Asian Forum for Human Rights and Development

First Sub-Regional Workshop on a South Asia Human Rights Mechanism

Proceedings

Kathmandhu, Nepal
24-25 March 2010
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INTRODUCTION

The First Sub-regional Workshop on a South Asian Human Rights Mechanism was held on 24-25 March 2010 in Kathmandu, Nepal. Almost 80 representatives of non-governmental organizations and peoples' movements from across Asia met to discuss the viability and strategies of establishing a sub-regional human rights mechanism for South Asia, administered through the south Asian Association for Regional Cooperation (SAARC).

The workshop produced both an action plan and a declaration, to function as the basis for future advocacy carried out by a yet-to-be determined working group on behalf of the workshop participants.

These proceedings record only the key points raised in the sessions of this workshop organized by FORUM-ASIA and the local host, Informal Sector Service Centre (INSEC).

Context

South Asia is one of the most polarized and poverty-ridden regions of the world. Diversity, complex geo-political situation, poverty, illiteracy, conflict and militarization are key factors affecting the human rights situation of South Asia. The lack of effective measures, lack of good governance and transparency within the respective governments contribute to the prevailing culture of and violations of human rights in South Asian countries. Amidst this situation is a vibrant human rights movement that advocates for more effective promotion and protection of human rights of the peoples at the local, national and international levels, and thoroughgoing change in the different societies.

In the neighbouring sub-region, the Association of Southeast Asian Nations (ASEAN) established in October 2009 the ASEAN Intergovernmental Commission on Human Rights (AICHR), the first supra-national human rights body in the Asia-Pacific. This development, brought about due to significant efforts by civil society, has inspired human rights defenders in South Asia to push SAARC for its own mechanism.

Objectives

The primary objective of the workshop is to provide a framework for the advocacy of a regional human rights mechanism in South Asia. Furthermore, the workshop aimed to facilitate in building committed network of participants in developing strategies for the collective campaign of Human Rights Defenders (HRDs) for the sub-regional mechanism.

More specifically, the workshop aimed to;

(a) Demonstrate the practical relevance of the need for the regional mechanism for promoting and protecting human rights to complement country level mechanisms.

(b) Encourage the ownership and application of context-specific strategies for devising suitable policy responses in furthering lobby and advocacy for the robust human rights mechanism in South Asia
Participants

The workshop has brought together 80 human rights stakeholders namely; human rights defenders, national human rights institutions, policy makers and civil society organizations with significant contribution in human rights primarily from South Asia. Participants in this workshop are from Bangladesh, Bhutan, India, Nepal, Pakistan, and Sri Lanka. Beyond the subregion-advocates from Indonesia and Malaysia shared their experiences in contributing to the AICHR.

Results

The workshop has resulted in the following outputs:

- Increased awareness and sensitization of participants on effective advocacy for regional human rights mechanism in South Asia;
- Developed a preliminary framework for advocacy for a South Asia human rights mechanism, primarily reflected in the Kathmandu Declaration 2010, the key outcome document of the workshop;
- Received a strong commitment from the Prime Minister, Home Minister of the Government of Nepal to push the agenda of regional mechanism in South Asia in the SAARC and other forums;
- Established networking and coalition efforts with SAPA, People’s SAARC and other regional civil society networks for the effective advocacy at regional level, including a strategy and Action Plan for the collective campaign and advocacy for the forthcoming People’s SAARC 2010;
- Gained strong media coverage and public attention of workshop and its objectives.
PART I:

KATHMANDHU DECLARATION

*Outcome document of the First Sub-Regional Workshop on a South Asian Human Rights Mechanism*

25 March 2010, Kathmandu, Nepal

We, the seventy representatives of non-governmental organizations and people’s movements from Bangladesh, Bhutan, India, Indonesia, Malaysia, Nepal, Pakistan and Sri Lanka at the first Sub-Regional Workshop on a South Asia Human Rights Mechanism, gathered together in Kathmandu, Nepal from 24 – 25 March, 2010, with the participation of representatives from OHCHR, to critically discuss the prospects and strategies of advancing human rights promotion and protection through regional cooperation towards the establishment of South Asian human rights mechanisms.

Reaffirming the long tradition and history of the people’s movements and non-governmental organizations in South Asia struggling for democracy, human rights, justice and peace, including various initiatives under the People’s SAARC process in holding governments of SAARC accountable;

Taking note that the SAARC Charter adopted on 8th December 1985, expresses in Article 1 the vision of promoting peace, stability, amity and progress in the region; and in Article 3 awareness of the common problems, interests and aspirations of the peoples of South Asia and the need for joint action and enhanced cooperation within their respective political and economic systems;

Taking note that Article 4 of the SAARC Charter stipulates as one of the objectives of the SAARC promotion of the welfare of the peoples of South Asia and the improvement of their quality of life;

Welcoming the promotion of universal respect for observance and protection of human rights and fundamental freedoms for all, in particular the right to development, gender equality, welfare and interest of children and youth, promotion of social integration and strengthening of civil society as stipulated in Article 2.xii. of the Social Charter of SAARC adopted on 4th January 2004;

Recalling the adoption of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, SAARC Convention on Regional Arrangement for the Promotion of Child Welfare in South Asia, Agreement on Establishing the SAARC Food Security Reserve;

Recalling the UNGA Resolution 32/127(1977) and Commission on Human Rights Resolution 24 (XXXIV) (1978) on the appeals to States in areas where regional arrangements in the field of human rights do not yet exist to consider agreements with a view towards the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights;
Recalling the Vienna Declaration and Plan of Action (1993) which SAARC member states endorsed, reiterated the need to consider the possibility of establishing regional and sub-regional arrangements for the promotion and protection of human rights where they do not already exist;

Taking note that the SAARC governments will be meeting for the 16th SAARC Summit to be hosted by the Bhutanese government in Thimpu, on the 28th and 29th April 2010;

Taking note that the next inter-governmental meeting of the Asia Pacific Framework on Regional Arrangement on the Promotion and Protection of Human Rights will be organized by the Office of the High Commissioner for Human Rights, and to be hosted by Thailand government in Bangkok on 21-23 April 2010;

Expressing grave concerns that widespread and systematic human rights violations, inter-state and intra-state conflicts continue to plague the region and hinder the enjoyment of peace, justice, democracy and a better quality of life by the peoples in the region;

Welcoming initiatives of Nepali Human Rights NGOs through the Magna Meet held on 10 December 2009 for the establishment of regional human rights mechanism in South Asia;

Recalling that SAARC countries continue to affirm the universal principles and values of human rights in a number of international instruments and in SAARC summit declarations and are obliged to respect those principles, including the right to health, education, food, water, development, and to be free from trafficking with specific reference to women, children, youth, and migrant workers.

Recognizing the need for SAARC to adopt a rights-based and gender-sensitive approach to the elimination of all forms of discrimination, including religious intolerance.

Noting that SAARC must address pressing multilateral issues that includes hunger, unemployment, and violence against women and children.

Resolved in the meeting:

• for the need to further strengthen the cooperation and solidarity among human rights organizations, non-governmental organizations and people’s movements of South Asian countries on a shared vision for the protection and promotion of human rights in the region;
• to support peoples’ processes in the region in strengthening people to people solidarity in order to make SAARC governments accountable and to work in cooperation with these peoples’ processes;
• to continue the work towards the establishment of an effective regional human rights network among the civil society and an independent and effective regional human rights mechanism to address human rights challenges faced by the countries in the region;
• to establish a working group to develop common strategies and effective cooperation among non-governmental organizations and people’s movements on capacity building, collective advocacy, lobby and joint strategies towards the establishment of a regional
human rights mechanism in the region and to continue encourage more groups, including marginalized communities, to participate in the process;

- to call on the governments of South Asia to establish an independent, effective and accountable regional human rights mechanism with an explicit mandates of promoting, protecting and fulfilling human rights, through a process of wide consultation with non-governmental organizations, people movements at the national and regional level;
- to call on the national human rights institutions in Bangladesh, India, Nepal, Sri Lanka, Maldives and Afghanistan to forge closer and more systematic cooperation among themselves to address cross-border human rights violations and support the development of regional human rights mechanism in South Asia;
- to call on Pakistan and Bhutan to form as soon as possible national human rights institutions in conformity with the Paris Principles.
PART II: PROCEEDINGS

A. OPENING SESSION

(Master of Ceremonies: Bijaya Gautam, Executive Director of INSEC)

Welcome Remarks

Mr. Subodh Raj Pyakurel, Chairperson of FORUM-ASIA welcomed participants by highlighting the objectives of the workshop. He said that human rights defenders of South Asia need to be strategic when faced with two opposing ideas, between ‘either everything or nothing’. The task of human rights defenders is always challenging, that is ‘to make possible the impossible’. He mentioned that there is nothing explicitly mentioned about human rights mechanism in the SAARC Charter unlike in the ASEAN Charter. He also reminded participants about a UN General Assembly resolution which calls for the regional mechanism for the protection and promotion of human rights.

He also shared the experience of FORUM-ASIA and its advocacies for the regional human rights body in ASEAN region for 3 years. He expressed hope that this meeting be a good beginning, and the start of a long journey to go in hand-in-hand with all key stakeholders with tangible and visible results. He also raised a critical question that time has come to evaluate what happened with human rights movement in Nepal in a forward or backward moving direction. He said that Nepal achieved lot of things including globalization and capitalism, followed by deprivation and violation of human rights.

Opening Remarks

Mr. Yap Swee Seng, Executive Director of FORUM-ASIA, highlighted the development of the human rights principles in the world after the historic proclamation of the Universal Declaration of Human Rights 1948. He mentioned that the motivation behind the proliferation of human rights norms was in response to the devastating Second World War 1939. He also shared that there has been significant developments in human rights in other parts of the world where regional human rights mechanism are in place.

He also mentioned that the regional human rights mechanism in Europe, the Americas, and Africa have developed valuable experiences and lessons learnt which had been useful for civil society organizations of South East Asia in lobbying for the ASEAN human rights body. He concluded his remark by reiterating FORUM-ASIA’s commitment to support the advocacies of members, partners and other key stakeholders of the South Asia.

Opening Remarks by the Guest of Honour

The Honorable Minister Bhim Rawal (Home Affairs) expressed his solidarity with the initiatives taken by human rights organizations of South Asia in pushing for a regional human rights mechanism. The major points of the speech delivered by Mr. Rawal are as follows:
i. The human rights discourse: The UN Charter and UDHR are the bedrock of human rights principles which our human rights movements are championing on our respective countries. The human rights movement in Nepal has worked to increase public awareness for democratic rights of the people, and the protection of human rights.

ii. Deficiency in SAARC region: SAARC does not have a specific charter outlining human rights, unlike those seen in other regional collaborations such as in Southeast Asia and Africa. South Asian countries have a long way to go for the protection of human rights and to develop appropriate coordinated mechanisms in the SAARC region.

iii. Linking SAARC to the people: The objectives of SAARC are linked to the aspiration of the South Asian peoples for economic betterment and protection of human rights. It has developed some agreements among member countries, though not directly linked to human rights movement, are one way or another are part and parcel of the basic rights of people.

iv. Nepal and human rights: Nepal is very much committed to the universal principles of human rights, and has already signed several international agreements and protocols for the protection of human rights. Nepal, in its political and economic transition, is willing to work with civil society in regards to realizing a regional mechanism to be administered through SAARC.

v. History of struggle for democracy and human rights: He also recalled his involvement in the past struggle for democracy and human rights against the Panchyat regime in Nepal. Nepal is now in a transitional political situation grappling with enormous challenges in this historic juncture that will change the old structure into the prosperous Nepal. He appreciated the endeavors taken by the civil society organizations and extended his support and cooperation in the days to come.
B. COUNTRY PRESENTATIONS

[Moderator: Mr. Dinesh Tripathi]

BANGLADESH

By Mr. Adilur Rahman Khan, Odhikar

The major trends of human rights violations in Bangladesh include killings, torture, and denial of right to information and right to mobility. Some of the major challenges include harassment of human rights defenders, journalists and minority communities, lack of effectiveness of the national human rights institution (NHRI) and ‘water’ related human rights issue. Key issues raised in this presentation are as follows:

1. Challenges for Regional Mechanism: A regional mechanism is most difficult to realize due to regional mistrusts, regional challenges, and regional gaps which contribute to SAARC’s dysfunctional nature.
2. Lack of Progress despite Democratic Change: In recent years Bangladeshi people have suffered under state of emergency which ended with the election on 29 December 2008. It was thought that a democratic culture would evolve as the new party leaders had suffered under the state of emergency, but that did not happen.
3. State Sponsored Violence: Extra-judicial executions continue in Bangladesh despite pleas from various sectors during its recent Universal Periodic Review (UPR) session. Many people have been tortured in custody; some to their death.
4. Freedom of Expression and Association: Journalists are being attacked across the country while human rights defenders continue to be harassed. Odhikar, his organization, and an FA member, has also been a victim: its HRD training program was cancelled on orders of the Home Ministry, and their renewal of activities denied.
5. Minority Issues: The situation of ethnic and religious communities has not improved, and in some cases has actually declined.
6. National Institution Deficiencies: The NHRC, established by the military-backed regime in Bangladesh on 2008, is an institution without teeth. This government sponsored NHRC is problematic. The Right to Information Act and Anti-corruption Commissions including the judges function more to serve the interests of the government rather than that of the people.
7. Water-related issues: The lack of a water management agreement based on the principle of equality between India and Bangladesh, and border killings along India are major challenges for the people. Every four days one Bangladeshi either gets killed or injured by the border security forces of India. We have documented 843 persons killed in the last 10 years. Many people are harassed on both sides of the border.
8. Prospects for change: It will be a long struggle because even with the change of governments, the core issues of human rights remain, partially due to the fact that the

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1 The representative from Sri Lanka was not able to arrive in time to make a country presentation. There were no representatives from the Maldives or Afghanistan were present for the workshop.
people did not participate in the constitutional process at any point. A participatory process would allow the people to express the need for protecting human rights.

**India**

By Dr. Lenin Raghuvanshi, People's Vigilance Committee on Human Rights (PVCHR)

Despite a sound Constitution and having the world’s largest democracy, there are many issues embedded deeply in India, such as the caste system. The country has a “superman complex” which explains why India is behaving like big brother in the region to create a power imbalance. Despite national mechanisms in place, human rights violations are rampant. The major human rights challenges are rooted in the dilemma on whether the economic development can justify violating the human rights, or vice versa. He also shed light on the new discourse on Public Interest Litigation (PIL) developed by Justice PN Bhagwati. He also cited the example of the deep-rooted problem of untouchability and discrimination against the Dalits.

1. Internal Displacement of tribal peoples due to economic conflict is one of the major human rights issues of India.
2. Violence against Women: trafficking, domestic abuse and prostitution;
3. The Culture of Impunity: EJE, fake encounters, and disappearances especially in the Northeast and Kashmir;
4. Child Rights including child labour, trafficking, child marriage and female infanticide;
5. Minorities: The Armed Forces (Special Powers) Act imposed on the Northeast and Kashmir results in the death of many Dalits, tribal and religious minorities both Muslim and more recently, Christians. Bonded labour continues to be a large issue.
6. Culture of Violence: both by non-state actors and the government are undercutting the democracy of India.
7. Two Main Challenges for HR campaigns in India: First, there is the dilemma between the ideas that economic development ensures human rights and that it violates human rights. The second issue is whether to confront the government or collaborate with the government. NGOs are having these debates.
8. The Key Actors and Factors in India: emergence of the civil liberties movement, women’s movements, public interest litigations, discrimination against minorities, and displacement issues as well as the feminist movements and progressive movements against the caste-based, feudal, and patriarchal society of India that all have significant momentum that could be tapped into for any regional pursuits.
9. The Local is Universal: India is the largest democracy in the world and has a sound constitution but such structural mechanisms still do not ensure a respect for the rights of its people, especially at the grass roots level. Justice requires a lack of censorship and breaking of silence but the caste system perpetuates a system of silence and censorship. It is important to break this silence by supporting both local and global actions. Therefore, in terms of the SAARC process and the South Asian process we need the leadership of the survivors which will create a very different campaign and pressure on the government.
**Pakistan**

By Mr. Mohammed Zaman Khan, Human Rights Commission of Pakistan

The Preamble of the Constitution of Pakistan guarantees “fundamental rights, including equality of status, of opportunity and before laws, socio-economic and political justice, and freedom of thoughts, expression, belief, faith, worship and associations, subject to laws and public morality”, and that “independence of judiciary shall be fully secured.”

**Political situation**

Since March 2008, Pakistan’s government became a kind of democracy since the army was forced to relinquish its rule and made way for the people’s representatives to hold power. At present, however, the military seems to be back in the saddles and calling the shots. There is a tussle going on between different organs of the states, particularly the executive and judiciary. Meanwhile, the Constitutional Amendment Committee was reported to have reached a consensus and is about to present its work to parliament. The major amendment being proposed is to give the Prime Minister the role of a real chief executive of the country. This would mean democracy would function smoothly, but so far it is the President enjoying the powers of the then-military dictator General Pervez Musharraf.

**The Judiciary**

In the absence of vibrant civil society organizations and strong, mass-based political parties, the Supreme Court has had to deal with such issues as consumer rights and sugar prices.

Chaudhry Iftikhar and other judges of the Superior Courts dismissed by General Musharraf were reinstated. The Supreme Court declared illegal imposition of emergency by Musharraf in November 2007.

Still, there is rampant corruption at the lower levels of the judiciary, where long delays in serving justice are a normal practice. The failure of the criminal justice administration is also reflected in the increased incidence of crimes against women. The number of honour killings, rapes, domestic violence and acid attacks shot up in 2009.

**Law Making**

The performance of parliament has been very poor in 2009, during which it passed only four acts. Most of the legislation is still done through Presidential ordinance, of which 61 were issued in 2009.

The National Reconciliation Ordinance (NRO) was introduced in parliament but later on withdrawn. It was declared illegal by the Supreme Court.

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2 The text of this presentation is from the edited version which appeared in the Asian Human Rights Defender Newsletter, Vol. 6, No. 1 (January to June 2010).
Parliament passed a bill giving approval of 'Nizam-e-Adl Regulation 2009' for the Malakand Region to establish a religious court.

The parliament adopted two bills to protect women: on domestic violence and sexual harassment of women at the work place

**Conflict**

There is a kind of civil war going on in Pakistan, mainly characterized by dastardly terrorist attacks and resulting in the killing of many innocent people. Law enforcement agencies still use extra-judicial actions to deal with the situation.

Coming under attack from the security forces in their bastion is Swat and South Waziristan, religious militant groups have become desperate. They no longer spare mosques, bazaars, religious madrasas, seminaries and educational institutions.

