

NEPAL'S SOVEREIGNTY AT RISK?!



Courtesy: Mulyangan

Rally against Indian Police Aggression

On March 27, 1994, the armed Indian police forcefully entered Kathmandu, Capital city of Nepal, in the pretext of searching a criminal absconding from India. The Nepalese people, but not the government of Nepal, considered this incident as a serious crime.

It is reported in the newspaper that Foreign Ministry of Nepal handed over a protest letter to Indian Embassy in Kathmandu. Further it is reported that the Indian Prime Minister expressed his concern to Nepalese Prime Minister while talking over the telephone.

However, we consider that these responses can never be the solution to such a crime.

We asked the government of Nepal to take this issue seriously. There was a massive reaction from Nepalese people. Several demonstrations in the capital and other parts of Nepal were organised against this incident.

EDITORIAL

REGIONAL INITIATIVES AT THE PEOPLES' LEVEL

The South Asian region has been experiencing many challenges and difficulties in manifold aspects of life. Peoples' aspirations and necessities of life still are very far from fulfilment even after five decades of post-colonial period of time. Instead of breaking through the hindrances and hurdles confronted regarding the all round development of societies and achievement of higher level of human progress, most of the South Asian societies are bogged down in the complicated problems relating to society and government. Heart-rending poverty and growing impoverishment of majority of the people, combined with political repression, communal and religions hatred, has made the South Asian societies more prone to multiple calamities and disasters. Greater South Asian regional cooperation and solidarity both at the government and peoples' level is essential to meet the aforesaid challenges. However the first-ever South Asian regional association of the countries of this region, despite diplomatic initiatives and celebrations, has so far not been able to move towards addressing the major issues and problems concerning peoples' livelihood, human rights and peace. Regarding this, fingers are pointed to the SAARC.

Like in other regional efforts of mutual cooperation and development, initially launched by states essentially need peoples' support and involvement. It becomes compulsory when the states or governments of a particular region have diversities in political ideologies, government systems and social culture and religion. Similar situation is existing in the South Asia. This is the region why the SAARC future lies on consensus and deliberation on the issues of bilateral concern or dispute, which has largely curtailed its effectiveness. It indicates towards the need of mutual understanding and cooperation among the peoples to wither away

the clouds of doubts, confusions and misunderstandings.

The quest of similarities, complementarities and communal harmony is a noble mission of regional association in South Asia. Power politics of the governments, chauvinist ideas or feeling among governments or communities can only be softened, if not completely eradicated, through the maximum interaction and mutual cooperation at the peoples' level. Irritants like economic imbalances or exploitations, political repression or militarisation, mutual distrust or aggression, denial of the right to self-determination, non-recognition of others compulsions and internationally accepted rights, monopolisation of communication and trade, communal manipulation, discrimination against the rights of people entitled certain rights should at least side-line, if not immediately removed, to create a more congenial environment for the

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regional cooperation. On the contrary the SAARC is been victimised due to some irritants existed in South Asia in the past. The South Asian Forum for Human Rights (SAFHR) is a humble effort in mitigating the adversities compounded by inequalities and doubts. Thus the SAFHR's initiatives were directed towards creating peoples' SAARC, right after its establishment in 1990.

Notwithstanding the SAFHR's efforts and activities carried out so far, much work is needed to lay down the foundation of the Peoples' SAARC on the broader base of peoples' support. Active Support and involvement of the representatives of different

peoples' movement, pro-people parliamentarians, political leaders, human rights activists and NGOs is essential to that regard. Though the fort could be made brick by brick.

We, as always, believe that people oriented individuals and organisations of the South Asian region may join hands together in the days to come to form a solid basis for the peoples' SAARC. This kind of peoples' initiatives, which the SAFHR has moderated, would certainly contribute towards regional cooperation and understanding on the one hand and draw attention of the SAARC towards peoples' concerns and issues on the other.

1033 CASES OF HUMAN RIGHTS VIOLATIONS IN 1993 !

WHAT WAS THE STATUS OF HUMAN RIGHTS IN NEPAL IN 1993 ?

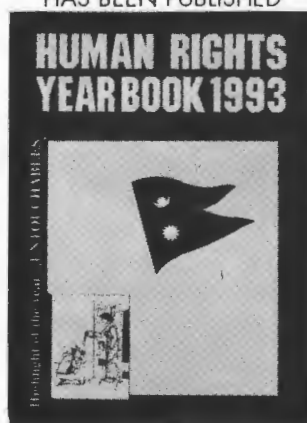
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- Composit Summary of Status of Human Rights in 1993
- Procedural & Preparatory Problems
- Conclusion & Suggestions



Annexure

- Highlight of the Year : Untouchables in Nepal
- Tragic Event of the Year : Dasdhunga Accident
- Human Rights & School Teachers in Nepal
- Human Rights & Trade Union Movement in Nepal
- Displacement Problems in Nepal
- Some Specific Issues of Human Rights in 1993
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HUMAN RIGHTS VIOLATIONS IN NEPAL IN 1993 : SUMMARY OF CONCERN

- Mr Shiva Hari Dahal
Program Monitor, INSEC

[The data presented on the following texts are based on the observation and monitor made by the volunteers of INSEC's Year Book Project. In some of the cases, we have taken references from different sources like report of fact-finding mission organised by human rights organisations - Editor].

A. BACKGROUND

The systematic handling of information (documentation, analysis and dissemination of the data), especially for our purpose the data of human rights violations, provides us the basis to see the development, both the positive and negative aspects, in the field of human rights movement. This visual form of the situation also provides the basis, both to governmental and non-governmental sectors and to chalk out the action plans for the protection and promotion of human rights from all levels — local, national to international.

One of the main concerns that we feel necessity of this kind of analyses is that it would help the readers who would like to have a quick reference on the present situation of human rights in Nepal.

We thus are pulled in two directions. The interdependence and indivisibility of human rights points to a "maximum" list of rights to be monitored. But considerations of practicality and resources point to a 'minimum'. What is required is a short list that is nonetheless relatively comprehensive.

We believe in the universality, interdependence and indivisibility of human rights. If we tried to ignore one of the components, our movement on human rights remains incomplete. We cannot

imagine fulfilment of basic rights in the absence of others.

B. SURVIVAL RIGHTS

At minimum, people must be alive. The rights to life, food and health care are the principal internationally recognised human rights that seek to guarantee survival.

1. Right to Life

The right to life protects individuals against arbitrary deprivations of their life. The principal referent of the right to life is the state. But the state must not only protect individual life against its own agents, it has an obligation to protect individuals against private or groups that pose a threat to life, and more broadly threaten bodily harm.

During the year 1993, a number of incidents has been observed that deprived the life of people. The incident that took the life or threatened the right to life has been briefly discussed in the following paragraphs.

1.1 Killing by Torture

This year 9 incidents of torture, which took lives of 9 people, have been reported. Except one, all the victims were local people mostly involved in agriculture. Most of the victims were arrested and detained on the false charges of either public crime, murder, theft or without any reason. So far the perpetrators are concerned, police force are responsible for 7 cases, military men are responsible for one and forest security personnel are responsible for one.

Mr Kajiman Kami, a resident of Makawanpur district, was bringing chickens for his delivery

wife. On the checkpoint the three policemen asked Mr Kami to handover the chicken to them. He refused. They beat him and took him into custody. There again he was beaten and later taken to the hospital. He died on way to hospital.

Mr Laxman B. Bishwakarma, 58, was arrested on charge of illegal cutting of fire woods and detained in the custody of forest preservation. He was found hanging on the ventilation of the jail with the made strings of blankets. But he carries signs of beating and his knees were touching the ground.

One particular day, quarrel took place between NC and CPN (UML) workers. Later, Ramananda P. Yadava, 39, (worker of CPN (UML)) was arrested by the police. He was shot on the stomach in a police firing. The police put him on their van and headed to police station. On way to police station, NC workers stopped the van and beat him to death in front of the police.

1.2 Extrajudicial Killing

There have been several reports of death due to indiscriminate shooting by police. In most of the cases, the police has opened fire in the name of either controlling over crowd or to save the public properties from being destroyed. In some cases the police has taken an excuse of opening fire when people tried to snatch their weapons.

The death of 25 people has been documented under extra judicial killing. Most of the victims were shot dead during the protest demonstration called by opposition left parties, including CPN (UML), to press the government to fulfil different demands in June-July, 1993 (See Chapter 5).

The victims are common people on different profession. They were not directly concerned with the protest programs. Among the victims very few are political workers. Almost all the victims were either pedestrians or on the street on their own business. It is worthwhile to mention a case of Ms Rita Silakar of Patan who

was shot dead while peeping through window of a fourth storey house. Even the child below 16 years had been the victims of indiscriminate shooting.

Moreover, police have resorted to firing leaving the people dead for simple dispute or, for example, on the pretext of security reasons.

In bullet incident of Rautahat, Asst Sub-Inspector and Hawaldar opened fire indiscriminately on local people leaving 2 persons dead (mother and daughter) and three others injured. They were in a cultural program. Among them, one was a child of just one year. The police blamed that they attempted to snatch the rifle of policemen.

1.3 Disappearance

Disappearance remain a continuing problem in countries of South Asia. But the scale, incident cause and consequences of disappearances vary greatly not only intra-countries but within countries as well.

In the context of Nepal in 1993, three cases of disappearance have come to public. They are as follows:

Mr Prabhakar Subedi, 20, a student has disappeared since June 25, 1993. People had last seen him while he was being arrested and dragged by police. During the days of the movement (June-July 1993) called by opposition left parties, a photograph of a person being dragged by the police appeared in a magazine. The brother of Mr Prabhakar confidently claims that the picture is of his brother. Regarding the issue, a case was filed in the Supreme Court. The Supreme Court has issued a show-cause notice ordering the police to find out the whereabouts of Prabhakar's and to identify the person was being dragged by the police.

Mr Bishnu Nath Timilsina, 40, a resident of Achham district, was arrested on charge of woman-trafficking on August 18, 1993. He was detained six days in the custody and then sent to District Police Office. On the way, he has

disappeared. Administration is not taking any action. According to the information received, he was tortured in the custody. He was a supporter of CPN (UML).

Mr Rabin KC, 14, a resident of Khotang, was arrested on the charge of thieving with eight other persons on July 3, 1993. It is reported that he isn't back home yet. There is no news of he being in jail or released.

1.4 Possible Political Killing

Nepal had never experienced the assignation of political leaders in the past like it experienced in the year 1993. Mr Madan Bhandari, General Secretary, Communist Party of Nepal (UML), and Mr Jeev Raj Asrit, Standing Committee Member of the Party, passed away in a jeep accident. There were three committees — initiated separately by the party, government and human rights organisations — to investigate into the incident. The reports of the committees are of different nature and controversial in some points. After going through all the three reports, it can be said that it was not merely a accident.

Besides, there are several cases of political violence. Most of the incidents have occurred due to political rivalry. Most of the victims are from opposition parties, especially CPN (UML). However, in some of these incidents, no initiation has been taken to punish the culprits.

2. Right to Food

The right to food provides a very different sort of guarantee for life. Even if one is protected against physical attack one's life may be extremely precarious. The right to food guarantees access to the means of subsistence, to the minimum nutritional resources needed to keep alive.

During the last few years, we have seen a large number of people committing suicide. They may have committed suicide for different reasons. Though we do not have in-depth research, we have received some report of people committing

suicide since they could not feed their family and themselves.

3. Right to Health Care

We do not have any proper mechanism to monitor the right to health care. However, we can have general knowledge, while looking over the data provided by CBS-Nepal, on the status of health of Nepalese people.

While talking the right to health care, we should look over the capacity of people, earning capacity (per capita income £180) and their access to health care centres. The health problem in rural areas is very acute. Generally the people of rural area cannot afford to buy medicine and pay the fee of health care personnel, which is very high while compared to urban areas. An example of an incident, among many, is cited below only to show the gravity of the situation.

