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PRAKASH MEMORIAL SPECIAL



On Human Rights

THIS is the continued effort of the Informal Sector Service Centre to reach our valued readers and well-wishers. We are bringing out this issue of Informal at the juncture of time while Nepali politics is taking a new turn. The parliament has been dissolved once again. This left a task of forming a national human rights mechanism undone. The government was preparing a draft bill and which was supposed to bring in the next session of the parliament.

The Law Reform Commission of His Majesty's Government and the other line agencies were busy working to materialize the Human Rights Commission which was a long awaited by the human rights community in the country and abroad, friends of Nepal and others who were much more concerned in the future of human rights and accessibility for the redressal of human rights violations.

Discussions were held as to the structure and the mandate of the human rights commission to be

Homage to Late Prakash

IT has been three years since Prakash departed from us. We lost him when he met a tragic air-crash. Prakash left but his ideas and visions still guide the human rights movement. Prakash Kaphley floated the idea of People SAARC while the people of Nepal were fighting against the tyranny of the Panchayat regime and the Bhutanese were declaring a war against autocracy.

His idea still reverberates in Nepalese airs: "The human rights we talk about are not merely the press freedom and right to assem-

bly but also Universal Declaration of Human Rights including the rights to health, education, and rights to development encompassing the spirit of utilizing the national resources for the Nepalese".

Prakash fought for the cause of human rights through different formal and nonformal organizations of national and international levels. INSEC pays tribute to him, its founder by announcing Prakash Human Rights Award. The government has also done a commendable job by announcing to issue a commemorative postal stamp on

Mechanism

formed. To the satisfaction of the human rights community, the political parties are taking the issue. However, the human rights advocates and scholars are of the opinion that the commission must be within the reach of commoners, who can go with the complaints. Appropriate legislation and mechanisms for the implementation of human rights instruments must be in favour of the common folks.

The another concern is the representation and participation of the community in the structure.

Kaphley

him.

The challenges to fulfill his desires are still ahead of us. The struggles for human rights continues as Prakash continues to live in the struggles of the People. He is alive among the people's aspirations.

On the occasion of the third Prakash Memorial Day, we pay our humble tribute to our friend, inspirer and the leader of the human rights movement. We pray for his eternal peace!



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LIVING TOGETHER IN DIVERSITY

THE CHALLENGE FOR THE THIRD MILLENNIUM

A Prakash Kaphley Memorial Invitation to a Discourse

- Dr. Clarence J Dais

(The Season is Mean - but Bhutan is Green)

Tis a mean season we are living through in South Asia today:

Record temperatures of HEAT (except, of course, here in the salubrious valley of Kathmandu) are blinding our vision, scalding our compassion, and dehydrating the very wellsprings of our humanity.

Tis a mean season we are living through in South Asia today:

A plague of neo-liberal economic Darwinism is loose among our lands. Self-centeredness is being touted as an ethic and arrant selfishness and greed is being subtly promoted as the dogma of the future.

Tis a mean season we are living through in South Asia today:

A spurious vision of facade democracy is spreading like a cancer in the 2 largest countries of the SAARC region (India and Pakistan). The 2 smallest countries of the SAARC region (Maldives and Bhutan) appear to be in a vise-like grip of authoritarianism. The three remaining countries of the SAARC region (Nepal, Bangladesh and Sri Lanka) are struggling to take painful early steps on the paths towards re-democratization or peace. In the case of Sri Lanka, its people have, through the electoral process, SUPPORTED unequivocally and DEMANDED peace. In the case of

Nepal and Bangladesh, there is every right to be furious that their path to peace, human rights, development and democracy is rapidly becoming not a path but a dead-end street. And this is happening less because of events occurring at home, and more because of events in the above mentioned countries.

As a result, in all of the SAARC countries we are facing a trend towards the hallowed human right's concept of RULE OF LAW degenerating into being no more than a misnomer for THE LAW OF THE RULER. The insecurity of certain SAARC governments is being portrayed by them as a security of state problem and so the specter of emergency rule is looming.

Tis a mean season we are living through in South Asia today:

When our Prime Ministers, Presidents and Monarchs are being held hostage by a faceless set of global giants, running amok, pursuing their own institutional agendas amidst a sea of alphabet soup:

—the IMF (the International Merchant's Federation) is vigorously prescribing its panacea of SAPs (Systematically Administered Pauperization);

—the IBRD (the International Bank for Recolonization and Degradation) continues to pillage our resources, rape our environment, and destroy our communities and their livelihood - all in the name of development!

—the GATT has revealed its true intention of pursuing Greed, Aggression and Theft through Trade.

—the newly created WTO seems hell-bent, feverishly Working Towards Oblivion.

T'is a mean season we are living through in South Asia today:

When global governance by the UN seems little more than a typographical error (left uncorrected even by SPELL CHECK) for global governance by the US.

The tactic of "divide and rule" has worked well in the past:

- in ancient ROME for a long, long, while,
- in colonial BRITAIN, until the sun finally set on the British Empire with the ignominious finality of a total eclipse.

In the present day countries of the SAARC region however, the tactic of "divide and rule" is alive and well, and thriving with all the regional vigor of a HIV/AIDS pandemic.

Throughout the SAARC region, greed, selfishness, intolerance, racism and xenophobia are burning with an incandescence so extreme that it would blind us all but for our blinkered visions. They are but products of globalization which reinforce, accelerate and exacerbate dangerous twin trends of:

- the politicization of ethnic relationship, and
- the ethnicization of politics.

Burma, Burundi, Rwanda notwithstanding, identities are being manipulated into vigorous and violent resurgence along lines (indeed veritable social seismic fault lines) of language, religion, ethnicity and extreme nationalism. As we approach the next millennium, is it the fate of the SAARC region to become the next mega-Bosnia battleground? SURELY NOT! In the words of a Rodgers and Hammerstein's song:

"You've got to be taught before it is too late,
Before you are six, or seven or eight
To hate all the people your relatives hate
You've got to be carefully taught."

Is it not time for the peoples of SAARC to unite and say with one voice, "Enough, enough of such teaching."!

Fifty years ago, the United Nations Charter gave us a vision of a world in which:

- diversity was a treasure beyond any price to be nurtured, savored, conserved and preserved.

- pluralism was the conspicuous preferred alternative to be strived for, attained and perpetuated.

Today, 50 years later, that vision shines even brighter - except for those who are so blind that they will not see. Over the last 50 years, State management of ethnic relationship have ranged from policies and practices of forced integration, discrimination, co-optation and manipulation to those of militarization, ethnic cleansing and ethnocide cleansing, ethnicity which has led ultimately to gratuitous, undifferentiated homicide. Over the last 50 years, on the other hand, people to people community initiatives in respect of ethnic relationship have often provided successful examples of accommodation, mediation, crisis-response and peace negotiation. Clearly, there is a lesson to be learned here. The success of SAARC lies in the hands of its peoples rather than its governments.

Forty-eight years ago, the Universal Declaration on Human Rights gave unto us a universal, indivisible, holistic framework of values and principles which reiterate and reverberate core concepts of EQUALITY NONDISCRIMINATION, PARTICIPATION, ACCOUNTABILITY and HUMAN RIGHTS and JUSTICE FOR ALL. That paradigm celebrates the most precious of all human rights: the RIGHT TO BE

HUMAN (of which the RIGHT TO BE WOMAN is of course, an essential, integral and indispensable component).

This is our legacy for the millennium we are about to end. We, the peoples of SAARC, over the last 48 years, have held firm to this human rights legacy and against all odds, with our own blood, sweat, toil and tears have converted this abstract legacy into a living reality, an undying reality and therefore our legacy to our children and our children's children - as we approach the next millennium. As we meet here in Kathmandu, in the year 1995, let us rededicate ourselves to the commitment to secure for all the peoples of SAARC, their right to be human. Such commitment represents the unity that binds together our past, our present and our future.

But we are only the peoples of SAARC. We are standing by helplessly as we watch the distance growing between ourselves and our governments. As the distance grows between governments and their peoples (for whatever reasons) BOTH government and its peoples suffer. As distance grows, the space is filled by policies and politics of "divide and rule". When that happens, the chances for peace, humanism, and progress (be it human, cultural, spiritual or economic) become ever more dim and distant.

Moreover, this process of distancing between the peoples of SAARC and their governments is taking place at a time when, as mentioned before a host of poisons, cancers, pandemics and insanities are rowing rampant (and unrepentant) amongst our lands, our peoples, ourselves.

In such a situation, will our leaders and our governments betray their trust with destiny? Will our peoples consent passively in the destruction of their hopes for a tomorrow for themselves and their children?

We the peoples of SAARC are tired. We are tired of lies, betrayal and hatred. Most of all, we are tired of promises made but never kept. We yearn for peace. Instead, how much longer are we to continue picking up the pieces: of our shattered lives, of our beloved - now dead? Are we asking for too much? Or is it that we are working together too little - as the peoples of SAARC - to secure our common future?

