



Regional Human Rights Mechanisms in South Asia

Past efforts and ways forward

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General Overview of SAARC

1.1 What is SAARC?

The South Asian Association for Regional Cooperation, better known as SAARC, is an inter-regional organisation whose members comprise of eight nations: Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan, and Sri Lanka. Afghanistan is the most recent addition to SAARC, becoming a member in November 2005. The other seven nations were founding members, forming SAARC in December 1985.

At the first SAARC summit in Dhaka, King Jigme Singye Wangchuck of Bhutan stated the rationale for the creation of SAARC thus: “We have to bear in mind that in spite of all our heterogeneity, we are geographically one homogeneous unit, that our peoples have lived together in peace and friendship for countless centuries, and that they share many values rooted in our common past.”¹ With shared cultural and historical ties, the South Asian countries determined they also share many common challenges and opportunities.

The objectives of SAARC as stated in its Charter are to:

- promote the welfare of the people of South Asia and to improve their quality of life;
- accelerate economic growth, social progress and cultural development in the region and to provide all individuals the opportunity to live in dignity and to realise their full potential;
- promote and strengthen collective self-reliance among the countries of South Asia;
- contribute to mutual trust, understanding and appreciation of one another’s problems;
- promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields;
- strengthen cooperation with other developing countries;
- strengthen cooperation among themselves in international forums on matters of common interest; and
- cooperate with international and regional organisations with similar aims and purposes.²

1 <http://www.bhutan2008.bt/en/node/233>

2 SAARC Charter, <http://www.saarc-sec.org/SAARC-Charter/5/>

SAARC is a regional intergovernmental organisation like the African Union (AU), European Union (EU), the Organisation of American States (OAS), the Caribbean Community (CARICOM), the Arab League, and the Association of Southeast Asian Nations (ASEAN).

Given the political sensitivities in the region SAARC remains non-political, and its economic scope has been limited, despite initiatives such as SAARC Preferential Trading Arrangement (SAPTA) and its evolution into South Asian Free Trade Area (SAFTA).

The latter agreement aims to reduce customs duties of all traded goods to zero by 2015. Unlike the ASEAN, which has been the model which influenced the creation of SAARC, the economic driver has remained relatively muted.

1.2 Overview of SAARC Structure

1.2.1 SAARC Secretariat and Secretary General

The SAARC Secretariat was established in Kathmandu, Nepal in January 1987, and is headed by a Secretary General who is appointed to a three-year term. The Secretary General is chosen from a Member Country in alphabetical order, and is appointed by a Council of Ministers. The Secretary General is assisted by eight Directors from each of the Member States.

The purpose of the Secretariat is to “coordinat[e] and monitor[r] implementation of activities, prepar[e] for and service[e] meetings, and serv[e] as a channel of communication between the Association and its Member States as well as other regional organisations”³. The Secretariat has limitations as it is only an implementation body with no decision-making authority.

1.2.2. Charter Bodies

Council of Ministers

The Council of Ministers is comprised of the Ministers of Foreign/External Affairs of the eight members. The Council is responsible for “formulation of the policies of the Association; b) review of the progress of cooperation under the Association; c) decisions on new areas of cooperation; d) establishment of additional mechanism under the Association as deemed necessary; e) decisions on other matters of general interest to the Association.”⁴ The Council is mandated to meet twice a year.

Standing Committee

The Standing Committee is comprised of the Foreign Secretaries of the eight members, and is responsible for “a) overall monitoring and coordination of programme of cooperation; b) approval of projects and programmes, and the modalities of their financing; c) determination of inter-sectoral priorities; d) mobilisation of regional and external resources; e) identification of new areas of cooperation based on appropriate studies.”⁵ The Committee is mandated to meet as often as necessary, and is expected

3 SAARC Website, <http://www.saarc-sec.org/SAARC-Secretariat/18/>

4 SAARC Charter, Article IV (1)

5 SAARC Charter, Article V (1)

to submit periodic reports to the Council of Ministers. As a rule, the Standing Committee meets before the biannual sessions of the Council of Ministers.

Technical Committee

Technical Committees are appointed to implement, coordinate, and monitor specific programmes. Their mandate is “a) determination of the potential and the scope of regional cooperation in agreed areas; b) formulation of programmes and preparation of projects; c) determination of financial implications of sectoral programmes; d) formulation of recommendations regarding apportionment of costs; e) implementation and coordination of sectoral programmes; f) monitoring of progress in implementation.”⁶ Technical Committees are expected to submit periodic reports to the Standing Committee. Chairmanship of the Technical Committees rotate among Member States in alphabetical order every two years. At present there are six Technical Committees:

- Technical Committee on Agriculture and Rural Development
- Technical Committee on Health and Population Activities
- Technical Committee on Women, Youth and Children
- Technical Committee on Science and Technology
- Technical Committee on Transport
- Technical Committee on Environment

Programming Committee

The Programming Committee was established by the Standing Committee to assist in matters of “selection of regional projects, including their location, cost-sharing modalities among the Member States, and mobilisation of external resources; Inter- sectoral priority of Work Programme; and Review of the Calendar of Activities.”⁷ It generally meets prior to Standing Committee sessions.

Working Groups

Working Groups oversee activities and programmes in their respective areas. They propose mechanisms and sources of finance to help implement programmes and achieve targets. At present SAARC has the following Working Groups:

- Working Group on Biotechnology
- Working Group on Energy
- Working Group on Information and Communication Technology
- Working Group on Tourism

6 SAARC Charter, Article VI (2)

7 SAARC Website, <https://www.saarc-sec.org/index.php/about-saarc/saarc-structure/programming-committee>

Regional Centres

SAARC Secretariat is supported by Regional Centres established in Members States focusing on specific areas aim to promote regional cooperation on their respective subjects. These Centres are managed by Governing Boards comprising representatives from all the Member States, SAARC Secretary-General and the Ministry of Foreign/External Affairs of the Host Government. The Directors of the Centres report to the Programming Committee. The Regional Centres at present are:

- SAARC Agricultural Centre (SAC), Bangladesh
- SAARC Meteorological Research Centre (SMRC), Bangladesh
- SAARC Tuberculosis Centre (STC), Nepal
- SAARC Documentation Centre (SDC), Bangladesh
- SAARC Human Resources Development Centre (SHRDC), Pakistan
- SAARC Coastal Zone Management Centre (SCZMC), Maldives
- SAARC Information Centre (SIC), Nepal
- SAARC Energy Centre (SEC), Pakistan
- SAARC Disaster Management Centre (SDMC), India
- SAARC Forestry Centre (SFC), Bhutan
- SAARC Cultural Centre (SCC), Sri Lanka

1.3 Brief History of SAARC Summits and Declarations

1981-1991

The concept of SAARC was first proposed by President Ziaur Rahman of Bangladesh in 1977. It quickly gained support among leaders of the smaller South Asians nations, including King Birendra of Nepal. The foreign secretaries of the seven founding members met in 1981 to discuss a possible regional organisation to strengthen economic and cultural ties: this was, in effect, the first meeting of SAARC's Standing Committee.

Between 1980 and 1983, four meetings at the foreign secretary levels (April 21-23, 1981, Colombo; November 2-4, 1981, Kathmandu; August 7-8, 1982, Islamabad; March 28-30, 1983, Dhaka) took place to establish the principles of organisation and identify areas for cooperation. After three years of preparatory discussions at the official level, the focus of discussion shifted to the political level in 1983.

The first South Asian foreign ministers' conference was held in New Delhi in 1983, where the Integrated Programme of Action (IPA) on mutually agreed areas of cooperation (i.e., agriculture, rural development, telecommunications, meteorology, health and population control, transport, sports, arts and culture, postal services and scientific and technical cooperation) was launched. The foreign ministers of this conference also adopted a Declaration on Regional Cooperation, formally beginning an organisation known as the South Asian Regional Cooperation (SARC). Following the New Delhi meeting, three more meetings of the foreign ministers were held in Male (1984), Thimpu (May 1985),

and Dhaka (December 1985) to finalise details and determine a date and place for the first meeting of South Asian heads of State. At the Dhaka foreign ministers' meeting, a decision was taken to change the name of the organisation from South Asian Regional Cooperation (SARC) to South Asian Association for Regional Cooperation (SAARC). The change in the acronym was based on the thinking that while SARC refers to the process of South Asian Regional Cooperation, SAARC marks the establishment of an association (organisation) to promote and develop such cooperation. Finally, the first summit meeting of the heads of State or government of the South Asian countries was held at Dhaka from December 7-8, 1985.

As the decade wore on, new areas of cooperation were identified, and new regional bodies were set up. During the fourth and fifth summits in 1988 and 1990, SAARC declared 1989 the 'Year against Drug Abuse', 1990 the 'Year of the Girl Child', 1991 the 'Year of the Shelter', 1992 the 'Year of the Environment', and 1993 the 'Year of the Disabled Persons'. SAARC agreed to set up a Food Reserve and a Tuberculosis Centre, as well as a Documentation Centre.

1991 - 1998

The deep-seated political suspicions in the region, particularly between the two biggest countries, namely India and Pakistan and the bureaucratic red tape meant that declarations became less and less ambitious. SAARC was established with a view to ease regional tensions through cooperation, however this ideal was far from achieved. The political landscape that had sculpted the formation of the SAARC cooperation in 1985, had radically changed. Military dictatorships in Bangladesh and Pakistan were replaced with civilian rule in the early 90s; Nepal evolved from an absolute monarchy to a constitutional monarchy, later faced a civil war between government forces and Maoist insurgents in 1996; and Bhutan transferred executive powers from the monarchy to a Council of Ministers. India saw an alarming rise in religious tensions highlighted in the Babri Mosque riots of 1992.

The fallout from follow up to declarations being blocked by bureaucratic red tape and regional politics meant that declarations became less and less ambitious. Rising regional tensions and changes in the political landscape meant the relationships that had formed SAARC in 1985 had become destabilised.

The nuclear test by India in 1998, and retaliatory tests by Pakistan, instantly made the region extremely unstable with the nuclear option. The situation escalated to dangerous proportions during the Kargil conflict in 1999, when both the countries engaged in hostilities.

Nevertheless, a few important Ministerial Declarations emerged during this period, signed by the Foreign Ministers of the members. The 1996 Rawalpindi Resolution on the Children of South Asia set the stage for the future development of the Convention on Promotion of Welfare of Children. The New Delhi Declaration of Environment Ministers of 1997, along with the Common Position on Climate Change in 1998, attempted to initiate a regional climate change movement. 1995 was declared the 'SAARC Year of Poverty Eradication', 1996 was declared the 'Year of Literacy' and 1997 was declared the 'Year of Participatory Governance'.

1998 - 2002

Tensions between India and Pakistan continued to heighten, and in 1999 the Kargil War broke out as Pakistan sent troops into Kashmir. The military aggression occurred a few months after the Lahore Declaration, where the democratic leaders of India and Pakistan, nervous at having come close to a nuclear showdown, had pledged themselves to intensify efforts to resolve the Kashmir dispute, reaffirmed their commitment to SAARC's objectives, and resolved to promote human rights.

It was speculated that the Pakistan military was unhappy with the Lahore Declaration⁸. They boycotted the reception for the Indian Prime Minister when he arrived at the border to enter Pakistan for the summit, and are suspected to have used their militant network to arrange terrorist attacks during the summit in order to undermine the Declaration. This process of subversion culminated in the Kargil War. While the war ended swiftly, it seriously set back gains made in India-Pakistan diplomatic relations, which became frozen in the immediate aftermath.

The SAARC summit planned for 1999 was called off as India insisted that the leader of Pakistan was not an appropriate representative of his people to SAARC. With relations between India and Pakistan frozen, there would not be another summit until 2002.

2002 - 2012

New impetus has been injected into the SAARC movement. India's Premier, Manmohan Singh, elected in 2004, has made resolving the conflict with Pakistan, which heretofore had obstructed any meaningful progress for SAARC, an important part of his agenda. Afghanistan joined SAARC in 2005, while China, USA, EU, and Iran requested, and obtained, observer status. The total number of observers of SAARC is now nine. With these four countries then joined Australia, Japan, Republic of Korea, Mauritius and Myanmar.

The SAARC Convention on Preventing and Combating Trafficking in Women and Children and the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia were adopted in January 2002. The member governments drafted and signed the Social Charter in Islamabad in 2004, and agreed to establish a SAARC Food Bank in 2007. In 2010, the 16th Summit at Thimpu, marked the 25th anniversary of the formation of SAARC – and saw the eight leaders sign the SAARC Convention on Cooperation on Climate Change.

A South Asia Free Trade Area is currently taking shape, with parties agreeing to reducing tariffs to 20% in the near future. A three-year Action Plan on Climate Change from 2009-2011 was adopted, focusing on adaptation and securing international assistance. India announced the 'India endowment for climate change in South Asia' to assist South Asian members at the 16th summit in 2010. SAARC countries have acted to raise global awareness of climate change, with low-lying Maldives holding a cabinet meeting under water and Nepal's cabinet meeting at the base of Mount Everest in 2009.

8 <http://www.tribuneindia.com/1999/99apr04/j&k.htm#1>

Civil society awareness of SAARC activities and its attempts to participate in and influence the SAARC process has also stepped up in recent years. A glance at the list of SAARC's Apex Bodies and SAARC Recognized Bodies reveals that SAARC is more interested in working with civil society organisations in technical and development than civil society organisations working on human rights and democratisation. Still, groups such as the South Asian Free Media Association (SAFMA), South Asians for Human Rights (SAHR), and South Asia Forum for Human Rights (SAFHR) now try to lobby SAARC into addressing a wider range of human rights issues than it has in the past. The largest network of civil society groups working to push SAARC deeper into acting on human rights is People's SAARC; a collective of people's movements, rights groups and prominent members of civil society across South Asia with a Secretariat based in Kathmandu, the same city where the SAARC Secretariat is located.

In 2010 the first sub-regional workshop on a South Asian Human Rights Mechanism was held, and participants emerged with the Kathmandu Declaration, demanding the establishment of a regional human rights mechanism in South Asia similar to the Asian Intergovernmental Commission on Human Rights (AICHR) in ASEAN, the Inter-American Commission on Human Rights, the African Commission on Human and Peoples' Rights, and the European Court of Human Rights. Other recent developments have included the decision to establish a South Asia Forum by SAARC, where 14 members of each country's civil society will be nominated by their respective State governments to discuss regional issues.

2012 - Present Day

During this period, geo-politics of the region, especially the rivalry between India and Pakistan dominated the working and discussions of SAARC. The 18th SAARC Summit was held in Kathmandu in November 2014. During the summit, the leaders recognised the continuous existence of SAARC for over 30 years and called for revitalising regional cooperation in South Asia. The summit also finalised the SAARC Motor Vehicles Agreement, to enhance regional connectivity by allowing movement of goods and passengers through road transport in the region.

The 19th SAARC Summit, which was supposed to be hosted by Pakistan in November 2016, was cancelled after India pulled out from the summit following a terrorist attack in Jammu and Kashmir in September 2016. Diplomacy and regional cooperation were marred by bilateral tensions between India and Pakistan, which has severely affected the working of SAARC, as until now, no SAARC Summit has been held.

The stalemate situation was broken after the COVID-19 pandemic in March 2020 when a virtual leader's summit was held to discuss regional cooperation in tackling the pandemic. The SAARC leaders agreed to create a COVID-19 emergency fund, based on voluntary contributions from all the SAARC member States to be used for COVID-19 response in the region.

Human Rights in South Asia

AFGHANISTAN

Since 2001, the war in Afghanistan has significantly escalated human rights violations in the country. The Taliban's repressive rule has had a compounding effect on the situation of human rights in conflict-fraught Afghanistan as evidenced by mass civilian deaths, oppression against women, crimes against humanity, and war crimes. An unserviceable governance structure has bolstered the state of impunity and exacerbated the vulnerability to human rights violations.

In February 2020, the United States and the Taliban signed the 'Agreement for Bringing Peace to Afghanistan' aimed at ending the war and institutionalising peace in the country.⁹ The incumbent government is not a party to this agreement. In contravention to the agreement, the Taliban conducted over 4,500 attacks on Afghan's government forces killing some 900 soldiers between March and April 2020.¹⁰ Civilians continue to be killed and injured in insurgent attacks, while indiscriminate airstrikes by Afghan government forces have added to the civilian toll. Over 6,000 civilian casualties were reported in the first nine months of 2020.¹¹ Abductions and targeted killings of politicians, government officials, judges, journalists and human rights activists, mostly attributable to the Taliban, have increased. Between January-March 2021, some 1,800 civilian casualties have been reported, of which 37% of the victims were women.¹² Human rights defenders and civil society organisations in Afghanistan postulate that, a full withdrawal of US troops from the country by September 2021, as per the agreement, will effectuate the Taliban's resurgence and regress the country's human rights situation.

9 <https://www.state.gov/wp-content/uploads/2020/02/Agreement-For-Bringing-Peace-to-Afghanistan-02.29.20.pdf>, accessed 18 April 2021

10 <https://www.reuters.com/article/us-health-coronavirus-afghanistan-taliba/taliban-step-up-attacks-on-afghan-forces-since-signing-u-s-deal-data-idUSKBN22D5S7>, accessed 18 April 2021

11 https://unama.unmissions.org/sites/default/files/executive_summary_afghanistan_protection_of_civilians_annual_report_2020_eng_0.pdf, accessed 18 April 2021

12 https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_1st_quarter_2021_2.pdf, accessed 18 April 2021

There was a significant turning point on international accountability when Afghanistan acceded to the Rome Statute establishing the International Criminal Court (ICC) in 2003.¹³ In March 2021, the Appeals Chamber of the ICC amended the 2019 decision of the Pre-Trial Chamber and authorised the court's prosecutor to investigate possible war crimes and crimes against humanity perpetrated by all parties during the conflict in Afghanistan.¹⁴ This brings the Taliban, the Afghan government forces, and the US troops and its allies under the purview of investigations. However, the depth of the investigation is contingent on the cooperation of the incumbent government which is concurrently engaged in peace talks with the Taliban.

The peace talks have been criticised for not being representative of the broad Afghan population, especially with respect to gender. The government's delegation comprised of only one woman out of its 12 members while the Taliban's 10-member team included no woman during the talks in March this year.¹⁵ This has raised concerns from national and international actors, including women leaders and activists in Afghanistan.¹⁶ There are repeated calls by civil society organisations to preserve human rights protections, including constitutional guarantees on women's rights and freedom of expression.¹⁷ A flash-survey of the Afghan People reveals some 84.7 per cent of the people deem protection of women's rights in the peace agreement very important.¹⁸ The Ministry of Women's Affairs reported a slight increase in registered cases of violence against women, including murder, assault, and rape. However, such cases are seldom prosecuted, and the government has failed to prosecute senior officials responsible for sexual assault, torture, and murder of civilians.

In 2020, the Afghan government proposed amendments to the media law which would have compelled journalists to reveal sources and allowed government censorship of news reports. Following strong criticisms by the media and human rights groups, President Ghani withdrew the amendments.¹⁹ However, threats to journalists by the government and the Taliban continue alongside severe restrictions on education and free speech.

Furthermore, the pandemic has overwhelmed Afghanistan's fragile healthcare system, raising concerns of another looming humanitarian crisis. However, with WHO's COVAX fund coupled with emergency assistance from the World Bank and the Asian Development Bank, the Afghan government is expected to provide quick access to health services and vaccination to its population.²⁰

13 https://asp.icc-cpi.int/en_menus/asp/states%20parties/asian%20states/Pages/afghanistan.aspx

14 https://www.icc-cpi.int/CourtRecords/CR2020_00828.PDF

15 <https://www.reuters.com/article/us-usa-afghanistan-peaceplan-women-idUSKBN2BA2HF>, accessed 20 April 2021

16 The Asia Foundation, 'Afghanistan Flash Surveys on Perception of Peace, COVID-19, and the Economy: Wave 1 Findings' (2020), p. 26

17 <https://www.hrw.org/world-report/2020/country-chapters/afghanistan>, accessed 18 April 2021

18 The Asia Foundation, 'Afghanistan Flash Surveys on Perception of Peace, COVID-19, and the Economy: Wave 1 Findings' (2020), p. 47

19 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/afghanistan-government-drops-controversial-media-law-amendment.html>, accessed 19 April 2021

20 <https://www.worldbank.org/en/news/press-release/2021/03/18/new-grants-to-spur-afghanistan-covid-19-vaccine-rollout>, accessed 20 April 2021

BANGLADESH

The emergence of an independent Bangladesh, through the ravages of war, was not conferred due attention in international politics in 1971. Fifty years on, Bangladesh is hailed as a success story owing to its stable economy and notable reduction in poverty.²¹ As one of the fastest growing economies in the world, the country has progressively improved on its Human Development Index as well.²²

The economic progress is in stark contrast to the regressive policies of Bangladesh marked by encroachments upon freedom of assembly, association, and expression. Bangladesh is a State party to the International Covenant on Civil and Political Rights 1966 which guarantees those fundamental freedoms. In 2020, the government blocked some 17 public gatherings²³ and meetings organised by the opposition Bangladesh National Party were forcefully dispersed by the police.²⁴ Similarly, a peaceful rally demanding the release of a student met with police violence. These incidents are emblematic of the wider State policy to stifle dissent and debate in Bangladesh.

The Digital Security Act 2018 continued to be used against journalists and civil society activists with some 1,000 people charged and 353 detained in the year 2020 alone.²⁵ The ramifications of this repressive law extends far and wide as evidenced by the death of an imprisoned writer, Mustaq Ahmed, who was arrested for criticising the government's COVID-19 response on his social media.²⁶ Another detainee, cartoonist Kabir Kishore, alleged to have spread false information about the COVID-19 situation in Bangladesh, sustained severe torture injuries while in prison.²⁷ The international community, including the UN High Commissioner for Human Rights, UN independent experts,²⁸ and European Union, civil society organisations²⁹, as well as journalists in Bangladesh have repeatedly criticised the Act for curtailing free speech and violating international law. Such curtailment has extended to academia as well, where several professors were dismissed from different universities for their opinions on political issues of the country.³⁰

21 <https://www.worldbank.org/en/country/bangladesh/overview>, accessed 20 April 2021

22 <http://hdr.undp.org/en/countries/profiles/BGD>, accessed 20 April 2021

23 <https://www.amnesty.org/en/countries/asia-and-the-pacific/bangladesh/report-bangladesh/>, accessed 20 April 2021

24 Ibid.

25 <https://www.amnesty.org/en/countries/asia-and-the-pacific/bangladesh/report-bangladesh/>, accessed 20 April 2021

26 <https://www.jurist.org/news/2021/03/bangladesh-prison-death-reignites-digital-security-act-concerns/>, accessed 19 April 2021;

<https://www.civicus.org/index.php/media-resources/media-releases/4947-bangladesh-international-community-must-respond-to-crackdown-on-freedom-of-expression>, accessed 18 April 2021

27 <https://cpj.org/2021/03/jailed-digital-security-act-bangladeshi-cartoonist-kabir-kishore-tortured/>, accessed 19 April 2021

28 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=25905> accessed 19 April 2021

29 <https://www.forum-asia.org/?p=21399>

30 <https://www.amnesty.org/en/countries/asia-and-the-pacific/bangladesh/report-bangladesh/>, accessed 19 April 2021

Furthermore, the killings and enforced disappearances of protesters across the country is gravely concerning. Between 26 and 28 March, at least 14 protesters have died and at least five detained incommunicado.³¹ Between 2009 and 2019, 1,900 extra-judicial killings were recorded alongside the forceful disappearance of 600 people.³² Despite repeated calls by human rights groups and the UN Working Group on Enforced and Involuntary Disappearances, Bangladesh has refused to furnish clarifications for such serious violations. These unabated human rights violations with complete impunity run in paradox to the three memberships held by Bangladesh at the UN Human Rights Council since Prime Minister Sheikh Hasina's regime in 2009, from 2009 to 2012, 2015 to 2017, and currently between 2019 and 2021.³³

The deepening human rights crisis unfolds in parallel to an existing and rapidly intensifying humanitarian emergency unleashed by the persecution of the Rohingyas in Myanmar. Bangladesh continues to host nearly 1.3 million Rohingya refugees; it has adhered to the principle of non-refoulment under customary international law by not forcing the Rohingyas back into Myanmar where they will likely be persecuted. Bangladesh is a party to the Rome Statute establishing the ICC. In November 2019, the Pre-Trial Chamber of the ICC authorised the Prosecutor to commence investigations on acts including but not limited to crimes against humanity committed on the territory of Bangladesh vis-a-vis the persecution of the Rohingyas by Myanmar authorities.³⁴ As Myanmar is not a party to the Rome Statute, the ICC is dependent on Bangladesh's unconditional cooperation for a fair and comprehensive investigation.

As Bangladesh engages with international criminal law, its obligations under international human rights in relation to the Rohingyas is questionable. Since September 2019, internet access in the camps have been shut down citing security concerns.³⁵ Such restrictions in fact demonstrate the government's intention to block access to information to and from the refugee camps in gross violation of Bangladesh's obligations under the International Covenant on Civil and Political Rights 1966. Before the onset of COVID-19, humanitarian aid workers appealed for removal of such barriers to communications for it widened the gap between service providers and seekers; the precariousness of the Rohingyas have only increased in the pandemic as they have to depend on few channels of communication³⁶ to get effective and accurate information regarding the virus.

31 <https://www.civicus.org/index.php/media-resources/news/5019-bangladesh-authorities-must-conduct-investigations-into-death-of-protesters>, accessed 18 April 2021

32 <https://www.aa.com.tr/en/asia-pacific/bangladesh-human-rights-situation-remains-alarming-/1669362> accessed 20 April 2021

33 <https://www.thedailystar.net/country/news/bangladesh-becomes-unhrc-member-1646227> accessed 20 April 2021

34 https://www.icc-cpi.int/CourtRecords/CR2019_06955.PDF accessed 22 April 2021

35 <https://www.hrw.org/news/2019/09/13/bangladesh-internet-blackout-rohingya-refugees> accessed 20 April 2021

36 <https://www.oxfam.org/en/blogs/four-things-know-about-covid-worlds-largest-refugee-camp> accessed 20 April 2021

BHUTAN

An insulated country like Bhutan is gradually becoming open and transparent. The UN established its office in Bhutan in 1974 and the country currently hosts other UN entities like the UNDP, UNICEF, UNODC, WFP, FAO, UNFPA, and WHO.³⁷ The fact that international observers were allowed into the country to observe the third general elections in 2018 also attests to their relative openness.³⁸ Bhutan's recognition as a success story for its unique 'Gross National Happiness Index' and notable economic and social progress³⁹ has swelled owing to its swift and effective containment of COVID-19.⁴⁰

Conflicting reports exist regarding Bhutan's approach to political and civil rights. Bhutan improved on the Press Freedom Index in 2021 securing the 65th position, as compared to 67th in 2020.⁴¹ This is the highest for all South Asian countries. There were no reported attacks against journalists and media assistants in 2021 and until 2020, no journalist had ever been incarcerated in the country.⁴² Nevertheless, it is reported that journalists, bloggers, and writers exercise a high-level of self-censorship, especially in matters pertaining to the royal family.⁴³ Threats, intimidation, and defamation lawsuits against journalists and those vocal on social media are also on the rise.⁴⁴ The Information, Communications and Media Act 2018 has invoked concerns over government censorship of press content resulting in inauthentic and inaccurate representation of government's practices and policies.⁴⁵

The state of freedom of assembly continues to be restricted in Bhutan where public gathering requires government approval, which were at times denied in 2020.⁴⁶ However, absence of adequate information on this makes it difficult to fully analyse the situation. The government is noted to generally permit civil society organisations working on human rights and governance-related work provided their work does not pertain to ethnic Nepalis living in Bhutan. This policy is an extension of the longstanding history of persecution sustained by ethnic Nepalis in the country.

