SAARC & Human Rights: Looking Back & Ways Forward

Forum-Asia
SAARC and Human Rights: 
Looking Back and 
Ways Forward
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Foreword

The Asian Forum for Human Rights and Development (FORUM-ASIA), humbly presents the SAARC and Human Rights: Looking Back and Ways Forward. Our sincere appreciation goes to Mr. Maher Sattar, who has devoted much time and effort as the main researcher and author of this report.

FORUM-ASIA, along with the continuous engagement of its 21 South Asia members from five different countries (Bangladesh, India, Nepal, Pakistan and Sri Lanka), as well as its South Asia partners, have been working towards the promotion and protection of human rights in the region since 1991. Our commitment is reflected in the many lobbying activities that were undertaken with the assistance of South Asian government officials and parliamentarians. In particular, two Sub-Regional Workshops on a Human Rights Mechanism in South Asia were organized in Kathmandu, Nepal, respectively in March 2010 and July 2011. The need for the establishment of regional human rights mechanism under SAARC was a recurring topic, which was immediately endorsed as a core issue by the establishment of an informal Working Group of eminent human rights experts from South Asia after the Second Sub-Regional Workshop in 2011. This Working Group, to which FORUM-ASIA is proud to be part of, is currently working towards initiating dialogue and engaging with SAARC on the promotion and protection of human rights in the sub-region.

Thus, the purpose of this publication is to serve as a baseline study of human rights situations in South Asia in relation to the functions of SAARC as a regional grouping. We hope this publication and the subsequent monitoring reports will help track the development of the role of SAARC in the promotion and protection of human rights in the coming years and generate wider interest and discussion in following this development.

We would like to give further thanks to all those who have contributed in producing this publication: Mr. Raj Kumar and Mr. Anoop Sukumaran for kindly contributing their time in reviewing the report; Ms. Sarah Muzart for her part played in editing and proof-reading the report; Mr. Yap Swee Seng for providing wise advice and direction to the author, as well as his part played in editing the report; and Mr. Eef Vermeij for his contribution towards layout and design.

FORUM-ASIA wishes to give deep gratitude to the donors for their support. In alphabetical order, we would to thank the Finnish NGO Foundation for Human Rights (KIOS), the Swedish International Development Cooperation Agency (SIDA), and last but not least, the United Nations Democracy Fund (UNDEF). This publication is only made possible with their support.
1. General Overview of History and Process 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;
- 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 realize their full potential;
- to promote and strengthen collective self-reliance among the countries of South Asia;
- to contribute to mutual trust, understanding and appreciation of one another’s problems;
- to promote active collaboration and mutual assistance in the economic, social, cultural, technical and scientific fields;
- to strengthen cooperation with other developing countries;
- to strengthen cooperation among themselves in international forums on matters of common interest; and
- to cooperate with international and regional organisations with similar aims and purposes.²

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 2016, but is not operational as India and Pakistan are yet to ratify the agreement. Unlike the ASEAN, which has been the model which influenced the creation of SAARC, the economic driver has remained relatively muted.

South Asia has a quarter of the world’s population. It is one of the fastest growing regions in the world, but has more people living in poverty than Sub-Saharan Africa. This report will focus on human rights in South Asia, and specifically on SAARC’s efforts to ameliorate the human rights situation in the region. The report will present an overview and history of SAARC in Chapter 1. In Chapter 2, an assessment will be made of the state of human rights in the eight members of SAARC. Chapter 3 will provide analysis of SAARC’s charters, conventions, and other initiatives related to human rights, while Chapter 4 will look at SAARC’s interactions with South Asian civil society on human rights issues.

1.2 Overview of SAARC Structure

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 latest Secretary General was Uz. Fathimath Dhiyana Saeed of the Republic of Maldives. As the first female Secretary General she assumed office on March 1, 2011, but recently resigned on February 23, 2012, “amid controversy of her alleged involvement in the domestic politics of the Maldives.”3 On February 22, 2012, the Maldivian government selected Ahmed Salem to serve the remaining three-year term as new SAARC Secretary General.4 The process is still ongoing at the moment of writing; the SAARC Council of Ministers remains to endorse his appointment. Ahmad Saleem is the former president of the Human Rights Commission of the Maldives.

The Secretary General is assisted by eight Directors from each of the Member States.

3 http://news.in.msn.com/international/article.aspx?cp-documentid=5780841: “The resignation comes after the Maldives government expressed outrage over her remarks against the arrest of the country’s Criminal Court Chief Judge Abdulla Mohamed.” See also Chapter 2.1, section on the Maldives, for additional information.

4 http://news.in.msn.com/international/article.aspx?cp-documentid=5868603
The present Directors are:

- Afghanistan – Azizuddin Ahmadzada Panjshiri
- Bangladesh – Riaz Hamidullah
- Bhutan – Pema L. Dorji
- India – Amrit Lugun
- Maldives – Ibrahim Zuhuree
- Nepal – Niranjan Basnyat
- Pakistan – Ghulam Dastgir
- Sri Lanka – R. D. Rajapakse

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 organizations.”\(^5\) The Secretariat has limitations as it is only an implementation body with no decision making authority. All decisions are made by relevant ministers of the members, and the Secretariat itself is unable to set the agenda.

**Charter Bodies**

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.”\(^6\) The Council is mandated to meet twice a year.

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.”\(^7\) The Committee is mandated to meet as often as necessary, and is expected 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 Committees** are appointed to implement, coordinate, and monitor specific programs. 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.”\(^8\) Technical Committees are expected to submit periodic reports to the Standing Committee. Chairmanship of the Technical Committees rotate among Member States

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5 SAARC Website, http://www.saarc-sec.org/SAARC-Secretariat/18/
6 SAARC Charter, Article IV (1)
7 SAARC Charter, Article V (1)
8 SAARC Charter, Article VI (2)
Chapter 1

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.” 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

Regional Centres
11 Regional Centres focusing on specific areas aim to promote regional cooperation on their respective subjects. The Directors of the Centres report to the Programming Committee. The Centres are:
- SAARC Agricultural Centre, Bangladesh
- SAARC Meteorological Research Centre, Bangladesh
- SAARC Tuberculosis Centre, Nepal
- SAARC Documentation Centre, Bangladesh
- SAARC Human Resources Development Centre, Pakistan
- SAARC Coastal Zone Management Centre, Maldives
- SAARC Information Centre, Nepal
- SAARC Energy Centre, Pakistan
- SAARC Disaster Management Centre, India
- SAARC Forestry Centre, Bhutan
- SAARC Cultural Centre, Sri Lanka

9 SAARC Website, http://www.saarc-sec.org/Programming-Committee/76/
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 organization 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 Program 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 organization known as the South Asian Regional Cooperation (SARC). Following the New Delhi meeting, three more meetings of the foreign ministers were held at Male (1984), Thimpu (May 1985), and Dhaka (December, 1985) to finalize 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 organization 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 (organization) 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 moved 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.

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. Military dictators were overthrown in Bangladesh and Pakistan in the early 90s; Nepal evolved from an absolute monarchy to a constitutional monarchy, and entered civil war between government forces and Maoist insurgents in 1996; and Bhutan transferred executive powers from the monarchy to a Council of Ministers. In India, the Babri Mosque riots of 1992 saw the rise of right-wing Hindu nationalism, worsening Hindu-Muslim relationships, and deterioration in India-Pakistan relations.

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 proportion 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 Declaration. 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

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

General Parvez Musharraf, who had masterminded the Kargil conflict took place. 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 – Present Day

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.

Most of the initiatives discussed in Chapter 3 have been brought forward during this period. 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, Bhutan – marking the 25th anniversary of the formation of SAARC – saw the eight leaders signed 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’ 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.

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

11 http://www.tribuneindia.com/1999/99apr04/j&k.htm#1
12 Bangladesh, Nepal, Bhutan and the Maldives (as LDCs) agreed to reduce their max tariff rate to 30% between 1/1/2006 and 1/1/2008 (Phase 1), then to a 0-5% range in 8 years between 1/1/2008 and 1/1/2016 (Phase 2). India, Pakistan and Sri Lanka (as non-LDCs) agreed to reduce their max tariff rate to 20% between 1/1/2006 and 1/1/2008 (Phase 1), then to a 0-5% range in 5 years (Sri Lanka 6 years) between 1/1/2008 and 1/1/2013 (US AID, South Asian Free Trade Area: Opportunities and Challenges (October 2005), p.23, at: pdf.usaid.gov/pdf_docs/PNADE563.pdf
more interested in working with technical civil society organisations than civil society organisations working on human rights and democratization. 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.

The composition of SAARC could be set to change in the recent future. Iran has expressed a strong interest in becoming a member, and currently has a request for observer status pending. Myanmar is also interested in becoming a member and applied for full SAARC membership in May 2008, despite already being a member of ASEAN. China has also expressed interest in becoming a member.13

2. Human Rights in SAARC

2.1 Human Rights Profiles of SAARC Members

Efforts by South Asian civil society to engage SAARC on issues of human rights are praiseworthy, given the sizeable challenges facing the region. However, these efforts are complicated and hindered by the fact that SAARC is an inter-governmental organisation comprising of governments with poor human rights records.\(^\text{14}\)

**Afghanistan**

The war in Afghanistan since 2001 has escalated human rights violations in the country significantly. However, the repressive rule of the Taliban and the decades of conflict preceding means Afghanistan has a long history of civilian deaths, war crimes, oppression against women and problems arising from a lack of good governance.