Can we not join together, even now, in a Peoples SAARC:

—to DETOXYFIFY our body politic from the poisons that presently ravage it,

—to SURGICALLY EXCISE the cancers that are eating away at our very moral fibre.

Most of all, an INSANITY of communalism and racism threatens to engulf us all- in different ways. Can we pledge ourselves to SHOCK THERAPY, to the PSYCHIATRIC COUNSELING or even to the EXORCISM that will rid us, once and forever, of the demons within us?

We must not be cowed down by the boisterous clamor of the bigots, the overzealous, or perhaps even the misguided.

Are we the peoples of SAARC ready:

— to commit collective and universal SATI?

Are we the peoples of SAARC ready:

—to launch an unholy JIHAD - to the bitter end?

Are we the peoples of SAARC ready :

—to inflict upon ourselves MASS SELF-CRUCIFIXION?

Is it enough, to live and let die? If so, let us all call for sleep deep, eternal but unblessed sleep.

If NOT, then it behooves us all, to go not into that gentle night. But RAGE, RAGE against the dying of the light.



Prakash Memorial Day Celebrated

The Prime Minister gave away Prakash Kaphley Human Rights Award on 31st July, 1995 to journalist Binaya Kumar Kasaju of Palpa on the third Prakash Kaphley Memorial Day. Kaphley, a leading human rights activist, died in a plane crash on 31st July 1993, on way to Kathmandu after taking part in a human rights programme in Sri Lanka.

As human rights should be above the interest of any political interests, efforts of all are needed to ensure the full realization of human rights in the country, Prime Minister Adhikari said addressing the programme.

Informal Sector Service Centre (INSEC) established the award in an effort to pay tribute to the contribution made by late Kaphley in the field of human rights. The award carried a purse of 25,000 rupees and is given every year to a journalist who regularly writes on human rights issue.

The following is the full text of unofficial translation of the written speech of the Prime Minister Man Mohan Adhikari:

WE are present here on the occasion of 3rd Commemoration Day to pay homage to one of our young human rights activists late Prakash Kaphley.

Prakash who met with tragic accident at his young age had established himself at the forefront of struggles for human rights in Nepal. Before, during and after the couple of years of achievement of democracy in Nepal, he boldly raised voices for protection, promotion and development of human rights.

I thank organizers for establishing Prakash Memorial Award providing me opportunity to handover it to the first winner.

We are of the opinion that individuals involved in social development and change should be honoured. It is in

this line, we are publishing a postal stamp on Prakash Kaphley.

CPN (UML) recognizes human rights movement as one of the main component of democratic movement. The commitments of UML expressed during the last elections are being honestly implemented. Promotion and protection of human rights can be ensured with



PM Adhikari : Addressing the Prakash Memorial Day Programme

the alert involvement and mass pressure. The role of human rights organizations are commendable in achieving democracy and bring about democratic culture. Nepal is achieving a position among the nations of South Asia as having good human rights records. I personally feel that this is also because of the contributions made by the Nepalese human rights organizations.

We have ensured political and civil rights but people's economic and social rights have not been ensured on equal in equal degree. We should give enough thoughts and make efforts for the realization of the all the human rights of people. This is our challenge too.

I find the talk programme on "Peoples' SAARC: Concept and Realities" relevant on the occasion of Prakash Memorial Day. Solutions to the regional problems can not be found only through the amity and efforts of governments. The common problems encountered by South Asian peoples can be solved by common efforts of people in this region. Common efforts must be made by the people of this region to solve the prob-

lems like poverty, backwardness and other social problems. Another problem we are encountering is uncongenial relation between population and economic growth and common initiatives for the use of our natural resources. Until we bring our problems to the negotiating tables and discuss openly, it would be hard to solve our problems. It's a time, we think of increasing the impacts and efficiency of SAARC. Until a nation is grappled with problems, the others in region bear its repercussions. National peace is first and foremost factor for regional peace and basis for them is the guarantee of the human rights.

We are of the opinion that through Peoples SAARC regional problems could be identified and solutions could be suggested.

At last, I wish that Prakash Human Rights Award can inspire to contribute and continue the noble tasks for human rights. I also thank the winner Mr Binay Kumar Kasaju.

Thanks.

Binay Kasaju: The First Recipient of Prakash Human Rights Award

The first recipient of the Prakash Human Rights Award Mr Binay Kumar Kasaju was born in Palpa in 1947 in Palpa. His first published article was "Introduction of Ridi" in 1962. He has five published works. He started his journalist carrier as the reporter of Daily Nirnaya. He has been the Editor of Satya Weekly. Presently he is the Editor of Deurali Weekly. He has contributed to the protection and promotion of Human Rights through his editorials, comments, stories and essays.



Prakash Human Rights Award is announced each year on April 10, the very day of the release of the Human Rights Year Book.

A talk programme on Peoples SAARC: Concept and Realities was also organized on this occasion. The former chief justice of India P. N. Bhagwati was invited to the programme. However, he could not attend the programme, instead he sent a message to the programme. The text of the message has been given separately.

The chairman of Human Rights organization of Nepal (HURON) Mr Rishikesh Shah also spoke on "SAARC: Concept and Realities". The full text is given at the end of this write-up.

The Chairman of Informal Sector Service Centre (INSEC) Sushil Pyakurel paid homage to late Prakash Kaphley and said that Prakash Kaphley was one of the activists in South Asia who spoke for uniting different peoples movement in the region.



Discussing the initiatives taken in different times for the Peoples SAARC and efforts for bringing together the popular peoples and mass movements, Mr Pyakurel threw light on the recent meeting held in Delhi on July 20-24, 1995.

He also thanked Mr Binay Kumar Kasaju for his contribution in human rights which enabled him to receive the Prakash Human Rights Award.

At the end, the chairman of the programme Mr Badri Prasad Khatiwoda

concluded the ceremony. In his concluding remarks Mr Khatiwoda asked the government to honour human rights activists who contributed in their life time.

The programme was jointly organized by five prominent human rights organizations – Informal Sector Service Centre (INSEC), Child Workers in Nepal Concern Centre (CWIN), Centre for Victims of Torture (CVICT), Forum for Protection of Human Rights (FOPHUR) and Women Working Together for Change (WATCH). Representatives of these organizations also shed light on the life of late Prakash Kaphley.

Earlier an exhibition on human rights was jointly organized by these organizations which was observed by the Prime Minister Man Mohan Adhikari.

Letter speaks itself ...

29 July 1995

Pradeep Nepal
Minister for Informal & Communication
Singhdurbar, Kathmandu.

Organizers,
Prakash Memorial Day 1995

Dear Friends,
I received your invitation. I pay my tribute to late Prakash Kaphley. I could not attend the programme, for, I am leaving the country.

As a step to give him a national recognition and honour, His Majesty's Government has decided to publish a postal stamp on late Prakash Kaphley. The task has already begun.

Thanks.

Signed

Making SAARC of the People — A Vision of Prakash

Message of P.N. Bhagwati, former Chief Justice, Supreme Court of India.

I was very keen to attend the function organized by INSEC in connection with the distribution of Prakash Human Rights Award on Monday, 31st July, 1995. But, unfortunately, I have developed serious problem with my teeth, which has given rise to a lot of swelling on the face and which prevents me from coming to Kathmandu. I would, therefore, like to express my deep regret for not being able to participate in the function.

Prakash Kaphley was a totally dedicated human rights activist who throughout his life fought for democracy, human rights and rule of law. If there is any one person who will always be remembered by the people of Nepal, indeed by the peoples of all democratic countries, for having brought freedom and democracy to Nepal, it will be Prakash Kaphley.

I knew Prakash Kaphley very well. We worked together on a number of projects. I came to know him for the first time in Geneva when he met me and talked to me about the fight for freedom and democracy in Nepal. I could immediately realize that here was a man with the fire of patriotism burning in his heart and he was prepared to sacrifice everything, even his life, for the sake of his country and his people. Thereafter, I came into closer contact with him and has several occasion to interact with him and to participate in his various projects in Nepal and outside. He was a man of great integrity and character with a keen intellect and sound perception of the social, economic and political realities. He had a vision of free democratic Nepal and it is a matter of great satisfaction that this vision become a reality during his own life time. But he also knew at the same time that the prick of liberty is eternal vigilance and he, therefore, dedicated himself to the task of educating the people, criticizing the establishment wherever he found it going wrong and rebuilding Nepal. It is a great pity that he passed away at such a young age when he was in the prime of his life.

I had occasion to meet him just a day before he died because we had a meeting in Colombo where both he and I were present and after the conclusion of the meeting, I left for New Delhi by air while he proceeded to Bangkok on his way back to Kathmandu. It is very tragic that he died in the air crash. I was stunned when I heard the news.