The enactment of the Bhutan Citizenship Act, 1985 arbitrarily stripped citizenship of Nepali-speaking communities, comprising a sixth of its population. Consequently, since the early 1990s, over 105,000 Bhutanese refugees have been living in camps in eastern Nepal.⁴⁷

37 <https://bhutan.un.org/en/about/about-the-un> accessed 22 April 2021

38 <https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/bhutan/> accessed 22 April 2021

39 The World Bank, 'Bhutan Development Report, January 2019 : A Path to Inclusive and Sustainable Development' (2019)

40 <https://www.devex.com/news/q-a-is-gross-national-happiness-the-key-to-bhutan-escaping-the-pandemic-97743> accessed 23 April 2021; <https://www.theatlantic.com/international/archive/2021/02/coronavirus-pandemic-bhutan/617976/> accessed 22 April 2021.

41 <https://rsf.org/en/bhutan> accessed 23 April 2021

42 <https://en.unesco.org/news/bhutan-journalism-without-fear-favour-eastern-himalayas> accessed 22 April 2021

43 Us Department of State, Bhutan 2020 Human Rights Report (2021), p.6.; <https://freedomhouse.org/country/bhutan/freedom-world/2020> accessed 22 April 2021

44 Ibid; <https://rsf.org/en/bhutan> accessed 23 April 2021

45 <https://freedomhouse.org/country/bhutan/freedom-world/2020> accessed 22 April 2021

46 <https://freedomhouse.org/country/bhutan/freedom-world/2020> accessed 23 April 2021

47 <https://www.hrw.org/news/2008/02/01/bhutans-ethnic-cleansing> accessed 23 April 2021; <http://bhutaneserefugees.com/> accessed 23 April 2021

No refugee has been welcomed back in Bhutan to date. All but 6,500 refugees remain in Nepal⁴⁸ with no chance of repatriation. In 2007, Human Rights Watch reported to the Committee of Convention on Rights of the Child⁴⁹ of discrimination faced by Nepali children in Bhutan while accessing education, healthcare, and land ownership; obstructions in enjoying their own culture and language; and sexual violence.⁵⁰

INDIA

India's transformation into a major global economic power is plagued by pressing human rights problems deriving from its rapid development, and historic inequalities. The current Bharatiya Janata Party (BJP)-led government has exacerbated violence, hatred and discrimination against minorities, mainly towards Muslims and Dalits for the Hindu nationalist rhetoric it has propagated; and it continues to harass, arrest, and prosecute human rights defenders, activists, journalists, students, academics, and others critical of the government or its policies.

The year 2020 marked protests and revealed the extent of the government's tacit policy to quell free speech and assembly. Pursuant to the adoption of the discriminatory⁵¹ Citizenship Amendment Act, which could render thousands of Muslims and others in India stateless, the country witnessed mass and continued nation-wide protests. The protests were marked with deaths of mainly Muslim protesters, including students; violence perpetrated by pro-government forces; and police complicity and brutality.⁵² Similarly, following the adoption of three new farm laws in September 2020, India witnessed mass protests from farmers, trade unions, and activists for the anti-agrarian and pro-corporate interests the laws promoted. Protesters were met with excessive police violence, forceful dispersions, arrests, and internet shutdowns invoking concerns from human rights organisations⁵³, including the UN.⁵⁴ The government's intention to muzzle free speech is also evident by the arrest of Disha Ravi, a 22-year climate activist, who shared an online toolkit with information on the farmer's protests.⁵⁵

India led the highest number of internet shutdowns in 2020 with 70 per cent of the global internet shutdowns in 2020 attributed to it.⁵⁶ Blanket shutdowns have been used to prevent, obstruct, or suppress social unrest and protests in the pretext of public safety and national security concerns. Jammu and Kashmir (J & K) sustained 57 shutdowns, the highest in the country.

48 <https://kathmandupost.com/national/2019/02/03/nepal-decides-to-resume-talks-with-bhutan-on-refugee-repatriation> accessed 23 April 2021

49 Bhutan is a party to the Convention on the Rights of the Child and its two Optional Protocols.

50 <https://www.hrw.org/legacy/background/crd/2007/bhutan1007/> accessed 23 April 2021

51 <https://news.un.org/en/story/2019/12/1053511> accessed 23 April 2021

52 <https://www.hrw.org/news/2020/04/09/india-protests-attacks-over-new-citizenship-law> accessed 21 April 2021

53 <https://www.amnesty.org/en/latest/news/2021/02/india-government-must-stop-crushing-farmers-protests-and-demonizing-dissenters/> accessed 23 April 2021

54 <https://news.un.org/en/story/2021/02/1084072> accessed 23 April 2021

55 <https://www.aljazeera.com/news/2021/2/15/indian-climate-activists-arrest-causes-outrage> accessed 21 April 2021

56 Access Now, *Shattered Dreams and Lost Opportunities* (2020), p.4

Pursuant to the Supreme Court's decision in January 2020 in *Anuradha Bhasin v Union of India*, authorities must now make all shutdowns proportionate to the pursued aim and publish such legal orders.⁵⁷ Between January and July 2020, several states had failed to proactively publish such orders.⁵⁸

On August 5, 2019 the Indian government revoked the special constitutional status provided to the erstwhile state of Jammu and Kashmir and re-organised into two 'union-territories' – Jammu and Kashmir and Ladakh, which would come under the direct administration of the federal government. This decision was followed by internet shutdown for over a year and detention of political leaders and activists. The repressive media policy for J&K announced in June 2020 has been bolstered by a new directive introduced by the J & K police in April 2021. While the government empowers authorities to decide what is fake news or anti-national activities, the police prohibits media coverage of 'law and order' situations for national security reasons.⁵⁹ Both contain punitive elements for those deemed to contravene the policies. Similarly, the Information and Technology Rules 2021 has sparked concerns over a shrinking digital space and a widening oversight powers of the government.⁶⁰

The government also clamped down on critics, journalists, and human rights activists. India remained at the 142nd position in the Press Freedom Index 2021. Its poor performance is attributed to rising attacks on journalists from State and non-state actors, heaving censorship on social media, acerbic hate campaigns directed against bloggers and journalists, especially women, and criminal prosecutions of journalists.⁶¹ Over nine journalists covering the farmer's protests were detained or charged between November 2020 and February 2021.⁶² A discernible pattern emerges out of this as over 55 independent journalists working in rural India were also targeted for criticising the inept handling of the pandemic.⁶³

The Armed Forces (Special Powers) Act continues to provide effective immunity from prosecution to security forces, even for serious human rights abuses. Cases of torture in police custody and extrajudicial killings sans accountability emerge unabated: between January and October 2020, India's National Human Rights Commission reported 77 deaths in police custody, 1,338 deaths in judicial custody, and 62 alleged extrajudicial killings.

57 <https://internetfreedom.in/scs-judgement-on-kashmir-communication-is-just-the-beginning/> accessed 23 April 2021

58 <https://internetfreedom.in/publication-internet-shutdown-orders/> accessed 23 April 2021

59 <https://www.aljazeera.com/news/2021/4/8/concerns-as-kashmir-police-ban-live-media-coverage-of-gunbattles> accessed 23 April 2021

60 <https://indianexpress.com/article/opinion/columns/new-it-rules-ott-platforms-content-youtube-netflix-amazon-7222873/> accessed 23 April 2021; <https://scroll.in/article/988448/four-reasons-to-be-worried-about-indias-new-it-rules-that-are-supposed-to-regulate-big-tech> accessed 23 April 2021

61 <https://rsf.org/en/india> accessed 23 April 2021

62 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/india-journalists-targeted-for-reporting-farmer-protest.html#:~:text=At%20least%20nine%20journalists%20have,death%20of%20protestor%20Navreet%20Singh> accessed 21 April 2021

63 <https://www.theguardian.com/global-development/2020/jul/31/india-arrests-50-journalists-in-clampdown-on-critics-of-covid-19-response> accessed 23 April 2021

THE MALDIVES

In 2018, President Ibrahim Mohamed Solih took office⁶⁴ and vowed to restore the fundamental rights eroded by long standing authoritarian rule. Amidst renewed hopes for free media, the draconian Anti-Defamation and Freedom of Expression Act was repealed in 2019.⁶⁵ In the peak of the pandemic, the Maldives Journalist Association successfully revived itself and elected a new executive committee effective September 2020.⁶⁶ This committee was formed against the backdrop of continuing attacks on journalists, human rights defenders, and civil society by Islamist groups and criminal gangs and thus, faces astronomical challenges ahead.

Maldives ranks 72 in the World Press Freedom Index 2021 as compared to 79 in 2020, making its media the second most unrestricted in South Asia.⁶⁷ Notwithstanding, attrition against freedom of expression prevails both online and offline. Since 2016, the Maldivian Democracy Network, a rights-based organisation, was subjected to a prolonged smear campaign by extremists culminating in its dissolution by the government in 2019⁶⁸; since June 2020, Uthema, a key women's rights organisation, has been dragged into a debilitating smear campaign on social media following its report to the UN Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) committee.⁶⁹

Cases of journalist Ahmed Rilwan's forced disappearance in 2014⁷⁰ and the murder of blogger and human rights defender Yameen Rasheed in 2017⁷¹ are painful reminders of the dangerous media landscape in the Maldives. Persistent delays and irregularities in the country's criminal court coupled with the laggardness in the Presidential Commission of Death and Disappearance's investigations are emblematic of the extent of impunity and deteriorating situation of rule of law in the country.⁷²

It is worth recalling that in 2014, the Maldivian Human Rights Commission was subjected to proceedings initiated by the Supreme Court for alleging the Supreme Court for weakening judicial independence in the county in its Universal Periodic Review; in November 2020, the UN Human Rights Committee concluded the Court's judgement as a violation of the commissioners' freedom of expression as guaranteed by the International Covenant on Civil and Political Rights.⁷³

64 <https://presidency.gov.mv/PO/President/156>, accessed 20 April 2021

65 <https://maldivesindependent.com/politics/anti-defamation-law-repealed-142649>, accessed 20 April 2021

66 <https://www.ifj.org/media-centre/news/detail/category/press-releases/article/maldives-maldives-journalist-representative-association-revived.html>, accessed 20 April 2021

67 <https://rsf.org/en/maldives>, accessed 20 April 2021

68 <https://www.himalmag.com/a-test-for-maldivian-democracy/>, accessed 20 April 2021; <https://thediplomat.com/2020/06/the-dangers-of-dog-whistling-to-extremists-in-the-maldives/>, accessed 20 April 2021

69 <https://www.civicus.org/index.php/es/component/content/article/132-media-resources/news/united-nations/geneva/4979-the-maldives-adoption-of-universal-periodic-review-on-human-rights?Itemid=1523> accessed 20 April 2021; <https://www.hrw.org/news/2020/06/25/maldives-extremist-groups-threaten-rights-activists>, accessed 20 April 2021

70 <https://www.reuters.com/article/us-maldives-rights-journalist-idUSKCN1VN0EA>, accessed 20 April 2021

71 <https://www.frontlinedefenders.org/en/case/hrd-and-blogger-yameen-rasheed-murdered>, accessed 20 April 2021

72 <https://www.forum-asia.org/?p=34612> accessed 26 April 2021

73 Human Rights Committee, Views adopted by the Committee under article 5 (4) of the Optional Protocol, concerning communication No. 3248/2018, 21 February 2021, para 8.10

In February 2021, Maldives Minister for Foreign Affairs reiterated the country's commitment to uphold human rights and stressed that all post-COVID recovery efforts must have human rights at its center.⁷⁴ Such proclamations have failed to translate on the ground. Since early 2021, there has been an ongoing crackdown on protests by opposition political parties in the Maldives.⁷⁵ The government has cited violations of the Health Protections Agency guidelines and the Freedom of Peaceful Assembly Act as justifications to arrest protesters and disperse protests. In November 2020, the Parliament rejected amendments to the Freedom of Peaceful Assembly Act which would have allowed protests in Male without prior permission of the government⁷⁶- in line with international human rights law and standard.

NEPAL

Nepal's recent past has been chequered with political turmoil and instability. The Comprehensive Peace Accord that ended the decade-long armed conflict in November 2006,⁷⁷ the Interim Constitution of 2007 and the incumbent Constitution of Nepal 2015 have collectively failed to provide justice to conflict victims who suffered gross human rights violations from State and Maoist forces. This lack of accountability for crimes committed during the war extends to crimes committed in the post-war period as evidenced by the blatant failure to investigate, prosecute, and redress the violations.⁷⁸

This phenomenon is mirrored in the state of the two transitional justice bodies - the Truth and Reconciliation Commission (TRC) and the Commission of Investigation on Enforced Disappeared Persons (CIEDP). Six years since its inception, they have failed to address any of the 66,000 registered complaints.⁷⁹ The extant TRC Act 2014 allows amnesty for many egregious human rights violations, including torture and extrajudicial killings, and has not been amended despite the Supreme Court's verdicts⁸⁰ and repeated calls by national and international rights bodies.⁸¹

74 <https://www.ohchr.org/EN/HRBodies/HRC/Pages/NewsDetail.aspx?NewsID=26775&LangID=E> accessed 26 April 2021

75 <https://monitor.civicus.org/updates/2021/03/22/despite-un-review-maldives-authorities-crack-down-protests-and-target-media/>, accessed 20 April 2021

76 <https://en.sun.mv/64133>, accessed 20 April 2021

77 <https://peacemaker.un.org/nepal-comprehensiveagreement2006>, accessed 20 April 2021

78 <https://www.hrw.org/report/2020/11/20/no-law-no-justice-no-state-victims/culture-impunity-post-conflict-nepal>, accessed 20 April 2021; <https://reliefweb.int/report/nepal/no-law-no-justice-no-state-victims-culture-impunity-post-conflict-nepal>, accessed 20 April 2021; <https://www.justice.gov/eoir/page/file/1339191/download>, accessed 20 April 2021

79 <https://trialinternational.org/judicial-body/commission-on-inquiry-into-disappearances-nepal/>, accessed 20 April 2021

80 In *Suman Adhikari et.al v. the Office of the Prime Minister and Council of Ministers* (26 February 2015), the Supreme Court issued an order of mandamus and a certiorari asking the government to amend the TRC Act 2014 in line with prevailing international law. Following a petition filed by the government request for a review of its order, in April 2020, the Court upheld its ruling and reiterated that the current TRC Act 2014 violates principles of transitional justice.

81 <https://kathmandupost.com/national/2019/11/26/international-human-rights-groups-criticise-politicisation-in-the-transitional-justice-process> accessed 26 April 2021

In October 2020, the National Human Rights Commission published 20 years of data, naming 286 people, mostly police officials, military personnel, and former Maoist insurgents, as suspects in serious crimes and human rights violations including torture, enforced disappearance, and extrajudicial killings. Investigators concluded that the evidence warrants investigations and prosecutions, but the government had not taken any action at time of writing.⁸² A new Chairperson along with four commissioners were appointed to the Commission in February 2021 eliciting criticism from civil society⁸³ and UN experts for violating the Paris Principles.⁸⁴

Concurrently, the physical and digital civic space continues to shrink but Nepal managed to climb six spots to rank 106th in the World Press Freedom Index 2021.⁸⁵ Restrictive bills, such as the Media Council Bill, Mass Media Bill, Informational Technology Bill, and the Special Service Bill, containing broad and ambiguous provisions were repeatedly introduced and endorsed by the upper house of the parliament in 2020.⁸⁶ While none have been passed as laws at time of writing, the regular tabling of such bills is enough to reveal the intention of the government to enhance censorship and curtail freedom of expression.

Several journalists were arrested for their coverage of the government's handling of the pandemic in 2020;⁸⁷ arrests of journalists and civil society activists continued in 2021 as the government tried to suppress mass protests triggered against the unconstitutional dissolution of the parliament by the Prime Minister in December 2020.⁸⁸ The Supreme Court in February 2021 reinstated the parliament. In contrast, Nepal's National Report submitted for the Universal Periodic Review in November 2020⁸⁹ boasts of the legal protections afforded to journalists and human rights defenders.

In February 2021, Kathmandu witnessed a Women's March where women in masses gathered to protest impunity in cases of rape and sexual violence.⁹⁰

82 https://www.nhrcnepal.org/nhrc_new/doc/newsletter/Inner_20_Years_Book_2077_Final_CTP_NHRC.pdf, accessed 20 April 2021; <https://kathmandupost.com/columns/2020/02/01/national-human-rights-commission-appointees-should-be-independent-and-competent> accessed 28 April 2021

83 <https://kathmandupost.com/national/2021/02/03/appointees-to-constitutional-bodies-administered-oath-of-office> accessed 28 April 2021; <https://amnestynepal.org/press-statement/en-nepal-human-rights-commissions-integrity-in-jeopardy/> accessed 28 April 2021

84 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=27026&LangID=E> accessed 28 April 2021

85 <https://rsf.org/en/nepal> accessed 26 April 2021

86 <https://kathmandupost.com/national/2020/05/20/upper-house-endorses-bill-on-special-service-allowing-phone-tapping-without-court-order>, accessed 20 April 2021; <https://thehimalayantimes.com/kathmandu/na-committee-endorses-media-council-bill> accessed 22 April 2021; <https://kathmandupost.com/national/2019/08/10/after-it-and-media-council-bills-government-is-working-on-mass-media-bill-with-harsher-provisions-for-media-sector> accessed 22 April 2021

87 <https://cpj.org/2020/05/nepali-reporters-detained-threatened-while-reporting/> accessed 26 April 2021

88 <https://monitor.civicus.org/updates/2021/02/05/protests-disrupted-police-met-excessive-force-nepal-un-reviews-its-rights-record/> accessed 26 April 2021; <https://www.aljazeera.com/news/2021/2/4/rival-communist-faction-strikes-over-nepal-parliament-dissolution> accessed 26 April 2021.

89 Human Rights Council, National report submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21* (Nepal), A/HRC/WG.6/37/NPL/1, 3 November 2020, p.7-8.

90 <https://kathmandupost.com/visual-stories/2021/02/12/women-s-march-in-kathmandu-to-demand-an-end-to-violence-against-women-and-impunity> accessed 26 April 2021; <https://www.theguardian.com/global-development/2021/feb/17/nepalis-protest-ridiculous-ban-women-travelling-abroad-trafficking> accessed 26 April 2021.

Consequently, organisers, activists, and performers were deluged with verbal abuse and rape and death threats on social media and the police was uncooperative in lodging their complaints.⁹¹ In April 2021, the police arrested young climate activists in the capital during a peaceful protest demanding urgent climate action.⁹² The incumbent government has empowered itself with wide discretionary powers and the pandemic has served as a tool to further expand on the scope of the powers to quell constitutionally guaranteed freedoms.

PAKISTAN

With much of the ‘war on terror’ being fought within its borders, instability and deteriorating human rights conditions are the overriding features of Pakistan’s political landscape. The Pakistani Taliban and other affiliated and non-affiliated militant groups remain active throughout the country, undermining the rule of law through harassment of the public, targeted killings, and suicide bombings. Pakistani law enforcement agencies are also responsible for human rights violations, including forced disappearances, detention without charge and extrajudicial killings. Since 2008, Pakistan has a Ministry of Human Rights, the first and only in South Asia, mandated to strengthen the country’s human rights situation.⁹³

The government has intensified its crackdown on leaders from the opposition alliance and political movements such as Pashtun Tahafuz Movement.⁹⁴ The National Accountability Bureau, Pakistan’s anti-corruption agency, continues to intimidate, harass, and detain political opponents and critics of the government.⁹⁵ Human rights defenders, lawyers, and journalists are reported to be under heavy surveillance and those criticizing the government or its policies are brought under the purview of sedition and counterterrorism laws in a bid to muzzle dissent.⁹⁶ Female journalists have been particularly targeted with hate campaigns online from pro-government forces.⁹⁷ The government uses the “Regulation of INGOs in Pakistan” policy to impede the registration and functioning of international humanitarian and human rights groups.⁹⁸

91 <https://www.recordnepal.com/wire/features/they-marched-against-the-patriarchy-then-they-received-rape-and-death-threats/?fbclid=IwAR29gnZhVpblg8d4rpbl0fTP1hCgQEMb-WnsftDkrh0RIAYacSR0m-LMrqvl> accessed 1 March 2021

92 <https://thehimalayantimes.com/photo-gallery/in-pictures-youths-hit-the-street-to-declare-climate-emergency> accessed 26 April 2021

93 <http://www.mohr.gov.pk/> accessed 27 April 2021

94 <https://www.dawn.com/news/1596186>, accessed 20 April 2021

95 <https://www.geo.tv/latest/301481-stop-using-dictatorship-era-body-to-harass-intimidate-opponents-hrw-slams-nab>, accessed 20 April 2021; <https://www.hrw.org/world-report/2021/country-chapters/pakistan> accessed 27 April 2021

96 <https://thediplomat.com/2020/02/sedition-laws-and-their-post-colonial-legacy-in-india-and-pakistan/>, accessed 20 April 2021

97 <https://cpj.org/2020/09/as-ruling-party-fans-spew-online-abuse-pakistans-female-journalists-call-for-government-action/> accessed 27 April 2021

98 <https://tribune.com.pk/story/965678/international-ngos-will-require-govt-consent-to-gather-funds-operate-nisar>, accessed 20 April 2021

Reflecting Pakistan’s heavily restricted media, the country retained 145th position in the World Press Freedom Index 2021.⁹⁹ A climate of fear¹⁰⁰ continues to impede media coverage of abuses by both militant groups and security forces owing to the repressive State apparatus.¹⁰¹ Media criticism is frequently oblique and in those cases the security forces are referred to as the “invisible hand”.¹⁰² In several cases in 2020, government regulatory agencies blocked cable operators and television channels that had aired critical programmes.¹⁰³

Freedom of expression is also diminished by Pakistan’s blasphemy laws.¹⁰⁴ It is frequently used to target minorities, like the members of Ahmadiyya religious community, leaving them vulnerable to arbitrary arrest and prosecution.¹⁰⁵ Discrimination against Ahmadiyya community runs deep and wide - the government excluded Ahmadis from being part of the new National Commission for Minorities, which is tasked to safeguard minorities’ rights.¹⁰⁶

Violence against women and girls – including rape, murder, acid attacks, domestic violence, forced marriage, and forced conversions – remains a serious problem and has worsened since the pandemic.¹⁰⁷ Human rights defenders estimate that roughly 1,000 women are killed in so-called honour killings every year.¹⁰⁸

SRI LANKA

Human rights in Sri Lanka remain overshadowed since the end of a two-decade long civil war in 2009, between the Sri Lankan government and the separatist Liberation Tigers of Tamil Eelam (LTTE).¹⁰⁹ While both sides are accused of egregious human rights violations during the conflict, the final year witnessed crimes against humanity committed by government forces on a massive scale, with over 100,000 civilians trapped due to shelling in a no-fire zone by the army.¹¹⁰ Accountability for these crimes against humanity remains elusive.

99 <https://rsf.org/en/pakistan> accessed 27 April 2021

100 <https://www.dawn.com/news/1615033>, accessed 20 April 2021

101 <https://cpj.org/reports/2018/09/acts-of-intimidation-pakistan-journalists-fear-censorship-violence-military/>, accessed 20 April 2021

102 <https://www.rferl.org/a/cpj-pakistan-s-military-curbing-press-freedom-using-fear-intimidation/29485269.html>

103 <https://www.thenews.com.pk/latest/681991-pemra-urged-to-remove-ban-on-24-news-hd>, accessed 20 April 2021

104 <https://www.refworld.org/docid/4d5a7009c.html>, accessed 20 April 2021

105 <https://freespeechdebate.com/2019/12/how-pakistans-blasphemy-laws-trigger-violence/>, accessed 20 April 2021; <https://appg-ahmadiyyamuslim.org.uk/briefings/anti-ahmadi-laws/>, accessed 20 April 2021

106 <https://www.hrw.org/news/2020/05/08/pakistan-ahmadis-kept-minorities-commission>, accessed 20 April 2021

107 <https://www.thenews.com.pk/tns/detail/678152-locked-down-and-vulnerable>, accessed 20 April 2021

108 <https://www.hrw.org/news/2019/08/22/pakistan-should-not-again-fail-honor-killing-victim>, accessed 20 April 2021

109 <https://www.theguardian.com/world/2009/may/18/tamil-tigers-killed-sri-lanka>, accessed 20 April 2021

110 <https://www.hrw.org/news/2009/04/09/sri-lanka-stop-shelling-no-fire-zone>, accessed 20 April 2021

The election of Gotabaya Rajapaksa as President in November 2019 has resounding implications on the country's investigations and prosecutions of conflict-related violations. In February 2020, Sri Lanka announced it was withdrawing from its previously co-sponsored UN Human Rights Council resolution pertaining to justice and accountability for war crimes and other grave violations.¹¹¹ A year later, the UN High Commissioner for Human Rights in her report highlighted the deteriorating and deeply entrenched system of human rights violations in the country, calling other States to exercise universal jurisdiction to prosecute international crimes committed in Sri Lanka.¹¹²

The Constitution was amended in October 2020 which gives the President sweeping new powers related to appointment of judges, members of the Human Rights Commission and other independent institutions; appointment and dismissal of ministers including the prime minister; and dissolution of the parliament.¹¹³

Surveillance and intimidation of conflict victims, especially the Tamils and human rights defenders, as well as lawyers and journalists, have escalated since 2019.¹¹⁴ Authorities have wrongly attributed foreign funding received by human rights groups to terrorism,¹¹⁵ restricting civil society organisations' capacity to freely implement activities. The non-governmental organisation secretariat, which regulates civil society organisations, is brought under the Ministry of Defense along with other 30 agencies.¹¹⁶ The government proposed a new law to regulate foreign funding for Sri Lankan groups that raises free expression and association concerns.¹¹⁷

Acrimony against Muslims in Sri Lanka worsened after the 2019 Easter Sunday bombings by Islamist militants that killed over 250 people.¹¹⁸ The onset of the pandemic fuelled anger towards Muslims even more as evidenced by calls on social media to boycott Muslim businesses and allegations for spreading the virus.¹¹⁹ The fissures have deepened following the government's guidelines requiring cremation of all COVID-19 victims, which contradicts the Islamic tradition.¹²⁰

111 <https://www.amnesty.org/en/latest/news/2020/02/sri-lanka-withdrawal-from-un-commitments-requires-robust-response-by-human-rights-council/>, accessed 20 April 2021

112 <https://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=26695> accessed 27 April 2021

113 <https://www.icj.org/sri-lanka-newly-adopted-20th-amendment-to-the-constitution-is-blow-to-the-rule-of-law/>, accessed 20 April 2021

114 <https://www.civicus.org/index.php/media-resources/news/4740-sri-lanka-a-year-after-presidential-elections-civic-freedoms-under-increasing-assault>, accessed 20 April 2021

115 <https://apnews.com/article/63c302b2f90a5869859ce499fe0b767f>, accessed 20 April 2021

116 <https://foreignpolicy.com/2020/07/17/sri-lanka-junta-gotabay-rajapaksa-military/>, accessed 20 April 2021

117 <https://www.hrw.org/world-report/2021/country-chapters/sri-lanka/>, accessed 20 April 2021

118 <https://www.bbc.com/news/stories-48435902>, accessed 20 April 2021

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SAARC Charters and Human Rights Conventions

While the challenges facing rights activists, advocates, and governments are daunting, SAARC had shied away from adopting specific mechanisms to address these challenges until the new millennium. The SAARC Charter had served as the basis for various campaigns and initiatives focusing on development issues, like the Tuberculosis Centre.

