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Vol. 31, No. 3, July-September, 2011



Establishing
Sub-Regional Human Rights Mechanism
in South Asia

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INFORMAL

South Asian Human Rights Solidarity

Vol. 31, No. 3, July-September 2011

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Price

Nepal : NRs 25
South Asia : US\$ 15 (equivalent)
Rest of the World : US\$ 25

Published By

Informal Sector Service
Centre (INSEC)

P.O. Box: 2726, Kathmandu, Nepal
Tel: 977-1-4278770, Fax: 977-1-4270551

E-mail : informal@insec.org.np

Website: www.insec.org.np, www.inseconline.org

Printed at

Dream Graphics Press, Thapathali, KTM
Tel: 4102087

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- 3 Why Sub-Regional Human Rights Mechanism in South Asia?
- 5 On the Establishment of a Regional Human Rights Mechanism in SAARC
- 9 Relationship among SAARC Countries in the Present Globalized Context
- 19 Sub-Regional Human Rights Mechanism should Come into Being Soon
- 25 Establishment of a Regional Human Rights Mechanism in South Asia: Efforts, Possibilities and Challenges
- 48 Second Sub-Regional Workshop on South Asian Human Rights Mechanism Begins

Annexes

- 33 SAARC Charter
- 35 SAARC Charter of Democracy
- 36 SAARC Democracy Charter: *Citizens' Initiative*
- 41 Social Charter of the South Asian Association for Regional Cooperation

Regular Columns

- Editorial/2
- View Point/21
- Interview/30
- Book Review/47

Establish a Sub-Regional Human Rights Mechanism without due Delay

South Asian Association for Regional Cooperation (SAARC) has existed in the South Asian region for more than 26 years as a regional mechanism for cooperation. The SAARC countries have many similarities in terms of culture, geography and many other aspects. Despite such immediacies in many respects, people-to-people contact, from the perspective of the citizenry, is not so satisfactory. The relationship among the states has also been hindered sometimes by cynical attitudes of the countries concerned. Despite the rhetoric of cooperation and formal expressions on it, some countries in the region have often looked askance at each other's "move and intentions".

Very positively, however, since its establishment in 1985, SAARC has been able to prevent inter-state extremities and open rivalries. Cooperation and exchanges in the areas such as food security, culture and sports are laudable. But there exist undercurrents of dissatisfactions and they have been manifested in one form or the other at different times. Present principal grievance of the people in the region is that SAARC has been unable to transform its agreements and commitments into action.

The forthcoming 17th SAARC summit in the Maldives will be of high importance toward answering the grievances as some of the countries, including Nepal, are going to raise the issue of reviewing the earlier decisions of the organization and its implementation status. Review, of course, will show weak aspects. The focus, therefore, has to be that now is the time to act accordingly. The theme of 17th SAARC summit "Building Bridges", literally, articulates the need and desire to improve physical connectivity through infrastructural development, trade and better people to people contact, although the phrase has a more metaphorical connotation. This, however, is not a new step and concept. Rather, such a theme has to be construed relating to the objectives of SAARC. More specifically, the Dhaka Declaration of 1985 itself had put emphasis on the relational aspect of the people in the region. The declaration had agreed "to cooperate regionally, to work together towards finding solutions to common problems in a spirit of friendship, trust and mutual understanding and to the creation of an order based on mutual respect, equity and shared benefits".

The objectives such as welfare of the people in the region, socio-economic growth, collective self-reliance, mutual trust and appreciation of one another's problem, active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields were set as the objectives of SAARC. The term "welfare" of the people can be inferred distantly to have connections with human rights, but no programmatic actions, programming committees, technical committees, and the integrated programs, regional institutions as well as the regional Conventions and agreements have encompassed such human rights concerns. SAARC Conventions such as the Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia are in place. The Colombo Statement on Children of South Asia of 10 July 2009 agreed upon a statement in light of the 1996 Rawalpindi Resolution on Children in South Asia. This is the other document that directly deals with the human rights issue. This is praiseworthy. However, their implementation status and follow up mechanisms and progress hardly transform into public knowledge.

SAARC Social Charter of 2004 is sufficient enough to work as a base for the establishment of a sub-regional human rights mechanism. The structural-functional, constitutional and programmatic deficiencies expressed about the SAARC are symptomatic of the fact that it is in need of some sorts of reforms. More urgent in this connection, from the human rights point of view and given the sorry state of human rights protection and promotion of the people in the region, is the establishment of South Asian Sub-Regional Human Rights Mechanism that exerts moral pressure on the governments of the region and works as a human rights agency regionally without compromising the international standards and provisions of human rights. What is important in this regard is that global and regional approaches will be accepted and followed as mutually supporting and complementary at the same time. The mechanism will be a resource and support institution for the individual states' human rights problem. It will also work as a bridge between individual states and the international human rights mechanisms and the other regional mechanisms on human rights.

The SAARC with an efficient regional human rights mechanism will be a more meaningful and vibrant SAARC, so the urgency now is to establish such a mechanism without due delay.

Why Sub-Regional Human Rights Mechanism in South Asia?



The countries under South Asian Association for Regional Cooperation (SAARC) have been grappling with a number of problems including poverty, corruption, impunity, and human rights violations and abuses. Some of the countries in the region have faced severe civil unrest. Similarly, prolonged armed conflicts, political instability due to authoritative regimes, military rule and the dominance of undemocratic forces are not uncommon in the history of this region. Some countries have even faced the worst forms of conflict and internal strife that have resulted in gross violations of human rights.

Besides, the South Asian region is affected by multiple polarizations, especially in terms of demography, geography, economy and socio-cultural practices. Imbalanced power relations, asymmetric geographies and economies among the countries are the ground realities in the region. It is believed that a common sub-regional human rights mechanism in the region would bridge differences and solve the problems created by such dissimilarities. Some

critics, however, have expressed their concerns and doubts. Given the diverse situation, it is believed that it may not yet be the time to establish a common forum for human rights in South Asia. The success stories of other regions such as Europe, America and Africa in consolidating human rights and democracy have inspired South Asians to establish a sub-regional mechanism on human rights. The Association of South East Asian Nations (ASEAN) has also recently established the ASEAN Inter-Governmental Commission on Human Rights (AICHR). Therefore, South Asia is the only region without a regional autonomous statutory mechanism although such a mechanism with laudable goals, objectives and implementing modality for human rights has been a matter of discussion among the human rights community in the region. Although deterring factors toward materializing the mechanism are always active here, it is high time for the SAARC to work towards the establishment of a regional human rights body for the better promotion and protection of human rights in the region.

There are numerous issues

in South Asia that are common to all the member states. Such issues have remained unresolved for a considerable length of time. If the burning human rights issues and problems are not addressed in a democratic and human rights friendly way, further escalation of conflict and civilian unrests is inevitable. Poverty, the refugee situation, child labour, human trafficking, forced displacement, kidnapping, enforced disappearances, arbitrary arrest, detention, torture and the problems of the minorities are some of the key human rights issues in the region, which can't be addressed effectively without better regional cooperation. Moreover, the proposed mechanism will facilitate for the effective and efficient implementation, also with an increased cooperation among the SAARC countries, of the already existing SAARC Conventions such as Convention on Combating and Prevention of Trafficking in Women and Children for Prostitution.

Prominent human rights defenders of the region have been working for a sub-regional human rights body in South Asia. They want to see the South Asians'

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human rights and fundamental freedoms better protected and guaranteed along with the peaceful transformation of the existing and potential conflicts. However, often, some sceptical voices are heard here. Some claim that SAARC's own Charter stands as a hindrance in the process of establishing a sub-regional human rights mechanism. Given the provision included in the SAARC Charter, discussing bilateral issues is a problem. This is true. However, given the consensus among the SAARC countries in 2004 on the SAARC Social Charter, which also deals with human dignity and security, it is not difficult to deal with bilaterally and multilaterally concerned agendas among the member states of SAARC. But what is true again is that the member states should not always stick

why and in this context that we see the urgency of the establishment of a sub-regional human rights mechanism in south Asia.

Besides putting forth the problems created due to the SAARC Charter, grievances are also expressed in regard to the weaknesses felt during formal and procedural discussions of the SAARC. Intervallic summit meetings always fail to discuss human rights issues of the region. There is general will to highlight the governmental concerns of the host countries in the particular summits along with the governmental issues. This has always outdone the concerns of the civil society in the region. Surprisingly, at the same time, no outright rejection of the idea of forming a human rights mechanism in the region has been voiced at the

able to show their common concerns and should work collectively to promote deliberation in this line. The forthcoming 17th SAARC Summit to be held in the Maldives should include the agenda of human rights and should hold extensive discussion on the regional framework. This can give a good message that South Asia is ready to secure larger freedom of the people in the region through consolidation of democracy and human rights. This will also show the readiness of the governments to address the burning issues of human rights and to advance a human rights culture in the region.

After having a regional mechanism, a country in question can be pressured collectively in the cases of undemocratic national legal frameworks and breaches of international instruments, which it is a party to. Equally important in this connection is that such a mechanism should be able to complement the role of national human right institutions in the countries and should pressure for the establishment of the same without delay in the cases of the countries which are still to establish.

The initiative at the civil society level for the establishment of sub-regional human rights mechanism started in 2005 and burgeoned since then. More than 10 sub-regional discussions have taken place thus far. Meaningful developments have been taking place. It's high time that intensified collective efforts for the establishment of sub-regional mechanism occur without due delay. Our efforts and deliberations should not be a talk shop and photo opportunity. This will only assure the citizenry in the region that the long awaited concept of a sub-regional human rights mechanism in South Asia is coming to fruition in the near future.

Equally important in this connection is that such a mechanism should be able to complement the role of national human right institutions in the countries and should pressure for the establishment of the same without delay in the cases of the countries which are still to establish.

to individual interests, which have the capacity to repel the common interests at the cost of collective good and human rights. Individual concerns at a macro level such as attempts to run state affairs with religious fundamentalism, the desire to spread economic and military strength, fear of the consequences of climate change, difficulty in taking the route to lasting democratic order and polity are also impinging on the realisation of human rights. These issues are unaddressed despite the rallying popular cries of the individual states. All these matters, however, are likely to be solved collectively by utilizing the human rights approach. This is

political and governmental level.

Some positive developments and indications towards the establishment of such a mechanism have been experienced in recent times. The adoption of the SAARC Charter of Democracy by the member states, the intense initiatives and endeavours of civil society of the region for the purpose, the proposal to formulate a vision for South Asia and the inaugural speech of the Maldivian President Mohammad Nasheed that drew the attention of the South Asian governments, during the 16th SAARC Summit held in Bhutan, are some to name. So, all the stakeholders in South Asia should be

On the Establishment of a Regional Human Rights Mechanism in SAARC



*Dr. Gopal Krishna Siwakoti**

The Efforts Made so far and the Course to Take

Gross violations of human rights have become a systematic and constant pattern in many South Asian countries. This has resulted in displacement, mass exodus, illegal detention, arbitrary arrest, extrajudicial execution, rampant torture, disappearance and so on. Nevertheless, the South Asian region is the only region in the world where there is no any regional instrument which governs human rights as enshrined in the 1948 Universal Declaration of Human Rights and other international human rights treaties.

For the last few years, human rights defenders in the region and outside have consistently advocated and lobbied for the establishment of a long sought after regional human rights body in the region. The South Asian Association for Regional Cooperation (SAARC) member states are yet to be convinced to proceed with the formal debate on this. The potential danger is that even if such an instrument is created, it may fall short of globally accepted human rights benchmarks.

It is highly desirable to deeply

perceive the feasibility, designability and timeliness of setting up a regional arrangement for South Asia so that the potential value of a regional system would be well recognized and be in conformity with the globally accepted norms and values of human rights instruments. Civil society champions believe that the geo-political, economic, cultural and social conditions as well as ethnic and cultural diversity cannot be the justification for inopportune to consider the establishment of a mechanism on human rights for the region. Also, the sub-regionalism on adopting a human rights doctrine should be discouraged in favor of the global approach and the sub-regional instruments under no circumstances should compromise the very essence of internationally recognized civil and political, and economic, social and cultural rights. The global and regional approaches to the promotion and protection of human rights need to be mutually supporting and complementary thereby pursuing the global approach at the same time as the regional approach.

Relevance of such a Mechanism

Crippling or attempting to

undermine democracy, violating human rights and posing threats to the peoples' sovereignty perpetuated by undemocratic regimes at different points of times are among the major problems in South Asia. These problems are coupled often with incidents of systematic violation of human rights, military repression and formulation and implementation of repressive laws even by the democratic governments. States' attempt to curb or undermining the democratic and rights based demands of South Asians particularly of various indigenous communities, dalits, the disabled, women, children and other marginalized section of the society by the states are not uncommon.

Despite sustained efforts by civil society, the respective Governments of the SAARC countries have not made any serious effort to adopt a uniform Human Rights Code or Convention and to provide any common forum or mechanism to supervise adherence and implementation of the same. A South Asian sub-regional instrument would be an appropriate complement to the universal human rights processes of the UN due to, inter alia, a greater cultural similarity within the

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region. The sub-regional mechanisms may prove also stronger, with the States agreeing to the adjudication of human rights cases by judicial bodies with powers to make binding decisions, while judicialisation at the global level remains lacking.

Needless to say, the reasons which had led to the institution of regional arrangements in other regions of the world are also valid for South Asia. These include: the provision of assistance to the individual against the State; the creation of the right atmosphere for the promotion of human rights; increased awareness amongst governments and program in the human rights field; and increased awareness by the UN on the problems particular to the region. It is a matter of urgency that people in the region have to come together

to strengthen self-reliance among South Asian states; and to promote collaboration in economic, social, technical, and scientific fields. Thus, there is enough room to accommodate human rights, peace and social justice as a collective conviction.

Interestingly, the SAARC Democracy Charter 2011 adopted in February by the SAARC Council of Ministers also enshrines a commitment to adhere to the UN Charter and other international instruments to which member states are parties. It advocates for the recognition of the role of political parties and civil society in a democracy and renounces unequivocally any unconstitutional change of an elected government in a Member State. Accordingly, the Charter also enshrines the provision for Member

society and upholding participatory democracy characterized by free, fair and credible elections. So, the SAARC Charter itself cannot and should not be considered as a big hurdle in safeguarding and promoting human rights in the region. It is also because other guiding Charters like SAARC Democracy Charter and SAARC Social Charter have been developed and adopted. It's up to the political parties, actors, gurus and the other stakeholders to materialize the long discussed mechanism without delay.

Having said this, it does not mean that the SAARC Charter is concerned with the human rights issues. It is true that despite all the above stated documents, principles and pledges; the SAARC Charter has failed to establish the notion of indivisibility and interdependence between democracy, human rights, development and peace. Even more than two and half decades in existence, no attempt has been made by SAARC to categorically discuss human rights issues in the sub-region. Indeed, the promotion of human rights is not a goal listed by the SAARC Charter. The SAARC member governments are wary of the very notion of human rights, even though their representatives in the international arena vouch for their commitment to promote and protect human rights.

Other Aspects of Hindrance

The SAARC countries have signed several Conventions/Charters on Narcotic drugs, combating trafficking in women and children for prostitution, promotion of child welfare, etc. Several agreements have also been signed on Food Security Resort and specific social issues, which require concerted and coordinated actions for the effective realization of their objectives. At the 1995 SAARC summit held in India, government representatives even discussed long-term goals of eliminating poverty and

Indeed, the promotion of human rights is not a goal listed by the SAARC Charter. The SAARC member governments are wary of the very notion of human rights, even though their representatives in the international arena vouch for their commitment to promote and protect human rights.

on the common aspiration and issues of democracy, human rights, peace and justice. The would-be established regional mechanism, of course, will be of paramount importance toward this end.

Does the SAARC Charter Stand as a Hindrance against Institution of the Mechanism?

One of the most welcome developments in South Asia in the recent past is the emergence of SAARC. The stated goals of the SAARC Charter are that the countries will work together, in a spirit of friendship, trust and understanding, to improve people's quality of life; to accelerate economic growth, social programs, and cultural development;

States to reinforce the linkage between development and democracy, promote democracy at all levels of the government along with sustainable development and alleviation of poverty through good governance, equitable and participatory processes. The other characteristic includes the strengthening democratic institutions and processes in all national endeavors with due focus on decentralization and devolution, promoting equality of opportunity, equality of access and equality of treatment at the national level, in keeping with the respective constitutional provisions, as safeguards against social injustices and stratification. The Charter embodies the notion of ensuring gender mainstreaming in government and

expanding a visa exemption system that allows citizens freer cross-border travel. In the 12th SAARC Summit, a Social Charter was signed on 4th January 2004 in Islamabad. Till date, however, no program has been effectively implemented to achieve the objectives and it seems that such ideas have not moved past the discussion stage.

The human rights debate in South Asian countries is mired in concepts such as human rights with a the South Asian perspective or South Asian flavor of human rights. The most important distinction, however, is between the interests of the government and those of the people. In the context of public debate, only the interests of the government have been projected. The existence of significant ongoing human rights abuses is either not acknowledged by the governments or the political parties in governance. South Asian governments have ratified some international human rights instruments. However, in practice, the regimes of the region score one of the lowest in the world in safeguarding the rights of their citizens. One cannot help but question whether South Asian governments collectively care about their citizens' interest in having human rights enforced through a regional platform. However, with the growing concern from people from all strata of life, the dream project for the establishment of a regional instrument is not a distant reality.

Reluctance of the Governments and Possible interferences from them

Most of the governments in contemporary South Asia do not comply with the internationally recognised human rights norms and values. Politics of appeasement, corruption, and incidence of violence, impunity, and the absence of accountability often weakens the State. Additionally, the issue of cultural relativism is still vibrant in the region, especially among the ruling class. This region is combination of

various peoples, cultures, diversities and religions. When the importance of respecting human rights is respected principally, it is the responsibility of all the member states to safeguard human rights regardless of their political, economic or cultural circumstances. Unfortunately, universal human rights are being ignored on several grounds. While advocating for multiculturalism, those cultural practices which derogate from universally accepted human rights, including women's rights, are being tolerated. Hence, while cultural and religious specificities have an impact on universal standards, unfortunately, they are being used as a pretext to justify their violations. Cultural differences are used to justify violations of human rights. The problem of impunity is rampant and the rights violators are often let scot-free.

from the emphasis on economic development at the expense of human rights. Violation of social and cultural rights is often the result of political systems which treat human rights as being of secondary importance.

Bridging the gap between the Reluctance of the Governments and Enthusiasm of the Advocates of the Mechanism

The human rights community believes that the establishment of a mechanism for the promotion and protection of human rights in the South Asian sub-region could provide an impetus to the development of regional arrangements in other field of endeavor such as economic and political co-operation. That would be the converse of the experience of other regions but there is no reason why the experience of South Asia should not be different. If there were special

As human rights are of universal concern and are also universal in value, the advocacy for human rights cannot be considered to be an encroachment upon national sovereignty.

Human rights are still being considered as a home-country affair and are being dealt within the nation state border. As human rights are of universal concern and are also universal in value, the advocacy for human rights cannot be considered to be an encroachment upon national sovereignty. The observance and protection of human rights is a global concern to which all States are called upon to contribute. In the last 60 years or so, human rights now form a part of international customary laws, which have become an inter-state concern and are no longer a matter for the exclusive determination by individual States. This is the substance of an emergent global culture of human rights. The regimes must understand that violation of civil, political and economic rights frequently result

characteristics in the region, it would be preferable to adopt a "negotiatlional" rather than a "protective" approach. In any case, the negotiation must not undermine the basic internationally adopted and exercised principles, norms and values.