There was one strategy in which he believed with the utmost conviction and it was that if we want progress and development in South Asia, there must be people to people diplomacy. It is only when people come together that they can understand each other better and become a potent source for peace. What is, therefore, necessary to develop is not merely SAARC of States but we must also have SAARC of the people. It is the people of South Asia who must cooperate and work for a common objective, namely, progress and development through democracy, freedom and human rights. Consequently, what is needed is SAARC of the people and that is what he was working to realize after Nepal was emancipated from monarchical rule. This is the message which he has left for us to fulfill.

His passing away has been a great loss to all the freedom loving peoples of South Asia. We are gathered here to pay tribute to his memory but the greatest tribute we can pay is not by words alone but by deeds. We must today resolve to put his message in action in our daily lives and to carry on the struggle for harmony and cooperation between the peoples of South Asia through promotion and protection of democracy and human rights, realizing that the people basically want peace and cooperation and it is only the political rulers who for their own selfish ends, are pouring poison in the minds of the people and destroying the common human values which have always through the centuries inspired and guided the people of this Region. There is no greater homage which we can pay to the memory of Prakash Kaphley. 🇳🇵

People's SAARC : Idea and Reality

A Presentation of Mr Rishikesh Shah, the Chairman of Human Rights Organization of Nepal (HURON) at the Prakash Memorial Day

THE countries of the South Asian region have for the first time in their history set up an institutionalized framework of regional cooperation. Whatever may be the shortcomings of the SAARC at present, it is but a necessary means to the ultimate realization of the ideal of regional cooperation in the real sense. Regional and bilateral relations and interactions need not be mutually exclusive and could be complementary to each other. However, two opposite things can happen to regional cooperation in the course of these two interactions. Either it can burn up in the friction of some of the bilateral relationships in the region, or it can so smooth the path of these relationships that it can not only reduce the respective friction, but it can also draw bilateral and multilateral relationships so close together that they can become mutually supportive and can together enable South Asia to cope much better with the global environment than it can without it.

Agenda for Political Action

What is needed to promote empowerment, democracy and participation and



development in South Asia is cooperation in evolving a common outlook on human rights and political culture. Due allowance must however be made for the special conditions and historical circumstances of individual states in doing so and in making foreign policies of the countries of the region genuinely concerned with freedom and rights not only of the states but also of the individuals everywhere in the region and the world as a whole. A skeletal outline of the agenda for action aimed at the empowerment of the disadvantaged in the region follows:

1. Children, women, religious, ethnic and cultural minorities, the poor particularly the rural poor, and those sections of society that are socially and culturally discriminated against, particularly the untouchables, victims of state oppression, and anyone else who is denied access to rights and opportunities available to others should be viewed as disadvantaged.
2. Human beings can be put to a disadvantage in more ways than one, for example women can be disadvantaged socially, or in religious terms by the media's perpetuating of stereotypes and inimical role models.
3. Some of the factors that perpetuate a disadvantaged system may be listed as follows:
 - (a) The inequitable social system with structures that reinforce attitudes and roles and the modern nation state also favouring those who have traditionally wielded power.

(b) Centralization of power in the hands of the few.

(c) The disempowering of the poor and the disadvantaged resulting from the blind pursuit of the economic growth and appropriation of natural resources as the necessary and unavoidable steps to development.

(d) Questionable choice of technology on a short term basis, which leads to the wanton destruction of natural resources and pauperisation of local communities, thus jeopardizing the future of all people.

(e) Use of religion as a tool to control the minds of people particularly through the cooperation of the fundamentalists and obscurantists.

(f) Dependence on foreign powers for the benefit of a few at the cost of the majority.

4. As regards legal issues we should have a two pronged approach: one to redress the immediate problem by fighting within the system and the other to study the system, identify its weaknesses and then struggle for a better system.

5. Judicial and legal activism is urgently required within the region.

6. Governments are usually sensitive to their own human rights images. We should therefore work to expose flagrant human rights violations in international forums.

7. Legislation in our countries involves the promotion of the advantaged to the detriment of the disadvantaged.

8. While fighting for the rights of the disadvantaged, whether at the legal level or at any other level, we must do so within the larger framework of human rights, irrespective of religious beliefs or traditional norms.

9. The success of NGOs in the human rights field is impeded because the implementation and follow-up is left in the hand of government machinery, which is susceptible to corruption, sensitive to powerful pressure groups and also lacks political will.

10. Religion is an emotive issue and hence lends itself more readily to exploitation. As a consequence, non-exploitative and rational arguments have less impact.

11. The government monopoly of the electronic media should be challenged by human rights activists in order to give NGOs the opportunity to promote human rights values.

12. When the principle that ignorance of law is no defense is employed, the state has a corresponding duty to educate people about their legal rights, and the electronic media should also be urged to play their role.

13. Whereas governments are only too ready to condemn human rights violations in other countries, they are often guilty of the same violations themselves. These double standards should be exposed.

14. While applying public interest litigation, which has undoubtedly helped the disadvantaged, it is important that proper judicial norms be established in order to make it an enduring part of the legal system.

15. It is to be noticed that the government often plays to the tune of the obscurantists thus hampering the growth of the democratic process and the cause of the intrinsically democratic modernization in the country and even in the region as a whole.

16. Human rights groups should develop strategies which will not only protect the disadvantaged but also help organize and educate the group itself with

a view to making it eventually self-reliant. Disadvantaged people should be trained and organized in such a manner that they are able to confront state oppression.

17. There is an urgent need to introduce radical legal reforms that conform to internationally accepted human rights standards and are responsive to the needs of the disadvantaged and the oppressed. Draft legislation must be debated not only in parliament but also at all public forums prior to enactment.

18. Support to the disadvantaged must be given on an issue-to-issue basis. It is imperative to evolve a sustained methodology to assist, promote, and protect the disadvantaged. This could best be achieved through developing domestic and international networking through the use of modern as well as indigenous and traditional techniques of communication.

19. Priority should be given to monitoring conditions of prisoners and providing legal assistance to them.

Recommendations for Government Action on a Regional Basis

1. A resource and information centre should be established at the SAARC level enabling NGOs working in the human rights field in different countries to share their practical experience, research and knowledge.

2. The governments of the SAARC region should be called upon to honour their pledges to human rights internationally and nationally by acceding to the international convention on economic, social and cultural rights, and also on civil and political rights with its optional protocol. They should also be urged to ratify the ILO conventions, the UN conventions on the rights of women and children and the status of the refugees and sign the protocols ancillary to these covenants.

3. The SAARC countries may also in due course explore the possibility of creating a joint commission, comprising both official and non-official members, to monitor human rights violations on a regional basis. Such investigative activities should be exempted from the purview of the plea of domestic jurisdiction.

4. Human rights organizations in the countries of the region must seek to develop effective solidarity among themselves so as to launch coordinated efforts for the eradication of human rights violations such as the persecution of women, children, minorities and other disadvantaged sections of the population, denial of treatment to prisoners in conformity with the internationally accepted minimum standards, torture and other forms of inhuman degrading treatment.

5. With a view to encouraged rapid growth of regional consciousness and cooperation among the SAARC countries by promoting consciousness of common ends at the popular and professional levels, it is recommended that:

- (a) Measures should expeditiously be taken by the SAARC governments to grant visas to nationals of SAARC countries without charging any fees for travel in the countries of the region and also to provide facilities for exchange of currency required for the purpose.
- (b) Efforts must be made to ensure the free flow of information among the SAARC countries by providing not only for the exchange of books, periodicals and newspapers without restriction but also by ensuring that the media in each country devote some time and space to dissemination of information about the condition, concerns and achievement of the people in other SAARC countries.
- (c) The NGOs working in various fields such as education, law, medicine, social work, information should be enabled to develop frameworks for regional cooperation.

Peoples SAARC: Efforts to Unite the Peoples Movements

SINCE 1989, concern has been expressed on building People's SAARC amongst the human rights organizations and the people with progressive incline. However, it was a hazardous task to create a conducive environment in the South Asian countries thereby obtaining people to people cooperation on women issues.

South Asia is a vast area of land keeping a large number of people with different cultures, religions and faiths, it has a boundless source of water resources and a diverse geographical status. The countries of this region, therefore, cultivate a lot diversities within similarities.

A minority tribe in one nation-state is in majority in the other. Muslim minorities in India hold a major capacity in Pakistan and a Hindu minorities in Pakistan are in majority in India. People are divided into various religions. Tribal discord has rooted in the community. On one hand the people of the region have waged popular struggles for democracy, they have on the other hand, suffered a reality of an elopement of democracy. Civil rights have time and again seized not only in Nepal, Pakistan and Bangladesh but also in India and Sri Lanka.

The people of this region have experienced various political rules such as absolute monarchy, constitutional monarchy, partyless and multi-party system, religious and secularism.

