused of various forms of blasphemy between 1987 and 2018. The law has been criticised by legal experts for being weak and vague, allowing many to take advantage of it to launch false accusations and malign others for the sake of personal vendettas. While there has been a stronger opposition to the blasphemy law and celebrities and renowned members of the civil society have taken a stance against persecution of minorities, the religious lobby remains just as strong, thwarting any meaningful dissent that call for an amendment or abolishing of the law.

Information regarding Afghan refugees is inevitably limited, since official statistics only trace the reported numbers of registered refugees, and there is a large number that remains unregistered. According to the UNHCR, there are 1,416,078 registered Afghan refugees in Pakistan; 68 per cent of them live in urban areas of the country, the remaining 32 per cent in Refugee Villages (RVs) in the rural areas of the country. The general institutional response to the Afghan refugees’ plight has been poor. A recent ruling by the Peshawar High Court called for the restriction of activities by the Afghan refugees, including limitation on their ability to conduct businesses. Afghans conducting trade face special disadvantages, with additional checks and procedures levied on their import and export activities. Aside from these restrictive visa regimes, tariff barriers, customs regulations and administrative hindrances, Afghans face a receding space for economic activity and increasingly, unequal access to opportunities. Most issues are discounted by administrative authorities as the government continues to endorse the voluntary repatriation programme for the Afghan refugees. The initial deadline for repatriation (30 June 2019) was recently extended by a year. Current data estimates show that the UNHCR has facilitated the voluntary repatriation of 4,374,208 Afghan refugees from 2002 till December 2018. Around 5,500

more appear to have been repatriated in 2019, with the majority being women and children. Many of those who have opted for repatriation have done so in the absence of a route for seeking asylum in Pakistan, the country where most have lived their entire lives and continue to call home.

### ***Sri Lanka***

Sri Lanka's population of 21 million is dominated by the Sinhala community, which makes up 75 per cent of the population. The next two largest ethnic groups are Sri Lankan Tamils at 11 per cent and Sri Lankan Moors (Muslims) at 9.3 per cent. Buddhism is the predominant religion with 70 per cent of the population while followers of Hinduism and Islam make up 12.6 per cent and 9.6 per cent respectively, and Roman Catholic and other Christian denominations make up 7.6 per cent. Sub-sects and denominations within these predominant religious identities also have smaller communities in the country, such as the Sufi, Ahmadiya, Evangelicals, Methodists and so on.

Indian Tamils, or 'Up-Country Tamils', make up 4 per cent of the population. They became the primary 'stateless' population in post-independence Sri Lanka, after the enactment of the Citizenship Act of 1948, which denied them citizenship rights. Subsequent legislation granted them citizenship rights but this community remains one of the most marginalised in Sri Lanka with many challenges to accessing basic government services and socio-economic rights.

The 30-year civil war between the Sri Lankan state and the Liberation Tigers of Tamil Eelam (LTTE) was predicated on strong ethnic, land and language politics that continue to be a source of tension in the island. The post-war period since 2009 has also been marked by incidents of religious violence, predominantly between majority and minority communities, but also between minority communities. Following the end of the civil war, the occurrence of prolonged and systematic attacks, human rights violations and discrimination against religious minorities was brought into sharper focus. There has been a notable increase in both incidents of violence as well as systematic discrimination and harassment of minority religious communities, often coupled with

State inaction. Following the civil war, the state has pursued an active agenda of promoting Buddhism, and failing to act as right-wing majoritarian forces engaged in hate speech, harassment and violence against religious minority communities. State-sponsored Sinhala colonisation of lands in the North and East, while not a new phenomenon, has been rapidly implemented after the war.

While violence against resident Muslim and Christian minorities by factions of the majority Buddhist community predominates, violence and discrimination has also been inflicted by (majority) Sunni Muslims against Sufi and Ahmadiya Muslim minorities. Sporadic violence between Christian and Hindu communities and Muslim and Hindu communities has also been recorded. In the most recent incident of April 2019 (the Easter Sunday attacks), Islamic extremists, identified as members of local militant groups, attacked sites of Christian worship and luxury hotels in the Western and Eastern province, causing large-scale death and destruction. Following that incident, the situation in Sri Lanka has worsened for religious minorities.