Forging mutual trust between the states and the civil society is vital. The foreseen mechanism should recognize the role of national and local NGOs for the promotion and protection of human rights and the activities of such organizations should be encouraged and assisted. The need to protect the members of such organizations who stood up for the defense of human rights has become an important issue in the region. Similarly, the role of the NGOs in the area of education and dissemination of information of human rights should

be considered as a complementary task. People in the region often encounter difficulties in obtaining documents and other materials of the UN system concerning the promotion and protection of human rights. More human rights clearing houses to act as depositories for such material should be established in each country of the region and the UN should examine how it could assist in establishing more of such clearing houses.

Tasks to be carried out by the Mechanism following its Establishment

What kind of regional institutions would meet the needs for the promotion and protection of human rights in South Asia? What should be the guiding principles to frame such an institution? How could the establishment of sub-regional institutes for human rights be encouraged? What role regional co-

Torture, the Declaration of the Rights to Development and other relevant human rights instruments. The member states of the instrument must accede to the major international instruments prior to their membership to the arrangements. Similarly, the right of the individuals and NGOs to petition the mechanism must be guaranteed and such petitions or appeals should not preclude concurrent appeals to the various UN mechanisms for the protection of human rights.

Sub-regionalism on adopting a human rights doctrine should be discouraged in favor of the global approach. The exercise of moral pressure and persuasion on governments and governmental organizations for the promotion and protection of human rights is the ultimate instrument with which the international community could continue its crusade against gross

to be mutually supporting and complementary. Therefore, the global approach could be pursued at the same time as the regional approach.

Finally,

All regional human rights instruments and mechanisms should be built as a result of having evolved and developed from within their respective historical, socio-cultural context. Any proposed South Asian inter-governmental mechanisms on human rights should be evaluated on the basis of political realities in the region, i.e. that some of the South Asian governments have yet to ratify key international human rights instruments and are actually indulged in committing madassive rights abuses.

Finally, no country can attain genuine development and effective realization of human rights if it is not truly free from the current undue global economic and political nexus. International economic forces have great impact on human rights which help divide North and South in terms of global rights and resources, compounded by elitism and perpetuation of social and economic disparities. Thus, the States in the region should refrain from derogating human rights standards for the reasons of national security, securitization of migration, conditionalities of the international financial institutions and maintaining law and order. The member states of SAARC should be able to acknowledge that they are bound to respect all human rights for all in their totality in all circumstances by fostering a truly democratic culture. The fact is that the creation of the proposed regional instrument ultimately would not undermine the sovereignty of any State in question but would rather help the states to project their human-rights friendly image in the international arena.

The exercise of moral pressure and persuasion on governments and governmental organizations for the promotion and protection of human rights is the ultimate instrument with which the international community could continue its crusade against gross violations of human rights such as arbitrary arrests, illegal detention, disappearance, displacement, destruction and political killings.

operation among non-governmental organizations could play? How should the process for the establishment of sub-regional arrangements for South Asia be carried forward? These are some but vital questions to be considered while framing the concept of such an institution. If an instrument is indeed set up, it should be mandated to apply, without reservations the International Bill of Human Rights, CEDAW, the Convention against

violations of human rights such as arbitrary arrests, illegal detention, disappearance, displacement, destruction and political killings. The sub-regional instruments under no circumstances should compromise the very essence of internationally recognized civil, political, economic, social, cultural and developmental rights. The global and regional approaches to the promotion and protection of human rights need

Relationship among SAARC Countries in the Present Globalized Context



Prof. Ram Kumar Dabal*

1 Introduction

The bilateral and multilateral relationship among the countries of South Asia, as the members of the SAARC, in the present globalized context, has become one of the most sensitive and hotly debated issues among scholars, researchers and the media due to many reasons. South Asia is one of the regions in international politics, however, the South Asian Association for Regional Organization (SAARC), is very weak. All the countries in South Asia have established diplomatic relations with each other and have bilateral and multi-lateral relations in political, economic, socio-cultural, educational and in a number of other dimensions. But in spite of the existing bilateral and multilateral relationships between and among the individual members of the SAARC, they have to develop new models/practices relating to one another within the framework of the SAARC organizational structure. In this context, the organizational structure of the SAARC has to emerge as a renewed mechanism. In this context, it would be appropriate to have a bird's eye view regarding the

SAARC, its structures and functions and the background in which the regional organization was created.

Though there are some integrating factors among the countries of South Asia, the disintegrating factors are equally active. The diversity in geographies, histories, economies, political systems, political faiths, religions and socio-cultural factors, including culture and languages, among the member-states of the SAARC has resulted in weak regional organization from the very beginning. The Indo-centric, as many debate, nature of South Asia, the growing bitterness between India and Pakistan (both countries have fought four major wars); India and Sri Lanka (due to Tamil issues), India and Nepal and India and Bangladesh (due to construction of the barrage/dams and barbed fence wall) and India's border problems with these countries, in one way or the other, have also weakened the SAARC from its initial stage. Besides these bilateral issues, the SAARC Charter itself has some organizational weaknesses, according to which it cannot formally discuss bilateral and contentious issues among the member-states, as

is the case with the Association of South East Asian Nations (ASEAN) and other regional organizations. The ASEAN, for example, had successfully dealt with the border issues between Malaysia and Indonesia. Moreover, another problem lies with the mentality and attitude of its member states towards the SAARC itself. The SAARC countries do not want India to emerge as "shark" but want to be treated simply as one of its members. On the other hand, it is also a hard reality that SAARC minus India would not be SAARC in a real sense, or it would not be SAARC at all. India knows the mentality of other SAARC states and, thus, does not want to emerge as dominant member inside the SAARC organizational frame work, and has, thus, preferred to have cordial bilateral relations with all the SAARC countries outside the SAARC framework.

These controversies and differences have made SAARC a weak regional organization since its initial establishment¹. The political factors, including the Indo-Pakistani conflict, and Indian intervention in Sri Lanka from 1986-1990 (due to an insurgency by The Liberation Tigers

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1. Raghav Thapar, *Ineffective in Promoting Economic Cooperation in South Asia in Stanford Journal of International Relations* in http://www.stanford.edu/group/sjir/7.1.03_thapar.html

of Tamil Eelam), and India's border problems with most of the South Asian nations have also sometimes emerged as debatable issue. These factors, thus, have made SAARC a weak regional organization in South Asia and have also made the future of SAARC insecure for many reasons. The institutionalization of SAARC, thus, has still become a highly controversial issue. The achievements of SAARC in political and security sectors/ issues are almost non-existent, but its achievements in non-political and non-security sectors are praiseworthy. The relationship among SAARC member-states have to be, as a result, studied in a most realistic/ practical manner if these factors are taken into consideration.

smaller countries in the region –Nepal, Bhutan, the Maldives, formerly Ceylon and currently Sri Lanka and Bangladesh are not willing/ready to accept India's dominance in the SAARC. However, it is a hard reality that the smaller countries in the region need India's economic aid for their development. Bangladesh is also worried over the even distribution of the water (since the issue of Farakka barrage and the issue of barbed fence walls between the two countries emerged during the time of Prime Minister Indira Gandhi). As India-locked and landlocked countries, Bhutan and Nepal have their special grievances with India regarding utilization of the rights of the landlocked countries as granted

controls the activities of other sectors including economics. In the direction of strengthening the relationship among SAARC states, there must be cordial political relations among the member-states. In the promotion of SAARC spirit and in further strengthening relationships, some political achievements have so far been made and are positive signals in this direction. The participating heads of the states and governments in different SAARC summits have expressed their concerns about further strengthening political relationships.

The SAARC can act as an effective regional organization, promoting the interests of its member states only when the relations among the member states themselves are improved at political level. However, disputes are there. The disputes, for example, between India and Pakistan in 1947, 1965 and 1999 (the Kargil conflict) embittered the relations between these two core elite powers. The two countries, however, had resumed their talks and intended on improving their bilateral relations. The two countries, in February 2004, agreed to "restart the "2+6" Composite Dialogue formula, which provides for talks on Peace and Security and Jammu and Kashmir, followed by technical and Secretary-level discussions on six other bilateral disputes: Siachen Glacier, Wuller Barrage/Tulbul Navigation Project, Sir Creek estuary, Terrorism and Drug Trafficking, Economic and Commercial cooperation, and the Promotion of Friendly Exchanges in various fields." The Foreign Secretaries' talk resumed in November 2006 following the terrorist bombings in Mumbai in July, 2006. The Indian Minister of External Affairs and the Indian Foreign Secretary have met with their new Pakistani counterparts to promote the on-going dialogues. Both Prime Minister Singh and Prime Minister Gilani demonstrated positive

SAARC has some unique and special characteristics in comparison to other regional organizations of the world¹. Due to the "imbalance of power among SAARC member states", in respect to geographic size, demography, power, economy, resources, military strength and international capability, there is a great difference among SAARC member states.

SAARC has some unique and special characteristics in comparison to other regional organizations of the world². Due to the "imbalance of power among SAARC member states", in respect to geographic size, demography, power, economy, resources, military strength and international capability, there is a great difference among SAARC member states. India is the core elite power ahead in all these dimensions, followed by Pakistan and Bangladesh in the region. India's dominant and role in SAARC is seen in different dimensions. Pakistan was afraid of joining SAARC initially due to India's influence. The others, particularly the

by the provisions of international law, they fear India's dominance in their internal affairs in many respects. Afghanistan has similar grievances with Pakistan regarding the utilization of the rights of the landlocked countries. However, South Asia can present its one integrated and unified voice in international forums (as in the case of the EU and ASEAN) only when they join hands together and can learn to compromise more with each other many more things. The larger countries have to be practical in their relationships, particularly with the smaller nations in the region.

Politics, as Aristotle pointed out, is the master science that

2. The information used in this article are derived from the official website of SAARC-<http://www.saarc-sec.org>.

attitudes in continuing their dialogues following the 2010 SAARC Summit.³ The Parliamentary union of SAARC speakers, decided on Nov.16, 1992 in Kathmandu, and signed by seven speakers of seven SAARC is another important achievement in the promotion of formal relations among SAARC countries.

In the last few years, South Asia has witnessed many new developments in the region and outside the region. The growing trends of emerging relationships between the inter regional and extra-regional powers, the close relationships of the core elite powers of South Asia with the global powers have completely changed the power structure in South Asia. The study of the relationships among SAARC countries, thus, has become more complicated in the present regional and global context. A research conducted in some South Asian countries such as Bangladesh, India, Nepal, Pakistan, and Sri Lanka has revealed that the psychological feeling of "South Asian identity and solidarity" is comparatively and significantly low in South Asia (in comparisons to EU and ASEAN).⁴

The 'confidence and identity crisis among the SAARC member-states, the inadequate development of the concept of "pragmatic economic interdependence" in the region and a number of other factors have also shaped the nature of the regional organization and have made it a more formal organization, than the real one, that could promote the socio-economic development in the region.⁵

The general objective of this article is to consider and analyse new models and practices of relationships among SAARC countries within the SAARC organizational framework in the present regional and globalized context. More specifically, this article, intends to focus on the

various dimensions of relationships among SAARC countries within the SAARC organizational framework, the achievements made so far in the institutionalization of SAARC itself, which could be an effective mechanism to further strengthen practical relationships among SAARC countries. Similarly, the issues, problems and challenges in the promotion of the SAARC spirit for the promotion of practical relationships among the SAARC countries will also be a subject of focus. The key questions which this article purports to analyse are: how can one evaluate the role of the SAARC in the promotion of relationships among SAARC countries? What contribution has

put forward to make SAARC a more effective and practical forum to further strengthen relationships among SAARC countries?

This article is divided into three parts. The first part is South Asia and the SAARC: A short Introduction, which intends to provide information about South Asia and the SAARC in a nutshell. The second part is the dimensions of relationships and achievement among SAARC Countries which would basically focus on the existing relationships among SAARC countries in different dimensions including economic, socio-cultural and political people to people and State to state relations. The third section concentrates on recommendations to improve

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India, as a core power in the region, made toward promotion of such relationships? What are the positive achievements in the promotion of relationships among them? Why is the institutionalization of SAARC a big issue? Why has the SAARC failed to fulfil the people's aspirations in the region and get success in security and political dimensions? What are the major reasons for the ineffectiveness of SAARC? What are the major issues, problems and challenges in the institutionalization of SAARC? How can these challenges be met? What recommendations could be

relationship further among SAARC countries in the present context followed by a brief conclusion and references.

South Asia and the SAARC: A short Introduction

The term South Asia had faced some terminological problems in the initial stage. South Asia in history has been called by different names (used interchangeably) including "Bharat Barsa", "Indian sub-continent," "South Asian Sub-continent" "Indo-Pak Sub-continent," "the Southern Asia", "Southern

3. <http://www.state.gov/r/pa/ei/bgn/3454.htm..>

4. en.wikipedia.org/wiki/South_Asia -

5. Dash, Kishore C. "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>

Region of the Asian Continent” and terms alike, by experts, scholars and researchers. But, politically speaking, the term South Asia has been much popular and satisfactory political term in post 1985 days when SAARC was formally formed in December 1985. The South Asian Association for Regional Cooperation (SAARC), as the forum of South Asian nations was established in December 1985 with seven countries of the region -Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka as its members. South Asia, as one of the important regions in the world, the region is also the home for millions of peoples.⁶ Afghanistan joined the organization as its eighth member in 2006. The People’s Republic of China, Iran, Japan, European Union, Republic of Korea, and the U.S currently are acting as observers. The organization, under the provisions of its Charter and the decisions of the various summits held in different places, has undertaken cooperation in different sectors including agriculture, rural development, science and technology, culture, health, population control, narcotics, and terrorism⁷. A lack of coherent definition for South Asia has resulted in not only a lack of academic studies, but also in a lack interest for such studies

2. Dimensions of Relationships among SAARC Countries

This section deals with the important dimensions of existing relationships among SAARC countries, particularly covering geographic, economic, socio-cultural and political ones.

2.1 Geographical Relationship Achievement

The geographical aspect

of relationships among SAARC countries is one of the important aspects of the present day relationships among SAARC countries. Geographically speaking, the region covering the areas from the high Himalayas in the north and the Indian Ocean in the south has some special geographic characteristics. The three important waters in the region—the Bay of Bengal, the Indian Ocean and the Arabian Sea- has also shaped the relationships among the SAARC countries.⁸ Due to the Indo-centric nature of South Asia, India’s central geographical position at the Centre of the region has also shaped the relationships among the SAARC member-states. The natural vegetation in South Asia has, in many respects, been instrumental in this direction. Due to its Indo-centric nature, India, the dominant country in the region, has border disputes and problems with most of the nations in the region, including Pakistan, Bangladesh, and Nepal. However, India, as the largest country in the region in respect to the size of its geography, economy and resources, has historical, formal and informal relations with all the nations in the region.

In order to further improve the geographical aspects of relationships among SAARC countries, the controversial bilateral issues, including the issues of border encroachments and border violations, sharing of border Rivers and resources have to be permanently settled at the highest political levels. In this context, India has to settle its border disputes with Nepal (e.g. in Kalapani, Susta and nearly at 58 places, as Nepal’s border expert Buddhi Narayan Shrestha has pointed out). India and Pakistan also have to find out a permanent solution to the problem of Kashmir.

2.2 Economic Relationship and Achievement

The economic aspect of relationships among SAARC countries is another vital dimension which has to be studied practically so as to promote proper relations among its member states within the SAARC structural framework in the future. SAARC, as mentioned in its charter, intends to accelerate economic growth, social progress and cultural development in the region among the member states and also to “promote and strengthen collective self-reliance” among its member-states.⁹ But, in spite of these organizational commitments and the richness in resources in the region, forest and mineral resources, it has not made tremendous progress for many reasons¹⁰

The economic relationships among SAARC countries have some specific characteristics. Almost all the SAARC countries have bilateral economic and trade relationships. As an Indo-centric region, India has economic relations with all the countries of South Asia. India and Pakistan are also trying to improve their political and economic relationships and people to people communications though some misunderstanding still prevails between them. As the countries of South Asia have bilateral economic and trade transactions among them, they have good economic relationships, which needs further strengthening in the future.

SAARC, unlike other regional organizations of the world including the ASEAN and EU, has failed to promote the system or the process of regional economic integration, or forming an economic business or trade block among the member states due

6. en.wikipedia.org/wiki/South_Asia -

7. <http://www.state.gov/r/pa/ei/bgn/3454.htm>

8. en.wikipedia.org/wiki/South_Asia -

9. www.itcilo.org/english/.../saarc.htm.

10. http://books.google.com.np/books?id=ywY_dN6ad8gC&pg=PA2&clpg=PA2&cdq=Sicio+cultural+relationships+relationships+among+SAAR+C+countries&source=bl&ots=Q9HpW6zSzF&sig=nUaoZuFrD81OM8EdIvP0_PPI3U8&hl=ne&ei=88VhTqfzINCsrAeY4tSCCg&sa=X&oi=book_result&ct=result&resnum=9&ved=0CEwQ6AEwCA#v=onepage&q&cf=false.

to a number of reasons. Undoubtedly, India, as the core elite power in the region, in respect to the size of its geography, economy, and resources has to play significant role in this direction. The large size of the Indian economy and the other number of economic factors has to be considered in this direction. The concept of “economic interdependence” among the member-states of SAARC, thus, has still become an ideal in the region due to a number of reasons. The SAARC countries in the present context have to promote economic relations among them in a number of areas. The eighth SAARC summit had ratified the establishment of South Asian Development Fund and the projection of collective position in the international forums. In this context, South Asian Development Fund (SADF) has to play significant role in providing financial support to all on-going regional projects, that could become helpful in promoting practical relationships among its member states¹¹. The participating heads of state and governments in different SAARC summits have expressed their concerns about economic problems of the region, including poverty alleviation and integrated programs of actions. The conservation of natural resources in the region has also to be formed as the “integral part” of the region’s development practices and strategy, for which India’s role has become crucial.

In comparison to other regional organizations of the world, the performances of SAARC are very low. Besides improving economic relationships among SAARC countries (by developing closer economic ties, creating favourable economic environment in the region and understanding

the existing economic, and non-economic environments and holding dialogues at political levels to remove economic hindrances among them), it has also to strengthen economic ties, bilateral partnership and development cooperation with other similar regional organizations of the world, including the EU and ASEAN.¹² In this context, it has become essential for the member-states to trust India for the proper utilization of the South Asian Development Fund (SDF in supporting all on-going regional projects, which could be helpful in promoting practical relationships among its member states.¹³

In the direction of the promotion of relationships among SAARC Countries, some important

are noteworthy in many respects. Its poverty alleviation programs, formulating SAARC integrated program of actions (which includes seven committees) are other important achievements. In order to accelerate the pace of economic development in the region, as outlined in its Charter, SAARC has, in institutional level, encouraged the cooperation of core areas after the study on Trade, Manufactures and Services (TMS), completed in June 1991.¹⁴ One of the important achievements made so far in this direction, among others, was the establishment of Committee on Economic Cooperation (in July 1991 by the ninth session of the Council of Ministers in Male), comprising the Commerce/Trade Secretaries of the

SAARC, which was once considered as the “club of poorest nations of the world” by the western industrialized world, has till date performed a number of economic activities in promoting economic relationships. No doubt, SAARC has not succeeded in political and security sectors, but its achievements in non-political and non-security dimensions are noteworthy in many respects.

achievements have also been so far made that have raised the hopes of further new relationships among the member states. SAARC, which was once considered as the “club of poorest nations of the world” by the western industrialized world, has till date performed a number of economic activities in promoting economic relationships. No doubt, SAARC has not succeeded in political and security sectors, but its achievements in non-political and non-security dimensions

SAARC member states, which among other things, intended to “formulate and oversee implementation of specific measures, policies, and programs within the SAARC framework to strengthen and enhance intra-regional cooperation in the field of trade and economic relations¹⁵.” As decided in the Colombo Summit in 1998, a network of researchers was nominated and established by the SAARC countries’ private sector, central banks, planning ministers,

11. Kishore C. Dash, “The Political Economy of Regional Cooperation in South Asia,” *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>)

12. http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/asia/r14102_en.htm ...

