



ASIA-PACIFIC REGIONAL FORUM 14-15 JUNE 2022

# REVIEW RETHINK REFORM

30th  
ANNIVERSARY,  
UN DECLARATION  
ON THE RIGHTS  
OF MINORITIES  
1992-2022



## 2022 Asia-Pacific Regional Forum Recommendations

### Normative Framework

#### Global and Regional Levels

1. The minority question in Asia is intrinsically connected to the decolonisation process and the creation of new, post-colonial states. Thus, the special status of national or ethnic, religious, and linguistic minorities should be acknowledged and implemented in line with relevant existing international and national legal norms.
2. The United Nations Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities (UNDM) should be negotiated into a comprehensive, legally-binding treaty on minority rights to strengthen the status of minority protection as a legitimate issue of international cooperation in a climate where there has been a regression in the international protection of minority rights, and violations of minority rights are justified by states through reference to sovereignty and non-interference.
3. Important gaps in the UNDM that pertain to the normative frameworks used in the UN must be recognised and addressed at all levels. This includes a deeper understanding of certain rights, including the right to self-determination for “minority groups”.
4. With the issue of refugees and immigrants gaining importance and simultaneously becoming more contentious, dialogue about possible responses to the problem of nationality and citizenship in international law are needed. Issues of multiple citizenship and categories of minorities need to be discussed.
5. The scope of international minority rights norms should be expanded to include caste-based groups, such as Dalits. Relevant UN agencies, the UN Special Rapporteur on minority issues, and the UN Minorities Fellowship Program should include this issue area within their activities.
6. The UN should develop a conceptual understanding of the term “Islamophobia” through advocacy and consensus-building so that a new international norm on the prohibition of Islamophobia can develop.
7. Minorities and indigenous peoples are the primary victims of the damaging impacts of environmental catastrophes emanating from the reckless exploitation of natural resources, often in areas where minorities live. Normative frameworks for minority protection should, therefore, engage with and build on the legal architecture for climate justice.
8. Rigorous legal norms must be devised on state responsibility and state accountability concerning economic development affecting the interests of minority groups.
9. A separate provision should be added to the UNDM to highlight the role of National Human Rights Institutions in the protection and promotion of the rights of national or ethnic, religious, and linguistic minorities.
10. Regional leaders should be engaged at a global conference to draw on the unique momentum provided by the urgency of addressing mass and systematic atrocities and violations of minority rights globally. This conference should discuss and pursue the establishment of a robust normative framework that has concrete synergies from the local

level to the national, regional and global mechanisms for protection and participation of minorities and accountability for minority rights violations, whether perpetrated by state or non-state actors.

### State Level

11. Constitutional recognition and protection of minority rights, identities and cultures should be guaranteed to mitigate problems emanating from the hegemonic process of homogeneous nation-building in majoritarian terms.
12. States should ratify all international conventions and endorse declarations relating to the rights of minorities and indigenous peoples, including the ILO Convention 169, the UNDM, the United Nations Declaration on the Rights of Indigenous Peoples, the UNESCO Convention against Discrimination in Education, and the Optional Protocols to the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights, and adopt and implement the necessary measures to adequately respect, protect, and fulfill the rights of minorities and indigenous peoples at the national, subnational, and local levels.
13. When necessary, states should draft new laws to ensure protections for minority groups, and amend or repeal discriminatory laws and structures that formalize ethnic, religious, linguistic, and caste-based discrimination, prejudice and persecution, inequality, or exclusion. States should implement and build on the Committee on the Elimination of Racial Discrimination (CERD) General Recommendation 29 on descent-based discrimination, which asks States to take “steps to identify those descent-based communities under their jurisdiction who suffer from discrimination, especially on the basis of caste and analogous systems of inherited status” (para 1. (a)).

### **Institutions, Mechanisms, Policies, Programs**

#### Global and Regional Levels

14. UN agencies, including the OHCHR and UNDP, should mainstream minority rights into their work, and should have offices and/or carry out work in minority regions, and should monitor violations of minority rights. These agencies should include minorities in their staff.
15. Designated funding opportunities for minorities, for example a UN Voluntary Fund for Minorities (analogous to the UN Voluntary Fund for Indigenous Peoples), should be established, with the financial support of states, to help representatives of minority communities and organizations participate in global and regional review mechanisms and processes relevant to the protection of minority rights. International and regional organizations, including the UN, should create specific funds for programs in support of minority rights, including programs implemented at the local level, and informed by recommendations made by international review mechanisms.
16. There should be better cooperation between different UN human rights monitoring mechanisms, including the UN Forum on Minority Issues, and domestic courts, with the overall aim to bring accountability to the victims of human rights violations, including atrocity crimes.
17. In connection with the 30th anniversary of the UNDM, members of minorities and other relevant stakeholders should conduct a review of laws that impact minorities and their rights, and examine the extent to which they further or hinder the realization of minority human rights.