According to unofficial figures, 2,586 incidents of terrorism took place, in which 3,021 people were killed and 7,334 injured.

The principle that military operations against terrorists should be carried out in a manner that does not violate human rights of both combatants and non-combatants is not always observed. In the aftermath of operations in Swat Valley, HRCP received complaints of extra-judicial killings and on the discovery of mass graves in the Malakand region. HRCP conducted a high-level fact-finding and also demanded a parliamentary inquiry into these allegations.

Military operations against the militants have driven hundreds of thousands of people from their homes, creating a massive humanitarian crisis. Presently, some 1.25 million people from the strife ridden tribal areas are still displaced. The government, international donors and civil society need to make determined efforts to help to internally displaced persons (IDPs). Any mishandling of IDPs could provide militant organizations an opportunity to find new recruits from amongst the up-rooted and frustrated young men.

US drone attacks against the militants also kill many civilians.

**Law and Order**

The police is corrupt and inefficient to the core and violates human rights with impunity. They publicly torture people.

Some 164 incidents of “target killings” took place in Balochistan, which killed 118 citizens and 158 security officials. In Karachi, 747 persons were killed out of which 291 were target killings, with 209 of the victims being political activists.

In Punjab, 253 people were killed in “police encounters”, including 28 policemen. In Sindh 74 suspects and 52 policemen were killed in encounters.
Kidnapping for ransom is rampant 2009, including 224 cases in Punjab, 163 in Sindh and 241 in Balochistan.

Suicides totaled 1,668 cases reported from all over Pakistan.

**Disappearances and Detention**

Although present regime claims that there are no disappearances, the fact is that lots of people are still missing. Their cases are still pending in the Supreme Court of Pakistan. It is a widely known fact that law enforcement officers all over Pakistan, and particularly in Balochistan, often pick up people from and keep them in illegal detention.

An informal moratorium remained on the implementation of the death penalty, even though 276 were meted the death sentence in 2009. Some 7,700 persons are on death row.

There are 86 jails with 81,409 prisoners in Pakistan, despite having a capacity for only 41,500 prisoners.

There are around 1,800 juvenile prisoners, majority of whom are under trial.

Due to alleged torture by prison staff, as many as 54 prisoners have died and 156 injured in jails. Among the most prominent of these cases is the one of Fanish Masih, a Christian youth accused of blasphemy.

**Religious minorities**

The year 2009 saw an increase in violent attacks on religious minorities while the government failed to take effective preventive measures.

An outright disrespect for freedom of religion, both by the state and non-state actors, including communal elements was also visible in the crimes and excesses perpetrated against religious minorities.

Police apparently looked away as gangsters went on rampage in Gojra against Christians, and in Karachi against Shia Muslims, where they looted and destroyed the properties of innocent businessmen. A Muslim factory owner in Muridke was brutally murdered by the mob in broad daylight, in the presence of police.

Shi’as have been target of terrorist attacks by religious extremists, particularly in Parachinar, Karachi and Dera Ismail Khan. In Balochistan, the Hazara Shia community had been under attack by sectarian militants in the last six years. More than 260 people belonging to Hazara community in Quetta died from target killings and more than 1,000 injured since 2003.

Ahmadis are the most vulnerable community. They continue to face discrimination and violence with five Ahmadis becoming the victims of target killing in 2009.

As the militancy surged in North Waziristan, thousands of Christians were forced to migrate from Swat and tribal areas, Peshawar, Mardan, and Nowshera.
About 80% of Hindu women do not possess national identity cards and therefore did not have the right to vote. Due to the absence of papers, persons from the low Hindu castes could not get their marriage registered.

**Freedom of Expression**

In 2009, seven journalist were killed while performing their duty, bring to a total of 45 journalists killed since 2001.

There is complete censorship in Balochistan.

**Women**

According to the HRCP database, violence against women registered a sharp increase during 2009. A total of 1,404 women were murdered, including 647 women in honor killings; 928 cases of rape were reported; 563 women committed suicide, while 253 attempted suicide; 153 women were victim of burning.

Domestic violence cases (including torture, beating, shaving, amputation, and murder attempts) shot up from 137 in 2008 to 205 in 2009. However, data from the Aurut Foundation reported that 608 cases of domestic violence took place.

**Labour**

In 2009 socio-economic conditions of the labor force were precarious in Pakistan, with the twin pressures of inflation and unemployment making the situation worse.

Recent estimates by the official Task Force on Food Security show that nearly a quarter country’s population remained poor, or 62 million people living below the poverty line in the year 2009.

The minimum wage was fixed by government at 6000 Pakistani Rupees per month as of July 2008. However, 70% of companies did not implement this.

Restriction on trade union activities is a permanent feature of industrial sector.

According to National Trade Union Federation, the two labor courts in Lahore had been without a judge for the last few years.

**Children**

Some 3.5 million children continue working as labourers in the country in a blatant violation of the Constitution. The government has stopped taking interest in the education and health care of the children, especially in disadvantaged sections of society.

**Education**
According to a UNESCO monitoring report of 2009, Pakistan is one of the very few countries which failed to achieve even a single “Education for All” goal. Pakistan remains one of the few odd cases where despite modest increase in literacy rate, the number of illiterate persons keeps on increasing.

**Health**

Pakistan is currently spending only about 15 USD per capita in the health sector.

**Positive Aspects**

Despite not a very rosy picture of human rights situation in Pakistan, a large number of civil society organizations are working for human rights.

The present government can take credit for giving autonomous status to Northern Areas (Gilgit-Baltistan), holding elections, and the aforementioned passing two bills for the protection of women.

Pakistan also established a full-fledged Ministry of Human Rights in November 2008, and also ratified the International Convention on Economic, Social and Cultural Rights.

**NEPAL**

By Mr. Bijaya Gautam, INSEC

His presentation focused on the brief analysis of SAARC’s initiatives and developments. He pointed out the content gaps in the SAARC documents, including the Social Charter, and that the need for advocacy for a regional mechanism is timely. The success of ASEAN has also inspired confidence among civil society to work towards long and difficult journey to have a human rights mechanism in South Asia.

**Current Mechanisms**

All SAARC countries have expressed legal and formal commitments to human rights by becoming party to international human rights treaties. However, most of them fail to implement protection of human rights, which is the main problem.

Although SAARC has its own charter, it does not commit to protecting human rights at all. Usually, any discussion of rights through SAARC Charter is done with respect to the right to development only. SAARC has also adopted conventions on trafficking and child welfare to complement its international obligations that arose from becoming party to international human rights treaties. SAARC treaties are focused more on cooperative activities than on the establishment of a regional machinery to deliver justice.

**Supportive international mechanisms**
Various agreements by the international community have discussed the relevance of regional mechanisms to help protect and promote human rights: the Vienna Declaration and Program of Action, the UN Charter. The UN General Assembly and the UN Human Rights Commission has proposed several times to explore the possibility of setting up regional arrangements in the form of intergovernmental regional machinery. This includes possible regional bodies to review the human rights situation, and provide redress where the national setting is unable or unwilling to deliver justice.

In Southeast Asia, there has been progress as ASEAN has established a mechanism. The presence of OHCHR in the Asia Pacific region provides regional possibly machinery to promote human rights through cooperation.

**Why a SAARC mechanism?**

No attempts have been made by SAARC to discuss human rights. It is not part of their mandate. Its member states are not willing to consider adoption of a mechanism to supervise adherence to, or implementation of a human rights mechanism. However, a regional mechanism based on international standards can play a fundamental role in protecting and promoting international human rights standards by helping to address shortcomings in national frameworks and complement existing international mechanisms.

An independent, effective and transparent human rights mechanism should be in place. It should empowered with the explicit mandate to draft recommendations, monitor, and promote human rights in member countries. It can assist South Asian member states in addressing human rights concerns in ways that adhere to international standards while ensuring they implement their international agreements, and also provide South Asian people with a common understanding of universal human rights issues and perspectives.

The key issue in human rights enforcement is the credibility of the actors that are required to intervene, their accessibility to victims, and capacity to appreciate the favourable and unfavourable factors in any sociopolitical setting.

Mutual cooperation in furtherance of human rights will not only strengthen national identities but it will also help each state to discover their true identity, and enable them to re-examine the whole issue of sovereignty in a more enlightened context. Civil society must be involved in the monitoring process.

SAARC’s new mechanism for the HR framework should be streamlined through a revised charter, and not just through a declaration. It must link the international and the national protectorate. SAARC should become of more participatory body to include the people of South Asia and civil society to facilitate debate through practices such as those adopted by ECOSOC, HRC, EU, African Union, and others.

*Bhutan*
By Dr. DNS Dhakal, Bhutan National Democratic Forum

1. The king of Bhutan has given a brand of “democracy” in which no human rights can be protected. There are more than 200 political prisoners inside the country, which is believed to be grossly underreported. Dr Dhakal has been living in exile for 19 years. He is speaking for more than 160,000 Bhutanese people who have been expelled from Bhutan beginning 20 years ago. He explained about the critical situation of these refugees who are in exile in Nepal for 19 years. He refuted the claim of Bhutanese government about “gross national happiness”. He also refuted the ‘gross national happiness’ propounded by the government to befool other people.

2. He also drew attention towards the role of India in facilitating the flow of refugees into Nepal, and obstructing them when they wanted to go back their home in Bhutan. He appeals for solidarity and international pressure to start the joint verification and repatriation process. He also informed that preparations are ongoing to file case on the Bhutanese refugees in the Supreme Court of India. He also suggested that it will be timely to pressure Government of Bhutan at this point since it is hosting the SAARC Summit on 28-29 April for the first time. The government of India ignores the human rights violations of Bhutan. India facilitated the transfer of refugees to Nepal not saying a word to Bhutan about keeping their own people inside. Since that time no voice has come from India supporting this human rights issue of the right to return.

3. The international community has rewarded the regime by facilitating the transfer of the refugees to third countries instead of demanding that the people return to their country and be given the due rights they deserve. The key actors have not done their role properly towards this end, and because of that the Bhutanese refugees have become victims.

4. After almost 10 years of poor conditions for the refugees, international pressure forced Nepal and Bhutan to begin a joint verification process to determine who can return. Some 75% of the refugees were declared eligible, by both countries, to return but Bhutan never took them back. The international community said support for the camps would be reduced and in the interim, third countries would welcome refugees. The international community should keep pushing Bhutan to respect the right to return. Nothing has been done in this regard. The issue has not been raised before the International Court of Justice or the UN General Assembly.

5. In addition to those in Nepal, more than 50,000 Bhutanese have been living in India without identification. He asked whether some cases can be filed in India about this situation. What is needed is a stronger effort for Bhutan, which could start with SAARC member states.

**OPEN FORUM**

Sanjay Patil (CHRI): It is important to discuss Sri Lanka because it illustrates why creating a regional mechanism is problematic. It involves the basic issue of policing, which is common in the region. Trying to get a country to improve the situation within their territory is hard enough without extending it to a regional level where there is so much distrust between the member states.
In Sri Lanka, for example there is so little space for civil society to express dissent, and moving to a regional mechanism does not seem practical for Sri Lankan human rights movements. The only international organisation allowed in Sri Lanka is the ICRC because they remain neutral. If anyone does speak out in Sri Lanka they are targeted by the government.

It seems to me that ASEAN was successful in establishing a regional mechanism because there was a lot of trust between the countries through trade, and people-to-people contact. In South Asia, the issue is as basic as getting a visa: when we hold a regional round table in Delhi, it is very hard to get our friends from Pakistan to attend. There is Ministry of Home Affairs declaration that requires guests from Sri Lanka, Bangladesh or Pakistan to get clearance in advance to be able to enter the country. There is no guarantee one will get a visa. With this basic issue, we have to unpack how to try to cultivate the space for people to talk about a regional mechanism. I think this workshop is a start but it will be a very long process. I’d like to know how ASEAN included a country like Burma, in order to learn how we can incorporate Sri Lanka.

**Rita Manchanda:** India along with other countries blocked the attempt to set up an independent panel of inquiry into human rights violations in Sri Lanka. India’s role in this region is dubious and it will protect the right of other countries like Sri Lanka to reject outside interference, international or regional. So the idea that India may take the lead in this regional movement is somewhat misleading. India does have the critical role to play. Even though at the moment that role is obstructionist, it does not mean that civil society groups should not push for a regional mechanism to deal with new issues coming up, such as attacks on human rights defenders. In India, there is less room for civil liberties groups to advocate rights to land and water issues. She reiterated Mr. Patil’s concern about holding talks on rights, and adds that other countries may introduce reciprocal restrictions.

**Matthews Philip, SICHREM, India:** India is going to be the major hurdle in this process. For example, although India has signed the Rome Statute, but it is also the biggest campaigner against it. Democracy should be the basic guarantee for human rights but it alone cannot guarantee human rights. Constitutionally India is supposed to be a democratic socialist country. But the socialism is completely forgotten. India is also a country which has no respect for human rights.

**Sobhakar Budhathoki, Nepal:** All the countries claim to be democratic, constitutionally and legally, but in human rights practice, it’s completely different. In that context, there is a common thread throughout South Asia. We must consider the political, social and cultural dynamics of the region. We represent civil society; no one is here from the government sector. I’m sure all the governments will be opposing the idea of establishing a regional mechanism. We must consider the arguments of the governments against the mechanism as we move forward so we have a foundation when the time comes for the government level discussions.

**Poenky, IMPARSIAL, Indonesia:** Even though ASEAN has a mechanism, we have to continually push the governments to respect and protect human rights. The first question that should be asked is if there is any government initiative towards a regional mechanism. If so, the process will be
much smoother. The issue of migrant workers and asylum seekers is a large issue across the Asia-Pacific region that should be considered by any regional movement. Industrialization in Indonesia is also the source of human rights abuses. The problem of HR there is based on the concept of ECOSOC rights and we should consider this in the South Asian context.

**Raj Kumar:** While it is good to talk about a sub-regional mechanism, I would like to examine the ground situation of how NGO interlinkages have developed so far on issues that concern all of us. As we think of an inter-governmental mechanism, we should also have to think of a non-governmental human rights mechanism on how we can interrelate with each other. NGOs share certain common values, principles and the daily suffering of the victims also. Some of us here are victims. I think that this is a foundational element for us. That will help in building a prototype for an inter-governmental mechanism. There already have been attempts but the question is people acting together. The issue of Bhutan is a common issue that affects the whole region.

There are some instruments within SAARC, but they are not perfect, just as there are international instruments that do not always work. As more and more governments are being scrutinized by UN mechanisms in Asia, the absence of a regional mechanism makes the space for civil society narrower for change and protective mechanisms. For example, the country which is being scrutinized comes to a resolution, and then it waves it around saying the UN has given us clearance to continue doing what it does. Despite more scrutiny is being done at the UN, we are seeing less implementation in our countries.

There has to be linkage between non-governmental and intergovernmental mechanisms. We have developed our own mechanisms such as People's SAARC and people's tribunals. But these efforts have not gone far enough.

**Mr. Sushil Pyakurel:** Based on his experience with movements in the past, it is important for civil society in each country to focus on how they can influence their own governments, political parties, and the overall political debates in their country. This is especially important for India because it's support is necessary for any mechanism to work in South Asia. Indian civil society needs to be mobilized. It is important to support and engage with them not just with the Indian regime.

**Dr. R S Tiwari, Migrant Forum Asia, New Delhi:** Will the envisioned regional mechanism be a consultative body interacting at inter-government level? Will it have properly structured organization? Will it be under some charter or international law? And will the mechanism have any teeth? What kinds of actions will be taken against human rights violations and violators? These elements need to be addressed and considered.

**Dr. Kapil Shrestha:** One issue continues to linger is the South Asian mindset of hypocrisy and double standards. The South East Asians are rather frank, but need to admit their own mistakes and shortcomings. Their inability to do so has prevented South Asians from reaching compliance to human rights commitments.
India is a bad role model for all of us because its views on human rights, when compared to its actions, reminds us of American exceptionalism. Like America, India has taken a lead in protecting human rights violations by states such as Sri Lanka. India, as the main actor in the sub-region, is leading the way with hypocrisy, protecting human rights violations of states like Sri Lanka by not speaking out and condemning violations by such states.

Human Rights Defenders in South Asia need to reevaluate our entire approach and strategy because the SAARC has lost all its credibility.

Hasseeb Khan, Bangladesh: Something is better than nothing. We need a mechanism to address our national and sub-regional human rights issues. The challenges here in the name of democracy facing state hegemony are that organizations working in the field cannot go beyond party politics or state politics. For example, despite grave abuses of women’s rights in (Bangladesh?) no women's rights organizations have raised their voice. This is the irony and tragedy of the rights based organizations.

Within ourselves we are practicing human rights politics even at the field level. In the name of diplomacy we are practicing hypocrisy and bad politics. On this basis, we cannot build a mechanism that will be effective in improving the situation of human rights in South Asia. This type of discussion needs to happen between civil society groups to establish common ground upon which to build a mechanism. Otherwise, the mechanism will remain detached from the people.

Subodh Pyakurel: Working towards establishing regional mechanism in South Asia will be a difficult journey but that is no reason not to pursue it with vigor and optimism. There is the need to amend the SAARC Charter to include space for the protection and promotion of human rights. Even though the movement to get a mechanism administered through SAARC was successful, the body lacks teeth. The struggle continues but progress has been made.

Faizul: Radicalism is wide-spread in South Asia and around the world. We should criticize radicalism but we also need to understand why it has spread and we need to consider its perspective. Radicalism has grown due to globalization, capitalism, and subsequent deprivation.

Dinesh Tripathi: South Asia is a vast and complex region that retains significant commonalities. South Asia should not be left behind in the human rights discourse. The Americas, Africa, Europe and South East Asia have all developed mechanisms to address human rights issues within their region.

In South Asia where there is a deficit of democracy and a culture of mistrust, how do you create stronger democracies and a culture of trust? Human rights have a universal notion and have become a globalised issue. So, globalization in this sense is not just an economic term. A regional alliance can be forged to push for the creation of a regional body that can address the need to connect in South Asia by enforcing a universal concept within the South Asian context to strengthen the culture that respects human rights.
C. SESSION 1: EXAMINING THE ROLE OF NATIONAL HUMAN RIGHTS INSTITUTIONS (NHRIs) AS A MECHANISM FOR THE PROTECTION AND PROMOTION OF HUMAN RIGHTS IN SOUTH ASIA

[Moderator: Prof. Kapil Shrestha, Ex-Commissioner of the NHRC Nepal and Human Rights]

Prospects and challenges of NHRIs in the context an advocacy for a regional human rights mechanism in South Asia

By Sushil Pyakurel

South Asia is a region of plurality in terms of culture, language, economic development, climate and environment. The abolition of dictatorial and military regimes in South Asia opened a way to establish a democratic system in most of the countries in the region. The other side of the story is that this is the region of where millions of people are forced to live under absolute poverty. Exclusion, exploitation and social injustice are rampant in each country. Impunity and lack of accountability, as well as extra-judicial killing, torture, disappearance and other forms of human rights violations, including from armed insurgencies, have become very common phenomena in most of the countries of South Asia. Human rights violations are part of an inherited legacy. South Asian criminal and penal laws and their accompanying institutions and institutional practices derive from archaic and punitive colonial legislation and are still largely an institutional practice.