Violence against Muslims is not a new phenomenon. The extent of violence against Muslims was brought to national attention, following the end of the war in 2009. The most recent period of anti-minority violence post-war is characterised by the overt triumphalism and Sinhala Buddhist nationalist discourse of the majority community. Likewise, violence against Christian communities, particularly evangelical and other Christian minority groups, has been a common occurrence in Sri Lanka's recent history. It is commonly believed that violence against Christian minorities arises as a result of the practice of proselytising and from the suspicion of alleged forced conversions of members of other religions.

Over the last decade or so, Sri Lanka has been the destination of asylum-seekers fleeing persecution in countries such as Pakistan, Afghanistan and Myanmar. There are currently approximately 1,600 refugees and asylum-seekers living in Sri Lanka. Most are religious or ethnic minorities in their home countries, such as Ahmadiyas and Shia Muslims, Pakistani Christians, and Rohingya Muslims. Asylum-seekers in Sri Lanka register themselves with the UNHCR, and are provided with a certificate that provides them

with legal protection and justification to stay in Sri Lanka. They are not allowed to find legal employment, and the state does not provide them with any support or services. In the days immediately following the Easter Sunday attacks, refugees and asylum-seekers from Pakistan, Afghanistan and Iran came under attack and faced intimidation, threats and harassment. Many were evicted from their rented homes. The presidential election campaign in November 2019 as well as the on-going politically sensitive climate regarding Muslims have resulted in the government taking drastic measures towards asylum-seekers, and at least informally, there appears to now be a policy to deport them.

### **State of South Asian Minorities<sup>26</sup>**

This section consists of a summary of the last chapter, 'State of Minorities in South Asia, 2019', which provides an update on the status of minorities in countries across South Asia. The update outlines some key events in each country that have a bearing on minorities, including political, policy, and legal developments.

#### ***Afghanistan***

The result of the September presidential election in Afghanistan has finally revealed that the incumbent Ashraf Ghani has been re-elected and the current Chief Executive Abdullah Abdullah has promptly contested the result. The dispute over the election results marked the deep ethnic polarisation and has raised fears of instability with dire implications on minorities. The government of the current president has been accused of fuelling ethnic tensions and of favouring his own ethnic group over other ethnicities, causing widespread resentment among other ethnic groups.

Another important development in 2019 was the peace talks with Taliban insurgents. However, as the talks continue between the US and the group, there are speculations that intra-Afghan peace talks would also begin, following an initial agreement between the parties to the current peace negotiations. The Taliban have continued to haggle over power-sharing and might win a big share of power

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<sup>26</sup> All the sources cited have been retained in the chapter dealing with the state of South Asia's minorities and removed from the introduction in order to avoid duplication.

should an agreement be reached. The process has raised concerns among women and minority groups given the Taliban's well-known maltreatment of women and minorities. Both representatives of women and members of minority groups have asked the governments of Afghanistan and the US to ensure that the process is inclusive, that their concerns are addressed, and that the post-Taliban gains in terms of human rights and democracy are consolidated.

### ***Bangladesh***

Several incidents of violence against minority communities took place all over the country. There has been a similar pattern to many such episodes—hacking the Facebook ID of a minority person and posting images or messages hurting religious sentiments, the post going viral, the resultant outrage on social media and streets, which finally ends in attacks on minority communities. One such instance in October 2019 took place in Bhola District of Southern Bangladesh, leaving four killed. The clash between the police and religious bigots in Bhola, following social media propaganda, could be seen as a consequence of the administration and police's failure in previous incidents.

The Ahmadiya community also experienced scattered violence in different places of the country. In February 2019, Ahmadiyahs in Panchgarh District came under attack when they were arranging a Jalsha (the annual conference of the Ahmadiya Muslim Jamat) when supporters of three Islamist organisations urged the government to prohibit the conference as well as declare Ahmadiyahs as non-Muslim.