On April 6, 1993, Mr Tej P Dhungel, 18, of Panchthar district, went to Hospital for treatment of his fractured hand. The assistant health worker asked Nrs 1,000 as the expenses of treatment. He could not pay the amount and no treatment of his fractured hand was done.

C. MEMBERSHIP RIGHTS

To lead a life of dignity, however, a life worthy of a human being, it is not enough merely to be alive. One also needs to be part of society. To paraphrase Aristotle, a man outside of society is either a beast or a god. A truly human life requires membership in both private and public social orders.

4. Right of the Child

A large number of children in South Asian countries, including Nepal, share common pains and problems. Illiteracy, ignorance, malnutrition and child labour exploitation are dreaded diseases that are hampering not only the growth of children, but also endangering future generations.

Child labour, street children, child abuse and neglect, the sale and trafficking of children for the flesh trade, and child bondage have become common in Nepal. Child labour exists on a very large scale as a reflection of existing socio-economic realities. The problem of street children is escalating due to family breakdown, poverty and rapid urbanisation. The sale or trafficking of young girls to the brothels in India has become an intolerable human tragedy.

The most alarming pattern of violation of children's rights in Nepal is the sale and trafficking. Similarly, the existence of bonded child labourers in agricultural and commercial sectors is another shameful example of the violation of the rights of the child.

According to a report published by CWIN in 1991, the existence of child labour in agriculture and household work is 86%, service 6%, cottage industry and business 3%, Factory 2.4%, Construction 0.6% and others 2%.

5. Non-discrimination

Though the Constitution of Nepal as well as existing law prohibit any kind of discrimination from mankind to mankind on the basis of race, caste, religion or sex in principle; however, the practice like bonded labour (slavery system), untouchable, etc. still exist in reality.

5.1 Slavery

The abolition of slavery in Nepal was declared in 1924. Abolition attained legal sanction with the government's enactment of a law in 1948. All the constitutions of Nepal have since imposed restrictions on exploitative practices such as slavery and trafficking. In spite of these measures, exploitation is persisting in various forms. Based on the research-report of INSEC, the Kamaiya system, prevalent in the Terai of Western Nepal, it can be defined as one of the contemporary forms of slavery.

To investigate the nature, magnitude and number of Kamaiyas (bonded labourers), the INSEC conducted an in-depth research in 1992, in three

districts in the far west of Nepal, Kailali, Kanchanpur and Bardiya. Over 17,000 households were interviewed in the course of the study. It is estimated there are more than 25,000 families of the Tharu community who are serving their masters as bonded labour.

5.2 Caste System

The culture of Nepalese society is dominated by the elite, especially by the Brahmins and Chhatryias, who consist a large portion of the total population. The class of the people on the basis of social system is divided into four categories: Brahmins, Chhatriya, Baisya and Sudra. The Brahmins are considered as the superior class in the society. The people of other classes have to respect this class, according to the traditional practice. The class of the Sudra is the untouchable community of Nepalese society. The upper class people disrespect this class. The people of untouchable community are treated as the sub-human being or non-being. They are aloof from the main stream of the society and are exploited by the upper class people. Furthermore, for an instance, if a person of so-called lower class or untouchable community enters the house of upper class, the family of upper class persons will be boycotted from the society, he/she will not be allowed to enter the society after then. Moreover, these untouchable communities are denied access to public places like temple, tube-well, etc.

The Sudra caste also consists of different sub-castes. It varies according to the geographical regions. The sub-castes are scattered all over the country in a small number. Yet, there is no in-depth research document regarding caste system. (See Annex-1)

6. Women's Human Rights

The status of women in Nepal while concerned to social justice, non-discrimination is extremely ignored in all sectors: education, health, equal right to nationality and property and political participation.

6.1. Rape

An intentional rape of women has been increasing for the last few years. We have documented 127 rape-events where 189 of women have been victimised. Similarly, we have documented 25 event of sexual harassment against women which has victimised 44 women.

It is a panic to mention that most of the rape victims are minors below 16 years, ranging from 3 years. The victims are either agricultural labours, domestic servants, house-wives, labours in industry, etc.

The rape crime is committed mainly by an elite class of the society. Similarly, the culprits are from different background like employer, teacher, political worker, even sometime own father or relative of the victims.

Moreover, the police personnel are involved in rape cases and sexual harassment. We have received 5 cases of rape by police, either in custody or outside. Similarly, military personnel have been found involved in sexual harassment.

On August 11, 1993, Ms Saru Devi, 19, a resident of Melauli VDC, Baitadi district, ran away from where she was selling her goods to avoid arrest. However, police arrested her. During detention period, she was raped by police personnel. After the incident, she has become mentally imbalanced.

The situation of the victims becomes more serious if they get pregnant. Either they have to leave their native village or have to face humiliation and discrimination. In some cases they are forced to practice abortion. If they do so, they will face another problem. Abortion is illegal by law. In the rural areas, to take revenge, the cases are filed against abortion in police station. As a result, the rape-victim will be arrested and tried.

If the rape and pregnancy is within relatives, the situation becomes worse. A case was filed by a women in Parbat district. Her husband was out of the village. During that period her father-in-law forced her on sexual relation with

him. When husband was back he divorced the wife. Then she petitioned to the court to identify her relation with father-in-law and give the name to the relationship. The court gave its verdict against it. Because in the law sexual relationship within the relation is an offence.

6.2 Social Ill-practices / Discrimination

There are a number of social ill-practices that exploit women. These social practice are directly contradictory against the international norms and principle of human rights. These system exploit the women in one way or another. They are, mainly, Jari, Kumari, Dewaki, Jhuma and Badini. The tradition of socio-cultural exploitation of young girls such as Dewaki, Badini and Jhuma system in which young girls are offered to the god is also an example of exploitation. For the purpose of offering girls to the god, they are either sold or offered by their own parents. In 1993, four cases were reported to us.

The incident of Kailali district has challenged the virginity of the women. In September 1993 a group of 17 women were forced to move around the bazaar necked by the villagers. They were charged of being Boksi (witch).

6.3 Daijo (Dowry)

Dowry is an inhuman social practice in which the family of a bride is compelled to donate to the bridegroom a large amount of property for the care of their daughter. After the marriage the family of the bridegroom goes on demanding more. If the women or her parents could not satisfy them, their daughter will be at the stake of being killed or tortured by her in-laws.

This problem was not serious in the past. But it is increasing. During 1993, we received 7 cases of women being killed due to their inability to fulfil the demand for dowry.

6.4 Trafficking

It is estimated that more than 500,000 Nepalese women, mostly between the age of 8 and 25, are

in the brothels of metropolitan cities of India. They are lured to India (in few cases to Hong Kong and other parts of the world), under false illusion are tricked and kidnapped by organised criminal gangs. If they return to Nepal most of them are infected with HIV positive and other sexually transmitted diseases.

D. PROTECTION (LEGAL) RIGHTS

8. Torture and Inhuman Treatment

The right to protection against torture involves protection against the grossest forms of physical and psychological assault on the integrity of the person. Torture is a practice that is impermissible and must be outlawed. The other protection right regulate, however, the process by which law is applied rather than restrict the substance of the law.

Article 14(4) of the Constitution of Nepal states that: "No person detained during investigation or for trial or for inquiry or other reasons shall be subjected to physical or mental torture nor shall he be given any cruel, inhuman or degrading treatment. Any person suffering from such kinds of maltreatment is entitled to compensation as specified by law". Though the constitution provides for compensation to victims of torture, there is no law providing procedural guarantees of compensation. The practice of torture and other forms of mistreatment are widely in existence and on the rise.

In 1993, 125 events of torture took place in police, military and forest security detention. In those events 225 persons were victimised. Similarly, people had been found ill-treated (like manhandling, beating with lathi or boot by police) while being arrested. Such victims numbered 1,357 in 65 different events. The figure mentioned-below does not include the ill-treatment by police while arresting people.

The victims are of different characteristics and occupation. The below mentioned table will make clear of their status.

On September 22, 1993 Tilu Ghale was arrested without having an arrest warrant from Lazimpat. She was arrested on the charge of possessing few grams of drugs. And was brought to Hanuman Dhoka for interrogation. She was tortured and was not allowed to meet her family members. Her mother filed a Habeas Corpus in Supreme court. The court demanded clarification from the police. They lied that the victim was arrested only on Oct.3. Later Tilu told to the press that the police threatened her she would be sold to brothel if she didn't give money to them.

On July 19, 1993 Members of Parliaments Mr Jagrit P. Bhetwal of CPN (UML) and Mr Amik Sherchan of UPF were severely tortured by police during their arrest. Mr Sherchan was also tortured in the custody. After the release, Mr Sherchan was brought to Kathmandu and admitted at Teaching Hospital for treatment.

9. Arbitrary Arrest and Detention

Protection against arbitrary arrest and detention provides a wider guarantee of personal integrity, namely, an assurance that so long as one respects that law one may go about one's life free from the threat of incarceration.

Contrary to the Constitutional guarantee of the rights, in many occasions and times the record of incidents violating the rights against arbitrary arrest and detention has been documented. The arrest is done during protest programme, the government always propagate that the demonstrators were arrested to save public property being destroyed. However, according to the report of Observation Committee formed by different human rights organisations, the victims of arbitrary arrest and detention have no involvement on such activities.

During the year, 243 events has been reported in which 4,640 persons were arrested and detained. Almost all the detainees arrested during the demonstration programme organised by opposition parties in June-July 1993 were released after an agreement between the government and CPN (UML), the main

opposition party in the parliament. However, there are few cases where the victims have been imprisoned.

During the movement of June-July 1993, a total number of 17 Members of Parliament were arrested and released shortly.

In the context of Nepal, mainly the police force, CDO and forest security personnel have the authority to issue warrant paper and arrest people.

9.1 Political Prisoners

According to the report of jail-visit by the volunteers of the Year Book, there are a large number of prisoners who claim themselves political prisoners since Panchayat regime. Even after restoration of democracy, a number of people have been imprisoned on false charges. An NGO working for the cause of political prisoners claims that there are 25 political prisoners all over the country. However, the number of political prisoners may be large if all the cases of prisoners are investigated properly and impartially.

10. Independent Judiciary

The right to an independent judiciary provides a political institution to assure that the legal system is not used by the state to pursue its own interests contrary to the legitimate interests of its citizens.

During Panchayat regime, judiciary used to function to serve the interest of the ruling class and was not impartial. After the restoration of democracy, no incidents violating human rights by judiciary have been found.

E. EMPOWERMENT RIGHTS

11. Education

Education may open up a world of ideas. Education is the basis to build up personal strength and capacity. The right to education is

fundamental and a precondition for effective participation in any society.

It may be difficult to monitor the right to education, however, it should be discussed the barrier that deprives individuals from the right of free access to education.

Of course the primary education upto the grade 7 is free. But it does not mean that the poor family may not be able to send their schools due to financial constraint to buy text books and other necessary goods.

On December 5, 1993 a heart-touching suicide-incident took place in Dhankuta district. Mr Khadgajang Poudel, 14, a student of class 5, committed suicide while he could not tolerate the scolding by his family. His fault was that he bought text book by the amount which was given to him to buy food for the family.

The below mentioned chart will be a clear picture to analyze the education facilities of the Nepalese people and the level of education:

12. Freedom of Expression

The right to freedom of expression, and most broadly, the right to a free press, to speech

DISTRIBUTION OF TORTURE-VICTIM BY OCCUPATION		
OCCUPATION	NO. OF EVENT	NO. OF VICTIM
BUSINESS PROFESSIONAL	3	3
EDITOR / JOURNALIST	5	7
GUARD / PEON	1	1
HEALTH PROFESSIONAL	2	2
HOUSEKEEPERS	1	1
LABOUR / UNION WORKER	7	7
MEMBER OF PARLIAMENT	13	13
MUSIC PLAYER	2	2
POLITICAL WORKER	12	19
STUDENT	7	7
AGRICULTURAL	45	67
TEACHER	4	6
UN KNOWN	32	113

through the modern media, allows one to express one's own ideas publicly, to advocate them, and seek to have them put into practice.