A pro-active role of the NHRIs has been lacking in spite of the poor human rights record in the region. This, however, has necessitated the creation of a solidarity network of human rights across borders. A regional analysis shows a high level of commonality in patterns of human rights violations: discrimination is endemic, institutionalized and in many cases legalized. In the absence of a common forum or mechanism for protection and promotion, human rights violations have become integral to counter-insurgency operations conducted by the military. Though some countries in the South Asian Association for Regional Cooperation (SAARC) such as India, Nepal, Sri Lanka and Bangladesh and Afghanistan have relatively autonomous official statutory institutions, human rights violations are routinely perpetrated in police detention, including the routine use of torture across the region. Security laws tend to be poorly framed, routinely abused and used as blanket to cover and silence legitimate dissent rather than to tackle security.

This paper will discuss the salient features of the human rights situation of the South Asian region, and prospects and challenges of the national human rights institutions (NHRIs) in the context an advocacy for a regional human rights mechanism in South Asia.

NHRIs in South Asia

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3 The text of this presentation is from the edited version which appeared in the Asian Human Rights Defender Newsletter, Vol. 6, No. 1 (January to June 2010).
Taking into account the sluggish operations, lack of autonomy and state-controlled/manipulated function of the national human rights institutions in South Asia, it could be said that NHRIs are not in any position to challenge the increasing culture of impunity in the region. A quick scan of the human rights situation and role of the NHRIs of the SAARC countries are briefly discussed as follows:

**India**

India, as “the largest democracy in South Asia”, considerably lacks a high ranking in its human rights record, despite the fact that India was the first nation to establish a National Human Right Commission among the South Asian countries. The Commission came into existence in October 1993, by virtue of the Protection of Human Rights Act 1993. Among the 28 Indian states, 14 had set up their own human rights commissions to deal with violations within their jurisdiction. However, the growing Naxalist insurgency has intensified killing, displacement, violence against minorities and security actions by the government. Rampant impunity is one of the growing of the human rights challenges.

**Afghanistan**

The American and allied troops have been in Afghanistan to fight against so-called “terrorists”. In a span of half a decade, millions of civilians have been displaced, tens of thousands of people have been killed, and civil war has erupted. The deteriorating security situation severely hampers the enjoyment of human rights throughout the country, particularly by vulnerable people such as women, children, persons with disabilities and internally displaced persons. In this crucial context, the Government established the Afghanistan Independent Human Rights Commission (AIHRC) in 2002.

**Pakistan**

Although the people of Pakistan replaced the military government in 2007, the human rights situation has yet to progress as promised by the government. The death penalty remains widely used. In the interior regions, the imposition of war against its own citizens in the name of fighting against the Taliban have resulted in the forced displacement of thousands.

**Nepal**

The campaign for the establishment of a national human right institution was initiated even before the CPN (Maoist) armed insurgency in Nepal. However, the necessity of a human rights mechanism was felt more rigorously with the escalation of armed conflict and the massive violations of human rights. In May 2000, the National Human Rights Commission (NHRC) was formed four years after the promulgation of the National Human Right Commission Act in 1997. Notwithstanding the establishment of the NHRC as constitutional body, the achievement of the republican system and the Constituent Assembly, there has not been any success in guaranteeing a human rights friendly state; impunity has been growing even more rampant and none of the past cases of human rights violations has been investigated properly.
Bhutan

More than 100,000 Bhutanese refugees in Nepal have been unable to enjoy their right to return to their homeland. They are instead forced to choose a third country for resettlement. This and the lack of a democratic system are some of the human rights issues in Bhutan. That even human rights defenders or jurists dare not to travel abroad to share on their country’s situation also reflects the Bhutan’s human rights situation.

Sri Lanka

In Sri Lanka, civil war between Liberation Tigers of Tamil Eelam (LTTE) and the government prevailed for two decades leading towards repression and rampant enforced disappearances. In between, the Sri Lankan government initiated to form a national human rights institution in 1996 to address the human rights concerns of its citizens. However, the democratic processes are increasingly restricted in the name of security, resulting in human rights and the rule of law being increasingly undermined.

Bangladesh

Bangladesh is in continuous political instability with an increasing number of human rights violation cases including extra-judicial killing, torture and several other forms of violations. The climate of impunity remains a serious obstacle to end human right abuse and killings. In March 2007, the government formed the Human Rights Commission that has yet to show active protection of human rights Bangladeshi citizens.

In this context, while examining the role of NHRIs as a mechanism for the protection and promotion of human rights in the South Asia, it could be argued that they have done very little to resist rampant violations. Showing a long legacy of loyalty to their political patrons, members of the commissions often turn their eyes away from serious cases. Even in the transitional context when tensions are high, the NHRIs in the SAARC region tend to take a back seat in comparison to initiatives of civil society.

Prospects and Challenges

Regional human rights systems, consisting of regional instruments and mechanisms, play an important role in the promotion and protection of human rights. Regional human rights instruments (e.g. treaties, conventions, and declarations) help to particularize international human rights norms and standards to reflect the particular human rights concerns of the region. Regional human rights mechanisms (e.g. commissions, special rapporteurs, and courts) then help to implement these instruments on real issues and cases.

There is no formal linkage among the NHRIs of South Asia except for the annual meeting of the Asia Pacific Forum of National Human Rights Institutions (APF). While solutions to these human rights issues in South Asian countries are based on the national level, regional mechanisms on NHRIs could serve as a powerful tool to address human rights violations in each country. There is a need to develop a sub-regional mechanism in South Asia that can link national human rights institutions.
The value of such a regional machinery lies in its capacity to contextualize international standards and to enhance their cross-cultural appeal and applicability. A regional machinery can fill the gaps in open-ended international norms, and address particular shared concerns on human rights issues in the region. It provides an additional avenue for NHRIs to play a catalytic role in shaping a rights framework at the national level. It could create a sense of solidarity among national institutions to collectively deal with culture of impunity and other urgent human rights problems in a more strategic way.

There are some unprecedented proactive actions taken by the national human rights institutions across the region. For example, in August 2003, the National Human Rights Commission (NHRC) of Nepal led an unprecedented investigation into an alleged massacre in a place known as Doramba and made public its findings that the then Royal Nepal Army (RNA, now ‘Nepal Army’) was responsible for the extrajudicial killing of 19 suspected Maoists. This report on the Doramba Case is one example of how an NHRI can play an important role in investigation of grave violation of human rights. It further showed that the will power of an institution’s leadership plays a significant role in protecting human rights. The NHRC faced RNA officials’ ridicule, threats of dismissal, and denials in the months following the release of the report, as well as alleged threats and attempts to undermine further investigation. It demonstrates the limits imposed on courageous commissioners by an overarching system of impunity, reflected in the resistance of the armed forces to inquiry, the lack of sufficient structural support (including funding) to the NHRC itself, competing mandates of other bodies that lack independence, restrictions on looking into matters of military jurisdiction, and lack of impartiality of some commissioners.

Conclusion

It is essential for NHRIs to develop a common strategy to keep in check state-sponsored human rights violations as well as abuses committed by the non-state actors. The proactive actions undertaken by the Nepali NHRC to hold non-state actors accountable under the Geneva Conventions could be a lesson for the other national institutions across the region. Thus, discussion to identify possible structure and mechanism to collectively deal with the issues of impunity could be a step forward. However, their independence, impartiality to investigate, capacity to make recommendations to concerned authorities and guarantee to make perpetrators accountable should be a pre-condition to develop any regional mechanism. Autonomy should be the heart of all national human rights institutions. And they should, as argued by a Bangladeshi scholar Dr Abdullah Al Faruque, be free from four ‘Cs’ - collusion, corruption, clientism and caprice’.

All SAARC members without human rights commissions must work to create one.

A strong and sincere political will is essential to develop a sub-regional human mechanism that can increase institutional accountability, enhance legitimacy, and increase public ownership and acceptability at large. However, it would be worthless to create any parallel structure or one which overlaps with ongoing efforts. There is an urgent need to find the ways to create common regional institution or mechanism to monitor adherence and implementation of various human rights conventions, charters and treaties signed by the member countries; and a collective effort to bring NHRIs together in order to provide redress to the victims of human rights abuses and impose
sanctions on the perpetrators, whether state or non-state actors. All SAARC members that must ensure that their NHRIs comply with the minimum standards set out by the Paris Principles in order to responsibly and effectively carry out their duties so that they can play double roles as regional actor and as a national actors.

E. SAARC Nations Accountable to Human Rights: Challenges and Action Plan

By Mr. Saji Thomas, People’s Watch India

Mr. Thomas began by saying that the national human rights institutions (NHRIs) in India—including the National Human Rights Commission, state commissions and the minority commission—have not been able to satisfy the expectations of the human rights defenders. He also pointed out lapses in the statute of Human Rights Protection Act of India 1993. He also told that NHRIs have not been able to function effectively within the framework of the Paris Principles. The Government might have established NHRIs for show at international forums, but have in reality made them dysfunctional. He also told that India, despite its claims as being the largest democracy, has not yet ratified the optional protocol of the ICCPR.

Credibility of NHRIs
He said that while NHRIs must address the aspirations of the people, the decisions of the NHRC is limited to giving monetary compensation. This is frustrating for both victims and human rights defenders awaiting justice. He also remarked that there seems to be a hegemony of the members of the judiciary to be appointed as commissioners in the NHRC. He said that independence should be maintained by the NHRIs for their own legitimacy and credibility.

NHRIs and Economic, Social and Cultural Rights

NHRIs have not been able to work on economic, social and cultural rights, and a regional mechanism could complement the existing NHRIs to work together on this issue of common concern. In India, there are over 140 national human rights institutions, of which the NHRC of India is only one. There are also national commissions on women, minorities, protection of child rights, scheduled castes and tribes, which have institutions at the state level. The existence of so many institutions may create the illusory perception that human rights are well protected and well respected in India.

Paris Principles and NHRIs

International treaties are not enforceable in the courts of India, creating a significant limitation for the protection of human rights by the Commissions in India. Under the Paris Principles, the national institutions should be responsible to monitor the human rights situation of the country and report them to the government. However, the NHRIs are not effective on the basis of these criteria.
Therefore, question must be asked why the commissions are still there. It seems to be a strategy of the Indian state to create the body and then make it dysfunctional and ineffective, which limits any real change in the human rights situation of the country. At the international level there are few options for HRDs because even though India has signed most of the International treaties and covenants they have not ratified any of the optional protocols. This means a person in India cannot elevate their complaints to international mechanisms as India is not bound to them.

**Remedy of Human Rights Violations**

Filing a complaint with the commission is easy and accessible to the public. However, tracking the complaint is very difficult. Thus, an appearance of respect for HR is there but in practice, justice is stalled by the government. Again, the commissions’ main mandate is to make settlement of compensation where the state pays the victim. However, violators face little reprimand.

The composition of the commission is also questionable. Currently there are no women commissions on the NHRC of India. Members are usually drawn from the judiciary. And since members have only recently been appointed, for the next five years there cannot be any women in the NHRC of India.

**Independence of the NHRI**

The independence of the Commission is questionable as it has very little credibility. It has failed to develop jurisprudence to respond to gross violations by multi-national corporations (MNCs) in economic and social rights (even though it responds well to violations by the state or state actors such as police). Recently, incidents of violations from MNCs are increasing in India as corporations continue to flood into India for natural resources. Even though NHRIs aren’t too effective, a regional mechanism is still relevant because it can comment on how effectively NHRIs are performing in the South Asian countries.

**Open Forum**

Prof. Kapil Shrestha (session moderator) said that there are mixed experiences with NHRIs. Public response determines the legitimacy of these institutions. He also reflected on his experience that the deficit of democracy and human rights reflect in the shaping of the institution. He also said that leadership is equally important in addition to the minimum criteria setup by the Paris Principles.

Rafendi Djamin, AICHR, stressed that the issues related to NHRIs are important. In relation to regional mechanism, he asked whether there is a need for a common strategy and approach of NHRIs. He also shared his experience with ASEAN that many countries, like Singapore, do not want to have NHRIs.
He raised these questions: (1) What are the assets available in the region? (2) How to address the situation where there is nominal democracy but no human rights in SAARC countries? (3) In relation to the regional mechanism do we need to have a strategy to push each state to have an NHRI? He said it is not necessary to devote energy and resources to this because not every country wants to have one, but does not mean they do not respect human rights or will not accept a regional mechanism. In SEA, there are more countries without a NHRI but they still accepted the AICHR through ASEAN.

By “assets” he said that this refers to the potential of each member state and its level of democracy in order to facilitate a regional commitment that human rights should be the basis of regional cooperation. The SAARC Charter does not mention human rights at all. However, the assets in South Asia are strong. Democracy has deep and strong roots in countries like Sri Lanka and India. Energy should be focused on convincing these countries to cooperate.

**Rita Manchand, SAFHR, India:** I would like to ask for Rafendi to elaborate on the dichotomy between a country lacking a NHRI but also accepting a regional mechanism. Also, the issue of water can be a strong driving force for the people of South Asia to push for a regional mechanism.

**Adilur Rahman Khan, Odhikar, Bangladesh:** The performance of the NHRCs can never be independent from the societies. In this regard we may need to ask if civil society in South Asia is becoming more right wing. I am asking because we no longer see any counter-terrorism human rights movement for abolishing national security laws. There is also no regional anti-nuclear campaign, and there is also no strong organized and coordinated movement against globalization. Some rights like water and energy are not addressed regionally, so is the right to self-determination. I think we are becoming more donor dependent, specifically World Bank and IMF and thus more right wing. In Bangladesh during the state of emergency, the NHRI and civil society actors supported the military-backed regime. This happens across South Asia where civil society is becoming more “NGO-oriented” instead of being people-oriented.

**Matthews, SICHREM, India,** posed question on whether national mechanisms provide remedy or are only for naming and shaming. He also said that India being “largest democracy” has not accomplished any significant achievement in the human rights field. He said that India is reluctant to ratify the Rome Statute, and instead provides blind support to globalization and neo-liberal economics. He also added that while India has signed a number of international treaties, it is also resisting ratification of the torture convention. NHRCs are important perhaps since the common man has more aspirations with the national mechanisms. Of course in Asia we don’t have any other mechanisms, so a regional or international mechanism seems useless for many. But we don’t want to be too ambitious to think that a regional mechanism will give us everything. A NHRI with teeth can give the people more. But a regional mechanism which is independent and has the courage to name and shame that would also do well to contribute to improving human rights.

**Raj Kumar:** Geographical difficulty and vast diversity in South Asia is unique situation in Asia, unlike Europe and other parts of the world. He also pointed out the fact that NGO lobby is not able to bring success in the issue of Bhutanese refugees in Nepal. He also pointed out that the Non-Governmental human rights mechanism needs to go systematically and energetically.
International instruments have mixed results. There should be shared common value among human rights NGOs. There is very big gap between the norm and actual realization. There so many common issues related with conflict victims, democracy deficits and so inter-linking things in the region, while the space is becoming narrow. This is the a big challenge for the human rights defenders. The facilitation of the FORUM-ASIA to have this meeting is one of the good initiatives.

Has there been any attempt among South Asian NHRIs to have theoretical interactions about having a common approach among NHRIs? Are there any concrete experiences you can relate on that?

The question of remedial justice and transitional justice is very weak in South Asia. Giving financial compensation to the victims is not enough because the perpetrators are not punished. How will we address these issues in our pursuit of a regional mechanism? How can we develop in terms of having a regional common court?

**Tapan Bose:** The human rights we are talking about are essentially law, and law is an instrument of the state. NHRC is an institution created by the state which looks at human rights within the framework of the given law. By law, the commission is not a court. It can only investigate, report and make recommendations. Therefore, if we want NHRIs we should understand what we will get.

In the past I have opposed NHRIs because they remove focus from the court which is the last and primary defender of our rights. The rights are protected by people, through negotiations between the people and the state. We are moving so far away from the ground reality of where human rights actually needs to be defended that we are losing sight of the fact that, the more we move into national, regional and international mechanisms, we are actually handing over the power to the states because these are governmental institutions not peoples’ institutions.

The given reality we have to deal with is how strong the concept of the sovereignty of the state stands over peoples’ movements. Let us be grounded in this reality of the states, constitutions and law. We must develop a strategy at the national and regional level. Unfortunately, right now we do not have a strong and effective solidarity among human rights defenders across the borders. This is the most crying need. To date, we have not gotten far with this partially because groups are so focused on their national issues. This is not the problem, but solutions to those same issues can be found through cross-border solidarity with like-minded movements.

**Shobhakar Budhathoki, Nepal:** I agree with Tapan that we need to be realistic in what we want from both national and regional mechanisms. Do we want effective and functional NHRIs? We have to realize that NHRI do not run itself but by individuals who should adhere to the Paris Principles and function autonomously.

Recommendations can be delivered but will not be legally binding even if they might be morally binding. NHRI will be more effective for issuing binding recommendations which will create more space for civil society people and ordinary people for their protection. NHRI cannot function without an active civil society as said by Sushil.
Netra Timilsina, President, NGO Federation of Nepal: The issue on how democratic the NHRI is and how it is formed. Another is how the actors (commissioners) are selected since priorities, perspectives change depending on the actors. How do you see the relationship between NHRI in India and its civil society groups?

Subodh Pyakurel: An NHRI is also established as a pro-active measure. They are not established as a parallel to legal institutions but rather to help the legal process by supporting evidence. Through establishment of a powerful national, regional or international mechanism, HRDs get an institution from where they can derive strength and opportunity to establish their findings which will support the formal judicial process of human rights violations.

Kristina from Finland: I agree with Refendi’s idea that each country need not have an NHRI to convince that country to adopt a regional mechanism. Finland does not have one yet. I would like to recommend that regional system should have as strong protective binding powers as possible. If you have these protective powers then there is usually have a complaint system at the regional or international level and before you go there you need to exhaust national remedies. If the NHRIs are considered part of the national remedies, then it will affect the victim’s access to justice because it is an additional remedy to exhaust and may prolong the victim’s access to justice.

Yap Swee Seng, FORUM-ASIA: What we have discussed so far is focused on the protection mandates of the NHRCs. But we need to have a more balanced look and should not forget the promotion mandates of NHRIs as well. In the case of Malaysia for example, human rights is a dirty word seen as a tool of the Western world. However, due to pressure of civil society and the international community, the government set up an NHRI. Regardless of its flaws, it is an official platform for civil society to carry out its human rights advocacy using the discourse of human rights. Promotional mandates including the training of the police and military which is crucial in the long term for respecting and protecting human rights in the country.