Above all, the people of the region encounter this diversity in one hand and similarities on the other. Inter-dependence is felt to be a burning need of

addressing such issues in the people's level. In this line, in active participation of late Prakash Kaphley, a discussion was held in early 1989 in New Delhi, India with the Third World Studies Centre and other people. As an outcome, the Third World Study Centre circulated an concept paper. This began a dialogue amongst professionals, experts, social workers and academicians in the region. In the line, INSEC from Nepal and some organizations in Bangladesh began publicizing the ideas. In 1991 August, South Asia meeting was concluded at the call of INSEC, which was attended in by 27 participants from India, Pakistan, Bangladesh, Sri Lanka, Nepal and Bhutan. It discussed at length the need of people-to-people cooperation and stressed the need for a prolonged discussion to build people's SAARC.

A conference organized by Asia South Pacific Bureau of Adult Education was convened in the Philippines in 1991. Amongst 300 participants of the world, the South Asian participants discussed on the need of Regional People's Cooperation and People's SAARC. Late Prakash participated in the programme.

Following this, various discussion programmes on building people's SAARC were conducted. In February 1993, South Asian Forum for Human Rights was officially formed in a meeting which was participated in by Justice P N Bhagawati, the former Chief Justice of Supreme Court of India. Such meeting was convened at the call of INSEC. After its formation of People's SAARC was taken up as one of the important tasks. To this end, a South Asian conference was held in Kathmandu in May 1994 on

"Towards Peoples SAARC". Conducted for two days, the programme was attended by the trade unionists, women, children and peasant organizations. This conference took important resolution towards building people's SAARC. Primarily, identification of common problems and a proclamation united attempt to address them are the main achievements of the consultation. The consultation identified various problems. Up to now, 14 regional meetings have been conducted.

After the Kathmandu consultation, a regional coordination committee was formed to make people's SAARC movement meaningful. It was led by INSAF. Trade Union leader Karamat Ali of Pakistan, Ananda Swaroop Barma of Third World Centre, Mohiuddin Ahmad of the coordinator of 21st Peoples-Planning from Bangladesh, Sri Lanka Jagath Shribardan, D P Basnet of

Bhutan and Sushil Pyakurel of Nepal were in the committee.

INSAF took the responsibility to host the secretariat. After a perpetual discussion, coordination and exchange of ideas of the coordination committee, on 20-24 June 1995, on Alternative Agenda for the South Asian Peoples Solidarity. Around 60 participant related to social movement s of 6 countries in South Asia participated in the consultation programme. From Nepal Keshab Badal, Central Advisor to All Nepal Farmers Association and former MP ; Uddhav KC, Central Member, GEFONT, General Federation of Nepal Trade Union; Yogesh Bhattarai, Chairman, ANNFSU; Nanda Bahadur Singh, Central Committee Member, ANNFSU; Badri Prasad Khatiwada, Chairman, Save the Environment, Nepal; Sushil Pyakurel, Chairman, INSEC and Human Rights Activist Krishna Upadhyaya participated in the conference. 🚗

Delhi Declaration on the Peoples' SAARC

WHILE the need for regional cooperation in South Asia becomes even more urgent, and the recognition of this fact grows at the people's level, the states of South Asia continue to persist in their anachronistic conflicts and animosities. The official SAARC couldnot bring about any meaningful cooperation between the seven states of South Asia, and has failed to address the real concerns and aspirations of the people of South Asia. It is, therefore, time that the people of South Asia took the initiative in their own hands to build a people's alliance.

We, the representatives of people's movements, mass organizations, citizens' groups and concerned individuals, affirm yet again the urgent need for

regional cooperation. The process towards a People's SAARC has been going on for the past few years. The last meeting was held in Kathmandu in May 1994, and adopted the Kathmandu Declaration expressing the concerns of the people. We endorse the Kathmandu declaration and express our disappointment with the fact that practically no steps have been taken to address the concerns, and realize the objectives expressed in that declaration.

Indeed, if anything, our states have in the mean time further relinquished their responsibility to their people, and become even more co-opted by the process of recolonization that is presently underway. The interests of international financial institutions, the

IMF and the World Bank, and transnational corporations, have become ever more entrenched. The result has been that unprecedented levels of poverty, inequality and social and ecological disruption now hold sway over the developing world in general, and South Asia in particular.

Responding to the urgency of the need for pooling our resources to meet the challenge posed to the people of South Asia by this hostile inter and intra-national order, there has been a spurt of peoples' initiatives in recent years. South Asia Initiative of PP21, Pakistan-India People's Forum for Peace and Democracy, Bangladesh-West Bengal People's Dialogue, India-Bhutan People's Dialogue are only some examples. We welcome and endorse all these initiatives and seek to build upon their efforts.

The People's SAARC affirms the need for an alternate agenda that will address the concerns and aspirations of our people, rather than those of a microscopic élite. Such an agenda must reflect the struggle for empowerment, livelihood and dignity of the South Asian People as a whole. To this end we

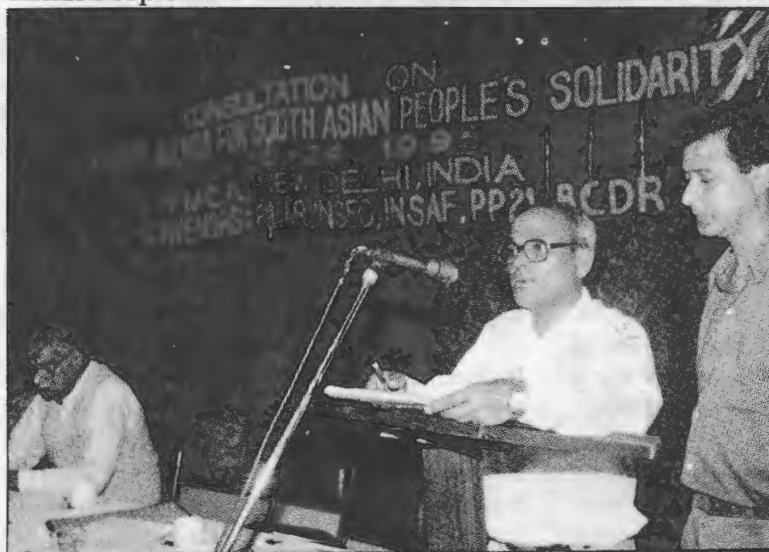
believe that the following objectives must be realized:

1. At present there exist in South Asia severe restrictions on the movement of people and information. This must end. As a first step, all states in South Asia must ensure the people of South Asia a visa-on-arrival facility.

2. Violent means of resolving inter-state conflict must be immediately renounced. Growing nuclearization and militarization in the region poses the greatest threat to the security of South Asian people. We demand that our states commit themselves to a nuclear-free South Asia, and denuclearize immediately. Steps towards radical demilitarization must also be taken now, and scarce and precious resources presently wasted on so-called defense expenditure be redirected towards social development.

3. Inter-state relations must be based on respect and equality, and all unequal treaties should be annulled. Above all, states must respect each other's sovereignty. Military intervention and espionage operations on each other's territories is the most glaring violation of this sovereignty.

4. The South Asian region has long been known for its unity in diversity. In the colonial and post-colonial period, however, there has been an unprecedented increase in communal and ethnicity-based politics. Such trends of inter-communal and ethnicity-based politics. Such trends of inter-community strife, tension and conflict



Member of the Presidium of Delhi Consultation – Keshab Badal

must be reversed, and state repression of ethnic and religious minorities must immediately stop. Also, the principle of sovereignty cannot be used to legitimize the violation of human rights.

5. The South Asian region constitutes an integrated eco-system. The management of natural resources which the states of South Asia share must be a joint and cooperative effort. The eco-system and the livelihood of communities tied to it must not be disrupted by unilateral intervention by any state. Belatedly, we call for a moratorium on all state-sponsored projects that cause displacement of people and degradation of the environment.

6. Patriarchal structures presently in existence in the region must be dismantled, and all forms of discrimination and exploitation of women must end. The women of the region must be recognized as equal partners in the life and development of society.

7. The rights of indigenous and tribal peoples must be recognized as sacrosanct, and all forms of discrimination and forcible assimilation of their communities must stop.

8. Bonded and slave labour, the trafficking of women and children and the repression of workers movements are some of the most dehumanizing practices that now exist in the region. All such exploitative practices must end.

9. Even those states of the region that have democratic structures in place can hardly claim to be truly representative and democratic. All states must commit themselves to democratic decentralization. Belatedly, the criminalization of politics that has badly damaged representative democracy in the region, must end.

10. The states of South Asia must resist encroachment by international and regional economic powers, financial institutions and transnational corporations, and protect the interests of the people against these neo-colonial powers. To counter these powers, trade barriers and discriminatory trade policies must be removed to facilitate the creation of a South Asian common market.

11. The people's right to self-determination must be recognized as inviolable by states.

12. The convention and agreements on land-locked countries must be implemented, and transit routes opened up.

13. The South Asian states must show their commitment to the Universal Declaration of Human Rights, and a joint people's tribunal for adjudication of human rights violations must be set up.

14. The SAARC Charter must be revised to allow the discussion of bilateral issues, and must reflect the aspirations of the people.

We commit ourselves to working with people's groups and organizations to realize these objectives, and appeal to all political parties and citizens' groups to join hands in furthering the same.