The constitution has guaranteed the right to freedom of expression, except a case that ~~nothing~~ shall be published against the monarchy and any news threatening sovereignty of the country.

It will be worthwhile to mention that all the electronic mass media (Radio and Television) are controlled by the government. Moreover, the National News Agency, and the dailies The Rising Nepal (English) and The Gorkhapatra are absolutely controlled by the government. This practice has deprived the people of their rights to seek accurate and credible information.

Regarding a news published in their vernacular weeklies about the monarchy, 3 editors were arrested and tried under treason act.

Mr Mathvar Singh Basnet, Chief Editor of Punarjagaran Weekly, Mr Sharad Chandra Wasti, Executive Editor of Punarjagarn Weekly and Mr Shambhu Shrestha, publisher of Dristi Weekly, were arrested on the charge of treason in connection with a news published in their weeklies. The news was about royal family. They were released after few days in detention.

Similarly, the journalists used to receive death threats by unidentified persons. 18 such cases during the year has been documented, where the journalists have been arrested, detained and tortured. Among these incident, one incident that took place in Kathmandu is noteworthy.

On November 26, 1993, a gang who claimed themselves the workers of Casino (Hotel Soltee) came to the office of Kamana Group of Publication. They destroyed the property of the Group and threatened the editor Mr Dharmanand Adhikari to death. This incident was reported to police and even the Home Minister was informed. But, no action has been taken yet.

Not only the journalists, but also the human rights activists have been threatened to death.

Mr Bikram Choudhary, a human rights activist affiliated to INSEC, who is working among bonded labourers, was beaten by the landlord.

13. Free Association / Free Assembly

Freedom of association allows one not merely to express ideas and beliefs, but to join and act in concert with others of similar persuasion. This is not only valuable in itself but also essential to effective political action to see one's ideas implemented politically, to shape society and politics in accord with one's ideas and values.

The police intervention in different peaceful protest demonstrations organised by the opposition parties in different times has violated people's right to freedom of peaceful assembly. The government always expresses same ready-made answer that police force was forced to disperse the demonstration to control violent situation. This type of government's statement used to come during the programme called by opposition parties. Moreover, during the movement of June-July, the government imposed curfew in different parts of the country. Only in Kathmandu, curfew was imposed continuously for 5 days from 07:00 pm to 04:00 am. Moreover, police opened fire indiscriminately on the demonstrators leaving more than 259 persons injured. The victim of lathi-charge and tear-gas are countless.

Similarly, people's right to free association has been violated in many occasions. The victims are from the Trade Union and Nepal National Teachers Organisation (NNTTO), whom people considered to be inclined to left parties. Due to their involvement to NNTTO, many teachers have been either transferred to remote areas from the place where they were teaching, demotion, stopping promotion and grade or termination of from job. Similarly, the labour associated with GEFONT, Though there is no proper documentation of incidents, we have received 21 cases where 306 professionals have been victimised. They are simply charged of either their involvement with left politics or action has been taken against them on the basis of complain of rival organisations.

14. Political Participation

After the restoration of democracy in 1990, people have participated in the general elections of 1991 based on the multiparty system, by-election for 2 constituencies and local elections held in 1992. The general election of 1991 was free, fair and peaceful. However, the by-election of 1993 for 2 constituencies and local elections of 1992 could not be held in such a manner. The general election was observed by international observers. The international election team from 22 different countries has stated that: "It is the belief of the International Observer Delegation that the elections were generally conducted in a fair, free and open manner enabling the full expression of the will of the people".

During the by-election and local elections, violent situation was observed in many places. Similarly, booth were captured and in many places both elections were upheld. Nine persons lost their lives on polling day and other nine were killed before the local election, whereas there was no killing on polling day during general election of 1991.

The "rays" of democracy have not reached to the grass-root people. The Nepalese society is still dominated by feudalism. The condition of the rural people is same. They are unable to distinguish between the autocratic and democratic govt.

In some places, violent conflict has occurred due to difference on political ideology. Even people, those having different vision than ruling class, have been killed. In such a case, the semi-judicial authorities are found to be partial.

Suppression of political dissidents has become a common phenomenon. Police brutality is on the rise. There are number of cases of illegal raid of house of political workers by police and NC workers. For instance, about 100 houses in Ramechhap district were raided by NC workers. Similarly, about 5 cases of house-raids by police without prior information has been reported.

F. GOVERNMENT ACCOUNTABILITY

Primarily, the government is responsible for the protection and promotion of human rights. The

protection and promotion of human rights also depends on the intention of government to fulfil its commitment.

The government has not formed any judicial enquiry into the incidents violating human rights. The extent of human rights violation in 1993 has already been discussed above. There are large number of extrajudicial killing the report of torture in the custody.

It would be worthwhile to cite some of the statements made by the Home Minister in the parliament.

Replying to the question raised by the MPs, the Home Minister said, "Police had to charge batons and fire tear-gas shells as per necessity with a view to preventing the public property from being damaged and maintaining law and order", informing that "seven died and some other injured with the bullets fired by the police with a view of controlling vandalism and arson during the incident that took place on June 25-27, 1993". As regards to the incident that took place in Patan, the Home Minister said as the situation was very tense with demonstrators pelting brickbats at the police from the early morning conjuring up the "Gherao" (surrounding) of June 29, 1993, the security personnel got panicked and fired out of fear that they themselves will be killed. Replying to the queries raised regarding the arrest of MPs, Home Minister said, "A few groups of people were arrested by the police to prevent the possibility of vandalism and violence taking place during the Chakka Jam programme called by the leftists on July 19 and 20, 1993. A few MPs who were not recognised were also arrested along with the groups".

However, the observation report prepared by human rights NGOs is different. While talking about the damage of public properties, it is to be noted that, if the police can open fire due to psychological terror while surrounded by people, as the Home Minister informed the parliament, it is but natural that the people surrounded by armed police may have also thrown stones at police for self-defence. Moreover, the people have reacted after police opened fire on demonstrations without any pre-warning.

In many cases the government has clearly violated constitutional provisions as well as special rights of the MPs. The MPs were manhandled and arrested while parliamentary session was going on. The Speaker on the House was not informed of the arrest of MPs, though it was necessary. The MPs say that they had shown their identity card. But the police did not care it. It is an irony that the Home Minister informed the parliament, "Police could not recognise the MPs".

The intention and attitude of the government become clear when the proposal of Human Rights Commission was rejected in the parliament. The meeting of National Council (Upper House) held on March 5, 1993, rejected a motion presented by one of the Members of Parliament for the establishment of a high level, all-party national

commission comprised of persons concerned with the protection and promotion of human rights. Sixteen votes were cast in favour and 17 against the motion. Moreover, the Home Minister said in the parliament that it was not necessary to form any Commission as human rights organisations are active in the country.

Nepal has signed 14 different UN instruments, including the two Covenants, Torture Convention, Convention on the Right of the Child. Till now the government has not initiated any effective measures for implementation. Moreover, the government has not prepared any national reports and submitted to the different treaty monitoring bodies of the United Nations, which it is obliged to.

Bride Burning — Women Burning

by Elizabeth Padillo Olesen

Let me register my shock
What a word
What a horror in history
that she a lover,
a wife, a mother,
a worker, and helper
be burned to death!

How on earth
greeds sucks
the life of love
the beauty of partnership
the joy of motherhood
the flow of creativity
by some cruel art!

How can it be true?
How can it be true?
And yet the fire flickers
and the wind blows
the flames.

Other shapes
of burning women
are still in the furnace
each day burning
each day burning.

As a mother watches
a dying child
without medicine to offer,
as parents only desire
the birth of a son,
as a wife loses
self-esteem by
the rejection of a husband,
as a girl or woman
is sold for prostitution
or as she labours
in the fields and factories
and yet cannot live as a person.

The burning of brides
the burning of women
are seen by other clouds
of witnesses that try
to water the fire
but the flames
are still all over.

Let this burning
be brought an offering
to the heavens
to melt the steel gate
of women's justice on earth.

Courtesy: in God's Image

SOUTH ASIA : HUMAN RIGHTS SITUATION REPORT

BANGLADESH

Update Report of Massacre in CHT

[Rosalina Costa, Hotline, Bangladesh]

Rosalina Costa visited the Naniarchar Bazar on January 6-9, 1994, the spot of the latest massacre where 29 tribal people were killed on Nov. 17, 1993. She talked to many people, including the police administration to know the reality of the incident. She started for Naniarchar with a group of Hill Students from the Central Hill Students Council from Dhaka on Jan. 6 and reached Rangamati on Jan. 7. At first she went to the Additional Superintendent of Police of the Special Branch (Addl. S.P. of SB) Mr Afzal Hussain Chowdhury at Rangamati with some student leaders. Mr. Afzal very clearly stated that "army is the main factor for creating problem between tribal and Bengalis."

He was asked what was their role on the day of the occurrence, he said that they tried to protect the tribal. He categorized the three main factors behind all the problems in the CHT. He said the first is the army presence and their administration, secondly the king's rule and thirdly the Bengali settlers. But he said the Bengalis who are living there for years and for generations, they do not have any problems with the tribal, but only those politically motivated settlers are creating problems with the help of the army. He said that the army, just to keep up their rule in the CHT use the Bengalis, but not all, just a few. He said that "army is greedy for power and only for their own interest they will keep up their conspiracy." He stated "after 1960, tribal people who were displaced because of kaptai Dam, money was allotted for their compensation and rehabilitation but half was distributed and half was returned by the then administration". He said, "President Zia followed the Ayub policy, and Arub, Mujib and Zia had the same policy and had done the same mistake regarding the tribal in

CHT. Khaleda Zia is serving the rest of the dream of Zia. The army is kept in a country to protect the country from external attack and they do not have any internal administrative power, especially in a democratic country like ours. But its the other way here. He accused the Bengalis who are being settled in the CHT as trying to grab the lands of the tribal, evicting them from their ancestral lands and those who are brought to the CHT are the worst people in the plain land. He said the govt. of Bangladesh brings a lot of money in the name of the development but most of the money goes for the extra benefit of the armies to trouble the peace loving tribal. All those who are settled there are criminals of the plain land.

Rosalina writes "in the evening I went to Mrs. Shudipta Dewan, the Ex. MP of AL, who visited Naniarchar on Nov. 21 after the massacre. When I asked her what is her reaction about the massacre she said, "army was behind it and the attackers were outsiders of Naniarchar organized by Parbattya Gono Parishad (PGP). They were protected and brought by the army to kill the tribal. The Bengalis killed the tribal not only at the bazaar but also on the houses where they were hiding. In one house some Bengalis went and found 4/5 tribal people including two children. They were hiding in that house, but they were cut into pieces. One woman was injured from sharp weapon. Mrs. Dewan said that she thinks the number of killed were 40-50 tribal. Regarding one Bengali killed Mrs. Dewan said that she has enquired about the victim, but could not find about the victims. And no-one could give the particulars about the Bengali young man. So, it seems there was no Bengali among the victims.

Badiur Rahman, an AI local leader and a businessman who is living in Rangamati from generations said "because of such incident the Bengalis living in the area since generation are in occurred position. The DC should implement the Rule no.51 of 1990 Regulation Act to solve the CHT problem".

On Jan. 8 morning we arrived at Naniarchar. We passed by the Naniarchar Health Complex and then the Bazaar where the main incident occurred. The area was very peaceful. About two thousand tribal, students, local leaders, men and women had formed a mile-long peaceful and orderly rally. We gathered in front of a school building, had our refreshment. There the student's council began their discussion meeting. Many concerned people, political and student leaders from Dhaka, local community leaders and local leaders spoke on the occasion demanding the release of Kalabaran Chakma (19) who was arrested on Nov. 17 from the spot and now is in the Rangamati jail; and 40 others in Khagrachari against whom cases were filed under the Anti-Terrorism Act. They also demanded the withdrawal of the army from the CHT, unnecessary harassment, withdrawal of the Bengali settlers who were settled after 1947, and to stop completely the Bengali settlement in the area. They said that even though, the whole country is enjoying the democratic process, CHT is still far behind it and these three hill districts are still under the suppressive rule of the army, it cannot be acceptable.