The NHRI in the Malaysian context has several powers but also very useful to civil society. For example, NGOs do not have access to prisons but the NHRI has access. And they do visit detention centers, which provide a lot of information to civil society with respect to the overall administration of justice, and especially useful in the context of Malaysia’s Internal Security Act. Also public enquiries have been carried out by the NHRI and they produce significant reports, research and make recommendations to amend the internal security act. Although civil society was not satisfied with the recommendations the research backing it up was solid and very useful to help NGOs justify their work. It is important to look not just at how the NHRIs function, but also how civil society proactively and creatively uses the NHRI for its cause, for the movement.

If we look at other institutions in each country like the judiciary or the police, they are just as, if not more, ineffective and useless than the NHRIs. But do you give up on the court processes or the police forces? No, you keep pushing them to work better. So our attitude towards NHRIs should be no different. Police and the military work from a security perspective and NHRIs work to monitor actions by these institutions from a different perspective, a human rights perspective.
Govinda Bandi, Nepal: This is the time to review the mandate of the NHRIs. When the idea to form them was developed, the reason was that the courts didn’t have the power to investigate the cases. Thus an institution was needed to be created to investigate and adjudicate cases and then make recommendations that the government would be expected to follow.

We must focus on 2 key areas: (1) How can the work of NHRIs compliment the criminal justice system? A link needs to be established between them. (2) In South Asia we have a culture to form a commission of inquiry and silence the people. This type of investigating mechanism needs to be scrutinized and its operations revised. It needs to facilitate the process of the justice system not impede it.

Zaman Khan, HRCP Pakistan: I would like to make clarification on Govinda’s point. In older judicial systems, there were also similar processes of inquiry to deal with issues of EJE and mass killings as well as other instances.

Final responses by the speakers:

Saji Thomas, People’s Watch, India: My point is not to dismantle the NHRIs but to improve their efficacy. I agree with Yap regarding the utility of and need for the NIs. NHRIs are a link between civil society and the government. I agree with many of the apprehensions raised regarding the lack of a regional movement. However, a regional mechanism will also provide a regional space for HRDs. Secondly; it can provide regional standards that can be better than national standards and where national standards can be evaluated as well. Lastly, it will provide a space and forum where national institutions can challenge each other. However, a regional institution does not replace a national institution.

Some of the NIs in India are headed by or have significant representation from members of civil society. There is some space there. However, I fear there is a shrinking of such space for civil society. The tendency of NHRIs to compensate victims financially is inadequate and with a mandate to intervene in cases they could be doing much more to protect victims and to help provide access to justice.

Sushil Pyakurel: NHRI will not answer all the questions; they are not a last resort. I’m not saying that nothing should be done to get a regional mechanism until there is NIs in all South Asia countries. I’m saying that we should support civil society in Bhutan and Pakistan to push for an NHRI, and support those in the other countries to strengthen their NHRIs.

Something we should address is NHRI mechanisms not only compensate the victim but punish the perpetrator in some way, perhaps by having the perpetrator pay a percentage of the compensation from their own pocket.

Any mechanism, national or regional, that does not consider the political context of the country and function in a way that reflects its society will not work. The composition of Commission members needs to be addressed because one of our main challenges is figuring out how to get credible people on the Commissions.
I would like to share my experience with the role of India during Royal takeover on 2005. He said that he had mixed impressions about the role of different stakeholders of India in relation to the army mobilization, Maoist atrocities and lobby for the international monitoring in Nepal. He also said that the division within the civil society actors is one of the obstacles in forging consensus for regional agenda in South Asia.

D. SESSION 2: REVIEW OF HUMAN RIGHTS AGENDA IN SAARC AND PEOPLE’S INITIATIVES

[Moderator: Dr. DNS Dhakal, Bhutan National Democratic Forum]

SAARC’s responses to address human rights violations in the region

By Dr. Lenin Raghuvanshi, PVCHR India

Dr. Lenin Raghuvanshi began by comparing the example of the European Union in which the need of the people played dominant role, which is unlike South Asia where the will of the ruler has dominated the entire discourse. He also said the Right to Information Act of India has brought number of good results. He classified the level of people as the “creamy layer” and the “grass root level”. He also stressed that without elevating the grass root movements there will not be visible change in the society.

If South Asians want to make any reasonable mechanism similar to the EU, people must gather to discuss their needs and aspirations. Article 2 of the SAARC Social Charter, provides as its objectives to “Promote universal respect for and observance and protection of human rights and fundamental freedoms for all, in particular the right to development.” This provides some ground upon which to build advocacy for a regional human rights mechanism.

He observed that since six SAARC countries have NHRIs, and that all of them have ratified at least some international treaties. This demonstrates that human rights are already part of the obligations of the state as well the official national discourse. These matters need to be addressed by our advocacy.

The major concerns are democracy, discrimination, food sovereignty, and child rights. If you want to establish rule of law it is very important to work for a system that ensures peoples’ right to self-rule and control over resources. Without that there is no sustained human rights protection through any mechanism.

We advocate full independence of the judiciary and adherence to internationally recognized principles. Law-making must be participatory, representative and fully transparent. People must have the sovereign rights to take decisions on matters concerning their lives, and urge periodic
review of all international commitments and national laws to enable people to exercise sovereignty. Improvements in governance need to begin and end with the people.

Refugees must be considered as sovereign people with sovereign identities and need to be protected and provided basic services. Trafficking remains a large concern across the region.

So much discussion in South Asia is based on so-called terrorist activities. But this discussion needs a human rights voice to speak on a torture-free, hunger-free, malnutrition-free, organized-violence-free South Asia. HRDs can guide the grass roots to ask the government to address these issues that will be a true movement.

Vision of South Asia should be as follows:

“We the people of South Asia, desiring that SAARC embody the aspirations of the people, over the need for greater efforts for promoting the sovereignty of the People, and violence free South Asia through democratic values and structures. We envision a SAARC that encompasses all people living in South Asia and promote greater understanding and equal respect of all people to eliminate discriminations based on gender, creed, caste, ethnicity and colour.”

Past Initiatives of People’s Movements and Civil Society to Make SAARC Promote and Protect Human Rights

By Mr. Tapan Bose, South Asia Forum for Human Rights

Despite the fact that the SAARC Social Charter makes commitments to child rights, family rights, right to food, right to education, etc, the ground reality is the states do not respect any of these rights. This is the dichotomy we are facing.

All of the states in South Asia are guilty of violating human rights. Almost all the states have internal security laws which empower the executive to hold people in custody for years. The AFSPA for example gives soldiers the right to kill with impunity. When the state invokes the issue of national security, even the highest courts do not want to intervene which allows various draconian powers of the states to remain in force. This is one of the largest obstacles for the people to overcome.

The second problem we are facing is the growing militancy of the states, especially since May 2009 with the military defeat of the LTTE in Sri Lanka. All the other states in South Asia are trying to learn of the success of the oppressive state in Sri Lanka. People in Sri Lanka are frightened of the peace that the Sri Lanka president has brought because it is a peace by which he is silencing everyone else. The challenger in the last election is in custody and none of us should be surprised if he is executed. This gives us an idea of how all other states may begin to function in South Asia.

Many of the states are becoming incorporated in the American state’s agenda on the war against terror. Can South Asia afford to adopt this agenda which identifies the Muslim people as the enemy
of civilization? South Asia has the largest Muslim population in the world so to follow such an agenda is problematic and frightening.

NGOs are becoming more right wing because they are beholden to institutions like the World Bank and IMF and being integrated into a system where anyone attempting to develop self-sufficiency is not acceptable and considered backwards. Such influence undercuts the right to food security among other basic rights. It is an unfair system because in the WTO for example the French and the Americans get away in with subsidizing their farmers to compete on a world market with farmers in South Asia who are not allowed to be subsidized. The South Asia governments have accepted this.

We can fight and at the end of the day we will succeed because there is no other option. We have to find against this kind of elite. This is where the solidarity of human rights defenders within the national boundaries and across them is important.

National and intergovernmental mechanisms are there and we understand their limitations. We could not get anywhere with the Human Rights Council with trying to get recognition of Sri Lanka’s massive violation of human rights or our counter report for the UPR on India. The states gang up and block real change. However, the real struggle is where we are and it is here we need to strengthen our movements.

Increasingly, HR is being attacked in South Asia states. A two-pronged approach of HRDs becomes critical in this context. We must continue work at the national level and work to build solidarity at the level of civil society both within and between nations. From this, we need to push the state to accept that a platform must be created and respected where human rights issues can be discussed and their protection enforced.

South Asian People’s Assembly (People’s SAARC) and Human Rights

By Dr. Netra Timilsina, NGO Federation of Nepal & People’s SAARC

Emergence and development of the concept of people’s SAARC

The people of South Asia share a contiguous geographical space, social and cultural history that shapes the people’s lifestyle, belief system, cultural specialties, material practices and social relationship in the region. Therefore, the belief system and cultural practices share the commonalities and have been influenced by each other. It is unfortunate that the rulers within the respective countries of this region have kept the people apart through the creation of wall of suspicion, hostility, intolerance, dis- and misinformation and the prevention of interaction amongst the people in order to maintain control over their societies. This has resulted in fraudulent legitimization of the system of operation and exploitation. This system also creates ideal conditions for the advancement of paranoia, war hysteria, and militarization, proliferation of nuclear weapons and dominance of the security forces along an ultra-nationalist ideology, which self-righteously curbs the democratic debate and dissent on many vital issues. The South Asian Association for
Regional Cooperation (SAARC) was established with the main objectives to promote the welfare of people of South Asia, to improve their quality of life, to accelerate economic growth, social progress and cultural development in the region and to provide all the individuals the opportunity to live in dignity and to realize their full potentials. Consequently, it was expected to overcome the traditional geographical hostilities, rivalries, and conflicts as well as to create a culture of friendship, mutual trust, mutual understanding, confidence and economic cooperation between the countries of this region.

The people welcomed the formation of SAARC across the region as it aroused the hopes and aspiration amongst them for a better South Asia. It was hoped that SAARC would enhance the inter people linkages to build a vibrant socio-political region. A new era of prosperity of qualitatively more humane, egalitarian, secular, democratic, ecologically balanced, socially just and sustainable South Asia was dreamed. However, in the contrary to the expectations, the SAARC failed to fulfill the promised goals of a better South Asia. Instead, economic policies pursued by ruling classes and parties of the region created a condition of exclusion and marginalization, denial of rights, justice and democratic freedom for the majority of the masses in the region. Consequently, South Asia and its people now stand at very testing and critical crossroad in the history of the region. The logic and the trust of its policies and programs have led to the surrender of the sovereignty of the people’s, including their economic, social and cultural rights.

The present crisis calls for a new response. The regionalization of South Asia and its people, buttressed by the Structural Adjustment Policies (SAP) spell doom on the economic front. It represents a threat to democracy and unleashes the demon of communalism, thus increasing disparity and discrimination. It erodes livelihood opportunities, withdraws existing services and facilities, and instead encourages militarization and gender violence, bringing forth social and cultural deprivation. This process further reinforces and reconstitutes the older form of Exploitative and oppressive structures in innovative forms. All this is of course, in the name of progress, modernization and reform.

Thus, the official SAARC being unable to fulfill its promises, the idea of People’s SAARC floated almost a decade ago. South Asian Alliance e for Poverty Eradication (SAAPE) and other like-minded organizations discussed and deliberated in several form on this idea and on the nature, role and objectives of the People’s SAARC.

People’s Solidarity in South Asia must legitimately cherish the vision and perspective of an alternative political, social, economic and cultural system in the region which will do away with all distinctions and discriminations of gender, caste, religion, language and ethnicity; will lead to a situation free from exploitation and oppression, will inaugurate a climate in which each individual will have the opportunity to realize the full development of her or his human potential; will restore the balance and harmony with nature, will liquidate the artificial and inhuman barriers that divide lands, collectivities and minds and transcend all boundaries. Such a South Asia must be the goal of the people of this region and of their solidarity.

As a process, we feel that the people of South Asia should come together to face the challenge of combating marginalization of the vulnerable groups, degradation of environment, communal
division and fragmentation through wider sharing of ideas, experiences and forging solidarity across the borders. The pertinent issues that may constitute are:

- Strengthening democracy, human rights and justice;
- Promoting communal harmony and combating religious and ethnic violence;
- Environment: sustainable development and river water issues;
- Economic issues: resisting neo-liberal policies, possible alternatives;
- Peace: Demilitarization and denuclearization;
- Gender: Common charter of civil rights;

With this rationale, People’s SAARC (also known as South Asian People’s Assembly) was organized in 2007 in Kathmandu and 2008 in Colombo as larger mobilization and convergence of social movements, women and Dalit movements, trade unions, peasant organizations, indigenous people’s organizations and other various groups of socially excluded in the regions.

**South Asian People’s Assembly in 2007 and 2008**

In March 23-25, 2007, more than 20000 people participated in the event in Kathmandu and it had created a wave among thousands across the South Asian countries before arriving in Kathmandu. People from all walk of life: peasant organization, trade unions, women organizations, youth organizations, religious groups, student, forest and water users, dalit organizations, people affected by HIV/AIDS, affected by Sunami, parliamentarian among other participated in the event.


The South Asian Peoples Assembly took place in Colombo, Sri Lanka, from 18 - 20 July, 2008, as a part of the process of People’s SAARC, to forge a vision for a People's Union of South Asia. Over 6000 Sri Lankans and 400 delegates from other South Asian countries including India, Pakistan, Bangladesh, Maldives, Nepal, Bhutan and Afghanistan participated.

Twenty-nine workshops were organized by the participating organizations, on the basis of their interest and involvement. Following were the themes of the workshops held: Burma: Caste Discrimination and Social Exclusion in South Asia, Climate Change and ecological Justice, Conflict, Right to Protection and Transitional Justice, Debt Cancellation, Democracy and Governance/ People’s Participation, Ensuring the rights of the Disabled, Towards a Disaster-Free Asia, Food Sovereignty, Agrarian Crisis and Pro-people’s alternatives, Labour Rights, Media and Right to Information, Men, Masculinity and Gender-based violence, Migration and Free Movement of Labour, Migration Internal and External, Nation States and Challenges, National Security Ideology Policies.
People’s SAARC and Human Rights

A 36-point declaration in 2007 and 17-point declaration in 2008 were made during people SAARC and considered as Kathmandu declaration and Colombo declaration respectively. While all points of the declaration fall under the broader framework of human rights (Civil and Political Rights and ESCRs), specific focus were provided as below:

The 2007 Declaration includes:

i) Strengthen and institutionalize democracy, human rights and justice and proportional participation of women at all level of state and civil society institutions

ii) Guarantee women’s rights to be free from all kinds of discrimination and live a life without any form of violence

iii) Guarantee sovereign rights of the people for food

iv) Make firm commitments regarding state obligations to provide health, education and basic needs; considering women’s right to their body, sexuality and reproduction and make special provision for women’s access to health care from women’s perspective;

v) Globalization has resulted in eroding labour rights; we demand SAARC states to ensure enforcement of Core Labour Rights at work places including Special Economic Zones (SEZs) and informal sector of work;

vi) Stop using state force against their own citizens in the name of so called war on terror and stop operating as agents of America by allowing land to be used as military bases;

vii) Declare 2007-2017 as SAARC Dalits rights decade with enactment of concrete Acts, policies programme and action plans;

viii) Ensure rights of the children; include child rights in school curricula and declare children as Zones of Peace;

ix) Respect and recognize the identity of South Asian Indigenous Peoples and ensure their social, political, economic and cultural rights in the constitution;

x) Free the region from all forms of bonded labour system;

xi) Review present SAARC Convention on trafficking in women and children for prostitution and reformulate it from Human Rights perspective by broadening its definition on trafficking which can encompass trafficking for all purposes, and adding provisions which can protect rights of trafficked persons to have access to justice, voluntary return home and fund for appropriate support and care;

xii) We urge our Governments to Protect Rights of Migrants workers and their families by signing UN Convention on Migrant Workers and Rights of their Families 1990;

xiii) Ratify the Convention on the Rights of Persons with Disabilities” (CRPD 2006) by all the countries of SAARC as state party; and

The 2008 people’s SAARC declaration includes:
i) Fisher-people’s right to fish in territorial waters be recognized and legally protected through proper mechanisms. Innocent fishers incarcerated for wandering into neighboring territorial waters are immediately released.

ii) The right to mobility is a human right. Migrants should be assured of dignity and right of work as well as physical protection, basic amenities and adequate wages. The victims of trafficking must be protected, especially women and children. Similarly, the rights of individuals and communities subjected to forced displacement due to conflict, disaster, and development projects should be protected.

iii) Ensuring rights of all workers, especially women and Dalit workers in accordance with the International Labour Organization Convention, United Nations Covenants and National Constitutions.

iv) The setting up of regional institutions and mechanisms such as a South Asian Tribunal of Justice to address human rights violations. Those responsible for war crimes and crimes against humanity must be prosecuted. Protection to be guaranteed for right of dissent, protest and organization. We call for the immediate release of political, social, media activists and prisoners of conscience in the region.

v) Recognizing the universality of visibility, opportunity, equal rights and dignity for all people, including excluded groups and minorities: ethnic, sexual, gender and people with disabilities. Recognize the prevalence of caste based discrimination that denies human dignity, socio, economic, political equality and justice to the 260 million dalits of in the SAARC countries.

vi) Achieving Climate justice by ensuring that the burden of adjustment is borne by the elites. This requires a fundamental departure from the current industrial and economic paradigm in the region. Also, people’s rights to information, knowledge, skills, housing, education, health, food security and their organizations must be fulfilled to strengthen their resilience to hazards.

vii) Recognition of health, education, housing as basic human rights. The scaling up of public infrastructure such as housing, health, education and other civic amenities through democratic sources of development finance should be people centered. We urge equitable quality education to all children through common school system in the region. We oppose the privatization of these services and uphold the principle of basic services for all. We particularly assert the rights of those affected by disasters.

Past Initiatives in South Asia by the Commonwealth Human Rights Initiative (CHRI)

By Mr. Sanjay Patil, CHRI

The Commonwealth Human Rights Initiative is a non-partisan independent international non-governmental organization that has been working for the practical realization of human rights for the people of the Commonwealth for over two decades. Ensuring greater transparency in
governance, and increased opportunities for people’s participation in decision-making is a major focus area of CHRI’s work.

There are four major programme areas: Advocacy, ATI, Police Reforms and Prison Reforms (which is currently an India-only program).