Issued at Delhi on 24th July, 1995 by Peoples' SAARC country coordinators.

Karamat Ali (Pakistan)
Mohiudin Ahmad (Bangladesh)
Sarath Fernando (Sri Lanka)
Tenzing Zangpo (Bhutan)
Anand Swaroop Verma (India)
Sushil Pyakurel (Nepal)



Press Release by the Consultation on Alternate Agenda for South Asian People's Solidarity

A five day consultation of the representatives of various people's organizations of South Asian Countries was held here in Delhi from July 20-24 to discuss the "Alternative Agenda for South Asian People's Solidarity". It is widely felt that the SAARC has not been able to meet the aspirations of the people of these countries. During its one decade of existence, on plea of not entering into Bilateral discussions, the SAARC has in fact ignored the basic issues of the people.

It was in this background that the representatives of the people's organizations of SAARC countries held the consultation to explore the Alternate Agenda Representatives participating in the consultation belonged to various grass root level struggles, campaigns and movements and people's representatives of the South Asian countries except Maldives.

The country coordinators for the consultation are Mr Karamat Ali (Pakistan), Mr Sushil Pyakurel (Nepal), Mr Ananda Swaroop Verma (India), Mr Mohiuddin Ahmed (Bangladesh), Mr Sarath Fernando (Sri Lanka) and Mr Tenzing Zangpo (Bhutan).

The concept of People's SAARC has been discussed for some years now to emphasize the need for people to people cooperation in South Asian region. The idea was to help strengthen the forces of the region which seek to contribute to peace, freedom, and democracy and equality in the larger interest of the people of South Asia. Drawing upon the region's common history, sharing eco-

system and shared fundamental values, the participants from various fields at this consultation believe that there are strong bases for extensive regional cooperation.

The consultation felt that while the rich industrialized countries and international agencies such as World Bank and IMF have their own paradigms for alleviation of poverty, protection of environment, human rights, trade, development, disarmament, democracy and bilateral, regional and international relations their primary concern is to dominate the developing world both politically and economically, which of course does not leave out the South Asian countries. All the policies of these powerful bodies are specially designed to serve that purpose.

In addition to generating dependence on outside resources, prevailing situations perpetuate poverty and give rise to interrelated economic, social and political conflicts within and between South Asian countries. Adverse internal trends are becoming unmanageable and external trends are pushing South Asia into a debt trap and on to the margins of the world economy and international politics.

We have observed that the official SAARC which started off with quite an idealistic approach has failed to reflect the interests and aspirations of the people of the region. And, therefore, there is an urgent need to develop a united response from the masses of the SAARC region to face the challenges posed by the situation.

The main concerns expressed by the participants are:

1. The restrictions on issuing the visa within the countries of SAARC region are cumbersome and tedious, and hamper people to people contact. We, therefore, urge for introduction of a system that will permit issuing of visa at the entry point of member countries without discrimination.

2. The bilateral trade within the SAARC region has not taken off well, due to delinquent negative policies of all governments. We, therefore, demand that all restrictions hampering bilateral trade in the region should be removed at the earliest.

3. South Asian governments should provide transit facilities to each other without any discrimination/arbitrary conditions. This needs to be done on an urgent basis. For example in the case of Nepal transiting through Bangladesh is both convenient and economical.

4. Sharing of waters has been a contentious issue between some of the SAARC countries. The hypocritical attitude of the concerned governments towards this problem has prevented the people from taking constructive steps. We call upon the governments to immediately initiate a multilateral dialogue to tackle the problem without further delay.

5. Public tribunal should be organized to try war criminals and also a human rights court that will deal with victimization of the citizens of SAARC countries.

6. The conference realizes the urgent need to organize people's conferences on specific bilateral issues of serious concern such as Jammu and

Kashmir and the water dispute.

7. Voices have to be raised against all kinds of terrorism in this region and there has to be total ban on weapons of mass destruction, including nuclear weapons.

The consultation felt that the following issues need to be dealt with immediately:

1. Curbing cross border trafficking of women and children through cooperation between both the receiving and sending countries.

2. There is an immediate need to revise the SAARC charter to include discussion of bilateral issues.

3. The consultation has decided to launch a signature campaign to mobilize people's opinion regarding the most urgent bilateral as well as multi-lateral disputes existing within SAARC countries.

In this five day consultation senior journalists like Mr M B Naqvi (Pakistan), Mr Kuldeep Nayar, Mr Balraj Puri and Mr Arun Srivastava (India), Mr Sohrab Hassan and Ms Rahat Fahmida (Bangladesh), trade union leaders Mr Karamt Ali, Mr B M Kutti (Pakistan), Mr Keshav Badal (Nepal), Mr Sirithunge, Jayasoorie (Sri Lanka), and women activists Ms Sheema Kermani, Ms Nadira (Pakistan), Ms Ainoon Nahar (Bangladesh), Ms Nimalca Fernando (Sri Lanka) and Dr Ms Dilmaya Subba (Bhutan), academicians and intellectuals like Mr Mohiuddin Ahmed (Bangladesh), Prof Manoranjan Mohanty, Prof K N Panikker, Prof Dalip Swamy and Mr Asghar Ali Engineer participated.



SU KYI: SALUTE FROM EVEREST !

- Mukunda Kattel

UNLIKE other animals, human being can struggle against the sword to write their own history. In terms of quality this is the main difference between them. The close study of the world history shows that it has been sketched by the delicate strokes of the pen despite cruel efforts of the blood-stained sword pursuing every opportunity to besmirch the nib. Yet no victory has been handed to the sword; and the pen has not smelled a defeat, on the other hand. And once more the pen, the voice of truth and the courage of human has won in the history of Burma, too.

I am daring to write some lines, futile though it is, in felicitations to Aung San Suu Kyi from the lap of Everest that never, in its history, bends down to evil eye. As a human rights activist, and more as an optimist citizen of the world, it is felt imperative to proclaim that a raising human strength breaking the fetters of autocrats should be noted down in the para of human history. Suu Kyi, the daughter of Asia, is not just only a freedom fighter as what looks apparently. She is a human with a super-man charisma, a woman with an iron-rigid determination and a living emblem for those who, even after qualifying basic traits, could not be addressed 'man' and are indeed in course of fighting to win the honour. She fought for what she thought 'should be for human'. No doubt, she is an individual but what is seen remarkable in side her is the indomitable spirit, and selfless ideals attached to humanity under whatever pressure of

seasonal typhoon. Above all, Suu per se is one of those important quotations of the world history that each politician and activist should learn by heart.

I am not in front of my computer to sketch a biography of Burma's precursor, I am premature for so, nor do I vow to compose a hymn of praise, it is unfair. What I mean to pen is a fact of life-race, perhaps known to every body but neglected, that has reminisced from the dedication that Suu Kyi offered for the oppressed people and bewildered country. What is proved again is life is the propeller and consumer of the gifts the nature has bestowed. Subjective fractions of societies as such religions, theories, cultures and so on came their way when so felt necessary to drive the objects amongst mankind. That is why no abstract hunger can swallow the life that is meant for truth. This is the juncture where the so-called politicians of the world have slipped. Because of power, they turn to be blind to this real pattern of civilization and attempt to squeeze the genuine voice of the people, their demand for flexibility which is refereed to as democracy and have often been slapped. What they should now learn is rigidity equals to disaster.

In whatever terms it is defined, I take it a liberty to write that Aung San's release is a victory of the people; a crystal testimony of the success of human rights struggle and a grave threat to a despotic eye that always intended to sting a flower of the spring. Suu Kyi's victory is an open challenge to those who are now in parade against

the people. The world has experienced one more instance, to draw a principle that all devils are perishable after all, they are succumbed to the voice of time. It has further encouraged the warriors in the world who are fighting against the pseudo-leaders at the moment at the expense of their materials, offspring and foetus. I hereby join their human struggle and would offer the grace of my Himalaya. Candidly, I have derived this courage from the defeat of juntas and the victory of Aung in my vicinity.

But the world history has also an odd page, of course unwanted; we have frequently seen the comets falling down

the sky. And a flower has faded away its fragrance. I am however very much sure Suu Kyi who has witnessed a lot ups and downs of the life and gathered her 'human' from the inferno of complexities will not fall prey to any disguise. She will brighten her motto of humanity for the sake of needy people throughout the world. She should amount her stand to that of my Everest. And that the womb of Asia should be further encouraged to give birth to as many Suu Kyis as the world needs in the days to come. Suu Kyi Salute from my Everest for your humanly courage against the despotism!

GA

Beyond Vienna — NGO Congress on Human Rights

Uppsala Looks For New Strategies

AMIDST the mid-summer festive Swede moods, serenity and hospitality, more than 100 human rights scholars, activists and advocates gathered from all around the world in the University of Uppsala. The Uppsala Congress on Human Rights could be taken as the follow-up of the Vienna World Conference on Human Rights. However, maintains the Uppsala Report, "It is not the formal follow-up arrangement which was agreed upon by NGOs who attended the final plenary in Vienna on June 25, 1993". Among other things, it discussed the Role of NGOs in the Promotion and Protection of Human Rights in Peace Times, The Role of NGOs in the Protection and Promotion of Human Rights and Humanitarian Laws in Armed

Conflicts and Future NGO Strategies.