13. Kishore C. Dash, “The Political Economy of Regional Cooperation in South Asia,” *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>)

14. SAARC Secretariat, SAARC –A Profile. Kathmandu: SAARC Secretariat, 2001, p.17..

15. Ibid, p 17.

research institutions, and economists. The formation of Committee on Economic cooperation as decided by 9th SAARC was equally important in this direction.

The role of SAARC in adopting poverty alleviating measures and promoting development activities is particularly notable since 1991 when the Independent South Asian Commission on Poverty Alleviation (ISACPA) was established in the Sixth SAARC Summit held in Colombo in 1991, which reported in the seventh SAARC summit held in Dhaka in 1993¹⁶

2.3 Relationship and Achievement in Tourism

As South Asia is rich in cultural heritage and other tourist attractions, the SAARC countries have to develop common policies, programs and strategies so as to promote inter and intra-regional tourism, which may be a big source of income for these countries. They have realized this, and accordingly, the participating heads of state and governments in different SAARC summits have expressed their concerns in the development of tourism in the region. South Asia has good scope for the development of tourism. But the SAARC countries have adopted inadequate measures for the development of this sector. This sector, if developed, can contribute for the development of the socio-economic aspects in the entire region. South Asia Tourism Society (SATS) can also play a significant role in the development of SAARC tourism¹⁷. In the development of tourism in the region, all the SAARC member states

have to develop common policies, programs and strategies regarding tourism within SAARC framework.

2.4 Demographic Relationship and Achievement

South Asia is a huge land mass covering nearly one fifth of the total population of the world¹⁸. South Asia has its own demographic features.¹⁹ But the SAARC countries have failed to develop common strategies, policies and programs to make the best use of their populations in different development activities, which is imperative in the present globalized context. South Asia currently is facing serious demographic problems including the brain drain, labour drain and particularly the youth drain²⁰, which in the long run would create a big problem in the region. The SAARC countries have to develop common strategies, policies and programs to check this growing trend and contribute to the promotion and development of human resources: The SAARC countries, under the SAARC framework, have made several attempts for the promotion and development of human resources in the region. As outlined in the 10th SAARC summit, the concept of the SAARC Consortium of Open and Distance Learning was accepted and accordingly, the SAARC Forum of Vice Chancellors of Open Universities was held in Colombo in January 1999²¹). India, as the largest and the richest country in the region, and to some extent Pakistan, are also contributing to the development of human resources in the region by providing scholarships to students of other SAARC countries, including

Nepal. The participating heads of the state and governments in different SAARC summits have expressed their concerns about the educational problems of the region, including the development of science and technology. These measures are not adequate in itself, the terrible demographic issues in the region need special treatment through the SAARC organizational framework in which India's role would again be crucial. India can show its generous attitude in proving scholarships to smaller countries in the region under SAARC Chairs, Fellowships, and Scholarships Schemes, and under SAARC Volunteers Program (SYVP).

2.5 Socio-Cultural and Educational Relationship and Achievement

In the present regional and global context, there is a strong need to further strengthen the socio-cultural relationships and interactions among the SAARC countries. The participating heads of state and governments in different SAARC summits have expressed their concerns over further strengthening socio-cultural relationships and interactions among the SAARC countries. In this direction, they have also expressed their concerns about social problems of the region including the problems of children, women and persons with disability and with drug trafficking. South Asia is a multi-ethnic, multi religious, multi-linguistic, multi-cultural and multi-racial society in which these diversities play a significant role in the strengthening of socio-cultural relationships among SAARC nation-states. The region, according to the sociologists and

16. Ibid, pp.31-34.

17. www.saarctourism.org/aboutus.html

18. The United Nations Population Information Network (POPIN) includes Afghanistan, Bangladesh, Burma, India, Iran, Nepal, Pakistan and Sri Lanka as part of South Asia, while Maldives, in view of its characteristics, and was admitted as a member country of the Pacific POPIN sub-regional network in principle. Source: en.wikipedia.org/wiki/South_Asia -

19. Jayanta Sarkar, G. C. Ghosh, Anthropological Survey of India Populations of the SAARC countries: bio-cultural perspectives in http://books.google.com.np/books?id=ywY_dN6ad8gC&pg=PA2&lpg=PA2&dq=Socio+cultural+relationships+relationships+among+SAARC+countries&source=bl&cots=Q9HpW6zSzf&sig=nUaoZuFrD81OM8EdlvP0_PPI3U8&chl=ne&ei=88VhTqfzINCsrAeY4tSCCg&sa=X&oi=book_result&ct=result&resnum=9&ved=0CEwQ6AEwCA#v=onepage&q&f=false

20. www.spotlightnepal.com/National

21. SAARC PUBLICATION

anthropologists, is inhabited by more than 2,000 ethnic groups and is the richest region in respect to ethnicity, cultures and values. The different social groups including the Dravidians, Indo-Aryans and Iranian groups, the mixture of these groups and native societies have developed their own native cultures, traditions, beliefs, norms and values. As South Asia is a multi-linguistic society where many languages are spoken, Hindi being the largest linguistic group in the region is followed by other major languages, including Bengali, and Urdu.

The other languages of the region, according to the linguists, belong to many linguistic families, including the Dravidian languages and the Indo-Aryan languages, a sub-branch of the Indo-Iranian branch of the Indo-European languages. In India, the local people speak local languages²². The other languages of this region fall into some major linguistic families including the Dravidian and the Indo-Aryan, ("a sub-branch of the Indo-Iranian branch of the Indo-European languages), Tibeto-Burman, and Austro-Asiatic, with English being a widely understood lingua franca in the region. Languages have become major tools for the improvement of relations among nations of South Asia. Besides languages, the existing richness in their cultures can also become effective mechanisms/instruments for the development of bilateral relations among the SAARC countries.²³.

In the days to come, the SAARC member states have to use their socio-cultural factors, including

their languages, cultures, religions as effective means and instruments to further improve/strengthen the existing relationship among them through SAARC organizational network.

The Social agendas of SAARC, the adoption of the Social Charter (by the 10th SAARC Summit held in Colombo in 1998), the SAARC provisions regarding the promotion of the position and protection of the human rights of the women, the children, the senior citizens, the formation of the Technical committee on social development (held at the twenty-first session of the Standing Committee in Nuwara Eliya in 1998) and the promotion of the health conditions in the region are some positive achievements in this direction²⁴.

SAARC has attempted a lot towards improving the educational conditions of the people in the region. The anti-illiteracy campaign adopted by SAARC and the establishments of SAARC regional centres, SAARC Documentation centres and SAARC Agricultural information centres are some positive achievements in this direction. In order to promote research activities in the region, as decided in Colombo summit in 1998, a network of researchers was established.

2.6 Trade Relationship and Achievement

In the present regional and global context, there is a strong need to promote trade relationships among SAARC countries. The participating heads of state and governments in different SAARC summits have

expressed their concerns about further strengthening trade relationships among SAARC countries. The disputes, differences and controversies among SAARC countries (both at bilateral and multilateral levels) have discouraged the development of regional trade in the region. There are a number of reasons responsible to this.²⁵

Some important achievements have also been made in the field of trade, which among other things; include the measures of trade facilitations and liberalization, converting SAARC preferential trading arrangements into the South Asia free trade Area, and the arrangement of the SAARC trade fair. The 9th ministerial meeting in Male in July 1991 established the Committee on Economic Cooperation (ECE) of SAARC Commerce Secretaries. Since the first meeting of commerce ministers in New Delhi in January 1996; it discussed WTO, an extension of economic and trade cooperation and the development of the private sector. It also initiated a series of practical measures aimed at trade facilitation. A Customs Action Plan was also drawn out and Standing Group on Standards, Quality Control, and Measurement was also formed by the second meeting of SAARC Commerce Ministers in May 1998, which held its first meeting in New Delhi in June 1999. Important steps were also taken in the direction of projecting collective positions at multilateral negotiations.²⁶ It has been promoting intra-SAARC trade by arranging trade fairs in different places²⁷.

22. The important languages in South Asia (in alphabetical order) are Assamese/Asomiya, Balochi, Bangla, Bodo, Burmese, Dari,[1] Dhivehi, Dogri, Dzongkha, English, Persian, Gujarati, Hindi, Hindko, Kannada, Kashmiri, Konkani, Kurdish, Maithili, Malayalam, Marathi, Manipuri, Nepali, Oriya, Pahari, Pashto, Persian, Punjabi, Sanskrit, Santhali, Sindhi, Sinhala, Siraiki, Tamil, Telugu, Tibetan, Urdu, and others. http://en.wikipedia.org/wiki/South_Asia

23. www.saarctourism.org/aboutus.html ...

24. Ibid, pp. 25-30.

25. Raghav Thapar , *Ineffective in Promoting Economic Cooperation in South Asia in Stanford journal of International Relations* in http://www.stanford.edu/group/sjir/7.1.03_thapar.html

26. Ibid, p 20.

27. Such SAARC trade were organized in different places including the first ,second and the third respectively in New Delhi in 1996, Colombo in 1998, and Pakistan in 2001., to mention a few. SAARC Secretariat, SAARC –A Profile. Kathmandu: SAARC Secretariat, 2001, p.22.

2.7 Intra-regional Trade Transactions and South Asia Free Trade Area (SAFTA)

The present status of intra-regional trade transactions among SAARC countries seems to be in a very premature stage due to a number of reasons, including large size of India, the small size of the economies of the small countries (the Maldives, Bhutan and Nepal) and landlocked nature of its member states (Nepal and Bhutan).²⁸ The ratification of the SAARC Preferential Trading Arrangement (SAPTA) by SAARC member states in December 1995 and their decision to create a SAARC Free Trade Area (SAFTA) developed new hopes among its member-states in the direction of promoting economic cooperation in the region.²⁹

In order to promote inter-regional trade, and remove trade barriers, India and SAARC countries in 1993 had signed an agreement which intended to lower the tariffs among member-states. But due to the deteriorating political relations between the two countries of SAARC-India and Pakistan, the relations suffered a setback. In January 2002, some progresses were made in this direction. In the SAARC summit held in Islamabad in January 2004, an important step was taken by Pakistan when officially brought a proposal for the signing of an agreement intending to establish a South Asia Free Trade Area (SAFTA), which was later ratified by all member-states. It was to come into force on January 1, 2006, with a series of graduated tariff cuts through 2015. In 2007, the SAARC summit held in New Delhi, India "called for greater regional cooperation on trade, environmental, social, and counterterrorism issues."

In another SAARC summit held in Sri Lanka in 2008, the SAFTA member countries signed a protocol for (SAARC's new member-state) Afghanistan's accession to the group and member states also decided "to drop some items from their sensitive product lists."³⁰ In the context of removing trade barriers among SAARC countries, and the effective development of regional trade among them, India as the key regional power has to contribute a lot in developing such relationships in the region under SAARC framework, and implementing the provisions of the SAARC Free Trade Area.

2.8 People to People Relationship and Achievement

A number of attempts have been made in the promotion of people to people relations among the member-states of SAARC. In the Delhi Declaration, issued after the conclusion of the eighth SAARC Summit, held in New Delhi in 1995, the heads of state and governments had showed their commitment in the promotion of people to people relations among the member-states. They also discussed the issues of exemptions of visa charges under SAARC Visa Exemptions Scheme (initiated in 1988 and came into operation since March 1, 1992). The recognition of South Asian Associations, SAARC Regional Apex Bodies-the SAARC Chamber of Commerce and Industry (SCCI) and SAARCLAW (established in 1991 and accorded recognition as a SAARC Regional Apex Body in July 1994) and SAARC Recognized Bodies-The South Asian Association for Regional Cooperation of Architects (SAARCH)

(accorded recognition in May 1997), The Association of Management Development Institutions (AMDISA) (accorded recognition in May 1997), and The SAARC Federation of University Women (SAARCFUW) (accorded recognition in May 1997) The South Asian Federation of Accountants (SAFA) (accorded recognition in May 1997); The South Asian Association of Town Planners (accorded recognition in August 1998), The Association of SAARC Speakers and Parliamentarians (launched in Kathmandu in 1992 and formally accepted by the Seventh SAARC summit in Dhaka in April 1993)³¹, and their regular meetings in different capitals of SAARC countries have undoubtedly encouraged people to people relations among the nations of the region.

3 Recommendations and Conclusion

In order to further improve relations among the SAARC countries in future through SAARC organizational framework, a number of practical recommendations could be put forward:

The existing bilateral political problems between and among the SAARC member states have to be solved at highest political level so that would help in minimizing misunderstandings between or among them. The SAARC nations, in particular the dominant ones have to play crucial role in the implementations of the SAARC economic provisions honestly under the banner of the SAARC itself.

Similarly, in the promotion of trade relationships among SAARC countries, the member states have to

28. joaag.com/uploads/5_-4_1_AliFinal.pdf

29. Dash, Kishore C. "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm> and www.thecommonwealth.org/.../SAFTA%20and%20India%20-...

30. <http://www.state.gov/r/pa/ei/bgn/3454.htm>; www.thecommonwealth.org/.../SAFTA%20and%20India%20-...

31. Ibid. pp.55-60.

formulate common policies, strategies and program so that trade barriers may be removed smoothly. SAARC has to honestly implement into practice the provisions of SAARC social charter and the provisions relating to women, children, and labour and try to promote socio-cultural relationships among member states.

The existing border issues among some SAARC countries have to be resolved permanently so that the relations among them might be strengthened undisturbed. The provisions relations to this have to implement honestly. The political disputes among states and groups have also to be resolved in order to improve the people to people relationships.

References

- Ali, E. & Talukder D. K. (2009). Preferential Trade among the SAARC Countries: Prospects and Challenges of Regional Integration in South Asia, JOAAG, Vol. 4. No. 1
- Baral, Lok Raj. Regional and Extra Regional Links and South Asia Cooperation, Kathmandu: T.U. CEDA, 1983.
- Bhandari, Shanti Ram. *Problem of Regional Integration in South Asia with Special Reference to SAARC*, Kathmandu, 1995.
- Chandra Prakash. 1999. *International Relations: Foreign Policies of Major Powers and Regional Systems*. New Delhi: Vikash Publishing House.
- Cohen, Stephen P. (ed.), *The Security of South Asia*, Urbana: University of Illinois Press, 1987. Rpt. New Delhi: Vistaar, 1988.
- Dash, Kishore C. "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>
- Devi, Nirmala. *Socio-Economic Profile of SAARC Countries*, New Delhi: South Asian Publishers, 1994.
- Ganguly, Sumit and Greenwood (eds.) *Mending Fences: Confidence and Security Building Measures in South Asia*. Delhi: Oxford University Press, 1997.
- Gonslaves, Eric and Nanay Jetley (eds.), *The Dynamics of South Asia: Regional Cooperation and SAARC*, New Delhi: Sage, 1999.
- Gupta, Bhabani Sen *Regional Cooperation and Development in South Asia*, Vol. 2, Delhi, South Asian Publishers Pvt. Ltd., 1986.
- joaag.com/uploads/5_-4_1_AliFinal.pdf
- Khanal, Y.N. *South Asian Association for Regional Cooperation*. Kathmandu, Integrated Development System, 1991.
- Khatri, Sridhar K. *Regional Security in South Asia*. Kathmandu: T.U. CERID, 1987.
- Kodikara, S, *South Asian Strategic Issues* (ed.), New Delhi and London: Sage, 1990.
- Kodikara, Shelton, *Strategic Factors in Interstate Relations in South Asia*. New Delhi: Heritage Publishers, 1983.
- Koirala, Ramesh Prasad *SAARC Nepal's Role in Collective Utilization of Its Water Resources*. Kathmandu: The Tean Publication, 1998.
- Newfarmer, R., and Pierola, M. D. 2007. SAFTA: Promise and Pitfalls of Preferential Trade Agreements. In *The Challenges and Potential of Pakistan-India Trade*, edited by Z. F. Naqvi and P. Schuler. Washington DC: The World Bank.
- RAGHAV THAPAR, *Ineffective in Promoting Economic Cooperation in South Asia in Stanford journal of International Relations in* [HTTP://WWW.STANFORD.EDU/GROUP/SJIR/7.1.03_THAPAR.HTML](http://WWW.STANFORD.EDU/GROUP/SJIR/7.1.03_THAPAR.HTML)
- Rahman, M., Shadat, W. B. and Das N. C. 2006. Trade Potential in SAFTA: An Application of Augmented Gravity Model. Dhaka, Centre for Policy Dialogue.
- Ratna, RS and Geetu Sidhu, *Making SAFTA a Success: The Role of India*. Commonwealth Secretariat, in <http://www.thecommonwealth.org/files/178426/FileName/SAFTA%20and%20India%20-%20Final%20doc1.pdf>, assessed on September 3, 2011.
- SAARC Secretariat, *SAARC –A Profile*. Kathmandu: SAARC Secretariat, 2001.
- -----, *SAARC Perspective*. Kathmandu: SAARC Secretariat, May 1987.
- -----, *Declarations of SAARC Summits (1985-1998)*. Kathmandu.
- -----, *FROM SARC TO SAARC: Milestones in the Evolution of Regional Cooperation in South Asia (1980-1988)* Vol. 1. Kathmandu.
- -----, *SAARC Regional Convention on Suppression of Terrorism*. (22 Aug. 1988), Kathmandu: SAARC Secretariat.
- -----, *Agreement of SAARC Preferential Trading Arrangement (SAPTA)* (11 April 1993), Kathmandu: SAARC Secretariat.
- -----, *Charter of the South Asian Association for Regional Cooperation*. Kathmandu: SAARC Secretariat.
- -----, *Kathmandu Summit (2-4 Nov. 1987)*, Kathmandu: SAARC Secretariat.
- -----, *SAARC Conversion of Narcotic Drugs and Psychotropic Substances*. (15 Sept. 1993), Kathmandu: SAARC Secretariat.
- -----, *SAARC in Brief*. Kathmandu, Information Media Wing of SAARC Secretariat, Nov. 1995.
- -----, *SAARC Perspective*. Kathmandu, SAARC Secretariat, May 1988.
- -----, *Agreement on Establishing SAARC Food Security Reserve*. Kathmandu.
- -----, *Agreement on SAARC Preferential Trading Arrangement*. Kathmandu.