At present, most conflict-related abuses are attributed to the Taliban and other insurgents whom the US and their allies are fighting. While the United States (US), the North Atlantic Treaty Organization (NATO) and Afghan forces were responsible for more than 350 civilian deaths in the first nine months of 2010, insurgents were responsible for at least 1700 civilian casualties during the same period, including 10 aid workers.\(^\text{15}\) Insurgents conducted 183 successful targeted assassinations in the first six months of 2010.\(^\text{16}\) 30 people were killed on the polling day of the 2010 elections.\(^\text{17}\) Nevertheless, several US and allied actions are also of concern. A High Level Peace Council aiming to reconcile with the Taliban and Hezb-e Islami (Gulbuddin) was criticized because of its inclusions of former warlords implicated in war crimes. The US and NATO have made little effort to introduce meaningful democratic reform in areas outside Kabul, and have generally operated by dealing with local tribal strongmen. There is also a lack of accountability of US forces, with few timely or transparent inquiries or follow up in the aftermath of civilian death or injury. Detainees are deprived of adequate due process, such as the right to legal counsel or the right to see evidence against them.\(^\text{18}\)

Several high profile women in Taliban-controlled areas have been assassinated in recent
years. Schools, particularly those for girls over 10, are targeted for bombings. Between March and October 2010, 20 schools were attacked and 126 students killed. During the parliamentary elections of 2010, five workers campaigning for a female candidate were abducted and killed, while women campaigners throughout the country were faced with threats and intimidation.

Human rights defenders, including women human rights defenders, are regularly threatened and intimidated. Insurgents use kidnapping and other tactics to prevent journalists from producing unfavorable reporting. The Government and local strongmen are also accused of doing the same.

A law was passed in 2009 providing amnesty to perpetrators of crimes against humanity, which was revived in 2010 to facilitate reconciliation with the Taliban.

Lack of due process is a major failing of the legal system. Among such problems in Afghanistan’s security and judicial sectors are frequent arbitrary detention, denial of access to a lawyer, the right to challenge grounds of detention before an impartial judge, corruption, abuse of power and torture.

Bangladesh

Security sector reform is a key area in Bangladesh’s human rights concerns. It is estimated that the elite special forces Rapid Action Battalion (RAB) have killed over 600 people in an extrajudicial fashion since it was founded in 2004. Victims often bear marks of torture, and those who have survived RAB custody also repeatedly allege incidents of torture. RAB operates with almost total impunity, despite calls by the National Human Rights Commission of Bangladesh to investigate all allegations of RAB killings by an independent commission of inquiry. But so far, no RAB members have been criminally prosecuted. The deaths are generally attributed to having resulted from ‘crossfire’, and in an alarming trend police have now begun to copy RAB’s methods. The Awami League Government led by Prime Minister Sheikh Hasina came to power pledging a zero-tolerance policy of such killings and excuses such as ‘crossfire’, but have since moved to terming RAB actions as ‘self-defense’. Since the present Government assumed power RAB has killed almost 200 people.

A promising development in fighting Bangladesh’s culture of impunity has been the war crimes tribunal attempting to finally bring to justice people accused of committing war crimes, including genocide, in the Bangladeshi Liberation War of 1971. However, the tribunal is not considered by many observers to be fair and is believed to be politically motivated.19

The Constitution of Bangladesh guarantees freedom of speech and expression, and in February 2011 the national parliament amended the Criminal Procedure Code to eliminate the provision of a ‘direct arrest warrant’ against journalists for defamation.

Nevertheless, there is a widespread practice of self-censorship among the press and civil society. The consequences of not doing so can be seen by the example of the arbitrary detention of Mahmudur Rahman, the editor of the *Daily Amar Desh*, under the Anti-Terrorism Act after publishing several pieces critical of the Government. There have been several other instances of journalists being intimidated or targeted with violence, as well as NGO workers and trade unionists associated with labor unrest in Bangladesh’s textile industry.

Women are discriminated against in the workplace and in public and private life. Social and religious forces are responsible for this rather than political or legal ones. Domestic violence, acid attacks, and sexual harassment of women have become causes championed by the media recently, but justice remains undelivered due to the poor functioning of the legal system and the attitudes of those in society.

Along the border with Burma there are several Buddhist, Hindu and Christian indigenous tribes who face active discrimination and displacement by ethnic Bengali Muslims moving into their land in the Chittagong Hill Tracts (CHT). Although a decades-long insurgency came to an end with the signing of the 1997 CHT Peace Accord, there is still frequently violence in the region. The Bangladeshi government has not taken steps to honoring its commitments in the Peace Accord, which includes removing its military’s presence in the region and granting the CHT with a degree of autonomy.

Over 1000 Bangladeshi nationals have been killed by India’s Border Security Forces while crossing the border between the two countries since the year 2000. Smuggling is a serious problem along the porous and lengthy border, but Indian forces are generally recognized as systematically and excessively using lethal force without justification against unarmed migrants crossing the border in search of work. The governments of the two countries have recently engaged in talks regarding the issue and have made statements to the effect that stopping the border killings will be made a priority. However, it remains to be seen what actual change occurs on the ground.

**Bhutan**

Very little data is available on what is happening inside Bhutan, one of the most insulated countries in the world. However, the forcible removal of hundreds of thousands of Bhutanese people of Nepali origins in the 90s continues to have repercussions as these refugees struggle in camps in Nepal with little hope for repatriation. In addition, ethnic Nepali children who remain in Bhutan continue to be discriminated against. A Human Rights Watch report from 2007 notes that ethnic Nepali children in Bhutan suffer from discrimination in access to education, healthcare, and land ownership; denial of right to enjoy their own culture and language; and sexual violence.

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Bhutan also faces serious threats to its food security due to climate change. Varieties of crops have dwindled, not just because of climate change, but also because of improper utilization of chemical fertilizers. Maize crops have been particularly affected with only one variety remaining.

A positive improvement has been Bhutan’s progress to 64th position on the Press Freedom Index compiled by Reporters Without Borders, making it the second highest ranked South Asian country on the index after the Maldives. This achievement however is dubious, as FORUM-ASIA press monitoring reveals that substantive issues are rarely discussed by the media.

Although late-coming, Bhutan experienced one of the smoothest transitions of democracy in the world’s history. In 1998, King Jigme Singye Wangchuk initiated the country into a peaceful and guided constitutional monarchy. By his own will, he stepped down as head of government and transferred most of his executive powers to the Premier. With that, he reintroduced the principle of the ‘King’s responsibility’, allowing for impeachment of the King by a two-third majority of the National Assembly.

India

As India transforms into a major global economic superpower it continues to be plagued by pressing human rights problems deriving from its rapid development, diverse polities, and historic inequalities.

Despite high rates of economic growth, there are more poor people living in India than all of Sub-Saharan Africa. A UN Millenium Development Goals report predicts that India will succeed in reducing its level of poverty to 22% of its population by 2015, but that will still leave almost 300 million people living on incomes below the poverty line. The socio-economic problems arising from such high levels of poverty, including lack of access to education, healthcare and social security are all present in modern India.

Several parts of India remain in a state of armed conflict, with insurgencies active in Jammu and Kashmir, parts of Northeast India, and east-central Indian states with a heavy Maoist presence such as West Bengal, Bihar, Orissa, Jharkhand, Chattisgarh, and Andhra Pradesh. There is a similarly heavy security sector presence in these areas. In Kashmir security forces have repeatedly applied excessive force to suppress street protests, which have often been violent in nature. A 1948 UN-mandated referendum deciding whether Kashmir ought to be part of India or Pakistan has still not been held, with the Kashmiri people’s right to self-determination not observed for over 60 years. In Maoist-affected areas the state is accused of clandestine arming of a militia

24 http://www.bbc.co.uk/news/10609407
that calls itself Salwa Judum, or Peace March, while claiming it was a spontaneous reaction among the local population to fight the ‘reign of terror’ of the insurgents. The Salwa Judum is charged by Indian media with human rights violations and use of child soldiers. The Maoist insurgents in turn are accused of similar human rights violations, including using women and children as human shields, attacks on schools, intimidation and killing of unsupportive villagers, and recruitment of child soldiers. Northeast India is also the scene of severe human rights abuses committed under the auspices of the Armed Forces Special Powers Act (AFSPA), which grants security forces in the region extraordinary powers to fight the various separatist movements in the region. In all these cases civilians have frequently been victims and the security sector has for the most part operated with impunity.

Aside from the actions of security forces in areas of armed conflict, police throughout India are accused of corruption, extrajudicial killings and torture. Justice for mass killings of Sikhs in 1984, and mass killings of Muslims in 1992-93 and 2002 remains elusive.

Caste based violence in India remains scourge, and despite legislation that protect the lowest castes and tribes, the impact on the social fabric that continues to practice caste based violence and discrimination continues. The Maoist insurgency is often a reflection of this social discrimination that the state has been ineffective in preventing, which the Maoists propound to eradicate, and hence their support.

India has made significant progress in improving the country's women's rights situation. 'Honor killings' of women and girls, where they are killed in order to preserve a family or community's honor, have occurred in northern India, but have received significant denunciatory publicity in the country’s media.25 Media attention was also focused on the use in criminal courts of the results of invasive “finger tests” conducted by hospitals to determine whether a rape survivor is “habituated” to sexual intercourse.26 Despite these noteworthy efforts by the media and the public to generate opposition to these practices, the existence and prevalence of these practices are of concern. Similarly, the Delhi High Court decriminalized homosexuality in 2009, but gay people are far from being accepted by Indian society and widespread discrimination towards homosexuals in India remains the status quo.

Maldive
Media in the Maldives remains the most unrestricted in South Asia according to Reporters Without Borders, ranking 52nd on its Press Freedom Index. The nation climbed 53 spots in 2010, the largest advance in the history of the Index, after former President Maumoon Gayoom's reign ended with the country’s first democratic elections in 2008. Nevertheless, his successor President Mohamed Nasheed was accused of controlling the state media in his appoint to the Maldives' Broadcasting Board.