With the Eleventh Summit in 2002, however, SAARC began to take steps toward the creation of a system of agreements and bodies that would make it more similar in scope to other regional organisations in terms of human rights, beginning with the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and the Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia in 2002.

In the intervening period SAARC has added the ambitious Social Charter 2004, which makes a number of commitments to strengthening economic, cultural, and social rights. Also, the Charter on Democracy 2011 pledges a firm commitment to democracy and government by the people, and the Food Bank that will provide a safety net for the poorest people of South Asia who routinely suffer during times of humanitarian crises. The latest addition to the roster is the Convention on Cooperation on Climate Change 2010.

3.1 SAARC Charter

On 8 December 1985, the presidents of Bangladesh, the Maldives, Pakistan and Sri Lanka, the Prime Minister of India, and the kings of Bhutan and Nepal, all signed the SAARC Charter at the end of the 1st SAARC Summit held in Dhaka, Bangladesh. It was initially conceived as a trade bloc in the late 70s. By the early 80s, its ambitions had broadened to include regional cooperation on technological, social and cultural matters, as well as on broader international affairs.

The objectives of SAARC as set out in its Charter are broad in scope, and can be interpreted to lead the organisation down a pathway to various human rights commitments. One objective which aims “to provide all individuals the opportunity to live in dignity and to realise their full potential”, is a foundational pledge which implies preserving and protecting for their citizens the rights to health, education, adequate care and adequate standard of living, among others. “To promote the welfare of the people of South Asia and to improve their quality of life” would confer similar obligations to its Member States.

These rights are not explicitly guaranteed by the SAARC Charter. Nevertheless, the SAARC Charter states in Article II that “[SAARC] cooperation shall not be a substitute for bilateral and multilateral cooperation but shall complement them”, and that “[SAARC] cooperation shall not be inconsistent with bilateral and multilateral obligations.” All SAARC members, with the exception of Bhutan, have signed, ratified or acceded to the International Covenant on Civil and Political Rights¹²¹, and the International Covenant on Economic, Social and Cultural Rights¹²², two multilateral treaties at the core of the International Bill of Human Rights along with the Universal Declaration of Human Rights. Perhaps also compelling is the fact that all eight members have agreed to comply with the responsibilities prescribed by the Convention on the Elimination of All Forms of Discrimination against Women¹²³, as well as the Convention on the Rights of the Child¹²⁴. As such, these seven countries have multilateral obligations to reinforce the rights stipulated in these two Covenants, which are all the basic human rights including the rights mentioned above. What is more, as already stated, according to the SAARC Charter, “cooperation shall not be inconsistent with bilateral and multilateral obligations.”

The SAARC nations’ multilateral obligations as signatories to these United Nations treaties do not preclude benefits resulting from adding a regional dimension to their human rights commitments. Adding this regional dimension is arguably implied by the SAARC Charter’s principle that regional cooperation shall not be “inconsistent” with multilateral obligations, and even more strongly by the principle that regional cooperation shall “complement” multilateral obligations.

Complementing these obligations could include regional Conventions, such as the ones already passed on trafficking of women and children for prostitution and on child welfare, or it could take the form of human rights-centric charters such as the Social Charter and the Charter on Democracy. The most extensive way to add a regional dimension to these treaty obligations would be to form a regional human rights mechanism in South Asia.

While their efficacy can be debated, at present all regional organisations similar to SAARC – i.e. ASEAN, the African Union (AU), the European Union (EU), the Organization of American States (OAS), the Caribbean Community (CARICOM) and the League of Arab States – all have a human rights body.

121 Adopted on December 16, 1966, by the UN General Assembly

122 Ibid

123 Adopted on December 18, 1979, by the UN General Assembly

124 Adopted on November 20, 1989, by the UN General Assembly

SAARC is the only such regional organisation to not have a human rights body or treaty for cooperation of its members on issues related to the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights.

An attempt to push forward regional cooperation on human rights on these technical grounds would meet the stumbling block due to the fact that Bhutan has neither signed nor ratified either treaty, although it is moving in the right direction by having recently ratified the Convention on the Elimination of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination Against Women, and the Convention on the Rights of the Child. Still, the real constraints on effective regional cooperation on human rights can be found in caveats entered into the SAARC Charter; caveats reflecting the reality of South Asian geopolitics.

SAARC evolved as a concept with the India-Pakistan conflict and Cold War politics as the backdrop. Both these geopolitical factors significantly shaped the formation of the group, while the former continues to impact regional cooperation on matters of economic, political and social significance. President Zia-ur-Rahman of Bangladesh and King Birendra of Nepal advocated the idea of SAARC as it would help the smaller nations of South Asia deflect the political pressures of the 'Great Game' being played out by the United States and the Soviet Union in Central Asia and Southeast Asia. All seven founding members of SAARC belonged to the Non-Aligned Movement.

By the time SAARC was formed in 1985, India and Pakistan had already fought three major wars during the brief period since gaining independence from the British Empire in 1947. The first conflict was in the immediate aftermath of the Partition of the Indian subcontinent, with tribal forces from Pakistan entering the state of Jammu and Kashmir.

The war ended with a UN mediated Line of Control dividing Kashmir into a Pakistan-administered Kashmir and an Indian-administered Kashmir, but in 1965 another war broke out for five weeks, that led to UN intervention and a ceasefire. The third war in 1971, started when East Pakistan seceded and declared itself the independent nation of Bangladesh and India intervened and defeated Pakistan, leaving over 10 million refugees from Bangladesh to India. The rivalry between India and Pakistan has since affected relations in South Asia and the functioning of SAARC.

Given this history, an element of paranoia has been ingrained in Indo-Pakistani relations, and in the early 80s, both India and Pakistan were hesitant to enter into a regional platform with each fearing it would be manipulated by the other. India worried that Pakistan would use SAARC to undermine its security positions and also that all the smaller nations would regionalise bilateral issues and present a united front against India's interests, forming a mini-regional bloc within the regional bloc. Pakistan similarly imagined India was attempting to group together the other countries in the region to unite against Pakistan. Pakistan also feared that a regional grouping like SAARC would inevitably be dominated by India politically and economically, and would essentially turn into a marketplace for Indian products.¹²⁵

¹²⁵ Iqbal, Muhammad Jamshed, 'SAARC: Origin, Growth, Potential, and Achievements', *Pakistan Journal of History & Culture* (2006) vol.25/2, at http://nihcr.edu.pk/Latest_English_Journal/SAARC_Jamshed_Iqbal.pdf

The result of these misgivings meant that the SAARC Charter, after a series of negotiations, eschewed all mention of security matters and steered clear of political issues, focusing only on matters which were non-controversial among the South Asian countries.

While it is possible for more meaningful regional cooperation to emerge from a softer agreement as represented by the 1985 SAARC Charter, the Charter makes the principles of non-interference and avoidance of contentious issues central to its framework. Article II of the Charter outlines its principle of non-interference in the internal affairs of other Member States thus: “Cooperation within the framework of the ASSOCIATION shall be based on respect for the principles of sovereign equality, territorial integrity, political independence, non-interference in the internal affairs of other States and mutual benefit.”¹²⁶

Similarly, Article X of the SAARC Charter stipulates the organisation’s commitment to avoiding contentious issues by stating that in its General Provisions that “Bilateral and contentious issues shall be excluded from the deliberations.” This severely limits SAARC’s ability to affect the direction of the region. However, despite this constitutional limitation there have been instances of informal dialogue at the SAARC level which has opened up some space to discuss bilateral issues.

The objectives in the SAARC Charter were penned with the economic and development needs of the South Asian nations in mind. In 1985 when SAARC was formed, all the South Asian nations were in dire economic states, with severe balance of payment deficits. India did not experience its boom until the economic liberalisation of the early 90s, and while South Asia remains one of the poorest regions in the world, it was far poorer then. The poverty, health and developmental challenges of those times were considered far more pressing than civil, political, social and cultural rights.

In addition, among the heads of States signing the SAARC Charter in 1985, those of Nepal and Bhutan were absolute monarchs while Pakistan and Bangladesh were led by former military generals who had come to power after pulling off violent coups and who tried to assume a position of legitimacy by running for President in elections widely derided as shams in which the countries’ major political parties boycotted the polls. Four out of the seven heads of states, then, did not necessarily find it in their interest to advocate the civil and political rights of their people.

SAARC has demonstrated with the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, the Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, the establishment of the Food Bank – along with the early attempts to increase regional awareness on issues like the environment, narcotics, disabilities and tuberculosis prevention – that its members are willing to cooperate on issues of poverty, child rights and healthcare. However, as long as the two principles of non-interference and the exclusion of contentious issues is a part of the SAARC Charter, the regional organisation will find it impossible to engage meaningfully on subjects of civil and political rights without contravening the terms of its Charter, and will not be able to take the next step as a human rights arbiter.

126 SAARC Charter

Among the major human rights challenges in the region today, several revolve around civil and political rights where meaningful arbitration by a regional human rights body would require interfering in contentious issues in the internal affairs of a member State.

In the future a mature SAARC human rights body would need to be able to investigate and actually intervene in the following types of issues, something it would not be able to do in today's political atmosphere: the application of the Armed Forces Special Powers Act by India in Kashmir and in Northeast India; the suppression of the right to self-determination of the Kashmiri people by the Indian Government for over 60 years in direct infringement of their acceptance of the 5th of January 1949 Resolution of the United Nations Commission for India and Pakistan which stated that "the question of the accession of the state of Jammu and Kashmir to India or Pakistan will be decided through the democratic method of a free and impartial plebiscite"¹²⁷; the refusal of the Bangladesh government to grant autonomy to the indigenous populations of the Chittagong Hill Tracts and to withdraw its military from the area is in direct infringement of the Chittagong Hill Tracts Peace Accord which is signed in 1997; over 5,000 enforced disappearances under absolute impunity in insurgency-wracked Balochistan province in Pakistan⁴⁸; allegations of torture, enforced disappearances, arbitrary detention and extrajudicial killings by both government forces and Maoist rebels in Nepal during and after its civil war; the allegations of war crimes and crimes against humanity levelled at both the Sri Lankan Government and Tamil Tigers in Sri Lanka.

As such, an authoritative regional human rights body in SAARC would be difficult to achieve given the principles of non-interference in internal affairs and the exclusion of contentious issues. The possibility of removing these principles remains remote as long as India and Pakistan, the two major players in South Asia, are at loggerheads over Kashmir, the key dispute in the region.

3.2. SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

Human trafficking is a multi-dimensional problem in South Asia, taking many forms. Men, women, and children are trafficked for forced labour, prostitution, organ removal, forced marriages, illegal adoption and forced begging. They are trafficked from village to city within a country, or to a neighbouring country, or as far away as Malaysia or the Middle East. South Asian countries are source countries or a country of origin, transit countries and destination countries, all at once – trafficked persons could pass through from Myanmar to Bangladesh to India, from Bangladesh to India to the Middle East, or from India to Malaysia. It is estimated that 30,000 women were trafficked from Bangladesh alone in the 90s.¹²⁸

In January 2002, at the Kathmandu SAARC summit held after a four-year gap, the Member States adopted the Convention on Preventing and Combating Trafficking in Women and Children for Prostitution.

¹²⁷ Resolution of the United Nations Commission on India and Pakistan of January 5, 1949 <https://digitallibrary.un.org/record/111955/?ln=en>

¹²⁸ International Organization for Migration & Asian Development Bank, *Review of the SAARC Convention and the Current Status of Implementation in Bangladesh* (October 2009)

The Convention was ratified by all seven countries by 2006 and came into force that year. Afghanistan, which joined SAARC in 2005, signed the Convention in 2007. The Convention on Trafficking, along with the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia and the SAARC Social Charter, form the core of SAARC's commitment to empowering women and children.

When it was signed, it was heralded as a “significant and substantial” step forward in terms of combating trafficking and moving SAARC towards taking on a greater role in human rights.¹²⁹ It was the first treaty in Asia to address human trafficking and, in fact, the first regional treaty of its kind. It is a criminal justice instrument which aims to improve regional cooperation on law enforcement, not only a key factor in addressing trafficking but also in many other challenges related to women and children. The Convention establishes trafficking of women and children for prostitution as a violation of basic human rights.

After a Preamble, Article I of the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution begins with a set of definitions. “Child” is defined as “a person who has not attained the age of 18 years.” “Prostitution” is defined as the “sexual exploitation or abuse of persons for commercial purposes.” “Traffickers” refers to “persons, agencies or institutions engaged in any form of trafficking.”

The Convention also recognizes the variety of ways in which trafficking occurs, by defining the women and child victims of trafficking for prostitution as those who are “victimized or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means.”¹³⁰

While according to the Convention “traffickers” are those involved in “any form” of trafficking, the definition of “trafficking” means that this is actually not as broad as it seems. Article 1.3 of the Convention states that “[t]rafficking’ means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking”.

The SAARC Convention on Trafficking commendably recognizes that trafficking can occur with or without the consent of the victim, that trafficking can occur within a country and not just across borders, and that trafficking can take different forms, whether moving, selling, or buying. The SAARC Convention thus has a broader mandate in other ways than the United Nations Trafficking Protocol, which applies only to transnational trafficking or trafficking committed by an organised criminal group, while the SAARC Convention applies to trafficking within borders and trafficking by persons.

129 FWLD, *Advocacy Leaflet on SAARC Convention on Preventing Trafficking* (2002), at: http://www.fwld.org/pdf_files/AdvocacyLeaflet_%20onSAARC.pdf

130 SAARC Convention on Preventing and Combating Trafficking in Women and Children, 2002

Regardless, the chief criticism of the SAARC Convention on Trafficking concerns this definition. By defining trafficking victims as only “women and children for prostitution”, the Convention confuses trafficking with prostitution and is thus unable to extend itself to the myriad other forms of trafficking that occurs in the South Asia region. Secondly, within the same phrase, the Convention displays a lack of gender inclusiveness, choosing to ignore the trafficking of men. In addition, aside from defining “trafficking” in a limited way, the Convention also fails to take into account all forms or stages of trafficking exploitation, especially conspiracy.

While the SAARC Convention may have been the first regional instrument of its kind, it has since been surpassed by other contemporary instruments. The International Organisation for Migration, in a review of the implementation of the SAARC Convention on Trafficking, listed its key criticisms of the Convention as: “(1) limited scope of application; (2) definitional inadequacies; (3) moralistic and protectionist emphasis and insufficient rights-based approach; and (4) lack of an enforcement mechanism.” It also lists other concerns as “the non-binding language of key Convention provisions and its relatively weak mandatory state prevention obligations particularly in relation to inter-state cooperation and alleviating the supply and demand factors that contribute to human trafficking, especially of women and children.”

Holding “trafficking” as involving only women and children for the sake of prostitution, the Convention is not able to apply itself to trafficking for the purposes of forced labour, domestic servitude, illicit adoption, illicit organ removal and non-commercial sexual exploitation. Anita J. Wadud of the International Organisation for Migration (IOM) believes that “while trafficking for purposes of commercial sexual exploitation has until recently been the major problem in the region, with the increasing flow of labour migration, exploitation of labour migrants has slowly come to dominate the picture.”¹³¹

While several Member States have or are on the verge of addressing this by tackling this shift in anti-trafficking priorities by adopting more comprehensive national laws on the subject, the Convention itself is yet to be revisited. Nevertheless, Wadud believes that “there is a growing consensus that the Convention will need to be amended to address the current reality.” The key concern with regard to this matter is “that the Convention needs to be reinstated to its role of a standard setting instrument in the region, in light of the more comprehensive and progressive national laws in countries such as Nepal, Pakistan and Bangladesh (law to be adopted soon), and in light of the dynamic nature of trafficking.”

Also of concern is that the SAARC Convention focuses on trafficking within the region and does not provide for multilateral and inter-regional cooperation on the matter with countries and blocs outside of South Asia. This is a major shortcoming as a significant number of trafficked persons from South Asia goes to destination countries outside the region like Malaysia and the Middle East. Still, the Convention has several provisions which at the time of its passage were progressive.

¹³¹ Email interview with Anita J. Wadud, 26 May 2011

It stipulates that those considered prosecutable under the Convention ought to include “any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.”¹³²

The SAARC Convention on Trafficking is clearly in need of expansion and fine-tuning, and civil society in the region is pushing for changes. IOM includes in its review a fairly comprehensive list of recommendations to amend the Convention:

1. Rename the Convention to encompass the trafficking of all persons, especially women and children;
2. Broaden the definition of trafficking to acknowledge the multiple forms of movement, coercive means and trafficking exploitation that take place in the region;
3. Distinguish trafficking from voluntary migration;
4. Ensure victim immunity from criminal liability;
5. Ensure that trafficking cases are prosecuted;
6. Ensure voluntary repatriation of trafficked victims;
7. Ensure the provision of comprehensive State support services and access to resources for all trafficking victims;
8. Encourage State Parties to enact victim compensation laws; and,
9. Establish an independent treaty monitoring mechanism.

3.3 SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia

The heads of States of the then-seven SAARC members concurrently penned the Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, along with the Convention on Trafficking, at the eleventh SAARC Summit in Kathmandu on the 5th of January 2002. It was described by the International Labor Organisation as a “milestone” in 2005.

The purpose of this Convention is stated as being to “unite the States Parties in their determination of redeeming the promises made by them to the South Asian child at the World Summit for Children and various other national and international conferences and successive SAARC summits; work together with commitment and diligence, to facilitate and help in the development and protection of the full potential of the South Asian child, with understanding of the rights, duties and responsibilities as well as that of others; set up appropriate regional arrangements to assist the Member States in facilitating, fulfilling and protecting the rights of the child, taking into account the changing needs of the child.”¹³³

The SAARC Convention on Child Welfare is essentially a regional affirmation of the commitments of all the Member States under the United Nations Convention on the Rights of the Child.

¹³² SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002

¹³³ SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002

In the Guiding Principles outlined in Article 3 of the SAARC Convention on Child Welfare, it is noted that the “State Parties consider the United Nations Convention on the Rights of the Child as a comprehensive international instrument concerning the rights and wellbeing of the child and shall, therefore, reiterate their commitment to implement it.” The goal of this Convention is to add a regional dimension to their multilateral obligations under the treaty, and the Convention is meant to set up “appropriate regional arrangements” outlined later to facilitate a better implementation of these obligations.

The CRC is regionalised by this Convention in the establishment of regional priorities in the field of child welfare. The SAARC Convention, “without prejudice to the indivisibility of the rights enshrined in the UN Convention on the Rights of the Child and other international and national instruments and law”, recognises as its priorities education; health care with special attention to preventive diseases and malnutrition; trafficking, exploitation and abuse; child labour; appropriate juvenile justice; special care to expected mothers in detention; gender justice and equality; and compulsory civil registration of births, marriages and deaths, which would help facilitate effective enforcement of national laws on minimum age for employment and marriage.

The SAARC Convention, like the CRC, requires its signatories to pursue a National Programme of Action to implement the conditions of the Convention. Its regional arrangements comprise of various ways of knowledge sharing. Article 5.2 proposes facilitating “human resource development through planned annual schedule of SAARC Advanced Training Programmes on Child Rights and Development.” A similar arrangement is put forth in Article 5.5 to “set up a South Asian nutrition initiative aimed at enhancing knowledge and promoting greater awareness, practice, and attainment higher levels of nutrition” through “mass education” and “adequate training.”

Another regional arrangement proposed by Article 5.3 is a special arrangement for “speedy completion and disposal, on priority basis”, of legal proceedings involving a child when the child hails from another member State. The treaty also requires that the child is repatriated to his or her country of origin for trial and/or treatment; however, there is a caveat in case the offence is deemed to “imperil” national security of the country where the offence has been committed.

Unlike the SAARC Convention on Trafficking, the Convention on Child Welfare is a fairly uncontroversial document. It does, however, hold as a guiding principle that “State Parties, while recognising that the primary responsibility of looking after the well-being of the child rests with the parents and family, shall uphold the principle that the State has the right and authority to ensure the protection of the best interests of the child.” In South Asia, which places high value on traditional family hierarchy, and which also witnesses abuses by the state against children considered as offenders – for example in Kashmir or in Sri Lanka’s Civil War – this could be problematic.

The Convention demonstrates a commendably broad understanding of some of its regional priorities. For instance, it does not only require the prohibition of child labour. It recognises child labour as a large reality of South Asia, and so it also specifically stipulates the proscription of the entry of children into hazardous and harmful labour.

The Convention aims for a multi-pronged strategy to rid the region of this problem, and extends this strategy to providing social safety nets for families who are most likely to be the source of such child labour.

Finally, again unlike the Convention on Trafficking, the Convention on Child Welfare safeguards itself against future redundancy by stipulating that “nothing in this convention shall effect provisions more conducive to rights of the child contained in national laws or international agreements.”

3.4 SAARC Social Charter

The SAARC Social Charter is an ambitious document, first envisioned at the 10th Summit in 1998 before SAARC relations broke down. The Charter was developed in recognition of the need to add a regional dimension to already existing national plans of action for the social sector in several of the member countries. The Social Charter was finally signed in the 12th Summit in Islamabad in 2004, with targets including “poverty eradication, population stabilisation, empowerment of women, youth mobilisation, human resource development, promotion of health and nutrition, and protection of children.”

The preamble to the Social Charter re-affirms that the “principal goal of SAARC is to promote the welfare of the peoples of South Asia, to improve their quality of life, to accelerate economic growth, social progress and cultural developments and to provide all individuals the opportunity to live in dignity and to realise their full potential.”

While the scope of the previous two Conventions are limited to specific issues, the Social Charter is an expansive document which could be interpreted to confer upon the citizens of South Asia a wide range of economic, social, and cultural rights. Some of the more development-oriented goals are explicitly mentioned in the Charter, while others can be seen as implied in the text.

The Social Charter makes a broad commitment to upholding human rights in South Asia, stating that one of its objectives is to “Promote universal respect for the observance and protection of human rights and fundamental freedoms for all, in particular the right to development; promote the effective exercise of rights and the discharge of responsibilities in a balanced manner at all levels of society; promote gender equality; promote the welfare of children and youth; promote social integration.”

Achieving food security for all Member States is an explicit goal of the Social Charter. In fact, while the Social Charter steers clear of civil and political rights, most of the economic and social rights outlined in the International Covenant on Economic, Social, and Cultural Rights are present in this regional document. In Article 3.4, “State Parties agree that access to basic education, adequate housing, safe access to drinking water and sanitation, and primary healthcare should be guaranteed in legislation, executive and administrative provision, in addition to ensuring of adequate standard of living, including adequate shelter, food, and clothing.”

The Charter also addresses specifically the plight of the homeless in South Asia, recognising in Article 3.5 the “imperative for providing a better habitat to the people of South Asia as part of addressing the problems of the homeless.”

Article 4 contains five paragraphs on health alone, and crucially requires State Parties to immediately share any information regarding the outbreak of communicable diseases among their populations. The Charter also states the need for a concerted effort to exchange scholars in the region as a way of promoting mutual understanding and knowledge sharing. As is the case with many SAARC documents, the empowerment of women and children are also given significant weight, with Article 6 and Article 7 focusing on each respectively.

The Social Charter falls short by not directly addressing minorities, but it makes reference to recognising people of “diverse cultures, beliefs, and traditions” and supporting their economic and social development with respect for their “identity, traditions, forms of social organisation and cultural values.”

The Social Charter can be seen as a potential foundational tool for regional human rights initiatives in the future. However, tangible progress will depend on the political will of the heads of member governments. It is the opinion of SAARC scholars that “in the period since its adoption not much concrete or substantive changes have taken place in any of the South Asian countries.”¹³⁴

The Social Charter is meant to be implemented by a National Coordination Committee. Members are supposed to produce Country Reports on their progress made – India so far has been the most proactive in this regard, producing its third report in 2009. One shortcoming is that no SAARC mechanism or authority is assigned to oversee implementation of the Social Charter, leaving implementation up to State Parties. Nevertheless, the Social Charter confers upon its signatories responsibility to adhere to its general provisions, and recommends regional mechanisms be agreed upon to review implementation. The Charter states: “State Parties agree that the obligations under the Social Charter shall be respected, protected and fulfilled without reservation and that the enforcement thereof at the national level shall be continuously reviewed through agreed regional arrangements and mechanisms.”¹³⁵

3.5 SAARC Charter of Democracy

The Charter of Democracy was approved by the SAARC Standing Committee in February 2011 and recommended for adoption at the 17th SAARC Summit in November 2011. It is a brief document which proposes that Member States pledge themselves to foster democracy and good governance, specifically mentioning that members “renounce unequivocally any unconstitutional change of an elected government in a Member State.” The drafting of this Charter has come at a rare moment when all members of SAARC are led by democratically elected governments, with non- democratically elected governments displaced in Bhutan and Pakistan in 2008, and Bangladesh in 2009. The Charter also urges Member States to focus on decentralisation and devolution in its efforts to build effective systems of governance. An institutional mechanism to oversee adherence to the principles of the Charter of Democracy is also suggested.

134 Prof. Ahmed, Ishtiaq, Institute of South Asia Studies, *SAARC: Social Charter and Human Security* (March 5, 2009), at: http://www.isas.nus.edu.sg/Attachments/PresentationMaterial/20090305-ProfIshtiaqAhmed_23102009152629.pdf

135 SAARC Social Charter, 2004

Why a Regional Human Rights Mechanism?