**Advocacy Programme**

Our direct advocacy with SAARC has been minimal because a) the opportunities for intervention are so rare since they rarely have an agenda that includes human rights/good governance issues; b) our own internal capacity issues and c) our desire not to duplicate the regional work of organizations such as SAHR and SAFHR.

Thus, CHRI seeks to pressure SAARC countries to adhere to their obligations at international law by focusing our advocacy at the Commonwealth and the United Nations - the former because that’s our mandate and the latter because it’s where much of the substantive multilateral dialogue is taking place.

In the Commonwealth, every CHOGM we issue a major report on a pertinent issue. In the past, the reports have served as a springboard for the substantive programming work of our organization. 2003 we looked at ATI. 2005 we looked at Police Accountability. 2007 we looked at the impact of anti-terror legislation. 2009 we looked at Human Rights Defenders.

Obviously SAARC countries are profiled front and centre in these reports. For instance, we have a number of case studies from Sri Lanka in the recent HRD report that I have distributed today.

At the UN, we have been actively involved in using the UPR process to highlight human rights related shortcomings in SAARC countries. Our UPR submission for Pakistan (which took place in May 2008) had some points that were included in the compilation (this was a continuation of our intense advocacy surrounding Musharraf’s imposition of Emergency in November 2007).

Our UPR submission for India (which took place in April 2008) also had points picked up in the compilation. CHRI had gone to Geneva as part of the advocacy, one of 30+ groups involved. Prior to our formal submission we had engaged with the Government of India (around November/December 2007) in an attempt to highlight some issues we thought they should address in the Review but they weren’t that responsive.

We didn’t involve ourselves in the UPR submission for Bangladesh because our policy is not to do so where there’s an organized in country group doing similar advocacy. Since ASK, BLAST and others in Bangladesh were very well-organized, it wasn’t necessary for us to insert ourselves into the process.

We were involved in the international CSO campaign against SL’s re-election to the Human Rights Council. This campaign was successful but it has drawn the ire of the Sri Lankan government and has made subsequent advocacy in that country quite difficult.
As part of our advocacy efforts we research and circulate a report entitled, “Easier Said than Done” (2007 & 2008) that looks at the human rights conditions of various countries in the Commonwealth. This inevitably focuses on SAARC countries. We circulate it to the Ministries (both home and foreign) of the countries that we profile.

In our experience, SAARC works very little as a group at the UN level. The mistrust and suspicion in which they treat one another prevents them from being effective and explains why SAARC itself doesn’t work that well as a regional body.

**Access to Information**

Our specific programme areas have consciously sought to be more pointed in their regional interventions. The ATI Team has started directly interacting with SAARC Secretariat in order to get Access to Information on the agenda of the upcoming SAARC meeting in April.

We have written a letter urging the SAARC Secretariat to commit to establishing information disclosure practices by adopting a policy on the right of access to information.

We argued in that letter that as a first step the SAARC Secretariat could undertake a study of disclosure policies of similarly placed organizations so that it may come up with a model for its own use. This model policy may be circulated to all governments, key civil society and media persons advocating for transparency in SAARC nations and their feedback must be obtained. Holding consultations with stakeholders is useful to iron out differences of opinion. At each stage of the consultation the draft of the disclosure policy and inputs received from various stakeholders must be made public through the website of SAARC Secretariat.

What our ATI Team has also done is author for South Asian for Human Rights (SAHR) a report that examines the practices and procedures of parliaments in S. Asia and developed a set of common standards for making the functioning of these bodies more transparent than it is currently. The publication contains specific and practical recommendations for improving people’s access to information about what parliaments do in their name.

In addition to our SAARC-specific efforts, the ATI Team has established SARTIAN (South Asian Right to Information Advocates Network). This is a network designed to foster greater understanding of access to information issues across the region.

**Police Reforms**

Although we haven’t done any advocacy with SAARC, we have approached the issue from a regional perspective given that policing across South Asia is basically the same.

Regional Roundtable in 2007, led to Feudal Forces 2007

Then I joined and began doing field research throughout the region; culminated in the publication of Feudal Forces 2008
We held another Regional Roundtable in October 2009; this served as the genesis of NIPSA (Network for Improved Policing in South Asia)

NIPSA seeks to bring together like-minded individuals and organisations to work together on better policing

CHRI serves as Secretariat; the website that we've created is intended to be a platform for information sharing.

Our intention is to build the capacity of civil society to understand exactly what democratic policing actually means.

To that end, we’re doing more in each of the jurisdictions (i.e. training in the Maldives; working jointly with BLAST; issuing “101 Questions” in a country-specific manner).

**Next Steps**

Ultimately, a plan of action should be formulated by this meeting and when doing so we should consider the following: make the distinction between SAARC and what can be done within SAARC countries. SAARC is a neutered body and there is a great deal of limitations on what we can do through SAARC. The EU is a culmination of 362 years of interaction and despite the fact that civilization has existed in South Asia for much longer than that to focus on that aspect would deny the idiom that comes with nation-state relationships and the manner in which they interact. It is unfair to expect us to get where the EU or even the OAS are because their member states have had independence and have been functioning as nation-states for much longer than countries have been in South Asia.

The CHRI has not done much advocacy with SAARC but we have engaged with SAARC countries in UPR sessions for example, at the UN level.

In terms of Right to Information we have been very successful in India and across the region in getting the issue on the agenda of at least the individual countries. We’ve had success in helping the acts get passed in India and Bangladesh. We have tried to translate this success into how we can work with SAARC by working with other South Asian groups.

Education of human rights is a large issue. There are many groups doing exceptional work at the grass roots level who remain unaware of their rights vis-as-vis the police, the laws in the Indian penal code and the protective mechanisms in the constitution. CHRI has helped create a website to inform people of their rights. We are trying to focus more on people to people contact to increase awareness. We recognize that SAARC as a body may not take on these issues but that shouldn’t stop us from pushing the issues forward.

Try to do as much as possible to not buy into the barriers states impose on us. As for coming up with an action, it is better for the workshop participants to come up with a practical list of what can be done instead of idealistic declarations that will undoubtedly fall on deaf ears.
E. SESSION 3: UNDERSTANDING CIVIL SOCIETY INITIATIVES IN THE ESTABLISHMENT OF REGIONAL HUMAN RIGHTS MECHANISMS: A COMPARATIVE PERSPECTIVE FROM LATIN AMERICA, AFRICA AND SOUTH EAST ASIA

The Evolution of the ASEAN Intergovernmental Commission on Human Rights (AICHR)

By Rafendi Djamin, Indonesia Representative to the AICHR

Human Rights in 42 years ASEAN
- In the establishment of ASEAN in 1967 by 5 original members: Indonesia, Malaysia, Singapore, Thailand, Philippines
- 1968 ASEAN declaration referring to UN Declaration of Human Rights
- 1993 Vienna Declaration of Human Rights and its impact to ASEAN
- Joint Communiqué of AMM in 1993 to establish ASEAN HRM

Human Rights challenges in ASEAN
- Gross and systematic human rights violations - Crimes against humanity; genocide, torture, extra-judicial killings, terrorist and human rights
- Internal armed conflict and Human Rights (Myanmar/Burma, Thailand, Philippines

continued
- ASEAN Kuala Lumpur Declaration 1997 on ASEAN Vision 2020
- Bali Concord II 2003: linkages of national and regional political development
- Vientiane Action Plan 2004
- All ASEAN members are state party of 2 international conventions: CRC and CEDAW
ASEAN Security Community

- Introduction of Human Security
- ASEAN Political development (rule of law, judiciary, Human rights)
- Shaping and sharing Norms (e.g. creation of ASEAN charter)
- Conflict prevention (Confidence building measures and Preventive diplomacy, Defense cooperation, strengthening ARF-asean regional forum, non-traditional threats)
- Conflict resolutions
- Post-conflict and Peace Building

Human Rights provisions on ASEAN charter

- Working into force 15 December 2008, that changed ASEAN as a legal entity
- 4 times Human rights term mentioned in the charter
- Preamble;
  - article 1 on the purpose of the charter: promote and protect human rights and fundamental freedoms of the Peoples of ASEAN
  - article 2 the principle of the charter;
  - Article 14 of the charter

On the purpose of the Charter

- To strengthen democracy, enhance good governance and the rule of law, and to promote and protect human rights and fundamental freedoms, with due regard to the rights and responsibilities of the Member States of ASEAN;

Reference to International Humanitarian Law in the TOR of AICHR

- F) upholding the Charter of the United Nations and international law, including international humanitarian law, subscribed to by ASEAN Member States; and
- g) respect for different cultures, languages and religions of the peoples of ASEAN, while emphasizing their common values in the spirit of unity in diversity.

ASEAN Integration 2015

- Economic
  - Blue Print & Community
- Political Security
  - Blue Print & Community
- Socio-Cultural
  - Blue Print & Community

ASEAN Coordinating Council

In the ASEAN Charter

Preamble:

- ADHERING to the principles of democracy, the rule of law and good governance, respect for and protection of human rights and fundamental freedoms;

Principle of the Charter and TOR

- (h) adherence to the rule of law, good governance, the principles of democracy and constitutional government;
- (j) respect for fundamental freedoms, the protection and promotion of human rights, and the promotion of social justice;
- (j) upholding the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN Member States

Reference to international HR law

- Under article 2 (j) it mentions that ASEAN will “uphold the United Nations Charter and international law, including international humanitarian law, subscribed to by ASEAN member states”
- TOR purpose of AICHR (1.6): uphold international human rights standards as prescribed by UDHR, Vienna Declaration and Program of Action, and international human rights instrument to which ASEAN members States are parties
AICHR – Process
- High Level Panel – 12 members, chaired by Thailand
- Monthly meeting, July 08 – July 09
- 1st draft was submitted to ASEAN FMs during 14th ASEAN Summit, Hua Hin, July 08
- Final draft was adopted during the 42nd AICHR Ministerial Meetings, Phuket, 20 July 2009: HLP to draft political declaration as guidance to the TOR AICHR
- The inauguration of the Commission + the TOR, Political Declaration & Representatives was in 15th ASEAN Summit, Hua Hin, 23 Oct 2009

AICHR – What body is this?
- ASEAN Charter based human rights body
- Inter-governmental as integral part of ASEAN, consultative, lack of protection mandate, lack of independence
- 10 members from 10 member states for 3 years, the chair of AICHR is the chair of ASEAN
- Reps are accountable to appointing government (Art. 5.2), can be replaced anytime (Art. 5.6), shall act impartially according to the ASEAN Charter and TOR, etc.
- Decision making: consultation & consensus
- ASEAN Sec. to provide secretariat & finance support to AICHR, member states can second their staff too
- AICHR is an overarching body (Art 6.6), AICHR is umbrella for the rest two bodies (ACWC+AIACD) (Art 6.9)

TOR AICHR
- Promotion First, Protection Later’ Formula
- Non-inference and pursue non-confrontational approach
- Adopt the evolutionary approach to the development of the HR norms and standards
- Mandate & function: standard setting, promotion and protection, advisory and technical assistance (11 promotion, 3 protection: Art. 4.10, Art. 4.12)
- On the question of independence and effectiveness of the AICHR – appointment, removal, mandate, financial autonomy, secretariat

Important Elements on TOR
- In terms of independence of each representative of AICHR:
  - Each representative has liberty to organise a national selection process to nominate representatives for AICHR (Art. 5.9) TOR: Each representative would be accountable to the appointing government (3.2 or TOR) and have responsibility to act impartially (Art. 5.7 of the TOR)
- Political Declaration of the Leaders during inauguration of AICHR last 23rd October 2008 in Chiang Mai, Hua Hin, Thailand, reiterates that TOR shall be initially reviewed within five years of its entry into force. This review and subsequent reviews shall be undertaken by the ASEAN Foreign Ministers Meeting, with the view to further enhancing the promotion and protection of human rights within ASEAN

Important Articles in TOR of AICHR
- Art. 4.6 – promote the full implementation of ASEAN Instruments related HR, i.e. ASEAN Declaration on the elimination of DST against women
- Art. 4.8 & Art. 4.9 – to ensure people’s voices to be heard
- Art. 4.10 – obtain information from Member states
- Art. 4.12 – studies on thematic issues on Human rights
- Art. 4.13 – submit annual report on activities and others
- Art. 6.2 – annual meeting of AICHR
- Art. 6.8 – Overarching HR institution
- Art. 7.1 – SG role to bring relevant issues to AICHR’s and AMM on Human rights matters
- Art. 9.5 – Review 5 years

Civil Society Involvement
- engaged HLP since it was first established in July 2006
- From 2008-2009: 16 national consultations and 3 regional consultations from 9 countries and different thematic issues
- 3 written inputs submitted to the HLP
- National, regional and international lobby activities were conducted
- 3 interface meetings with HLP
- Coordination meeting with other groups was conducted to see a commonality of the inputs

Selection and Appointment
Only 2 Countries Conducted national Selection Process
- Thailand – Dr Sriprapha Petcharameesree, academic, activist, political scientist
- Indonesia – Rafendi Djamin, activist, coordinator of HRWG
ASEAN COMMISSION ON THE PROMOTION AND PROTECTION OF THE RIGHTS OF WOMEN AND CHILDREN (ACWC)

ACWC - Background
- Vientiane Action Programme (VAP) 2004-2010 is replaced by Hua Hin Declaration on the Roadmap for the ASEAN community (2009-2015)
- The Hua Hin declaration reiterated the establishment of the ACWC as an important measure to ensure equitable development for women and children in the ASEAN region
- All ASEAN member States are parties to the Convention on Elimination of all forms of Discrimination Against Women (CEDAW) and the Convention on the Rights of Children (CRC)

ACWC - What has been Done?
- April 8, 2008 - Convened the Joint Roundtable discussion among ASEAN Committee on Women (ACW) and the ASEAN Senior Officials Meeting on Social Welfare and Development (SOMSWD) and the ASEAN Standing Committee (ASC) in Jakarta, which discussed the possible elements and modalities of the ACWC
- At the Joint Session of the ACW and the SOMSWD in Hanoi, Vietnam on October 22-23, 2008 - Agreed to set up a working group to study and propose recommendations on the establishment of the ACWC

TOR ACWC so far
- Zero Draft version 19 July 2009
- First Draft version 18 August 2009
- Second Draft version 19 Sept 2009
- Final TOR – 23 Oct 2009
- Adopts the ACHR as the overarching body
- Report to ACW/SOMSWD
- Purpose: promote and protect the human rights and fundamental freedoms of women and children
- Promote the participation of women and children in ASEAN Community building process

Civil Society’s Activities
- The Caucus on Women and Children on ASEAN human rights mechanisms, Jakarta, 4 August 2009
- 2nd Regional Consultation on ASEAN and Human Rights, Jakarta, 5-7 August 2008
- Regional Consultation for women and children organizations on AHRELS & ACWC, 5-7 September 2008
- Follow up Consultation, Manila, November 2008
- 2nd Interface meeting with HLP, March 2009
- Meeting Expert Dialogue with the 3 Regional HR mechanisms, Jakarta, 4-5 May 2009
- Regional Consultation on ACWC, Jakarta, 7-8 May 2009

Civil Society’s Activities
- Focal point of child rights in the SAPA Task Force on ASEAN and Human Rights
- Plan of Action 2008 and 2009
- Inputs from child rights organizations to the WG ACWC
- 2 national consultations (CSO, NGO, DSWD, academia) on ACWC – Guiding Principles
- Lobby meetings in Philippines, Indonesia
- Statement from child rights group on ACHR
- Statement from child rights group on ACWC

ASEAN COMMITTEE ON THE IMPLEMENTATION OF THE ASEAN DECLARATION ON THE PROTECTION AND PROMOTION OF THE RIGHTS OF MIGRANT WORKERS (ACMW)
ACMW – Process

- (2004 VAP) – elaboration of an ASEAN instrument of the protection and promotion of the rights of migrant workers*, which is replaced by the ASEAN Socio-Cultural Community (ASCC) Blueprint, 14th ASEAN Summit, Cha-am, Thailand
- ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers, 12th ASEAN Summit, January 2007 at Cebu, Philippines

ACMW

AMM, 30 July 2007, Manila - ASEAN Committee on the Implementation of the ASEAN Declaration on the Protection and Promotion of the Rights of Migrant Workers (ACMW)

Purpose/Functions
- To ensure effective implementation of the commitments made under the Declaration
- Facilitate/work towards the development of an ASEAN instrument on MWs
- Composition: 10 member states

ASEAN Declaration

General principles:
- National laws and policies proceed over human rights
- Undocumented MWs

Commitments:
- Task the relevant ASEAN bodies to follow up on the Declaration and to develop an ASEAN instrument on the protection and promotion of the rights of MWs

ACMW – Drafting Committee

- Drafting Committee: 2 sending countries (Indonesia and the Philippines) and 2 receiving countries (Malaysia and Thailand)
  - 1st meeting was in Thailand
  - 2nd meeting was on 3 June 2009, Bali → TOR/work plan of the DT adopted, Indonesia/Philippines to draft
  - “Zero Draft” – preamble, Scope, Obligation of the ASEAN countries, Consultation and evaluation mechanism, General provisions
  - 3rd meeting was on 29-30 Sep 2009 – First draft
  - Drafting process reach a “deadlock” in Kuala Lumpur last December 2009

ASEAN Forum on Migrant and Labor

- ASEAN Forum on Migrant and Labor
  - ASCC Section C2.ii *Institutionalize and convene on a regular basis the ASEAN Forum on Migrant and Labor as a platform for broad-based discussions on migrant labor issues under the auspices of the ACMW*
  - 3rd Forum will be in June 2010 in Vietnam

Civil Society’s Involvement

Led by Civil Society Task-Force on ASEAN and Migrant Workers (TF-AMW)
- 8 CSO national consultations, 8 CSO regional consultations from 2007-2009 in 8 countries in ASEAN
- 192 CSO Recommendations for the Framework Instruments
- Lobby national and ASEAN governments

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We want an ASEAN Human Rights Commission with...
The Regional Mechanism from a Global Perspective

By Rory Mungoven, OHCHR, Geneva

I would like to put some ideas about regional mechanism in a broader, global context to analyze how they have developed in various regions. I would also refer some experiences to assist in the endeavor for a south Asian regional mechanism.

Ultimately it is the national protection system that is most important when it comes to human rights protection and delivering remedy to individuals. National systems include laws, the judiciary, national institutions and also the role of civil society and the media. This point is made because when discussing regional mechanism we need to look at how they can complement the national mechanisms such as filling gaps that exist in national mechanisms, or reach issues that are transnational or regional in nature that go beyond the interests of any one national setting. It is from this complementarity that regional mechanisms have been able to develop around the world.

Regional treaties have been developed and with them sometimes regional mechanisms, committees, commissions and courts to give the treaties effect. These need to complement both national and international mechanisms without standing between them.