The rally was passing by near the lake at a corner place of the bazaar. There were still the burned bones in a heap. Local people said "unburned skulls were taken by the army". They informed us that for three days they could not come to the area as the Sect 144 was imposed which restrict the people's movement in the area. We were sad that the witnesses of the incident were scared to mention their name to us because of the harassment they have to go through by army if they come to know about their speaking. I spoke to Mrs. Chigamile Chakma (45), Anadi Ranjan Karbari Chakma and the mother of Phoni Bhusan Chakma who was killed by the army brush fire on Nov. 17. She was crying bitterly and saying that she and her husband had struggled a lot to educate their son and he was their only wage-earner. So, came the wife of Mr. Binod Bihari Chakma (60), an expectant mother. The victim's families said with sorrows: "how much blood do we have to sacrifice?" I was shown the bloody sticks and the spades which were used by the Bengalis to torture and kill the tribal on Nov. 17.

A teacher (unwilling to give his name) said that Bengalis are used for the vested interest of the army to kill the tribal. He witnessed the army killing the innocent tribal with bayonet and instigation the other killers.

I heard that a guard of health complex was one of the killer. After the incident on Nov. 21 the political leaders came and met him. He has confessed of killing 5 to 6 people. And has said that he was dragged to it by the army and the Bengalis who came from outside Naniarchar. He begged for his life and said not to take any action against him. Unfortunately I couldn't meet him. In the morning of our arrival in Naniarchar one of the student went to find him in his quarter. We were told that he was gone to the market. We waited till 4pm but he didn't turn up. Then we gave up.

Local people informed me that the tribal people from Barpulpara, Jaduka Chara, Danesabekkon were prevented from joining the rally of the day. The Army under Left. Shahid, the army camp commander of Jaduka Chara army camp, put up a barricade and forced them to go back home. I was told that cases were filed against: (1) Kamalakku Chakma (60) (father of Ratn Bikash Chakma (18) an HSC candidate, who is also now under suspicion and army harassment at home), (2) Shaktiman Chakma (24), a student of LL.M. in Khaka University, S/O. Kamalakku Chakma said that after the incident his father became abnormal and his brother's education became uncertain (3) Kalabaran Chakma.

The following are still under army harassment: 1) Sushil Jiban Chakma (22) Organizational Sect. of the Pahari Chatra Parishad (PCP of Hill students Council) of Naniarchar; 2) Priti Kumar Chakma (25) S/O. Bashimohon Chakma, A B.A. student of Rangunia college and Naniarchar Thana Committee, President of the PCP; 3) Taposh Tripura (25) S/O. Deboprio Tripura, GS of the Naniarchar PCP; 4) Tapan Joti Chakma (20) S/O. Doyal Mohon Chakma; 5). Bibhash Chakma (23); 6). Prokanti Chakma and 7). Mihir Kumar Chakma. All these students and organizers are from Naniarchar village and are actively involved with the PCP.

On the rally I asked the Bazaar residents about the situation of the incident day. The Bengalis said that they were living in harmony with tribal. The killers were from outside. On the day the Bengalis (Hindus and Muslims) tried to give shelter to the tribal who were attacked but some could not be saved.

Some eye-witness said (did not want to identify by names) that many of the Bengalis who were brought from outside, did not have anything in their hands when they arrived at Naniarchar. But they said that they were provided with wooden and bamboo sticks and local sharp weapons by the army, which were pre-arranged at the building where the army has their check-post at the ghat. One Bengali woman said that she saw the brutal killing. She wanted to save the innocent people. So, she took few tribals into her shop. But her shop was attacked and people were beaten and wounded. She was scared of giving her name. She said "army will mis-behave with me if they come to know that I have told the truth".

I wanted to know how the incident took place, the local people of the bazaar said that they saw many Bengalis (they did not recognize anyone among the killers) who came with lathis (sticks), long knives, dao, spade, etc. They heard the OC announcing through a mike and telling the students to have patience because the DC and SP were coming from Rangamati. But they also said that it was to pass time and gather the killers and just before the DC and SP arrived, the whistle was given and there was brush fire (three times) from the check post side. Aru the wife of Bono Bihari Chakma said that she was with her husband and saw that Foni Bhushan, Shobhapurna and Dharendra Chakma were injured from brush fire and she ran away to a shop for shelter. When I asked where were all the other people, they said that many of their neighbors gave them shelter in the bazaar, because they could not realize what was going to happen.

BHUTAN

PROGRESS ON SOLVING THE BHUTANESE REFUGEE PROBLEM

The second Ministerial level joint committee meeting concluded in Thimpu on Feb. 1994. Basically in the meeting both the countries expressed their commitment to solve the problem and the next date and venue were fixed. After two days (Feb. 21st and 22nd 1994) meeting at home airport Nepal delegation leader Sher Bd. Deupa said "New issues have come up on this meeting". But he denied to say further about the "issues".

According to the Feb. 23rd date of "Operation Management and Implementation" there are 85495 Bhutanese refugees in different camps of the two districts- Jhapa and Morang. On the 2nd Ministerial level meeting both governments have agreed to classify these people in four categories:

1. Bonafide Bhutanese evicted forcefully
2. Bhutanese who migrated
3. Non-Bhutanese people
4. Bhutanese who have committed criminal acts.

There had been protest by NGOs against these classifications. The third meeting was concluded in Nepal on 9th April 1994. The meeting has decided to form ten-member "Scrutiny Committee" to develop mechanism for verification of above categories. The joint press release says "The committee will compromise five Under Ministerial member from both countries". The meeting also approved a form that is to be filled by a refugee to clarify his/her position.

Human Rights Organization of Bhutan has welcomed the progress. In its press release it has stated, "The refugee has to be recognized on the basis of International HR instrument and the papers a refugee carries with him/her"

Now, there are two committees that have been formed: Ministerial and Under Ministerial. The Under Ministerial level committee will be active in sorting out the so-called real refugees. This committee will have the right to solve the disputes by itself. Only when the disputes on recognition can't be solved it will be referred to the Ministerial level committee, the agreement says. Both the countries are sending their official decision on categorization and other agreement within fifteen days of the last meeting. The next meeting is scheduled in Thimpu probably in June/July.

THE GOVERNMENT SAYS "NO AIDS"

An informal information says that the government of Nepal has circulated a letter of "No aids to local NGOs for Bhutanese Refugee relief work" to all major donor agencies. The Press haven't carried the news till now. The INGOs are unreactive to the issue yet. The NGOs working in the field have expressed their concern for rights of the Bhutanese refugees.

INDIA

LAND ALIENATION: PROCESS OF DISPLACEMENT OF TRIBAL IN EAST GODAVARI DISTRICT

In East Godavari district on Andhra Pradesh belt the tribal population is displaced and the outer interferences of destroying their originality. "There are many causes behind this but the misunderstanding or ignorance the root of the problem by both government and non-governmental organizations are making the situation worse" YUVA has brought out the truth through a research.

East Godavari district on Andhra Pradesh belt has total area of 10,970 sq. kms. It's total population is 37.01 lakhs of which the tribal population is 1.43 lakhs.

The three tribal groups of Konda Reddis, Koya Doras and Konda Kammaras have their own roots but co-habit in village settlement. Their chief means of livelihood is agricultural and agricultural labor. All the tribal groups speak Telegu. Very little remains of the rich cultural heritage of songs and dance of these three groups the Reddis are least exposed. A collective sense of unity is most perceived even today among the tribal groups. Some of the settlements can yet only be reached by foot. Goods are carried to these areas by mules. This in a sense has served to preserve their identity. The atmosphere within such a community tends to be egalitarians, respecting both men and women. Decisions are made by traditionally accepted leaders.

The process of displacement is perceived basically by a gradual alienation of land resources by non-tribal in the region. It is difficult to identify the exact extent of land alienation. However official records (census survey 1987) indicate that in East Godavari district there are 6781 non-tribal controlling 15,572.17.0 hectares. A study reveals that 73% of the land is in the hands of the non-tribal. In Yellavaran, for instance 79 non-tribal families control 1587 acres of land whereas 31 tribal families control only 193 acres of land.

HOW THE TRIBAL LANDS WENT IN THE HANDS OF NON-TRIBAL? Basically much of the cultivation of tribal lands is done through the "Lease Process". The tribals lease their land to non-tribal. A contract is made where some part of the produce goes to the tribal. This is an illegal process. Most lease arrangements take place when the land is fertile because non-tribal have the infrastructure to invest in the land.

The other method by which non-tribals cultivate tribal lands is by duping them. Under the land ceiling laws part of the land had to have been redistributed to the tribals. While title deeds were written out they were held by the non tribal without the knowledge of the concerned tribal. In effect the tribal cultivated as a labourer on his own land!

PROCESS OF LAND TRANSFER: THE SETTLEMENT QUESTIONS

Beside the outsiders from the plains areas coming into the tribal areas and monetizing the lands, real problem began when the process of alienation was legalized. Although there are protective laws to prevent the process of transfer of lands from tribal to non-tribal and even the Land Transfer Regulation 1970 has prohibited transfer of land among non-tribal, land alienation continues, because the legal system is manipulated to suit the interest of non-tribal.

In some places these have happened: Madiki Karmudu mentions that the land was actually his ancestral property. According to him from 1902 onwards taxes were being paid regularly to the government. It was during the "Rampa Ritni" of Alluri Sitharanaraju that the trouble began. Non-cooperation with the local government led to their cessation of paying taxes or rentals to the government. Finally it appears that his ancestors left the village escaping the wrath of the British onslaught and went to Lakkonda village. Meanwhile the land went into the hands of non-tribal and they managed to get settlement pattas in their favour during the 1932-35 survey. The Mandal Revenue officer wrote "the lands are in the name of non-tribal as per 1932 registration. Further action dropped".

Similarly in 1969-74, settlement operations were done. In these settlement operations a non-tribal had to prove eight years of continuous possession under the Land Transfer Regulation 1970 in order to be eligible for settlement pattas. It is during this time that massive alienation took place. Non-tribals in collusion with settlement officials manipulated the title deeds in their favour and scores of marginal tribal families lost their land. One of the victim are brothers of Peda Ullempadu. In a litigation process their land went in the hand of two officers:

1. Karanam Ramamurthy
Rtd. Deputy Tahsildar
Addatigala

2. Rasi Nookaraju
s/o China Appalaraju
Excise, Sub-Inspector
Addatigala

The two officials have never cultivated this land. In fact they have never been residents of Peda Ullempadu village. The brothers are living as tenants share cropping on their own land for the last twenty years.

PROCESS OF LAND TRANSFER: ILLEGAL MECHANISMS

Other forces working on the on going displacement of tribal are:

- a. **Local Machination in land Transfers:** It is found in study that the problem of indebtedness among the tribal has been a key reason for their loss of land.
- b. **Benami Transfers:** Land is held and cultivated by the non-tribal but the legal title is with the tribal. On the other hand land title is with non-tribal but a tribal is working as a wage labourer on his own land. The other none insidious method of land control by non-tribal means is by "keeping a tribal women as a concubine". Through this relationship with the tribal women he acquires land in the name of his tribal kept.

The other strong force of displacement of tribal is the Theme of Reserved Forests of Government. The forest department has created boundaries of reserved forests even in those areas where tribal families have been residing. These factors are violating the basic right to settlement and life of tribals of East Godavari area. Government has its own tribal protection scheme. There are other organizations working for tribal welfare. But the real issue of a tribal's existence is at risk. No-body has touched it yet.

(Courtesy: YUVA, Bombay, India)

NEPAL

AGGRESSION OF INDIAN POLICE INTO NEPAL: ATTACK ON NEPAL'S SOVEREIGNTY

The normal life of people in Kathmandu, the capital city of Nepal, was suddenly terrified while the armed police personnel of India, without any permission, started searching and raiding houses of common people in Baneshwor area of Kathmandu. The Indian police were 20 in number. The number of vehicles used by Indian police were DLN 5087 and UP 70E 0616.