Promotion and protection of human rights is an obligation of States. This obligation arises from States being members of the United Nations and party to international human rights standards. States are required to create an environment in which everyone is treated equally and with respect.

Equal treatment and respect for diversity bring dignity, which is central to human rights.

It is also the obligation of States to take all measures necessary to protect socio-culturally marginalised communities and other sections of society, and empower them so they are able to participate in decision-making processes about issues affecting their lives both as an individual and as members of their community.

Human rights protection systems –ranging from human rights policies and laws, to National Human Rights Institutions, Courts and quasi-judicial agencies – are created with responsibilities to promote and protect human rights at the national level. These institutions apply international human rights norms to address human rights violations at home and provide protection to victims. They also engage in human rights promotion by, for example, advising Governments on measures to be taken to address the root of human rights violations.

International human rights mechanisms help address domestic human rights constraints and challenges when there is a shortage of human rights policies and institutions by setting norms and standards at the international level. States, in turn, are expected to follow these norms and standards towards ensuring adequate promotion and protection of human rights at the national level.

There is often a gap between national human rights practices and international standards. A lack of adequate resources, a lack of essential know-how, socio-cultural practices and preferences, and policy priorities are used as justifications for this gap. The physical distance and contextual differences between the national and international have also contributed to the lacklustre approach to domestic implementation of human rights instruments.

This is where regional human rights mechanisms play a role. They can help answer some of the questions at the national level and generate political will which the human rights agenda often fails to attract.

As such, a regional human rights mechanism is necessary to assist in the implementation of internationally recognised human rights norms and standards at the national levels, and to facilitate a regional solution to a human rights problem that triggers regional consequences.

Regional human rights mechanisms do not replace national and international systems. They provide an additional layer of protection when domestic system fails to address violations adequately, thereby bridging the gap between international treaty obligations and domestic laws and policies.¹³⁶

There is a strong incentive for Governments to promote and protect human rights within their region, as severe violations of people's rights can lead to conflicts and instability in neighbouring countries.¹³⁷ Greater protection of human rights within a region can ultimately result in enhanced regional peace, security and development.

A study¹³⁸ by the European Parliament found regional systems to be complementary to their universal counterparts. Noting that systems at the regional level have the potential to strengthen those at the international level, the study recommends 'the strengthening of regional systems is one of the key avenues to take in order to increase the level of protection of human rights and fundamental freedoms worldwide.

On the basis of study and experience, a regional human rights mechanism is found to be necessary to:

- a) Assist national Governments in the implementation of their international human rights obligations arising from the conventions to which they are party to;
- b) Help national Governments to address human rights issues that cross national borders, such as violations and abuses connected to terrorism, human trafficking, sexual exploitation of children, migration and endemic diseases;
- c) Create a platform for the peoples of the region to express their issues and concerns vis-à-vis human rights, and bring those voices to the attention of the States;
- d) Provide regional inputs to the development and improvement of international human rights standards;
- e) Protect people from human rights violations when national mechanisms fail to do so;
- f) Provide advisory services to national institutions and help them work better at the national level; and,
- g) Promote regional peace and security through the promotion and protection of human rights and by acting as a bridge between national realities and international aspirations.

136 Christof Heyns and Magnus Killander, "Towards Minimum Standards for Regional Human Rights system', in *Looking to the future: Essays on international law in honour of W Michael Reisman*, ed. Mahnoush H. Arsanjani et al. (Leiden: Martinus Nijhoff Publishers, 2010)

137 Carole J. Petersen, "Bridging the Gap? The Role of Regional and National Human Rights Institutions in the Asia Pacific," *Asian-Pacific Law and Policy Journal* 13, no.1 (2011): 174

138 In an observation related to RISAHRM, the study notes the experience of the United Nations Office of the High Commissioner for Human Rights (OHCHR) in promoting an Asia-Pacific level human rights mechanism. Concluding that the cultural and political diversity of the region and lack of political will of the governments may not be conducive to the establishment of Asia-Pacific level human rights mechanism just now, the study promotes sub-regional mechanisms as an important step towards the Asia-Pacific level one. European Parliament, *The Role of Regional Human Rights Mechanism*. Available online at: [https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI_ET\(2010\)410206_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/etudes/join/2010/410206/EXPO-DROI_ET(2010)410206_EN.pdf)

Past Advocacy Efforts on Establishing A Regional Human Rights Mechanism in South Asia

Regional Initiative for South Asia Human Rights Mechanism (RISAHRM)

RISAHRM was initiated in July 2012. Its aim was to launch and coordinate advocacy and awareness campaigns towards the establishment of a regional human rights mechanism in South Asia to bridge national processes and regional aspirations expressed in the Charter of the South Asian Association for Regional Cooperation (SAARC). To achieve the aim, RISAHRM collaborated with diverse national movements, campaigns and processes, both at State and non-state party/civil society levels to create a strong national base.

At the regional level, it worked with relevant initiatives and institutions to connect with the discourse of transformative politics.

The establishment of RISAHRM was the culmination of a long process initiated by civil society. In 2010, a formal process focused on the regional mechanism was initiated with the First Sub-Regional Workshop on South Asian Human Rights Mechanism. The workshop, held in Kathmandu, Nepal, critically reviewed human rights issues and challenges of justice faced by the people of the South Asian region. After serious deliberations, it was concluded that these challenges could be addressed by an independent, efficient and effective regional human rights mechanism. There was a strong call that South Asia should not remain isolated from the rest of the world in terms of not having such a mechanism.

To continue the process, the Second Sub-Regional Workshop on South Asian Human Rights Mechanism was held from 25 to 26 July 2011 again in Kathmandu, which adopted the Kathmandu Statement. The workshop also created a working group with eminent personalities and organisations from South Asia, which later held its first strategy meeting from 19 to 20 July 2012 in New Delhi. At this meeting, the Regional Initiative for a South Asian Human Rights Mechanism was created by expanding the working group into a larger network.

RISAHRM formed a Task Force comprising a member each from all SAARC countries, i.e., Afghanistan, Bangladesh, Bhutan, India, Maldives, Nepal, Pakistan and Sri Lanka, to collaborate with diverse national movements, campaigns and processes, both at State and non-state party/civil society levels, to create national opinions and demands in favour of the regional human rights mechanism. The Task Force adopted a Terms of Reference (ToR) in December 2014 as a guiding document for RISAHRM and operated based on it.

RISAHRM organised a series of national workshops and formed a national core committee in Bangladesh, Bhutan, India, Nepal, and Sri Lanka to propagate the idea of a regional mechanism and create national momentum in favour of it. It sent at least two delegations to the SAARC Secretariat to apprise the General Secretary and other officials of the need of a regional human rights mechanism and ensure their buy-in of the agenda. Although these efforts did not lead to any concrete outcomes, they were useful in creating awareness both among the people at large as well as the officials who were engaged.

National Workshops

Participants of the national workshop held in Lahore, Pakistan, from 9 to 10 June 2014 adopted the Lahore Declaration, which calls on the Government of Pakistan to establish a National Human Rights Commission without further delay. The Declaration also called on South Asian States to include the establishment of a regional mechanism in the official agenda of the 18th SAARC Summit in Kathmandu.

One hundred civil society organisations and individuals from 20 states across India participated in a national consultation held in Delhi, India, on 2 August 2014. The participants called on the Indian Government to work with other South Asian States towards the establishment of an independent and effective regional human rights mechanism. A delegation with representatives from Afghanistan, India and Nepal met with the National Human Rights Commission of India, the National Commission for Protection of Child Rights, Parliamentarians and Ambassadors from South Asian States based in Delhi to seek their support in the establishment of a regional mechanism.

On 18 November 2014, the 'Regional Consultation: Towards a South Asian Human Rights Mechanism' was held in Dhaka, Bangladesh. The participants recognised the increasing importance of National Human Rights Institutions in South Asia in institutionalising human rights in the region. SAARC Member States that do not have national human rights institutions were urged to establish one at the soonest in conformity with the Paris Principles, and the countries with existing national institutions were urged to strengthen them further. At a high-level national workshop held in Thimphu, Bhutan, in August 2015, it was agreed to form a national multi-stakeholder network to facilitate consultations and advocacy campaigns in Bhutan for the establishment of a regional human rights mechanism. The role and necessity of a regional human rights mechanism was discussed in the context of South Asian women and children being subjected to various forms of violence, discrimination and inequality. During the two-day workshop, the possibility of the establishment of a National Human Rights Commission in Bhutan was also discussed. Parliamentarians present were keen on exploring it further, and sought the help of the RISAHRM Task Force and FORUM-ASIA.

A similar national workshop was organised in Kathmandu, Nepal, in November 2015. The workshop brought together concerned citizens, human rights defenders, civil society organisations, academics and representatives from the National Human Rights Commission to explore ways to promote the campaign nationally. The workshop also formed a national core committee to implement advocacy campaigns.

The Nepal workshop was followed by a Sri Lanka workshop in Colombo in December 2015, where participants elected a lead organisation to network other regional human rights organisations, like South Asians for Human Rights (SAHR), and to carry out a national process for greater sensitisation and influence public opinion in favour of a regional mechanism.

A similar workshop for the civil society members from the Maldives was organised at the same venue, as it was not conducive to hold an event in the country itself. Maldivian civil society representatives, which also included media and political activists expressed support of the regional mechanism and resolved to organise a public tribunal on the situation of the Maldives.

On 23 September 2020, FORUM-ASIA and its members submitted an open letter to the SAARC Council of Ministers on the eve of the SAARC Council of Ministers' virtual meeting, urging the establishment of South Asia regional human rights mechanism. FORUM-ASIA and its members reiterated the long-standing demand for the establishment of a South Asia regional human rights mechanism.. The open letter mentioned that a regional human rights mechanism is essential to create a common platform to collectively address the issues faced by South Asian countries. These include gender discrimination, human trafficking, migration, poverty, climate change, natural disasters, and the lack of protection and promotion of human rights and fundamental freedoms and liberties in plural societies.

On 06 November 2020, the “National Strategy Consultation for the establishment of South Asian Human Rights Mechanism” was held in Kathmandu, Nepal. Mr. Pradeep Kumar Gyawali, Minister of Foreign Affairs of Nepal, participated in the consultation as the Chief Guest and emphasized the need for a regional human rights mechanism in South Asia. This consultation provided the space for the CSOs to discuss about advocacy with government of Nepal on this issue and discussed about the past efforts and the participants reiterated that SAHRM could be a platform to deal with the common human rights issues in the South Asia.

Other Activities and Strategies

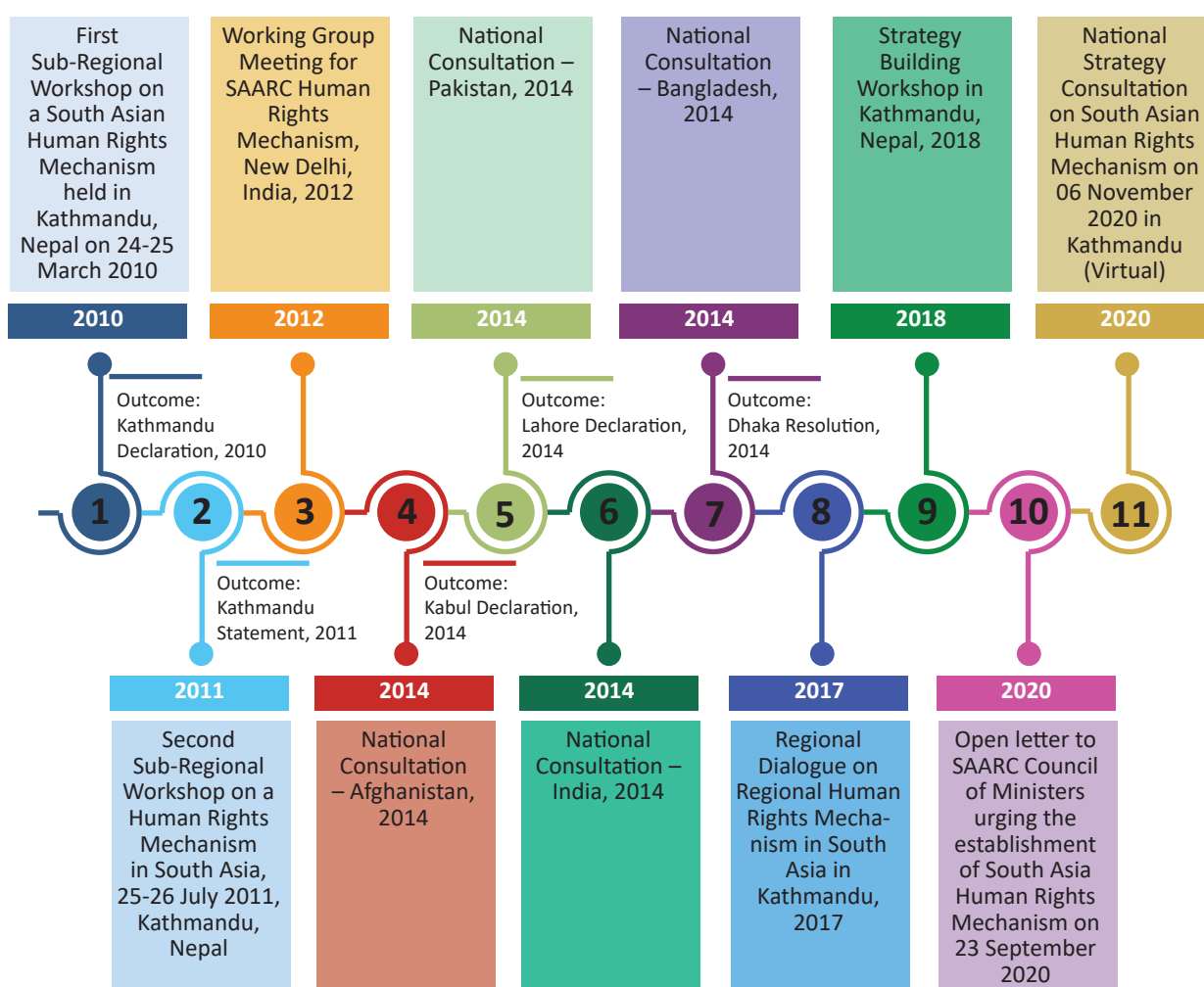
Since its establishment, RISAHRM had accomplished some of the following tasks:

- A regional Task Force was formed to oversee the campaign at the regional level with a written Terms of Reference (ToR) that lays down mandates and operational procedures, including the provision of a Secretariat of the Task Force;
- National core committees were formed in Bangladesh, Bhutan, India, Nepal and Sri Lanka to propagate the idea of a regional mechanism and create national momentum in favour of the mechanism;

- Intensive lobby and advocacy programmes were organised in favour of the mechanism during the 18th SAARC Summit in November 2014. Although, the formation of the regional initiative could not be included in the formal discussions during the SAARC Summit due to geo-political dynamics of the region, many State representatives expressed their commitment and assured their support to the mechanism;
- The People’s SAARC – a regional initiative of civil society organisations and a wide cross-section of people’s movements included in its ‘People’s SAARC 2014-Declaration¹³⁹, the call for the establishment of ‘a human rights charter and an effective and participatory human rights mechanism as an apex body to promote, protect and fulfil all rights for all people of the region in conformity with international human rights law’, and
- A strategy was developed to intensify national processes in South Asia, update and/or develop awareness and educational materials, establish a separate website, and enhance in collaborative engagement with SAARC.

FORUM-ASIA supported the RISAHRM campaign as part of its human rights promotion and protection in South Asia, and works closely with civil society organisations as well as state institutions, where opportunities are available.

Timeline of Past Activities



¹³⁹ People’s SAARC 2014 – Declaration, ‘People’s Movements Uniting South Asia for Deepening Democracy, Social Justice, <https://www.forum-asia.org/?p=18092>

Prospective South Asia Human Rights Mechanism

The regional human rights mechanism envisaged by FORUM-ASIA will be a commission mandated to promote and protect human rights at the regional level in South Asia. It will work at the regional level creating a bridge between national human rights institutions and international mechanism and standards.

Considering the limitations in the functioning of SAARC, it is imperative that the regional human rights mechanism in South Asia should be independent of SAARC, to ensure that geo-politics does not affect its functioning.

Learning from the experiences of ASEAN Intergovernmental Commission of Human Rights (AICHR), it is said that its ‘intergovernmental’ is a major drawback and it needs to be ‘independent’ and ‘impartial’¹⁴⁰.

A regional human rights mechanism in South Asia must also have a clear protection mandate that includes a robust complaints handling mechanism on par with international standards. The mechanism should engage with CSOs in order to be inclusive and to respond to human rights issues effectively.

The purpose of the regional mechanism will be to:

- assist national Governments in the realisation of their international human rights obligations arising from the conventions which they are party to;
- help national Governments address human rights issues that cross national borders, including but not limited to the violations and abuses stemming from terrorism, human trafficking, sexual exploitation of children, migration and endemic diseases;
- create a platform for the peoples of the region to communicate their human rights concerns and priorities, and bring those voices to the attention of States;
- provide regional inputs to the development and improvement of international human rights standards; and

¹⁴⁰ A Decade in Review, Assessing the Performance of the AICHR to Uphold the Protection Mandates, May 2019, FORUM-ASIA. <https://www.forum-asia.org/uploads/wp/2019/06/AFreviewdecadeFAR1-1.pdf>

- contribute to regional peace, security and development through the promotion and protection of human rights of the peoples of the region.

A treaty or a statute will create the mechanism with a broad mandate to effectively promote and protect human rights at the regional level. It will be independent, consisting of the most qualified members and judges from the region. It will have all powers needed to enforce its decisions. Its composition will reflect regional diversity and multiplicity. Its modus operandi will have space to work closely with civil society and people’s movements.

The regional mechanism will have its own human rights declarations and conventions based on international standards. It will over time evolve to become a system to which States should regularly report on the situation of human rights within their countries, similar to the Universal Periodic Review process. A broad mandate, adequate resources and flexibility to engage with civil society and other non-state processes will make it a robust mechanism that can make a difference in the region and be complementary o the global human rights regime.

Experiences from Other Regions

Europe, the Americas, Africa, Southeast Asia and the Middle East and North Africa have already established regional human rights mechanisms to ensure the respect for human rights at the regional level. South Asia is one of the regions where such a mechanism does not exist. Existing Regional Human Rights Mechanisms in the world are:



(i) European System

The European Court of Human Rights – founded within the Council of Europe and not to be mistaken with the European Court of Justice established by the European Union - is the primary body enforcing the rights enshrined in the European Convention on Human Rights (ECHR) (formally the Convention for the Protection of Human Rights and Fundamental Freedoms) (1950). The European Court on Human Rights receives complaints from individuals, groups of individuals and States on violations. With a strong protection mandate and the Council of Ministers in the Council of Europe overseeing enforcement of decisions, this system has evolved into the strongest regional mechanism. It also has Advisory Jurisdiction on matters referred to it by States and judicial institutions. The European Court of Justice also plays an important role in protecting the fundamental rights and human rights concerns within the legal order of the European Union. The Court has continued to define and establish standards for the protection of human rights for the European Union community.

(ii) Systems in America

The Inter-American Commission on Human Rights and the Inter-American Court of Human Rights of the Organisation of American States (OAS) together promote and protect rights enshrined in the American Convention on Human Rights (1969) and earlier Declaration. The Inter-American Commission on Human Rights promotes human rights in the region and receives individual complaints from victims. It also appoints Special Rapporteurs on thematic areas, undertakes studies and field visits. The Inter- American Court of Human Rights examines communications submitted to it by the Inter-American Commission and also has advisory jurisdiction on cases referred to it by States. With the General Assembly of OAS overseeing enforcement, it also has a strong protection mandate.

(iii) The African System

The African Commission on Human and Peoples' Rights and African Court on Human and Peoples' Rights of the African Union (AU) complement each other's work toward guaranteeing the enforcement of the African Charter on Human and Peoples' Rights (1981) and other international instruments. The African Commission on Human and Peoples' Rights has a strong promotional mandate and ensures the protection of these rights. It appoints Special Rapporteurs, interprets provisions of the Charter, undertakes studies and makes field visits. It also receives complaints from individuals on human rights violations and receives inter-state complaints from Member States. The African Court on Human and Peoples' Rights receives communications from individuals, Member States, the African Commission and NGOs on violations. When necessary, it also awards reparations. The African system is steadily evolving into a strong mechanism with the Council of Ministers of the AU overseeing the Court; and the Executive Council and Assembly of the AU overseeing the Commission.

(iv) Southeast Asian System

The ASEAN Intergovernmental Commission on Human Rights (AICHR) of the Association of Southeast Asian Nations (ASEAN) oversees the enforcement of the rights envisioned in the ASEAN Charter (2007). It also drafted the ASEAN Human Rights Declaration which was adopted in 2012. AICHR takes on various activities towards the promotion and protection of human rights.

It conducts public awareness programmes, undertakes thematic studies, promotes capacity building and encourages ratification of international instruments. It also obtains information from Member States on human rights and advises them. AICHR has come under strong criticism as its members are State-appointed and have only focused on promotional activities, side-lining its protection mandate.

(v) The System in the Middle East and North Africa

The Arab Human Rights Committee was established in 2009 by the League of Arab States and engages with Member States to comply with the rights guaranteed under the Arab Charter on Human Rights (2004). The Committee monitors the human rights situation in Member States and advises them on measures to be adopted. Member States submit reports to the Committee every three years. The Committee also receives reports from registered NGOs and proceeds to provide recommendations after deliberation. The League of Arab States is presently in the process of setting up a Court to further guarantee enjoyment of human rights in the region.

The Arab League started dealing with selected human rights issues in the late 1960s. The Arab Charter on Human Rights which now forms the foundation of the regional human rights regime was adopted in 2004 and came into force in 2008. However, the Charter is not on par with the international standards and the Arab Human Rights Committee has limited control and mandate for promotion and protection of human rights in the region.

Charter of the South Asian Association for Regional Cooperation

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

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

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

Article I

OBJECTIVES

The objectives of the ASSOCIATION shall be:

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

Article II

PRINCIPLES

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

Article III

MEETINGS OF THE HEADS OF STATE OR GOVERNMENT

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

Article IV

COUNCIL OF MINISTERS

1. A. Council of Ministers consisting of the Foreign Ministers of the Member States shall be established with the following functions:
 - a) formulation of the policies of the ASSOCIATION;
 - b) review of the progress of cooperation under the ASSOCIATION;
 - c) decision on new areas of cooperation;
 - d) establishment of additional mechanism under the ASSOCIATION as deemed necessary;
 - e) decision on other matters of general interest to the ASSOCIATION.

2. The Council of Ministers shall meet twice a year. Extraordinary session of the Council may be held by agreement among the Member States.

Article V

STANDING COMMITTEE

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

Article VI

TECHNICAL COMMITTEES

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

Article VII

ACTION COMMITTEES

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

Article VIII

SECRETARIAT

There shall be a Secretariat of the ASSOCIATION.

Article IX

FINANCIAL ARRANGEMENTS

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

Article X

GENERAL PROVISIONS

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

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

Hussain Muhammad Ershad

PRESIDENT OF THE PEOPLE'S REPUBLIC OF BANGLADESH

Jigme Singye Wangchuk

KING OF BHUTAN

Rajiv Gandhi

PRIME MINISTER OF THE REPUBLIC OF INDIA

Maumoon Abdul Gayoom

PRESIDENT OF THE REBUPLIC OF MALDIVES

Birendra Bir Bikram Shah Dev

KING OF NEPAL

Muhammad Zia-ul-Haq

PRESIDENT OF THE ISLAMIC REPUBLIC OF PAKISTAN

Junius Richard Jayewardene

PRESIDENT OF DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA

Social Charter

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

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

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

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

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

Reiterating that the SAARC Charter and the, SAARC Conventions, respectively on Narcotic Drugs and Psychotropic Substances, Preventing and Combating Trafficking in Women and Children for Prostitution, Regional Arrangements for the Promotion of Child Welfare in South Asia and the SAARC Agreement on Food Security Reserve provide regional frameworks for addressing specific social issues, which require concerted and coordinated actions and strategies for the effective realisation of their objectives.

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

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

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

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

Article I

General Provisions

1. States Parties shall maintain a social policy and strategy in order to ensure an overall and balanced social development of their peoples. The salient features of individual social policy and programme shall be determined, taking into account the broader national development goals and specific historic and political contexts of each State Party.
2. States Parties agree that the obligations under the Social Charter shall be respected, protected and fulfilled without reservation and that the enforcement thereof at the national level shall be continuously reviewed through agreed regional arrangements and mechanisms.
3. States Parties shall establish a people-centered framework for social development to guide their work and in the future, to build a culture of cooperation and partnership and to respond to the immediate needs of those who are most affected by human distress. States Parties are determined to meet this challenge and promote social development throughout the region.

Article II

Principles, Goals and Objectives

1. The provisions made herein shall complement the national processes of policymaking, policy-implementation and policy-evaluation, while providing broad parameters and principles for addressing common social issues and developing and implementing result-oriented programmes in specific social areas.
2. In the light of the commitments made in this Charter, States Parties agree to:
 - i. Place people at the center of development and direct their economies to meet human needs more effectively;

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

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

Article III

Poverty Alleviation

1. States Parties affirm that highest priority shall be accorded to the alleviation of poverty in all South Asian Countries. Recognising that South Asia's poor could constitute a huge and potential resource, provided their basic needs are met and they are mobilized to create economic growth, States Parties reaffirm that the poor should be empowered and irreversibly linked to the mainstream of development. They also agree to take appropriate measures to create income-generating activities for the poor.
2. Noting that a large number of the people remain below the poverty line, States Parties re-affirm their commitment to implement an assured nutritional standards approach towards the satisfaction of basic needs of the South Asian poor.
3. Noting the vital importance of biotechnology for the long-term food security of developing countries as well as for medicinal purposes, States Parties resolve that cooperation should be extended to the exchange of expertise in genetic conservation and maintenance of germplasm banks. They stress the importance of the role of training facilities in this area and agree that cooperation in the cataloguing of genetic resources in different SAARC countries would be mutually beneficial.
4. States Parties agree that access to basic education, adequate housing, safe drinking water and sanitation, and primary health care should be guaranteed in legislation, executive and administrative provisions, in addition to ensuring of adequate standard of living, including adequate shelter, food and clothing.
5. States Parties underline the imperative for providing a better habitat to the people of South Asia as part of addressing the problems of the homeless. They agree that each country share the experiences gained in their efforts to provide shelter, and exchange expertise for effectively alleviating the problem.