While discussing the above said topics, the workshops took up seriously the issues like The Linkages Between Human Rights and Development; The Challenge of Racism, Discrimination, Xenophobia, Fundamentalism and Other Forms of Intolerance and Externally and Internally Displaced Persons.

It also incorporated the workshops on Civilians as Victims of Armed Conflicts, Facing Land Mines and Other Weapons and Their Effects on Civilian Life and Environment, and The Right to Give and Receive Humanitarian Assistance.

It was agreed upon that the promotion and protection of human rights and the building of human rights culture is incompatible with impunity. "The lack of effective punishment of those engaged in the denial and violation of human rights through the machinery of national, regional and international legal systems promotes injustice and leads to the culture of contempt for human rights", the Congress report reads. The Congress took the strong stance that the concrete measures ought to include undertaking investigations, studies and documentation to pursue this matter at national, regional and international levels.

At a time when human rights community around the world seek to punish the violators of human rights, they went unpunished in Nepal, South Africa, Peru, Cambodia, and Bosnia-Herzegovina, the resolution is the renewed commitment for impunity.

Realizing that the first line of defense of human rights is national level, the Congress stressed the need for the national mechanisms. "The best means of protection of international human rights standards is to work first, for their incorporation into the national legal system and second to work to ensure that these standards become the living part of legal system i.e. the legal culture of the state.", the report agreed upon by human rights advocates reads. It also reviewed the effectivity of regional mechanisms like Inter-American and European Charters and Conventions.

One of the very sensitive matter

discussed in the Congress was the abuse and misuse of religion and culture. The realization was that the misuse of religion and culture by imposing interpretations often put religion, culture and traditions in contradiction to basic fundamental rights and justice. It also recommended the human rights organizations to develop strategies to tackle such problems.

Perhaps the most serious discussion centred around the Economic, social and cultural rights. It concluded that there is no order of priority of achievement of Economic, Social and Cultural(ESC) Rights and Civil and Political(CP) Rights. The participants expressed their grave concerns on the Structural Adjustment Programmes and conditionalities imposed by international financial institutions like World Bank and IMF. It was noted that such impositions are clearly against the International Convention on Economic, Social and Cultural Rights, especially state party's (to ICESCR) obligations of protecting the existing minimum standards.

In the workshops the structural adjustment policy(SAP) was exposed as an anti-human rights policies which mostly help "adjust out" most vulnerable groups of society like children, women and indigenous people.

Unlike previous "jamborees", Uppsala Congress drew very limited number of activists and scholars, in most cases a single representative from a country, which helped to give quality to the plenary discussions.

The Good News!

While Nepali Congress was commanding the majority in the parliament and held the reign of the government, the present minister of law and justice Subhas Nemwang brought a bill in the upper House of Parliament to form a National Human Rights Commission. It was discarded by a majority vote. After the CPN (UML) formed the government in November last year, it has again initiated to bring a bill on this subject.

After the initiatives of the minority CPN (UML) government, the Nepali Congress Party, which rejected the bill before, has come up again with separate bill on human rights. This has helped create national consensus on the matter. After the commitments shown by the ruling party and the main opposition, the aspiration for the National Human Rights Mechanism is sure to be materialized. A Real Good News!

This is much discussed bill. Human Rights Organizations have reservations to some of the provisions of the bill. But for your comments we have published an unofficial translation of government's Bill on Human Rights Commission which is as follows:

A bill made for the establishment and Management of Human Rights Commission

Preamble : Whereas, it is deemed necessary for the establishment and Management of National Human Rights Commission to protect and preserve the Human Rights,

In the twenty fourth year of the reign of His Majesty King Birendra Bir Bikram Shaha Dev, the parliament has made this Act.

Chapter - 1 Preliminary

1. Short Title and commencement :

1. The Act shall be called "Human Rights Commission Act 1995."

2. Definitions :

Unless and otherwise meant with reference to the subject or context, in this Act :

- a. "Human Rights" shall mean the fundamental rights guaranteed in the existing laws of the constitution of the Kingdom of Nepal 1990, and also the rights stated in the international Human Rights Conventions of which Nepal is also a signatory.
- b. "Commission" shall mean the National Human Rights Commission established under to section 3 of this Act.
- c. "Chairman" shall mean the Chairman of the commission. The word also denotes the member who, according to section 12, works as the acting Chairman or as the Chairman.
- d. "Member" shall mean the member of the commission.

- e. "Secretary" shall mean the secretary of the commission.
- f. "Specified" or "as Specified" shall mean specified or as specified in the laws made under this Act.

Chapter - 2

National Human Rights Commission

3. Establishment of National Human Rights Commission :

- i. For the protection and promotion of human rights in the Kingdom of Nepal, a commission by the name of National Human Rights Commission has been established.
- ii. The commission shall be an autonomous organization with perpetual right of succession.
- iii. The commission shall have its own seal.
- iv. The commission, as a legal entity can acquire, use and dispose of movable and immovable property or could make other arrangements.
- v. The commission, as a legal entity shall have the right to file suit and can be sued in its own name.

4. Formation of the Commission :

The commission shall have the following chairman and members :

- a. Person who has worked as Chief justice or judge of the Supreme Court or he who is eligible to be appointed as the judge of Supreme Court.

- Chairman

- b. Two person who have worked at

least ten years and acquired experience in the sphere of Law, Justice and Administration.

- members

- c. Two prestigious personalities who have acquired specialized Knowledge of practical experience on human rights.

- members

5. Qualifications for Chairman and Members :

In addition to the qualification mentioned in section 4, the chairman and members' qualifications shall be as follows :

- a. Be at least a graduate from any one of the universities recognized by His Majesty's Government of Nepal.
- b. Be at least 45 years of age and,
- c. Should not have been a member of and political party in the immediate past before his appointment.

6. Appointment of the Chairman and Members :

His Majesty the King shall appoint the Chairman and members in accordance with recommendation of the recommendation committee.

7. Recommendation Committee :

- 1. According to section 6, there shall be a recommendation committee to recommend the appointment of the chairman and members of the commission.
- 2. The recommendation committee shall comprise the following chairman and members

- a. Prime Minister
- Chairman
- b. Chief Justice
- Member
- c. Leader of the opposition Party,
House of Representatives
- Member
3. The Recommendation Committee
can specify its own working proce-
dures
4. The administrative work of the
Recommendation Committee shall
be done by the Principal Secretary
of His Majesty's Government of
Nepal.

8. Name List of Qualified persons :

For the recommendation of the appointment of Chairman and Members, the recommendation Committee, if it so deems necessary, can request the Foreign Affairs and Human Rights Committee of the parliament to submit the name list of eligible persons according to this Act.

9. Tenure of Chairman and Members :

The tenure of the chairman and members shall be for five years from the date of appointment and it can be extended.

But the Chairman and Members shall cease to be in office if he reaches the age of seventy years before the tenure is completed.

10. Dismissal from the Office of the Chairman and Member :

1. Notwithstanding anything written on section 9, if on the ground of

inefficiency in work, bad conduct or failure to carryout designated official responsibilities, the Chairman or any member could be dismissed from office if such a proposition to remove from office is put forward by the Foreign Affairs and Human Rights Committee of the parliament and if the proposition is passed by two thirds of the total present voting members of the House of Representatives.

2. The Chairman or Members charged with sub-section (1) shall be given the right to hearing and the House of Representative can constitute an investigation committee from among the members of parliament to take statement from them to collect evidence and present the report along with opinion.

3. The Working Procedure of the Committee Constituted in accordance with Sub-section (2) shall be as specified by the committee itself.

4. The Chairman and the member under impeachment process in accordance with sub-section (1) shall not carryout their official duties.

11. Vacation of the Post of Chairman and Member :

The Posts of chairman and member shall be vacated in the following conditions :

- a. If he dies;
- b. If his resignation submitted to His Majesty in writing is accepted by Him ;
- c. If the terms of office is completed in accordance with section 9 or 10 or if he does not hold the position ;
- d. If he is declared bankrupt;
- e. In case of insanity or mental

- disorder;
- f. If charged with criminal offense in a law court or,
 - g. If absent for more than sixty work-days in the Commission in one year.

12. Member to Work as the Acting Chairman or as the Chairman :

1. In case of the vacancy of the Chairman, His Majesty the King may appoint any member to work as the acting Chairman till the appointment of the new Chairman is made;
2. If a situation arises and the Chairman is unable to carryout the duties of his position due to illness or other reasons or he takes leave or unable to attend office because he is abroad, the senior-most member shall work as the Chairman.

13. Conditions of Service of the Chairman and Members :

1. The remuneration and facilities and conditions of service of the chairman and members shall be as follows :

But the remuneration and facilities shall not be less than that of the remuneration and facilities of the Judge of the Supreme Court.

