

Executive Summary

Across South Asia, civil society is being increasingly constrained. It is either too nascent, due to late democratic development, or where it has had a little history of growth and nurturing, is facing strong challenges. Anti-democratic authoritarian tendencies and greater securitisation of laws and practices appears to be the main drivers of this narrowing trend, with the mid-2010s appearing to be the period of convergence for this constriction in many of the countries. Democracy champions, human rights defenders (HRDs), and activists have been in the crosshairs of authorities everywhere for challenging state actions and speaking out. A great deal of the narrowing of space for civil society concerns minorities, which is also due to the hardening of majoritarianism across the region.

This report focuses on the status of civic space in South Asia, specifically for minorities. A comprehensive and inclusive definition of civic space includes social movements, national and international non-governmental organisations (NGOs), civil society organisations (CSOs), the media, academics, and activists, among others. A functional civic space depends on the rights i) to associate, ii) assemble peacefully, and iii) freely express views and opinions. Hence, each chapter of the report seeks to explore the status of these three ‘basic freedoms’ in several ways.

The chapters relied on desk research with a review of published materials on civic space for minorities in the respective countries. The chapters also include assessments of laws and policies to regulate civic space as well as the bills proposed over the years to capture the general mood of the government over time vis-à-vis civic space and civil society. Some primary data was collected through an online expert survey for Afghanistan, India, Pakistan and Nepal to assess the public perception on civic space there. While a similar survey was undertaken in all the countries, the pandemic as well as other factors led to a very low number of

respondents, making the analysis moot. The pandemic also resulted in the research for individual chapters being mostly confined to materials available online.

Key Findings

The constitutional rights of freedom of expression, association, and assembly in all the countries—Afghanistan, Bangladesh, Bhutan, India, Nepal, Pakistan, and Sri Lanka—have been increasingly violated by superseding legislation introduced by the respective governments within the last decade or so. One prominent example is the increased regulation of registration of CSO/NGOs. As a consequence, civic space is becoming more restrictive over time, creating a hostile environment for CSOs/NGOs, progressive media entities and human rights defenders.

- i. *Freedom of Expression:* The region has seen a curtailment of freedom of expression. Some examples include the International Covenant on Civil and Political Rights Act 2007 being deployed to curb freedom of expression and silence critics in Sri Lanka rather than arrest persons inciting ethnic/religious tensions. In Afghanistan, the Mass Media Law 2009 was meant to consolidate freedom of expression but instead contains clauses that require the upholding of Islam, which has been steadily weaponised by the government in recent years. Freedom of expression is also affected in Bangladesh, particularly in light of Digital Security Act 2018 under which, posting false, provocative, indecent or sensitive information on websites or any electronic platforms that is considered defamatory or likely to disrupt the country's law and order situation, or harm religious sentiments, is a punishable offence. In Bhutan, under the National Security Act 1992, speech that creates or attempts to create 'hatred and disaffection among the people' or 'misunderstanding or hostility between the government and people' can be punished with imprisonment. In India, there have been several instances of censorship of TV news channels, with channels that have broadcast views

critical of the government being banned. In Nepal, there has been an amendment proposed to the Media Council Bill about journalists requiring a licence to work while the Criminal Code of 2018 can punish journalists for publishing information deemed ‘confidential’.

- ii. *Freedom of Association*: The countries are wielding the power to deny registration or renewal of registration of CSOs/NGOs to attempt to regulate them. In Bhutan, CSOs are reluctant to engage in advocacy efforts for fear of having their registration certificates revoked. India’s civil society actors—its human rights lawyers, activists, protesters, academics, journalists, liberal intelligentsia—in fact, all those who have spoken up against government excesses and majoritarianism, have increasingly been under attack. Alongside, the Foreign Contribution (Regulation) Act, which regulates foreign donations to entities in India, has been further weaponised against progressive and minority NGOs. In Bangladesh, under the Foreign Donation (Voluntary Activities) Regulation Act 2016, registration of NGOs has been made mandatory for receiving foreign donations. In Pakistan, NGOs and INGOs are subject to extensive regulation involving multiple, lengthy procedures of registration, security clearance, and approvals for funding. The entire process is characterised by an absence of transparency and limited civilian oversight, resulting in arbitrary rejections of NGO applications, which severely curtails their ability to function. In Nepal, existing laws are cumbersome already, while new bills proposed will ensure severe curtailment of the civic space. In Afghanistan, the NGOs law includes a burdensome ‘re-registration’ clause which implicitly allows the government to refuse to register a specific NGO, leading to its automatic removal.
- iii. *Freedom of Assembly*: Violence against religious minorities is being used strategically to implement fundamentalist and supremacist national rhetoric. In Afghanistan, the Assembly Law places significant restrictions on gatherings, protests, and demonstrations, a serious concern for HRDs. In India, in

order to forestall any dissent against anti-minority policies, authorities have imposed effective martial law—snuffing out civic space completely in Muslim-majority Kashmir—but also severely limiting it to Muslims and other groups protesting anti-minority policies and practices elsewhere. Public protest is not an outlet available to religious minorities in Pakistan as most fear violence and retaliation by extremists and Christians cannot effectively gather and pray because of the increasing opposition to the existence of churches in non-metropolitan areas. In Nepal, Christian faith-based NGOs also report facing increased scrutiny. In Sri Lanka, the period after the Easter attacks of April 2019 saw Muslims subjected to discrimination, harassment, arbitrary arrests and detention, and even violence.