The development of regional human rights mechanisms came into focus around the time of the Vienna World conference on Human rights, the Vienna Declaration, which made explicit reference that regional arrangements play a fundamental role in promoting and protecting HR and recreating a need to consider the possibility of establishing regional arrangements to P and P HR in areas where they did not already exist. It was an affirmation for RM and in many ways the starting point for such advocacy in South Asia and for ASEAN.

As a follow up to the Vienna world Conference, the former Human Rights Commission had initiated a process in Asia, which became known as the Asia Pacific Framework for Regional Cooperation for the promotion and protection of human rights. It was a broad inter-governmental process that met once or twice a year over the past 15 years and is set to meet April 21-23 in Bangkok. Its purpose is to explore possibilities for regional human rights mechanisms in Asia. It has been pretty unproductive partially because it is very large, composed of 51 states ranging with the Gulf states and their Shari’a based systems all the way to the pacific island states in the east. Thus finding a common framework and format has been very elusive and unrealistic.

National institutions have thrived in the region, of different caliber and effectiveness and they have begun to network very effectively as well with ASEAN as a good example. Thailand, Malaysia, Indonesia and the Philippines came together to work on common issues and helped to create a RM in ASEAN.

There has been a growing recognition, considering all of this, that success would be found in the sub-regional level and this is where the ASEAN movement really began to gain momentum. There are other examples of success: the 12 pacific islands have created the Pacific Action Plan with a human rights element, the Organization of the Islamic Conference have begun a process to draft and
adopt a declaration on HR (some OIC members are members of ASEAN and SAARC), and SAARC itself has the Social Charter and a few Conventions which are a start.

As all of this has evolved there is now renewed interest from the Human rights Council towards regional mechanisms and getting such mechanisms to cooperate, pooling resources to produce research and reports. They may begin to engage the way the NIs do and peer pressuring each other in their performance.

Prepare yourself for a very long journey. ASEAN was a success after a long, long period of consultations with governments and civil society. It will require a lot of persistence from civil society.

It is important to think about what exists than to focus on what needs to be created anew. ASEAN is a very established, multi-faceted and multi-sector inter-governmental program. They have around 400 meetings a year. Thus there is a web of cooperation going on in ASEAN. With SAARC there are much more limitations due to history and geopolitical reasons. Therefore it is important to look at existing strengths and I would suggest networking between the national institutions. Six of the eight countries have NIs. It is a process that would be good to encourage and support because it was a key to success in ASEAN.

One of the tensions in the ASEAN process was that the national institutions thought maybe they should be the inter-governmental body and maybe there was not a need to create a separate, regional institution, what would be its relationship to them and maybe they could be the basis for a regional mechanism. Maybe in the SAARC context where there is less of a framework for intergovernmental agreement, this model is more realistic goal.

The conventions on women and children in SAARC could be a starting point for a regional arrangement. A regional mechanism does not have to a comprehensive agenda from the beginning. Starting with a sub-set of rights may be a more viable approach in the region.

It's not always necessary to have a separate regional HR charter to have a regional HR mechanism. This is the case in most regions but in this region elaboration of a regional charter on HR could well lead to a regression in international standards. We've seen this from the Arab League whose charter on HR is a step back from international human rights frameworks in many ways. This is a danger and must be avoided. ASEAN created the mechanism before the elaboration of any charter. Some say a charter is unnecessary because it can use international standards; many of the states already have signed on to adhere to such standards to treaties.

ASEAN and SAARC do not have strong and functional secretariats. Change is not going to come from the SAARC secretariat. Therefore change is going to have to come from the national level. And thus you need to find some champions. In South Asia, the Maldives has made the most noise about this and they take the SAARC chair next year. This may be a good window of opportunity to really push through advocacy.

It is going to be a long process done at a “Track 2” level. With ASEAN it took a long and large commitment from civil society. Eventually, ASEAN formally recognized these groups and an
organization was created as ASEAN officials from the foreign ministries began to participate in the working groups meetings and it became a hybrid body. A track 2 Approach is not an official ASEAN body but an effective one nonetheless in regards of developing ASEANs RM.

A SAARC way needs to be defined just as there is a so-called ASEAN way defined by consensus, etc. However, SAARC governments tend to be more conservative and rigid. But there are strong advantages: there is democracy, common legal traditions, judiciaries with extensive links, more experienced civil societies than exist in ASEAN.

The advocacy will need to be subtle in dealing with the governments. Those fronting the movement were a group of elders to channel communication between the younger activists who were doing the campaigning and strategizing and the states.

A South Asia Regional Mechanism: A view from OHCHR-Nepal

by Richard Bennett, OHCHR-Nepal

I would like to pick up on the point Rory made about the complementarity of regional mechanisms with international and national mechanisms. Also, to think about some of the opportunities and challenges that might exist in this region.

The centrality of the state is getting stronger in South Asia and this has implications for HR in the region. Also, the centrality of HR at the national level is crucial and we cannot lose focus on the critical importance of national level actions and institutions. If we look at SAARC and some of the issues it has developed agreements such as trafficking of women and children and child welfare, they can provide entry points for engagement.

This will be a very long journey that will not be without difficulties. But there is the possibility for CS to build on the existing entry points. It is important to make an analysis on where SAARC is focused. The implications of the current priorities of SAARC and pick up on those and we should pick up on those less challenging as entry points than those that are more difficult.

A regional mechanism would certainly assist Nepal to address many of its human rights challenges: impunity, discrimination, good governance, migration, trafficking, sensitivity around ethnicity and religion, and not least the impact on access to natural resources on human rights, esp. access to water; all of these seem to be subjects for regional discussion.

I agree with the idea that NHRIs should work together, network. The Asia Pacific forum may consider having a South Asia sub-regional element to it to help coordination and strengthening of the NHRIs in South Asia.

In a lot of meetings like this there are a lot of elephants in the room. I would like to open that up for discussion rather than delve into it too deeply myself. For example, SAARC has a much different geopolitical makeup, a hegemonic factor that does not exist in ASEAN that may need to be addressed.
The issues of geopolitics and counter-terrorism, especially in Afghanistan, are also unique to the region.

The issue of religion and ethnicity play a large role in the region that usually is not confronted as much as other issues. Where is the energy for this process? Who will it come from and what issues will drive it? In many ways that can be what will drive it along. Which are the issues that you feel strongest about that can bring together members of civil society in South Asia that will pay dividends. You must decide whether this is a direct part of the strategy or it could function as overall indirect motivation for the movement.

**OPEN FORUM**

**Rita Manchand:** I want to express my concern and dismay that there is such poor gender representation. I do understand that Maya Daruwala and Nimalka (Fernando) were supposed to be here but I think all of us have now learned that if we ignore gender we do it at our own peril.

You said regional mechanism is not a substitute for national mechanism. My understanding is they can be a guideline pushing for more aggressive national mechanism or it can work the other way as a setback. In this context I refer to the issue of human trafficking and existing mechanisms. First I want to say it is a success story in the sense that the Social Charter mandates that civil society be involved in monitoring. It is not specific enough but it does give them a leg in. I would like to mention the girl infanticide by lumping them together with children. Surely we have moved beyond this and you are completely denying the fact that migration has been reduced to prostitution and we have seen the implications of this in real terms. In India in 2006, the Women and Child Development Minister said no woman would be allowed to migrate until she is 33 years old. In Nepal, there was a blanket ban on women migrating from Nepal. The confusion that all migration gets criminalized because it is reduced to prostitution justifies migration being banned. We must look at some of the standards being set because it is a setback not a step forward.

**Matthews Phillip:** May I ask: What is wrong in working toward a regional convention if it is going to be done within the framework of the universal principles?

**Yap Swee Seng:** Civil society was the main force behind the development of a regional human rights mechanism in ASEAN. Things really started to move after there was democratic change in Indonesia, Thailand, Malaysia, and the Philippines. The national movement thus plays a very key role in realizing a regional human rights mechanism. South Asia has much stronger peoples’ movements than SEA and therefore there is bigger potential. It is perhaps the biggest strength of South Asia with respect to realizing a regional mechanism.

**Sanjay Patil:** In South Asia, sometimes there’s difficulty in getting civil society to work together even while individually the groups may be very effective. SEA must have had similar difficulties in the ASEAN context but they succeeded, and we should look more deeply into that success to see
how successful it was in bringing people together, was everyone included, etc. People to people interactions, esp. between India and Pakistan, are very difficult.

**William Gois:** I was hoping the externalities of the ASEAN process would be discussed in more detail, the geopolitical reasons for ASEAN cooperation such as creating a single market to compete with China and how human rights fit into this discussion. There are some questions to consider: How far was the civil society movement engaging with ASEAN towards a regional mechanism? Were civil society activities a reaction to what was coming up instead of proactive in shaping what human rights groups wanted? In terms of what has been achieved with the AICHR, how far has that made its way down to the ASEAN people's movements? Or how much are they aware of the mechanisms?

In SAARC, there is a question of whether SAARC people even want to engage with the SAARC Secretariat. I like the idea that we don’t have to focus on a regional mechanism only and it might be better to see in coordination with ourselves what evolves rather than do a comparison between regions, seeing what has worked and imitating it. We have to allow regions to let ideas percolate from the bottom and see what comes up.

**Jyoti Sangera, OHCHR Nepal:** One of the elephants in the room that keeps growing are the incidents which were set in place after 9/11, and the retreat from human rights thereafter in South Asia. All the phobias, especially Islamophobia, which impacts very strongly including on migration and anti-trafficking policies, and which keep being tied to the war on terror. The war in Sri Lanka has also contributed to the retreat from human rights because it has given a success story where human rights can be made irrelevant or redundant and victories can happen whether HR are respected or not. This is a bad example/model states will follow.

The anti-trafficking convention of SAARC in no way improves the situation for women in South Asia, or even male victims for that matter. Also, we need to look at new and alternative spaces for HR, cultural spaces. The film “My Name is Khan” has been seen by over 200 million people. The signature line of the film is “My name is Khan and I am not a terrorist” which is a powerful and resonant message. The majority of people in South Asia are under the age of 35 and we have to find ways to reach them, to capture their aspirations and culture presents such a space. We need more creative strategies that include culture and sports. We cannot just stick to looking at national institutions because many young people see those who work in those institutions as irrelevant, from an older generation that cannot relate to their aspirations.

**Shobhakar Budhathoki:** I have a question to Rafendi: What was the response of Burma when ASEAN countries were drafting the HR mechanism? How did the working group work with the Burmese regime in establishing the mechanism? What would be the best ways for us to move forward and engage with the states in pursuit of a regional mechanism?

**Tapan Bose:** The reality of South Asia is asymmetry in terms of size, power and other variables. How much do we factor in to build a regional mechanism in dealing with India and its concerns? Unless we are able to address that in pushing for this inter-governmental platform, I’m not sure how
far we will progress. The history of this region is not of cooperation but of suspicion. How do we sustain the coming together of the general NGOs/civil society?

The other elephant is the “War on Terror” which to a large extent has identified the Muslim as the cause of terror. We don’t discuss this in our HR groups, and if we don’t address this, the idea that Muslims are the source of terrorism, we will fail the largest Muslim population in the world which lives in South Asia. If we don’t address it then process will be trapped in what has been called a Western agenda.

**Madhav Gautam:** I have a query to Rafendi: As we know that in ASEAN, promotion of HR is discussed much more than protection. In these contexts how much can we realistically hope for within the South Asia context?

**Final remarks from session speakers:**

**Rory Mungoven:** In no way did I intend the meaning inferred (by Rita) about women. The context in which I mentioned it was just to discuss the conventions already included in SAARC. There are conceptual problems with clubbing women and children together, absolutely, but I just mentioned them together to indicate strategic starting points.

In terms of elaborating an Asian or South Asian charter, there should be no philosophical or conceptual objection with this. Agreed, it should be a conceptual advance to give a regional articulation to universal principles. The African Charter does this quite well. I would be very confident in a process of that kind if it were civil society in South Asia drafting the instrument but you have to ask yourself who will be drafting it. The governments in this region have been very adept at using the argument of culture to deflect accountability and scrutiny. You have to accept this as a strong possibility as any SAARC mechanism will be administered through states as it is an intergovernmental body.

The concept of evolution is important and this is the gamble the ASEAN body is taking. There is the space for evolution that people are putting their hope in with continued pressure from civil society. This is true of all the regional mechanisms. The African system was deemed very problematic when it was proposed but has gained credibility over time through the active engagement between the mechanism and civil society. The starting point may be much more limited than your aspirations. You have to decide if you want to buy into this concept of evolution and give any problematic proposed system the benefit of the doubt.

**Richard Bennett:** One of the interventions suggested it may be best to see what develops from coordination between civil society groups. The Paris Principles are an example of a set of principles drafted by national institutions such as is gathered here. You never know what can happen when a group of actors cooperate, you never know who else will take an interest.

We should be aware of getting too stuck and putting too much energy into a process that may not go anywhere or go very slowly instead of putting those efforts into more fruitful areas. The process must be monitored diligently to constantly evaluated to decide if the process is worthy of the efforts proposed.
Rafendi Djamin: In ASEAN, the states decided to create a working group on human rights mechanism to function on a Track 2 basis to research how to create a regional mechanism. It was not a group of people working who were eventually recognized by the state. This state-sanctioned process took nearly 14 years. It wasn’t until 2006, ten years into the process, that civil society was really invited as consultants.

The process has worked and continues to work as one built up from national movements to recognize human rights at a regional level and once that is achieved to work from the regional level to continue to engage, to re-engage or to newly engage with civil society groups.

Burma has been part of ASEAN but it has been a problematic relationship. Some of the ASEAN member states have been critical of the Burmese regime but ASEAN operates with a principle of inclusion regardless of objectionable behavior in order to retain engagement. As time goes on, people will continue to hold Burma accountable for its actions as a regime compared to its commitments through ASEAN which includes recognizing human rights at least in principle. The cooperation between civil society and national institutions in South Asia has to be developed to really create a push factor for the creation of a regional mechanism.

F. SESSION 4: MOVING TOWARDS A REGIONAL HUMAN RIGHTS MECHANISM IN SOUTH ASIA

[Moderator: Ms. Rita Machanda]

Moderator: I would like to put three questions before all the speakers of this session to focus on their presentation: (1) What do top-down mechanisms teach us? The ASEAN process demonstrated a top-down process. Is such a process the way forward? (2) What should be the relationship between regional and national mechanisms? (3) Is it possible in South Asia to grow in terms of regional solidarity when we are so divided by our national interests and we appropriate from the state our prejudices and positions?

Key Issues to Address in Developing A Regional Mechanism for South Asia

By RJ Rajkumar

How much space can the High Commissioner’s Office provide to facilitate this process and continue this dialogue? The role the HCO played in SEA was important. I raised there the idea of Asia having a peoples’ charter, not a human rights charter, staring with “We the peoples of Asia” to represent the 54 countries of the region.

We were looking at the national human rights action plan that came out of Vienna. The Chinese were not in favour of it. However, at one such consultation I was approached by the Chinese delegate who presented me their national action plan for me to assess. Such space is created by the UN and provides a very good opportunity for discussions that may not happen otherwise.
The idea of bottom up vs. top-down approach needs to be revisited. At the level of ordinary citizens in Asia, the level of socialization of human rights that can produce bottom up proposals for a regional mechanism or a way to address human rights at a regional takes a long, long process.

The fisher folk issue between India and Sri Lanka is important on a regional level. Fisher folk are constantly facing naval attacks from Sri Lanka. The Indian government has been taking its time in addressing this issue which it also faces with Pakistan and Bangladesh. When the national mechanisms are ill-equipped and international mechanisms are far away, how is an issue like this addressed within our own zones? When I look at the idea of a mechanism I subscribe to the idea of subsidiary, which means you can tackle to problem through a certain norm, procedure or mechanism. Sri Lanka has ratified the complaint procedure under ICCPR and a third party can file a complaint against Sri Lanka. Most South Asia countries have not ratified this procedure and the fisher folk have no space to lodge such complaints and pursue justice.

Second issue is Bangladesh, India and farms. Raw materials are situated where indigenous people live. This is another situation where a norm, procedure, instrument or mechanism is needed to give people a platform to seek justice. Some things need to be done at the domestic level but they should also be linked to other level mechanisms in order to ensure effective administration.

SAARC’s Social Charter discusses its role in terms of state parties, not the peoples of South Asia. Therefore the whole legal personality of SAARC is questionable and to insert a regional mechanism into that same structure may be problematic. Discussing a HR mechanism, we have to see how any mechanism can respond to the issues of South Asia such as the fact that there are over 900 million people in South Asia living in poverty despite the fact that one of the foundational elements of SAARC is economic development.

In SAARC countries there are much more official commitments and language concerning the promotion and protection of human rights. There are very specific HR treaty laws but the question is how these are implemented: are there clear procedures, are there institutional arrangements, can we produce shadow reports to the governments, etc. The assets and deficits are both significant. SAARC countries have ratified more treaties than ASEAN, and NGO participation has been strong.

It is important to identify the significant actors, state and non-state including those not involved directly in human rights. The involvement of media is essential to lead a critical movement into a critical mass that can push for a regional mechanism. The value of these mechanisms can only be seen if they are implemented at the domestic level and there is a huge gap nationally. Groups need to network their efforts. There are also insurgents.

Some Key Tasks Ahead

By Dinesh Tripathi
We would create a regional mechanism not against the universally accepted principles of HR or international HR mechanisms. It should adhere to internationally accepted norms and standards.

SAARC is very state-centric. However, the world is changing and we must understand that state sovereignty is not possible (a justifiable reason) and you cannot use it against internationally accepted values of human rights. States need to be democratized, accountable and human rights friendly. Civil society must be given space to articulate their views. This transformation must take place.

A regional mechanism must function effectively by having a wide-ranging mandate to promote and protect human rights including the power to investigate, power to have fact-finding missions, individuals must have the right to petition the regional body which will mean adjustment of the local remedies. If local bodies are ineffective, cumbersome, individuals need a space where they can petition as they do in the European system.

We should develop a working group that will facilitate those working at both the national and regional level. People’s SAARC may provide such a forum. Some conventions have already been created. Thus, some groundwork has been done upon which we can build. It will take a strong and long commitment.

**Open Forum**

**Rita Manchand:** All agendas are getting securitized, terrorism is the lens through which so much of meetings are being done, thus is this the right time to pursue a regional mechanism when we cannot even meet each other with political disagreements in the worst case scenarios and visa obstacles in the best case scenarios.

**Adilur Khan:** The SAARC Charter is the hindrance because it does not allow discussion of bilateral issues, only multilateral. It is difficult to have a common stand in South Asia with complex bilateral issues, such as land and water issues between Bangladesh and India. It is especially difficult considering the fact that the region has to address the breakdown of sovereignty while avoiding hegemony or a new kind of colonialism.