2. After the appointment of the Chairman or members is made, the remuneration and facilities and the conditions of the service shall not be changed to cause loss to them.
3. After being appointed as chairman or member he shall not be eligible for the appointment in any government post except for the political appointments.

Chapter - 3
Office and Employees of the Commission

14. Office of the Commission :

1. The office of the commission shall be situated in Kathmandu Valley.
2. The commission may set up its branch offices in the different parts of the Kingdom of Nepal if it so deems necessary.

15. Secretary of the Commission :

1. There shall be a secretary as the Chief administrative officer of the Commission.
2. The Secretary shall carryout the day to day administration and do other works by exercising the rights of the commission as delegated by the commission.

16. The Officer and Employees of the Commission :

1. His Majesty's Government shall provide the Commission with the following officers and employees.
 - a. One special class Government official
 - b. In order of carryout the works of the commission effectively and to do the investigating work seek the service of the policeman, investigation officer and other employees.
2. According to Sub-section (1) His Majesty's Government while providing the officer and employees to the commission shall consult with the commission about the officer and employees to be provided.
3. According to part (a) of the Sub-section (1) the officer provided by

His Majesty's Government shall be the Secretary of the Commission.

4. Apart from what is specified in Sub-section (1) the administrative, technical or scientific officers and employees needed to carryout the works of the commission shall be appointed by the commission as specified.
5. The remuneration and facilities of the officer and employees appointed in accordance with Sub-section (4) shall be as specified by the rules and regulations of the commission.

Chapter - 4 **Meetings and Decisions of the Commission**

17. Meetings of the Commission :

1. Normally the meetings of the commission shall be held regularly at the office of the commission on the second and fourth weeks of every month excepting holidays.
2. Notwithstanding anything written in Sub-section (1) if one or more than one member makes a request to discuss on an urgent matter or the chairman himself may call a special meeting at the office of the commission or any other place.
3. In consultation with the Chairman, the Secretary shall maintain and make available different files on various subjects on the Agenda to be discussed at each meeting. He should also provide the agenda to be discussed to the members at least two days prior to the meetings.
4. Quorum for the meeting of the commission shall be fulfilled if the

Chairman and two members are present for the meeting.

5. Other officers as fixed by the Chairman and Secretary can also participate in the meeting.
6. The Secretary or any other official of the commission designated by the Chairman for the work shall present the record of the meeting of the commission to the chairman for approval and distribute that among members as soon as it is approved.

18. Decision of the Commission :

1. On every agenda discussed in the meeting of the commission, the member appointed last in the list of the members and the other members appointed earlier than him, and then, in the end, the Chairman shall express his opinion. The opinion of the majority shall be considered the decision of the commission. In case a majority decision could not be reached because of differences of opinion of the Chairman and members, the opinion of the Chairman shall be considered as the decision of the commission.
2. If the Chairman or any member does not take part in any meeting giving reasons that the person or interested party or the agenda to be discussed in the meeting of the commission in related to his close relative or on moral ground, the record of which shall be maintained.

19. Authentication of the Orders and Decisions of the Commission :

The authentication of the order and decisions of the commission shall be done by the secretary or any

other official of the commission as fixed by the chairman.

Chapter - 5

Functions, Duties and Powers of the Commission

20. Functions and duties of the commission :

1. It shall be the duty of the commission to create common aspirations, respect and faith towards human rights, protect and preserve human rights without any discrimination on the grounds of religion, race, sex, caste, of faith or on the basis of birth place.
2. In accordance with section (1) the commission may do the following works to fulfill its duties.
 - a. Shall carryout necessary inquiry and investigation as to the violation of human rights, or on the complaints of the aggrieved party of the complaints given by any person or institution on behalf of the aggrieved, on its own discretion and inform about the findings and decisions to His Majesty's Government or the concerned agency or the complainant.
 - b. Shall write to His Majesty's Government or to the concerned agency if the inquiry and investigation on the violation of human rights establishes that such violation has been made.
 - c. With the permission of the court, the commission shall be involved in and work subject to the terms and conditions laid by the court or any case in the court related to the violation of human rights.
 - d. Shall check whether there is observance of the existing laws and orders and decisions passed by the court of justice or Tribunal in the offices of His Majesty's Government or related agencies and, if found to be intentionally delaying or not observing the laws, draw the attention of this Majesty's Government or the concerned agencies.
 - e. Shall review whether the existing laws and the proposed laws on the request of concerned agencies are congenial to human rights and, if found to be adverse to human rights, send it to His Majesty's government or the concerned agency for reform or removal.
 - f. Shall provide assistance and help to the aggrieved person caused by the violation of human rights and also help to take the aggrieved to the place where is provision for medical treatment according to law.
 - g. Shall Study the international conventions on human rights and advice His Majesty's Government for Nepal's approval or participation.
 - h. In order to carryout the international conventions approved and participated by Nepal more effectively and to include the provision therein in the Nepalese Law, the commission shall provide its opinion and suggestion to this Majesty's Government.
 - i. Shall maintain coordination with non-governmental organizations working in the area of Human Rights, participate in the functions conducted and organized with an aim to protect and preserve human rights by such organizations.

j. Shall be informed about the works and publications relating to the protection of human rights as done by the Non-governmental organization working in the area of human rights and help and encourage the efforts of such organizations.

k. shall provide legal advice to His Majesty's Government regarding the policy, planning and programs to be adopted by the Government in relation to the protection and preservation of human rights.

l. Shall increase common aspirations, respect and faith in human rights and in order to protect and preserve human rights, generate awareness through publications, communications and other existing means and channels available.

m. Shall Co-ordinate with national, foreign and international organizations and organize meetings, workshops and seminars and participate in meetings, workshops and seminars on human rights organized by such organizations.

n. Shall seek the required and available assistance for the protection and preservation of Human Rights from UNO and other agencies under it.

o. Shall put its concept, view and suggestions on human rights to the people through statement, communiqué and report.

p. Shall do other appropriate works needed for the protection and preservation of human rights.

21. Limitations on the Jurisdiction of the Commission :

On the following matters related to the violation of human rights, the

commission shall not have the jurisdiction to conduct inquiry and investigation or any other action.

a. Sub-judice in the Court;

b. Sub-judice in any commission constituted under the existing laws.

c. If the Attorney General signs and testifies that there is a possibility of an adverse effect on the security of the Kingdom of Nepal or on the cordial relationship between His Majesty's Government and any foreign Government of International or regional institution or organization.

d. On matters with any provision for remedy under the existing laws.

But the action taken by the commission shall not be considered as an obstructions on the ground that there is the provision for constitutional remedy under the extra ordinary power of the Supreme Court.

22. Jurisdiction of the Commission :

1. While carrying out any inquiry or investigation on matters related to the violation of human rights, especially on the following matters, the commission shall have an equal power and authority as of a court.

a. To serve notice, summon the attendance of the required person, carry-out interrogation, record the statement and if necessary, issue sealed questions.

b. Make to submit written or other papers.

c. Ask for the public record or the copy of it from court and tribunal.

d. Other matters as specified.

2. The commission shall have the right to requisition, information and intimation from any person regarding the matter which is useful and being investigated by the commission and the concerned person shall have to provide the information and intimation as required by the commission under the existing laws.

3. If the commission or the authorized gazetted officer of the commission believes that documents related to the matter under investigation could be obtained from a house or place on reasonable grounds, may enter such a house or place under the existing laws and obtain the documents or may make copy of the document.

23. Restriction to the Commission :

Notwithstanding anything written in section 22, while conducting inquiry and investigations relating to the violation of human rights, the commission shall not summon or require the attendance of the gazetted officer or an employee in the service of His Majesty's Government to record statement or put in detention or in bail.

24. Appointment of the Investigating Officer :

1. The commission may appoint any member or at least a gazetted officer in the service of the commission or this Majesty's Government as a research officer to do research works according to the need of the commission during the process of the investigation.

2. According to Sub-section (1) the commission shall seek the approval of Concerned Department of his

Majesty's Government before appointing the employee in the service of the Government as the research officer.

3. The research officer appointed according to sub section (1) while carrying out the investigating work may exercise the authority bestowed to the commission by this Act and shall present the report within seven days or the period fixed by the commission after the completion of the report.

25. Formation of Sub-committees or Action Committees :

1. If the need arises, the commission may form Sub-committees or action committees to study, research and prepare report on any matter related to the work, the commission may have to do in accordance with this Act.

2. The functions, duties, powers and working procedures of the Sub-committees or action committees formed under Sub-section (1) and the remuneration and facilities of the members of such Sub-committees or action committees shall be as specified by the commission.

26. Seek Consultation Services :

The commission may seek the consultation services from concerned experts or special Bodies while conducting any work according to this Act.

Chapter - 6

Complaint and Action Against Violation of Human Rights

27. Complaint :

1. In case of violation of human rights the aggrieved or any member of his

joint family or the institution established according to the prevailing existing law for the protection of human rights or the incumbent member of such institution may make complaint to the commission stating in comprehensive details where, when, who, how and what happened.