In the morning of March 27, 1994, at 6:45 am, the team of Indian police forcibly entered into the house of Mr Shiva Prasad Sharma, former Director, Department of Commerce. His brother was also threatened, pointing revolver on his head. Every corners of the house were searched by the Indian police. While asked the reason of raid, the Indian police crudely replied that they are trying to arrest a murder, says Mr Sharma.

On the way to searching houses, the Indian police entered into the rented-room of Mr Idris Mirja. The house owner is Mr Madan Krishna Shrestha. According to Mr Mirja, the police destroyed his property and looted some amount of money.

While contacted to Mr Rewat B. Thapa, Valley SP of Kathmandu, regarding the action of the Indian police, he said that it was done in accordance with a provision of treaty between Nepal and India.

On March 28, 1994, this issue was raised in the parliament. The Home Minister is compelled to inform the parliament of the issue in detail within 24 hours.

Though the aggressions of Indian police were observed in the border area of Nepal-India from time to time, this is the first time the Indian police entered into the capital city, which is far from border. The Indian police's aggression has threatened the sovereignty of Nepal.

On 28th Indian Ambassador Bimal Prasad was summoned to Foreign Ministry and a protest letter was handed to him. On 7th April Rastriya Jagaran Manch (National Development Forum) organized a protest rally in Kathmandu. Home Ministry has suspended Mr. Rewat B. Thapa Nepal Police Sub Inspector and the then Kathmandu District Police Head. The government has formed a man investigation committee on the issue. On 16th May Mr. Balaram Singh Malla submitted the report to the government on behalf of the committee.

Our Concern: Informal Sector Service Centre (INSEC) vehemently condemns the Indian police aggression over the Nepalese territory. This kind of hostile police of Indian government, a crime against peace, towards the neighbouring country may create unrest in the South Asian region. We appeal all the well-wishers of Nepalese people of all sectors and lives, peace-loving friends, to protest the Indian police aggression against Nepal.

SAY NO TO ARUN III PROJECT

Arun III a biggest Hydro electricity project was supposed to start its construction from April 1994. And was to be completed by 2001. But the pressure from the local organizations active against Arun III has gained the international support on delaying the construction of the project. The government in recent press conference said, "A meeting for fund collection will be on October in Paris. Then only construction will start".

On Dec. 31, 1993 two HR activists (members of Arun concerned group) petitioned to Supreme Court against Finance Ministry, Nepal Electricity Corporation, Nepal Water Resource Ministry and Arun III project denying the citizen's "Right to Information" on the project. On May 9, 1994 the Supreme Court has given its verdict. It says "according to the constitution of Nepal 1990, Act 16 the petitioners have the right to information. So all the papers, letters and related information be provided to the petitioner immediately".

Arun III Concerned Group has published a 480-page book entitled "Hydro Power Development in Nepal and Arun III Project".

World Parliament Association has sent a letter to the World Bank to stop the Arun III implementation in Nepal. Association is quoted "The World Bank should re-study the social, cultural, economic and environmental impact the Arun III will bring on the life of the people in the area". It is believed these protest are the main causes for the delay implementation of Arun III. Toney Hegan a first European traveller to Nepal, in a press conference said "it is visible in the world that to pay back the World Bank debt the country do cut budget on basic requirements like education and health". Arun III is going to be constructed on a year budget of Nepal. Once the construction of Arun III starts the citizen have to go through all deprivation of the basic needs which are already lacking. Because of this the people are asking for small hydro projects instead of a huge one. But the government is still insisting to bring Arun III in Nepal.

In our next issue we will be talking about "What will be the impact of Arun III on local people"?

RAID ON AMNESTY OFFICE

Amnesty International, Nepal Branch office is in the centre of the Capital. On 27 April seven people broke into the office. They called themselves tax officers and refused to show any identity card. The director Krishna Pahadi said "We were not informed of tax officers coming. The government has said to us "for being an International Office, we don't need to register". Krishna Kandel the spokesman of the organization told that he was asked many unnecessary questions and they forced into other rooms.

On 28th April a protest rally was organized in Kathmandu against this irresponsible act of the government. HR activist with black scarf started the peace procession from New Road via Putalisadak and dispersed in front of Singhdurbar. Some HR organizations have given a

press statement against this action of the government. The press statement is signed by:

- 1) Nepal Human Right Organization (HURON)
- 2) Forum for Protection of Human Rights (FOPHUR)
- 3) Child Workers in Nepal Concerned Centre (CWIN)
- 4) Centre for Victims of Torture (CVICT)
- 5) Informal Sector Service Centre (INSEC)
- 6) INHURED International
- 7) Prisoners Help Association
- 8) Women Working Together for Change (WATCH)

NOW SHE HAS THE RIGHT

The Constitution of Nepal Article 11(3) has given the right to equality to all Nepali despite the differences in caste, creed and sex. But there are still laws which stands against the constitution. Among them the Act of 2032 article 14 (3 and 4) is brought to change. It had discriminated between foreigner wife of a Nepali man and foreigner husband of Nepali women. Against this law Mrs. Mithu Devi Pariyar and Andrew Swarjman petitioned to the Supreme Court for equality. On 29th March the Supreme Court gave its verdict "present foreigner related Article 14 (3) giving right to foreigner wife to stay in Nepal till their relationship is continuing and even three months more but Article (4) asks a foreigner husband to renew his visa for every four months is discriminatory as per the Constitution of Nepal Article 11 (1). According to the Constitution of Nepal that article of Act is violating the right of a citizen. It should be ammended or satisfactory logic should be given for the continuance of such article".



Courtesy: Migrante, Sept. '90

SRI LANKA

PRESENT SITUATION IN SRI LANKA

A team of Catholic clergy led by Bishop Marcus Fernando and including Bishop Swamipillai of Trincomalee - Batticaloa, a delegation of Anglican priests led by Bishop Kenneth Fernando who were later joined by a group of Methodist clergy, a delegation of Sarvodaya officials led by Dr. Ariyaratna, visited Jaffna separately during the first two weeks of February.

All the church delegations described their visits as pastoral; they wished to inquire into the conditions, spiritual and material, of their flocks. The Sarvodaya visit too was described as intended to look at the current situation of Sarvodaya projects in the Peninsula. However, all these delegations had also peace as part of their agenda; they met LTTE personnel at various levels; the Sarvodaya leader brought back with him an audio cassette containing a message from Karikalan who is now said to be the chief of the political division of the LTTE. Some delegations also visited the police and military prisoners being held by the LTTE.

The general impression gained by all the visitors was uniform. The People of Jaffna were for peace and life free of security; they desired an end to the war and an end to the material deprivations from which they were suffering; they were hopeful that a negotiated political settlement would soon be worked out. All the visitors also declared that the LTTE appeared ready to negotiate without any preconditions; they had asked for the lifting of the ban on goods to Jaffna and for the opening of the Pooneryn passage for civilians. The delegations spoke of the earnest and sincere hopes of the people of Jaffna but did not seek out a mediatory role for themselves. Only Dr. Ariyaratna stated that he was willing to act as a peace mediatory for the peace of the people of Jaffna.

All the delegations have met government and military officials at high levels and communicated their views to them. Dr. Ariyaratne met the President and gave him the audio cassette.

Government responses to the LTTE overtures communicated by them have been muted. There has been no change in the President's harsh rhetoric so far. In his Independence Day speech on the 4th, he said: "It is a terrorism of unprecedented brutality. It is a terrorism which has now started to devour its own kind. It has therefore become more urgent than ever before to eliminate this menace." He continued to use his homely metaphors: "There will be no negotiations with the LTTE if they do not enter the democratic process. There must be two sides for negotiations. If there is only one side we are to negotiate with chairs and tables. Now they are asking for package. We can give a fork, a knife and a spoon or even cheese but not an overloaded plate packed with everything."

The Prime Minister, however, made another advance on his track; he said that if the Elephant Pass road was opened to traffic, then the ban on certain categories of goods would be lifted. The LTTE response, it was reported, was to seek a pledge by the government, with international guarantees, that it would not use the road for military purposes.

The LTTE made another gesture of goodwill. they released two police officers who had been in their custody since capture in June 1991 through a representative of Bishop Marcus Fernando; they were said to be in need of medical attention.

Other reactions to the peace moves were as might be expected. The Sinhala Arakshaka Sangamaya, headed by Mr. Gamini Jayasuriya has issued a statement reiterating their opposition to talks with the LTTE without minimum conditions: it should "unequivocally proclaim that the demand for Eelam has been given up and also surrender all arms, renounce violence and agree to enter the democratic process". Sinhala opinion is still strong against negotiations with the LTTE.

There have also been two offers of outside mediation. A Canadian lawyer, Max Berger, acting on behalf of a group of interested Canadians, has invited Mr. Thondaman to Canada for discussions on a possible political solution. A Norwegian official of an international NGO, Worldview International, has announced that he was acting as a contact person between the government and the LTTE. The government's reaction has been to declare that the conflict is an internal matter and that outside involvement is not welcome. It is understood that the President has indicated this attitude to Mr. Thondaman too.

This same attitude has been echoed by Anton Balasingham at a press conference in Jaffna after visits by the delegations. He is reported to have said that the initial round of talks should take place in Jaffna and that there should be no middlemen. No preconditions were laid down but a cease fire and a peaceful atmosphere were necessary.

Parliamentary Select Committee on reform of the Constitution

The President has suggested a major change in constitution, that the President be elected not directly by people but by the elected Parliament sitting as an electoral college. He cited two reasons: first, this would save the expenditure now spent on a direct election; second, it would forge a closer link between Parliament and President. The suggestion has come in for serious criticism both on constitutional and political grounds. It has been seen by the opposition as another attempt by the UNP to manipulate the constitution in favour of a weak presidential candidate. Constitutional scholars have also expressed serious doubts about the proposal in terms of the separation of powers.

Though the President implied that the proposal had been accepted by the UNP, there is no firm evidence that it has been officially sent to the Select Committee.

The president has also made another proposal - to have an equal number of MPS elected on the

district basis and from the national list. Though this is an idea worth considering, it too has met with general opposition.

The North-East War and the Military Situation

The lull in the fighting that was reported last month has been broken. Bombing raids over Jaffna peninsula have been resumed with several sorties reported.

Skirmishes in the east too have become more numerous. The LTTE has stepped up its attacks. A village on the Welikanda area was attacked and three youth abducted; a soldier bathing in a tank near Morawewa was attacked. Camps and road clearing patrols in the Welioya region have also come under attack with some casualties to the forces.

There have been a number of attacks on LTTE camps in the east; the army claims to have destroyed LTTE camps in the Kumburupichchi area of Trincomalee, in Welioya and in the jungles between Mannar and Vavuniya. These attacks have come amidst reports of increased LTTE infiltration into the east possibly with the objective of disrupting the local authority elections due for the 1st March.

There was even speculation that Prabhakaran himself had moved into the Vanni jungles, after the appointment of Balraj as the LTTE Vavuniya area commander. This move was also said to be based on the non-resolution of the dispute with the Mahattaya's faction which began with his arrest in August 1992. Mahattaya's execution has been deferred; many of his alleged supporters have been released from custody, even though he and his strongest supporters still remain. There is also evidence of growing resentment that assets are being wasted in an inter-neice fight. There is also a perceived Indian threat to Prabhakaran after the passage in the Indian parliament late last year of a law empowering Indian forces to operate beyond its territorial jurisdiction in criminal matters.

That the LTTE faced with serious internal problems is also illustrated by the reported

public execution of three female cadres for allegedly having sexual relations with people outside the movement.

The state security forces are still in the process of reorganization. Algama, the recently appointed Chief of Staff of the army has been kept back in charge of the eastern command till the end of local elections in that area. There is also a new commander of the air force, Air Vice-Marshal Oliver Ranasinghe; in an interview, he said: "I must work towards ending the war as soon as possible. The way to do it is to get the air force to play a bigger role. We must work with better intelligence and attack aggressively and accurately."