**Dr. Lenin:** Civil society movement in India is divided in the sense that they are all focusing on their own issues and targeting their advocacy and efforts towards actors who can address those issues in the most direct fashion. If groups are not focusing on an issue or an area they will not fight there either. There are overlapping and sometimes competing interests within civil society, creating a fragmented movement.

**William Gois:** I am little nervous this is the last session where the entire forum can hash out exactly it is what we want. Can we discuss more specific experiences such as that of the fisher folk discussed by Raj Kumar, new and alternative/creative spaces and exploring them as discussed by Jyoti. These are the critical elements of an action plan that can indicate for us what will be the
SAARC or the South Asia mechanism. What I’m afraid of is we’ll go into the stereotypical institution building process; “one size fits all” might not work for us and the people on the ground. If we don’t address how this will really affect the daily lives of the people we risk creating mechanisms like the ones that currently exist: they look good on paper but remain ineffective. We need to build our solidarity and discuss as part of this entire process how exactly we will share information and build our solidarity.

**Jyoti:** I agree with William’s apprehensions that it is important that this not devolve into a ritualistic exercise where things are put on paper but never go anywhere. In addition to looking at experiences of south Asian peoples’ networks to look at specific interest group networks such as those organized around women’s issues, Dalit issues, etc.; who have been very successful and to assess how they succeeded; what were their impediments; and where the impediments came from.

Are we moving towards a Track 2 action plan and if so what would be the steps to get there? Also, at what point would this Track 2 engage or formulate their action plan for Track 1. While that may be looking too far ahead, we should at least address on paper in concrete terms what will be our immediate action plan and our commitment towards it.

**Poenky Indarti:** It seems that while the civil society groups are strong and their networks have real potential, the states get between them. One thing that could be done is to use a different term than HR. For example in Indonesia it is not seen as a friendly term by the state so we use terms like security sector reform or women’s issues to open dialogue with the government and to attract international attention.

**Prof Kapil Shrestha:** India’s geopolitical position needs strong consideration in any discussion of a regional mechanism. The Indo-Pak tension has a strong influence over the entire region. Civil society has not been able to counter the rising tides of fundamentalism, national chauvinism, and extremism. It is here we find ourselves confused and weak. SAARC is one of the worst models of regional cooperation in the world and copying it is of no use. SAARC has no credibility with the average person, and is more likely to be known as “shark”. We have to devise a strong and realistic strategy to overcome our age-old barriers which are now reinforced by weak state mechanisms and the process of globalization.

**Santosh:** There is structural injustice in South Asia, whether it is gender, caste, class, etc. Legally, numerous groups continue to be marginalized. It is important that members of these groups be included in any discussion about a regional mechanism.

**Charan Prasai:** Last December in Nepal, we had a three-day national human rights meeting of around 150 organizations and we made a declaration to establish a HR mechanism through SAARC and to push the government to pursue the matter. When an action plan is created perhaps it should mention this meeting and its declaration.

**Rita Manchand:** There are some issues that South Asia civil society cannot move on because they are seen as so rooted in national perspectives. Water is one. In Pakistan, the media is full of stories on “water terrorism”. So there are issues we cannot touch because in some cases there is a lack of
trust between both state and non-state actors. However, there are other issues such as women’s issues, child prisoners, fisher folk, land alienation and the rights of indigenous IDPs which can be taken up.

Responses from the Speakers:

Dinesh Tripathi: The question of terrorism is very controversial. Under international law there is no working definition of terrorism. The international community has not agreed on any definition. But, terrorism cannot be used to justify HR violations. Rule of law needs to be strengthened. A multi-track approach is a good approach. At the very least, a Track 2 mechanism is necessary to realize a regional mechanism.

Raj Kumar: I agree with Tapan that SAARC has taken issues hostage and frozen progress. There are all kinds of fundamentalism and extremism. This region has been more tolerant of different ideologies than ASEAN which was in part created as a containment institution.

As we identify issues we notice deficits. When people face violations we need to assess where they can get redress? National and international mechanisms have been ineffective. SAARC itself has been slow to respond to complaints. We have to see how we can move forward knowing the deficits of SAARC. The rights are there, in constitutions, treaties and conventions. Implementation is the issue. We need non-governmental mechanisms too. Indian NGOs tend to write off any mechanism outside the national boundaries but at the same time within the national boundaries many problems still exist. Mechanism is a nice word but inside it there are norms, procedures, resources needed, and people to go about it.

The greatest weakness I see when looking at the judicial systems of South Asia countries is the redress for remedial justice. Mechanisms in other countries around the world, such as Uruguay, have been very effective in looking at past crimes. It means they are willing to confront the truth. It is not complete but it is a good start. In South Asia we are not willing to face and address our deficits and come up with solutions.

Subodh Pyakurel: The concept of subsidiarity is important. The current era is one of right to information and right to opinion. If we can empower some regional institution with authority to seek the truth it will be satisfying progress for us. Hoping for a mechanism to prosecute the governments may be reaching too far.

With regards to the Bhutanese refugee issue, the greatest thing that could come out of this workshop is filing a case in the Indian Supreme Court with a joint effort from Indian, Nepali and Bhutanese colleagues. With regards to making SAARC member-states accountable to human rights (and the challenges and recommendations) we all understand that none of the countries oppose the principles of human rights. The UPR exists so there are opportunities.

It would be good to form a group of friends in each SAARC country to carry on this cause. Also, it would be better to utilize the upcoming SAARC forum to push this agenda. We are meeting with the Nepal PM tomorrow to also communicate our agenda, conclusions and commitments devised in this workshop.
Adil Khan: A proposal, since there is SAARC convention on trafficking of women and children we can go for two things: First, harmonizing of the SAARC laws on trafficking women and children and second, calling for a tribunal investigating on the trafficking of women and children. A section of South Asia judges met in Nepal recently and released a declaration on this issue.

Dr. Tiwari: Since the People's SAARC workshops on thematic issues are scheduled for April 20-21 in Delhi and the human rights issues discussed here could be included in the labour rights issues in that workshop and perhaps may be included in the subsequent declaration.

Raj Kumar: If we give positive support to the governments, on issues such as violence against women where SAARC countries have been able to collaborate and assist in creating legislation, there is opportunity perhaps to even mainstream human rights.

G. Session 5 (Breakout Sessions) and 6 (Reporting): How to Make SAARC Member States Accountable to Human Rights: Challenges and Recommendations of Action

Group 2 presentation by Saji Thomas

Saji Thomas made presentation on behalf of the Group 2. Key points of his presentation are as follows:

- SAARC Nations are grappling with deficit of democracy and violation of human rights and abuses
- Freedom of movement: Generally, South Asia nations are tightening their borders and there should at least be NGO documentation of the issue.
- Children: It should be an easy entry point.

Group 1 presentation by Madhav Gautam made presentation on behalf of the Group 1. Key points of his presentation are as follows:

We discussed challenges and recommendations for South Asia countries at state and regional levels.

Challenges:

- Issue of impartiality
- Lack of democratic government
- Conflict (internally/externally armed conflict) in South Asia
- Visa restrictions
Recommendations

A. State level
- Identify the common issues of HR in South Asia and draft the South Asian HR Charter.
- Strengthening the NHRIs
- Continuous communication with NHRIs and government
- Intra-state peoples’ level dialogue

B. Regional level
- To build up coalition between the HR organization in South Asia
- To mobilize issue-based organization (ex: water, child, migrant, etc.)
- Lobby for ratification of UN HR convention (ex: migrant workers convention, etc.)
- Targeting SAARC summit and do parallel event on HR
- Hold small meeting in all countries about regional mechanism and about this initiative and disseminate through a press conference
- Sensitize media on this issue

OPEN FORUM:

Matthews Phillip: It is important to fix responsibilities, assign roles otherwise none of these recommendations will happen.

Raj Kumar: We need to define the commitment of Forum-Asia and the groups here, whether we will have a timeline, and who will exercise certain leadership roles? This is a single item agenda to be carried forward.

Yap: From Forum-Asia we are certainly committed to continue the work on this issue. The question of resources will be the main issue but with the starting funds we have we will continue with the process and Forum-Asia will also continue to seek funding if there is a commitment from this meeting to continue.

Subodh: From countries where we do have members we should get them to come together and form working groups in each country regarding this issue.

FA will make sure this happens in Nepal as it holds the secretariat for SAARC. We will make a little more structured mechanism available here for following up and interventions, which includes regular contact with the member countries.

The whole process needs to be given one name and the whole process will be looked after by FA. In this way the working group will be free to pursue funding.
We should have a lobby tour across South Asia to promote the agenda with the assistance of our member organizations in each country. For starters, we could find a few diplomats to carry the message at least informally to Bhutan.

**Raj Kumar:** Since we are in the same city as the SAARC Secretariat office is it possible to have at least an informal meeting, non-binding, with SAARC Secretariat officials to give an open-ending briefing without any criticisms but just an information exchange session.

**Matthews Phillip:** We should try to send a FA delegation to meet with the SAARC Secretariat as soon as possible.

**Faizal:** One of the things we can do here through FA is we can make a resolution that FA is requested to work towards this process otherwise they will not have any mandate to go ahead with it.

**Sanjay Patil:** Will each and every issue be raised by the two breakout groups be included in the action plan or are we going to discuss as a group which ones should be included? It is important to pick maximum of four issues if the working group is going to be focused and directed in its approach. It would be a far more effective use of the working group’s time and energy otherwise it becomes unworkable.

**Raj Kumar:** I would like to suggest a few issues should be implemented as part of a trial run to see whether it is workable.

**Yap:** The secretariat has documented the discussion of the workshop and based on these discussions a proceedings report will be produced and the working group will use that report as a basis for its work moving forward. We should leave it to the wisdom of the working group to decide on what specific issues will be advocated at first instead of trying to decide among this large group.

**Sanjay:** Will FA be the secretariat for the working group? In our past experience if there is no one to spearhead the agenda it will fall by the way side so one group should be anointed to serve as the secretariat to consolidate and disseminate the information.

**William:** Has a working group been identified? This body that is constituted, does the working group have the mandate to reach out to other groups as well so we become a larger base? Some of these mechanics should be worked out now so as to avoid problems in the future.

**Adil:** We can look at the recommendations that came out of the breakout discussion groups, consolidate and let the working group work from that.

**Lenin:** The SAARC summit is coming, SAARC Charter discusses human rights in Article 2, we have the treaty bodies signed by the SAARC countries therefore we have an opportunity to engage our countries about a regional mechanism.

**Shobhakar:** Try working on selected areas, see how that works and then see how we can move ahead.
Matthews Philip: I’m not sure we have the time to do a prioritizing exercise that is why I support Yap’s idea that we leave that process to the working group. Finding common ground between the two breakout groups won’t be easy because the lists were very different.

Tapan Bose: We should not particularize but take the issues in general. For example, the issue of IDPs/refugees in South Asia encompasses the entire region and its member-states, all of whom lack either strong laws to protect refugees or signatures to the relevant UN conventions. Double approach: Get a harmonized law on refugees, then you can move on to getting a regional agreement on that agreement. A working group or committee should discuss and identify the areas where there is a possibility of adopting this double approach and getting the states to accept some of the fundamental principles.

If a regional mechanism cannot be created we can look at the alternative to create a model law for refugees and then begin to lobby the governments of South Asia to adopt that law as a national law on refugees. It has taken 12 years for the government of India to accept it and there is a draft bill that hopefully will be passed soon.

Also, we should move in a soft way as a direct approach with issues such as freedom of expression or freedom of movement for example, will not be welcomed by any of the states.

The working group should map and strategize on what issues will be pushed as strong entry points and how they will go about their networking and advocacy towards the goal of a regional mechanism.

Sanjay: When prioritizing the issues the key is to identify which ones have fertile ground which can be seeded by our interventions as a working group. Two of the issues agreed upon as worthy of in one of the breakout groups were first, the expanded definition of trafficking beyond just prostitution and secondly, access to information. It seems that these issues will be workable and by the governments and we can gain some traction for the overall goal. They would not be so offensive to the countries and then they may consider taking it up as a region.

H. SESSION 7: ACTION PLAN AND STATEMENT ON PROMOTION AND PROTECTION OF HUMAN RIGHTS IN SAARC
[Panelists: Raj Kumar and Dinesh Tripathi]

Subodh

- Requests Raj Kumar oversees the Declaration to assess if it has been drafted to reflect the will of the forum in a sufficient manner.
• We cannot claim that the members of this forum represent the movements of their respective country. Therefore we would like to have participants volunteer to act as the focal organization for this issue in their country. If such a role cannot be assigned here it should be done soon in each country. Whichever organization takes on this role will be contacted regularly by the coordinating institution.

• For now, it is a good proposal to make a request to the SAARC governments to elaborate the Social Charter, specifically Article 2 so that SAARC can incorporate human rights principles.

• All of the SAARC countries have at least ratified CRC and CEDAW. It is then possible for us to urge our governments to create a mechanism to ensure uniform implementation of these HR treaty bodies throughout South Asia, an overseeing mechanism as the term “monitoring” may not be welcomed by the politicians.

• The declaration must include the insistence that civil society participation be a vital part of the SAARC process. Thereafter, we hope SAARC can create and effective human rights body. This kind of a declaration can perhaps best serve the discussions in this workshop.

• It should also represent our aspirations of gradual development towards the attainment of HR principles within the SAARC region. These demands can be put in a way that will not be of any problem for our states to fulfill. We can push the governments to honour past agreements by adopting stronger instruments to ensure effective implementation.

• The document must open the door to create a human rights commission in the future.

• If all of these things are incorporated in a professional manner it will serve this workshop well.

Yap presents the draft declaration to the forum.

Raj Kumar: Why are so many paragraphs from SAARC documents included? They know who they are.

Matthews Phillip: It does not hurt to remind them.

Adil: We have been discussing some issues not reflected here.

Yap: The purpose of this declaration is to first, have a document to express the outcome of this meeting to present to the Prime Minister of Nepal tomorrow. Secondly, it will be the document used by the working group to engage with the different governments in the region. Paragraphs are repeated from the SAARC Charter to hold them accountable to those commitments.

Sanjay: No issue with repeating what is in the SAARC Charter. My concern is what is drafted right now didn’t require us to convene in Kathmandu. It doesn’t reflect what has been said over the past two days that couldn’t have been composed in Bangkok. It should include a paragraph about the need to prioritize some issues common to SAARC countries that could work as an entry point.

Advocacy can only work if you have such a lever to pull. If we are going to be strategic about this we shouldn’t rely on generalized statements and should include some mention about our strategy and proposed entry points.
Matthews Phillip: I agree with Sanjay that we need to include at least a few paragraphs that will reflect more of our discussion including the need for requesting a regional mechanism.

Yap: I would like to request Sanjay and Matthews contribute in drafting the additional proposed paragraphs.

Tapan: I agree with Matthews and Sanjay that more of the concerns expressed need to be reflected in the draft. The increase in militarism in the region and the sustained attack on human rights in the name of the war on terror which is at the root of so many of the human rights violations discussed during the workshop.

While we are mentioning the various SAARC mechanisms, we do not agree with them such as the conventions of trafficking which have been severely criticized by women’s groups across South Asia. If we do not maintain our position of criticism in the draft and go overboard in thanking the states for the good things they have done we will be doing a disservice to ourselves and our brothers and sisters in the movement.

Subodh: I would like to summarize what the forum has requested:
  - Why we are here?
  - What were the concerns expressed?
  - Recommendation to elaborate the SAARC Charter to incorporate the universal principles of human rights promotion and protection.
  - We need a HR mechanism in SAARC which could oversee implementation in the respective countries.
  - Civil society must be given meaningful participation throughout the process of formulation and implementation.

Saji: I would like to emphasize the need for a national mechanism where they don't exist and need to strengthen the ones that do exist according to the Paris Principles. It is important to mention the complementary nature of the regional mechanism to reinforce that it is not to be created in order to replace or undermine the national institutions.

Raj Kumar: I agree with Tapan that we should maintain our identity as NGOs in the declaration.

We are asking SAARC to change the scale of its operations. We have some positive recommendations for SAARC: refine your convention on trafficking, if you are addressing terrorism you must do so with respect to human rights. When we speak to an intergovernmental body it is important for us to be clear in what we have to say to them. It is important to the opening the lines of communication, it needs a direction. We have to say why we want a regional mechanism. In fact the forum here is divided on the desire for a regional mechanism; we have stated positions but have not consolidated a single position.

Dinesh Tripathi: We should mention the mandate of the mechanism, its competence, neutrality, etc. and its methodology. This declaration should mention specifically that the regional mechanism should reinforce globally accepted human rights values and standards. We also need language that justifies our request for a regional mechanism.
Adil: Are we here to establish a mechanism or are we here to raise our issues as to why we need a mechanism? It appears that we are looking for a regional mechanism with a compromise. My problem is I’m not comfortable with the SAARC charter because it does not allow us to discuss bilateral issues. Therefore I cannot address the issues of people. I want to move with a vision that a regional mechanism for HR will address the issues of our people. There should be more alternative language to express our aspirations and issues.

Subodh: In response to Adil, our declaration should very explicitly express that HR principles transcend the borders of the nation. They are universal and should be implemented as such for the benefits of the peoples of the region. Is this more acceptable?

Sanjay: My concern with Adil’s approach is that we have to understand what it is we are here to do. I am under the impression that we are here not just to state what is wrong with the world and what needs to be done to change it; we do that in our daily work. I thought we were here in Kathmandu because we want to have a practical outcome out of the advocacy we would all engage in collectively as a working group. If that is the objective I think it is problematic to not accept or acknowledge the limitations of the institution we are trying to work with, SAARC. There is a certain political reality about what SAARC can and cannot do its current Charter. We have to accommodate this reality in our strategic advocacy of our approach. The whole point as I see it is finding a way to influence the dialogues in South Asia, especially with the governments, with taking on board the issues HR. We have to accept that in this forum we have to prioritize issues where we can gain traction.

Tapan Bose: There are two things we can look at this declaration for: (1) We leave it as it is and present it to the Nepal PM and then other PMs. This declaration, essentially, would be harmless, non-controversial. It would not reflect much of the anguish expressed by participants during the workshop. (2) The other declaration would be one of a commitment by all present participants, express why we feel a regional mechanism is necessary, how do we achieve it, and why do we see it as a mechanism that will help strengthen the human rights of ordinary people.

My problem with the declaration at present is that in our attempt to follow the UN pattern of statements we often forget that we are NGOs and have a different identity, speak a different language. This identity needs to be reflected in the declaration with use of our language and mention of more of our concerns. For example we should assert that we will not accept under any circumstances any dilution of the Universal Declaration as well as its standards and norms; we will not accept any attempt to divide the human rights discourse into different categories; and third we will not use cultural specificities for carrying on with certain inhuman practices such as putting women in the purda, multiple marriages, denial of child rights, etc.