2. The complainant in his complaint in accordance with Sub-section (1) shall take his name, address and if possible discloses evidence and witness and put his signature by saying that all the statements are true.
3. There shall not be any charge for the complaint.

28. Complaint in Suspension :

The commission shall not take any action on the following complaints and such complaints shall be put in suspension :

- a. Complaints outside the jurisdiction of the commission.
- b. False or fictitious.
- c. Unclear, misleading or not based on facts.
- d. Extremely ordinary in nature or
- e. Events that have happened one year prior to the complaint.

29. Commission may Exercise its Discretionary Power :

Even if there is not any complaint according to section 27 on the violation of human rights, the commission may exercise its discretionary power.

30. Actions Related to Investigation:

1. The commission, while working on complaint on any matter relating to

the violation of human rights in accordance with section 27 or while conducting investigation using its discretionary powers shall have to demand explanation or report on such matters from His Majesty's Government or concerned agency and shall give at least fifteen days notice while demanding such explanation or report.

2. The commission may move forward the investigatory procedures if it does not get any explanation or report according to Sub-section (1) in the given period of time.
3. If is deemed necessary for the commission not to move forward the investigatory work according to the explanation or report received within the period as stated in section (1) or if the commission is satisfied that His Majesty's Government or the Concerned Agency has already done the necessary work or has started doing the work, it shall not conduct further investigation and shall inform the complainant about the matter.

31. Right to Hearing :

If the commission deems in necessary to make investigation on the moral character of any person during the course of investigation, or if it considers that the investigation may have negative effect on the prestige of any person, it may give appropriate opportunity to such person to present explanation in defense or present evidence in his defense.

32. Actions after the Investigation :

1. The commission may recommend His Majesty's Government or the

Concerned Agency to do the following if it finds the violation of human rights in the investigation carried out according to this Act relating to the violation of human rights.

- a. For Departmental or other appropriate action or punishment against the concerned person.
 - b. To provide temporary relief to the aggrieved person or the members of his family or provide due compensation.
2. After the completion of the investigation, the commission shall prepare the investigation report and send a copy of such report along with its recommendation to His Majesty's Government or the concerned Agency.
 3. Within thirty days after the receipt of the investigation report according to Sub-section (2) or within the period specified by the commission, the report along with the response and the statement about the work done or being done on the report by His Majesty's Government or the Concerned Agency may have to be sent to the commission.
 4. The commission shall publish its investigation report along with the response if stated about the undertaking done or proposed be done by His Majesty's Government or the concerned Agency.
 5. The commission shall also provide a copy of the investigation report to the complainant or his representative.

33. Statement Related to the Investigation :

In answer to the questions asked by the commission on the subject

related to the investigation according to his Act or asked by a member or the person authorized by the commission, the statement or explanation given by any person or false statement shall not be used on any civil or criminal cases against him except on the said case.

Chapter - 7 Consultation Committee

34. Consultation Committee :

1. There shall be a consultation to advise the commission in relation to the work to be done according to this Act and to His Majesty's Government for the adoption of the policy, plan and program by Nepal to protect and preserve human rights.
2. The consultation committee shall have the following members :
 - a. Chairman of the foreign and Human Rights committee, of the Parliament of Nepal.
 - b. Attorney General of the Kingdom of Nepal.
 - c. Commissioner appointed by the Chief Commissioner of the commission for the investigation of Abuse of Authority.
 - d. Secretary, Home Ministry,
 - e. President, Nepal Bar Association,
 - f. President, Nepal Journalists' Association,
 - g. President, Nepal Medical Association,
 - h. Four persons nominated by His Majesty's Government, on the recommendation of Foreign and Human Rights Committee of the Parliament from among the renowned personalities working for the right and justice of the Children, Women, Labor and backward classes.

3. The terms of office of the nominated members shall be for two years according to Sub-section (2) part (h) of this Act.

35. Chairman, Members and Secretary :

1. The Chairman of the Foreign and Human Rights Committee of the Parliament shall be the Chairman of the Consultation Committee.
2. The Secretary of the Commission or the officer designated by the commission shall work as the secretary of the consultation Committee.
3. The Words "Chairman" "Member" and "Secretary" used in this chapter shall mean the Chairman Member or Secretary of the Consultation Committee.

36. Meetings of the Consultation Committee :

1. The Meeting of the Consultation Committee shall be held on the time and place as specified by the Chairman.
2. The Chairman shall call the meeting of the consultation Committee as early as possible when at least four members request in writing to call the meeting.
3. The quorum for the meeting of the consultation committee shall be constituted if more than fifty percent members are present.
4. The meeting of the Consultation Committee shall be chaired by the Chairman and in his absence, from among the members present the

senior most member by virtue of age shall Chair the Committee meeting.

5. The opinion expressed by the majority of the members of Consultation Committee shall be considered the opinion of the Consultation Committee and if majority decision could not be reached because of the differences of opinion of the Chairman and the members the opinion of the Chairman shall be considered the opinion of the consultation committee.
6. The Secretary shall keep the record of the meeting of the Consultation Committee.
7. The other working procedures relating to the meeting of the consultation Committee shall be specified by the Committee itself.

37. Allowances and Facilities :

The meeting allowances of the Chairman and the members of the Consultation Committee for attending and participating in the meeting and the facilities for them while traveling in and outside the Kingdom of Nepal undertaking the decisions and works of the Committee shall as specified by the commission.

38. Travel Report :

The Chairman and the members who complete the tour according to section 37 may have to submit a travel report in the format specified by the commission within fifteen days of their return.

39. Funds of the Commission :

1. The commission may have a separate fund of its own and shall have the following amounts :
 - a. Amounts received from His Majesty's Government.
 - b. The grant assistance or donation received from any individual or organizations or institutions or international organizations or foreign government or Agencies.
 - c. The amount received from any other sources.
2. The amount in the fund of the commission shall be deposited by opening an account in any bank in the Kingdom of Nepal and the operation of such account shall be made as specified by the commission.
3. The expenses incurred by the commission shall be borne by the fund of the commission.

40. Accounts and Auditing :

1. The commission shall have to keep the record of the accounts of the income and expenditure and other related matters in accordance with the existing laws .
2. The auditing of the accounts of the commission shall be done by the office of the Auditor-General.

41. Grant Assistance by His Majesty's Government :

His Majesty's Government shall have to provide a grant assistance necessary for the commission to carry out the work according to this Act every year.

42. Annual and Special Report :

1. The commission shall have to submit an annual report on the works it has done in the year after three months of the completion of the year.
2. The commission may submit a Special Report to His Majesty at any time on any matter if it considers the matter very urgent and important.
3. His Majesty may ask the prime Minister to put the report prepared in accordance with sub-section (1) and (2) before the parliament.
4. The commission shall have to include the detailed description of the income and expenditures of the commission in its annual report in accordance with sub-section (1).

43. Commission's Works and Actions not to be Void :

The Works and actions of the commission shall not be void simply because the post of a member is laid vacant because of an error in the formation of the commission.

44. Punishment to Obstructions :

while carrying out the investigating work in accordance with this Act, if anyone purposefully obstructs the procedure, such a person, on the basis of the report of the commission, may be fined a sum of rupees ten thousand or one year's imprisonment or both the punishments by the Appellate Court.

45. Management of Procedures :

Apart from whatever written and stated in this Act, the other working procedures of the commission shall be managed by the Commission itself.

46. Delegation of Power :

The authority vested in the commission in accordance with this Act may be delegated to the Chairman or the members and if it is so delegated, the Chairman or member may separately use the power of the commission.

47. No suit :

No suit shall be filed in law court against any other employee appointed or authorized by the commission or the Chairman or any member or by the employee of the commission in relation to his working procedure while carrying out his duty with good intention and in accordance with this Act.

48. Oath of Office :

Before taking up the responsibility of the post, the Chairman shall take the Oath of Office from His Majesty and the members from the Chairman in accordance with the schedule.

49. Right to removal of impediments:

1. In the course of the execution of this Act, if there appears any impediment, His Majesty's Government on the recommendation of the commission may issue an order in the Nepal Gazette and remove such impediments and

make other necessary arrangements without contradicting the provisions in this Act.

But such order shall not be issued after two years of the enforcement of this Act.

50. Power to Frame Rules :

1. For the enforcement of this Act, His Majesty's Government may make necessary laws.
2. Without causing any negative effect on the supremacy of the power given by Sub-section (1) particularly the laws may be made on the following matters.
 - a. The remuneration, facilities and conditions of service of the Chairman and members.
 - b. The appointment of the administrative or scientific officer or employees necessary for the Commission and their remuneration, facilities and conditions of service.
 - c. The necessary matters to be specified on section 22 Sub-section (1) part (d),
 - d. The allowances and facilities for the members of the consultation committee.
 - e. The matters to be specified or may be specified under this Act.

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