Tensions over the National Register of Citizens (NRC) in neighbouring Indian state of Assam could also be felt in Bangladesh, but apart from some demonstrations by Islamist organisations, no major incident was reported. However, after the adoption of the Citizenship (Amendment) Act 2019 in India, the border areas saw increased activity with hundreds arrested on charges of cross-border trespassing. Although the arrestees claimed to be Bangladeshis, they had no documentary evidence to back their claim. It is feared that this ingress into Bangladesh by people claiming persecution in India can have a detrimental effect on Bangladesh's religious minorities, especially Hindus.



The implementation of the Chittagong Hill Tracts Accord has been proceeding at a slow pace and the indigenous hill people of Chittagong have been forced to live a life of uncertainty and insecurity. Communal attacks on indigenous people, illegal grabbing of their lands and their eviction, rape of indigenous women, killing, abduction and other violent incidents have increased at the country's different regions. This included the disappearance in April 2019 of Michael Chakma, a top leader of United People's Democratic Front (UPDF), a Chittagong Hill Tracts-based organisation.

### ***India***

The year 2019 was a tumultuous one for India's religious minorities, particularly its Muslims, with the country's liberal-secular polity coming under fresh and renewed attack following the re-election of the Hindu nationalist Bharatiya Janata Party (BJP) government led by Narendra Modi. In the first parliamentary session after its resumption of power, the BJP government unveiled a slew of legislations that have the potential to further embolden the targeting of the country's religious minorities, including the Unlawful Activities (Prevention) Amendment (UAPA) Act, the Muslim Women (Protection of Rights on Marriage) Act, and the revocation of Article 370 of the Indian constitution—a clause that had granted limited autonomy to Jammu & Kashmir, India's only Muslim-majority state.

The government response to opposition to the revocation of Article 370 has been strong with thousands of local Kashmiri Muslims detained, and night-time raids and torture being employed by Indian security forces. Communications had initially been blocked and the internet services remained suspended at the time of writing. Earlier, Kashmiri Muslims across India faced harassment and targeted violence following a terrorist attack in the erstwhile state that had left 40 security personnel dead.

In the state of Assam, the publication of the final National Register of Citizens (NRC) in August left out 1.9 million people, bringing them one step closer to being stripped of their citizenship. The Indian government has announced its intentions to extend the NRC exercise to the rest of the country, and has already begun

the construction of massive detention centres in anticipation. Related to the NRC exercise was the passage of the Citizenship (Amendment) Act (CAA) in December 2019, which eases the path to Indian citizenship for all non-Muslims fleeing religious persecution in Afghanistan, Bangladesh and Pakistan. The passing of the CAA sparked protests in India's north-eastern states, where the BJP is accused of communalising an ethno-linguistic issue, and in Muslim universities and elsewhere across the country, with the police response being violent, particularly in Muslim dominated institutions and localities. The CAA has been challenged in India's Supreme Court (SC) on its constitutionality. But, recent SC judgements on minority rights raises serious questions about its willingness to defend India's founding principle of secularism.

Elsewhere in India, the violent targeting of minorities, religious or otherwise, has continued. The victims are usually Dalits or Muslims, often the poorest and most vulnerable among them. While there are some figures available, the real number of atrocities is believed to be much higher. The perpetrators are usually radical Hindus, and with the BJP in power, they operate with impunity. The official response from the state has been denial, with the National Crime Records Bureau's 2017 report released in October 2019 refusing to divulge any data about mob lynching.

### ***Nepal***

There are 6,470 Bhutanese and 12,540 Tibetan refugees in Nepal recorded by the United Nations High Commissioner for Refugees. While more than 100,000 Bhutanese refugees have been resettled in third countries, those remaining in Nepal are in limbo with humanitarian agencies ending their decades-long support at the end of 2019.

Tibetan refugees reported harassment from the police before the visit by Chinese President Xi Jinping in October 2019, with the arrest of a number of Free-Tibet campaigners and human rights activists from Kathmandu. The celebrations of the 84th birthday of the Dalai Lama was banned for Tibetans living in Nepal, in a reversal from the previous years.

The Constitution of Nepal 2015 defines the country as secular. Yet, there are inherent contradictions as laws that disadvantage certain

communities over others still exist such as the criminalisation of the slaughter of cows. In 2018/19, 34 such cases have been registered in the Supreme Court. Acts of religious conversion are prohibited by the Constitution and reports of arrests on charges of conversion continued.