It is important to mention the language of the SAARC Charter because it mentions the integrity of the family, the rights of the child, hunger and other issues where we share concern. We should redraft our declaration to express that we expect a more sustained commitment from the states towards addressing issues they have already agreed to address.
Shobhakar Budhathoki: We must be clear in what we want from the member states. We must use safe language so as not to offend the states but we must also express our commitment, reaffirm previous efforts, and address common issues throughout the region. This is the first declaration for a sub-regional mechanism in South Asia. It is our document and we will lobby in the future based on this document. It is the foundation for us and thus must be very clear in what we want.

Subodh: SAARC documents do mention human rights but it needs to incorporate more specific human rights terminology. Such terminology can be included in our declaration and we can mention that even though HR is mentioned there are lapses in the absence of a monitoring mechanism.

William: My inclination is to, if we get those two paragraphs from Sanjay and Matthews and incorporate them in the draft, and present it to the Nepali PM tomorrow it might suffice at that level alone. This still has to be tested.

Maybe the other things we have talked about can be considered an internal commitment to see how the working group will take this. There is no need to make a very strong statement as it will be passed among high-level politicians. The sustained collaboration between CS groups has to be tested so we should tread easy. Let us take some issues decided upon by the working group and move forward to see how it works and reassess as the process unfolds.

Subodh: The Nepali PM is very positive regarding the idea of a regional mechanism. Others, it is true, may not be. I would like to propose a group of participants to sit for 30 minutes and complete the draft declaration.

Poenky: I would like to request that women should be included in the group. (Subodh suggests a female representative from WOREC join the group.)

This group included Raj Kumar, William Gois, Adil, Lenin, Sanjay, Matthews, Roni Pradhan, and Dinesh Tripathi.

Sanjay reads out the amendments and additions to the revised draft

Open Forum:

Matthews Phillip: We should change the phrase “we the more than seventy” to “we the seventy” as we have a registration form with an exact number. The amendment is made.

Dr. Lenin: I have suggested that in each country one organization will work like a focal org. on this endeavor. But who will coordinate the entire process on behalf of the SAARC region.

William: One person coordinating in each country may not be feasible as India for example would be overwhelming for one person. Incorporate those working in thematic interest groups into the working group, such as those on caste and gender, to strengthen the working group. Put a time limit to the individuals on the working group so there is space to measure our growth and bring in other groups. Responsibility of the focal points at the country level should also be to enlarge to role of the groups at the country level to help move the agenda forward.
Subodh: Each country’s focal group will call a wider meeting to establish a national working group. They will decide what kind of thematic groups will be formed in each country as well.

There is a proposal that South Asia groups should lead this effort. I have discussed with Yap on the possibility of getting funding to conduct country visits but if we do not have the resources it will have to be done on a voluntary basis on behalf of forum Asia to coordinate these activities.

Matthews: Since the SAARC Secretariat is in Kathmandu it makes sense that the coordinating organization be based in Kathmandu.

Subodh: INSEC will take this role on an interim basis until a final decision is made. INSEC will call other groups together to form a working group. Are we going to come to a decision on who will be the leading person in each country to create meeting? (House: yes)

Lead persons per country:

India: SICHREM (Matthews Philip)

Nepal: INSEC (Subodh)

Sri Lanka: an email will be sent out by Sithuya from CTF.

Pakistan: Subodh will ask (HRCP)?

Maldives: Secretariat will contact

Bhutan: Secretariat will contact

Afghanistan: Secretariat will contact

Bangladesh: Odhikar

Mr. Subodh Raj Pakyurel, Chairperson of INSEC and FORUM-ASIA concludes the Workshop. Presentations of the speaker have been presented in the Annex-III.
## PART III: WORKSHOP PROGRAMME

Final Programme

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<td>2. Opening Remarks</td>
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<td><strong>Mr. Yap Swee Seng</strong>, Executive Director, FORUM-ASIA</td>
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<td><strong>Chief Guest: Hon’ble Minister Bhim Rawal</strong>, Government of Nepal</td>
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<td><strong>Ministry of Home Affairs</strong></td>
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<td><strong>MC: Mr. Bijaya Gautam</strong>, Executive Director, INSEC</td>
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<td>10.30-12.30</td>
<td><strong>Country Presentation:</strong> Confronting the Challenges of Human Rights in South Asia: Responses of</td>
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<td>1. Bangladesh: <strong>Mr. Adilur Rahman Khan</strong>, Odhikar</td>
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<td>2. India: <strong>Dr. Lenin Raghuvanshi</strong>, PVCHR</td>
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<td>3. Pakistan: <strong>Mr. Mahammed Zaman Khan</strong>, Human Rights Commission of Pakistan</td>
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<td>4. Sri Lanka: <strong>Mr. Sithuya</strong>, CTF</td>
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<td>5. Nepal: <strong>Mr. Bijaya Gautam</strong>, INSEC</td>
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<td>6. Bhutan – <strong>Dr. DNS Dhakal</strong>, Bhutan National Democratic Forum</td>
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<td><strong>Lunch</strong></td>
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<td>13:30-15:00</td>
<td>**[Session 1: Examining the Role of National Human Rights Institutions (NHRIs) as a Mechanism for</td>
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<td>the Protection and Promotion of Human Rights in South Asia ]</td>
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<td>1. <strong>Mr. Sushil Pyakurel</strong>, Ex-Commissioner of the National Human Rights</td>
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<td><strong>Session 2: Review of Human Rights Agenda in SAARC and People’s Initiatives</strong></td>
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<td>1. How has SAARC as an inter-governmental body responded to address human rights violations in the region</td>
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<td>Speaker: <strong>Dr. Lenin Raghuvanshi</strong>, PVCHR</td>
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<td>2. Past Initiatives of People’s Movements and Civil Society to Make SAARC Promote and Protect Human Rights</td>
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**Day 2 (25 March 2010) Thursday**

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<td><strong>Mr.Rory Mungoven</strong>, Coordinator, Asia-Pacific Section, Field Office and Technical Cooperation Division, UN Office of the High Commissioner for Human Rights(OHCHR), Geneva</td>
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<td><strong>Mr. Richard Bennette</strong>, Representative, UN Office of the High Commissioner for Human Rights(OHCHR)Nepal,</td>
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<td>10:45-12:30</td>
<td><strong>Session 4: Regional Human Rights Mechanism in South Asia</strong></td>
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Speakers:
1. Mr. Raj Kumar, Consultant for UNA, FORUM-ASIA
2. Mr. Dinesh Tripathi, Advocate, Constitutional Expert

**Moderator: Ms. Rita Manchand, South Asian Form for Human Rights (SAFHR)**

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<td>Tea/Coffee Break</td>
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<td>16:00-17:00</td>
<td>[Session 7: Action Plan and Statement on Promotion and Protection of Human Rights in SAARC]</td>
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<td>Moderator: Mr. Subodh Pyakurel, FORUM-ASIA</td>
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*Closing of the Workshop*
PART IV: POST-WORKSHOP ACTIVITIES

26TH MARCH MEETING WITH RT. HON’BLE PRIME MINISTER MR. MADHAV KUMAR NEPAL

A delegation of 18 representatives from various human rights organizations met the Rt. Hon’ble Prime Minister Mr. Madhav Kumar Nepal at Office of the prime Minister Baluwatar Kathmandu on 26 March 2010 to submit the outcome document of the First Sub-Regional Workshop on South Asian Human Rights Mechanism, 24-15 March 2010. The delegation was led by Mr. Subodh Pakyurel, Chairperson of the FORUM-ASIA.

Proceedings:

1. Chairperson of the FORUM-ASIA Mr. Subodh Raj Pakyurel briefed the Prime Minister about the purpose of the delegation in relation to the South Asian Human Rights Mechanism. Then the delegates introduced themselves.

2. Raj Kumar briefed about the key features of the First Sub-Regional Workshop on South Asian Human Rights Mechanism, 24-15 March, 2010 Organized by Informal Sector Service Center (INSEC) and Asian Forum for Human Rights and Development (FORUM-ASIA. He appreciated the role of Nepal in expressing commitment towards human rights, establishment of NHRIs and Office of the UN Office of the High Commissioner for Human Rights (OHCHR) Nepal. Briefly elaborating on the need of regional mechanism in South Asia Mr. Raj Kumar pointed out that the mechanism could play significant role in translating the vision of SAARC on ‘People to People Contact’, human rights aspects of SAARC Social Charter and existing Conventions under the SAARC. He requested the PM to bring the agenda in the upcoming SAARC Summit scheduled to be held in Thimpu on 28-29th April 2010. Then Mr. Raj Kumar handed the Kathmandu Declaration to the Prime Minister Mr. Madhav Kumar Nepal.

3. Mr. Yap Swee Seng, Executive Director of the FORUM-ASIA briefed about the modality. Mr. Yap highlighted the nexus between human rights and development. (PM made a complimentary remark that there can be no democracy if there is no human rights.) Mr. Yap briefed that National Working Group of the South Asian countries will work together to push the agenda of South Asian regional mechanism on human rights. He further stressed out that there are some pertinent issues of human rights such as trafficking, migrant worker and global warming which should be collectively dealt with these countries respectively. He also drew attention towards the forthcoming SAARC Summit in Thimpu and it would be a timely attempt by Nepal towards the regional human rights mechanism in South Asia.

4. Response from Rt. Hon’ble Prime Minister of Nepal

PM acknowledged for the initiatives carried out by the South Asian delegation and told that he is with them on this Endeavour. He also shared that he is in the Standing of the Asian Inter Party Committee which has been involved in forging solidarity towards democracy since 10 years. He recalled that the ICAP meeting was held on 2000 in Manila„ 2006 in
Seoul, 2009 in Kajakasthan and 2010 in Cambodia. Every two years the organizations conduct General Assembly. In 2008 GA was scheduled in Pakistan but postponed. There is representation of 19 countries and 50 persons are representing the organization. The Prime Minister highlighted the linkage between the human rights and democracy and referred that this organization has endorsed the basic principles of human rights and pointed out that stakeholder should be very careful on their work for the respect, protect and promote the human rights of the people. The Prime Minister expressed happiness on the matter that FORUM-ASIA has been organizing the Sub-Regional Workshop on regional human rights mechanism and the effort was timely in the context of forthcoming SAARC Summit in Bhutan. He also appreciated the key recommendations on the Kathmandu Declaration such as establishment of the National Human Rights Institution (NHRI) in the Bhutan and Pakistan to work together on the key human rights issue and advocacy for the regional mechanism in South Asia. The Prime Minister also stressed out that national human rights institution of Nepal are also competent to carry out the activities for the protection and promotion of human rights in Nepal. He also recalled the positive contribution of these human rights organizations and solidarity expressed by the international community during the crisis period of Nepal. He also said that he is glad with the news from neighbouring country Bangladesh which recently ratified the Rome Statute regarding the International Criminal Court (ICC). The Prime Minister said that general awareness towards human rights is high in Nepal amidst number of unfinished tasks such as establishment of the Truth and Reconciliation Committee (TRC), Disappearance Commission. He said that the Bill is in parliament and the Government will work to speed-up the process once the bill is passed from the parliament.

5. **Mr. DNS Dhakal** drew the attention towards the issue of Bhutanese refugees and denial of their right to return their country with dignity.

6. **Raj Kumar** requested to include the regional human rights mechanism related initiatives in the political document of ICAP.

7. **Saji** shared about democracy, election monitoring and related issues beyond the border in South Asia.

8. **Adilur** requested to consider on the water issue as one of the significant issue related with the life of the people of South Asia. Rt. Hon’ble PM responded that he has already talked with PM of Bangladesh and “Climate Change” is one of the important agenda of the SAARC Summit in Thimpu.

9. **William** highlighted the issue of the migrant workers and requested to consider ratifying ILO Convention on Domestic Worker on International Convention on the Rights of the Migrant Worker. Rt. Hon’ble PM responded that there is 33% women in present Constituent Assembly of Nepal.

10. **Charan Prasai** reminded Magna Meet Declaration for the establishment of regional human rights mechanism in South Asia and drew attention about recent incidents related to the alleged violation of human rights. Rt. Hon’ble PM responded and asked to help in finding the truth.

11. **Dinesh Prasai** said that Nepal should champion and play leading role for the regional mechanism in South Asia.
SAPA GENERAL FORUM, MARCH 26-27, 2010
The 4th General Forum of SAPA was held in Kathmandu on 26-27 March 2010 as per the suggestion made by the 3rd General Forum. INSEC was the local host in organizing the First Sub Regional Workshop on South Asian Human Rights Mechanism on 24-25 March and back-to-back SAPA General Meeting with FORUM-ASIA and Migrant Forum Asia (MFA) respectively. Meeting on SAPA South Asia Working Group Meeting was held on 27 March 2010 at the SAPA meeting hall to discuss on the agenda of South Asia and to develop strategy for the necessary initiatives for South Asia under SAPA process. Meeting Note of the SAPA South Asia Working Group has been presented in the Annex-II.

PRESS MEETING
Number of media was invited in the programme to cover the news of the conference. The news of the workshop was covered by the television, national daily and electronic channel including the FM radio of Nepal. Media clips have been presented in the Annex-IV.
### PART V: WORKSHOP PARTICIPANTS

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name</th>
<th>Gender</th>
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PART VI: MEDIA COVERAGE

Prime Minister Madhav Kumar Nepal holding talks with a delegation of human rights activists at the PM’s official residence in Baluwatar on Friday.

SAARC needs HR mechanism: experts

By A Staff Reporter
Kathmandu, Mar. 24

Various representatives of SAARC countries on Wednesday stressed on the need of regional human right mechanism in South Asia.

They asked for the commitment for making follow-up activities for the collective campaigns for the creation of such regional mechanism.

They expressed their views at a workshop held on the regional human right mechanism jointly organized by Asian Forum for Human Rights and Development (FORUM-Asia) and Information Sector Service Center INSEC in the capital.

The workshop consisted of sessions, group discussions and plenary sessions where participants discussed about prospects and strategies for the mechanism.

Addressing the function, Minister for Home Affairs Bhum Rawal said that the awareness of the Nepalese people about the human rights had overwhelmed the human right activities and encouraged many organizations to work for the protection and improvement of human rights.

“The issue raised by the workshop for the regional human right mechanism is relevant. In fact, the issue plays a critical role at the present context where the society is moving towards a rapid change,” said Minister Rawal.

He said that since the country was passing through a crucial transition and was in the process of drafting its new constitution, the task of taking up new act such as the formation of regional mechanism was not easy.

The leaders of the political parties and the government aimed however holding talks on this regard, he added.

Rawal said: “Nepal is ready to cooperate to realize the regional human right mechanism. This mechanism will also help in contributing ideas in promoting and encouraging human rights in the region.”

Citing the need of the regional human right mechanism, Subhodh Raj Prakash, chairperson, FORUM-Asia said that since there was no human right body in the South Asia, such a mechanism could contribute in promulgating human rights.

Parag Pradhan added that almost all the Western countries are shied away from treaties on human rights where none of them have rejected the rule of law, so it was high time to take an initiative to establish regional human right mechanism in the SAARC region.

Meanwhile, Dr Lenin Raghuvanshi, a representative from India, said that custodial torture, project displacement, refugees, land alienation, right over resources, livelihood, violation against women, fake encounters, homicide in the minimal terms, death penalty and prostitution were issues of human rights in India. According to him, 102 cases of torture occurred in India every year.

Raiti Gautam, executive director of INSEC said that the establishment of the regional human right body based on international standards could play a fundamental role in promoting and protecting the regional human right standards.

“South Asian countries are confronted with daunting human right challenges, such as impunity, the lack of political will if not absence dissent of a number of governments to comply with their human right obligation, widespread poverty and underdevelopment,” said Gautam.

South Asian countries have confronted with daunting human right challenges, such as impunity, the lack of political will if not absence dissent of a number of governments to comply with their human right obligation, widespread poverty and underdevelopment,” said Gautam.

Highlighting the ways to move forward, Gautam said that while reforms the human rights, the framework should be streamlined through a revised charter and not through institutional declaration."

SAARC should remove itself from being an isolated area and merely a hierarchic burden on the participatory bodies,” said Gautam.
India draws rights defenders’ flak

The Kathmandu Post Daily March 26, 2010. Page No 4

POST REPORT
KATHMANDU, MARCH 25

Human rights defenders from SAARC countries have said that India’s “lack-adaisical approach” to human rights has contributed to the region’s worsening rights situation, especially in Sri Lanka, Nepal and Bhutan.

The rights defenders made the remarks on Thursday during a two-day regional conference, which is expected to draft a framework for the establishment of “South Asian Human Rights Mechanism” under SAARC auspices.

Rita Manchanda from South Asia Forum for Human Rights (India) said despite being the dominant power in the region, India has not been cooperating in efforts to promote human rights. “It was India that lobbied against independent probe into the recent human rights violation cases in Sri Lanka,” said Manchanda. Referring to impunity for rights violations by security forces in Nepal, she said that India’s unconditional support to Nepal Army is tantamount to promoting human rights violations. India’s stand in this regard is quite different from the one taken by western countries, including the US and the UK, which have said that their support to the Army would be contingent upon the latter’s respect for human rights.

Former member of the National Human Rights Commission (NHRC) Sushil Pyakurel said India has always been against the presence of UN human rights body in the entire region. “When OHCHR was invited to Nepal in 2005, representatives of the Indian establishment opposed the body,” said Pyakurel. The term of OHCHR, which established its Nepal office following the request from NHRC, rights defenders and political parties, expires on June 9.

Similarly, Executive Director of Asia Forum for Human Rights and Development (FORUM-ASIA), Yap Swee Seng said India’s approach to the Bhutanese refugee crisis is one of the most glaring examples of “non-cooperation”.

India’s role in facilitating Bhutan government to implement the policy of “ethnic cleansing” has made over 160,000 Bhutanese homeless, claimed Chairman of Bhutan National Democratic Forum D.N.S Dhakal.

Dhakal said there are over 15,000 Bhutanese living in India without any identity for the last 20 years, and the Indian government has never shown any interest in giving them “refugee” status.
PM assures setting up rights body

By A Staff Reporter
Kathmandu, Mar. 26
Prime Minister Madhav Kumar Nepal Friday said that he was committed to setting up a regional level human right body in line with SAARC Charter.

PM Nepal made this commitment during his meeting with a delegation of human right activists.

“I am committed to respecting the human rights as envisaged in the SAARC Charter,” Subodh Pyakurel, one of the members of the delegation, quoted PM Nepal as saying.

Pyakurel said that PM Nepal would take up this issue during the upcoming SAARC summit in Bhutan.

He said that the human rights of the people living in the region should be ensured.