- -----, FROM SARC TO SAARC: Milestones in the Evolution of Regional Cooperation in South Asia (1963-1989). Kathmandu.
- -----, Glimpses of SAARC Activities. Kathmandu.
- -----, MEETING THE CHALLENGE - Report of the Independent South Asian Commission of Poverty Alleviation. Kathmandu.
- SAARC Secretariat, Regional Economic Cooperation: Initiatives within the SAARC region. Kathmandu.
- -----, Regional Study on Greenhouse Effect and Its Impact on the Region. Kathmandu.
- -----, SAARC and Women in Development (1986- 1990). Kathmandu.
- -----, SAARC Convention on Narcotic Drugs and Psychotropic Substances. Kathmandu.
- -----, SAARC Convention on Suppression of Terrorism. Kathmandu.
- -----, SAARC Documents: Milestones in the Evolution of Regional Cooperation in South Asia (Dec. 1983-Jul 1991): Vol. 2. Kathmandu.
- -----, SAARC Documents: Milestones in the Evolution of Regional Cooperation in South Asia (Nov. 1991-Jul 1993): Vol. 3. Kathmandu.
- -----, SAARC Documents: Milestones in the Evolution of Regional Cooperation in South Asia (July 1995- 1998): Vol. 6. Kathmandu.
- -----, SAARC Summits (1985-1988). Kathmandu.
- -----, SAARC Summits (1990-1995). Kathmandu.
- -----, 2001, Declarations of SAARC Summits. 1985- 1988. Kathmandu.
- -----, 2001. SAARC: A Profile. Kathmandu.
- -----, SAARC. Ministerial Meeting (April 1986.-August 1999). Kathmandu.
- Sudhakar, E. SAARC Origins, Growth and Future. New Delhi: Cyan Publishing House, 1999
- World Bank. 2010. World Development Report 2009 Washington DC, the World Bank
- Zahangir Kabir, Challenges of SAARC in its Third Decade, SAARC Human Resource Development Centre, Islamabad, 2005
- www.asean.org
- www.saarc.org
- www.stanford.edu/.../7.1.03_thapar
- http://www.saarc-sec.org.
- en.wikipedia.org/wiki/South_Asia -
- en.wikipedia.org/wiki/South_Asia -
- http://www.state.gov/r/pa/ei/bgn/3454.htm
- www.itcilo.org/english/.../saarc.htm.
- http://books.google.com.np/books?id=ywY_dN6ad8gC&pg=PA2&lpq=PA2&dq=Sicio+cultural+relationships+relationships+among+SAARC+countries&source=bl&ots=Q9HpW6zSzF&sig=nUaoZuFrD81OM8EdIvP0_PPI3U8&chl=ne&ei=88VhTqfzINCsrAeY4tSCCg&sa=X&oi=book_result&ct=result&resnum=9&ved=0CEwQ6AEwCA#v=onepage&q&cf=false).
- Kishore C. Dash, "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>)
- http://europa.eu/legislation_summaries/external_relations/relations_with_third_countries/asia/r14102_en.htm
- Kishore C. Dash, "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm>)
- www.saarctourism.org/aboutus.html
- Jayanta Sarkar, G. C. Ghosh, Anthropological Survey of India Populations of the SAARC countries: bio-cultural perspectives in http://books.google.com.np/books?id=ywY_dN6ad8gC&pg=PA2&lpq=PA2&dq=Sicio+cultural+relationships+relationships+among+SAARC+countries&source=bl&ots=Q9HpW6zSzF&sig=nUaoZuFrD81OM8EdIvP0_PPI3U8&chl=ne&ei=88VhTqfzINCsrAeY4tSCCg&sa=X&oi=book_result&ct=result&resnum=9&ved=0CEwQ6AEwCA#v=onepage&q&cf=false
- www.spotlightnepal.com/National.
- www.saarctourism.org/aboutus.html
- RAGHAV THAPAR, *Ineffective in Promoting Economic Cooperation in South Asia in Stanford journal of International Relations in*
- http://www.stanford.edu/group/sjir/7.1.03_thapar.html
- jaoag.com/uploads/5_-4_1_AliFinal.pdf
- Dash, Kishore C. "The Political Economy of Regional Cooperation in South Asia," *Pacific Affairs*, Vol. 69, no. 2 (Summer 1996) in <http://www.mtholyoke.edu/acad/intrel/dash.htm> and www.thecommonwealth.org/.../SAFTA%20and%20India%20-...
- <http://www.state.gov/r/pa/ei/bgn/3454.htm> ; www.thecommonwealth.org/.../SAFTA%20and%20India%20-...
- <http://www.state.gov/r/pa/ei/bgn/3454.htm>..
- [.tr/perceptions/volume13/Interstate%20Conflicts%20and%20Regionalism%20in%20South%20Asia,%20Prospects%20and%20Challenges,%20Zahid%20Shahab%20Ahmed%20-%20Stuti%20Bhatnagar.pdf](http://www.perceptions/volume13/Interstate%20Conflicts%20and%20Regionalism%20in%20South%20Asia,%20Prospects%20and%20Challenges,%20Zahid%20Shahab%20Ahmed%20-%20Stuti%20Bhatnagar.pdf))
- <http://www.sam.gov.tr/perceptions/volume13/Interstate%20Conflicts%20and%20Regionalism%20in%20South%20Asia,%20Prospects%20and%20Challenges,%20Zahid%20Shahab%20Ahmed%20-%20Stuti%20Bhatnagar.pdf>

Sub-Regional Human Rights Mechanism should Come into Being Soon



Deliberations have gone on for some years now on the establishment of a regional human rights mechanism in South Asia. Different non-governmental organizations, especially civil society organizations, have been demanding such a mechanism. Those making such demands have put forth their requests primarily because we have our own political block and group in the region who desire to work together for the betterment of the human rights situation here. To have such an interest group is also an opportunity for us. Furthermore, we have agreed upon some of the human rights related SAARC Conventions, which are directly linked to human rights issues. A sub-regional mechanism is also necessary for the implementation of the conventions. Although the demand for the establishment of such a mechanism is voiced incessantly by civil society members, deciding now on how to make it a political priority is a concern for all.

Violations of human rights take place in every country. South Asia does not have good record in

the matter of respecting human rights. Almost all the countries in the region have constitutional provisions against the incidents of human rights violations. Similarly, almost all of them have national human rights institutions. However, possibility is still there in the region that these institutions might not be strong enough to bear the undemocratic political developments, if they occur, in the future. If the legal mechanisms existing in a particular country fail to provide justice to the victims of human rights violations, we do not have any regional human rights mechanism to report the cases to. Such cases have to be reported directly to the UN.

So, the establishment of a sub-regional human rights mechanism in South Asia would allow us to independently and freely seek access to remedies. Getting access to remedies in case of politically difficult situation will always be helpful to introduce or restore democratic order. It is noteworthy here in this connection to recall the adverse political developments in the

countries such as Nepal, Pakistan, the Maldives and Bhutan in the past. Historicity has it that political power in South Asia has almost swunged between democratic and undemocratic rulers. Besides, the countries in the SAARC regions are also state parties to various international human rights instruments. A sub-regional mechanism is important and necessary for the monitoring of the implementation of these instruments as well. More important in this connection is that some of the cases of human rights violations, one way or the other, are taking place at a cross-country level. The would-be established mechanism could play a significant role in solving such cases. Often, human rights are violated due to conflicts between state and non-state actors. Civil wars also violate peoples' human rights. The discussed mechanism could be a neutral and apolitical institution in the matter of providing justice to the victims of human rights violations. A sub-regional mechanism is necessary for these reasons.

We often hear that the Charter

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of SAARC stands as a hindrance for the establishment of a rights mechanism in the region. Nothing is insurmountable, so political will and preparedness of the region can come up with a resolution and initiation. There might come many factors in course of establishing a regional human rights mechanism.

The inability of SAARC to be consolidated as an effective regional cooperation body itself is a problem which hinders the establishment of a sub-regional human rights mechanism in the SAARC region. So, the base from which we are now supposed to move ahead for human rights is not strong. Also lacking is will power among the member states of SAARC, which is a major problem. The member states are also worried as to how such a mechanism might be established and that certain countries

thus far. The problem lies also with the fact that some of the countries in the region are not abiding by the rule of law.

However, political actors, the forms of polity or the political ideologies in the region are seen changing gradually for the better, but not as expected. Things can be materialized if only will power among the political, diplomatic and other stakeholders is there. So now is the time to act collectively against the possible hindrances and for the establishment of such a mechanism.

Democracy, after all, is to empower people. So, considerations such as what citizenry and civil society want should be given paramount importance under democratic governance. People should be at the center of any decisions taken by the political parties in any country.

The would-be established mechanism should be autonomous. It is necessary to set up a convention for the purpose of establishing a regional human rights mechanism in the region. However, the sovereignty of each member state should be respected at the same time.

within the region might yield a greater influence than others. So doubts and worries of the countries are also a problem in this regard. Furthermore, we have been unable to formulate and agree upon any legal instrument for the establishment of a regional human rights mechanism. This is another obstacle. Some of the countries in the region are influenced by religion as well as bitter inter-country relations, if not conflict. Boundary related issues are also a concern. The region has not been able to rise above such issues. Despite our entire efforts and call for lasting democratic order, the formation of autocratic regimes in the name of democracy and the fight against terrorism has been an integral cause of the countries in the region

However, the political parties in the region are not sticking to this idea in the truest sense. This has created contradictions between the governments and civil society. Such a gap or inconsistency should no longer be a problem when it comes to the matter of establishing a sub-regional human rights mechanism in the SAARC region. The faster we can bridge the gap, the sooner we will materialize a long awaited sub-regional human rights mechanism in the region.

The would-be established mechanism should be autonomous. It is necessary to set up a convention for the purpose of establishing a regional human rights mechanism in the region. However, the sovereignty

of each member state should be respected at the same time. Domestic legislations available in a particular country to respond to the incidents of human rights violations have to be respected. This is because without exhausting the domestic laws and procedures, we cannot report the issue to the regional mechanisms. However, it does not mean that there won't be the cases and issues that cannot be reported to the sub-regional mechanism. If a group working for the human rights of the people is of the view that a series of human rights violations is taking place in the country and if the group distrusts the government, it should be able to take the case directly to the mechanism. Similarly, the issues such as trafficking in women and children, the trafficking of drugs and weapons as the issues related to the borders of the countries and the issues of refugees and immigrants could be reported to the mechanism.

Other regions of the world have already enjoyed the type of mechanism we have been discussing. Their experience is praiseworthy. Europe has developed a good mechanism, under a concept of one-Europe, for respecting the decisions of the European court. Similarly, the Americans also have their regional kind of mechanism on human rights. However, South Asia doesn't have any sub-regional mechanism on human rights. The establishment of a sub-regional mechanism will further familiarize the South Asian region as a block with the international community. Such a mechanism will be meaningful from the point of view of development, political stability and lasting democratic order in the region as well. Materializing the long discussed sub-regional human rights mechanism in the region is to bring the politically strong, economically sound and developed South Asia into fruition as envisaged by the people in the region.

‘One Positive Development in the Region is the Growing Strength and Capacity of Civil Societies’

The views included here were expressed as the key notes during the Second Sub-Regional Workshop on Human Rights Mechanism in South Asia jointly organized by Asian Forum for Human Rights and Development (FORUM-ASIA) and Informal Sector Service Center (INSEC) in Kathmandu, 25-26 July 2011. **INFORMAL** has published the edited views of distinguished personalities in this edition.

Hina Jilani,
Former Special Rapporteur on Human Rights
Defenders

Asian states present a broad range in the level of democracy, economic development and social diversity. Several countries in the region have emerged or are in the process of transition from authoritarian rules, armed conflict or struggle for the right to self-determination. Many countries have adopted national constitution with strong guarantees for the protection of human rights. Several south Asian countries have become parties to the core international human rights instruments. National intuitions for the protection of human rights also exist in many of these states. With a few exceptions, most of the countries in the region have had periods of political stability during which credible elections were held. Yet, political and economic conditions in most of our countries remain volatile. Repeated and prolonged periods of political crisis and economic instability have restrained progress towards a stable environment in which respect for human rights finds the best guarantees. Some of these countries have visible signs for reversal of the initial advancement and are trapped in a perpetual state of transition. Consequently, prospects for peace and security in the region remain uncertain. Weakening of the rule of law has been observed in different countries of the region where insufficient, not genuinely representative democracies prevail, with little or

no space for citizens' participation and without accountability or transparency.

Internal monitoring procedure and efficient control of public institutions are noticeably absent. Lack of independent judiciaries has resulted in denial of protection that is normally available under the constitutional framework. Exception to the rule of law, for example, through special legislation and security not only confer legitimacy on violations of human rights by the states but also weaken the ability of national judicial systems to protect people from arbitrary actions. The climate created in the wave of counter terrorism has created instability without assuring security. Anti-terrorism measures have been adopted in environments charged with political conflicts and in many cases under economic depression. Governments have frequently used the current climate to abuse the enhanced powers gained in the campaign against terrorism to target movements for self-determination, the peoples' rights to protest as well as the political opposition and those defending human rights. These measures are seriously undermining human rights on the one hand and on the other diminishing the respect for rule of law by raising the perception that the security imperatives justify deviation from recognized standards of due process and fair trial. Increased militarization of south Asian states is both impediment to development and as well as a threat to sustainable democracy. Enhanced power of the military in order to deal with security situations

has allowed encroachment upon political spaces. Military presence still dominates the structure of authority and democratic culture becomes difficult to promote. That there is a marked link between severity of human rights violations and expanding role of the military in many countries of the region is now quite apparent. While states have progressively enhanced their power of control the roles of the states in protection has diminished. Floors in the agendas of economic development pursued by many states in the region are amply reflected in the growing poverty and social exclusion of a large section of the population. Severe violations of economic, social and cultural rights have become a grave inaction of the states. Exploitation of labor and depletion of the environment are some of the serious forms of these violations. Internal displacement, eviction from land and other trends are affecting sustainable livelihood and feed into an already unsustainable environment that creates conflicts and political tension. In many countries, state policies have ceased to respond to peoples' needs and are formulated to accommodate the demands of powerful economic interest. Affected populations find that in the current environment of globalization their own governments are either unable or unwilling to redress the difficulties they confront.

Multinational cooperations and other non-state agents have acquired an enormous degree of control over the life and security of the people of this region. In many countries of the region stability rather than development has become an imperative to be achieved through the use of state force in order to repress popular movements and quell the voices of protest. Freedoms of movements and assembly and access to information are particularly affected and more risk is felt now in defending economic social and cultural rights. Such an act has resulted in increased public resentment against authorities. They have also diminished the space for dialogues to reconcile economic policies with people's rights to safe environment, control over their own resources and labor practices without exploitation. Some other important trends in the region that have become the source of conflict and political tension arise from the politics of identity, greater difficulties in the management of pluralism and diversity, increasing poverty and diminishing role of the states in providing social security. The situation of women in many countries in the region is a particular concern. Their rights are violated in the name of religion and

culture, and particularly vulnerable to prejudice, exclusion and public repudiation not only by state forces, but also by social actors. While most countries in the region have made some progress on initiative on children, comprehensive protection systems are still missing and child abuse and neglects remains a serious concern in all countries in the region. One positive development in the region is the growing strength and capacity of civil societies. Strong and active regional collaboration has given support to the national efforts for the protection of rights. Networking not only has transferred capacity but also knowledge. A focus on human rights research has given an intellectual feedback to activism in the region and informed advocacy. Regional networking among the civil society organizations has shown good results in making visible the common trends in the region that result in weakening democracy, rule of law and respect for human rights. Several joint initiatives are being carried out that have impacted national situations and people to people engagement has visibly grown. It is in the backdrop of concerns and aspirations that civil societies in this region have been calling for a regional intergovernmental initiative for the promotion of freedom, justice and peace.

Neither democracy nor the rule of law can be safeguarded without embedding respect for human rights in every aspects of governance. This interest will therefore gain credibility only if it moves well beyond the proclamation of the charter of democracy and to establish mechanisms that oversee progress in developing national systems that deliver social justice and ensures accountability for failure to comply with the commitments made at this forum. Such a move forward requires that the legitimate pursuit of state to further the strategic interest in the regional context is well balanced by a perspective that places dignity and security of the people at the center of any strategic interest of the states. I say this because at the international level the disconnectedness of the human rights system of the UN from its political initiatives affects the potential of that organization to deliver peace and freedom.

The aims of SAARC, the Social Charter, and the Charter of Democracy cannot be realized without genuine engagement with the regional civil society that actually brings the peoples' dimensions to strategic interests. When states affirm their sovereignty, they must be fully conscious that they claim it in the name of the people. Sovereignty of

the people is indefensible if violation of their dignity and freedom remain immune from accountability. An effective human rights mechanism in south Asia to supplement the national capacity is therefore a logical outcome of SAARC initiative on democracy, social justice and the rule of law. Expressions such as inclusive and participatory governance become meaningless phrases without the recognition of civil society as the part of the governance process and insuring space for it in any deliberation on the subject. Together, states and the civil societies in the region should move forward to create and achieve a vision of south Asia where peace and tolerance prevail and where institutions have the strength not only to guide human rights initiatives and respect for human rights but also to ensure that human rights for all is a realizable and practical reality in our life rather than just a dream.

Kulchandra Gautam

Former Assistant Secretary General of the UN

Recognition and respect of human rights and their universality are among the greatest markers of modern human civilization. Having rights only on paper is not enough. Mechanisms are needed for their effective implementation. In a world of sovereign states, the most important and effective mechanism are, of course, at the national level. But, as governments often trample on their peoples' rights often invoking sovereignty and national interests as their justification, some mechanisms are needed above and beyond the national level as well if the universality of human rights is to be genuinely guaranteed.

We have plethora of regional and sub-regional mechanisms. Europe, America and even Africa have complied with the call of the UN and they have set up regional mechanisms. But, curiously, Asia has lagged behind. We Asians are usually very quick to adopt new ideas and technologies but we have been so slow and reluctant to set up a regional human rights mechanism. Many authoritarian governments in Asia and some intellectuals as well tended to view human rights as a western concept. In the post-colonial period when it was fashionable to blame all our problems on the legacy of colonialism, some leaders insinuated that human rights were a wedge for imposing western hegemony on newly independent nations. During the cold war, the Soviet Union used to emphasize that the economic

and social rights were much more important than civil and political rights. Many authoritarian Asian leaders sided with the Soviet Block on this issue as it gave them a perfect issue to trample on people's civil liberties.

Some went to the extent of theorizing that human rights are somehow inconsistent with the so-called Asian values. Now, scholars like Amartya Sen have thoroughly debunked the Asian values argument. We have now moved on to accept the universality of human rights, at least in principle. But, there is still a certain lack of enthusiasm for robust human rights monitoring mechanisms among most Asian governments. This, I believe, is among the main reasons for slow progress in establishing any effective and credible regional human rights mechanism in the Asia pacific region. With a few exceptions, we find most Asian governments still are unenthusiastic about setting up a strong human rights monitoring and enforcement mechanism whether at the national level or regional or sub-regional level. It has, therefore, fallen on civil society organizations to champion for a strong human rights mechanism. Thanks largely to the persistence and perseverance of the civil society organizations, we now have regional mechanisms in ASEAN and in the Arab region. It is too bad that our sub-region, South Asia, continues to lag behind although many organizations in the region are pressing the case for a mechanism in the region.

In recent years, SAARC has taken some baby steps to strengthen human rights. The SAARC Convention on Child Protection and Against Trafficking were a good beginning. The SAARC social charter and Charter on Democracy provide additional building blocks for further strengthening this region's commitment to human rights. I hope that the forthcoming SAARC Summit in the Maldives in November will be a milestone in finally setting up a South Asian mechanism for protection, promotion and fulfillment of human rights thus allowing us to hold our heads high that our region is not the last bastion to resistance to human rights. We all agree that the most effective action for protecting and promoting human rights must take place at the national level. However, in south Asia, most of our national human rights institutions are still very weak. Having a regional mechanism would be beneficial as a complement to strengthen and reinforce the work of national human rights institutions. Moreover, there is a real value added in having a sub-regional

mechanism to help tackle certain human rights issues that require cross-border and trans-boundary collaboration because, increasingly, human rights violators are getting very smart and cunning. They hide their tracks and avoid detection or prosecution by moving across national boundaries. A sub-regional mechanism would be particularly helpful in addressing issues such as those concerning the human rights of refugees and displaced persons, victims of forced labor, human trafficking and migrant workers, which require cooperation at the regional level. Having a regional human rights body could help address and remedy some of the shortcomings of national human rights institutions and complementing existing international human rights mechanisms as well. While I was working at UNICEF for decades, I learnt from my own experience in other regions that such trans-national mechanisms can be greatly helpful in ensuring better protection of children's rights including measure to protect them from hunger, diseases, malnutrition and lack of basic services.

Currently, SAARC has some instruments and mechanisms to deal with some trade and development related issues. It is high time for it to have more focused agendas on human rights with a robust institutional mechanism. To make this dream a reality, a concerted and consistent effort is needed from civil society organizations and other stakeholders both for the establishment of the SAARC level human rights mechanism and to ensure that such a mechanism, when established, follows the highest standards of international norms, transparency and integrity.

Jyoti Sanghera
Head of OHCHR-Nepal

The only region which doesn't have regional human rights mechanism is the SAARC region. SAARC was established with an attempt to bridge gaps in the arena of human and economic development, however, it is yet to fulfill and address human rights protection and promotion. This sub region remains plagued by endemic levels of human rights deficit, deficit in the enjoyment of both civil and political rights as well as economic, social and cultural rights. We are aware of the scenario and sad stories of the region on human rights situation. So I am not going to go into the litany of the denial of rights captured by impunity, poverty, discrimination and inequality in this region.