26 Human Rights Watch, Dignity on Trial: India’s Need for Sound Standards for Conducting and Interpreting Forensic Examination of Rape Survivors (Report) (September 2010), at: http://www.hrw.org/sites/default/files/reports/india0910webwcover.pdf
Nasheed’s Government made efforts to publicly back the development of human rights in the country and internationally. In November 2010 the Maldives delegation to the UN Human Rights Council submitted a range of proposals intended to improve the effectiveness of the Council. Both the President and Vice President made public statements supporting free speech, free media and freedom of assembly. However, in practice there have been clashes between police and protestors during opposition rallies. In October and November 2010, journalists covering such protests in Male were prevented from doing their work by the police, who used force. At least six journalists suffered severe injuries according to local media reports. The opposition party – Dhivehi Rayyithunge Party (DRP) – even requested the Government of India to stop selling teargas because of its overuse in dispersing protestors.

Religious freedom in the Maldives has also been called into question. A group of Christian missionaries, Open Doors, listed Maldives as one of 11 countries in the world with no religious freedom. A Christian teacher had to be evacuated in October 2010 from an island for her own safety after enraged locals accused her of drawing a cross in class. That same month the President of the Human Rights Commission of the Maldives stated that human rights could only be successfully achieved by adhering to the tenets of Islam. The Minister of Islamic Affairs, Dr. Abdul Bari, also stated in the same month that “those of the West [who advocate feminism and women’s rights] in reality deprive the woman of her rights.”

Corruption, like in all South Asian countries, is of pressing concern in the Maldives. Transparency International has alleged that Nasheed’s Government was making no effort to recover tens of billions of dollars stolen by corrupt leaders and deposited in offshore accounts. One step forward, though, was made to improve governance in the country with its passage of the Decentralization Act passed in February 2011.

However, the dawn of 2012 saw trouble knocking on the island nation’s door. President

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30 ‘Human rights protection can be successfully achieved adhering to the principles of Islam – HRCM President’, Miadhu News (October 26, 2010), at: http://www.miadhu.com/2010/10/local-news/human-rights-can-only-be-guaranteed-successful-only-through-islam/
31 ‘Western women work hard because they have not been given their rights- Dr. Majeed’, Miadhu News (October 24, 2010), at: http://www.miadhu.com/2010/10/local-news/western-women-work-hard-because-they-have-not-been-given-their-rights-dr-majeed/
Nasheed stepped down on February 7, 2012, following three weeks of opposition protests against the arbitrary arrest of the Chief Judge of the Criminal Court Abdullah Mohamed by the military (MNDF) on January 16 on allegations of repeatedly refusing to prosecute corruption charges and controlling the judiciary. Former Vice President Mohammed Waheed Hassan under Nasheed's administration was handed over power as incumbent President by the Maldivian Democratic Party (MDP) as the Constitution decrees. Following his resignation, protests by Nasheed's supporters erupted and were clamped down by the police. Repeated accounts of violence against protestors, journalists and MDP members – especially those trying to document the altercations – by police forces have been reported.

These events only touch the ‘tip of the iceberg’ when it comes to the long-running Maldivian impasse between ruling and opposition parties. Nasheed said he was forced to resign as president at gun-point by the military. Nasheed came into power following the tides of demands for democratic reform in the country that ousted the authoritarian government of Maumoon Abdul Gayoom who ruled from 1978-2008. Nasheed's initiative to invite experts from the UN and the Commonwealth to work with the Judicial Services Commission on judicial reform was a move welcomed by many human rights groups. With Nasheed out of the picture, development for human rights and democracy in the Maldives may now at risk of rescinding.

**Nepal**

Nepal's recent past has been chequered with political conflict. While the 10 year civil war between Maoist rebels and the Government ended with a peace accord signed in 2006, there has not been any progress towards ensuring accountability for the human rights abuses allegedly committed during the war by both sides, and security forces and political parties have been accused of shielding perpetrators. Lack of accountability for crimes committed during the war has extended to crimes committed in the post-war period, with many powerful entities worried that investigating current abuses will generate impetus to investigate violations during the war. A Truth and Reconciliation Commission and a Disappearances Commission have been proposed in Parliament, but the United Nations Office of the High Commissioner for Human Rights (UN-OHCHR) has raised concerns about the draft bill, stating that the bill contained provisions which would provide amnesty to the perpetrators of gross human rights violations including extra-judicial execution, torture and disappearances.

Nepal has made significant strides towards democratization in the past two decades, going from an absolute monarchy in 1990 to a constitutional monarchy and then a federal republic by 2007. At present, however, the country is locked in political stalemate between the three major political parties – the Communist Party, the Maoists, and the Nepal Congress – with the parties unable to agree on a new constitution despite the expiration of a two-year time period to draft one having expired in May 2010. New deadlines were set for May 2011 and then August 2011, but neither has been met.

The Nepali Government subscribes to a “One China” policy, which has resulted in harassment of Tibetan refugees within its borders, including confiscation of ballot
boxes during the elections of Tibet’s government in exile.

The Government, along with non-state actors, have also been accused of intensifying attacks on human rights defenders, including journalists and lawyers. While a Right to Information Act was passed in 2007, the public is unaware of it and in many areas the Act has allegedly not been implemented properly. Journalists have frequently come under attack for their coverage from both state and non-state actors such as local gangs, with one journalist having his fingers spliced open in 2010 and another two brutally attacked in 2011.

**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 (Tehrik-e-Taliban) and other affiliated and non-affiliated Islamist militant groups remain active throughout the country, undermining the rule of law through harassment of the public, targeted killings, and suicide bombings. In areas like Swat Valley, where the military has seized control back from the Taliban, the security forces themselves are accused of abuses. In Balochistan province, rule of law has broken down as separatist groups, local politicians and security forces are all accused of involvement in regular targeted killings and ‘disappearances’. During the first seven months of 2011 at least 150 people were abducted and killed by Pakistani security forces according to a Human Rights Watch statement in July. Over 5000 people have been ‘disappeared’ since the separatist insurgency began.

Freedom of expression is also under threat in Pakistan. While media are ostensibly allowed to criticize the government, any criticism of the military or intelligence agencies results in harassment and intimidation. As such, the media in Pakistan avoid mentioning the military or the intelligence services in negative terms – criticism is frequently oblique and in those cases the security forces are referred to as the “invisible hand.” The media is also subjected to intimidation by the judiciary, who threatens to respond to criticism of court decisions with contempt of court charges.

Freedom of expression is also diminished by Pakistan’s blasphemy laws, a set of laws prohibiting blasphemy against all religions which were first introduced in the 1980s but whose application has become increasingly draconian in the past decade. While the law punishes blasphemy against any religion, it is in reality applied only to blasphemy against Islam and is used overwhelmingly against members of religious minorities. The law is frequently used to harass minorities and to settle scores. Opponents of the law have also found themselves in danger: Salman Taseer – the Governor of Punjab Province – and Shahbaz Bhatti – the Minister for Minorities Affairs and a Catholic – were both assassinated in early 2011 for their vocal demands for reform of the law.

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Sri Lanka
Human rights in Sri Lanka has been overshadowed by the recently ended two decade long civil war between the Sri Lankan Government and the separatist Liberation Tigers of Tamil Eelam (LTTE). Both sides were accused of egregious human rights violations during the conflict, but the final year of the war witnessed crimes against humanity committed by the Sri Lankan Government on a massive scale, with over 10,000 people reportedly killed due to shelling of a no-fire zone by the army. Accountability for crimes committed by both sides remains elusive. A Lessons Learnt and Reconciliation Commission was established by the Sri Lankan Government, but its credibility has been called into question by international human rights groups and the findings of a UN panel of experts.34 Around 3000 alleged Tamil Tiger combatants are still detained by the Government without trial.

General Sarath Fonseka, who led the army during the final stages of the war, ran in the following election as the leader of an opposition party. After his loss to incumbent President Mahinda Rajapaksa he was arrested on charges of engaging in political activity while being a member of the military, and was later found guilty of corruption. He remains in prison.

In 2010, a Sri Lankan media group was detained, interrogated and assaulted for covering opposition party events.35 News websites have been blocked, notably Lanka E-News, aligned with an opposition party. Several journalists have left the country for their safety. In 2010, immediately after the election, many journalists went into hiding.

2.2 Key Regional Human Rights Obstacles

Migration
With the exception of Bhutan, South Asia nations have porous borders with each other, which accounts for significant illegal migration and cross-border trade. Due to a lack of political integration there is little legal recourse for ordinary people looking to migrate for work or for efficient cooperation between authorities to stop drug, human and animal trafficking. Illegal migrants are deprived of basic human rights once they are across the border, sometimes forced into prostitution, detained indefinitely if they are found, and in extreme cases, shot while attempting to cross the border. The most concerning case is of the Bangladesh-India border, where the Indian Border Security Force (BSF) was found guilty of indiscriminate shooting of Bangladeshi farmers and cattle owners walking in a poorly demarcated ‘no man’s land’.36 Over 1000 Bangladeshis have been shot by the BSF in the past decade.37 In addition, it is

34 http://www.digitaljournal.com/article/306070
37 Ibid
estimated that there are over two million illegal Bangladeshi immigrants in India, resulting in inflammatory rhetoric towards people of Bangladeshi and Muslim origin.

**Conflict**
The Kashmir conflict between India and Pakistan is the region’s most pressing obstacle towards integration and progress. Indian hostility towards Pakistan, and vice versa, creates an atmosphere where most regional issues are seen through a pro-India/pro-Pakistan prism, and prevents meaningful dialogue. Several other current conflicts create an atmosphere of instability throughout the region. The ‘War on Terror’ straddles the borders of Afghanistan and Pakistan, while Bangladesh is suspected of harboring Pakistani terrorist cells and attempting to sneak them into India. Bangladesh is also accused of similar actions with regards to insurgents fighting in India’s North-East. In turn, Bangladesh accuses India of the same charges, this time referring to outlawed groups of Bangladesh’s conflict-ridden Chittagong Hill Tracts.