Article IV

Health

1. States Parties re-affirm that they will strive to protect and promote the health of the population in the region. Recognizing that it is not possible to achieve good health in any country without addressing the problems of primary health issues and communicable diseases in the region, the States Parties agree to share information regarding the outbreak of any communicable disease among their populations.
2. Conscious that considerable expertise has been built up within the SAARC countries on disease prevention, management and treatment, States Parties affirm their willingness to share knowledge and expertise with other countries in the region.
3. Noting that the capacity for manufacture of drugs and other chemicals exists in different countries, States Parties agree to share such capacity and products when sought by any other State Party.
4. Realising that health issues are related to livelihood and trade issues which are influenced by international agreements and conventions, the States Parties agree to hold prior consultation on such issues and to make an effort to arrive at a coordinated stand on issues that relate to the health of their population.
5. States Parties also agree to strive at adopting regional standards on drugs and pharmaceutical products.

Article V

Education, Human Resource Development and Youth Mobilization

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

Article VI**Promotion of the status of women**

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

Article VII**Promotion of the Rights and Well-being of the Child**

1. States Parties are convinced that the child, by reason of his or her physical and mental dependence, needs special safeguards and care, including appropriate legal protection, before as well as after birth.
2. The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.
3. States Parties shall protect the child against all forms of abuse and exploitation prejudicial to any aspects of the child's well-being.
4. States Parties shall take necessary actions to implement effectively the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare and to combat and suppress all offences against the person, dignity and the life of the child.

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

Article VIII

Population Stabilisation

1. States Parties underscore the vital importance of enhanced cooperation in the social development and well-being of the people of South Asia. They agree that national programmes evolved through stakeholder partnership, with enhancement of allocation of requisite resources and well-coordinated regional programmes will contribute to a positive atmosphere for the development of a socially content, healthy and sustainable population in the region.

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

Article IX

Drug de-addiction, Rehabilitation and Reintegration

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

Article X

Implementation

1. The implementation of the Social Charter shall be facilitated by a National Coordination Committee or any appropriate national mechanism as may be decided in each country. Information on such mechanism will be exchanged between States Parties through the SAARC Secretariat. Appropriate SAARC bodies shall review the implementation of the Social Charter at the regional level.

2. Member States shall formulate a national plan of action or modify the existing one, if any, in order to operationalise the provisions of the Social Charter. This shall be done through a transparent and broad-based participatory process. Stakeholder approach shall also be followed in respect of implementation and evaluation of the programmes under National Plans of Action.

Article XI

Entry into force

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

Article XII

Amendment

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

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

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

Begum Khaleda Zia

PRIME MINISTER OF THE PEOPLE'S
REPUBLIC OF BANGLADESH

Maumoon Abdul Gayoom

PRESIDENT OF THE
REPUBLIC OF MALDIVES

Jigmi Yoezer Thinley

PRIME MINISTER OF
THE KINGDOM OF BHUTAN

Surya Bahadur Thapa

PRIME MINISTER OF THE
HIS MAJESTY'S GOVERNMENT OF NEPA

Atal Behari Vajpayee

PRIME MINISTER OF THE
REPUBLIC OF INDIA

Mir Zafarullah Khan Jamali

PRIME MINISTER OF THE
ISLAMIC REPUBLIC OF PAKISTAN

Chandrika Bandaranaike Kumaratunga

PRESIDENT OF THE DEMOCRATIC SOCIALIST
REPUBLIC OF SRI LANKA

SAARC Charter of Democracy¹

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

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

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

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

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

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

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

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

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

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

1. This Charter is available on website of the SAARC, <http://www.saarc-sec.org/SAARC-Charter-of-Democracy/88/>

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

- Reaffirm the sovereignty of each Member State;
- Ensure the supremacy of their respective Constitutions and uphold their spirit;
- Continue to strengthen democratic institutions and reinforce democratic practices, including through effective coordination as well as checks and balances among the Legislature, the Executive and the Judiciary as reflected in the respective Constitutions;
- Guarantee the independence of the Judiciary and primacy of the rule of law, and ensure that the processes of appointments to the Judiciary as well as the Executive are fair and transparent;
- Adhere to the UN Charter and other international instruments to which Member States are parties;
- Recognise the role of political parties and the civil society in a democracy; and
- Renounce unequivocally any unconstitutional change of an elected government in a Member State;

Accordingly, Member States undertake to:

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

SAARC Regional Convention on Suppression of Terrorism

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC)

MINDFUL of the principles of cooperation enshrined in the SAARC Charter;

RECALLING that at the Dhaka Summit on December 7-8, 1985, the Heads of State or Government of the Member States of the SAARC recognized the seriousness of the problem of terrorism as it affects the security and stability of the region;

ALSO RECALLING the Bangalore Summit Declaration of 17 November 1986, in which the Heads of state or Government of SAARC agreed that cooperation among SAARC States was vital if terrorism was to be prevented and eliminated from the region; unequivocally condemned all acts, methods and practices of terrorism as criminal and deplored their impact on life and property, socio-economic development, political stability, regional and international peace and cooperation, and recognized the importance of the principles laid down in UN Resolution 2625 (XXV) which among others required that each state should refrain from organizing, instigating, assisting or participating in acts of civil strife or terrorist acts in another state or acquiescing in organized activities within its territory directed towards the commission of such acts;

AWARE of the danger posed by the spread of terrorism and its harmful effect on peace, cooperation, friendship and good neighbourly relations and which could also jeopardize the sovereignty and territorial integrity of states;

HAVE RESOLVED to take effective measures to ensure that perpetrators of terroristic acts do not escape prosecution and punishment by providing for their extradition or prosecution, and to this end,

HAVE AGREED as follows:

Article I

Subject to the overall requirements of the law of extradition, conduct constituting any of the following offences, according to the law of the Contracting State, shall be regarded as terroristic and for the purpose of extradition shall not be regarded as political offence or as an offence connected with a political offence or as an offence inspired by political motives:

- a) An offence within the scope of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on December 16, 1970;
- b) An offence within the scope of the Convention for the Suppression of Unlawful acts against the safety of Civil Aviation, signed at Montreal on September 23, 1971;
- c) An offence within the scope of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, signed at New York on December 14, 1973;
- d) An offence within the scope of any Convention to which SAARC Member States concerned are parties and which obliges the parties to prosecute or grant extradition;
- e) Murder, manslaughter, assault causing bodily harm, kidnapping, hostage-taking and offences relating to firearms, weapons, explosives and dangerous substances when used as a means to perpetrate indiscriminate violence involving death or serious bodily injury to persons or serious damage to property;
- f) An attempt or conspiracy to commit an offence described in sub-paragraphs (a) to (e), aiding, abetting or counseling the commission of such an offence or participating as an accomplice in the offences so described.

Article II

For the purpose of extradition between SAARC Member States, any two or more Contracting States may, by agreement, decide to include any other serious offence involving violence, which shall not be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article III

1. The provisions of all extradition treaties and arrangements applicable between Contracting States are hereby amended as between Contracting States to the extent that they are incompatible with this Convention.
2. For the purpose of this Convention and to the extent that any offence referred to in Article I or agreed to in terms of Article II is not listed as an extraditable offence in any extradition treaty existing between Contracting States, it shall be deemed to be included as such therein.
3. Contracting States undertake to include these offences as extraditable offences in any future extradition treaty to be concluded between them.

4. If a Contracting State which makes extradition conditional on the existence of a treaty receives a request for extradition from another Contracting State with which it has no extradition treaty, the requested State may, as its option, consider this Convention as the basis for extradition in respect of the offences set forth in Article I or agreed to in terms of Article II. Extradition shall be subject to the law of the requested State.
5. Contracting States, which do not make extradition conditional on the existence of a treaty, shall recognize the offences set forth in Article I or agreed to in terms of Article II as extraditable offences between themselves, subject to the law of the requested State.

Article IV

A contracting State in whose territory a person suspected of having committed an offence referred to in Article I or agreed to in terms of Article II is found and which has received a request for extradition from another Contracting State, shall, if it does not extradite that person, submit the case without exception and without delay, to its competent authorities shall take their decisions in the same manner as in the case of any offence of a serious nature under the law of the State.

Article V

For the purpose of Article IV, each Contracting State may take such measures as it deems appropriate, consistent with its national laws, subject to reciprocity, to exercise its jurisdiction in the case of an offence under Article I or agreed to in terms of Article II.

Article VI

A Contracting State in whose territory an alleged offender is found, shall, upon receiving a request for extradition from another Contracting State, take appropriate measures, subject to its national laws, so as to ensure his presence for purposes of extradition or prosecution. Such measures shall immediately be notified to the requesting State.

Article VII

Contracting States shall not be obliged to extradite, if it appears to the requested State that by reason of the trivial nature of the case or by reason of the request for the surrender or return of a fugitive offender not being made in good faith or in the interests of justice or for any other reason it is unjust or inexpedient to surrender or return the fugitive offender.

Article VIII

1. Contracting States shall, subject to their national laws, afford one another the greatest measure of mutual assistance in connection with proceedings brought in respect of the offences referred to in Article I or agree to in terms of Article II, including the supply of all evidence at their disposal necessary for the proceedings.
2. Contracting States shall cooperate among themselves, to the extent permitted by their national laws, through consultations between appropriate agencies, exchange of information, intelligence and expertise and such other cooperative measures as may be appropriate, with a view to prevention of terrorist activities through precautionary measures.

Article IX

1. The Convention shall be open for signature by the Member States of SAARC at the SAARC Secretariat in Kathmandu.
2. It shall be subject to ratification. Instruments of ratification shall be deposited with the Secretary-General of SAARC.

Article X

The Convention shall enter into force on the fifteenth day following the date of the deposit of the seventh Instrument of Ratification with Secretary-General of SAARC.

Article XI

The Secretary-General of SAARC shall be the depositary of this Convention and shall notify Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such Instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article X.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments have signed this Convention.

DONE at Kathmandu on this Fourth Day of November One Thousand Nine Hundred and Eighty Seven in eight Originals in the English language all texts being equally authentic.

HUMAYUN RASHEED CHOUDHURY

Minister of Foreign Affairs
People's Republic of
Bangladesh

K. NATWAR SINGH

Minister of State for External
Affairs Republic of India

SHAILENDRA KUMAR UPADHYAYA

Minister for Foreign Affairs and
Land Reforms
His Majesty's Government of
Nepal

A.C. SHAHUL

HAMEED Minister of
Foreign Affairs
Democratic Socialist Republic of Sri Lanka

DAWA TSERING

Minister of Foreign
Affairs Kingdom of
Bhutan

FATHULLA JAMEEL

Minister of Foreign
Affairs Republic of
Maldives

ZAIN NOORANI

Minister of State for
Foreign Affairs
Islamic Republic of
Pakistan

Agreement on SAARC Preferential Trading Arrangement (SAPTA)

Preamble

The Government of the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, the Kingdom of Nepal, the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka hereinafter referred to as "Contracting States",

Motivated by the commitment to promote regional co-operation for the benefit of their peoples, in a spirit of mutual accommodation, with full respect for the principles of sovereign equality, independence and territorial integrity of all States;

Aware that the expansion of trade could act as a powerful stimulus to the development of their national economies, by expanding investment and production, thus providing greater opportunities of employment and help securing higher living standards for their population;

Convinced of the need to establish and promote regional preferential trading arrangement for strengthening intra-regional economic cooperation and the development of national economies;

Bearing in mind the urgent need to promote the intra-regional trade which presently constitutes a negligible share in the total volume of the South Asian trade;

Recalling the direction given at the Fourth SAARC Summit meeting held in Islamabad in December 1988 that specific areas be identified where economic cooperation might be feasible immediately;

Guided by the declared commitment of the Heads of State or Government of the Member Countries at the Sixth SAARC Summit held in Colombo in December 1991 to the liberalisation of trade in the region through a step by step approach in such a manner that countries in the region share the benefits of trade expansion equitably;

Cognizant of the mandate given by the Sixth SAARC Summit in Colombo to formulate and seek agreement on an institutional framework under which specific measures for trade liberalisation among SAARC Member States could be furthered and to examine the Sri Lankan proposal to establish the SAARC Preferential Trading Arrangement (SAPTA) by 1997;

Recognising that a preferential trading arrangement is the first step towards higher levels of trade and economic cooperation in the region,

Have agreed as follows:

Article - 1 **Definitions**

For the purpose of this Agreement:

- (1) “Least Developed Country” means a country designated as such by the United Nations.
- (2) “Contracting State” means any Member State of the South Asian Association for Regional Cooperation (SAARC) which has entered into this Agreement.
- (3) “Serious injury” means significant damage to domestic producers, of like or similar products resulting from a substantial increase of preferential imports in situations which cause substantial losses in terms of earnings, production or employment unsustainable in the short term. The examination of the impact on the domestic industry concerned shall also include an evaluation of other relevant economic factors and indices having a bearing on the state of the domestic industry of that product.
- (4) “Threat of serious injury” means a situation in which a substantial increase of preferential imports is of a nature to cause “serious injury” to domestic producers, and that such injury, although not yet existing, is clearly imminent. A determination of threat of serious injury shall be based on facts and not on mere allegation, conjecture, or remote or hypothetical possibility.
- (5) “Critical circumstances” means the emergence of an exceptional situation where massive preferential imports are causing or threatening to cause “serious injury” difficult to repair and which calls for immediate action.
- (6) “Sectoral basis” means agreements amongst Contracting States regarding the removal or reduction of tariff, non-tariff and para-tariff barriers as well as other trade promotion or cooperative measures for specified products or groups of products closely related in end-use or in production.
- (7) “Direct trade measures” means measures conducive to promoting mutual trade of Contracting States such as long and medium-term contracts containing import and supply commitments in respect of specific products, buy-back arrangements, state trading operations, and government and public procurement.
- (8) “Tariffs” means customs duties included in the national tariff schedules of the Contracting States.
- (9) “Para-tariffs” means border charges and fees, other than “tariffs”, on foreign trade transactions of a tariff-like effect which are levied solely on imports, but not those indirect taxes and charges, which are levied in the same manner on like domestic products. Import charges corresponding to specific services rendered are not considered as para-tariff measures.
- (10) “Non-tariffs” means any measure, regulation, or practice, other than “tariffs” and “para-tariffs”, the effect of which is to restrict imports, or to significantly distort trade.
- (11) “Products” means all products including manufactures and commodities in their raw, semi-processed and processed forms.

Article - 2
Establishment and Aims

1. By the present Agreement, the Contracting States establish the SAARC Preferential Trading Arrangement (SAPTA) to promote and sustain mutual trade and the economic cooperation among the Contracting States, through exchanging concessions in accordance with this Agreement.
2. SAPTA will be governed by the provisions of this Agreement and also by the rules, regulations, decisions, understandings and protocols to be agreed upon within its framework by the Contracting States.

Article - 3
Principles

SAPTA shall be governed in accordance with the following principles:-

- (a) SAPTA shall be based and applied on the principles of overall reciprocity and mutuality of advantages in such a way as to benefit equitably all Contracting States, taking into account their respective levels of economic and industrial development, the pattern of their external trade, trade and tariff policies and systems;
- (b) SAPTA shall be negotiated step by step, improved and extended in successive stages with periodic reviews;
- (c) The special needs of the Least Developed Contracting States shall be clearly recognised and concrete preferential measures in their favour should be agreed upon;
- (d) SAPTA shall include all products, manufactures and commodities in their raw, semi-processed and processed forms.

Article - 4
Components

SAPTA may, inter-alia, consist of arrangements relating to:-

- (a) tariffs;
- (b) para-tariffs;
- (c) non-tariff measures;
- (d) direct trade measures.

Article - 5
Negotiations

1. The Contracting States may conduct their negotiations for trade liberalisation in accordance with any or a combination of the following approaches and procedures:-
 - (a) Product-by-product basis;
 - (b) Across-the-board tariff reductions;
 - (c) Sectoral basis;
 - (d) Direct trade measures.
2. Contracting States agreed to negotiate tariff preferences initially on a product-by-product basis.

3. The Contracting States shall enter into negotiations from time to time with a view to further expanding SAPTA and the fuller attainment of its aims.

Article - 6

Additional Measures

1. Contracting States agree to consider, in addition to the measures set out in Article 4, the adoption of trade facilitation and other measures to support and complement SAPTA to mutual benefit.
2. Special consideration shall be given by Contracting States to requests from Least Developed Contracting States for technical assistance and cooperation arrangements designed to assist them in expanding their trade with other Contracting States and in taking advantage of the potential benefits of SAPTA. The possible areas for such technical assistance and cooperation are listed in Annex - I.

Article - 7

Schedules of Concessions

The tariff, para-tariff and non-tariff concessions negotiated and exchanged amongst Contracting States shall be incorporated in the National Schedules of Concessions. The initial concessions agreed to by the Contracting States are attached as **Annex - II**.

Article - 8

Extension of Negotiated Concessions

The concessions agreed to under SAPTA, except those made exclusively to the Least Developed Contracting States in pursuance of Article 10 of this Agreement, shall be extended unconditionally to all Contracting States.

Article - 9

Committee of Participants

A Committee of Participants, hereinafter referred to as the Committee, consisting of representatives of Contracting States, is hereby established. The Committee shall meet at least once a year to review the progress made in the implementation of this Agreement and to ensure that benefits of trade expansion emanating from this Agreement accrue to all Contracting States equitably. The Committee shall also accord adequate opportunities for consultation on representations made by any Contracting State with respect to any matter affecting the implementation of the Agreement. The Committee shall adopt appropriate measures for settling such representations. The Committee shall determine its own rules of procedures.

Article - 10

Special Treatment for the Least Developed Contracting States

1. In addition to other provisions of this Agreement, all Contracting States shall provide, wherever possible, special and more favourable treatment exclusively to the Least Developed Contracting States as set out in the following sub-paragraphs:
 - (a) Duty-free access, exclusive tariff preferences or deeper tariff preferences for the export products,
 - (b) The removal of non-tariff barriers,

- (c) The removal, where appropriate, of para-tariff barriers,
- (d) The negotiations of long-term contracts with a view to assisting Least Developed
- (e) Contracting States to achieve reasonable levels of sustainable exports of their products,
- (f) Special consideration of exports from Least Developed Contracting States in the application of safeguard measures,
- (g) Greater flexibility in the introduction and continuance of quantitative or other restrictions provisionally and without discrimination in critical circumstances by the Least Developed Contracting States on imports from other Contracting States.

Article - 11

Non-application

Notwithstanding the measures as set out in Articles 4 and 6, the provisions of this Agreement shall not apply in relation to preferences already granted or to be granted by any Contracting State to other Contracting States outside the framework of this Agreement, and to third countries through bilateral, plurilateral and multilateral trade agreements, and similar arrangements. The Contracting States shall also not be obliged to grant preferences in SAPTA which impair the concession extended under those agreements.

Article - 12

Communication, Transport and Transit

Contracting States agree to undertake appropriate steps and measures for developing and improving communication system, transport infrastructure and transit facilities for accelerating the growth of trade within the region.

Article - 13

Balance-of-Payments Measures

1. Notwithstanding the provisions of this Agreement, any Contracting State facing serious economic problems including balance of payments difficulties may suspend provisionally the concessions as to the quantity and value of merchandise permitted to be imported under the Agreement. When such action has taken place, the Contracting State which initiates such action, shall simultaneously notify the other Contracting States and the Committee.
2. Any Contracting State which takes action according to paragraph 1 of this Article shall afford, upon request from any other Contracting State, adequate opportunities for consultations with a view to preserving the stability of the concessions negotiated under the SAPTA. If no satisfactory adjustment is effected between the Contracting States concerned within 90 days of such notification, the matter may be referred to the Committee for review.

Article - 14
Safeguard Measures

If any product, which is a subject of a concession with respect to a preference under this Agreement, is imported into the territory of a Contracting State in such a manner or in such quantities as to cause or threaten to cause, serious injury in the importing Contracting State, the importing Contracting State concerned may, with prior consultations, except in critical circumstances, suspend provisionally without discrimination, the concession accorded under the Agreement. When such action has taken place the Contracting State which initiates such action shall simultaneously notify the other Contracting State(s) concerned and the Committee shall enter into consultations with the concerned Contracting State and endeavour to reach mutually acceptable agreement to remedy the situation.

In the event of the failure of the Contracting States to resolve the issue within 90 days of the receipt of original notification, the Committee of Participants shall meet within 30 days to review the situation and try to settle the issue amicably. Should the consultations in the Committee of Participants fail to resolve the issue within 60 days, the parties affected by such action shall have the right to withdraw equivalent concession(s) or other obligation(s) which the Committee does not disapprove of.

Article - 15
Maintenance of the Value of Concessions

Any of the concessions agreed upon under this Agreement shall not be diminished or nullified, by the application of any measures restricting trade by the Contracting States except under the provisions as spelt out in other Articles of this Agreement.

Article - 16
Rules of Origin

Products contained in the National Schedules of Concessions annexed to this Agreement shall be eligible for preferential treatment if they satisfy the rules of origin, including special rules of origin, in respect of the Least Developed Contracting States, which are set out in **Annex - III**.

Article - 17
Modification and Withdrawal of Concessions

1. Any Contracting State may, after a period of three years from the day the concession was extended, notify the Committee of its intention to modify or withdraw any concession included in its appropriate schedule.
2. The Contracting State intending to withdraw or modify a concession shall enter into consultation and/or negotiations, with a view to reaching agreement on any necessary and appropriate compensation, with Contracting States with which such concession was initially negotiated and with any other Contracting States that have a principal or substantial supplying interest as may be determined by the Committee.

3. Should no agreement be reached between the Contracting States concerned within six months of the receipt of notification and should the notifying Contracting State proceed with its modification or withdrawal of such concessions, the affected Contracting States as determined by the Committee may withdraw or modify equivalent concessions in their appropriate schedules. Any such modification or withdrawal shall be notified to the Committee.

Article - 18

Withholding or Withdrawal of Concessions

A Contracting State shall at any time be free to withhold or to withdraw in whole or in part any item in its schedule of concessions in respect of which it determines that it was initially negotiated with a State which has ceased to be a Contracting State in this Agreement. A Contracting State taking such action shall notify the Committee, and upon request, consult with Contracting States that have a substantial interest in the product concerned.

Article - 19

Consultations

1. Each Contracting State shall accord sympathetic consideration to and shall afford adequate opportunity for consultations regarding such representations as may be made by another Contracting State with respect to any matter affecting the operation of this Agreement.
2. The Committee may, at the request of a Contracting State, consult with any Contracting State in respect of any matter for which it has not been possible to find a satisfactory solution through such consultation under paragraph 1 above.

Article - 20

Settlement of Disputes

Any dispute that may arise among the Contracting States regarding the interpretation and application of the provisions of this Agreement or any instrument adopted within its framework shall be amicably settled by agreement between the parties concerned. In the event of failure to settle a dispute, it may be referred to the Committee by a party to the dispute. The Committee shall review the matter and make a recommendation thereon within 120 days from the date on which the dispute was submitted to it. The Committee shall adopt appropriate rules for this purpose.

Article - 21

Withdrawal from SAPTA

1. Any Contracting State may withdraw from this Agreement at any time after its entry into force. Such withdrawal shall be effective six months from the day on which written notice thereof is received by the SAARC Secretariat, the depositary of this Agreement. That Contracting State shall simultaneously inform the Committee of the action it has taken.
2. The rights and obligations of a Contracting State which has withdrawn from this Agreement shall cease to apply as of that effective date.
3. Following the withdrawal by any Contracting State, the Committee shall meet within 30 days to consider action subsequent to withdrawal.

Article - 22
Entry into Force

This Agreement shall enter into force on the thirtieth day after the notification issued by the SAARC Secretariat regarding completion of the formalities by all Contracting States.

Article - 23
Reservations

This Agreement may not be signed with reservations nor shall reservations be admitted at the time of notification to the SAARC Secretariat of the completion of formalities.

Article - 24
Amendments

This Agreement may be modified through amendments to this Agreement. All amendments shall become effective upon acceptance by all Contracting States.

Article - 25
Depositary

This Agreement shall be deposited with the Secretary- General of SAARC who shall promptly furnish a certified copy thereof to each Contracting State.

IN WITNESS WHEREOF the undersigned being duly authorized thereto by their respective Governments have signed this Agreement on the SAARC Preferential Trading Arrangement.

Done at **DHAKA** this **ELEVENTH day of APRIL One Thousand Nine Hundred Ninety Three**

in eight originals in the English language.

A.S.M. MOSTAFIZUR RAHMAN
Minister of Foreign Affairs
People's Republic of Bangladesh

DAWA TSERING
Minister of Foreign Affairs
Kingdom of Bhutan

DINESH SINGH
Minister of External Affairs

FATHULLA JAMEEL
Minister of Foreign Affairs

MAHESH ACHARYA
State Minister of Finance
His Majesty's Government of Nepal

MOHAMMAD SIDDIQUE KHAN KANJU
Minister of State for Foreign Affairs
Islamic Republic of Pakistan

HAROLD HERAT
Minister of Foreign Affairs.
Democratic Socialist Republic of Sri Lanka

Annex - I

ADDITIONAL MEASURES IN FAVOUR OF LEAST DEVELOPED CONTRACTING STATES

- (a) The identification, preparation and establishment of industrial and agricultural projects in the territories of Least Developed Contracting States which could provide the production base for the expansion of exports of Least Developed Contracting States to other Contracting States, possibly linked to co-operative financing and buy-back arrangements;
- (b) the setting up of manufacturing and other facilities in Least Developed Contracting States to meet intra-regional demand under co-operative arrangements;
- (c) the formulation of export promotion policies and the establishment of training facilities in the field of trade to assist Least Developed Contracting States in expanding their exports and in maximising their benefits from SAPTA;
- (d) the provision of support to export marketing of products of Least Developed Contracting States by enabling these countries to share existing facilities (for example, with respect to export credit insurance, access to market information) and by institutional and other positive measures to facilitate imports from Least Developed Contracting States into their own markets;
- (e) bringing together of enterprises in other Contracting States with project sponsors in the Least Developed Contracting States (both public and private) with a view to promoting joint ventures in projects designed to lead to the expansion of trade;
- (f) the provision of special facilities and rates in respect to shipping.

Annex - II

NATIONAL SCHEDULES OF CONCESSIONS

(published separately. Can also be accessed at Secretariat's website <http://www.sarc-sec.org>)

RULES OF ORIGIN

(as amended by Twenty-first Session of SAARC Council of Ministers, Nuwara Eliya, Sri Lanka, 18-19 March 1999)

RULE 1: Originating products - Products covered by preferential trading arrangements within the framework of the SAPTA imported into the territory of a Contracting State from another Contracting State which are consigned directly within the meaning of Rule 5 hereof, shall be eligible for preferential concessions if they conform to the origin requirement under any one of the following conditions:

- (a) Products wholly produced or obtained in the exporting Contracting State as defined in Rule 2; or
- (b) Products not wholly produced or obtained in the exporting Contracting State, provided that the said products are eligible under Rule 3 or Rule 4.