18. The mandate of the UN Special Rapporteur on minority issues should be expanded to include visits to regions where minorities are oppressed upon the invitation of the minority groups in question.
19. The UN Special Rapporteur on minority issues should maintain regular cooperation and dialogue with NHRIs on the rights of national or ethnic, religious, and linguistic minorities.
20. The UN should institutionalize the Regional Forums, and the Forum on Minority Issues should be complemented by a permanent forum, such as the Permanent Forum on Indigenous Issues, so that grassroots minority stakeholders can take ownership of this process and be involved in the development of minority rights.
21. Even where special protections for minority rights or formal equality before the law exists, often these are not effectively implemented. Political opportunities to protest are often unsafe and unavailable. The UN should provide capacity-building and technical assistance to minorities to report to relevant treaty bodies on violations of the human rights of minorities, including the right to peaceful assembly.
22. The UN should issue separate guidelines to National Human Rights Institutions (NHRIs) that provide specific guidance on the protection and promotion of the human rights of minorities.
23. International financial institutions, such as the World Bank, should adopt and apply robust safeguards compliant with international human rights standards protecting the rights of minorities and indigenous peoples.
24. International financial institutions and companies should include an assessment of the negative impact of business activities on human rights through Human Rights Impact Assessments (HRIAs), with particular attention given to human rights risks and impacts on minority groups and indigenous peoples.
25. Businesses should ensure full compliance with minority rights protection in all operations and in their supply chains. To this end, the UN Global Compact, and the UN Working Group and UN Forum on Business and Human Rights should integrate attention to minority rights in their monitoring and reporting activities.
26. A regional mechanism on human rights, including minority rights, should be established to serve as an intermediary between the UN and national or local-level human rights mechanisms. Such a regional mechanism could engage with a wide range of existing relevant institutions to decide upon the norms and processes needed in the region for the specific protection of minorities.
27. In line with the UN Forum on Minority Issues, ASEAN should establish a minority forum to promote exchanges and cooperation among minorities in Southeast Asia and East Asia.

#### State Level

28. States should respect the right to self-identification of persons belonging to national or ethnic, religious and linguistic minorities, as the basis of their policies of minority recognition, and cease policies of assimilation.
29. States should recognize ethnic, religious, and linguistic diversity, including in constitutions, and incorporate respect for such diversity in law, policy, and in the practice of state institutions, in line with international standards enshrined in the UNDM. This should include provisions for religious pluralism, and recognition of the linguistic rights of minorities.
30. States should ensure the right of religious minorities to practice and profess their own religion, in accordance with Article 2.1 of the UNDM, including the right to pray and maintain places of worship.
31. States should ensure the practical implementation and application of minority rights, including by developing and regularly reviewing an action plan on minority rights with the

effective participation of representatives of national or ethnic, religious and linguistic minorities.

32. States should develop long-term, comprehensive policies for combating negative stereotypes of, and discrimination against, minority individuals and groups, and promote intercultural understanding by, among other things, the teaching of the culture and history of minorities in the national curriculum. All students should be encouraged to learn the culture and language of minority communities to develop better understanding, peace, tolerance, and friendship among ethnic, national and religious groups and persons of indigenous origin. The content of existing curricula, including textbooks, should be evaluated on the basis of clear standards on intercultural education, including adequate representation of minorities and with the effective participation of minorities.
33. States should end all reprisals, including assassination, enforced disappearances, defamation, prosecution, or intimidation, against human and minority rights defenders, journalists, lawyers, and others working to promote and protect the human rights of minorities. States should ensure that anyone perpetrating such crimes against minorities is brought to justice.
34. States should ensure adequate access to justice for persons belonging to national or ethnic, religious and linguistic minorities to ensure that they can avail themselves of effective legal remedies, whenever it is alleged that their rights are violated.
35. States should repeal or reform laws that disproportionately impact religious minorities such as those on blasphemy, anti-conversion, counterterrorism and sedition. These laws undermine the enjoyment of the right to freedom of religion or belief, and on the ability to engage in a healthy dialogue about religion as required under Articles 18 and 27 of the ICCPR and the UN Declaration on the Elimination of All Forms of Intolerance and of Discrimination based on Religion or Belief.
36. States must develop and implement rigorous national policies and appropriate legal frameworks to discourage, condemn and punish the widespread practice of forced religious conversion, which mainly affects women, particularly under-aged girls belonging to religious minorities, resulting in forced child marriages. Such legislation should ensure that those who commit such crimes are prosecuted.
37. States should develop effective mechanisms or strengthen existing mechanisms for identifying, responding to, and imposing sanctions for hate speech and incitement to discrimination, hostility or violence targeting ethnic or national, religious and linguistic minorities, including online and on social media platforms. States should ensure that law enforcement agencies refrain from engaging in hate speech, incitement to discrimination, hostility or violence, or hate crimes, and that any such instances are prosecuted and remedied.
38. States should effectively implement anti-caste-based discrimination laws and enact a zero-tolerance policy in relation to caste-based discrimination and untouchability (CBDU) cases, and ensure impartial investigation, prosecution and the right to a fair trial.
39. States should develop a comprehensive human rights education program on CBDU for law enforcement agencies and public administrators.