**Climate Change**
One potential area for cooperation is climate change adaptation. With India, Pakistan, Nepal, Bhutan and Bangladesh all set to be hit hard by rising sea levels and average temperatures, it is in SAARC’s best interests to set forward plans to meet an oncoming shared crisis. However, climate change is likely to exacerbate many of the region’s existing problems, from disputes over water sharing to illegal migration, with Bangladeshi migrants likely to flock to India in particular as the low-lying densely populated nation’s land is squeezed further. Climate change cooperation in the region, however, is hindered by two factors. While climate change is projected to have a severe impact on all members of SAARC, India and her neighbors have different agendas when it comes to international efforts to combat its effects. Mitigation is a key demand for countries like Bangladesh and Maldives, who are also keen to see significant funds made available to countries like them for adaptation purposes. India, the world’s third highest source of carbon emissions, is unwilling to adopt policies that would result in the hampering of its rapid economic growth. As a result, despite the adaptation of an Action Plan on Climate Change by SAARC, the member nations did not produce a united front at the 2009 Copenhagen Climate Change conference. India and China advocated cuts by developed countries only and struck a backroom deal with the United States, South Africa and Brazil becoming the Copenhagen Accord, a non-binding agreement that was denounced by the G-77 group of developing nations which included the other seven members of SAARC.
3. 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 crisis. The latest addition to the roster is the Convention on Cooperation on Climate Change 2010.

3.1 SAARC Charter

On the 8th 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 of 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 realize 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 and ratified (or acceded to) the International Covenant on Civil and Political Rights\(^{38}\), and the International Covenant on Economic, Social and Cultural Rights\(^{39}\), 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 Women\(^{40}\), as well as the Convention on the Rights of the Child\(^{41}\). As such, these 7 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 stated above, 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 SAARC human rights body.

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.\(^{42}\)

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

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38 Adopted on December 16, 1966, by the UN General Assembly
39 Ibid
40 Adopted on December 18, 1979, by the UN General Assembly
41 Adopted on November 20, 1989, by the UN General Assembly
42 In the case of the League of Arab States, the 1994 Arab Charter on Human Rights (reaffirmed in the 2004 version) affords a monitoring mechanism that consists of presenting reports to an expert Committee. However, with no system of individual petition or State petition to this Committee for serious violations of the Charter by a State Party, it is powerless in comparison with other regional mechanisms that exist in the world (http://www.achr.org/articles.htm?article_id=6 ).
An attempt to push forward regional cooperation on human rights on these technical grounds would meet the stumbling block of 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, whose princely ruler, a Hindu, acceded the state to India against the wishes of his Muslim-majority people in return for protection against the invading army.

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, once again over the disputed territory of Kashmir. Once again the UN intervened and mandated a ceasefire, but by then thousands had died in the largest tank battle since the end of the Second World War.

The third war among the SAARC nations was fought in 1971, when East Pakistan seceded and declared itself an independent nation called Bangladesh. After several months of fighting between Bangladeshi and Pakistani forces, India, which had taken in over 10 million refugees from Bangladesh, intervened and defeated Pakistan in two weeks. The conflict was the bloodiest in South Asia since the Partition, with accusations of war crimes leveled at the Pakistani military and their Bangladeshi collaborators. The war crimes allegations remain unresolved, although a tribunal in Bangladesh was recently set up in 2010 and has commenced hearing cases.

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 to 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 regionalize 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.43

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.”44

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 liberalization 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

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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. 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”; 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 it signed in 1997; over 5,000 enforced disappearances under absolute impunity in insurgency-wracked Balochistan province in Pakistan; 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 leveled 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 labor, prostitution, organ removal, forced marriages, illegal adoption and forced begging. They are trafficked from village to city within a country, or to a neighboring 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.49

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. 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.50 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 problems. The Convention establishes trafficking of women and children for prostitution as a violation of basic human rights51.

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”

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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 children 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.”

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 organized criminal group, while the SAARC Convention applies to trafficking within borders and trafficking by persons.

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 Organization 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

52 SAARC Convention on Preventing and Combating Trafficking in Women and Children, 2002
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 Organization 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.”

While several Member States have done, or are about to do something, to address 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 portion of trafficking 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. 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.”

It also lists a set of aggravating circumstances “which make the commission of such offenses particularly grave”, including the use of violence by the offender, the holding of public office by the offender, and whether the offence is committed in a custodial

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54 Ibid
55 Ibid
56 Email interview with Anita J. Wadud, 26 May 2011
57 Ibid
58 Ibid
59 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002
institution or an education institution, or a social facility. Advocates working on trafficking find this section of the Convention to be “fairly comprehensive” without additional issues to be accounted for.

Significantly, the Convention affirms the principle of “extradite or prosecute” in Article VII. Its signatories are to regard offences referred to in the Convention as extraditable offences, and to regard the Convention as a basis for extradition if a member state does not have an extradition treaty with another member state. In the cases where a member state does not extradite a “trafficker” as defined by the Convention, the member state must “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.”

The Convention also makes provisions for “appropriate counseling and legal assistance” for victims, and requires that “the confidentiality of the child and women victims is maintained.” Article IX of the Convention establishes a reasonably thorough framework for the care, treatment, rehabilitation and repatriation of the victims. It requires the establishment of protective homes or shelters, healthcare facilities, job training and cooperation, with non-governmental organisations to rehabilitate the victims.

Even here, however, the Convention falls short once more. It does not retain any flexibility to take into account victims of trafficking who have migrated of their own volition, or those who, regardless of how they arrived there, want to remain in their destination country. The latter is an especially pressing concern with regard to child victims of human trafficking, who often grow up and identify with life in their destination country.

According to the IOM, “the Convention includes provisions that potentially encourage state parties to adopt measures that can adversely affect the mobility rights of women and children in the interests of preventing trafficking which has occurred in some SAARC countries.” The IOM in its review of the implementation of the Convention on Trafficking roundly criticizes SAARC for failing to provide “participatory rights that engage trafficking survivors in legal proceedings and in making informed decisions.”

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60 Ibid
61 Email interview with Anita J. Wadud, 26 May 2011
63 SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, 2002
64 Ibid
As a result, numerous victims of trafficking suffer from re-victimization as they are punished by South Asian governments for trafficking and migration-related offences, or by being forcibly repatriated against their wishes.67

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.68

A brief review by the Centre for Social Research in India also posits the following recommendations for the SAARC governments in order to more effectively implement the Convention on Trafficking:

- The definition of trafficking needs to be inclusive of all forms of trafficking. It needs to be broadened in its scope beyond a focus on the incidence of trafficking for purposes of prostitution.
- The Convention should be widely disseminated in order to make the people and, in particular, government officials and politicians, aware of the steps to be taken to ensure de facto and de jure implementation of it.
- Efforts should be made by SAARC States to collect comprehensive data on trafficking.
- Regional initiatives are required to establish a central database and a regional survey to assess the nature of the problem.
- Member States should develop specific measures to raise public awareness about trafficking, including what it is, how trafficking rings operate, how to avoid trafficking schemes and where to go for help.

66 Ibid
• States may promote economic development activities in areas prone to trafficking that include employment opportunities as well as skill development training, and formal and informal education.

• Member States to assess, analyse and recommend actions that can be taken towards harmonization of national law in line with regional and international commitments.

• Member States should develop additional judicial procedures which include confidentiality for the victims’ identity throughout all legal proceedings including notifying the victim that her or his participation in any legal process is strictly voluntary.

• Member States should take measures to provide training to all relevant authorities on victimology, gender sensitization, scientific investigation, prosecution system, international human rights instruments as well as SAARC Conventions.

• Bilateral agreements should also include the issues of repatriation, rescue and rehabilitation, providing legal assistance, health care and deportation of traffickers.

• Measures should be taken by the State Parties to incorporate trafficking as an extraditable offence in all extradition treaties.

• Member States that serve as countries of origin or destination should work out modalities for repatriation of the victims to the country of origin.

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 Organization as a “milestone” in 2005.69

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.”70

The SAARC Convention on Child Welfare is essentially a regional affirmation of the

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70  SAARC Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia, 2002
commitments of all the Member States under the United Nations Convention on the Rights of the Child. 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 well being of the child and shall, therefore, reiterate their commitment to implement it.” 71 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 regionalized 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”, recognizes as its priorities education; health care with special attention to preventive diseases and malnutrition; trafficking, exploitation and abuse; child labor; 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.” 72 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 recognizing 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

71 Ibid
72 Ibid
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 recognizes 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 stabilization, empowerment of women, youth mobilization, 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

73 Ibid
74 SAARC Social Charter, 2004
75 Ibid
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."76

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.”77

The Charter also addresses specifically the plight of the homeless in South Asia, recognizing 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.”78 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 recognizing people of “diverse cultures, beliefs, and traditions” and supporting their economic and social development with respect for their “identity, traditions, forms of social organization 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.”79

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

76 Ibid
77 Ibid
78 Ibid
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."

3.5 Other Treaties and Mechanisms

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 decentralization 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.

SAARC Food Bank
The “Agreement on Establishing the SAARC Food Bank” was signed in New Delhi in April 2007 in order to tackle the recurring problem of food shortages in the South Asian nations. It has two stated objectives: “to act as a regional food security reserve for the SAARC member countries during normal times, food shortages, and emergencies; and to provide regional support to national food security efforts, foster inter-country partnerships and regional integration, and tackle regional food shortages through collective action.” Since 2007 there have been regular meetings of the board of the SAARC Food Bank held around every six months to discuss how to make the Food Bank effective and operational, prioritizing delivering food aid during emergencies caused by natural disasters which frequently afflict Member States. Under the agreement, the food bank is supposed to have a total reserve of 241,580 metric tons of food grains, with Bangladesh contributing 40,000 tons, Bhutan with 180 tons, India with 153,200 tons, Maldives with 200 tons, Nepal with 4,000 tons, Pakistan with 40,000 tons and Sri Lanka with 4,000 tons. Afghanistan was, at the time of signing the agreement, not obliged to contribute. The actual reserve in 2010 was approximately 243,000 tons, exceeding the agreed amount. However, meetings of the food bank board subsequent to the signing of the agreement determined that the actual reserve required to effectively counter food shortages was higher, and has proposed increasing it to 400,000 tons with a view

80 SAARC Social Charter, 2004
81 Agreement on Establishing the SAARC Food Bank, 2007
to raising it in the future to 1,000,000 tons. In addition to concerns about the quantity of its reserve, there are also questions raised about the ability of the SAARC Food Bank to act when there are emergencies. The Food Bank replaced the SAARC Food Security Reserve, which was set up in 1988 but was considered to be ineffective due to a lack of political will in the region. Similar worries exist for the SAARC Food Bank, and at a seminar titled ‘SAARC Food Bank and expectation of hungry people’ organized before the fourth SAARC Food Bank board meeting in October 2010 speakers noted that the Food Bank had not effectively addressed victims of natural disasters in the region since its establishment in 2007.