- iv. *Targeting of Religious Minorities:* Civic space for religious minorities, too, has been curtailed. In Pakistan, lawyers who work as human rights activists, especially those defending cases of minorities related to blasphemy, but also Christian and other minority lawyers continue to face threats for the work they do. The Blasphemy Law has been used to enable violence against religious minorities in Pakistan. There have been reports of Christians being deprived of state benefits in Bhutan. India has become a dangerous and violent space for Muslim minorities. In December 2019, an amendment in the Citizenship Act was passed which opened a pathway for a category of illegal immigrants, specifically leaving out Muslims. In the run-up to the legislation, the government also declared its intentions to create a National Register of Indian Citizens, which would have the potential to render many Muslims stateless.
- v. *Targeting of HRDs:* In Afghanistan, since 2014, HRDs, civil society activists, and journalists have been constantly exposed to threats, harassment, intimidation, detention, and killings by both state and non-state actors. There is an adverse environment for CSOs and HRDs in Bangladesh with the Digital Security Act used to suppress freedom of speech and harass writers, activists, and journalists—often

for their feedback on social media. In India, HRDs have also reported being subjected to a campaign of threats and intimidation, by state agencies and ideological groups aligned to them. In Pakistan, journalists, writers, and human rights activists who raise a voice and advocate for the rights of minorities or simply talk about free speech are being seen as voices to be suppressed. In Sri Lanka, too, there has been an adverse environment for HRDs, the pinnacle of which is the government announcing the country's withdrawal from Human Rights Council Resolution 30/1 and 40/1.

- vi. *Covid-19 Pandemic:* The Covid-19 pandemic has resulted in a further attack on civil liberties in many of the countries. While states have undermined the role of NGOs in the country through undue control over them or questioning their role in handling the pandemic, Covid-19 has also presented opportunities for governments to carry out reprisals and punitive actions against political opponents through selective fault-finding and retaliatory actions. In most of the countries, the pandemic has taken away the livelihood opportunities of daily wage workers and low-income families, most of whom are disproportionately minorities in their countries. Protests from the civic space on their government's handling of the coronavirus have been suppressed.

It becomes very clear that in the region, civic space for minorities, specifically religious minorities, is shrinking. The national governments have taken various steps to curtail freedoms of expression, association and assembly, including by means of restrictive laws and regulations. There has been specific targeting of HRDs and religious minorities. The Covid-19 pandemic has further restricted civic space, as governments exert undue control over organisations and individuals. There is the looming threat that the measures in place to combat the pandemic could carry over into the future indefinitely, severely shrinking civic space further.

Key Recommendations

For national governments

- i. Abide by international commitments agreed upon by the country.
- ii. Remove all legal contradictions existing in various laws of the country and adjust them to international treaties to which it is a signatory.
- iii. Specifically, remove provisions from existing laws that make it difficult for civil society organisations to register, re-register or function in the country.
- iv. Recognise minorities in the constitution, if not done so already, and ensure constitutional provisions to criminalise discrimination of all forms against minorities.
- v. Improve the enabling environment and develop an effective protection mechanism for HRDs and civil society actors in close consultations with all stakeholders, including CSOs and human rights organisations.
- vi. Implement effective and holistic action to eliminate the underlying motives for threats to religious minorities and civic space for minorities, and to combat growing fundamentalist voices threatening a free and democratic society.
- vii. Take swift action to tackle rising terrorism and violence, ensuring impartial investigations and the prosecution of those responsible for attacks against religious minorities, in order to end the culture of impunity around these crimes.
- viii. Implement all the recommendations the countries receive on the circumstances of HRDs provided by the UN Special Rapporteur and other relevant reports.
- ix. Ensure that the Covid-19 pandemic does not result in long-term curtailment of civic space in any way.

For the international community

- i. Ensure greater attention by UN and other international entities on civil and political rights violations in South Asia.
- ii. Facilitate the development of South Asian regional initia-

tives and mechanisms to address various forms of restrictions of civic space in the region.

For civil society/minority groups

- i. Foster greater regional civil society initiatives to push back against restrictions by national entities.
- ii. Enable channels for greater solidarity across borders, and expressions of support for victims of targeting in individual countries.
- iii. Facilitate and participate in greater sharing and learning between various groups across borders.