RULE 2: Wholly produced or obtained - Within the meaning of Rule 1 (a) the following shall be considered as wholly produced or obtained in the exporting Contracting State:

- (a) raw or mineral products extracted from its soil, its water or its seabeds: ¹
- (b) agricultural products harvested there; ²
- (c) animals born and raised there;
- (d) products obtained from animals referred to in paragraph (c) above;
- (e) products obtained by hunting or fishing conducted there;
- (f) products of sea fishing and other marine products taken from the high seas by its vessels; ^{3/}
- (g) products processed and/or made on boards its factory ships ^{4/5} exclusively from products referred to in paragraph (f) above;
- (h) used articles collected there, fit only for the recovery of raw materials;
- (i) waste and scrap resulting from manufacturing operations conducted there;
- (j) goods produced there exclusively from the products referred to in paragraph (a) to (i) above.

RULE 3 : Not wholly produced or obtained

- (a) Within the meaning of Rule 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-Contracting States or of undetermined origin used does not exceed 60 per cent of the f.o.b. value of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting Contracting State shall be eligible for preferential concessions subject to the provisions of Rule 3(c) and Rule 4.
- (b) Sectoral agreements ⁶
- (c) The value of the non-originating materials, parts or produce shall be:
 - (i) The c.i.f. value at the time of importation of materials parts or produce where this can be proven: or

- (ii) The earliest ascertainable price paid for the materials, prices or produce of undetermined origin in the territory of the Contracting State where the working or processing takes place.

RULE 4: Cumulative rules of origin - Products which comply with origin requirements provided for in Rule 1 and which are used by a Contracting State as input for a finished product eligible for preferential treatment by another Contracting State shall be considered as a product originating in the territory of the Contracting State where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the Contracting State is not less than 50 percent of its f.o.b. value⁷.

RULE 5 : Direct consignment - The following shall be considered as directly consigned from the exporting Contracting State to the importing Contracting State:

- (a) if the products are transported without passing through the territory of any non-Contracting State:
- (b) the products whose transport involves transit through one or more intermediate non-Contracting States with or without transshipment or temporary storage in such countries, provided that:
 - (i) the transit entry is justified for geographical reason or by considerations related exclusively to transport requirements;
 - (ii) the products have not entered into trade or consumption there; and
 - (iii) the products have not undergone any operation there other than unloading and reloading or any operation required to keep them in good condition.

RULE 6: Treatment of packing - When determining the origin of products, packing should be considered as forming a whole with the product it contains. However, packing may be treated separately if the national legislation so required.

RULE 7: Certificate of Origin - Products eligible for preferential concessions shall be supported by a Certificate of Origin⁸ issued by an authority designated by the government of the exporting Contracting State and notified to the other Contracting States in accordance with the Certification Procedures appearing on pages 15 and 16 of this Annex.

RULE 8:

- (a) In conformity with Article 15 of the Agreement on SAPTA and national legislations, any Contracting State may prohibit importation of products containing any inputs originating from States with which it does not have economic and commercial relations.
- (b) Contracting States will do their best to co-operate in order to specify origin of inputs in the Certificate of Origin.

RULE 9: Review - These Rules may be reviewed as and when necessary upon request of one-third of the Contracting States and may be open to such modifications as may be agreed upon.

RULE 10: Special criteria percentage - Products originating in Least Developed Contracting States can be allowed a favourable 10 percentage points applied to the percentage established in Rules 3 and 4. Thus, for Rule 3, the percentage would not exceed 70 per cent, and for Rule 4, the percentage would not be less than 40 per cent.

.....

1. Include mineral fuels, lubricants and related materials as well as mineral of metal ores.
2. Include forestry products.
3. "Vessels" - shall refer to fishing vessels engaged in commercial fishing, registered in a Contracting State's country and operated by a citizen or citizens or governments of Contracting State or partnership, corporation or association, duly registered in such Contracting State's country, at cost 60 per cent of equity of which is owned by a citizen or citizens and/or government of such Contracting State or 75 percent by citizens and/or governments of the Contracting States. However, the products taken from vessels engaged in commercial fishing under bilateral agreements which provide for chartering/leasing of such vessels and/or sharing of catch between Contracting States will also be eligible for preferential concessions.
4. In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.
5. For the purpose of this Agreement, the term "factory ship" means any vessels, as defined, used for processing and/or making on board products exclusively from those products referred to in paragraph (f) above.
6. In respect of products traded within the framework of sectoral agreements negotiated under SAPTA, provision may need to be made for special criteria to apply. Consideration may be given to these criteria as and when the sectoral agreements are negotiated.
7. "Partial" cumulation as implied by Rule 4 above means that only products which have acquired originating status in the territory of one Contracting State may be taken into account when used as inputs for a finished product eligible for preferential treatment in the territory of another Contracting State.
8. A standard Certificate of Origin to be used by all Contracting States is annexed and approved by the Contracting States.

Format of Certificate of Origin

I. General Conditions

To qualify for preference, products must :

- a) fall within a description of products eligible for preference in the schedule of concessions of SAPTA country of destination;
- b) comply with SAPTA Rules of Origin. Each article in a consignment must qualify separately in its own right; and
- c) comply with the consignment conditions specified by the SAPTA Rules of Origin. In general, products must be consigned directly within the meaning of Rule 5 hereof from the country of exportation to the country of destination.

II. Entries to be made in Box 8

Preference products must be wholly produced or obtained in the exporting Contracting State in accordance with Rule 2 of the SAPTA Rules of Origin, or where not wholly produced or obtained in the exporting Contracting States must be eligible under Rule 3 or Rule 4.

- a) Products wholly produced or obtained; enter the letter "A" in Box 8.
- b) Products not wholly produced or obtained: the entry in Box 8 should be as follows :
 1. Enter letter "B" in Box 8, for products which meet the origin criteria according to Rule 3. Entry of letter would be followed by the sum of the value of materials, parts or produce originating from non-Contracting States, or undetermined origin used, expressed as a percentage of the f.o.b. value of the products; (example "B" 50 per cent);
 2. Enter letter "C" in Box 8 for products which meet the origin criteria according to Rule 4. Entry of letter "C" would be followed by the sum of the aggregate content originating in the territory of the exporting Contracting State expressed as a percentage of the f.o.b. value of the exported product; (example "C" 60 per cent);
 3. Enter letter "D" in Box 8 for products which meet the special origin criteria according to Rule 10.

Amendment to the SAPTA Rules of Origin

The SAARC Council of Ministers at its Twenty-first Session held in Nuwara Eliya, Sri Lanka on 18-19 March 1999 approved the amendments to the Rules 3(a), 4 and 10 relating to the Rules of Origin (Annex-II) of the SAARC Preferential Trading Arrangement (SAPTA) with immediate effect.

The new amended rules now read as follows : -

Rule 3: Not wholly produced or obtained –

Within the meaning of Rule 1(b), products worked on or processed as a result of which the total value of the materials, parts or produce originating from non-Contracting States or of undetermined origin used **does not exceed 60 per cent of the f.o.b. value** of the products produced or obtained and the final process of manufacture is performed within the territory of the exporting Contracting State shall be eligible for preferential concessions subject to the provisions of Rule 3(c) and Rule 4.

Rule 4: Cumulative rules of origin –

Products which comply with origin requirements provided for in Rule 1 and which are used by a Contracting State as input for a finished product eligible for preferential treatment by another Contracting State shall be considered as a product originating in the territory of the Contracting State where working or processing of the finished product has taken place provided that the aggregate content originating in the territory of the Contracting State **is not less than 50 percent of its f.o.b. value.**

Rule 10: Special criteria percentage –

Products originating in Least Developed Contracting States can be allowed a favourable 10 percentage points applied to the percentage established in Rules 3 and 4. **Thus, for Rule 3, the percentage would not exceed 70 per cent, and for Rule 4, the percentage would not be less than 40 per cent.**

SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC),
PARTIES TO THE PRESENT CONVENTION

EMPHASISING that the evil of trafficking in women and children for the purpose of prostitution is incompatible with the dignity and honour of human beings and is a violation of basic human rights;

RECALLING the decision of the Ninth SAARC Summit (May, 1997) that the feasibility of a regional Convention to combat the grave crime of trafficking in women and children for prostitution should be explored;

RECALLING ALSO the relevant international legal instruments relating to prevention of trafficking in women and children, including the Convention for the Suppression of Trafficking in Persons and of the Exploitation of Prostitution of Others, 1949; Convention on the Elimination of All Forms of Discrimination against Women, 1979; International Covenant on Civil and Political Rights, 1966; and the Convention on the Rights of the Child, 1989;

GIVING due regard to the implementation of the recommendations of the various pertinent International Bodies and Conferences including the Fourth World Conference on Women at Beijing (1995);

NOTING with concern the increasing exploitation by traffickers of women and children from SAARC countries and their increasing use of these countries as sending, receiving and transit points;

RECOGNISING in this regard the importance of establishing effective regional cooperation for preventing trafficking for prostitution and for investigation, detection, interdiction, prosecution and punishment of those responsible for such trafficking;

EMPHASISING the need to strengthen cooperation in providing assistance, rehabilitation and repatriation to victims of trafficking for prostitution;

HAVE AGREED as follows:

Article I
DEFINITIONS

For the purpose of this Convention:

- 1) “Child” means a person who has not attained the age of 18 years;
- 2) “Prostitution” means the sexual exploitation or abuse of persons for commercial purposes;
- 3) “Trafficking” means the moving, selling or buying of women and children for prostitution within and outside a country for monetary or other considerations with or without the consent of the person subjected to trafficking;
- 4) “Traffickers” means persons, agencies or institutions engaged in any form of trafficking;
- 5) “Persons subjected to trafficking” means women and children victimised or forced into prostitution by the traffickers by deception, threat, coercion, kidnapping, sale, fraudulent marriage, child marriage, or any other unlawful means;
- 6) “Protective home” means a home established or recognised by a Government of a Member State for the reception, care, treatment and rehabilitation of rescued or arrested persons subjected to trafficking.
- 7) “Repatriation” means return to the country of origin of the person subjected to trafficking across international frontiers.

Article II
SCOPE OF THE CONVENTION

The purpose of this Convention is to promote cooperation amongst Member States so that they may effectively deal with the various aspects of prevention, interdiction and suppression of trafficking in women and children; the repatriation and rehabilitation of victims of trafficking and prevent the use of women and children in international prostitution networks, particularly where the countries of the SAARC region are the countries of origin, transit and destination.

Article III
OFFENCES

1. The State Parties to the Convention shall take effective measures to ensure that trafficking in any form is an offence under their respective criminal law and shall make such an offence punishable by appropriate penalties which take into account its grave nature.
2. The State Parties to the Convention, in their respective territories, shall provide for punishment of any person who keeps, maintains or manages or knowingly finances or takes part in the financing of a place used for the purpose of trafficking and knowingly lets or rents a building or other place or any part thereof for the purpose of trafficking.
3. Any attempt or abetment to commit any crime mentioned in paras 1 and 2 above or their financing shall also be punishable.

*Article IV***AGGRAVATING CIRCUMSTANCES**

1. The State Parties to the Convention shall ensure that their courts having jurisdiction over the offences committed under this Convention, can take into account factual circumstances which make the commission of such offences particularly grave, viz.
 - a) the involvement in the offences of an organised criminal group to which the offender belongs;
 - b) the involvement of the offender in other international organised criminal activities;
 - c) the use of violence or arms by the offender;
 - d) the fact that the offender holds a public office and that the offence is committed in misuse of that office;
 - e) the victimisation or trafficking of children;
 - f) the fact that the offence is committed in a custodial institution or in an educational institution or social facility or in their immediate vicinity or in other places to which children and students visit for educational, sports, social and cultural activities;
 - g) previous conviction, particularly for similar offences, whether in a Member State or any other country.

*Article V***JUDICIAL PROCEEDINGS**

In trying offences under this Convention, judicial authorities in Member States shall ensure that the confidentiality of the child and women victims is maintained and that they are provided appropriate counselling and legal assistance.

*Article VI***MUTUAL LEGAL ASSISTANCE**

1. The State Parties to the Convention shall grant to each other the widest measure of mutual legal assistance in respect of investigations, inquiries, trials or other proceedings in the requesting State in respect of offences under this Convention. Such assistance shall include:
 - a) taking of evidence and obtaining of statements of persons;
 - b) provision of information, documents and other records including criminal and judicial records;
 - c) location of persons and objects including their identification;
 - d) search and seizures;
 - e) delivery of property including lending of exhibits;
 - f) making detained persons and others available to give evidence or assist investigations;
 - g) service of documents including documents seeking attendance of persons; and
 - h) any other assistance consistent with the objectives of this Convention.
2. Requests for assistance shall be executed promptly in accordance with their national laws and in the manner requested by the Requesting State. In the event that the Requested State is not able to comply in whole or in part with a request for assistance or decides to postpone execution it shall promptly inform the Requesting State and shall give reasons for the same.

Article VII

EXTRADITION OR PROSECUTION

1. The offences referred to in the present Convention shall be regarded as extraditable offences in any extradition treaty which has been or may hereinafter be concluded, between any of the Parties to the Convention.
2. If a State Party which makes extradition conditional on the existence of a treaty, receives a request for extradition from another State Party with which it has no extradition treaty, the Requested State shall, if so permitted by its laws, consider this Convention as the basis for extradition in respect of the offences set forth in Article III.
3. Extradition shall be granted in accordance with the laws of the State to which the request is made.
4. The State Party in whose territory the alleged offender is present shall, if it does not extradite him or her, submit, without exception whatsoever and without undue delay, the case to its competent authorities for the purpose of prosecution in accordance with the laws of that State.
5. In States where extradition of their nationals is not permitted under their law, nationals who have committed offences under the present Convention shall be prosecuted and punished by their courts.

Article VIII

MEASURES TO PREVENT AND INTERDICT TRAFFICKING IN WOMEN AND CHILDREN

1. The State Parties to the Convention shall provide sufficient means, training and assistance to their respective authorities to enable them to effectively conduct inquiries, investigations and prosecution of offences under this Convention.
2. The State Parties to the Convention shall sensitize their law enforcement agencies and the judiciary in respect of the offences under this Convention and other related factors that encourage trafficking in women and children.
3. The State Parties to the Convention shall establish a Regional Task Force consisting of officials of the Member States to facilitate implementation of the provisions of this Convention and to undertake periodic reviews.
4. The State Parties to the Convention may also, by mutual agreement, set up bilateral mechanisms to effectively implement the provisions of the Convention, including appropriate mechanisms for cooperation to interdict trafficking in women and children for prostitution.
5. The State Parties to the Convention shall exchange, on a regular basis, information in respect of agencies, institutions and individuals who are involved in trafficking in the region and also identify methods and routes used by the traffickers through land, water or air. The information so furnished shall include information of the offenders, their fingerprints, photographs, methods of operation, police records and records of conviction.
6. The State Parties to the Convention may consider taking necessary measures for the supervision of employment agencies in order to prevent trafficking in women and children under the guise of recruitment.
7. The State Parties to the Convention shall endeavour to focus preventive and development efforts on areas which are known to be source areas for trafficking.

8. The State Parties to the Convention shall promote awareness, inter-alia, through the use of the media, of the problem of trafficking in women and children and its underlying causes including the projection of negative images of women.

Article IX

CARE, TREATMENT, REHABILITATION AND REPATRIATION OF THE VICTIMS

1. The State Parties to the Convention shall work out modalities for repatriation of the victims to the country of origin.
2. Pending the completion of arrangements for the repatriation of victims of cross-border trafficking, the State Parties to the Convention shall make suitable provisions for their care and maintenance. The provision of legal advice and health care facilities shall also be made available to such victims.
3. The State Parties to the Convention shall establish protective homes or shelters for rehabilitation of victims of trafficking. Suitable provisions shall also be made for granting legal advice, counselling, job training and health care facilities for the victims.
4. The State Parties to the Convention may also authorise the recognised non-governmental organisations to establish such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.
5. The State Parties to the Convention shall encourage recognised non-governmental organisations in efforts aimed at prevention, intervention and rehabilitation, including through the establishment of such protective homes or shelters for providing suitable care and maintenance for the victims of trafficking.

Article X

IMPLEMENTATION

The State Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.

Article XI

HIGHER MEASURES

The measures provided for in the Convention are without prejudice to higher measures of enforcement and protection accorded by relevant national laws and international agreements.

Article XII

SIGNATURE AND RATIFICATION

The Convention shall be open for signature by the Member States of SAARC at the Eleventh SAARC Summit at Kathmandu and thereafter, at the SAARC Secretariat at Kathmandu. It shall be subject to ratification. The Instruments of Ratification shall be deposited with the Secretary-General.

Article XIII

ENTRY INTO FORCE

This Convention shall enter into force on the fifteenth day following the day of the deposit of the seventh Instrument of Ratification with the Secretary-General.

Article XIV
DEPOSITORY

The Secretary-General shall be the depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article XIII.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this Fifth Day of January Two Thousand and Two, in nine originals, in the English Language, all texts being equally authentic.

M. MORSHED KHAN

Minister for Foreign Affairs
People's Republic of Bangladesh

JIGMI Y. THINLEY

Minister of Foreign Affairs
Kingdom of Bhutan

JASWANT SINGH

Minister of External Affairs
Republic of India

FATHULLA JAMEEL

Minister of Foreign Affairs
Republic of Maldives

RAM SHARAN MAHAT

Minister of Finance and Leader
of the Delegation of Nepal
Kingdom of Nepal

ABDUL SATTAR

Minister of Foreign Affairs
Islamic Republic of Pakistan

TYRONNE FERNANDO

Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia

PREAMBLE

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL COOPERATION (SAARC), PARTIES TO THE PRESENT CONVENTION

NOTING that a quarter of the world's children live in South Asia and many of them require assistance and protection to secure and fully enjoy their rights, and to develop to their full potential and lead a responsible life in family and society;

BEARING IN MIND that parents or legal guardians, as the case may be, have the primary responsibility for the upbringing and development of the child;

RECOGNISING, therefore, that the family, as the fundamental unit of society and also as the ideal nurturing environment for the growth and well-being of children, should be afforded the necessary protection and assistance so that it can fully assume and fulfill responsibility for its children and community;

RECALLING the common proclamation of their nations in the Universal Declaration of Human Rights that childhood is entitled to special care and assistance;

REAFFIRMING their adherence to the Declaration of the World Summit for Children and their commitment to the UN Convention on the Rights of the Child;

RECOGNISING the efforts of SAARC towards building a regional consensus on priorities, strategies and approaches to meet the changing needs of children, as embodied in Rawalpindi Resolution on Children of South Asia 1996, and noting the significant progress already made by the Member States in the field of child survival and welfare;

TAKING INTO ACCOUNT, the declaration of the years 2001-2010 as the "SAARC Decade of the Rights of the Child";

BEARING IN MIND that the development of the full potential of the South Asian child is a critical concomitant to the region's collective march towards solidarity, justice, peace and human progress;

ACKNOWLEDGING that regional solidarity and cooperation through sharing of experience, expertise, information and resources are eminently useful in galvanizing the efforts of the South Asian nations to fulfill and protect the rights of children;

REALISING further that, together, the Member States of SAARC can move towards a comprehensive South Asian vision for the well-being of their children;

HEREBY AGREE as follows:

PART I - DEFINITIONS, PURPOSE AND GUIDING PRINCIPLES

Article I - Definitions

For the purposes of this Convention:

'Rights of the Child' shall mean the rights of children embodied in the UN Convention on the Rights of the Child.

'Child' shall mean a national of any Member State of the South Asian Association for Regional Cooperation (SAARC), below the age of eighteen years unless, under the national law, majority is attained earlier.

Article II - Purposes and Objectives

The purposes and objectives of the present Convention shall be to:

1. Unite the States Parties in their determination of redeeming the promises made by them to the South Asian Child at the World Summit for Children and at various other national and international conferences and successive SAARC Summits;
2. Work together with commitment and diligence, to facilitate and help in the development and protection of the full potential of the South Asian child, with understanding of the rights, duties and responsibilities as well as that of others;
3. Set up appropriate regional arrangements to assist the Member States in facilitating, fulfilling and protecting the rights of the Child, taking into account the changing needs of the child.

Article III - Guiding Principles

For the establishment of regional arrangements, States Parties shall be guided by the following principles:

1. States Parties to this Convention shall consider survival, protection, development and participatory rights of the child as a vital pre-requisite for:
 - a) Accelerating the process of their peoples' realisation of human rights and fundamental freedoms; and
 - b) Achieving economic and social development in South Asia.
2. States Parties shall reaffirm the right of the child to enjoy all rights and freedoms guaranteed by the national laws and regionally and internationally binding instruments.

3. States Parties consider the UN Convention on the Rights of the Child as a comprehensive international instrument concerning the rights and well-being of the child and shall, therefore, reiterate their commitment to implement it.
4. States Parties shall uphold 'the best interests of the child' as a principle of paramount importance and shall adhere to the said principle in all actions concerning children.
5. States Parties, while recognising that the primary responsibility of looking after the well-being of the child rests with the parents and family, shall uphold the principle that the State has the right and authority to ensure the protection of the best interests of the child.
6. States Parties shall consider this Convention as a guiding force for all national laws and bilateral or multilateral agreements that are entered into in the field of child welfare.
7. States Parties shall always consider gender justice and equality as key aspirations for children, the realisation of which, collectively by the governments, would enhance the progress of South Asia.

PART II - REGIONAL PRIORITIES AND ARRANGEMENTS

Article IV - Regional Priorities

1. Without prejudice to the indivisibility of the rights enshrined in the UN Convention on the Rights of the Child and other international and national instruments and law, States Parties shall place special emphasis on the important areas for child development and well-being as regional priorities that can benefit immensely from bilateral and regional cooperation.
2. Recognising basic services such as education, health care, with special attention to the prevention of diseases and malnutrition, as the cornerstone of child survival and development, States Parties shall pursue a policy of development and a National Programme of Action that facilitate the development of the child. The policy shall focus on accelerating the progressive universalization of the child's access to the basic services and conditions.
3. States Parties shall ensure that appropriate legal and administrative mechanisms and social safety nets and defenses are always in place to:
 - a) Ensure that their national laws protect the child from any form of discrimination, abuse, neglect, exploitation, torture or degrading treatment, trafficking and violence;
 - b) Discourage entry of children into hazardous and harmful labour and ensure implementation of the Ninth SAARC Summit decision to eliminate the evil of child labour from the SAARC region. In doing so, States Parties shall adopt a multi-pronged strategy including the provision of opportunities at the primary level and supportive social safety nets for families that tend to provide child labourers;
 - c) Administer juvenile justice in a manner consistent with the promotion of the child's sense of dignity and worth, and with the primary objective of promoting the child's reintegration in the family and society. In doing so, States Parties shall provide special care and treatment to children in a country other than the country of domicile and expectant women and mothers who are detained along with infants or very young children, and shall promote, to the best possible extent, alternative measures to institutional correction, keeping in mind the best interest of the child;

- d) States Parties shall make civil registration of births, marriages and deaths, in an official registry, compulsory in order to facilitate the effective enforcement of national laws, including the minimum age for employment and marriage.
4. Recognising the evolving capacities of the child, States Parties shall encourage and support administrative and judicial institutions to arrange for suitable mechanisms at appropriate levels and in accordance with local customs and traditions, to provide opportunities and access for the child to:
 - a) Seek and receive information;
 - b) Express views, directly or through a representative, and receive due weight and consideration for them, in accordance with age and maturity, in all matters affecting them;
 - c) Participate fully and without hindrance or discrimination in the school, family and community life.
 5. States Parties shall encourage the mass media to disseminate information and material of social and cultural benefit to the child. They shall also endeavour to give wide publicity to the Convention as well as other regional and international instruments having a bearing on the child.

Article V - Regional Arrangements

To ensure consistent focus on and pursuance of the regional priorities delineated above, States Parties shall promote solidarity, cooperation and collective action between and among SAARC Member States in the arena of child rights and development. States Parties view such cooperation as mutually reinforcing and capable of enhancing the quality and impact of their national efforts to create the enabling conditions and environment for full realisation of child rights and attainment of the highest possible standard of child well-being. In pursuance hereof, States Parties shall:

- a) provide opportunities for appropriate bilateral and multilateral sharing of information, experience and expertise;
- b) facilitate human resource development through planned annual schedule of SAARC Advanced Training Programmes on Child Rights and Development;
- c) make special arrangements for speedy completion and disposal, on priority basis, of any judicial or administrative inquiry or proceeding involving a child who is a national of another SAARC Member State, and for the transfer of children who are nationals of SAARC countries, accused of infringing the penal code, back to their country of legal residence for trial and treatment, provided that the alleged offence has not imperiled the national security of the country where it has been allegedly committed;
- d) strengthen the relevant SAARC Bodies dealing with issues of child welfare to formulate and implement regional strategies and measures for prevention of inter-country abuse and exploitation of the child, including the trafficking of children for sexual, economic and other purposes;
- e) set up a South Asian nutrition initiative aimed at enhancing knowledge and promoting greater awareness, practice and attainment of higher levels of nutrition, particularly for children and women, through mass education, adequate training and ensuring food security and equitable distribution of food at the family level.

PART III - RELATIONSHIPS AND COOPERATION

Article VI - Bilateral and Multilateral Cooperation

States Parties shall encourage and support bilateral and multilateral agreements and cooperation that would have positive impact on regional and national efforts in facilitating, fulfilling and protecting the rights and well-being of the child.

Article VII - Relations with National Law and International Instruments

1. The States Parties to the Convention shall adopt, in accordance with their respective Constitutions, the legislative and other measures necessary to ensure the implementation of the Convention.
2. Nothing in this Convention shall affect any provisions which are more conducive to the realisation of the rights of the South Asian child and which may be contained in national laws or international agreements that are in force.

Article VIII - Relations with Non-Governmental Bodies

State Parties, while implementing the provisions of the Convention, may encourage and support the participation of non-Governmental bodies including community-based organisations.

Article IX - Cooperation with UN Agencies and Other International Agencies

Recognising their nature and scope, States Parties may encourage cooperation with UN and other international agencies.

Article X - Political Commitment

States Parties shall provide the necessary political support to ensure that appropriate measures are taken, to help fulfill the provisions of this Convention. The measures, inter-alia, could include legislative reform and promulgation of appropriate new policies and legislation, trained manpower, adequately equipped institutions and adequate allocation of human and financial resources.

PART IV

Article XI - Signature and Ratification

The Convention shall be open for signature by the Member States of SAARC at the Eleventh SAARC Summit in Kathmandu, and thereafter, at the SAARC Secretariat in Kathmandu. It shall be subject to ratification. The Instruments of Ratification shall be deposited with the SAARC Secretary- General.

Article XII - Entry into Force

The Convention shall enter into force on the fifteenth day following the date of deposit of the Seventh Instrument of Ratification with the Secretary-General of the South Asian Association for Regional Cooperation (SAARC).

Article XIII - Depository

The Secretary-General shall be the Depository of this Convention and shall notify the Member States of signatures to this Convention and all deposits of Instruments of Ratification. The Secretary General shall transmit certified copies of such instruments to each Member State. The Secretary- General shall also inform Member States of the date on which this Convention will have entered into force in accordance with Article XII.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE at Kathmandu on this Fifth Day of January Two Thousand and Two, in nine originals, in the English Language, all texts being equally authentic.