**Action Plan on Climate Change**

A three-year action plan to combat the impact of climate change on the South Asian subcontinent was drawn up and adopted in July 2008 during the first SAARC ministerial meeting on climate change attended by the Environment Ministers of the eight member nations. The outcome of the meeting was the Dhaka Declaration, which committed the nations to awareness raising, inculcating habits towards a low carbon society, enhanced South Asia cooperation, and cooperating to ensure food, water, and energy security for the region. However, implementation of the action plan has been stalled by the inability to mobilize funds for its proposed programmes. Subsequently, the 16th SAARC Summit had climate change designated as its key theme and produced the Thimpu Statement on Climate Change, which set a SAARC goal of becoming world leaders in low carbon technologies and renewable energy by exploring the possibility of setting up a SAARC mechanism to provide capital for projects in these areas. The summit commissioned a study on climate risk in the region with regard to social, economic and environmental challenges, and the Member States pledged themselves to planting 10 million trees between 2010 and 2015.

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83 *Ibid*
4. SAARC and Civil Society

South Asian countries are noted for having vibrant and vocal civil societies which have played crucial roles in their countries' social, economic, and political development. From microfinance to labour rights organisations, South Asia's NGOs have been at the forefront of taking on the key challenges facing their communities. But while South Asia's governments have collaborated commendably with NGOs on development issues, they have been less cooperative in the political and human rights arenas, and have often been antagonistic. Civil society leaders and human rights defenders at odds with their government have frequently found themselves the target of harassment, intimidation, arbitrary detention, torture and even extra-judicial killings.

As such it does not come as a surprise that SAARC, an inter-governmental organization, does not have a strong record of working with civil society on human rights issues. There is no representation of civil society at SAARC Summits. In recent years, however, civil society in the subcontinent has become more and more involved with SAARC-based activities and have tried to use it as a regional platform to make their voices heard. Some of the more prominent instances of this are discussed in this section.

4.1 South Asian Free Media Association (SAFMA)

This platform for South Asian journalists was established at the first South Asia Free Media Conference in Islamabad in July 2000. Since then there have been regular follow up conferences and SAARC Journalists’ Summits with the aim of promoting free media, peace and regional cooperation, and has become officially a SAARC Recognized Body. Among its accomplishments are the establishment of the South Asian Media Centre in Lahore, the South Asian Media Net, the South Asia Media School, and South Asia Media Commissions in every member country to monitor threats to press freedom and attacks on journalists. Nevertheless, SAFMA has plenty to accomplish in terms of engaging SAARC governments on their agenda. SAFMA is funded by the government of Norway, not by SAARC members, and SAARC governments have repeatedly failed to implement recommendations made by SAFMA, most notably the implementation of visa-free travel for a quota of journalists in India and Pakistan.

4.2 South Asians for Human Rights (SAHR)

SAHR was set up by the Neemrana Declaration, the outcome of a convention of prominent human rights activists, journalists, jurists, academics and public figures in Rajasthan, India, where the topic was the possibility of setting up a South Asian regional human rights organisation. Its members are both national and regional organisations
as well as individual persons active in human rights work in the region. SAHR has produced work on minorities in SAARC member countries, and acts as a South Asian parliamentary body watchdog.

### 4.3 South Asia Forum for Human Rights (SAFHR)

SAFHR, based in Kathmandu, was established in 1990 with the stated goal of acting as a forum for dialogue between regional and local human rights organisations. It has education programmes run by the Conflict Peace and Development Studies Faculty of Tribhuvan University, and workshops on refugees and minorities. With a focus on peace and democracy, SAFHR has produced several publications on minorities, refugees and conflict issues in South Asia. The organisation also has produced chronologies of the key conflicts in South Asia, from the Chittagong Hill Tracts (CHT) in Bangladesh to the Northeast India and Kashmir insurgencies in India to the civil war in Sri Lanka. SAFHR has also conducted three peace audits which have deliberated on four peace processes in South Asia: CHT in Bangladesh, the Naga insurgency in Northeast India, the Tamil Tigers in Sri Lanka and the Balochistan insurgency in Pakistan; and has established a set of peace audit guidelines to create a more systemic peace building process. SAFHR promotes people-to-people dialogues as crucial to regional understanding along with the more conventional inter-governmental dialogue.

### 4.4 People’s SAARC

The collective movement of South Asian civil society known as People’s SAARC came about after SAFHR hosted a meeting in 1994 in Kathmandu, Nepal, to discuss ways to foster cooperation at people-to-people level in South Asia, which the official SAARC process failed to address. The first People’s SAARC meeting was held as a parallel event to the eight SAARC Summit in New Delhi in 1995, with individual activists and organisations from across South Asia gathering to lobby SAARC on the issue of trafficking. Subsequently the ninth SAARC Summit recognised trafficking as a grave issue and set forward the process of drafting the SAARC Convention on Preventing and Combating the Trafficking of Women and Children for Prostitution. People’s SAARC has since continued to lobby SAARC officials on regional concerns. At the meeting in April 2010, 300 members of South Asian civil society pressed SAARC on the issue of South Asian unity and the cultivation of a South Asian identity, demanding free mobility across the region for South Asians and the denuclearisation of the region. It also included a South Asian Parliamentarians Forum event, an important step forward in engaging policy-makers in the people’s movement. In response to the most recent SAARC Summit in November 2011, the People’s SAARC submitted a memorandum to the chair of SAARC, the Maldivian government, outlining civil society concerns and demands, including the establishment of a regional human rights mechanism in South Asia.
4.5 South Asia Forum

The 16th SAARC Summit in Bhutan resolved to establish a South Asia Forum to serve as a platform for debate and exchange of ideas at a regional level. A Steering Committee met in April 2011 and determined the objectives and guidelines for the first meeting of the South Asia Forum to be held prior to the 17th SAARC Summit in Maldives in November 2011, with a scheduled date of 8-9 September. The theme of the first meeting was the economic union of South Asia. The South Asia Forum is to be guided by the objectives of the SAARC Charter, and is supposed to serve as a bridge between government representatives and stakeholders. One of its stated purposes is to deliver action-oriented recommendations on improving SAARC mechanisms. A drawback of the South Asia Forum is that participants are only nominated by the state, thus muting opposition voices within Member States at the Forum.

4.6 Working Group on South Asia Human Rights Mechanism

The First Sub-regional Workshop on a South Asian Human Rights Mechanism, organized by FORUM-ASIA and Informal Sector Service Centre (INSEC) of Nepal, was held in Kathmandu on March 2010. Seventy representatives from South Asian civil society attended the workshop and produced the Kathmandu Declaration, which called for the establishment of “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 organisations, people movements at national and regional level.”\(^\text{84}\) The second sub-regional workshop was held in July 2011 and in its outcome document, the Kathmandu Statement 2011, reiterated the need for a regional human rights mechanism to complement the work of existing national human rights institutions in SAARC Member States. To take the advocacy of a regional human rights mechanism a step further, a Working Group on South Asia Human Rights Mechanism, comprising of well-known individual human rights experts and organisations in South Asia, was officially established.\(^\text{85}\) The Working Group submitted the Kathmandu Declaration 2010 and the Kathmandu Statement 2011 to all SAARC Members States and called on SAARC to consider the establishment of a regional human rights mechanism prior to the 17th SAARC Summit in Maldives in November 2011.

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\(^{84}\) 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.

\(^{85}\) See Annex 12
5. Conclusion

In terms of mechanisms, institutions, and treaties related to the enforcement of human rights in South Asia, SAARC remains underdeveloped over the course of its 26 year of existence. Progress was made in the period between 2000 and 2010, which saw the addition of the SAARC Social Charter, conventions on trafficking and child welfare, a Charter of Democracy, and initiatives to promote food security, combat climate change, and integrate civil society in the SAARC process.

The foundation for a comprehensive setup of human rights bodies and treaties is presently due in order to materialise the broad scope of the commitments of the SAARC Charter and the SAARC Social Charter. However, the same problems which hinder SAARC from making headway in political and economic issues exist with regards to human rights issues. A history of conflict and border disputes, lack of people-to-people contact, immobility of labor and capital, heavy militarization, the fragility of democracy in the region and government emphasis on national security over human security, has resulted in a fractured and poorly integrated South Asia.

The Kashmir conflict, perhaps more than anything else, frequently hijacks the regional agenda, preventing meaningful progress from being made on other agendas. Until the Kashmir situation is resolved India and Pakistan, the two most populated and heavily militarised countries in South Asia, remain unable to cooperate on issues of trade, migration, and certainly, human rights. Unfortunately, the conflict does not look likely to be settled in the near future.