## **Participation**

### **Global and Regional Levels**

40. Building on Article 2(3) of the UNDM dealing with the right to participate in decision-making processes, a more specific provision needs to be devised to ensure the meaningful

participation of persons belonging to national or ethnic, religious and linguistic minorities in decision-making related to development, in both individual and collective capacities.

41. The UN should mainstream the participation of minorities within treaty body mechanisms to model to state parties how such measures should work as a matter of substance and practice for meaningful engagement.
42. Core metrics should be developed for the regular assessment and evaluation of the impact of substantive measures and procedures set up to enable minority participation at the national, regional and global levels. For example, data collection could measure if minority issues have gained visibility as a result of participation, and whether anti-discrimination and vilification laws have been successfully used to address minority rights violations.

### State Level

43. Country-specific legal frameworks should be developed to accommodate regional autonomy and other power-sharing arrangements to accommodate the interests and ensure the rights of minority groups, including alternative methods of representation, such as consociationalism.
44. States should ensure the right of minorities to form civil and religious associations.
45. In devising minority protection norms or the implementation thereof, attention must be paid to intersectional perspectives and identities. Necessary measures should be taken to safeguard the individual human rights of minority group members, especially women.
46. States should ensure the effective representation of national or ethnic, religious, and linguistic minorities and caste-affected groups in state bodies at all levels, including the judiciary, administrative bodies, diplomatic missions, commissions and political appointments.
47. States should ensure the effective participation of ethnic or national, religious and linguistic minorities and their representatives in the development, implementation, and monitoring of laws and policies affecting them, including special measures and in relation to issues affecting land rights and natural resources. Historic and present discrimination, marginalization and socio-economic inequality experienced by such groups, including minority women and youth, need to be addressed by these laws and policies.
48. With regard to the right of minorities to participate in economic life, states must provide the necessary conditions, including economic conditions, to ensure the right to an adequate standard of living for all.
49. States should ensure and promote fair employment practices relating to minorities, including minority women, so that direct or indirect discrimination against minorities in employment can be prevented. States should also initiate special measures under Article 1(4) of the International Convention on the Elimination of all forms of Racial Discrimination (ICERD) in relation to both minorities and minority women to redress structural and historical inequality.
50. In order to enhance the effective participation of minorities, states should provide capacity-building activities to members of minorities who are represented in the Parliament, judiciary, and public administration.
51. Relevant stakeholders should provide education to minorities to raise awareness of their rights and to enable their participation and engagement across civil society and public institutions at the national, regional and global levels to advance and represent their interests and needs in their own voice.
52. Relevant stakeholders should implement capacity-building activities among state leaders and government officials on how to incorporate minority specific provisions for substantive participation in their territories and how to create conditions to enable such participation meaningfully.

53. Relevant stakeholders should cultivate opportunities for cross-community dialogue to develop an understanding of the on-the-ground context of minorities and more importantly, minorities within minorities, as they sit at the intersections of multiple axes of disadvantage and minority identities and how these affect their opportunities for participation. Among the worst off are women and children – who suffer from indignities and repeated violations due to status, lack of power, patriarchy, and other value systems governing their position in society.
54. Despite wide-ranging commonalities in the way violations of minority rights lead to conflicts, each case is also informed by the unique political and economic histories of the relevant states. Thus, in dealing with minority issues, country-specific measures should be developed in collaboration with local stakeholders, including minorities, albeit within the broader international framework.