Since decisions of the regional mechanisms are not legally binding, governments can ultimately choose to ignore the recommendations that are made. The role of civil society becomes critical to the efficacy of the commission in this connection. The human rights mechanisms of the region taken together are the part of the human rights system. The system helps national governments to better address the human rights concerns that cross national borders. For example, human rights abuses and violations that come from organized crime including terrorism and trafficking, migration, diseases and pandemics, economic development projects including dams, river diversion projects etc. food security and environmental issues such as pollution, toxic wastes constitute part of the deliberation of the regional human rights mechanism.

The South Asian states continue to be seriously thwarted by the security agendas. They are not yet ready; it seems, to adopt neither the ASEAN model of mutual respect, non-interference and consensus nor the European model of praxis of forging a regional cooperation by strengthening interdependence. Thus, the SAARC region and its governments oscillate between lacks of trust between each other. The cold war within south Asia, it seems, has not been over yet. But, let's not forget that it took some forty years for the formation of ASEAN and the adoption of the ASEAN Charter. In such a context the role of civil society and the national human rights institutions as prime movers and catalysts for setting up a regional human rights mechanism in the South Asian region become critical and crucial. And, there are, of course, some valuable lessons to be learnt from the neighborhood.

South Asian government's initiatives have been somewhat slow, we have to admit it. It may be necessary to establish a track II process with a working group with key individuals who can engage effectively with the south Asian governments and these would necessarily come from the civil society as well as from Treaty Body Committee members and the independent experts from the region. Layers of shadow group may be needed to prepare the ground work at various levels.

All I would like to say is that OHCHR stands ready to support these processes in whichever way may be deemed necessary and provide support for the setting up of a regional mechanism for human rights in this sub-region.

Establishment of a Regional Human Rights Mechanism in South Asia: Efforts, Possibilities and Challenges



1. General Background

South Asia, which is the host of one-fifth of the world's population, is still grappling with poverty, illiteracy and interstate conflicts. Gross violations of human rights have attributed to the culture of impunity in the region. On the one hand, a lack of effective initiatives from the respective governments in addressing geo-politically induced concerns; illiteracy and poverty have contributed to ongoing impunity. Similarly, a lack of good governance, transparency and violations of human rights continue to persist in the region. On the other hand, there is a growing realization about human rights and democracy among civil society organizations and policy makers. South Asia, like most other post-colonial security regions, has been a "conflictual security

complex"¹.

The vibrant civil society of the region has contributed to the continuous popular struggle against repressive regimes in order to introduce and restore democratic freedom and human rights. Despite this, South Asian Association for Regional Cooperation (SAARC) has been unable to push forward its agenda of social development, economic cooperation/integration or to build trust among its members. Similarly, SAARC has been ineffective in dealing with the emerging challenges such as terrorism, climate change and environmental degradation. Regional connectivity with strong mechanism for consolidating democracy and human rights through the wider participation of civil society still remains an ideology and cooperation in the energy sector and harnessing

of water resources continues to be marred by regional security issues.

In this context, this paper has tried to discuss an overview of SAARC in the context of democracy by highlighting major challenges and opportunities for the establishment of human rights mechanism in South Asia.

2. SAARC in the Context of Democracy and Human Rights

The United Nations and other regional and international organizations have raised serious concerns on the human rights situation in South Asia. Disappearances, extra-judicial killings, impunity, suppression of freedom of expression, assembly and association and attacks against Human Rights Defenders (HRDs), civil society advocates and media are not uncommon. The UN Office of the High Commissioner for Human Rights (OHCHR) have made number of recommendations to improve the human rights situation of South Asian countries.

The decision of the UN

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1. Buzan and Wæver define a Regional Security Complex (RSC) as a set of units whose major processes of securitization, de-securitization, or both are so interlinked that their security problems cannot reasonably be analyzed or resolved apart from one another. The RSC theory uses a blend of materialist and constructivist approaches. On the materialist side it uses ideas of "bounded territoriality and distribution of power". On the constructivist side, RSC builds on the securitization theory which focuses on the political processes by which security issues get constituted. See, Barry Buzan & Ole Wæver, *Regions and Powers: The Structure of International Security*, (Cambridge University Press, 2003)

Human Rights Council (HRC) to undertake the Universal Periodic Review (UPR), as a new review mechanism has provided a unique opportunity for active engagement of all the relevant stakeholders including Non-Governmental Organizations (NGOs) and National Human Rights Institutions (NHRIs) for bettering the human rights situation of the countries. All South Asian countries have undergone the UPR process, a process in which representatives from civil society and the other UN member states are granted the opportunity to discuss the human

rights situation/issues of the countries under review in a given session. to the ICCPR and the Convention on the Elimination of Discrimination against Women (CEDAW). Only the Maldives and Sri Lanka have ratified both Protocols, while Nepal has ratified only the OP to the ICCPR. Among the SAARC countries, Bhutan has not yet ratified the International Conventions on Civil and Political Rights (ICCPR) or the Economic, Social and Cultural Rights (ICESCR) whereas Pakistan has ratified ICCPR with reservation. Sri Lanka is the only member to ratify the Convention on the Rights of Migrant Workers (ICMW). Bhutan

with the representatives of the Indigenous peoples while conducting development activities, which has direct or indirect impact to them. Among SAARC countries, only Nepal has ratified the Second Optional Protocol to the ICCPR aimed to abolish death penalty. Pakistan and Bhutan do not have National Human Rights Institutions (NHRIs).

3. Possibilities of Regional Human Rights Mechanism in South Asia

The existing regional human rights mechanisms in Europe, Latin-America and Africa have contributed to the protection and promotion of human rights in these respective regions. The Association of South East Asian Nations (ASEAN) countries have been successful in establishing the ASEAN Inter-Governmental Commission on Human Rights (AICHR) through the ASEAN Charter² following the sustained efforts of human rights defenders. However, there is no regional human rights mechanism in South Asia except the emerging National Human Rights Institutions³ (NHRIs). However, they have the capacity gap to advocate for human rights issues beyond the national level. Therefore, concerted and consistent efforts are necessary from the civil society organizations and key stakeholders for the establishment of regional and sub-regional institutions and mechanisms for the promotion and protection of human rights in South Asia.

The President of the Maldives called the South Asian governments, during his inaugural speech on the 16th SAARC Summit held in Bhutan on 28-29 April 2010, to consider the establishment of the regional human rights body in South Asia. Moreover, advocacy for a regional mechanism for the human rights of the South

The decision of the UN Human Rights Council (HRC) to undertake the Universal Periodic Review (UPR), as a new review mechanism has provided a unique opportunity for active engagement of all the relevant stakeholders including Non-Governmental Organizations (NGOs) and National Human Rights Institutions (NHRIs) for bettering the human rights situation of the countries.

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The situation of human rights in South Asia is very challenging. Marginalized and disadvantaged communities suffer more in the region due to poverty, illiteracy, discrimination, denial of basic human rights. Moreover, internal conflicts and the anti-terrorism measures of the state in the name of countering terrorism have resulted in violations of human rights. Moreover, the growing emergence of the neo-liberal global economic order has hindered the limited ability of the state in fulfilling its human rights obligations. The majority of the SAARC member states are also yet to ratify the Optional Protocol (OP)

and Pakistan have neither signed nor ratified the Convention against Torture. Bangladesh and the Maldives have recently ratified the Rome Statute and have become the youngest members of the International Criminal Court (ICC).

None of the SAARC members, except Nepal, has officially ratified the ILO's Indigenous and Tribal Peoples Convention, 1989 (No. 169), which guarantees the "effective protection of [indigenous and tribal peoples] rights ownership and possession" of land. United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) has called the governments to recognize the rights and ensure the Free and Prior Informed Consent (FPIC)

2. The ASEAN Charter was signed by the leaders of all member states at the 13th ASEAN Summit on 20th November 2007. The Charter aims to give the inter-governmental organization a legal personality and to establish more clearly its institutional framework and rules of procedure. The signing of the Charter coincided with the 40th anniversary of the foundation of ASEAN in 1967.
3. Among eight south Asian countries there are National Human Rights Institutions (NHRIs) in five countries namely Afghanistan, Bangladesh, India, Nepal, Maldives and Sri Lanka. A Bill on Human Rights Commission is pending in Pakistan.

Asian people has been given continuity by a large number of civil society organizations of South Asia. Many South Asian countries have already signed several treaties and conventions such as convention on narcotics, convention on combating trafficking in women and children for prostitution, convention on promotion of child welfare, among other areas. Similarly, several agreements have also been adopted under SAARC including the SAARC Social Charter, SAARC Food Security Reserve and some other documents related to specific social issues. Apart from the commitment to the UN Charter, SAARC has already established some regional arrangements for some specified areas and has adopted a number of conventions, charter and declaration related to human rights. There is the potentiality for a regional mechanism in SAARC according to its unique character with a large population, rich diversity and strong aspirations of the people to come together in a "South Asian" identity like other regional systems established.

4. Major Challenges and Opportunities

Materializing a regional mechanism in the region is not an easy matter given the regional mistrusts, challenges and gaps, which contribute to SAARC's dysfunctional nature. The functioning of the SAARC so far shows that the primacy of politico-security issues has stymied regional cooperation. There has hardly been any serious debate in the region to reform or re-orient SAARC either structurally or operationally. Such a reform could enhance its effectiveness by consolidating the organization to a dynamic vehicle of regional cooperation. It is high time to revisit the main rationale of the SAARC process, its main objectives, structures

and modalities.

The geo-political situation and ongoing human rights violations in many South Asian countries have raised numbers of challenges in the establishment of a human rights mechanism in South Asia.

(i) Slow Democratization Process

The process of democratization and the human rights movement haven't yet been able to create higher momentum for the South Asian governments to push towards a serious discussion among the SAARC governments or initiate dialogue with civil society for the consolidation of democracy and human rights. It has not been possible during more than 25 year's history of the SAARC. The Association had a sluggish pace both in terms of its institutional reforms and programmatic refinement. The major weaknesses of SAARC have been its restrictive agenda, weak Secretariat, ineffective implementation machinery and lack of a dispute settlement mechanism.

(ii) Lack of Enforcement Mechanism

South Asian countries have witnessed an increasing number of reported and unreported cases of human rights violations, attacks against human rights defenders, curtailment of freedom of expression and right to information. The adoption of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia on January 5, 2002, at the Eleventh SAARC Summit held in Kathmandu, was a timely initiative and significant milestone in combating and preventing trafficking. However, there is no effective implementation

mechanism in place to implement these conventions.

(iii) Lack of Strong Commitment towards Human Rights

The South Asian governments haven't taken human rights as their priority agenda and their lack genuine efforts in addressing the on-going human rights violations such as Extra Judicial Executions (EJE), disappearances, torture, gender based violence and the common human rights issues of the region such as human trafficking, migration and rights of the minorities.

(iv) Deficient Democratic Culture and Lack of Good Governance

The South Asian governments and the democratic institutions there are still suffering due to lack of transparency, accountability and also due to deficient democratic culture. Despite the establishment of numerous democratic institutions including the National Human Rights Institutions (NHRIs) in almost all the countries, they are grappling with difficulties and a capacity gap. The judiciary and quasi-judicial bodies haven't been able to function effectively and without interference. The Right to Information Acts and the anti-corruption Commissions have been enacted in most of the countries. However, such acts and commissions haven't best served the interests of people.

Lack of Conflict Resolution Mechanism

There is no proper mechanism within the SAARC to resolve the conflicting issues at sub-regional level, unlike Europe and other parts of the world. The official SAARC Summit can't put the conflicting issues as the agenda of SAARC. As a result, numbers of issues with a major impact on human rights, including human trafficking, refugees

4. *Establishing a Robust Regional Human Rights Mechanism in South Asia* an article by Surya Deuja published in the: Asian Human Rights Defender (Vol. 6 No. 1, June 2010) available at: http://archive.forum-asia.org/index.php?option=com_content&task=view&id=2631&Itemid=34

and internally displaced persons (IDPs), border disputes, fisher folks, climate change and labor migration and management of natural resources for the mutual benefits such as water management haven't been adequately addressed. Some of the ad-hoc efforts taken at bilateral level are patchy, without effective implementation and monitoring mechanisms.

Some of the major opportunities⁴ that could be delivered by a regional human rights mechanism can be elaborated as follows:

The proposed regional human rights mechanism in SAARC could:

- (a) help overcome procedural and institutional weaknesses and shortcomings of some domestic jurisdictions and of the international system.
- (b) help overcome lack of expertise and experience in human rights jurisprudence.

5. Civil Society Initiatives

Numbers of human rights organizations and civil society organisations from South Asia have been taking various initiatives for the regional human rights mechanism with the aim to address the key human rights problems of the region through transnational cooperation and coordination under the SAARC. FORUM-ASIA, South Asians for human rights (SAHR), South Asian Forum for Human Rights (SAFHR) and Peoples' SAARC are some of the organizations and networks, which have directly or indirectly pushing for a human rights mechanism in South Asia.

FORUM-ASIA, which is actively involved in the civil society process advocating for the establishment of the ASEAN Intergovernmental Commission on Human Rights (AICHR) has also been working with its member

the 16th SAARC Summit in Bhutan and other forums. As an immediate follow-up to the Kathmandu workshop, a half-day workshop was conducted at the premises of "People's SAARC" at the Indian Social Institute, New Delhi on 21 April 2010. It was for broadening, strengthening and consolidating efforts in building sub-regional campaigns on the establishment of a human rights body for South Asia. Similarly, a seminar on "*The Need for Inter-Governmental Human Rights Mechanism in South Asia*" was organized in collaboration with the Sustainable Development Policy Institute (SDPI) on 16 November 2010 in Islamabad, Pakistan. In a series of separate meetings, some of the Government officials including Ministers for Human Rights, Minority Affairs and some parliamentarians from India, Nepal and Pakistan expressed a positive response on the idea of regional mechanism. The second meeting of the SAPA Working Group on South Asia was held on 18th February 2011 in Dhaka, Bangladesh in conjunction with the 5th SAPA General Forum. It had also held an extensive discussion on the issue of regional human rights mechanism in South Asia.

Civil society awareness of SAARC activities and its attempts to participate and influence the SAARC process has also stepped up in recent years. A glance at the list of SAARC's Apex Bodies and SAARC Recognized Bodies reveals that SAARC is more interested in working with technical civil society organizations than in civil society organizations working on human rights and democratization. However, groups such as the South Asian Free Media Association (SAFMA), South Asians for Human Rights (SAHR), and South Asia Forum for Human Rights (SAFHR) now have been trying to lobby SAARC into addressing a wider range of human rights issues. The largest network of civil society groups working to push

A glance at the list of SAARC's Apex Bodies and SAARC Recognized Bodies reveals that SAARC is more interested in working with technical civil society organizations than in civil society organizations working on human rights and democratization.

- (c) lead to more effective implementation and enforcement of human rights norms and standards.
- (d) draw on the concepts and values which are integral to the intellectual and religious traditions and world-views of Asia and the Pacific.
- (e) address regional human rights problems (e.g. trafficking, refugees and displaced persons, migrant workers) more effectively.
- (f) be one of the more credible mechanisms as the moral legitimacy would stem from being drawn up by the governments, scholars, lawyers and civil society representatives of the region.

organizations, networks, partners and coalitions to push the strong advocacy for the regional mechanism in South Asia. In March 2010, FORUM-ASIA in collaboration with INSEC-Nepal had organized the *First Sub-Regional Workshop on Regional Human Rights Mechanism for South Asia*. The result of this workshop was the Kathmandu Declaration 2010 which made a strong call to the South Asian governments to establish regional human rights mechanism in South Asia and establish National Human Rights Institutions (NHRIs) in Pakistan and Bhutan. The delegates of the workshop had also met with the Prime Minister of Nepal and requested to push the agenda of regional mechanism in South Asia in

SAARC deeper into acting on human rights is People's SAARC, a collective efforts of people, rights groups and prominent members of civil societies across South Asia with a Secretariat based in Kathmandu, the same city where the SAARC Secretariat is located.

In 2011, a Second Sub-Regional workshop on human rights mechanism in South Asia was organized as a follow up of the First Sub-Regional workshop on a South Asian Human Rights Mechanism on March 24-25 in Kathmandu, Nepal. During this first workshop, participants emerged with the Kathmandu Declaration, demanding the establishment of a regional human rights mechanism in South Asia similar to the Asian Intergovernmental Commission on Human Rights (AICHR) in ASEAN, the Inter-American Commission on Human Rights, the African Commission on Human and Peoples' Rights, and the European Court of Human Rights. The 2011 Workshop has come up with Kathmandu Statement 2011 and establishment of an informal Working Group among the human rights experts and practitioner of South Asia to facilitate dialogue and discussion with SAARC and South Asian Governments and enhancing civil society participation in the SAARC process.

6. Conclusion

SAARC had agreed to a process of informal political consultations but there is no formal or institutionalized process for discussion on bilateral political disputes among the member states within its existing framework. It has been suggested by many that the SAARC Charter must be amended to institute a conflict resolution mechanism. The Male Summit (1997) established a Group of Eminent

Persons (GEP), with the mandate to undertake a comprehensive appraisal of SAARC and to identify measures including mechanisms to further vitalize and enhance the effectiveness of the Association in achieving its objectives. GEP, in its report, supported the process of holding informal political consultations initiated at the 9th SAARC Summit and unanimously recommended that the process should be carried forward and operationalized, so as to achieve the Charter's objectives of fostering mutual trust, understanding and friendly relations among the member States⁵.

SAARC is the only one regional instrument of South Asia established with the initial

on human rights within the SAARC with an appropriate mechanism to address the pertinent issues of human rights. The regional human right organizations should continue their concerted efforts and advocacy for the establishment of strong regional human rights mechanism.

The proposed theme for the 17th SAARC Summit to be held in the Maldives in November 2011 has attempted to focus on women and their role as the agent of change through 'a new rights based approach' to deliver gender justice and gender equity. Similarly, several agreements have also adopted under SAARC including the SAARC Social Charter, SAARC Food Security Reserve and some

SAARC is the only one regional instrument of South Asia established with the initial objective of improving the quality of life of the people of the region by accelerating the economic and social development.

objective of improving the quality of life of the people of the region by accelerating the economic and social development. However, the SAARC still has a long way to go in creating a robust human rights mechanism by instilling human rights value and standards as one of the core principles in the SAARC process. Moreover, the current practice of SAARC restricting access of civil society organizations in the debate, dialogue and discussion needs to be changed and the voice of the people of South Asia and their opinion on how they want to pursue the democratization and human rights must be heard as per the demand made by the vibrant civil society organizations of the region. SAARC has a regional agenda and mechanism on development related matters but it is high time for SAARC to have one focused agenda

other documents related to specific social issues. In February 2011, the SAARC countries have approved the SAARC Charter of Democracy. The drafting and approving the SAARC instruments is carried out in closed door meetings by the government representatives without representation and meaningful participation of civil society organizations of the region. Moreover, the current practice of SAARC that restricts the access of civil society organizations in the debate, dialogue and discussion needs to be changed and the opinion of the people of South Asia on how they want to pursue the democratization and human rights must be heard as per the demand made by the vibrant civil society organizations of the region.

5. *The Rationale of Restructuring SAARC: Issues and Modalities* by Dr. Shaheen Akhtar, Institute of Regional Studies, Islamabad during Regional workshop on Restructuring of SAARC, University of Karachi, 30-31 March 2010 (unpublished).