While South Asian civil society is more willing to cooperate on regional issues, their ability to do so is hindered significantly by the lack of cooperation between their governments. It is difficult for Pakistani scholars or civil society leaders to travel to India, and vice versa. The lack of mobility in the region means it is difficult to build cross-border movements. Furthermore, the state is rarely willing to take into account civil society feedback on issues related to national security. The military is a strong presence in South Asian countries like Bangladesh, India, Pakistan and Sri Lanka, and their frequent interventions into politics in the region has obstructed the development of civil society as a major voice in a democratic society. Finally, despite the vibrancy of South Asia’s civil society, SAARC members are heavily bureaucratic entities with elite bottlenecks which operate on a top-down basis rather than through grassroots movements.

The shortcomings of SAARC as an institution are acknowledged widely. Mr. Pema L. Dorji, one of the eight director of the SAARC Secretariat, has gone on record as saying that the Association needs to be assessed, strengthened and restructured, defending the achievements of SAARC as “not insignificant when weighed against the limitations
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found in the SAARC Charter, the structure of the Secretariat, the available resources and the realities within which SAARC has functioned.86

SAARC strategy so far has been to focus on non-politically sensitive issues where there are possibilities of regional cooperation, such as trafficking, child welfare, food security and climate change. In drafting the conventions on trafficking and child welfare, establishing the SAARC Food Bank, and drafting an Action Plan on Climate Change, SAARC has shown its willingness to attempt to tackle problems where it seems politically feasible. The two conventions add a regional element to international obligations Member States already have by lending a sharper focus on South Asian dimensions to the problems of trafficking and child welfare.

A SAARC mechanism could increase accountability of SAARC governments as their actions would be subjected to external review by their neighbors. In addition, a regional mechanism would be more suited to taking on cross-border issues like Bhutanese refugees in Nepal or the killing of Bangladeshi by Indian Border Security Forces along the India-Bangladesh border. However, a regional mechanism in South Asia would inevitably suffer from criticism of invading individual members’ sovereignty if it is to investigate major human rights issues in the subcontinent such as the conflicts of Kashmir, Balochistan, the Sri Lankan civil war and the insurgencies of Northeast India.

Implementation of obligations under international human rights treaties by South Asian countries is also poor, indicating that expectations for a SAARC mechanism ought to be tempered. For substantial forward movement to be made in SAARC’s ability to tackle human rights issues, the governments will have to be committed to cooperating on these issues in a manner that puts their populace first, not the interests of ruling elites or for the sake of jingoistic nationalism. In their present incarnations, however, the governments are unlikely to act decisively on these matters. Civil society is, as noted, more forceful in its demands for action on human rights issues, but so far their voice is muted at the official SAARC level.

A critical factor in increasing civil society’s ability to affect change at the SAARC level is the genuine democratization of SAARC countries. While all Member States at present are nominally democracies, governance in South Asia is marked by corruption and the lingering effects of colonial rule and of traditional patron-client relations, which mean that the voice of the people are under-represented in policy-making. Key to genuine democratisation is decentralisation and devolution. Bangladesh, India, Nepal and Pakistan are among South Asian nations where these steps are being seriously discussed at present. It remains to be seen, though, whether the attention being paid to these concepts is merely lip service or whether concrete steps will be taken to change the political system. Decentralisation supplies decision-making power on a smaller scale to the hands of a larger group of people, and once this becomes entrenched and the general population becomes more demanding with regards to their democratic rights, this ability to affect changes in policy can be transferred onto a larger, regional

86 SAARC Press Release on Establishment of the South Asia Forum, April 2011
stage. Until then, new treaty bodies, conventions, and mechanisms can be added to SAARC’s constitution, but the likelihood is that when it comes to tangible progress on human rights the region will remain in a stalemate.
Annex 1

Charter of the South Asian Association for Regional Cooperation (SAARC)

8 December 1985

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 REPUBLIC 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
Annex 2

SAARC Social Charter

4 January 2004

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

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

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

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

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

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

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

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

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

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

ARTICLE I

General Provisions

1. States Parties shall maintain a social policy and strategy in order to ensure an overall and balanced social development of their peoples. The salient features of individual social policy and programme shall be determined, taking into account the broader national development goals and specific historic and political contexts of each State Party.

2. States Parties agree that the obligations under the Social Charter shall be respected, protected and fulfilled without reservation and that the enforcement thereof at the national level shall be continuously reviewed through agreed regional arrangements and mechanisms.

3. States Parties shall establish a people-centered framework for social development to guide their work and in the future, to build a culture of cooperation and partnership and to respond to the immediate needs of those who are most affected by human distress. States Parties are determined to meet this challenge and promote social development throughout the region.
ARTICLE II
Principles, Goals and Objectives

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

2. In the light of the commitments made in this Charter, States Parties agree to:

   i. Place people at the center of development and direct their economies to meet human needs more effectively;

   ii. Fulfill the responsibility towards present and future generations by ensuring equity among generations, and protecting the integrity and sustainable use of the environment;

   iii. Recognize that, while social development is a national responsibility, its successful achievement requires the collective commitment and cooperation of the international community;

   iv. Integrate economic, cultural and social policies so that they become mutually supportive, and acknowledge the interdependence of public and private spheres of activity;

   v. Recognize that the achievement of sustained social development requires sound, equitable and broad-based economic policies;

   vi. Promote participatory governance, human dignity, social justice and solidarity at the national, regional and international levels;

   vii. Ensure tolerance, non-violence, pluralism and non-discrimination in respect of diversity within and among societies;

   viii. Promote the equitable distribution of income and greater access to resources through equity and equality of opportunity for all;

   ix. Recognize the family as the basic unit of society, and acknowledge that it plays a key role in social development and as such should be strengthened, with attention to the rights, capabilities and responsibilities of its members including children, youth and the elderly;

   x. Affirm that while State, society, community and family have obligations towards children, these must be viewed in the context of inculcating in children intrinsic and attendant sense of duty and set of values directed towards preserving and strengthening the family, community, society and nation;
xi. Ensure that disadvantaged, marginalized and vulnerable persons and groups are included in social development, and that society acknowledges and responds to the consequences of disability by securing the legal rights of the individual and by making the physical and social environment accessible;

xii. Promote universal respect for and observance and protection of human rights and fundamental freedoms for all, in particular the right to development; promote the effective exercise of rights and the discharge of responsibilities in a balanced manner at all levels of society; promote gender equity; promote the welfare and interest of children and youth; promote social integration and strengthen civil society;

xiii. Recognize the promotion of health as a regional objective and strive to enhance it by responding to urgent health issues and outbreak of any communicable disease in the region through sharing information with each other, imparting public health and curative skills to professionals in the region; and adopting a coordinated approach to health related issues in international fora;

xiv. Support progress and protect people and communities whereby every member of society is enabled to satisfy basic human needs and to realize his or her personal dignity, safety and creativity;

xv. Recognize and support people with diverse cultures, beliefs and traditions in their pursuit of economic and social development with full respect for their identity, traditions, forms of social organization and cultural values;

xvi. Underline the importance of transparent and accountable conduct of administration in public and private, national and international institutions;

xvii. Recognize that empowering people, particularly women, to strengthen their own capacities is an important objective of development and its principal resource. Empowerment requires the full participation of people in the formulation, implementation and evaluation of decisions and sharing the results equitably;

xviii. Accept the universality of social development, and outline an effective approach to it, with a renewed call for international cooperation and partnership;

xix. Ensure that the elderly persons lead meaningful and fulfilling lives while enjoying all rights without discrimination and facilitate the creation of an environment in which they continue to utilize their knowledge, experience and skills;

xx. Recognize that information communication technology can help in fulfilling
social development goals and emphasize the need to facilitate easy access to
this technology;

xxi. Strengthen policies and programmes that improve, broaden and ensure the
participation of women in all spheres of political, economic, social and cultural
life, as equal partners, and improve their access to all resources needed for the
full enjoyment of their fundamental freedoms and other entitlements.

ARTICLE III
Poverty Alleviation

1. States Parties affirm that highest priority shall be accorded to the alleviation
of poverty in all South Asian countries. Recognising that South Asia’s poor could
constitute a huge and potential resource, provided their basic needs are met and they
are mobilized to create economic growth, States Parties reaffirm that the poor should
be empowered and irreversibly linked to the mainstream of development. They also
agree to take appropriate measures to create income-generating activities for the poor.

2. Noting that a large number of the people remain below the poverty line, States
Parties re-affirm their commitment to implement an assured nutritional standards
approach towards the satisfaction of basic needs of the South Asian poor.

3. Noting the vital importance of biotechnology for the long-term food security
of developing countries as well as for medicinal purposes, States Parties resolve that
cooperation should be extended to the exchange of expertise in genetic conservation
and maintenance of germplasm banks. They stress the importance of the role of
training facilities in this area and agree that cooperation in the cataloguing of genetic
resources in different SAARC countries would be mutually beneficial.

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. Realizing that health issues are related to livelihood and trade issues which are influenced by international agreements and conventions, the States Parties agree to hold prior consultation on such issues and to make an effort to arrive at a coordinated stand on issues that relate to the health of their population.

5. States Parties also agree to strive at adopting regional standards on drugs and pharmaceutical products.

ARTICLE V
Education, Human Resource Development and Youth Mobilization

1. Deeply conscious that education is the cutting edge in the struggle against poverty and the promotion of development, States Parties re-affirm the importance of attaining the target of providing free education to all children between the ages of 6 – 14 years. They agree to share their respective experiences and technical expertise to achieve this goal.

2. States Parties agree that broad-based growth should create productive employment opportunities for all groups of people, including young people.

3. States Parties agree to provide enhanced job opportunities for young people through increased investment in education and vocational training.

4. States Parties agree to provide adequate employment opportunities and leisure time activities for youth to make them economically and socially productive.

5. States Parties shall find ways and means to provide youth with access to education, create awareness on family planning, HIV/AIDS and other sexually-transmitted diseases, and risks of consumption of tobacco, alcohol and drugs.