The Minister for Parliamentary Affairs, answering a question in the Parliament, has declared that the report of the committee of inquiry appointed by the army to investigate the Pooneryn disaster cannot be tabled in the Parliament nor published because of security considerations; such publication would only help the enemy.

Civilian Life in the North-East

The resumption of bombing raids has again placed civilians at risk. People still continue to use the Kilali ferry crossing in their passage to the south with all attendant dangers.

Shortages of food and other essential goods too continue. It is however reported that the CWE, the state distributor, has been instructed to ensure the increased supply of essential food supply to Jaffna. The CWE has rented a large store in Vavuniya; arrangements are for the security forces to oversee the loading of goods at this store and to seal the vehicles; such sealed vehicles will thereafter not be checked on route for contraband goods.

The ban on fishing in the coastal waters off the North-East was lifted as from the 27th. Since the imposition of the ban in September 1993, the government has been supplying dry rations to 37,500 fishermen deprived of their means of livelihood.

The army claims to have captured a document giving details of persons concerned with the despatch of contraband goods to the North and have said that action will be taken against them.

Arrest and Detention in the South

Arrests and detention of Tamils in the South continue, on the basis of police claims that members of the LTTE are infiltrating Colombo. Surprise checks of Tamil homes are common. We will publish an Amnesty report on our next issue.

The North-East Elections

The election campaigns for the polls due on March 1st were in full swing. The Tamil political parties are boycotting the elections but there 50 independent groups, predominantly Tamil, who are contesting the 40 elections; many of these independents are in fact being supported by Tamil political groups. The TULF has asked its supporters to go to the polls but to spoil their ballot papers as an indication of their protest. The EPRLF too has called for a boycott.

The security forces claimed that they had inducted additional numbers of police and other personnel into the area and were confident that they could prevent any attempt to disrupt the election by the LTTE.

There were, however, numerous complaints of interference by the security forces in the electoral process. In a letter to the Elections Commissioner, the EPRLF secretary listed the following charges: i) In the Muttur area (in the Trincomalee district), a significant number of poll cards are being kept in the army camp; voters have been asked to collect them on the polling day; ii) The army is distributing pamphlets supportive of the UNP; iii) Army officers are coercing government officials at the village level to see that voters turn up at the polls, characterising abstention as an anti-democratic act.

The details of the leaflet being distributed by the army, particularly at security check points has

been published in a Sinhala tabloid. Printed in Tamil and English, the leaflet calls for the participation of all voters at the election and argues against the boycott. It also expresses mistrust of the independent candidates sponsored by Tamil groups; these groups were violent earlier and there was no guarantee that they would be democratic once they come to power. The implication of the leaflet was to vote for the UNP.

The interference of the security force has also appeared in other more fundamental spheres. Allegations that some candidates on the UNP and independent lists have been forced to affix their signatures to nomination forms have been made and supported by evidence. Some of these have brought this situation to the notice of the Elections Commissioner. The EPDP list for Batticaloa is said to contain the signature of a person who has been a refugee in India for the last three years.

Other forms of interference have also been reported. In Vavuniya, about 3000 poll cards have been seized by an armed group before distribution. Some postal employees at Eravur have been arrested by the police for the alleged disappearance of 11,300 polling cards. A UNP candidate in Kalladi has been attacked by unknown persons. There has been violence at meetings of the SLMC supporters among the Muslims. The SLMC has made clever use of the President's speeches to show his general anti-minority bias.

Another serious incident concerned Rasamma, Thangamalar and Kalawathie, three UNP candidates contesting the Manmunai and Porativuputtu Pradeshiya Sabha, who were reported missing on February 16. All were teachers in schools conducted by Redd Barna, a Norwegian relief organization. They finally came to the Redd Barna office in Colombo; police traced them there and took them back to Batticaloa. Affidavits signed by them indicate that their signatures to UNP nomination forms had been taken by force or deception by the STF; they had also been given 5000 rupees each.

The police are now charging two Redd Barna officials with kidnapping these three persons.

The Political Scene

Political allegiances have not yet settled down after the movement of some major figures into the UNP. Their followers are taking advantage of the Southern Province election to make their move public.

Dr. Rajith Senaratne has dissolved his Bahujana Nidahas Permuna and joined the UNP. This breakaway group from the SLMP was once headed by Ms. Chandrika. The Liberal party and the SLAM of Ossie Abeygunasekera have announced that their parties will work with the UNP in future elections; they have also announced their support for the UNP in the SP elections. These are no doubt parties with very small followings in the country but they still are good fodder to the UNP's propaganda mill.

The elections to Southern Provincial Council due to be held on 24th March dominates the political scene. Most Party leaders are in the south, conducting their campaigns. The recent converts to the UNP Mr. Anura Bandaranaike and Mr. Ronnie De Mel, are in the fray. The president is expected to join the campaign by the end of the month. The PA campaign is led by Ms. Chandrika Bandaranaike; from all reports, she has the best crowd drawing ability.

There are constant allegations of the misuse of state resources by the UNP; an example highlighted by the opposition concerns the use of SLAF helicopters by UNP politicians. The SLAF has now declared that its helicopters are available to anyone for hire, depending on their availability. The opposition has also called for local politicians to be disarmed before the elections.

An interesting development was a strike threat by the Government Medical Officers Association following the sudden transfer of 47 doctors to hospitals mainly in the Galle district; these transfers were seen as a politically motivated intervention in the SP election. The

Health Ministry was forced to withdraw the transfer orders.

Though the campaigns are in full swing, clear policy directions are still not visible. Parochial issues of development and personal attacks dominate the debate; the human rights and the ethnic problems have not figured yet in the public rallies. These and other issues may begin to emerge later in the campaigns.

DUNF affairs are still in the process of adjudication by the courts, but it appears that the party will disappear with various individuals going their various ways.

The internal differences in the CWC are still simmering. Messrs. Thondaman and Sellasamy are campaigning on the estates but plantation loyalties would still seem to lie with Mr. Thondaman.

Human Rights Concerns

The Attorney General of Pakistan has proposed the establishment of a Human Rights to probe human rights violation in the SAARC countries.

The US State Department has just issued the Human Rights Country Report for Srilanka. It has found fault with both the state and the LTTE for human rights violations and abuses.

Freedom of Expression

The event of the month was the day of activities in remembrance of Richard De Zoysa and Rajini Thiranagama on 21st February under the auspices of Yukthiya, the weekly Sinhala newspaper. Both were writers concerned with human rights, murdered by the state and the LTTE respectively. The proceedings began with early morning meetings, one at Koralawella where Do Zoysa's body was washed up and at the Katubedde university. There was to be thereafter a march to Colombo; police refused permission for the march and disrupted traffic on Galle road till noon by not allowing those who attended the meetings to move towards Colombo in any orderly fashion. However, the

organizers were able later to proceed to Colombo in a motorcade.

There was a largely attended public meeting at the Vihara Maha Devi open air theater in the afternoon; there was also a photographic exhibition and the release of three books - an analysis of the Richard De Zoysa case by lawyer Batty Weerakoon, a comment on Suriyakanda and an abridged Sinhala version of the UTHR reports with which Rajini had been associated.

The public meeting was addressed by Tissa Abeysekera and by Lucien Rajakarunanayake on behalf of the Free Media Movement. Both speakers dealt with freedom of expression as a democratic right and the dangers to such rights from the state and other intolerant forces;

There was also picket outside the Attorney General's office by media personnel on the 18th. to demand state action in the De Zoysa case. Police prevented the picketers from approaching the office by blockading the street.

The month was also marked by a police campaign against pornographic and obscene publications. Several presses were raided, publications confiscated and charges made against the concerned individuals. Press briefings on defence matters will be resumed from March 15, according to the Information Ministry.

The question of Parliamentary privilege again came up when the editor of the Sunday Times was called up before the Speaker in connection with the publication of matters that transpired during the proceedings of the Select Committee on Constitutional Reform before they were reported to the House. This was asked not to repeat the offence. Speaking for the rights of the press, the editor asked for a reconsideration of the provisions of the Parliament (Powers and Privileges) Act.

UNHCR Operations

UNHCR has resumed operations in the Madhu camp and in the north which were suspended

three months ago when its officials at Madhu were restrained from carrying out their work. UNHCR officials claimed that they had received acceptable guarantees of security from all sides.

Refugees and Repatriation

The repatriation of refugees from South India continued with two batches arriving at Mannar. A total of 1500 are expected to be involved.

Of the refugees from South India who were repatriated earlier, about 26,000 are reported to have been resettled in the Mannar, Vavuniya and Trincomalee districts. About 8,000 are still in camps in Sri Lanka; another 2000 are living temporarily with relatives with dry rations being supplied by the government.

Switzerland expects to repatriate about 50 persons in May in accordance with their agreement with the Sri Lankan state. It is to be operated by local Red Cross on behalf of the Swiss government and given some financial assistance. Other Western governments are said to be watching how this experiment will develop.

The US Committee for Refugees has issued a comprehensive report on the status and condition of Sri Lankan refugees. Its recommendations include calls for international assistance so that Sri Lanka and India can maintain basic relief for refugees, for the LTTE to halt the expulsion of Muslims and for Western governments to afford Sri Lankan refugees in those countries at least temporarily, until the conflict is resolved. It says: "Fundamentally, however, the most important issue affecting uprooted Sri Lankans is the conflict ...until it ends, hundreds of thousands of Sri Lankans will remain tragically uprooted."

Suriyakanda

The Embilipitiya Magistrate concluded his hearings into the Suriyakanda affair on the 15th. At the conclusion of the evidence, he returned

an open verdict, asked the CID to conduct further investigations and fixed the next hearing for April 18th.

He disallowed an application by counsel appearing for relatives to continue digging. He said it was now upto the CID to apply for further excavations based on their investigations.

The CID reported that they were questioning security personnel who were guarding the TV towers in 1988 and 89 about the graves.

It now seems reasonably clear that the graves so far uncovered do not relate to the student disappearances at Embilipitiya.

However, the cry for an impartial inquiry into Suriyakanda continues. The Bar Association has also now asked the government for a full inquiry.

Disappearances

The inquiry into the habeas corpus applications on behalf of the missing Embilipitiya students continues. The parents have again raised the question of bringing before justice the security officials named in the HRTF report.

Violence

Two cases of murder illustrative of the current climate of violence are worth reporting.

The body of Prasanna Udayajeewa of Katugastota was found in a well, the day after he had registered as a medical undergraduate at the Peradeniya university. Though first judged a suicide, exhumation and analysis of the body revealed that he had been force-fed insecticides. Three suspects have been taken into custody; caste jealousy seems to have been a motive.

Another student who had gained entrance to the university, Kapila Dissanayake of Weliveriya was murdered on the 14th. Jealousy again appears to be a motive.

Unrest in the Universities

Unrest, leading to closure, is again raising its head in the universities. A clash between students in a laboratory has led to the closure of the Science faculty in Colombo. A dispute about residential facilities and the forcible occupation of the Vice-Chancellor's lodge has led to the total closure of Peradeniya. A skirmish between students and security staff, after some incidents of ragging forced the authorities to close the Eastern University in Batticaloa. The temporary incarceration and harassment of the head of the North Colombo Medical College, a part of the Kelaniya University, resulted in its closure.

Though the reasons for the disputes are diverse, student unrest is growing.

PCIRP

The Commission started hearings into three disappearances during February.

Fundamental Rights Cases

Sumith Atapattu Niriella of Kalatuwawa was awarded Rs 10000 damages by the Supreme Court for physical harassment that led to partial deafness at the Boossa detention camp.

H.W. Saratchandra of Ingiriya was awarded Rs. 20000 as damages for assault and torture at the Ingiriya police station.

(Courtesy: INFORM, Sri Lanka)

SAFHR ACTIVITIES

South Asian Regional Consultation on
"Towards A Peoples SAARC"
May 18-19, 1994, Kathmandu, Nepal

Draft Report

Kathmandu Consultation

South Asian Forum for Human Rights (SAFHR) organized a day long consultation meeting in Kathmandu on May 16, 1994 amidst the presence of about 50 representatives from various NGOs, professionals, journalists and trade unions. The Consultation was organized in preparation of South Asian Regional Consultation on "Towards A People's SAARC", scheduled to be held on May 18-19, 1994.