Some pro-Dalit policies were also introduced such as the government providing land to landless Dalits, and the government of Province 2 drafting a bill proposing full scholarship to all Dalit students in higher and technical education as well as ration cards and health benefits. Dalits, however, report facing both structural and physical violence in their communities as seen by Dalits, including lawmakers being denied accommodation in the capital, being barred from shops and being confined to specific areas during festivals and celebrations.

Nepal has been hailed as a leader in South Asia vis-à-vis the rights of sexual minorities, with 1500 individuals receiving their citizenship as per their desired gender category as 'others' till 2019. Yet, sexual minorities reported facing discrimination, even at home. The 2017 Civil and Criminal Codes continue to define marriage as a union between a man and a woman despite a recommendation in 2015 by the Supreme Court that same-sex marriage be legalised.

### ***Pakistan***

In Pakistan, Christians, Hindus, Ahmadiyas, Balochs and Pashtuns are under attack, by both state and non-state actors. But, the lack of data prevents a thorough analysis of the situation and also works against planning for action against discrimination toward minorities. The country's vaguely formulated blasphemy law, in which a conviction is followed by a mandatory death sentence, targets religious minorities disproportionately and is in many instances used to settle personal scores.

The year 2019 saw increasing instances of attacks against religious minorities. There were reports of private buildings displaying signs saying 'Selling or renting any apartment in this building to non-Muslims is prohibited'; and shopkeepers have forbidden services to Ahmadiyas and Shias. A ranking government official was even forced by a horde of students to apologise for calling for equal rights and harmony with the Ahmadiya community.

The phenomenon of women who are religious minorities being married fraudulently to Chinese men and forced into prostitution or slavery has been on the rise, which the government brushes it off as ‘rumours and fabricated facts’. Persecution of Christians is similarly denied and described as driven by ‘Western interests’. Authorities have reached out to social media platforms such as Facebook and Twitter for help in tracking blasphemy.

Discrimination comes from both citizen vigilantism as well as government action. The country’s poor resolve to address minority concerns does not hold a promising future. Emblematic was the rejection by the National Assembly of a bill allowing non-Muslims to serve as president and prime minister. Six months after the approval of legislation against forced conversions by both houses of Parliament, the parliamentary committee tasked to work on it was finally notified. The committee remains further bogged down by administrative delays.

### ***Sri Lanka***

Several factors impacting minority communities in Sri Lanka in the year 2019 can be linked to two key events: the terrorist bombings on Easter Sunday in April, and secondly, the election of Gotabaya Rajapaksa as president in November. Political, policy and legal developments as well as hate speech, incidents of violence and incarceration that took place can be drawn from these two events. However, it is important to note that attacks on minorities existed before and outside of these events as well.

Islamist terrorists were identified as the perpetrators behind the six bombings that took place on Easter Sunday in April 2019. That was followed by increased scrutiny of Muslims by security and law enforcement personnel. A number of Muslims were arrested for the possession of the *Quran* and Islamic writings in their homes, or for the contents of their social media accounts. Among the emergency regulations put in place was the ban on wearing the *burqa* or *niqab*. The immediate aftermath of the bombings saw a rise in hate speech and false news towards and about Muslims. There were also calls orchestrated by the media to boycott Muslim businesses. In May, there were mob attacks against Muslim-owned businesses and mosques in the North-Western province.

Several politicians and Buddhist religious leaders questioned the need for Muslims to have ‘different laws’ in Sri Lanka, in reference to the Muslim Marriage and Divorce Act. The Cabinet hastily passed a draft bill and its contents were not made public till much later. The Act has been criticised for not being adequate in protecting Muslim women in marriage.

Gotabaya Rajapaksa’s candidacy for president in the aftermath of the Easter attacks was fraught with fear for Muslims. His continued patronage of the Bodu Bala Sena (BBS), an extremist group that has spread violent speech and coordinated violence against their community, was a cause for concern. Stoking fears against the Muslim community constituted a large part of the Rajapaksa campaign, either through social media posts or politicians and MPs who supported him.