6. States Parties stress the idealism of youth must be harnessed for regional cooperative programmes. They further stress the imperative of the resurgence of South Asian consciousness in the youth of each country through participation in the development programmes and through greater understanding and appreciation of each other’s country. The Organized Volunteers Programme under which volunteers
from one country would be able to work in other countries in the social fields shall be
revitalized.

7. States Parties recognize that it is essential to promote increased cross-
fertilization of ideas through greater interaction among students, scholars and
academics in the SAARC countries. They express the resolve that a concerted
programme of exchange of scholars among Member States should be strengthened.

ARTICLE VI
Promotion of the status of women

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

2. States Parties agree that all appropriate measures shall be taken to educate
public opinion and to direct national aspirations towards the eradication of prejudice
and the abolition of customary and all other practices, which are based on discrimination
against women. States Parties further declare that all forms of discrimination and
violence against women are offences against human rights and dignity and that such
offences must be prohibited through legislative, administrative and judicial actions.

3. States Parties shall take all appropriate measures to ensure to women on
equal terms with men, an enabling environment for their effective participation in
the local, regional and national development processes and for the enjoyment of their
fundamental freedoms and legitimate entitlements.

4. States Parties also affirm the need to empower women through literacy
and education recognizing the fact that such empowerment paves the way for faster
economic and social development. They particularly stress the need to reduce, and
eventually eliminate, the gender gap in literacy that currently exists in the SAARC
nations, within a time-bound period.

5. States Parties re-affirm their commitment to effectively implement the SAARC
Convention on Combating the Trafficking of Women and Children for Prostitution
and to combat and suppress all forms of traffic in women and exploitation of women,
including through the cooperation of appropriate sections of the civil society.

6. States Parties are of the firm view that at the regional level, mechanisms and
institutions, to promote the advancement of women as an integral part of mainstream
political, economic, social and cultural development be established.
ARTICLE VII
Promotion of the Rights and Well-being of the Child

1. States Parties are convinced that the child, by reason of his or her physical and mental dependence, needs special safeguards and care, including appropriate legal protection, before as well as after birth.

2. The child, for the full and harmonious development of his or her personality, should grow up in a family environment, in an atmosphere of happiness, love and understanding.

3. States Parties shall protect the child against all forms of abuse and exploitation prejudicial to any aspects of the child's well-being.

4. States Parties shall take necessary actions to implement effectively the SAARC Convention on Regional Arrangements for the Promotion of Child Welfare and to combat and suppress all offences against the person, dignity and the life of the child.

5. States Parties are resolved that the child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him or her to develop its full potential physically, mentally, emotionally, morally, spiritually, socially and culturally in a healthy and normal manner and in conditions of freedom and dignity. The best interests and welfare of the child shall be the paramount consideration and the guiding principle in all matters involving his or her life.

6. States Parties agree to extend to the child all possible support from government, society and the community. The child shall be entitled to grow and develop in health with due protection. To this end, special services shall be provided for the child and its mother, including pre-natal, natal (especially delivery by trained birth attendant) and post-natal care, immunization, early childhood care, timely and appropriate nutrition, education and recreation. States Parties shall undertake specific steps to reduce low birth weight, malnutrition, anemia amongst women and children, infant, child and maternal morbidity and mortality rates, through the inter-generational life cycle approach, increase education, literacy, and skill development amongst adolescents and youth, especially of girls and elimination of child/early marriage.

7. States Parties shall take effective measures for the rehabilitation and re-integration of children in conflict with the law.

8. State Parties shall take appropriate measures for the re-habilitation of street children, orphaned, displaced and abandoned children, and children affected by armed conflict.

9. States Parties pledge that a physically, mentally, emotionally or socially disadvantaged child shall be given the special treatment, education and care required by his or her particular condition.
10. States Parties shall ensure that a child of tender years shall not, save in exceptional circumstances, be separated from his or her mother and that society and the public authorities shall be required to extend particular care to children without a family and to those without adequate means of support, including where desirable, provision of State and other assistance towards his or her maintenance.

11. States Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances. In this respect, States Parties shall expedite the implementation of the SAARC Convention on Narcotic Drugs and Psychotropic Substances at the national and regional levels.

ARTICLE VIII
Population Stabilisation

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

2. States Parties are of the view that population policies should provide for human-centered approach to population and development and aim towards human survival and well-being. In this regard, they affirm that national, local or provincial policies and strategies should aim to bring stabilization in the growth of population in each country, through voluntary sustainable family planning and contraceptive methods, which do not affect the health of women.

3. States Parties shall endeavour to inculcate a culture of self-contentment and regulation where unsustainable consumption and production patterns would have no place in the society and unsustainable population changes, internal migration resulting in excessive population concentration, homelessness, increasing poverty, unemployment, growing insecurity and violence, environmental degradation and increased vulnerability to disasters would be carefully, diligently and effectively managed.

4. States Parties shall take action to ensure reproductive health, reduction of maternal and infant mortality rates as also provision of adequate facilities to enable an infant to enjoy the warmth of love and support of his/her parents.
5. States Parties also agree to set up a SAARC Network of Focal Institutions on population activities for facilitating the sharing of information, experiences and resources within the region.

ARTICLE IX
Drug de-addiction, Rehabilitation and Reintegration

1. States Parties agree that regional cooperation should be enhanced through exchange of information, sharing of national experiences and common programmes in the specific areas, which should receive the priority consideration of the appropriate mechanisms both at the national and regional levels.

2. States Parties identify for intensive cooperation, the strengthening of legal systems to enhance collaboration in terms of financial investigation; asset forfeiture; money laundering; countering criminal conspiracies and organized crime; mutual legal assistance; controlled deliveries; extradition; the updating of laws and other relevant structures to meet the obligations of the SAARC Convention and other related international obligations, and developing of measures to counter drug trafficking through exchange of information; inter-country cooperation; controlled deliveries; strengthened SDOMD; regional training; frequent meetings at both policy and operational levels; strengthening the enforcement capabilities in the SAARC countries; enhanced control of production and use of licit drugs, and precursors and their essential chemicals.

3. Keeping in view the complementarities between demand reduction activities and supply control programmes, States Parties agree that all aspects of demand reduction, supply control, de-addiction and rehabilitation should be addressed by regional mechanisms.

ARTICLE X
Implementation

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

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

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

ARTICLE XII
Amendment

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

IN FAITH WHEREOF We Have Set Our Hands And Seals Hereunto.
DONE In ISLAMABAD, PAKISTAN, On This The Sixth Day Of January Of The Year Two Thousand Four, In Nine Originals, In The English Language, All Texts Being Equally Authentic.

Begum Khaleda Zia
PRIME MINISTER OF THE PEOPLE'S REPUBLIC OF BANGLADESH

Maumoon Abdul Gayoom
PRESIDENT OF THE REPUBLIC OF MALDIVES

Jigmi Yoezer Thinley
PRIME MINISTER OF THE KINGDOM OF BHUTAN

Surya Bahadur Thapa
PRIME MINISTER OF THE KINGDOM OF NEPAL

Atal Behari Vajpayee
PRIME MINISTER OF THE REPUBLIC OF INDIA

Mir Zafarullah Khan Jamali
PRIME MINISTER OF THE ISLAMIC REPUBLIC OF PAKISTAN

Chandrika Bandaranaike Kumaratunga
PRESIDENT OF THE DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA
Annex 3
SAARC Charter of Democracy
February 2011

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.
Annex 3

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.
Annex 4

Agreement on Establishing the SAARC Food Bank

PREAMBLE

The Governments of the SAARC (South Asian Association for Regional Cooperation) Member States comprising Afghanistan, Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan and Sri Lanka hereinafter referred to as “Member Countries”; Recalling the Declaration on South Asian Regional Cooperation signed in New Delhi in August 1983, which called for cooperative action with a view to promoting economic and social development in South Asia;

Reaffirming their commitment to the realization of this objective by joining together in the establishment of the South Asian Association for Regional Cooperation and adopting a Charter in Dhaka in December 1985;

Recognizing the importance of regional and sub-regional collective self-reliance with respect to food security as a means of combating the adverse effect of natural and man-made calamities;

Recognizing further that the establishment of a regional food reserve by Member Countries based on the principle of collective self-reliance would improve their food security;

NOW THEREFORE, in a spirit of solidarity and mutual cooperation, have agreed as follows:

ARTICLE I

Establishment of the SAARC Food Bank

1. The Member Countries hereby agree to establish a SAARC Food Bank (hereinafter referred to as “the Food Bank”) for the purposes and on the conditions described in this Agreement.

2. The Food Bank shall be administered by the SAARC Food Bank Board (hereinafter referred to as “the Board”), as provided for in Article X.

ARTICLE II

Objectives

The objectives of the Food Bank shall be:

1. to act as a regional food security reserve for the SAARC Member Countries during normal time food shortages and emergencies; and

2. to provide regional support to national food security efforts; foster inter-
country partnerships and regional integration, and solve regional food shortages through collective action.

ARTICLE III
The Reserve

1. The Reserve, to be maintained under the Food Bank (hereinafter referred to as “the Reserve”), shall consist of wheat or rice or a combination thereof (hereinafter referred to as “food grains”) earmarked by the Member Countries exclusively for the purpose described in Article V.
2. The Reserve shall remain the property of the Member Country that has earmarked it and shall be in addition to any national reserve that may be maintained by that Member Country.
3. Each Member Country undertakes to earmark as its assessed share of the Reserve the amount of food grains allocated to it in the Schedule-I of this Agreement and to keep the Board informed of the quantum of its reserve with locations of the designated godowns.
4. The Member Countries shall keep the Schedule-I under review and may amend it in the light of operating experience in accordance with the procedure laid down in Article XV.
5. A Member Country may, at any time, voluntarily earmark for the purpose provided for in this Agreement food grains exceeding the amount allocated to it in the Schedule-I.