Six different working papers were presented in the consultation focusing on the realization of human rights and the major issues identified, discussed and recommendation made for solving those issues in the Consultation are as follows.

1. Changing Political Phenomenon and Human Rights Situation
2. Role of Media in Defending Human Rights
3. Accountability of Political Parties and Peoples Representatives
4. Capacity Building through Institutional Mechanisms
5. Role of NGOs, Trade Unions and Mass-based Peoples Organizations
6. Economic Cooperation for Sustainable Development

Regional Consultation

The representatives of various mass organizations, peoples movement, NGOs, human rights organizations from South Asia met in Kathmandu, Nepal, for a programme of South Asian Regional Consultation on "Towards A Peoples SAARC", held on May 18-19, 1994, organized by South Asian Forum for Human Rights (SAFHR).

The inauguration session was held on May 18, 1994. Justice K. M. Sobhan attended the session as the chief guest.

The programme was chaired by the General Secretary of SAFHR Mr Sushil Pyakurel.

Before starting the programme formally, a minute of silence was observed in the memory of late Prakash Kaphley, prominent human rights activist, one of the pioneers to floor the idea of Peoples SAARC.

Welcome remark was made by Mr Krishna Pahari.

The introductory remark was made by Mr M.A. Sabur, Coordinator of Asian Cultural Forum on Development (ACFOD). He briefly gave an introduction of the meeting "Towards Peoples SAARC", concept of Peoples SAARC and other initiatives being taken at the Asia-Pacific level like PP21.

The following participants highlighted on the initiative of "Towards Peoples SAARC".

1. Mr S.K. Pradhan, PFHR, Bhutan
2. Justice K. M. Sobhan, Chief Guest, Bangladesh
3. Mr Karamat Ali, Pakistan
4. Mr Smitu Kothari, India
5. Mr D. Prempati, India

During the meeting, the report of Kathmandu Consultation held on May 16, 1994 was read out.

A Statement of Concern

The intensive discussion on the regional issues took place the next day, on May 19, 1994. The meeting prepared A Statement of Concern: Towards People's SAARC.

According to the planned schedule, a procession (participated by trade union leaders, students, human rights and social workers, women, youth, etc) with different play-cards started from New Road, Kathmandu and ended at SAARC Secretariat. A team of different personalities headed by Justice K. M. Sobhan (Bangladesh), Prof D. Prempati (India), B. M. Kutty (Pakistan), S.K. Pradhan (Bhutan), M. A. Sabur (Coordinator, ACFOD, Thailand) and Sushil Pyakurel (General Secretary, SAFHR, Nepal) handed over the Statement of Concern to the

General Secretary of SAARC Mr Yadav Kant Silwal. On the occasion the team talked with Mr Silwal and asked the possibility to invite NGO representative as an observer during the SAARC Summit.

Towards Peoples SAARC

A STATEMENT OF CONCERN

We, the representatives of mass organizations, citizens groups and concerned individuals from South Asia met in Kathmandu on May 18 and 19, 1994 and have taken stock of the problems in the SAARC region. We are slowly and modestly evolving regional cooperation at a people-to-people level and have now pledged ourselves to widen national and regional dialogues towards forming and strengthening a People's SAARC.

We would like to express our deep concern regarding the following problems. We submit that urgent strategies will have to be evolved — by states, by SAARC, and by peoples organizations — to constructively address these outstanding issues. Only then can regional cooperation have a lasting meaning.

1. Severe Restrictions on the Movement of People and Information Within the SAARC Region. Also, the need for uniform valid travel documents.
2. Militarisation: Both the increase in internal militarisation and nuclearisation as well as escalating intra-country conflicts. Not only does escalating expenditure on arms and advanced military technology in the name of defence and national security inhibit the realization of regional cooperation and democracy, it severely limits the realization of people's security.
3. Violation of sovereignty by state forces of another country. For instance, as evidenced by the recent actions of the Indian police in Nepal.

4. Communalization of the Polity: Growing ethnic and inter-community strife, tension and conflict as well as state repression of religious and ethnic minorities.
5. Severe Trans-Border Ecological Crisis. For example, the outstanding conflicts surrounding the sharing and management of river waters (e.g. Ganga and Kosi).
6. Increasing Trends Towards Export-oriented Commodity-based Agriculture at the Cost of Sustainable and Equitable Food Production.
7. Discrimination, Exploitation and Exclusion of Women as Equal Partners within the Family and Society. Including the imposition of intrusive contraceptive devices. Also statutes which violate gender equality particularly concerning inheritance, marriage, divorce and guardianship.
8. Discrimination Against and Assimilation of Indigenous and Tribal People, Ethnic and Linguistic Minorities. Also discrimination on the basis of caste.
9. Continuing Incidence of Bondage, and Slave Labour, Sale and Trafficking of Women and Children and Repression of Workers Movements
10. Criminalisation of Politics. The degeneration of political culture and the increasing influence of black money and Mafia forces.
11. Destructive Development: Policies and projects which create displacement, economic dependency and environmental degradation in the name of development.
12. Increasing Pressures from International and Regional Economic Powers, Financial Institutions and Trans-national Corporations at the Expense of not only National and Regional Interests but Particularly Against the Interests of Social Justice and Ecological Sustainability in the Region. Including unjust and unfair agreements like GATT which undermine both national sovereignty as well as the realization of a strong and self-sufficient South Asian region. Also escalating external debt which accentuates dependency on the dictates of multinational interests.
13. Growing Cultural Pollution Through Western-influenced Mass Media
14. Trade Barriers and Discriminatory Trade Policies and Practices.
15. The Continuing Violation of Democratic Rights: Particularly the rights of refugees. Also bilateral and multilateral treaties and conventions that are contrary to the principles of justice, equality and sovereignty.
16. Denial and Deprivation of the Right to Self-Determination
17. Non-implementation of the Convention and Agreements on Land-locked Countries
18. The Decision of SAARC not to concern itself with Serious Bilateral Problems.

This is not a comprehensive list but is indicative of the range and complexity of the problems that severely restrict the realization of a just and peaceful region. It is in this context that we believe that a wide range of people's movements, citizens groups and individuals are attempting not only to respond to these realities but to evolve a people-to-people relationship towards envisioning a democratic and peaceful South Asian region. We are joining them in their efforts towards strengthening regional cooperation.

May 19, 1994.

MEETING ON "TOWARDS PEOPLES SAARC"

Report of Concluding Session

The concluding session of "Towards A People's SAARC" on May 19, 1994 decided to discuss strategies and a plan of action.

The following suggestions were made:

1. Translation and dissemination of the statement of concern as widely as possible.
2. Discussing the idea of a People's SAARC in our own forums, organisations and movements to seek wider involvement and comments.
3. Soft coordination with a full time person.
4. Concrete commitment from each participant on how they will contribute to widening the awareness and debate on People's SAARC.
5. Comprehensive assessment of initiatives at the South Asian level with which a dialogue should be started.
6. Drafting of a declaration in the next three months.

In addition to above points, the following decisions were taken:

- a. SAFHR will identify one full time person and coordinate efforts at the South Asian level until the next meeting.
- b. No ad-hoc committee will be formed but regular contact and dialogue will be held with representatives of initiatives that are already going or planned.
- c. The statement of concern will be translated and disseminated. The

coordinating groups will closely monitor and facilitate this process.

- d. The Declaration Draft will be prepared by D. Premapati, Gopal Krishna Siwakoti, Smitu Kothari.

South Asian Forum for Human Rights (SAFHR) Holds its Working Committee Meeting

The Working Committee meeting of the South Asian Forum on Human Rights (SAFHR) took place in Kathmandu, Nepal on May 20-21, 1994 at Hotel Orchid. Representatives from India, Sri Lanka, Bangladesh, Nepal, Bhutan, and Pakistan were present. Those attending were:

1. Mr Ravi Nair, South Asia Human Rights Documentation Centre, India
2. Dr Rajesh Gautam, Human Rights Organisation of Nepal, Nepal
3. Mr Biswakanta Mainali, Forum for Protection of Human Rights, Nepal
4. Mr Sushil Pyakurel, Secretary General, SAFHR, Nepal
5. Mr Shiva Hari Dahal, SAFHR, Nepal
6. Mr S. K. Pradhan, Peoples Forum for Human Rights, Bhutan
7. Dr Rajendra Wijetunga, OSLEN, Sri Lanka
8. Mr Mario Gomez, Law and Society Trust, Sri Lanka
9. Justice K. M. Sobhan, Bangladesh Society for Enforcement of Human Rights, Bangladesh,
10. Mr M. A. Joseph Francis, Human Rights Commission of Pakistan, Pakistan
11. M. A. Sabur, Coordinator, ACFOD (special invitee)

During the discussion, the participating members expressed that there was confusion about the ambit of the mandate of SAFHR. There was also an overlapping of roles with other South Asian and regional initiatives. It was expressed that relations should be built by SAFHR with active human rights organizations in the region in a more systematic and regular

manner. SAFHR should play a pro-active role and try to create a trans-border outlook on human rights issues.

The participating members expressed that SAFHR should move forward keeping following points in view:

1. Based on the concept and mandate, SAFHR should have a set of core programme.
2. Collaboration with other initiatives which needs some kind of guidelines. There are lots of events going to take place where SAFHR can take a part.
3. SAFHR itself cannot do every things, but can support some of the initiatives.

There should be collaboration with other initiatives which needs some kind of guidelines. Basic element of building a network or organisation is to build mutual trust and understanding. For that we need more dialogue and interaction.

After having comprehensive discussions, some of the major decisions taken by the WC meeting are as follows:

Decisions

Registration: Secretariat will work towards registering SAFHR under existing laws in Nepal.

South Asian Human Rights Charter: The meeting decided that SAFHR should complete the drafting of Charter as soon as possible.

Meeting on Difficult Circumstances : The meeting decided that the Bhutan issue will be taken this year. For this purpose a team will meet with all the Bhutanese exile groups in the refugee camps in Jhapa. The team will suggest the formation of a coordination committee for the purpose of: (1) to put the Bhutanese issue on the global human rights agenda, and (2) force the Indian Government to take pro-active role in resolving the Bhutanese refugee problem.

Training of Trainers : The training workshop will be organized in Nepal. A detailed paper will be prepared and distributed to all WC members.

People's SAARC:

It was decided a small legal working group was to work on the existing laws of extradition, and anti-trafficking of women and children in South Asia and prepare a draft legislation for extradition and prosecution of traffickers of women and children any where in South Asia.

The parallel events during the SAARC Summit will be decided by the next WC meeting.

Good Governance and Popular Democracy : The meeting decided that this seminar will be held in Colombo, Sri Lanka, tentatively in September, 1994.

Election Monitoring : SAFHR will organise election monitoring team during general election in any South Asian countries in collaboration with other organisations.

SAFHR Secretariat will explore the possibility to monitor the forthcoming parliamentary elections in Sri Lanka.

Peoples Tribunals: The meeting decided that SAFHR should be represented on the alternative peoples tribunals to be held in Sri Lanka.

East Timor : The meeting decided that Mr Padma Ratna Tuladhar, Acting Chairman of FOPHUR, Nepal, will represent East Timor meeting in Philippines on behalf of SAFHR.

Others : Different other matters like finance, secretariat, administration, membership, next WC meeting, etc were also discussed and decisions were taken accordingly.

INSEC ACTIVITIES

Bonded Labour's Issues in Supreme Court

The Informal Sector Service Centre (INSEC) has been launching different programmes under different phases for the abolition of bonded labour. Our main areas of concern for this cause are:

1. Drafting and Court Procedure
2. Lobby to Concerned Sectors
3. Emancipation and Rehabilitation
4. Awareness Campaign

I would like to recall that the issue of bonded labour under Kamaiya system was raised in the UN Working Committee Meeting on Contemporary Forms of Slavery last year. During that time, we particularly put emphases for the enactment of legislation for the abolition of bonded labour.