M. MORSHED KHAN

Minister for Foreign Affairs
People's Republic of Bangladesh

JIGMI Y. THINLEY

Minister of Foreign Affairs
Kingdom of Bhutan

JASWANT SINGH

Minister of External Affairs
Republic of India

FATHULLA JAMEEL

Minister of Foreign Affairs
Republic of Maldives

RAM SHARAN MAHAT

Minister of Finance and Leader
of the Delegation of Nepal
Kingdom of Nepal

ABDUL SATTAR

Minister of Foreign Affairs
Islamic Republic of Pakistan

TYRONNE FERNANDO

Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

Kathmandu Declaration on Addressing Impunity and Realising Human Rights in South Asia

11 April 2018

The International Conference on *Identifying Challenges, Assessing Progress, Moving Forward: Addressing Impunity and Realising Human Rights in South Asia* was held from 9 to 11 April 2018 in Kathmandu, Nepal. The representatives of National Human Rights Institutions (NHRIs) of Afghanistan, Bangladesh, India, Maldives, Nepal, Pakistan and Sri Lanka, as well as the National Women's Commission of Bhutan, participated in the conference hosted by the NHRC of Nepal. NHRIs from Jordan, Malaysia, Myanmar, Mongolia and Philippines also participated along with a broad range of human rights organisations (HROs) and journalists from the South Asia region. The United Nations Office of the High Commissioner for Human Rights, the United Nations Development Programme (UNDP)-Kathmandu and a number of international human rights organisations also participated.

The President of Nepal, Mrs. Bidya Devi Bhandari inaugurated the Conference in a special ceremony.

The NHRC of Nepal expressed its sincere thanks to the Governance Facility, UNDP- Kathmandu and the Asia Pacific Forum of NHRIs (APF) for the support they extended to organize the Conference. Participants of the Conference expressed their appreciation to the NHRC of Nepal for the excellent manner in which the Conference was organized and for the hospitality extended to all delegates.

The conference unanimously adopted the following Kathmandu Declaration as follows:

Recalling the international instruments agreed upon by States to promote and protect human rights and fundamental freedoms, including the Charter of the United Nations; the Universal Declaration of Human Rights (UDHR); the International Covenant on Economic, Social, and Cultural Rights (ICESCR); the International Covenant on Civil and Political Rights (ICCPR); and the Rome Statute of the International Criminal Court; as well as the Agenda 2030 and the Sustainable Development Goals, alongside the Charter of the South Asian Association for Regional Cooperation (SAARC) and its Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution; Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia and the Regional Convention on Suppression of Terrorism;

Noting that the year 2018 marks the 70th anniversary of the UDHR, which is celebrated worldwide;

Reaffirming that all human rights are universal, indivisible, interrelated, interdependent and mutually reinforcing, and that all human rights must be treated fairly, equally and with the same level of attention;

Recognising that core international human rights instruments make provisions for and require States to undertake measures to protect their populations, including from threats of an exceptional nature, but this must be within the framework of respect for human rights, fundamental freedoms and the rule of law;

Recalling that human rights, development, and peace and security are interrelated and mutually reinforcing;

Recognising the Principles relating to the Status of National Institutions for the Promotion and Protection of Human Rights adopted by General Assembly resolution 48/134 on 20 December 1993 (Paris Principles) as international standards guiding the work of NHRIs and noting that the year 2018 marks the 25th anniversary of the endorsement of the Paris Principles by the UN General Assembly. In particular, we draw attention to the need for states to ensure that National Human Rights Institutions (NHRIs) are given adequate resources and capacity to function independently and effectively, in full conformity with the Paris Principles;

Recalling the 2004 Seoul Declaration, 2015 Mérida Declaration, and 2015 Kiev Declaration as well as the outcome Statement issued by the GANHRI 2017 Annual Meeting on the roles of NHRIs in early warning, during conflict and transition to peaceful societies;

Recognising that NHRIs play a major role in encouraging ratification and integration of international human rights norms and standards in national legislation and practices, monitoring national human rights situations, investigating and documenting human rights violations, promoting human rights education and awareness, providing protection to individuals, providing constructive advice and guidance to authorities, and calling on states to respect human rights at all times, especially in conflict and post-conflict contexts;

Recognising also the importance of the collaboration between NHRIs, as well as their collaboration with civil society, in addressing issues related to conflict and its consequences;

Bearing in mind the Updated Set of Principles for the Protection and Promotion of Human Rights Through Action to Combat Impunity (Updated Principles to Combat Impunity, UN Doc. E/CN.4/2005/102/Add.1) including norms and standards regarding the duty to prosecute, the right to the truth and the right to remedy and reparation;

Alarmed by the regular recurrence of crises and conflict in the region, including armed conflict, the crackdowns on the right to freedom of expression and assembly and other fundamental freedoms, the rhetoric of divisive politics leading to hate speech, targeting of religious and ethnic minorities resulting from the lack of accountability, and existence of impunity, which represent threats against peace;

Recalling that the absence of the rule of law may give rise to violations of civil, political, economic, social and cultural rights, as well as to authoritarian rule and conflict;

Recognising the need for comprehensive approaches to deal with gross human rights violations and abuses of the past, to fully realise the rights to truth, justice, reparation and guarantees of non-recurrence, including through investigations and prosecutions, truth-seeking, reparation programmes, and vetting; and that any such combination of processes must be in conformity with international norms and standards, while taking into account national context;

Recognising further the unique and critical contributions being made by NHRIs, especially those in line with the Paris Principles, in post-conflict and transitional justice processes, in order to ensure accountability, serve justice and achieve reconciliation, and in advancing broader institutional reform necessary to address the root causes of conflict, including by realising economic, cultural and social rights; and considering that this role could be further strengthened;

Underlining the need to promote political and economic good governance as the basis of a peaceful democratic society;

Being aware of the foregoing, the South Asian NHRIs resolve to:

General

1. Recall the General Assembly and Human Rights Council resolutions on NHRIs and urge all member states to implement these resolutions; in particular we encourage member states to give due consideration to recommendations and advice from NHRIs; to respect the Paris Principles to ensure strong and effective NHRIs; and to refrain from unduly interfering with the independence and autonomy of NHRIs.
2. Strongly reaffirm the need for full adherence to the Paris Principles and to actively work towards this, including through seeking legislative reform ensuring the integrity of the NHRIs through effective nominations and selection processes and financial independence.
3. Call on all states to sign, ratify and implement all international human rights instruments as well as the Rome Statute for the International Criminal Court, and ensure their implementation at the national level, and reaffirm our commitment as NHRIs to supporting, advising and monitoring our respective states in this endeavor.
4. Call on all states to meet their periodic treaty-body reporting requirements, in accordance with their international human rights treaty obligations.
5. Reaffirm that in the combat against impunity, as in other human rights endeavors, NHRIs must reach out and collaborate and cooperate with civil society in a clearly inclusive manner.
6. Urge states to bring an end to violence and hate crimes based on caste, religion, ethnicity, political affiliation, regional origin, and gender.

Impunity and Transitional Justice

7. Restate that the rule of law signifies that all individuals (including women, children and minority groups and marginalized communities) are protected by the justice system equally and without discrimination.
8. Reaffirm that the state's failure to fulfill its duty to investigate and, where necessary, prosecute gross human rights violations perpetuates a culture of impunity, which is in turn a major obstacle to the political stability required for full enjoyment of human rights and economic prosperity.
9. Ensure that truth, criminal justice, reparations and measures to prevent non-recurrence (including institutional reforms) are intimately linked as pillars of transitional justice and are mutually supportive.
10. Ensure the full participation of victims' groups, civil society and NHRIs in any transitional justice process through a consultative and transparent engagement from the start.
11. Reaffirm that prosecution is one of the central elements of an integrated transitional justice strategy, aiming at moving a society beyond impunity and a legacy of human rights abuse, in compliance with the requirements of due process of law and the principles of non-discrimination.

12. Reaffirm also that security personnels that were complicit in violations need to be transformed into institutions of integrity that sustain peace and uphold and promote human rights and the rule of law. Public officials and employees who are personally responsible for gross violations of human rights or serious crimes under international law should not continue to serve in State institutions, in line with Principle 36 of the Updated Principles.
13. Reaffirm that NHRIs should play a key role in ensuring the establishment of effective vetting processes that exclude persons with serious integrity deficits from the administration of justice, law enforcement and security forces, in order to re-establish civic trust and re-legitimize these institutions. Any removal of persons should comply with the requirements of due process of law and the principle of non-discrimination.
14. Understand the role that transitional justice plays in helping countries emerging from conflict restore the rule of law and ensure a sustainable peace, through the pursuit of truth-seeking, justice and reparations processes and institutional reforms to prevent the return to situations of conflict.

National Security and Security Sector Reform

15. Urge all states in the South Asia region to review national security and counter- terrorism laws and policies are in compliance with constitutional and international norms and standards, to ensure that they do not infringe on fundamental rights, including among others that mass surveillance measures are proportional and strictly necessary to address legitimate national security threats.
16. Hold non-state actors accountable for gross human rights abuses, even if they are approved and backed by civilian stakeholder communities, keeping in mind that the state response must always be proportionate and respect human rights.
17. Recognising the right of states to call a state of emergency when national security is genuinely in peril, call on states to ensure that any derogation of rights is legitimate, proportional and strictly necessary, in conformity with Article 4 of the ICCPR, and that under no circumstances will the use of torture or derogations of the right to life be justified.
18. Underline the centrality of security sector reform, with a focus to ending extrajudicial executions, disappearances and torture.
19. Urge states to ratify the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment along with its Optional Protocol, and the Convention for the Protection of All Persons from Enforced Disappearance.
20. Stress the need to have effective accountability mechanisms to vet security forces for internal promotions and for deployment to UN peacekeeping missions.

Migration and Livelihood; Refugees and Asylum Seekers

21. Stress the right of freedom of movement, including migration in search of employment. Recognising the economic benefits of migrant labour to destination and origin countries alike, encourage cooperation between origin and destination countries to ensure that the rights of migrants, particularly women, are realised, to avoid serious abuses such as those that occur under the kafala system.
22. Call on governments to cooperate to bring about necessary legal and administrative measures to protect rights of migrants, in both countries of origin and countries of destination, according to International Labour Organisation standards, including the monitoring and regulation of recruiters, and assuring access to justice.

23. Call upon all states in the region to ratify the Convention on Refugees.
24. Deeply concerned by continuing gross violations of human rights in the region, such as the mass expulsion of Rohingyas from Myanmar, calling for an end to the violations, and to holding the perpetrators of the most serious violations accountable.

Experiences and Challenges of Human Rights Organisations in Advocacy and Work against Impunity, and Best Practices, including Collaboration with NHRIs

25. Express concern that global trends indicate a threatening environment for human rights defenders in all regions, including staff of NHRIs, and media personnel, with human rights defenders increasingly subjected to harassment, restrictions and reprisals amid an overall shrinking democratic space.
26. Stress that the work of human rights defenders and independent media is essential to promote and protect human rights and the rule of law, including in preventing conflicts and violence. Remind states that they have an unconditional responsibility to protect all human rights defenders and the media, without whom there is no democracy.
27. Call on states to ensure, that human rights defenders and independent media can operate in a safe and enabling environment, and implement effective measures for their protection, in line with the recommendations from the UN Special Rapporteur on the Situation of Human Rights Defenders.
28. Reaffirm the UN Declaration on Human Rights Defenders and resolve to promote its implementation in our respective countries.

Commitments to future cooperation

29. *Promote active cooperation between NHRIs of the South Asia region in order to:*
 1. Support each other through exchange of information on a regular basis to share challenges, lessons learned, and best practices, as well as technical assistance and capacity building;
 2. Establish a mechanism or designate a focal point within each NHRI with the mandate of information exchange and coordination of activity;
 3. Undertake a study to explore the possibility of establishing a regional human rights mechanism in the SAARC region;
 4. Lobby SAARC governments on issues of key concern to NHRIs in the region in a coordinated manner including on issues that cross borders such as protection of refugees and economic migrants and victims of trafficking and cooperation on responses to abuses against South Asian workers abroad;
 5. Address human rights violations linked to the environment and climate change;
 6. Promote efforts to protect civil and political (ICCPR) and economic, social and cultural rights (ICESCR);
 7. Welcome and encourage further efforts by GANHRI and APF to support capacity-building, sharing of experiences and good practices, as well as knowledge management with and among NHRIs, and by all governments in the region to mobilize resources to that effect.

Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism

THE MEMBER STATES OF THE SOUTH ASIAN ASSOCIATION FOR REGIONAL CO-OPERATION (SAARC)

MINDFUL of the purposes and the principles of co-operation enshrined in the SAARC Charter and the Charter of the United Nations;

RECALLING the Declaration of the Eleventh SAARC Summit adopted at Kathmandu on 6th January 2002;

FURTHER RECALLING that, at the Eleventh SAARC Summit, the Heads of State or Government, reiterated their support to the United Nations Security Council Resolution 1373 of September 28, 2001 and affirmed their determination to re-double efforts collectively as well as individually, to prevent and suppress terrorism in all its forms and manifestations, including, by increased co-operation and full implementation of the relevant international conventions relating to terrorism to which they are parties and called on all Member States, inter-alia, to prevent and suppress the financing of terrorist acts by criminalizing the provision, acquisition and collection of funds for such acts;

BEARING IN MIND the decision of the SAARC Council of Ministers at its Twenty Third Session in Kathmandu on 22nd August, 2002, wherein the Council mandated the preparation of an Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism, recognizing the importance of updating the Convention, in order to meet the obligations devolving in terms of Security Council Resolution 1373 (2001);

HAVE AGREED as follows:

Article 1

Objectives and Purposes

The purpose of this Additional Protocol is to strengthen the SAARC Regional Convention on Suppression of Terrorism, particularly by criminalizing the provision, collection or acquisition of funds for the purpose of committing terrorist acts and taking further measures to prevent and suppress financing of such acts. Towards this end, State Parties agree to adopt necessary measures to strengthen co-operation among them, in accordance with the terms of this Additional Protocol.

Article 2

Definitions

- 1 “Funds” means assets of every kind, whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to, or interest in, such assets, including, but not limited to, bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit.
- 2 “Proceeds” means any funds derived from or obtained, directly or indirectly, through the commission of an offence set forth in Article 3.

Article 3

Offences

- 1 Any person commits an offence within the meaning of this Additional Protocol if that person by any means, directly or indirectly, unlawfully and willfully, provides or collects funds with the intention that they should be used or in the knowledge that they are to be used, in full or in part, in order to carry out :
 - (a) An act which constitutes an offence within the scope of and as defined in one of the treaties listed in the Annex to this Protocol; or
 - (b) Any other act intended to cause death or serious bodily injury to a civilian, when the purpose of such act, by its nature or context, is to intimidate a population, or to compel a Government or an international organization to do or to abstain from doing any act; or
 - (c) An offence within the scope of any Convention to which SAARC Member States concerned are parties and which obliges the parties to prosecute or grant extradition.
- 2 (a) On depositing its instrument of ratification, acceptance, approval or accession, a State Party which is not a party to a treaty listed in the annex may declare that, in the application of this Convention to the State Party, the treaty shall be deemed not to be included in the annex referred to in paragraph 1, subparagraph (a). The declaration shall cease to have effect as soon as the treaty enters into force for the State Party, which shall notify the depository of this fact;
 - (b) When a State Party ceases to be a party to a treaty listed in the annex, it may make a declaration as provided for in this article, with respect to that treaty.
- 3 For an act to constitute an offence set forth in paragraph 1, it shall not be necessary that the funds were actually used to carry out an offence referred to in paragraph 1, subparagraph (a), (b) or (c).
- 4 Any person also commits an offence if that person attempts to commit an offence as set forth in paragraph 1 of this article.
- 5 Any person also commits an offence if that person:
 - (a) Participates as an accomplice in an offence as set forth in paragraph 1 or 4 of this article;
 - (b) Organizes or directs others to commit an offence as set forth in paragraph 1 or 4 of this article;
 - (c) Contributes to the commission of one or more offences as set forth in paragraph 1 or 4 of this article by a group of persons acting with a common purpose. Such contribution shall be intentional and shall either:
 - i. be made with the aim of furthering the criminal activity or criminal purpose of the group, where such activity or purpose involves the commission of an offence as set forth in paragraph 1 of this article; or

- ii. be made in the knowledge of the intention of the group to commit an offence as set forth in paragraph 1 of this article.

Article 4

Domestic Measures

States Parties, in accordance with the provisions of their respective Constitutions, shall endeavour to become Parties to the international instruments listed in the Annex to which they are not yet a Party.

Article 5

Liability of legal entities

1. Each State Party, in accordance with its domestic legal principles, shall take the necessary measures to enable a legal entity located in its territory or organized under its laws to be held liable when a person responsible for the management or control of that legal entity has, in that capacity, committed an offence as set forth in Article 3. Such liability may be criminal, civil or administrative.
2. Such liability is incurred without prejudice to the criminal liability of an individual or individuals who have committed the offences.
3. Each State Party shall ensure, in particular, that legal entities liable in accordance with paragraph 1 above are subject to effective, proportionate and dissuasive criminal, civil or administrative sanctions. Such sanctions may include monetary sanctions.

Article 6

Measures to prevent, suppress and eradicate the financing of terrorism

1. State Parties shall consider and take all practical measures at the national level, inter-alia by adapting their domestic legislation to prevent, suppress and eradicate the financing of terrorism, and for effective international cooperation with respect thereto including:
 - a) A comprehensive domestic regulatory and supervisory regime for banks, other financial institutions and other entities deemed particularly susceptible to being used for the financing of terrorist activities. This regime shall require banks and other financial institutions and other entities to utilize effective measures for the identification of customers, paying special attention to unusual or suspicious transactions and to report promptly to the Competent Authorities, all complex, unusual large transactions and unusual patterns of transactions, which have no apparent economic or obviously lawful purpose;
 - b) Measures to detect and monitor movements across national borders, of cash, bearer negotiable instruments and other appropriate movements of value. These measures shall be subject to safeguards to ensure proper use of information and should not impede legitimate capital movements;
 - c) Measures of assistance in connection with criminal investigations or criminal proceedings relating to the financing or support of any act constituting an offence within the scope of the international instruments listed in Article 3 of this Additional Protocol, including assistance in obtaining evidence in their possession, necessary for the proceedings;

- d) Establishing and monitoring channels of communication between their competent agencies and services to facilitate the secure and rapid exchange of information concerning all aspects of offences set forth in Article 3, within the conditions prescribed by domestic law.
2. Towards facilitating the above, each State Party shall consider measures to establish and maintain a financial intelligence unit to serve as a national center for the collection, analysis and dissemination of pertinent money laundering and terrorist financing information.

Article 7

Seizure and confiscation of funds or other assets

1. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the identification, detection and freezing or seizure of any funds used or allocated for the purpose of committing the offences set forth in Article 3 as well as the proceeds derived from such offences, for purposes of possible forfeiture.
2. Each State Party shall take appropriate measures, in accordance with its domestic legal principles, for the forfeiture of funds used or allocated for the purpose of committing the offences set forth in Article 3 and the proceeds derived from such offences.
3. Each State Party concerned may give consideration to concluding agreements on the sharing with other State Parties, on a regular or case-by-case basis, of the funds derived from the forfeiture referred to in this Article.
4. The provisions of this Article shall be implemented without prejudice to the rights of third parties acting in good faith.
5. The measures referred to in paragraph 1 shall apply with respect to offences committed both within and outside the jurisdiction of a State Party.

Article 8

Predicate offences to money laundering

1. State Parties shall take the necessary measures to ensure that its domestic money laundering legislation also includes as predicate offences those offences set forth in Article 3 of this Additional Protocol.
2. Money laundering predicate offences referred to in paragraph 1, shall include those committed both within and outside the jurisdiction of a State Party.

Article 9

Co-operation on immigration and customs controls

1. States Parties, consistent with their respective domestic legal and administrative regimes, shall promote co-operation and the exchange of information in order to improve immigration and customs control measures to detect and prevent the international movement of terrorists and trafficking in arms or other materials intended to support terrorist activities.
2. To this end, they shall promote co-operation and the exchange of information to improve their controls on the issuance of travel and identify documents and to prevent their counterfeiting, forgery, or fraudulent use.
3. Such co-operation shall be carried out without prejudice to applicable international commitments in relation to the free movement of people and the facilitation of commerce.

Article 10

Co-operation among law enforcement authorities

States Parties shall work closely with one another, consistent with the respective domestic legal and administrative systems, to enhance the effectiveness of law enforcement action to combat the offences established in the international instruments listed in Article 3.

Article 11

Mutual legal assistance

The provisions of Article VIII of the 1987 SAARC Regional Convention on Suppression of Terrorism, relating to Mutual Legal Assistance shall apply, mutatis mutandis, in respect of the offences set forth in Article 3 of this Additional Protocol.

Article 12

Extradition

1. The provisions of Article III of the 1987 SAARC Regional Convention on Suppression of Terrorism shall apply, mutatis mutandis, in respect of the offences set forth in Article 3 of this Additional Protocol
2. The provisions of Article IV of the 1987 SAARC Regional Convention on Suppression of Terrorism relating to the duty to extradite or prosecute shall apply, mutatis mutandis, in respect of the offences set forth in Article 3 of this Additional Protocol.

Article 13

Exclusion of Fiscal Offence exception

None of the offences set forth in Article 3 shall be regarded, for the purpose of extradition or mutual legal assistance, as a fiscal offence. Accordingly, State Parties may not refuse a request for extradition or for mutual legal assistance on the sole ground that it concerns a fiscal offence.

Article 14

Exclusion of political offence exception

For the purpose of extradition or mutual legal assistance, none of the offences established in the international instruments set forth in Article 3, shall be regarded as a political offence or an offence connected with a political offence or an offence inspired by political motives. Accordingly, a request for extradition or mutual assistance may not be refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives.

Article 15

Denial of refuge status

Each State Party shall take appropriate measures, consistent with the relevant provisions of national and international law, for the purpose of ensuring that refugee status is not granted to any person in respect of whom there are serious reasons for considering that he or she has committed an offence set forth in Article 3 of this Additional Protocol.

Article 16**Non-discrimination**

None of the provisions of this Additional Protocol shall be interpreted as imposing an obligation to extradite or to provide mutual legal assistance, if the requested State Party has substantial grounds to believe that the request to extradite or to provide mutual legal assistance, has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic origin or political opinion, or that compliance with the request would cause prejudice to that person's position for any of these reasons.

Article 17**Principles of Sovereign Equality and Territorial Integrity**

1. State Parties shall carry out their obligations under this Additional Protocol in a manner consistent with the principles of sovereign equality and territorial integrity of states and that of non-intervention in the domestic affairs of other states.
2. Nothing in this Additional Protocol entitles a State Party to undertake in the territory of another State Party exercise of jurisdiction or performance of functions that are exclusively reserved for the authorities of that other State Party by its domestic law.

Article 18**Rights and Obligations under International Law**

Nothing in this Additional Protocol shall be interpreted as affecting other rights and obligations and responsibilities of States and individuals under international law, in particular, the purposes and principles of the Charter of the United Nations, international humanitarian law, and international human rights law.

Article 19**Technical Co-operation**

State Parties shall promote, where appropriate, technical co-operation and training programmes with other regional and international organizations conducting activities related to the objectives and purposes of this Additional Protocol.

Article 20**Consultations**

State Parties shall hold periodic consultations, as appropriate, with a view to facilitating:

- (a) The effective implementation of this Additional Protocol; and
- (b) The exchange of information and experiences on effective means and methods to prevent, detect, investigate and punish offences within the scope of the Additional Protocol.

Article 21**Relationship to SAARC Convention**

This Additional Protocol supplements the SAARC Regional Convention on Suppression of Terrorism, done at Kathmandu on 4th November, 1987. The 1987 SAARC Regional Convention and this Additional Protocol shall be read and interpreted together as a single instrument.

Article 22
Signature and ratification

This Additional Protocol is open for signature by all Member States of SAARC at the SAARC Secretariat in Kathmandu. It shall be subject to ratification. Instruments of Ratification shall be deposited with the Secretary-General of SAARC.

Article 23
Entry into Force

The Additional Protocol shall enter into force on the thirtieth day following the date of deposit of the seventh Instrument of Ratification with the Secretary-General of SAARC.

Article 24
Depositary

The Secretary-General of SAARC shall be the depositary of this Additional Protocol and shall notify Member States of signatures to this Additional Protocol and all deposits of Instruments of Ratification. The Secretary-General shall transmit certified copies of such instruments to each Member State. The Secretary-General shall also inform Member States of the date on which this Additional Protocol will have entered into force in accordance with Article 23.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments have signed this Additional Protocol.

DONE in ISLAMABAD, PAKISTAN, On This The Sixth Day of January Of the Year Two Thousand Four and in Nine Originals in the English Language all texts being equally authentic.

M. MORSHED KHAN
Minister of Foreign Affairs
Republic of Bangladesh

LYONPO NADO RINCHHEN
Minister of Foreign Affairs
Kingdom of Bhutan

YASHWANT SINHA
Minister of External Affairs
Republic of India

FATHULLA JAMEEL
Minister of Foreign Affairs
Republic of Maldives

DR. BHEKH B. THAPA
Ambassador-at-Large
His Majesty's Government of Nepal

KHURSHID M. KASURI
Minister of Foreign Affairs
Islamic Republic of Pakistan

TYRONNE FERNANDO
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka

ANNEX

- A. Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16 December 1970.
- B. Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23 September 1971.
- C. Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents, approved by the General Assembly of the United Nations on 14 December 1973.
- D. International Convention against the Taking of Hostages, adopted by the General Assembly of the United Nations on 17 December 1979.
- E. Convention on the Physical Protection of Nuclear Material, signed at Vienna on 3 March 1980.
- F. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 24 February 1988.
- G. Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation, done at Rome on 10 March 1988.
- H. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, done at Rome on 10 March 1988.
- I. International Convention for the Suppression of Terrorist Bombings, approved by the General Assembly of the United Nations on 15 December 1997.
- J. International Convention for the Suppression of the Financing of Terrorism, approved by the General Assembly of the United Nations on 9 December 1999.