When results were announced, electoral maps indicated that support for Rajapaksa was lowest in the Northern and Eastern provinces. Sinhala citizens and commentators on social media used this voting pattern to claim that Tamils and Muslims in these areas still wished for ‘Eelam’, referring to the LTTE. The assertion that Rajapaksa won ‘without the support of the minorities’ has been used to reinforce the status of Sinhala-Buddhists in Sri Lanka.

For the first time in Sri Lankan history, a presidential candidate spoken on behalf of the LGBTIQ+ community and promised them equal rights before the law. Anura Kumara Dissanayake, candidate for the National People’s Power Movement, declared that if he was elected, sections of the law that discriminate against the community would be repealed, and discrimination faced by them would be addressed. The silence of Rajapaksa on this community’s needs, indicates it is unlikely there will be an improvement in their status over the next five years.

## **Conclusion and Recommendations**

Even discounting the case of the Rohingya where the countries they have sought refuge in have almost all made them feel quite unwelcome, barring a few anomalies, the vast majority of refugees in South Asia have been denied the right to a dignified life in the host countries. Besides their uncertain status, there are few opportunities available to refugees and asylum-seekers

for economic advancement, and they have been made to rely on handouts from government and international agencies that are in almost all cases woefully inadequate.

Rising majoritarianism in many countries have also fuelled the negative sentiments against refugees and asylum-seekers, particularly if they belong to a religion that has been demonised domestically or if they belong to sects that are viewed by the majority as deviant in one way or another. These have often resulted in violence against minority religious groups. Unfortunately, minority sects also face discrimination and violence from fellow adherents of the same faith but of a different sect even as the latter face persecution from extremists belonging to the majority religions.

Conditions have also been created in all South Asian countries for large populations of these groups to be rendered stateless in countries they have lived in all their lives. While geopolitics also plays a part in the systematic denial of any kind of official recognition to some of these groups, in most cases, it is largely this fear and even hatred of religious and other minorities that serve as drivers of this inhumane policies.

As non-citizens in a region where all countries barring one has signed the Refugee Convention, and none of the South Asian states have signed up to the Conventions on Stateless People, refugees and asylum-seekers along with the stateless form the most vulnerable population group as evidenced in this report through incidents of violence and denial of even the most basic services. It is the onus of all South Asian governments therefore to bring positive change to the lives of these groups of people, and it is for this reason that the recommendations are aimed towards them.

*All the governments in South Asia are urged to:*

- Sign the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol<sup>27</sup> in order to provide protection and services to all the refugees in the region.
- Concurrently, introduce domestic legislation to cover refugees and asylum-seekers to grant them the opportunity lead a dignified life.

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<sup>27</sup> Afghanistan is the only South Asian country to have signed both.

- Ensure that the universal principle of non-refoulement of asylum-seekers is not transgressed.
- Initiate steps to facilitate the repatriation of refugee groups to their home countries under conditions that guarantees their safety.
- Accede to the 1954 Convention relating to the Status of Stateless Persons and the 1961 Convention on the Reduction of Statelessness in order to prevent population groups being rendered stateless arbitrarily.
- Design and implement procedures to effectively determine statelessness, and take steps to introduce measures to protect stateless persons or those at risk of statelessness from arbitrary detention.
- Recognise de facto and de jure statelessness as disproportionately a minority issue, and adopt measures to more effectively address the root causes of statelessness.
- Take steps to incorporate the provisions of international agreements into domestic legislation to protect the rights of all minority groups, including refugees and the stateless. Make sure that these measures are attuned to the particular challenges facing those most marginalised.
- Collect and publish disaggregated data detailing the number of all the vulnerable groups and their living conditions, while ensuring appropriate data protection.
- Ensure there is no discrimination based on religion, ethnicity or otherwise against all refugee groups. Where not yet done, enact laws against discrimination and strictly implement the same, or repeal existing legislation that promotes discrimination.

*Civil society across South Asia is encouraged to:*

- Continue to build and advance dialogue and initiatives across the region to better understand and address the regional dynamics of the issues facing minorities, including migrants, refugees, and those experiencing or at risk of statelessness.
- Work collectively to advocate for a South Asia regional mechanism to effectively promote and protect universally guaranteed human rights, as well as minority rights and those of migrants, refugees, and stateless populations.