The abolition of slavery or slavery-like practice in Nepal was declared in 1924 by the-then Prime Minister of Rana Regime. Even after the abolition of slavery, the bonded labour system remained in existence in Nepalese agricultural, commercial activities and some industrial sectors. This very system was indirectly nurtured and supported by feudal systems like Rajansa, Zamindar and other fundal practices. Even the Land Reform Act 2021 (BS) (1964 AD) remained ineffective to terminate the causes of this ill system.

The existence of bonded labour within the Kamaiya system is one of the forms of slavery which is rampant in far-west Nepal. Informal Sector Service Centre (INSEC) carried an in-depth research to find out the nature and volume of bonded labourers in those mentioned districts. According to the study there were 9184, 6964 and 1576 bonded workers in Kailali, Bardia and Kanchanpur districts, respectively.

'Kamaiya' is a synonymous to the person who is obliged to work in an agricultural field under an employer, usually a landowner. In a cursory view it seems that Kamaiyas are forced to do promised work once a year only. But in reality, it is different. They have a verbal contract with employers under certain conditions. Usually the conditions are not favourable for them and their families. They have to keep on working throughout the year. In fact they are always in the fists of employers. Members of family of a Kamaiyas have to work for the same master without additional payment. They are not in the position to break the agreement made earlier even, though they are unfairly threatened and beaten by their masters. They are supposed to bear all sorts of barbaric and inhuman actions committed by their masters. The whole Kamaiya System is no better than or different from bonded labour system.

The freedom of movement is completely denied. Kamaiya are not allowed to move to any place without the consent or prior permission of the masters. Likewise, there is no collective bargaining system. Kamaiyas are not allowed to join any trade union or organisation. The children of Kamaiyas are not able to go to school. The Kamaiyas are not allowed to attend the literacy classes or group meetings organised by NGOs including INSEC. The ILO Conventions No. 87 and 98 are completely violated.

From our side, we drafted a legislation and distributed among the Members of Parliament. At the same time, since the issue was not taken seriously by the government, INSEC filed a case in the Supreme Court, asking the government to bring legislation. Recently, on April 18, 1994, the Supreme Court has issued a show-cause notice to the government of Nepal. In the show-cause notice the Supreme Court has asked the government of Nepal to answer on the accusation made on the writ petition of INSEC within 15 days. The petition filed by INSEC reads:

In view of the above consideration and as a consequence this Honourable Court may be

pleased to issue the order of Mandamus or any other order by directing:

- *The Ministry of Home Affairs to protect and enforce the fundamental and legal rights as guaranteed by and under the Article 20 of the constitution and section 9 of the Treaty Act; and institute cases for persecution against the who have been continuously violating the law on "trafficking against human person" number 3 and committing the crime;*
- *The Ministry of Labor and the Ministry of Education and welfare to initiate necessary alternative welfare measures in order to rehabilitate and emancipate the Kamaiyas at the earliest; and*
- *His Majesty's Government (cabinet) to initiate necessary legislation in order to fulfil the obligation arising out of the ratification of those international instruments as referred to at para 8 of this petition by virtue of section 9 of the Treaty Act 2047 BS Nepal year.*



UNTOUCHABLE MOVEMENT IN NEPAL

Involvement of INSEC in the Liberation Movement of Oppressed Castes

The oppressed castes of Udiyachaur were deprived of mixing the milk of their cows and buffaloes in the local Bhagwati Milk Chilling Centre for years in the name of tradition. Hence, the oppressed community were compelled to hire so called touchable for milking and carrying their milk to the Chilling Centre. They could not tolerate these discrimination even at the common place and started to rise voice against these demanding equality, justice and human rights.

This milk scandal issue made the local oppressed castes organized as a result of which they decided to struggle against it by mixing milk in the centre with their own hands. On November 6th in 1993 while they tried to mix

the milk themselves the extremist Brahmins attacked them. In this incident, many oppressed castes (called untouchable) were highly humiliated and beaten by the extremists Brahmins. The suffers went to the local Chief District Officer for the justice and equality, however, the administration marginalized that issue. All of a sudden, Bhagawati Milk Chilling Centre was closed in pressure of Brahmins. The local oppressed castes became helpless and remained quiet.

In response to the appeal of society for the Liberation of Oppressed-down-trodden castes, Nepal Central Committee, INSEC automatically paid high initiation to this milk scandal issue and sent Year Book (1993) volunteers there to organize the oppressed for the legal struggle against the inhuman behaviour. An action Committee was formed under the active role of society for the Liberation of Oppressed downtrodden castes, Nepal and INSEC. This action committee decided to launch movement against the Udiyachaur Milk Scandal issue.

On February 13, a massive protest demonstration was organized in Syangja Bazaar, District Headquarters of Syangja. This protest demonstration was participated by thousands of men, women and even children demanding justice and human rights. The numbers of the parliament, leaders of different social organizations, Human Rights activists form CWIN, INHURED and Sushil Pyakurel along with office staff as well as other activists form INSEC network took participation in it. A Great protest procession passed through the local bazaar with slogans against the Udiyachaur milk scandal. The procession changed into a mass-meeting when it reached the local open theater. A twelve member delegation went to the chief district officer and handed a protest letter to him. The delegation headed by Padmalal Bishwakarma, the President of SLOC, Nepal was accompanied by Sushil Pyakurel along with some other representative form different organization. While speaking at the mass meeting Mr. Pyakurel declared solidarity with the struggle launched by the action committee and highly opposed the Udiyachaur Milk

Scandal as an vivid example of human right violation on behalf of the state.

In the same way the temple entry was strictly banned for the oppressed castes in Gorakhkali temple located at Gorkha Palace. SLOC, Nepal launched a temple entry movement on February 3, 1993 against the discrimination demanding equal entry and submit "Prasad" to so called touchables. But temple authority and the worshippers and Jogis not only prohibited the oppressed castes but also gave a banned letter. But Untouchables were successful on the last. Hence, SLOC, Nepal launched another temple entry program on March 19, 1994 and INSEC

also participated in it. At the last resort, in the pressure of great mass the temple authority became compelled to do equal behaviour regarding the temple entry and worship.

Under the joint venture of SLOC, Nepal and INSEC a symposium on "The Problems of the Oppresses Castes" was held in Pokhara on April 9, 1994. Besides this INSEC is directly involved in other different liberation programs run by SLOC, Nepal. INSEC is providing molar and financial support to the oppressed class community especially in Human rights restoration campaign.

Asia-Pacific Conference on East Timor

[Mr. Padma Ratna Tuladhar participated on behalf of SAFAR on Asia-Pacific Conference on East Timor. The report prepared by him highlights the present HR Situation in East Timor.]

The Asia-Pacific Conference on East-Timor was held in the Philippines from 31st of May to 4th of June, 1994. The conference was participated by individuals and NGOs from the countries of Asia-Pacific region, Europe and the Americas. Most of the participants were well known personalities and human rights activists working on the issue of East Timor. Some prominent invites like a Nobel peace prize winner from Northern Ireland Ms Mairead Maguire and the first lady of France Madam Manielle Mitterand could not attend the conference because of the ban on foreign delegates imposed by the Filipino government. Although the conference was held on the atmosphere of embarrassment, confusion and tension due to the government ban on the holding of the conference, it succeeded to achieve its objectives and it could draw the attention of the whole world community. The conference was the first of its kind in the Asia-Pacific on East Timor issue.

Background

East Timor is located in South-east Asia, a small island nation between Indonesia and Australia. The East Timorese people attained their independence in 1975 after centuries of struggle against their

portuguese colonizers. But in the same year on 7th December 1975 Indonesian armed forces invaded and subsequently incorporated as its 27th province by an act of integration. This Indonesian claim on East Timor has not been recognised by a majority in the United Nations.

Since the illegal occupation of East Timor by Indonesia, East Timorese people are fighting for independence. Indonesia's invasion and occupation of East Timor violated the right to self-determination of the people of East Timor.

Human Rights Situation

The invasion and the occupation of East Timor by Indonesia created a very serious problem of Human Rights in East Timor.

Atty. Cecilia E. Jimenez of Philippines Alliance of Human Rights (PAHRA) had submitted an analysis of Human Rights situation in East Timor. Just considering the indisputable facts of genocide levels of human rights violations in East Timor the analysis highlighted the following:

- One third of the original population (2,00,000 people out of 6,00,000 population) dead, thousand and thousands of them extrajudicially executed (e.g. 1991 Santa Cruz, Dili massacre)
- Thousands arbitrarily arrested, hundreds of them disappeared and remained unaccounted

for, and scores illegally detained without charges and others unfairly sentenced and detained to long prison sentences.

- Torture, cruel and degrading, inhumane treatment remain a prevalent practice in interrogation and detention conditions; incommunicado detention is usual in detention centres.
- Tight control over the daily lives of the East Timorese, including the curtailment of the rights of free expression, assembly and association as well as freedom of movement.
- The absence of the basics of the rule of law, including the right to a fair trial, access to legal counsel, presumption of innocence, an impartial and independent judiciary.
- Thousands and thousands displaced from their residences and hamletted; a considerable number have been forced to seek refugee and political asylum outside of East Timor.
- Children deprived of education, adults denied their means of livelihood, a people stripped of their cultural identity, and other violations of economic and cultural rights.

The APCET

The organising body of the conference The Asia-Pacific Conference on East Timor (The APCET) was born in Bangkok in 1992. The Bangkok meeting between the representatives of the National Council of Maubere Resistance and some Asian and Filipino NGO workers had decided to convene the conference in the Philippines. The international convenor's are from academic institutions, established legal organisations, broad coalitions of NGOs and support groups for the East Timorese struggle. They include: 1) Asian Council for People's Culture, 2) Asian Cultural Forum for Development (ACFOD), 3) British Coalition for East Timor, 4) East Timor Action Network, 5) International Federation for East Timor, 6) International Platform of Jurists for East Timor, 7) Law Asia-Human Rights Standing Committee 8) National Council for Maubere Resistance (CNRM), 9) Oporto University (Portugal), 10) Parliamentarians for East Timor, 11) People's Plan for the 21st Century (PP21), 12) Servizio Civile Internazionale and 13) TAPOL

A separate Filipino conveners group was formed under the chairmanship of Mr Renato Constantino Jr. and Mr Atty. Sedfrey Candelaria, Mr Augusto Michat Jr. and Mr Atty. Alexander Padilla worked as Vice-chairman, Coordinator and legal counsel. The members were: 1) AKSYUN (Coalition for peace), 2) Ateneo University Human Rights Centre, 3) Bukluran para sa Ikauunlad ng Sosyalistang Isip at Gawa (Bisig) 4) Consortium for People's Diplomacy 5) Council for National Freedom and Democratic Rights 6) Economical Bishops Forum 7) Lean L. Alejandro Foundation 8) Moro Human Rights Centre 9) Movement for Popular Democracy 10) Patrido Demokratiko - Sosyalista ng Pilipinas 11) Philippines Council for International Solidarity and Peace 12) Saudigan ng Lakas at Demokrasya ng Sambayanan (Saulakas) 13) Siglo ng Paglaya (Syglaya) and 14) Women's Legal Bureau.

Initiatives for International Dialogue (IID) worked as secretariat.

Conference Proceedings

30th May 1994

A press conference was organised in the evening in which 10 foreign delegates participated. The speakers denounced strongly Indonesia's pressure to silence meetings on human rights atrocities in East Timor. They also condemned the order of the Filipino government banning the conference. And they expressed their willingness to attend the conference peacefully. One of the participants Mr Pedro Pinto Laite, Secretary General of the International Platform of Jurists for East Timor said in the press conference, "We did not come here to confront the Filipino Government but if we get arrested and deported then so it be."

The government later on ordered the cancellation of visas held by the ten foreign delegates who had appeared in the press conference which was widely covered by local televisions and national and international media. The government notice issued in their names were handed over to the organisers. The ten delegates were expected to be arrested and deported out of the country and time. So there were confusions and tensions prevailed among the participants.



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