Interview

South Asian Association for Regional Cooperation (SAARC) is already more than 26 years old. It was established in the South Asian region for the regional cooperation. SAARC incorporated a wide range of issues into its Charters, documents, Conventions and programmatic actions once it came into being and developed gradually. It, however, has failed to incorporate human rights agendas in its charters, documents and conventions. It is even reluctant to deliberate on the human rights issues during its summits whereas many other similar organization in the world are already with regional and sub-regional mechanisms on human rights. Concerned individuals, interest groups and organizations have been endeavoring for the establishment of such a mechanism in the region and several regional workshops have been accordingly for the purpose at the civil society level. In this context INFORMAL had talked to **Professor Dr. Mizanur Rahman, the Chairman of National Human Rights Commission of Bangladesh and Former Chief Justice and Chairperson of National Human Rights Commission of India** J S Verma fielding a range of questions relating to the establishment of a sub-regional human rights mechanism in the region. Excerpts:

Public Opinion, both Locally and Internationally, is Increasingly Asserting for the Establishment of a Regional Mechanism

- **How do you assess the overall efforts made so far toward establishing a regional Human Rights Mechanism in South Asia?**

Quite a number of efforts have been taken. However, these efforts have failed to bring all the actors (governments, NHRIs, CSOs) on board and have also been unable to maintain consistency in their endeavors.

- **What, do you think, should be the rationale of establishing such a mechanism in this region?**

The first rationale is, of course, the huge population of the region. South Asia is the host of one-fifth of the world's population. Secondly, the region is also very unique in nature because of its diversity in religion, culture and the livelihood pattern of the population. Similarly, this region faces the lack of effective initiatives from the respective governments in defending diversity and addressing geo-political situation, illiteracy and poverty through human rights perspectives. Thus, urgency of a regional human rights mechanism is very high here.

- **Many raise the issue that SAARC Charter itself has been a hindrance toward establishment of**



Professor Dr. Mizanur Rahman

Photo Source: NHRC, Bangladesh

such a mechanism and it also lacks human rights related issues within it. Do you think the SAARC Charter has something to do with in this connection?

The SAARC Charter was adopted in 1985 at the time of the establishment of the organization. The Charter primarily focused on the area of economic cooperation. Later, the SAARC Social Charter was adopted in January 2004 focusing on the areas of social development. I think we can consider the Social Charter as the base for establishing a human rights.

- **What other constraints do you see or foresee?**

The major constraint, from a South Asian perspective, is that we are still with two strata of problems. Firstly an Asian Charter for Human Rights does not exist, and secondly, there is no South Asian Convention for Human Rights. Though there is a SAARC Charter, some follow up Charters and the Declarations of the SAARC Summits, a common standard of human rights jurisprudence and implementation mechanism has not materialized yet.

- **What will be the role of the political parties and governments in this connection?**

Since the region is still lagging behind in terms of consolidated democratic polity in general, the political parties and governments here are not very much in favor of such a mechanism. Despite this fact, regional human rights mechanism has to be established so that stakeholders will be held accountable for human rights, good governance and social justice.

- **Organizations and people working for the establishment of such a mechanism are quite optimistic. However, governments and political**

parties in the region seem reluctant. How can we bridge such a gap seen between them?

Public opinion, both locally and internationally, is increasingly asserting for the establishment of a regional mechanism. This growing understanding and public pressure is being reflected at different levels, including at the international community. Particularly, the UN related bodies are playing a more effective role to persuade the member states to setup statutory official human rights institutions at the national level and they have also been encouraging for regional cooperation among them. Similarly, the level of acceptance of the universality of human rights has increased. Mounting awareness among civil society and increasing cooperation among the people on a regional basis to address human right issues has also set stage for a more conducive environment. These factors give every reason and justification to be optimistic about the realization of the basic objective to establish a common Human Rights Charter and effective mechanism to protect human rights on regional basis among the countries in South Asia.

● **Almost all the governments in this region are similar. Let's say they are established under democratic norms. But, often, religious or ethnic matters are put forth when it comes to the matter of establishing such a mechanism. Do you think these matters will come as a hindrance?**

These issues are seen as a hindrance, not only in the case of South Asia. It happens elsewhere. In my opinion, such a hindrance is not something that cannot be resolved.

● **Hopefully, such a mechanism will be established. Once established, what sorts of issues should be harmonized by it?**

Harmonization might not be the solution in every case. But, there are several issues especially in the area of Economic, Social and Cultural rights, where a regional level of intervention is very much worthy.

● **What do you think the inter-governmental stand and role will be in this matter?**

In order to materialize the dream of making regional human

rights mechanism, a strong sense of cooperation between the NHRIs of South Asian Countries is primarily of prominent importance. The need for coordination between National Human Rights mechanisms was stressed at the Second International Workshop on National Institutions for the Promotion and Protection of Human Rights, held in Tunis in 1993.

● **Do you have any more to say regarding this issue?**

I question myself- How difficult is the task? Faith, hope and promise are the tenets of our human rights record. Our idealism and efforts bind us firmly and a humanist cause brings us together. This facet of our polity is our strength to search for a solution to our social justice related problems and to achieve a society where 'fundamental human rights and worth of human persons' would be secure. At the age of globalization of human rights, a SAARC Human Rights Mechanism is not a fallacy, neither a dream but an achievable possibility. Human rights diplomacy can help us in achieving that goal by cultivating an environment of peace.

It's the Turn of the Political Leaders or Governments to Proceed with the Issue Now

● **Efforts have been made towards establishment of SAARC Level Human Rights Mechanism for a long time. Workshops and seminars have been held in Kathmandu itself for the purpose. How have you viewed these deliberations and attempts?**

I feel that such workshops and seminars have brought different people together within this region. It's a very positive thing. Mobilization or realization that we need to mobilize efforts to form SAARC level Human Rights Mechanism is praiseworthy. However, a lot more needs to happen. Formal institution, of course, will always be necessary and helpful but I am not only for the formal institution. What is necessary is commitment to a cause by every individual involved in the process does not matter whether the bond is formal or informal. The latter one needs



J S Verma

Photo Source: <http://indiaiprize.org/images/verma.jpg>

to be further strengthened and that is in our hands. The establishment of a formal institution itself may not be the answer. It is because even if we create an institution, it will be an exercise in futility if the persons who lead such

mechanism are not the right kind. There should exist a formal structure but it is equally important to ensure that it is an accountable and effective mechanism for the enforcement.

● **To be very specific, what should be the rationale of establishing such a mechanism in this region?**

We have commonalities in this region. The region is comprised of developing nations. Our problems are very common but they all are significant human rights issues. Poverty is one. If we juxtapose the development of this region with the global human development, there seems urgency for empowerment of the people living in the region. Climate change, which is posing a great threat globally, is also going to cause more devastation and damage in our region. We need to be aware of all these serious human rights issues. Apart from

that, another issue not given that much importance and talked of is corruption. Let me remind you, the theme of Human Development Report in 1999 was Crisis of Governance in South Asia and the major factor identified as the problem by the report was corruption. Today as well, corruption has been eating away the resources supposed to be utilized for the development and human empowerment.

The rationale should be that competent people from all countries in the region should be involved in the mechanism so that each country will be able to feel responsibility in the process. There should be no sense of big brother and small brother. Everyone has to join as an equal partner. The persons selected to steer such a mechanism should be of impeccable integrity, a person with record of public service and having values necessary for promoting human rights.

● **Many raise the issue that SAARC Charter itself is working as a hindrance towards the establishment of such a mechanism and it also lacks human rights related issues within it. Do you think that the SAARC Charter has something to do with the establishment of a mechanism in the region?**

I worked as a judge for many years but never felt bogged down due to the content or letter of the law. It is the spirit that has to be considered. No law is inactive so one should not assume the SAARC Charter is inactive. The letter in the Charter has to be read expansively. The SAARC Charter cannot be interpreted to say anything inconsistent or contrary to what is there in the International Human Rights Law. And, therefore, the interpretation has to be made accordingly.

● **Do you see or foresee some sorts of constraints towards establishment of such a mechanism?**

Well, constraints will never be expressed much. There could be inaction. Once we gain strength even in the informal structure, the formal structure is not far behind.

● **What about the political kind of interference, reluctance or support of the political parties and the governments in this region?**

People in power think that human rights activists are the obstruction. However, when they step down from power, they start advocating for human rights. So, the need is to ensure that those in power will work for the human rights and effective mechanism, and culture will be set up towards this end. This can be possible by empowering people for constant vigilance over the exercise of power and public functioning.

● **Those working for the establishment of a Human Rights Mechanism in the SAARC region are quite optimistic that the establishment of such a mechanism is not far behind. However, the governments, especially the political parties in the region, are reluctant. It seems there is a gap between civil society and the governments. How can we bridge such a gap?**

I would like to take the case of Nepal in this connection. When I joined the National Human Rights Commission as its Chair in India, Nepal did not have such commission. It was being contemplated. Reluctance was there with those in power, even the High Commissioner for Human Rights requested me to become involved and help in the establishment of a Human Rights Commission. When I came to Kathmandu for a conference in November 1999, the power talked to me, including the top people. I spent some time interacting with them. So, there is nothing antagonistic. Governments have to converge for the establishment of such a mechanism. If established properly, the mechanism will show the path to walk along.

● **Almost all the governments in this region are similar. Let's say they are established under democratic norms. But, often, religious or ethnic kinds of matters are put forth when it comes to the matter of establishing such a mechanism. Do you think these matters will come as a hindrance?**

The hindrances are so many. We don't have to have an exhaustive list of hindrances. If we have proper personnel to ensure protection and promotion of human rights, prevention of human rights violations and also promotion of

human rights culture hindrances can be avoided. What is more important is the promotion of a human rights culture. All the grievances, whether religious, ethnic or any other kind; can be managed through the incorporation of such a culture. It is the duty invariably of plural society or those who are in the majority to protect the rights of those who are in small number. It is because smaller number will be best protected only when most of the people in majority stand for the minority's rights.

● **Hopefully, such a mechanism will be established. Once established, what sorts of issues, do you think, should be harmonized by it?**

Once again, I am not too enamored only of a mechanism but the mechanism has to be there as an organized body. I am more concerned about the culture that will ensure that until a formal body comes up discrimination has to be checked. This is the paramount duty of every individual that they have to work against discrimination. Respect for human rights is linked with world peace. People think human rights concept come from debate. I think this is a wrong concept. South Asian culture and ethos speak out *Basudhaiva Kutumbakam, Sarwe Bhawantu Sukhina*. These mean that the world is one family and all human rights for all. These have been the modern slogans; however, these are the South Asian culture and thoughts. This is not, as a matter of fact, that we have been exporting our thoughts and philosophy to the west. So, we are very rich in human rights culture and ideology. All that we need to do is realize our potential and harmonize all the human rights issues in practice.

● **Do you have any more to say regarding the endeavors of civil society towards this end?**

Good interactions have been taking place for the purpose. Civil societies from different countries have been taking up the issues formally and informally. People to people interactions are excellent. It's the turn of the political leaders or governments to proceed with the issue now.

SAARC Charter

We, the Heads of State or Government of BANGLADESH, BHUTAN, INDIA, MALDIVES, NEPAL, PAKISTAN and SRI LANKA;

1. Desirous of promoting peace, stability, amity and progress in the region through strict adherence to the principles of the UNITED NATIONS CHARTER and NON-ALIGNMENT, particularly respect for the principles of sovereign equality, territorial integrity, national independence, non-use of force and non-interference in the internal affairs of other States and peaceful settlement of all disputes;
2. Conscious that in an increasingly interdependent world, the objectives of peace, freedom, social justice and economic prosperity are best achieved in the SOUTH ASIAN region by fostering mutual understanding, good neighbourly relations and meaningful cooperation among the Member States which are bound by ties of history and culture;
3. Aware of the common problems, interests and aspirations of the peoples of SOUTH ASIA and the need for joint action and enhanced cooperation within their respective political and economic systems and cultural traditions;
4. Convinced that regional cooperation among the countries of SOUTH ASIA is mutually beneficial, desirable and necessary for promoting the welfare and improving the quality of life of the peoples of the region;
5. Convinced further that economic, social and technical cooperation among the countries of SOUTH ASIA would contribute significantly to national and collective self-reliance;
6. Recognising that increased cooperation, contacts and exchanges among the countries of the region will contribute to the promotion of friendship and understanding among their peoples;
7. Recalling the DECLARATION signed by their Foreign Ministers in NEW DELHI on August 2, 1983 and noting the progress achieved in regional cooperation;
8. Reaffirming their determination to promote such cooperation within an institutional framework;

DO HEREBY AGREE to establish an organisation to be known as SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION hereinafter referred to as the ASSOCIATION, with the following objectives, principles, institutional and financial arrangements:

OBJECTIVES

The objectives of the ASSOCIATION shall be:

Article I

- a) to promote the welfare of the peoples of SOUTH ASIA and to improve their quality of life;
- b) to accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realise their full potentials;
- c) to promote and strengthen collective self-reliance among the countries of SOUTH ASIA; d) to contribute to mutual trust, understanding and appreciation of one another's problems;
- e) to promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields;
- f) to strengthen cooperation with other developing countries;
- g) to strengthen cooperation among themselves in international forums on matters of common interests; and
- h) to cooperate with international and regional organisations with similar aims and purposes.

Article II

PRINCIPLES

1. Cooperation within the framework of the ASSOCIATION shall be based on respect for the principles of sovereign equality, territorial integrity, political independence, non-interference in the internal affairs of other States and mutual benefit.
2. Such cooperation shall not be a substitute for bilateral and multilateral cooperation but shall complement them.
3. Such cooperation shall not be inconsistent with bilateral and multilateral obligations.

Article III

MEETINGS OF THE HEADS OF STATE OR GOVERNMENT

The Heads of State or Government shall meet once a year or more often as and when considered necessary by the Member States.

Article IV

COUNCIL OF MINISTERS

1. A Council of Ministers consisting of the Foreign Ministers of the Member States shall be established with the following functions:
 - a) formulation of the policies of the ASSOCIATION;

- b) review of the progress of cooperation under the ASSOCIATION;
 - c) decision on new areas of cooperation;
 - d) establishment of additional mechanism under the ASSOCIATION as deemed necessary;
 - e) decision on other matters of general interest to the ASSOCIATION.
2. The Council of Ministers shall meet twice a year. Extraordinary session of the Council may be held by agreement among the Member States.

Article V **STANDING COMMITTEE**

1. The Standing Committee comprising the Foreign Secretaries shall have the following functions:
 - a) overall monitoring and coordination of programme of cooperation;
 - b) approval of projects and programmes, and the modalities of their financing;
 - c) determination of inter-sectoral priorities;
 - d) mobilisation of regional and external resources;
 - e) identification of new areas of cooperation based on appropriate studies.
2. The Standing Committee shall meet as often as deemed necessary.
3. The Standing Committee shall submit periodic reports to the Council of Ministers and make reference to it as and when necessary for decisions on policy matters.

Article VI **TECHNICAL COMMITTEES**

1. Technical Committees comprising representatives of Member States shall be responsible for the implementation, coordination and monitoring of the programmes in their respective areas of cooperation.
2. They shall have the following terms of reference:
 - a) determination of the potential and the scope of regional cooperation in agreed areas;
 - b) formulation of programmes and preparation of projects;
 - c) determination of financial implications of sectoral programmes;
 - d) formulation of recommendations regarding apportionment of costs;
 - e) implementation and coordination of sectoral programmes; f) monitoring of progress in implementation.
3. The Technical Committees shall submit periodic reports to the Standing Committee.
4. The Chairmanship of the Technical Committees shall normally rotate among Member States in alphabetical order every two years.
5. The Technical Committees may, inter-alia, use the following mechanisms and modalities, if and when considered necessary:
 - a) meetings of heads of national technical agencies;
 - b) meetings of experts in specific fields;

- c) contact amongst recognised centres of excellence in the region.

Article VII **ACTION COMMITTEES**

The Standing Committee may set up Action Committees comprising Member States concerned with implementation of projects involving more than two but not all Member States.

Article VIII **SECRETARIAT**

There shall be a Secretariat of the ASSOCIATION.

Article IX **FINANCIAL ARRANGEMENTS**

1. The contribution of each Member State towards financing of the activities of the ASSOCIATION shall be voluntary.
2. Each Technical Committee shall make recommendations for the apportionment of costs of implementing the programmes proposed by it.
3. In case sufficient financial resources cannot be mobilised within the region for funding activities of the ASSOCIATION, external financing from appropriate sources may be mobilised with the approval of or by the Standing Committee.

Article X **GENERAL PROVISIONS**

1. Decisions at all levels shall be taken on the basis of unanimity.
2. Bilateral and contentious issues shall be excluded from the deliberations.

IN FAITH WHEREOF We Have Set Our Hands And Seals Hereunto. **DONE In DHAKA, BANGLADESH,** On This The Eighth Day Of December Of The Year One Thousand Nine Hundred Eighty Five.

Hussain Muhammad Ershad
PRESIDENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

Jigme Singye Wangchuk
KING OF BHUTAN

Rajiv Gandhi
PRIME MINISTER OF THE REPUBLIC OF INDIA

Maumoon Abdul Gayoom
PRESIDENT OF THE REBUPLIC OF MALDIVES

Birendra Bir Bikram Shah Dev
KING OF NEPAL

Muhammad Zia-ul-Haq
PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

Junius Richard Jayewardene
PRESIDENT OF DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

SAARC Charter of Democracy

Inspired by the common objectives of all South Asian States to promote the welfare of their peoples, to provide all individuals with the opportunity to live in dignity, and to realize their full potentials as enshrined in the SAARC Charter;

Also inspired by the general objectives of all South Asian States to promote peace, freedom and social justice;

Further inspired by their shared commitment to the rule of law, liberty and equal rights of all citizens;

Reaffirming faith in fundamental human rights and in the dignity of the human person as enunciated in the Universal Declaration of Human Rights and as enshrined in the respective Constitutions of the SAARC Member States;

Recognizing that inclusive policies, including constitutional protection developed in keeping with the wishes of the people, are essential for developing trust and understanding between and among communities;

Affirming that broad-based participation of people in institutions and processes of governance creates ownership and promotes stability;

Convinced that economic growth and social development based on justice and equity and democracy are interdependent and mutually reinforcing;

Reaffirming that the pursuit of inclusion, good governance, and poverty alleviation, especially the elimination of extreme poverty, are essential to the promotion and consolidation of democracy;

Aware that tolerance and diversity are critical in creating effective foundations for a pluralistic democratic society; and

Convinced that undemocratic and unrepresentative governments weaken national institutions, undermine the Constitution and the rule of law and threaten social cohesion and stability in the long-run.

The Member States of the South Asian Association for Regional Cooperation (SAARC), in the spirit of consolidating democracy in South Asia, hereby commit to:

- Reaffirm the sovereignty of each Member State;
- Ensure the supremacy of their respective Constitutions and uphold their spirit;
- Continue to strengthen democratic institutions and reinforce democratic practices, including

through effective coordination as well as checks and balances among the Legislature, the Executive and the Judiciary as reflected in the respective Constitutions;

- Guarantee the independence of the Judiciary and primacy of the rule of law, and ensure that the processes of appointments to the Judiciary as well as the Executive are fair and transparent;
- Adhere to the UN Charter and other international instruments to which Member States are parties;
- Recognize the role of political parties and the civil society in a democracy; and
- Renounce unequivocally any unconstitutional change of an elected government in a Member State;

Accordingly, Member States undertake to:

- Reinforce the linkage of development and democracy;
- Promote sustainable development and alleviation of poverty through good governance, equitable and participatory processes;
- Promote democracy at all levels of the Government and the society at large;
- Strengthen democratic institutions and processes in all national endeavors with due focus on decentralisation and devolution;
- Promote equality of opportunity, equality of access and equality of treatment at the national level, in keeping with the respective constitutional provisions, as safeguards against social injustices and stratification;
- Inculcate democratic values in society through education and awareness building;
- Ensure gender mainstreaming in government and society;
- Uphold participatory democracy characterized by free, fair and credible elections, and elected legislatures and local bodies;
- Encourage all democratic forces in South Asia, including elected representatives of the people, to unite against any unconstitutional change in government in any South Asian country, and work towards the restoration of democracy in keeping with the SAARC Charter; and
- Promote adherence to these decisions and fulfillment of this Charter, if necessary through an institutional mechanism.