SAARC Convention on Cooperation on Environment



SAARC CONVENTION ON COOPERATION ON ENVIRONMENT

The Member States of the South Asian Association for Regional Cooperation (SAARC) comprising the Islamic Republic of Afghanistan, the People's Republic of Bangladesh, the Kingdom of Bhutan, the Republic of India, the Republic of Maldives, Nepal, the Islamic Republic of Pakistan and the Democratic Socialist Republic of Sri Lanka, hereinafter referred to as the "Parties":

Mindful of the objectives as enshrined in the SAARC Charter;

Recalling the decision of the Twelfth SAARC Summit on the importance of an early and effective implementation of the SAARC Environment Plan of Action and drafting a Regional Environment Treaty;

Also recalling the Thirteenth SAARC Summit Declaration to consider modalities for having a Regional Environment Treaty in furthering environmental cooperation among the SAARC Member States while expressing deep concern at the continuing degradation of environment and reaffirming the importance of concerted efforts in the protection and preservation of environment;

Recognizing the interest of the Parties to promote sustainable management of environment and natural resources;

Taking into consideration the deep concerns of the Member States on the unabated degradation of the environment and the adverse impacts of climate change in the region and their shared interest in its conservation for the well being of present and future generations;

Determined to promote closer cooperation among the Parties for the protection and preservation, management and enhancement of environment;

Have agreed as follows:

Article I Objective

The objective of this Convention is to promote cooperation among the Parties in the field of environment and sustainable development, on the basis of equity; reciprocity and mutual benefit, taking into account the applicable policies and legislation in each Member State.

Article II Scope

Cooperation will extend to exchange of best practices and knowledge, capacity building and transfer of eco-friendly technology in the following areas but not limited to:

- a) Afforestation and reforestation;
- b) Air Quality Management;
- c) Biological diversity;
- d) Climate Change;
- e) Coastal Zone Management;
- f) Coral reef management;
- g) Eco-system management for sustainable livelihoods;
- h) Global environmental issues;
- i) Land Degradation and Desertification;
- j) Mountain eco-system glaciers and glacial lake including high altitude hydrological monitoring;
- k) River eco system including river cleaning;
- l) Seawater and Freshwater Quality Management;
- m) Strengthening disaster management capabilities;
- n) Waste Management;
- o) Wildlife conservation and combating illegal trade in wildlife and bio-resources;
- p) Water management and conservation
- q) Environmental Impact Assessment Studies;
- r) Soil erosion and sedimentation; and
- s) Role/impact of human activity.

Article III

Forms of Cooperation

1. Cooperation among the Parties may be carried out in the following form:
 - a) Collaboration among Parties and their agencies;
 - b) Collaboration among academic and research institutions in the Member States; exchange of information and dissemination of research findings;
 - c) Collaboration among SAARC Regional Centres on issues related to the environment;
 - d) Encourage collaboration between private sector institutions and civil societies of the Member States;
 - e) Any other form of cooperation, as agreed by the Parties;
2. The modalities for collaboration under this Article shall be developed by the Governing Council.

Article IV

Funding

The financial terms of cooperation shall be based on the norms followed in SAARC and as may be decided by the Governing Council.

Article V

Coordination and Implementation of the Convention

1. There shall be a Governing Council comprising Environment Ministers of the Member States. The Governing Council shall be facilitated by Senior Officials to ensure full and effective implementation of the Convention.
2. The Governing Council shall meet at least once in two years and the Senior Officials shall meet once a year.
3. All decisions of the Governing Council shall be taken on the basis of unanimity.

The Governing Council shall ensure the full and effective implementation of the Convention by the Parties.

The Governing Council, among others, will:

- (a) provide policy direction and guidance;
- (b) monitor and adopt recommendations, plans and programmes on the areas of cooperation;
- (c) commission studies and scientific data collection and facilitate transfer of technology on the areas of cooperation;
- (d) Adopt and periodically review the implementation arrangements, including access to funds following SAARC Development Fund (SDF) criteria for this Convention;
- (e) establish and maintain cooperation with other relevant international and regional organizations; and
- (f) take such other decisions as may be deemed necessary for the fulfilment of the objectives of this Convention.

Article VI

Other Treaties and Agreements

This Convention shall not affect the rights and obligations of the Parties under other bilateral or multilateral Treaties and Agreements to which they are a Party.

Article VII

Settlement of Disputes

Any dispute, between or among Parties arising out of the interpretation or application of this Convention shall be settled through negotiations.

Article VIII Entry into Force

This Convention shall come into force thirty days following the date of deposit of the eighth Instrument of Ratification with the Depository.

Article IX Ratification

This Convention shall be subject to ratification and the Instruments of Ratification by the Parties, shall be deposited with the Depository.

Article X Amendments

This Convention may be amended at any time by unanimous agreement of the Parties. Such amendment shall enter into force upon ratification by all Parties.

Article XI Depository

The Secretary General of SAARC shall be the depository for this Convention. The Secretary General shall notify the Member States of signatures of this Convention and the deposit of instruments of ratification and shall transmit certified copies of instruments of ratification to each Member State. The Secretary General shall also notify the Member States of the date of entry into force of the Convention in accordance with Article VIII.

Article XII Authentic Texts

IN WITNESS WHEREOF, the undersigned plenipotentiaries, being duly authorized by their respective Governments have signed this Convention.

**DONE in Thimphu, Bhutan, On This Twenty-ninth Day of April
Two Thousand Ten In Ten Originals In The English Language, All
Texts Being Equally Authentic.**



Dr. Zalmay Rassoul
Minister of Foreign Affairs
Islamic Republic of Afghanistan



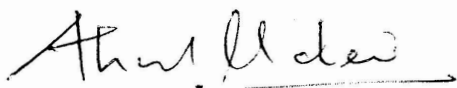
Dr. Dipu Moni, M. P.
Minister for Foreign Affairs
People's Republic of Bangladesh



Khandu Wangchuk
Minister-in-Charge of Foreign Affairs
Kingdom of Bhutan



S. M. Krishna
Minister of External Affairs
Republic of India



Ahmed Shaheed
Minister of Foreign Affairs
Republic of Maldives



Sujata Koirala
Deputy Prime Minister and
Minister for Foreign Affairs
Nepal



Makhdoom Shah Mehmood Qureshi
Minister for Foreign Affairs
Islamic Republic of Pakistan



Prof. Gamini Lakshman Peiris
Minister of Foreign Affairs
Democratic Socialist Republic of
Sri Lanka

Kathmandu Declaration, 2010

Outcome document of the First Sub-Regional Workshop on a South Asian Human Rights Mechanism held in Kathmandu, Nepal on 24-25 March 2010.

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 "South Asia Human Rights Mechanism", gathered together in Kathmandu, Nepal on 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.

Resolve in the meeting:

- for the need to further strengthen the cooperation and solidarity among human rights organizations, non-governmental organizations and people's movement of South Asian countries on 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 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.

Kathmandu Statement 2011

Outcome Document of the Second Sub-Regional Workshop on a Human Rights Mechanism in South Asia, 25-26 July 2011, Kathmandu, Nepal

1. The Second Sub-Regional Workshop on Human Rights Mechanism in South Asia—organized by the Asian Forum for Human Rights and Development (FORUM-ASIA) and hosted by the Informal Sector Service Centre (INSEC) with participants from non-governmental organizations (NGOs), national human rights institutions (NHRIs), independent experts and academics from South Asian countries, together with representatives from the ASEAN Intergovernmental Commission on Human Rights (AICHR) and the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Nepal—discussed in depth the prospects and opportunities for the establishment of a South Asian Human Rights Mechanism within the framework of the South Asian Association for Regional Cooperation (SAARC).
2. The Workshop was the continuation of the First Sub-Regional Workshop on South Asian Human Rights Mechanism held in Kathmandu, Nepal on 24-25 March 2010. Its outcome document, known as the Kathmandu Declaration (2010) was presented to the then Prime Minister of Nepal seeking his good offices for submission to the 16th SAARC Summit held in Thimpu, Bhutan on 28-29 April 2010.
3. The Workshop noted the fact that at the 16th SAARC Summit, President Mohamed Nasheed of the Republic of the Maldives had pointed out, among others, that:

‘...SAARC should consider establishing a regional human rights mechanism, similar to the one being developed for the ASEAN region. This mechanism could help the South Asian States to promote and protect human rights and fundamental freedoms in their jurisdiction. It could ensure that international human rights laws are observed and implemented by SAARC members. And such a mechanism could help people in our region develop a common understanding of universal human rights issues and perspectives.’
4. The Workshop proceeded to examine the prevailing situations within the region, as well as SAARC’s 25 years of work, within the context of democracy, human rights and development, including the responses of State and non-State actors within the SAARC framework.

The general consensus was to work towards the establishment of a relevant sub-regional human rights mechanism taking into account existing national, regional and international human rights mechanisms, including those under the mandate of the United Nations. There was a particular focus on the role of NHRIs within the region, which have begun to interact as a regional group, through a common resolution adopted at the Conference of NHRIs of South Asian Countries on Human Rights Awareness and National Capacity Building in New Delhi, India on 16-18 April 2009. The Workshop also noted the efforts undertaken by NGOs within the region following the first Workshop.

5. Based on these initiatives, at the very outset, the Workshop reviewed the existing SAARC legal framework in the form of its Charters, Conventions, Agreements and Declarations that provide the basic premises in the path towards establishing a sub-regional human rights mechanism with adequate arrangements for meaningful participation of NGOs, NHRIs, Parliamentarians, the Judiciary, the media and others. Thus, the participants of the Workshop:

Recalled that the foundational Charter of SAARC which stipulates ‘strict adherence to the principles of the United Nations Charter’, which among others, emphasizes the principles of equality, non-discrimination and self-determination, as well as the need ‘to provide all individuals with the opportunity to live in dignity and to realise their full potential’;

Recognized the growing number of international human rights treaties, including their related protocols, ratified by SAARC member States, which need to be completed together with the removal of reservations to these treaties;

Acknowledged the engagement of all SAARC countries in the newly established Universal Periodic Review (UPR) of the United Nations Human Rights Council (UNHRC), which should involve all relevant stakeholders including NGOs in their respective countries, and undertake efforts towards implementing the recommendations as outcomes of UPR;

Affirmed the centrality of social development in the SAARC Social Charter with its inherent nexus to human rights as stated in the objectives, including the right to development which is yet to be operationalised after 25 years;

Welcomed the Thimpu Declaration of the 16th SAARC Summit 2010: Towards a Green and Happy Asia, and the emphasis for developing a ‘Vision Statement’ with convocation of a ‘South Asia Forum’ of eminent personalities and others;

Endorsed the deep concern expressed by the SAARC leaders for environmental degradation and the signing of the SAARC Convention on Cooperation on Environment which, inter alia, should address the issue of climate change impacting on human rights and sustainable development as it is under consideration at the UNHRC through the initiative of some SAARC countries and others;

Appreciated the initiative on the SAARC Charter of Democracy which offers ample opportunities towards realising human rights for all in ‘a region of democracies’;

Affirmed the Bangkok Action Points adopted at the 15th Workshop of the Framework on Regional Cooperation for the Protection of Human Rights in the Asia-Pacific Region organized by OHCHR on 21-23 April 2010, particularly initiatives by countries to work towards the development of sub-regional human rights mechanisms which are an essential building block for broader human rights arrangements for the Asia-Pacific region;

Called for the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia to be fully implemented involving non-governmental and community-based organisations as provided in Article VIII of the Convention;

Underlined the multiple initiatives undertaken by People's SAARC and its need to focus further on human rights aspects linked to specific issues and situations in the South Asian region;

Recalled all existing provisions available within the SAARC legal framework clearly underscored the necessity of moving forward towards processes that would facilitate the establishment of a sub-regional human rights mechanism as a logical outcome of SAARC efforts on development, social justice and democracy in realising SAARC Social Charter;

Underlined the challenges and opportunities that exist for SAARC as a regional body to move forward due to its limited visibility in the public domain which has been also acknowledged by the Thimpu Summit where (29 April 2010) 'the leaders laid emphasis on effective communications and public diplomacy' and 'drew attention in this regard to the need to reach out to different sections of the South Asian Community.'

1. Taking on board all the deliberations of the two-day Workshop, the participants put forward the following recommendations addressed to specific parties:

6.1. To SAARC Leaders:

- i. To convene the 'South Asian Forum' at the earliest possible occasion to formulate a 'Vision Statement' for SAARC with the full involvement of eminent persons and other stake-holders, with due consideration given to the promotion and protection of human rights as per the Thimpu Summit Declaration of April 2010.
- ii. To consider the full operationalisation of the principles and objectives of the SAARC Social Charter and the SAARC Charter of Democracy particularly the observance and protection of human rights consistent with the provisions of the Universal Declaration of Human Rights (UDHR), and other international human rights instruments, with suitable arrangements for the meaningful participation of civil society, including NGOs in its implementation;
- iii. To explore the path towards the establishment of a regional human rights mechanism with genuine and meaningful civil society participation at the forthcoming 17th SAARC Summit scheduled to take place in the Maldives on 10-11 November 2011;
- iv. To promote gender equality and women's empowerment through gender mainstreaming into all areas of concern of SAARC;
- v. To explore the possibilities of developing a multilateral framework for the protection of the welfare and livelihood of South Asian people, and addressing concerns related to hunger and poverty;

6.2. To the SAARC Parliamentarians:

- i. To interact periodically through the 'Conclave of SAARC Parliamentarians', and among others, initiate explicit oversight mechanisms towards the effective promotion and protection of human rights, thereby ensuring the full implementation of the SAARC Social Charter and SAARC Charter of Democracy;

6.3. To the National Human Rights Institutions (NHRIs) of South Asia:

- i. To maintain their biannual meetings addressing common human rights issues and concerns, including cross-border human rights violations through concerted efforts towards finding remedies, and exploring the role of NHRIs, in consultation with civil society, in South Asia to develop a common regional human rights mechanism as an additional means of protecting human rights in the region;

6.4. To the South Asian Non-Governmental Organizations (NGOs):

- i. To remain committed to setting up a sub-regional human rights mechanism through continuous engagement with governments and other civil society organizations and networks including the People's SAARC within the framework of a common vision, paying close attention to the forthcoming 17th SAARC Summit November 2011;

6.5. To the UN Office of the High Commissioner for Human Rights (OHCHR):

- i. To provide necessary technical support and cooperation to the initiatives undertaken by governments, NHRIs and NGOs towards a sub-regional human rights mechanism in South Asia.



Afghanistan Independent Human Rights Commission

National Consultation Conference on Establishing South Asian Human Rights Mechanism

Kabul-Afghanistan

28, January 2014

Kabul Conference is held in relation and building up earlier steps namely as Kathmandu 2010 and 2011; New Delhi 2012; and Dhaka 2012 following the same track about the need for establishing regional human rights mechanism in the South Asia. The conference has been held on 28 January in Kabul-Afghanistan attended by Hina Jilani and Subodh Raj Pyakurel Task Force members for the Regional Initiative for South Asian Human Rights Mechanism and Gayatri Khandhadai- South Asia Programme Officer at Asian Forum for Human Rights and Development (FORUM-ASIA). In addition, representatives from ministries of Justice, Foreign Affairs and Defence of Afghanistan; Afghanistan Independent Human Rights Commissioners and staff members; CSOs representatives from across the country; representative from Indian, Pakistan and Iran embassies; and members from UN agencies such as UNDP and UNAMA attended the said conference. Number of participants who represented above said institutions reaches 110 persons.

Deputy Minister of Ministry of Justice and Director of Human Rights Regional Department of Foreign Affairs reiterated the need for having such a mechanism in terms of protecting and promoting human rights in region. Further, they assure about Afghan government support as member of South Asian Association for Regional Cooperation (SAARC) for the said objective.

Task Force members who have come from India, Nepal and Pakistan and Dr. Sima Samar talked in details about the origin and need for the South Asian Human Rights Mechanism. They stressed that the mechanism will address common and shared human rights issues in the region. In addition, civil society members and human rights activities reiterated the need for South Asian Human Rights Mechanism and its efficiency in tackling human rights issues and concerns.

Participants of the Conference discussed human rights situation and issues in the region; and after inclusive debates and group work; they have concluded in full agreement with government and civil society members as below:

Reiterating that South Asian Human Rights Mechanism it self will enhance political will in the region and respective States will more adhere to national and international human rights norms standards;

Recalling the pledge of all South Asian States for greater integration and co-operation;

Recognizing the rationale and urging need for a regional human rights mechanism for South Asia;

Resolving to advocate for greater support for the creation of an independent, effective and efficient regional mechanism in South Asia;

Proposing that the Task Force should form and formulate platforms that ensure regular contacts with respective ministry of foreign affairs and the idea of “Regional Initiative for South Asia Human Rights Mechanism” to be include in upcoming SAARC summit.

Noting in particular that “South Asia Human Rights Mechanism” will provide broader adherence of States and address common human rights issues/concerns including human trafficking, protection of the human rights of migrants and migrant workers, violence against women and children, people with disability rights, violation emerged from the corruption and drug trafficking and living environment issues.

Reaffirming the essential role of CSOs and human rights defenders in term of establishing, effectiveness, sustainability and advocating for South Asia Human Rights Mechanism;

Reaffirming that South Asia Human Rights Mechanism will further enhance relationships between the countries in the region; and create confidence between the States and people in the region;

Proposing that the intended mechanism should develop monitoring methods to places of deprivation of liberty in respective countries; and work to this end with governments in the region;

Reaffirming democracy is further strengthened via transparent elections; and electoral process monitoring mechanisms are in place by NHRIs and CSOs;

Reiterating that poverty restricts people’s enjoyment of their human rights, economical dynamisms are interrelated and can affect social-economical situation, South Asia Human Right Mechanism will contribute in harmony via providing specific recommendations to end poverty and improve economic situation;

Resolving a network of human rights defenders/professionals and CSO members is established to follow up, advocate and determine upcoming steps on national level towards establishing South Asia Human Rights Mechanism (names and contact details will be added soon);

Done in Kabul- Afghanistan on 28 January 2014

Lahore Declaration, 2014

10 June 2014, Lahore, Pakistan

Recalling the guarantees and protection of human rights and fundamental freedoms enshrined in the Constitution of Pakistan and other South Asian States;

Reminding South Asian States of the commitments made under several international human rights treaties and instruments including regional instruments through the South Asian Association for Regional Cooperation;

Noting the initiatives taken by SAARC and South Asian states in the field of human rights and the explicit recognition in the SAARC Social Charter, 2004 and the Charter of Democracy, 2011 of the need for States in the region to promote universal respect for and observance and protection of human rights and fundamental freedoms for all;

Encouraged by the decision to set up a National Human Rights Institution in Pakistan and the enlargement of Fundamental Rights in the Constitution of Pakistan to include the right to information, education and fair trial through the 18th Amendment;

Committing to a culture of peace and fraternity among all peoples and States in South Asia and our common goal of working towards ensuring freedom and rights for all;

Recognizing that adequate protection and enjoyment of human rights for and by, especially those sections of the society that are denied the protection of the rule of law and civilised governance, is the only way to end impunity and ensure peace and harmony in Pakistan and the region;

Cognizant of the fact that regional human rights mechanisms are emerging and expanding in different parts of the world;

Recalling the commitments made by Pakistan and other States in the Addu Declaration, 2011 for the protection of human rights and setting up a regional mechanism for empowerment of women;

Emphasizing the rationale and need for a regional human rights mechanism for South Asia to promote and protect the pluralistic nature of the region;

Resolving to mobilise greater support for the creation of an independent, effective and efficient regional mechanism in South Asia;

Noting in particular that the “South Asia Human Rights Mechanism” will provide broader adherence of States and address common human rights issues/concerns including human trafficking, treatment of foreign prisoners, rights of minorities, protection of the human rights of migrants and migrant workers, violence against women and children, people with disability rights, violation emerged from corruption and drug trafficking, terrorism and living environment issues;

Reaffirming the essential role of CSOs and human rights defenders in advocating for, establishing and ensuring effectiveness of a South Asia Human Rights Mechanism;

We, the participants at the ‘National Workshop on Building Consensus for a South Asia Human Rights Mechanism’, Lahore, 10th June 2014 call on the Government of Pakistan and all South Asian States to:

- *Establish a fully Paris Principles compliant National Human Rights Institution in Pakistan without further delay and strengthen the existing Institutions for greater effectiveness*
- *Facilitate greater cooperation among National Institutions in the region towards ensuring human rights for all*
- *Ensure maximum facilities, especially minimizing visa restrictions for civil society in the region to enable deliberations on common concerns thus helping SAARC better discharge its human rights engagements*
- *Work collectively towards the establishment of a robust South Asia Human Rights Mechanism with a mandate for the protection and promotion of human rights*
- *Follow up on the initiatives for setting up of the Inter-governmental Expert Group for the establishment of a regional mechanism for the empowerment of women as directed in the Addu Declaration, 2011*
- *Ensure inclusion in the Agenda of the 2014 SAARC Summit discussions relating to the establishment of a South Asia Human Rights Mechanism*

Dhaka Resolution, 2014

18 November 2014, Dhaka, Bangladesh

Recalling the struggles and the journey towards ensuring the human rights and dignity of the peoples of South Asia;

Recognising the increasingly key role played by the National Human Rights Institutions in South Asian States towards institutionalising human rights in the region;

Appreciating the efforts made by National Human Rights Institutions in assisting South Asian States in guaranteeing the commitments made under international human rights treaties and instruments including regional instruments;

Expressing concern over growing challenges faced by South Asia as a region and the fact that human rights violations affect the lives of peoples across borders;

Prioritising issues including trafficking in women, child rights, condition of migrant workers and climate change which shall require concerted and cooperative efforts;

Emphasising that regional problems require regional solutions, which can only be achieved through a common resolve for ensuring that the peoples of South Asia are free from oppression and are able to live a life of dignity to their fullest potential;

Committing to a culture of peace and fraternity among all peoples and States in South Asia and our common goal of working towards ensuring freedom and rights for all;

Being cognizant of the fact that regional human rights mechanisms are functioning and expanding in different parts of the world;

Highlighting the rationale and need for a regional human rights mechanism for South Asia to promote and protect the pluralistic nature of the region;

Resolving to mobilise greater support for the creation of an independent, effective and efficient regional mechanism in South Asia;

Reaffirming the essential role of National Human Rights Institutions, CSOs and human rights defenders in advocating for, establishing and ensuring effectiveness of a South Asia Human Rights Mechanism;

We, the participants at the ‘Regional Consultation: Towards A South Asian Human Rights Mechanism’, Dhaka, 18th November 2014 resolve to work towards:

- Amplifying efforts made by civil society in developing discussions relating to the need for a South Asian human rights mechanism;
- Enhancing systematic and close cooperation among National Human Rights Institutions in the region in addressing the common challenges and struggles of the peoples of South Asia;
- Supporting and providing constructive inputs to other National Human Rights Institutions in the region towards better protecting human rights at the domestic level;
- Ensuring fullest cooperation among National Institutions in the region in addressing violations that impact lives across borders;
- Strongly urging the SAARC member States, where there are no National Institutions, to establish National Human Rights Institutions in conformity with Paris Principles and further strengthen existing National Institutions;
- Collectively advocating with SAARC member States to establish a robust South Asia Human Rights Mechanism with a mandate for the protection and promotion of human rights;
- Inclusion of greater deliberations and commitments relating to human rights and the establishment of a regional human rights mechanism at the SAARC conferences and summits; and
- Convening annual consultation of the National Institutions in the Region to strengthen inter-NHRI bond of collaboration and cooperation to promote and protect human rights, and for fulfilling the above objectives.

FORUM-ASIA Kathmandu Statement

(Adopted in Kathmandu, on 7 April 2017)

We, the members of FORUM-ASIA, representatives of regional human rights and development networks, human rights defenders including women human rights defenders, academicians and media professionals, participating in the “Regional Dialogue on ‘Regional Human Rights Mechanism in South Asia’” in Kathmandu, Nepal from 6 to 7 April 2017 adopt this declaration:

Asserting our identity as defenders and promoters of human rights, and our indispensable role in the consolidation and promotion of democracy and the rule of law that is built on the foundation of universal human rights as elucidated in the International Bill of Human Rights and other human rights standards;

Standing in solidarity with all human rights defenders and civil society organizations facing persecutions and reprisals for their human rights defense;

Reaffirming our firm commitment to the realisation of all human rights for all peoples, and ensuring justice for victims and survivors of human rights violations;

Expressing serious concern over ongoing humiliating and degrading treatment, surveillance, fabricated and false criminal charges, funding restrictions, cancellation of registration licenses, abductions, enforced disappearances, extra-judicial killings, torture, impunity, counter-terrorism, and all other forms of violence including gender and castebased violence, facing human rights defenders in varying degrees in South Asia by acts of States and vigilante groups;

Alarmed at shrinking space for democracy, human rights and the rule of law, and its implications for civil society organizations and social justice movements;

Noting with grave concern that the governments, judiciary, and other state institutions are increasingly failing to provide protection and facilitate enabling environment and space for human rights defenders, civil society organizations and other social movements in the region;

Aware that it is extremely necessary to enhance people-to-people connectivity within and beyond borders, and collaboration to build a regional response to the increasing trend of extremism, illiberalism, intolerance, crony capitalism, patriarchy, and divisive policies and laws, and to reclaim our democratic rights space as civil society members and citizens;

Committed deeply to the establishment, and strengthening as relevant, of inclusive and gender responsive national and regional institutions and frameworks capable of rising to the challenges discussed above, and ensuring promotion and protection of all human rights at the regional level;

Call to Action:

1. We call on SAARC Governments to:
 - (a) Repeal all repressive laws and legal provisions that criminalise and restrict the work of human rights defenders and restrict the space for civil society to operate freely;
 - (b) Investigate human rights abuses and violations, committed both by state and non-state actors, and hold those responsible accountable for their actions; and that the victims of violence have had access to redress and justice;
 - (c) Guarantee the right to freedom of movement, including the right to free travel regionally by relaxing visa regulations and other restrictive orders and policies;
 - (d) Support civil society efforts towards the establishment of a South Asia regional human rights mechanism, and take measures towards the establishment of such a mechanism.
 - (e) Establish and strengthen national human rights institutions in line with Paris Principles in respective countries.
2. We call on National Human Rights Institutions to:
 - (a) Investigate human rights violations and abuses committed by both state and non-state actors, and instruct Governments to hold those responsible accountable and provide justice to the victims;
 - (b) Encourage governments to ensure that national laws and policies are in line with international human rights law, and to repeal laws and policies that are in conflict with international human rights law;
 - (c) Ensure that the nationals of foreign countries are not persecuted and wrongfully prosecuted, and that they enjoy basic human rights as guaranteed by international covenants.
3. We call on human rights defenders and civil society actors to:
 - (a) Enhance mutual support, collaboration, cooperation and connectivity among human rights defenders, civil society organisations, community groups and progressive movements at local, national and regional level;
 - (b) Engage in human rights awareness and education at the community level to empower people with information and mobilize them for defense of human rights;
 - (c) Form SA People's Human Rights Commission, national networks to addresses shrinking democratic spaces and engage it in human rights monitoring, reporting and other works, including drafting of South Asia People's Charter of Human Rights;
 - (d) Invest in research to create evidence and knowledge base on which to base effective advocacy (to challenge extremism and to create pro-human rights policies), and to develop alternative discourse and strategies to promote the respect for human rights;
 - (e) Work with parliamentarians to make them aware of the importance of a regional human rights mechanism, and mobilize their support in its favour;
 - (f) Engage with media to discuss common human rights issues facing the region.



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