SAARC Democracy Charter: *Citizens' Initiative*

(This is the Final Version of the Charter prepared by the Regional Conference on SAARC Democracy Charter: Citizens' Initiative, organized by SACEPS in Kathmandu on 20th -21st September 2011. A Working Draft was initially prepared by the Brainstorming Meeting held in Kathmandu on 24th-25th November 2010.)

PREAMBLE

WE, THE PEOPLES OF SOUTH ASIA,

Inspired by our common goals to promote the welfare of the people, provide all individuals of diverse identities with the opportunity to live in liberty, dignity, peace and happiness and to realise their full potential as enshrined in the SAARC Charter;

Also inspired by the aspiration of the peoples of South Asia to promote freedom and social justice;

Further inspired by the shared commitment to the rule of law, liberty and equal rights and opportunities of all citizens;

Reaffirming our collective will to ensure the fulfilment of fundamental human rights, by institutionalising the rule of law, peace, security and equitable and sustainable development as enunciated in the Universal Declaration of Human Rights and the respective Constitutions of the SAARC Member States;

Recognising that inclusive policies are essential for developing trust, dialogue and understanding between and among communities;

Acknowledging that broad based participation of people in governance and democratisation within political parties creates ownership and stability;

Bearing also in mind the principles of proper management of public affairs and public property, fairness, responsibility and need to safeguard integrity and to foster a culture of rejection of corruption.

Noting the inherent linkage between democracy and development, and that poverty eradication, affirmative action, good governance and the pursuit of inclusive and sustainable development can best support the process of democratisation;

Aware that recognition and respect for diversity are critical in creating effective foundations for a sustainable democracy in intra and inter-state context and relationship;

Conscious that undemocratic, unrepresentative, unelected as well as elected authoritarian and unaccountable and unresponsive governments weaken national institutions, undermine constitutional governance and the rule of law and threaten social cohesion and stability;

Cognizant of the fact *that* further that gender inequality, exclusion and violence against women hinders development and women's participation and representation in decision making, and addressing the issues of indigenous people and marginalized including women in peace process contributes to sustainable peace; and

Recognising the urgency of taking effective measures to counter religious, ethnic and any other form of extremism;

RESOLVE TO ADOPT THIS DEMOCRACY CHARTER

HAVE AGREED I DEFINITIONS

Article- 1

In this Charter, unless otherwise stated, the subject or context otherwise requires, the expressions below shall have the following meaning:

1. "SAARC" means the South Asian Association for Regional Cooperation;
2. "Charter" means the SAARC Democracy Charter: Citizens' Initiative;
3. "National electoral body" means a competent authority, established by the relevant legal instruments of a Member State, responsible for organizing and

- supervising elections;
4. "Member State" means any of the eight members of SAARC and does not include a country with observer status.
 5. "SAARC Charter" means the charter establishing the South Asian Association for Regional Cooperation (SAARC) done on 8th December 1985.

II OBJECTIVES

Article- 2

In order to establish, consolidate, deepen and strengthen democracy in South Asia, the objectives of this Charter are to:

1. Promote adherence, by each Member State, to the universal values and principles of democracy based on the sovereignty of the people and respect for human rights at the local, national and regional levels;
2. Uphold and enhance adherence to the rule of law premised upon the supremacy of the Constitution, independence and efficacy of the judiciary and equal access to justice;
3. Advance the principles of social justice;
4. Ensure the holding of regular, free and fair elections under the auspices of independent national electoral bodies;
5. Renounce unequivocally any change in government other than through constitutionally mandated democratic means;
6. Nurture, support and consolidate good governance by promoting democratic norms, conventions, culture and practice;
7. Build and strengthen governance institutions by ensuring transparency and accountability;
8. Inculcate a culture of political pluralism and respect for diversity;
9. Intensify the fight against corruption and the abuse of authority;
10. Agree to ban sex determination tests and criminalize female infanticide or foeticide;
11. Promote and protect the rights of all minorities, including indigenous people and marginalized communities.
12. Advance and protect the rights of migrants, displaced persons, refugees, women, children, people with disabilities and elderly persons;
13. Ensure gender equality and ensure the active and effective participation of women in the governance and development processes as enshrined in the SAARC Social Charter adopted on 6th January 2004.
14. Encourage effective coordination and harmonization of governance policies amongst Member States with the aim of promoting regional integration;
15. Promote equitable and sustainable socio-economic development and human security in conformity with

the provisions of the SAARC Social Charter;

16. Foster peoples' participation through transparency, access to information, freedom of the press and accountability in the management of public affairs and public institutions to strengthen good governance.

III DUTIES AND OBLIGATIONS OF THE MEMBER STATES

Article- 3

Member States shall implement this Charter in accordance with the following precepts, whereby the Member States shall:

1. Exercise, and inculcate in state institutions, respect for human rights, equality, social justice, peace, tolerance and democratic principles;
2. Ensure that access to state power and its exercise are in accordance with the constitutions of the Member States;
3. Ensure empowerment of people, especially of women, disadvantaged and marginalized communities at all levels in the State's decision-making process;
4. Hold regular, transparent, free and fair elections on the basis of universal adult franchise;
5. Ensure that all organs of the state operate within the limits stipulated by the constitution, respecting the principle of separation of powers, and that no organ of the state shall act with impunity or enjoy immunity from due process of law;
6. Guarantee the independence of constitutional bodies by setting up appropriate and effective-mechanisms for their establishment and operation;
7. Promote gender equality in public and private spheres and ensure that women's representation in elected bodies reflects their share in the population;
8. Institutionalize transparency, accountability and fairness in the management of public affairs and institutions;
9. Support reforms within political parties through the establishment of a party constitution that promotes respect for the aspirations of the people, internal democracy, public accountability and financial transparency;
10. Strengthen a non-violent competitive party system and recognize the role, rights and responsibilities of legally constituted political parties, including opposition political parties;

Article-4

Member States shall commit themselves to establish a constitutional democracy, the rule of law, and appropriate criminal justice system based on core human rights values.

Article-5

Member States shall ensure that citizens enjoy

fundamental freedoms and human rights, including the right to life, liberty, livelihood, health, education, employment, information, movement and association; the right to protest and dissent, taking into cognizance the universality, interdependence and indivisibility of such rights.

Article-6

Member States shall undertake to design and implement social, economic and cultural policies and programmes that promote equitable and sustainable development with environmental and human security.

Article-7

Member States shall embed the supremacy of the constitution in the socio-economic and political organization of the State.

Article-8

Member States shall protect the independence of the judiciary and ensure the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.

Article-13

Member States shall undertake to develop appropriate legislative, judicial and policy frameworks to establish and strengthen a culture of democracy, peace and security in the region, bearing in mind that democracy is a way of life based on freedom of choice, liberty and enhancement of economic, social, and cultural opportunities for the peoples of South Asia.

Article-9

Member States shall take all necessary measures to strengthen the instruments of SAARC that are mandated to promote and protect human rights, and to fight impunity, and provide these instruments with the necessary resources.

Article-10

Member States shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic caste, religious and racial grounds as well as any other form of discrimination.

Article-11

Member states shall take necessary action to protect women from violence in different forms in private and public domains.

Article-12

Member States shall recognise the right to information and ensure peoples' access to information with a view to strengthening the accountability and transparency in governance and public proceedings/affairs.

IV NATIONAL LEVEL COMMITMENTS

Consistent with its principles and the spirit of democracy, the member states may take appropriate steps to put into effect the articles numbering 13 to 34 below.

Article-13

Member States shall undertake to develop appropriate legislative, judicial and policy frameworks to establish and strengthen a culture of democracy, peace and security in the region, bearing in mind that democracy is a way of life based on freedom of choice, liberty and enhancement of economic, social, and cultural opportunities for the peoples of South Asia.

Article-14

Member States shall undertake to implement programmes and carry out activities for civic education with special focus on rights, responsibilities and entitlements of citizens.

Article-15

Member States shall develop educational curricula to promote democratic and ethical values, liberty and social justice among children and youth.

Article-16

Member States shall adopt special measures to facilitate the expression of views and positions of all vulnerable and marginalized sections of society and give due weightage to these in policy formulation.

Article-17

Member States shall take necessary measures to effectively counter sectarian, communal and ethno-centric trends and activities that violate and undermine the democratic norms of pluralism and respect for diversity.

Article-18

Member States shall take all appropriate measures to ensure peaceful transfer of power according to constitutional provisions and democratic practices.

Article-19

Member States shall strengthen and institutionalize civilian control over the military and security forces according to the democratic principle of the supremacy of civilian authority.

Article-20

Member States shall ensure the independence and autonomy of constitutional bodies and integrity institutions. Appointments to these institutions should be done through a transparent and inclusive process. Adequate resources shall be provided by the state for the above mentioned institutions to perform their mandated tasks efficiently and effectively.

Article-21

Member States shall empower and strengthen state, provincial and local bodies by enacting appropriate laws and by providing adequate financial and human resources to execute their mandated functions.

Article-22

Member States shall commit themselves to regularly hold transparent, free and fair elections. To this end, Member States shall, in accordance with the fundamental principles of its legal system:

- a. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections;
- b. Set up and strengthen national mechanisms that redress election related disputes in a timely manner;
- c. Ensure fair and equitable access by contesting parties and candidates to state controlled and other privately owned media during elections;
- d. Formulate and enforce a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include, *inter alia*, a commitment by political stakeholders to accept the results of the election or challenge them only through legal channels and commit to supporting the peaceful post-election process.
- e. Ensure that the expenditure on elections remains within mandated norms so that money power does not unduly influence the outcome of the electoral process. The powers of the election commissions to curb and penalize illegal and excessive expenditures are greatly strengthened.
- f. Find ways and means to move towards state financing of elections.
- g. Ensure that elected representatives attend sessions of the representative bodies, in particular Parliament, and not boycott any sessions of such bodies, resulting in a failure to fulfil their obligations.
- h. Promote gender equality among the candidates and electoral administrators and put in place a gender responsive and inclusive electoral process.

Article-23

All electoral observer missions shall be conducted in an objective, impartial and transparent manner with the cooperation of the Member States.

Article-24

In order to advance political, economic and social governance, Member States shall commit themselves to:

- a. Strengthening the capacity of parliaments and legally recognised political parties to perform their core functions;
- b. Fostering popular participation and partnership with civil society organizations;
- c. Undertaking regular reforms of the legal and justice systems;
- d. Improving public sector management, with a view to ensure good governance and prevent corruption;
- e. Promoting a competitive private sector, covering small and medium enterprises and the informal sector through an enabling legal and regulatory environment.
- f. Developing and utilising information and communication technologies; and
- g. Promoting freedom of expression, in particular a free, independent and professional media.

Article-25

Member States shall implement policies and strategies to protect, conserve and improve the environment to achieve sustainable development for the benefit of the present and future generations. In this regard, Member States are encouraged to accede to the relevant treaties and other international legal instruments.

Article-26

An essential element for building a democratic society is the democratisation of educational opportunities so that all children should be given equitable opportunities for quality education. Member States shall ensure free and compulsory education to all, especially girls, rural inhabitants, minorities, people with disabilities and other marginalized social groups. In addition, Member States shall ensure the literacy of citizens above compulsory school age, particularly women, rural inhabitants, minorities, people with disabilities, and other marginalized social groups.

Article-27

Member States shall promote universal health-care and adopt cross-border policies that prevent and contain the spread of diseases.

Article-28

Member States shall take appropriate legislative and policy measures to empower the economically disempowered people by providing them with opportunities for ownership of productive assets, to participate on more equitable terms in markets, to enhance their human development and to secure access to a more democratised functioning of institutions of governance.

Article-29

Member States shall take appropriate legislative, policy and judicial measures to eliminate all forms of discrimination and exploitation of women, including trafficking, forced prostitution, abuse, violence, harassment and intimidation in both private and public spheres.

Article-30

Member States shall take appropriate measures to ensure that children are protected against all forms of discrimination and exploitation, including trafficking, prostitution, abuse, violence, degrading treatment and child labour.

V REGIONAL LEVEL COMMITMENTS

Article-31

Member States will consult and cooperate on an ongoing basis with each other and take into account the contributions of civil society organisations, whilst promoting transparency and accountability in such organisations.

Article-32

Member States shall take appropriate measures to increase awareness and understanding of the democratic process throughout the region.

Article-33

Member States shall take appropriate measures to promote the early realisation of a South Asian Union and establish a South Asian Parliament based on democratic principles.

Article-34

Member States agree that the use of, *inter alia*, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and undertake to work towards the restoration of democracy in keeping with principles enshrined in the SAARC Charter:

- a. Any putsch, coup d'état or unconstitutional step against a democratically elected government;
- b. Any intervention by mercenaries to replace a democratically elected government;
- c. Any replacement of a democratically elected government by armed dissidents;
- d. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections;
- e. Any amendment or revision of the constitution or legal instruments, which violate the "basic structure" of the constitution;
- f. Any efforts at promoting regime change through external interventions targeting a democratically elected government.

VI MECHANISMS FOR MONITORING AND IMPLEMENTATION

Article-35

Member States shall take measures to promote mechanisms for fostering regional friendship at people's level, through a variety of means, including academic, sports and cultural exchanges and easing of visa and other travel procedures and arrangements.

Article-36

To give effect to the commitments contained in this Charter:

1. At the Individual State Level
 - (i) Member States shall encouraged to develop benchmarks for implementation of the commitments and principles of this Charter;
 - (ii) Member States shall consider developing mechanisms for evaluating compliance of these benchmarks by creating appropriate instruments through a transparent and broad-based participatory process;
 - (iii) Member States shall, within a reasonable time after the adoption of the Charter, designate national focal points for coordination, evaluation and monitoring of the implementation of the commitments and principles enshrined in this Charter.
2. At the Regional Level
 - (i) Member States shall take appropriate measures to empower the SAARC Secretariat to act as the central coordinating mechanism for the implementation of this Charter.
 - (ii) Member States and civil society shall take measures at the regional level to share information on the implementation of the Charter.

VII FINAL PROVISIONS

Article-37

The SAARC Democracy Charter may be amended through agreement among all Member States.

Article-38

Member States shall, having considered the results achieved by them, undertake a review of the Charter every three years.

Article-39

The SAARC Democracy Charter shall come into force upon the signature thereof by all Member States.

Article-40

The SAARC Secretariat is designated as a depository of this Charter.

Social Charter of the South Asian Association for Regional Cooperation

Re-affirming that the principal goal of SAARC is to promote the welfare of the peoples of South Asia, to improve their quality of life, to accelerate economic growth, social progress and cultural development and to provide all individuals the opportunity to live in dignity and to realize their full potential.

Recognising that the countries of South Asia have been linked by age-old cultural, social and historical traditions and that these have enriched the interaction of ideas, values, cultures and philosophies among the people and the States and that these commonalities constitute solid foundations for regional cooperation for addressing more effectively the economic and social needs of people.

Recalling that all Member States attach high importance to the imperative of social development and economic growth and that their national legislative, executive and administrative frameworks provide, in varying degrees, for the progressive realization of social and economic goals, with specific provisions, where appropriate, for the principles of equity, affirmative action and public interest.

Observing that regional cooperation in the social sector has received the focused attention of the Member States and that specific areas such as health, nutrition, food security, safe drinking water and sanitation, population activities, and child development and rights along with gender equality, participation of women in development, welfare of the elderly people, youth mobilization and human resources development continue to remain on the agenda of regional cooperation.

Noting that high level meetings convened since the inception of SAARC on the subjects of children, women, human resettlements, sustainable developments, agriculture and food, poverty alleviation etc. have contributed immensely to the enrichment of the social agenda in the region and that several directives of the Heads of State or Government of SAARC Countries at their Summit meetings have imparted dynamism and urgency to adopting regional programmes to fully and effectively realize social goals.

Reiterating that the SAARC Charter and the SAARC Conventions, respectively on Narcotic Drugs and Psychotropic Substances, Preventing and Combating Trafficking in Women and Children for Prostitution, Regional Arrangements for the Promotion of Child Welfare in South Asia and the SAARC Agreement on Food Security Reserve provide regional frameworks for

addressing specific social issues, which require concerted and coordinated actions and strategies for the effective realization of their objectives.

Realizing that the health of the population of the countries of the region is closely interlinked and can be sustained only by putting in place coordinated surveillance mechanisms and prevention and management strategies.

Noting, in particular, that Heads of State or Government of SAARC Countries, at their Tenth Summit in Colombo in July 1998, re-affirmed the need to develop, beyond national plans of action, a regional dimension of cooperation in the social sector and that the Eleventh SAARC Summit in Kathmandu in January 2002 directed that a SAARC Social Charter be concluded as early as possible.

Convinced that it was timely to develop a regional instrument which consolidated the multifarious commitments of SAARC Member States in the social sector and provided a practical platform for concerted, coherent and complementary action in determining social priorities, improving the structure and content of social policies and programmes, ensuring greater efficiency in the utilization of national, regional and external resources and in enhancing the equity and sustainability of social programmes and the quality of living conditions of their beneficiaries.

The Member States of the South Asian Association for Regional Cooperation hereby agree to adopt this Charter:

Article I General Provisions

1. States Parties shall maintain a social policy and strategy in order to ensure an overall and balanced social development of their peoples. The salient features of individual social policy and programme shall be determined, taking into account the broader national development goals and specific historic and political contexts of each State Party.
2. States Parties agree that the obligations under the Social Charter shall be respected, protected and fulfilled without reservation and that the enforcement thereof at the national level shall be continuously reviewed through agreed regional arrangements and mechanisms.
3. States Parties shall establish a people-centered

framework for social development to guide their work and in the future, to build a culture of cooperation and partnership and to respond to the immediate needs of those who are most affected by human distress. States Parties are determined to meet this challenge and promote social development throughout the region.

Article II

Principles, Goals and Objectives

1. The provisions made herein shall complement the national processes of policy-making, policy-implementation and policy-evaluation, while providing broad parameters and principles for addressing common social issues and developing and implementing result-oriented programmes in specific social areas.
2. In the light of the commitments made in this Charter, States Parties agree to:
 - i. Place people at the center of development and direct their economies to meet human needs more effectively;
 - ii. Fulfill the responsibility towards present and future generations by ensuring equity among generations, and protecting the integrity and sustainable use of the environment;
 - iii. Recognize that, while social development is a national responsibility, its successful achievement requires the collective commitment and cooperation of the international community;
 - iv. Integrate economic, cultural and social policies so that they become mutually supportive, and acknowledge the interdependence of public and private spheres of activity;
 - v. Recognize that the achievement of sustained social development requires sound, equitable and broad-based economic policies;

Article II

Principles, Goals and Objectives

1. *The provisions made herein shall complement the national processes of policy-making, policy-implementation and policy-evaluation, while providing broad parameters and principles for addressing common social issues and developing and implementing result-oriented programmes in specific social areas*

- vi. Promote participatory governance, human dignity, social justice and solidarity at the national, regional and international levels;
- vii. Ensure tolerance, non-violence, pluralism and non-discrimination in respect of diversity within and among societies;
- viii. Promote the equitable distribution of income and greater access to resources through equity and equality of opportunity for all;
- ix. Recognize the family as the basic unit of society, and acknowledge that it plays a key role in social development and as such should be strengthened, with attention to the rights, capabilities and responsibilities of its members including children, youth and the elderly;
- x. Affirm that while State, society, community and family have obligations towards children, these must be viewed in the context of inculcating in children intrinsic and attendant sense of duty and set of values directed towards preserving and strengthening the family, community, society and nation;
- xi. Ensure that disadvantaged, marginalized and vulnerable persons and groups are included in social development, and that society acknowledges and responds to the consequences of disability by securing the legal rights of the individual and by making the physical and social environment accessible;
- xii. Promote universal respect for and observance and protection of human rights and fundamental freedoms for all, in particular the right to development; promote the effective exercise of rights and the discharge of responsibilities in a balanced manner at all levels of society; promote gender equity; promote the welfare and interest of children and youth; promote social integration and strengthen civil society;
- xiii. Recognize the promotion of health as a regional objective and strive to enhance it by responding to urgent health issues and outbreak of any communicable disease in the region through sharing information with each other, imparting public health and curative skills to professionals in the region; and adopting a coordinated approach to health related issues in international fora;
- xiv. Support progress and protect people and communities whereby every member of society is enabled to satisfy basic human needs and to realize his or her personal dignity, safety and creativity;
- xv. Recognize and support people with diverse cultures, beliefs and traditions in their pursuit of economic and social development with full respect for their identity, traditions, forms of social organization and cultural values;
- xvi. Underline the importance of transparent and accountable conduct of administration in public and

- private, national and international institutions;
- xvii. Recognize that empowering people, particularly women, to strengthen their own capacities is an important objective of development and its principal resource. Empowerment requires the full participation of people in the formulation, implementation and evaluation of decisions and sharing the results equitably;
 - xviii. Accept the universality of social development, and outline an effective approach to it, with a renewed call for international cooperation and partnership;
 - xix. Ensure that the elderly persons lead meaningful and fulfilling lives while enjoying all rights without discrimination and facilitate the creation of an environment in which they continue to utilize their knowledge, experience and skills;
 - xx. Recognize that information communication technology can help in fulfilling social development goals and emphasize the need to facilitate easy access to this technology;
 - xxi. Strengthen policies and programmes that improve, broaden and ensure the participation of women in all spheres of political, economic, social and cultural life, as equal partners, and improve their access to all resources needed for the full enjoyment of their fundamental freedoms and other entitlements.

ARTICLE III

Poverty Alleviation

1. States Parties affirm that highest priority shall be accorded to the alleviation of poverty in all South Asian countries. Recognising that South Asia's poor could constitute a huge and potential resource, provided their basic needs are met and they are mobilized to create economic growth, States Parties reaffirm that the poor should be empowered and irreversibly linked to the mainstream of development. They also agree to take appropriate measures to create income-generating activities for the poor.
2. Noting that a large number of the people remain below the poverty line, States Parties re-affirm their commitment to implement an assured nutritional standards approach towards the satisfaction of basic needs of the South Asian poor.
3. Noting the vital importance of biotechnology for the long-term food security of developing countries as well as for medicinal purposes, States Parties resolve that cooperation should be extended to the exchange of expertise in genetic conservation and maintenance of germplasm banks. They stress the importance of the role of training facilities in this area and agree that cooperation in the cataloguing of genetic resources in different SAARC countries would be mutually beneficial.

ARTICLE IV

Health

1. *States Parties re-affirm that they will strive to protect and promote the health of the population in the region. Recognizing that it is not possible to achieve good health in any country without addressing the problems of primary health issues and communicable diseases in the region, the States Parties agree to share information regarding the outbreak of any communicable disease among their populations.*

-
4. States Parties agree that access to basic education, adequate housing, safe drinking water and sanitation, and primary health care should be guaranteed in legislation, executive and administrative provisions, in addition to ensuring of adequate standard of living, including adequate shelter, food and clothing.
 5. States Parties underline the imperative for providing a better habitat to the people of South Asia as part of addressing the problems of the homeless. They agree that each country share the experiences gained in their efforts to provide shelter, and exchange expertise for effectively alleviating the problem.

ARTICLE I

Health

1. States Parties re-affirm that they will strive to protect and promote the health of the population in the region. Recognizing that it is not possible to achieve good health in any country without addressing the problems of primary health issues and communicable diseases in the region, the States Parties agree to share information regarding the outbreak of any communicable disease among their populations.
2. Conscious that considerable expertise has been built up within the SAARC countries on disease prevention, management and treatment, States Parties affirm their willingness to share knowledge and expertise with other countries in the region.
3. Noting that the capacity for manufacture of drugs and other chemicals exists in different countries, States Parties agree to share such capacity and products when sought by any other State Party.

4. Realizing that health issues are related to livelihood and trade issues which are influenced by international agreements and conventions, the States Parties agree to hold prior consultation on such issues and to make an effort to arrive at a coordinated stand on issues that relate to the health of their population.
5. States Parties also agree to strive at adopting regional standards on drugs and pharmaceutical products.

Article V

Education, Human Resource Development and Youth Mobilization

1. Deeply conscious that education is the cutting edge in the struggle against poverty and the promotion of development, States Parties re-affirm the importance of attaining the target of providing free education to all children between the ages of 6 – 14 years. They agree to share their respective experiences and technical expertise to achieve this goal.
2. States Parties agree that broad-based growth should create productive employment opportunities for all groups of people, including young people.
3. States Parties agree to provide enhanced job opportunities for young people through increased investment in education and vocational training.
4. States Parties agree to provide adequate employment opportunities and leisure time activities for youth to make them economically and socially productive.
5. States Parties shall find ways and means to provide youth with access to education, create awareness on family planning, HIV/AIDS and other sexually-transmitted diseases, and risks of consumption of tobacco, alcohol and drugs.
6. States Parties stress the idealism of youth must be harnessed for regional cooperative programmes. They further stress the imperative of the resurgence of South Asian consciousness in the youth of each country through participation in the development programmes and through greater understanding and appreciation of each other's country. The Organized Volunteers Programme under which volunteers from one country would be able to work in other countries in the social fields shall be revitalized.
7. States Parties recognize that it is essential to promote increased cross-fertilization of ideas through greater interaction among students, scholars and academics in the SAARC countries. They express the resolve that a concerted programme of exchange of scholars among Member States should be strengthened.

Article VI

Promotion of the status of women

1. States Parties reaffirm their belief that discrimination against women is incompatible with human rights and

dignity and with the welfare of the family and society; that it prevents women realizing their social and economic potential and their participation on equal terms with men, in the political, social, economic and cultural life of the country, and is a serious obstacle to the full development of their personality and in their contribution to the social and economic development of their countries.

2. States Parties agree that all appropriate measures shall be taken to educate public opinion and to direct national aspirations towards the eradication of prejudice and the abolition of customary and all other practices, which are based on discrimination against women. States Parties further declare that all forms of discrimination and violence against women are offences against human rights and dignity and that such offences must be prohibited through legislative, administrative and judicial actions.
3. States Parties shall take all appropriate measures to ensure to women on equal terms with men, an enabling environment for their effective participation in the local, regional and national development processes and for the enjoyment of their fundamental freedoms and legitimate entitlements.
4. States Parties also affirm the need to empower women through literacy and education recognizing the fact that such empowerment paves the way for faster economic and social development. They particularly stress the need to reduce, and eventually eliminate, the gender gap in literacy that currently exists in the SAARC nations, within a time-bound period.
5. States Parties re-affirm their commitment to effectively implement the SAARC Convention on Combating the Trafficking of Women and Children for Prostitution and to combat and suppress all forms of traffic in women and exploitation of women, including through the cooperation of appropriate sections of the civil society.
6. States Parties are of the firm view that at the regional level, mechanisms and institutions, to promote the advancement of women as an integral part of mainstream political, economic, social and cultural development be established.

Article VII

Promotion of the Rights and Well-being of the Child

1. States Parties are convinced that the child, by reason of his or her physical and mental dependence, needs special safeguards and care, including appropriate legal protection, before as well as after birth.
2. The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.

3. States Parties shall protect the child against all forms of abuse and exploitation prejudicial to any aspects of the child's well-being.
4. States Parties shall take necessary actions to implement effectively the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare and to combat and suppress all offences against the person, dignity and the life of the child.
5. States Parties are resolved that the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him or her to develop its full potential physically, mentally, emotionally, morally, spiritually, socially and culturally in a healthy and normal manner and in conditions of freedom and dignity. The best interests and welfare of the child shall be the paramount consideration and the guiding principle in all matters involving his or her life.
6. States Parties agree to extend to the child all possible support from government, society and the community. The child shall be entitled to grow and develop in health with due protection. To this end, special services shall be provided for the child and its mother, including pre-natal, natal (especially delivery by trained birth attendant) and post-natal care, immunization, early childhood care, timely and appropriate nutrition, education and recreation. States Parties shall undertake specific steps to reduce low birth weight, malnutrition, anemia amongst women and children, infant, child and maternal morbidity and mortality rates, through the inter-generational life cycle approach, increase education, literacy, and skill development amongst adolescents and youth, especially of girls and elimination of child/early marriage.
7. States Parties shall take effective measures for the rehabilitation and re-integration of children in conflict with the law.
8. State Parties shall take appropriate measures for the re-habilitation of street children, orphaned, displaced and abandoned children, and children affected by armed conflict.
9. States Parties pledge that a physically, mentally, emotionally or socially disadvantaged child shall be given the special treatment, education and care required by his or her particular condition.
10. States Parties shall ensure that a child of tender years shall not, save in exceptional circumstances, be separated from his or her mother and that society and the public authorities shall be required to extend particular care to children without a family and to those without adequate means of support, including where desirable, provision of State and other assistance towards his or her maintenance.
11. States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances. In this respect, States Parties shall expedite the implementation of the SAARC Convention on Narcotic Drugs and Psychotropic Substances at the national and regional levels.

Article VIII

Population Stabilisation

1. States Parties underscore the vital importance of enhanced cooperation in the social development and well-being of the people of South Asia. They agree that national programmes evolved through stakeholder partnership, with enhancement of allocation of requisite resources and well-coordinated regional programmes will contribute to a positive atmosphere for the development of a socially content, healthy and sustainable population in the region.
2. States Parties are of the view that population policies should provide for human-centered approach to population and development and aim towards human survival and well-being. In this regard, they affirm that national, local or provincial policies and strategies should aim to bring stabilization in the growth of population in each country, through voluntary sustainable family planning and contraceptive methods, which do not affect the health of women.
3. States Parties shall endeavour to inculcate a culture of self-contentment and regulation where unsustainable consumption and production patterns would have no place in the society and unsustainable population changes, internal migration resulting in excessive population concentration, homelessness, increasing poverty, unemployment, growing insecurity and violence, environmental degradation and increased vulnerability to disasters would be carefully, diligently and effectively managed.
4. States Parties shall take action to ensure reproductive health, reduction of maternal and infant mortality rates as also provision of adequate facilities to enable an infant to enjoy the warmth of love and support of his/her parents.
5. States Parties also agree to set up a SAARC Network of Focal Institutions on population activities for facilitating the sharing of information, experiences and resources within the region.

ARTICLE IX

Drug de-addiction, Rehabilitation and Reintegration

1. States Parties agree that regional cooperation should be enhanced through exchange of information, sharing of national experiences and common programmes in the specific areas, which should receive the priority consideration of the appropriate mechanisms both at the national and regional levels.
2. States Parties identify for intensive cooperation, the strengthening of legal systems to enhance collaboration in terms of financial investigation; asset forfeiture; money laundering; countering criminal conspiracies and organized crime; mutual legal assistance; controlled deliveries; extradition; the updating of laws and other relevant structures to meet the obligations of the SAARC Convention and other related international obligations, and developing of measures to counter drug trafficking through exchange of information; inter-country cooperation; controlled deliveries; strengthened SDOMD; regional training; frequent meetings at both policy and operational levels; strengthening the enforcement capabilities in the SAARC countries; enhanced control of production and use of licit drugs, and precursors and their essential chemicals.
3. Keeping in view the complementarities between demand reduction activities and supply control programmes, States Parties agree that all aspects of demand reduction, supply control, de-addiction and rehabilitation should be addressed by regional mechanisms.

ARTICLE X

Implementation

1. The implementation of the Social Charter shall be facilitated by a National Coordination Committee or any appropriate national mechanism as may be decided in each country. Information on such mechanism will be exchanged between States Parties through the SAARC Secretariat. Appropriate SAARC bodies shall review the implementation of the Social Charter at the regional level.
2. Member States shall formulate a national plan of action or modify the existing one, if any, in order to operationalise the provisions of the Social Charter. This shall be done through a transparent and broad-based participatory process. Stakeholder approach shall also be followed in respect of implementation and evaluation of the programmes under National Plans of Action.

ARTICLE XI

Entry into force

The Social Charter shall come into force upon the signature thereof by all States Parties.

ARTICLE XII

Amendment

The Social Charter may be amended through agreement among all States Parties.

IN FAITH WHEREOF We Have Set Our Hands And Seals Hereunto.

DONE In **ISLAMABAD, PAKISTAN**, On This The Sixth Day Of January Of The Year Two Thousand Four, In Nine Originals, In The English Language, All Texts Being Equally Authentic.

Begum Khaleda Zia

PRIME MINISTER OF THE PEOPLE'S
REPUBLIC OF BANGLADESH

Maumoon Abdul Gayoom

PRESIDENT OF THE
REPUBLIC OF MALDIVES

Jigmi Yoezer Thinley

PRIME MINISTER OF THE
KINGDOM OF BHUTAN

Surya Bahadur Thapa

PRIME MINISTER OF THE
KINGDOM OF NEPAL

Atal Behari Vajpayee

PRIME MINISTER OF THE
REPUBLIC OF INDIA

Mir Zafarullah Khan Jamali

PRIME MINISTER OF THE
ISLAMIC REPUBLIC OF PAKISTAN

Chandrika Bandaranaike Kumaratunga

PRESIDENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

Handbook of SAARC

As the title of the book suggests, this is a book covering everything about SAARC. A comprehensive coverage to all the official documents related to SAARC has been systematically possible in a single book. The issues discussed and the agreements reached so far between member countries of SAARC, beginning from 1985 – the date when it came into being and by the time it held 16th SAARC summit in Thimpu in April 2010 are compiled in the volume.

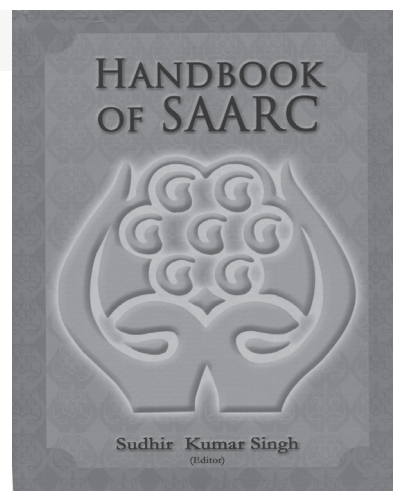
Divided into extensive eleven chapters, this book begins with the introduction to SAARC in which history and background of the establishment, objectives, secretariat, regional centers, political issues that the SAARC has intentionally laid stress, current members, observer states along with possible future membership, observers and total summits held so far are discussed. Also included in the chapter are financial arrangement, integrated program of action, technical committee, regional institutions, funds and the cooperation of SAARC with international and regional organization.

The second chapter deals with SAARC Charter, Charter Bodies, Charter of Democracy and Social Charter with special focus on the main elements of the SAARC Charter. Similarly, the third Chapter briefly mentions about the SAARC

Secretariat, names of the persons who held office as the Secretary Generals and SAARC Directors. The chapter also contains a concise introduction to the Programming Committees and Working Committees of the organization. The fourth chapter is about SAARC Regional Centers. The chapter comprehensively deals with genesis of the corresponding centers, their contact information, functions, structures, administrative and finance divisions and funding sources along with the ratio of the budgets shared by the SAARC member states for the Centers. The fifth and sixth chapters deal with SAARC decades and years, and SAARC declarations respectively. The remaining chapters in the book are about the areas such as SAARC conventions, ministerial declarations and the areas of cooperation.

The basic objective of the book, as it mentions, is to provide a composite knowledge of all the documents with the framework of SAARC and to provide all possible information to the students and enthusiasts pursuing their study and profession on SAARC.

Although the book is a good compilation of the documents available so far about all aspects of SAARC, it lacks analysis on the topics included in the book. The book has documented all the agreements reached between the member states but does not speak about the implementation status of the agreements. If progresses made



Editor: Sudhir Kumar Singh

Publisher: Pentagon Press,
New Delhi

First Edition: 2011

Pages: 373

ISBN: 978-81-8274-571-1

so far in the respective areas, as per the agreements and commitments, were included, it could be a wonderful book to read. However, the book has been made easier for the readers by providing a glossary of important terms and registers used in the book at the beginning of the book. Similarly, there is availability of background information on many of the topics and sub-topics. This is an endeavor toward relating the topics to socio-political context of the SAARC countries. So, readers, of course, will gain an extensive knowledge on SAARC contextually. The preface of the book has expected to be useful for all concerned. However, given the fact that the book is solely a compiled version and that it lacks perspectives, the book, primarily, will be more useful for the readers trying to get fact about SAARC. This book can be a good medium to popularize SAARC among the stakeholders and the people in general in the SAARC region.

Reviewed by Binod Gautam

Second Sub-Regional Workshop on South Asian Human Rights Mechanism Begins

The second Sub-Regional Workshop on South Asian Human Rights Mechanism has commenced in Lalitpur on July 25. Discussions on the role of civil society for establishment of South Asian human rights mechanisms will take place in the workshop organized by Asian Forum for Human Rights and Development (FORUM-ASIA) and Informal Sector Service Center (INSEC).

Inaugurating the workshop, Constituent Assembly Chairperson Subash Nembang said that the South Asian region is plagued by poverty and civil wars. He said that women and children are made victims of trafficking and



Chairperson of INSEC Subodh Raj Pyakurel speaking at the workshop

violence every year. He attributed the inaction against human rights violators to increased impunity in the region.

INSEC Chairperson Subodh Raj Pyakurel said that rights of civilians were curtailed in South Asia due to poverty, political instability, impunity and terrorist activities. "Though finest of the world's philosophies have been formulated in South Asia, this region lags behind in comparison to other regions," he said. Recalling the request made by the President of the Maldives to the South Asian governments for the establishment of a regional human rights mechanism in the South Asian Association for Regional Cooperation (SAARC) summit hosted by Bhutan in 2010, Pyakurel underscored the need to form such a mechanism to attain common goals. He expressed belief that the governments of South Asia would initiate preliminary dialogue for the establishment

of an effective, independent and transparent human rights mechanism. He further expressed hope that the member states would address the human rights issues by working under its mandate.

Former UN Special Rapporteur on Human Rights Defenders Hina Jilani said that peace was uncertain in South Asia as the region was plagued by poverty and terrorism. She was of the opinion that democracy cannot be established without accountability and transparency. She stressed on the economic developments for tackling the conflicts caused by internal displacement and poverty. Saying that human rights cannot be protected without democracy and rule of law, she said that active participation of civil society is needed for initiations on the establishment of South Asian Human Rights Mechanism.

Jyoti Sanghera, head of OHCHR-Nepal highlighted the need of regional human rights mechanism to address common problems of South Asia such as poverty, discrimination and impunity. Expressing her view on the potential supports of the mechanism to the member states, she opined on the role of OHCHR for the establishment of a South Asian Human Rights mechanism.

Former Assistant Secretary General of UN Kulchandra Gautam was of the opinion that such regional mechanism would make national human rights mechanism effective. He said that establishment of the mechanism would help address issue of refugees, IDPs, human trafficking and migrant workers etc. He further said that culture of violence and impunity would prevail in Nepal if the perpetrators of armed conflict were granted amnesty.

Members of civil society, OHCHR, the representatives involved in SAARC process, national policy-making bodies, government bodies, national human rights institutions, national and international human rights organizations of Afghanistan, Bangladesh, India, the Maldives, Nepal, Pakistan and Sri Lanka are participating in the two-day workshop.

The workshop is expected to hold discussion for the preparation of a concrete strategy on the advocacy by civil society and main stakeholders in the 17th SAARC summit to be hosted by the Maldives and hold dialogue on issues of human rights and democracy between the civil society, human rights organizations, and human rights institutions of South Asia.

Gopi Krishna Bhattarai



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