ARTICLE-IV
Quality of the Reserve

1. The quality of all earmarked food grains shall be of “fair average quality”, or comply with any other quality standards laid down by the Board. Each Member Country undertakes to maintain its reserve as per specifications in the Schedule-II of this Agreement. The Board shall review the specifications periodically.
2. Each Member Country undertakes to: (a) provide adequate storage facilities for the food grains that it has earmarked; (b) inspect the food grains periodically; (c) apply appropriate quality control measures, including turnover of the food grains, if necessary, with a view to ensuring that all times the food grains satisfy the required quality standards; and (d) replace forthwith any food grains that do not satisfy the said standards. In addition, each Member Country agrees to undertake every effort to comply with any guidelines on storage methods or quality control measures adopted by the Board.

ARTICLE V
Withdrawal of Food Grains

1. Each Member Country shall be entitled, on the conditions and in accordance with the procedures laid down in Article III, Article VI and/or Article VIII, to draw on food grains forming part of the Reserve in the event of a food emergency and/or
shortage.

2. A food emergency shall mean a state or condition in which a Member Country, having suffered a severe and unexpected natural or manmade calamity, is unable to cope with such a state of condition by using its national reserve.

3. A food shortage shall mean a state or condition in which a Member Country has suffered a production shortfall and/or storage shortfall, and finds it difficult to cope with such a state or condition by using its national reserve, provided that the production of food grains in the current year is lower than the average of the production of the previous three years by 8 percent. However, on specific cases a Member Country may initiate a request on seasonal basis considering the impact of such seasonal shortfall on annual production.

4. The Board, based on the experiences of operations of the Food Bank, shall periodically review the minimum agreed percentage of shortfall as mentioned in Paragraph 3 of this Article.

ARTICLE VI

Procedure for the Release of Food Grains from the Reserve

1. The Member Country in need shall directly notify, through its designated Nodal Point(s), the other Member Country or countries of the food emergency or shortage it is facing and the amount of food grains required.

2. The other Member Country or countries on being so requested shall take immediate steps to make necessary arrangements to ensure immediate and speedy release of the required food grains, subject to availability in the combination requested.

3. The requesting Member Country shall at the same time inform the Board of its request to the other Member Country or countries to coordinate.

ARTICLE VII

Replenishment of the Reserve

1. A Member Country that has released all or part of the food grains forming its share of the Reserve shall replace such food grains as soon as practicable and, in any event, not later than one calendar year following the date on which the release of the food grains took place.

2. A Member Country that has released all or part of the food grains forming its share of the Reserve shall at an early date notify the Board of such release, of the terms and conditions on which it was effected, and the date on which the food grains that had been released were replaced.

ARTICLE VIII

Procedure for the Withdrawal of Food Grains by a Member Country from its Own Share of the Reserve

1. A Member Country in need shall be entitled to immediate withdrawal of food grains from its assessed reserve in case of emergencies under intimation to the Member Countries and the Board, and in any other cases by giving three months'
advance notice to the Member Countries and the Board of such withdrawal.
2. It shall replace such food grains as soon as practicable and in any event not later than two years following the date on which the release of the food grains took place.
3. A Member Country in need shall be entitled to immediate withdrawal of food grains from its voluntary reserve in case of emergencies under intimation to the Member Countries and the Board, and in other cases by giving at least one month’s advance written notice to the Member Countries and the Board.

ARTICLE IX
Determination of Price

1. The prices, terms and conditions of payment, in kind or otherwise, in respect of the food grains so released shall be the subject of direct negotiations between the Member Countries concerned, based on the guidelines to be approved by the Board for determination of price, which shall be reviewed periodically.
2. The requesting Member Country shall specify the need (i.e. food shortage or emergency) while making the request. In the case of emergency, the humanitarian aspects would be given due importance while determining prices.
3. The determination of prices shall be done in accordance with the following broad principles:
   a. Price quoted, in general, shall be lower than prices generally charged or quoted for countries beyond the region;
   b. Price shall be representative of the market, both domestic and international, and may be adjusted suitably to reflect seasonal variations and the price movements in the recent past; and
   c. A responding Member Country shall endeavour to accord, as far as possible, national treatment in respect of calculating the cost components such as the ones related to storage, internal freight, interests, insurance and overhead charges, margin of losses etc., while maintaining its reserve and making releases.

ARTICLE X
Institutional Arrangements

1. There shall be a Board, of which each Member Country shall be a member, to administer functioning of the Food Bank and for its policy making.
2. Rules of Procedure for the meetings of the Board shall be the same as for other SAARC meetings.
3. Decisions and recommendations of the Board shall be taken on the basis of unanimity.
4. The Board shall elect a Chairperson based on the principle of rotation among Member Countries whose terms of office shall be the duration from one annual meeting to the next annual meeting.
5. The Board shall meet at least once a year or more often as considered necessary.
6. Each Member country shall designate Nodal Point(s), responsible for transacting all business at the national level related to operations of the Food Bank.

7. Private sector importer(s) in a Member Country in need may apply to the designated Nodal Point(s) of that country, who shall transact all activities on behalf of the private sector importer(s) and shall be responsible for the transaction(s). The Member Countries may develop appropriate guidelines for involving the private sector, in conformity with its national legislations, procedures and requirements.

ARTICLE XI
Functions of the Board

The functions of the Board shall include:

1. Undertaking a periodic review and assessment of the food situation and prospects in the region, including factors, such as production, consumption, trade, prices, quality and stocks of food grains. These periodic assessment reports shall be disseminated to all the Member Countries.

2. Examining immediate, short term and long term policy actions as may be considered necessary to ensure adequate supplies of food grains in the region and to submit, on the basis of such examination, recommendations for appropriate action to the Council of Ministers.

3. Reviewing implementation of the provisions of the Agreement, calling for such information from Member Countries as may be necessary for the effective administration of the Food Bank and issuing of guidelines on technical matters, such as maintenance of stocks, storage conditions, quality control and price.

4. Assessing the demands of food grains and identification of institutions and organizations in Member Countries that are to be contacted in case of release and withdrawal from its Reserves.

5. Devising appropriate mechanism(s) to collect, compile, generate, analyse, and disseminate information to facilitate its own work.

6. Resolving any dispute or difference regarding the interpretation and application of the provisions of this Agreement and functioning of the Food Bank.

7. Keeping the Schedules to this Agreement under review.

8. Recommending amendment(s) to the Agreement, as and when considered necessary, in accordance with the procedure specified in Article XV.

ARTICLE XII
Miscellaneous

1. Schedule-I and Schedule-II shall be integral parts of this Agreement.

2. Expenditures relating to the functioning of the Food Bank shall be borne by the Member Countries proportionately as part of the SAARC Secretariat budget.
ARTICLE XIII
Secretariat
1. The Board shall be assisted by the SAARC Secretariat, which shall coordinate the work of the Board, monitor all matters relating to the release of food grains, and convene and service meetings of the Board.
2. The establishment of a Permanent Headquarters of the Food Bank with dedicated staff may be considered by the Council of Ministers at a future date, in the event of such a request made by the Board based on the experiences of operations of the Food Bank.

ARTICLE XIV
Entry into Force
1. This Agreement shall enter into force on a date to be determined by the Council of Ministers upon completion of all requisite formalities, including ratification by all the Member Countries and issuance of a notification thereof by the Secretary General of SAARC.
2. This Agreement shall supersede the Agreement on Establishing the SAARC Food Security Reserve.

ARTICLE XV
Amendment
1. A Member Country may propose any amendment to this Agreement by submitting the proposed amendment to the Board through the SAARC Secretariat.
2. The Board may examine the proposed amendment and submit its recommendation(s) to the Council of Ministers for consideration. Unless otherwise specified, amendments shall enter into force as from the date of their approval by the Council of Ministers.

ARTICLE XVI
Depositary
1. The Secretary General of SAARC shall be the depositary of this Agreement and amendments thereto.
2. An original of this Agreement shall be deposited with the Secretary General of SAARC.

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

SIGNED at New Delhi on the Third Day of April Two Thousand and Seven in Nine originals in the English language.
Rangin Dadfar Spanta  
Minister of Foreign Affairs  
Islamic Republic of Afghanistan

Iftekhar Ahmed Chowdhury  
Adviser for Foreign Affairs (Foreign Minister)  
People's Republic of Bangladesh

Ugyen Tshering  
Minister for Labour and Human Resources  
Kingdom of Bhutan

Pranab Mukherjee  
Minister for External Affairs  
Republic of India

Ahmed Shaheed  
Minister of Foreign Affairs  
Republic of Maldives

K. P. Sharma Oli  
Deputy Prime Minister and Minister for Foreign Affairs  
Government of Nepal

Khurshid M. Kasuri  
Minister for Foreign Affairs  
Islamic Republic of Pakistan

Rohitha Bogollagama  
Minister of Foreign Affairs  
Democratic Socialist Republic of Sri Lanka
Annex 5

SAARC Regional Convention on the Suppression of Terrorism

4 November 1987

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 terrorist 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 terrorist 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 terroristic activities through precautionary measures.
Annex 5

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

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

A.C. SHAHUL HAMEED
Minister of Foreign Affairs
Democratic Socialist Republic of Sri Lanka
Annex 6

Agreement on SAARC Preferential Trading Arrangement (SAPTA)

11 April 1993

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.
Annex 6

(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 Contracting States to achieve reasonable levels of sustainable exports of their products,
(e) Special consideration of exports from Least Developed Contracting States in the application of safeguard measures,
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
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.saarc-sec.org)

Annex - III

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; 87
(b) agricultural products harvested there; 88
(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;

87 Include mineral fuels, lubricants and related materials as well as mineral of metal ores.
88 Include forestry products.
(f) products of sea fishing and other marine products taken from the high seas by its vessels; 89/90
(g) products processed and/or made on boards its factory ships 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 93

(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.

89 “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.

90 In respect of vessels or factory ships operated by government agencies the requirement of flying the flag of a Contracting State does not apply.

91 Ibid

92 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.

93 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.
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.94

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 transhipment 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 Origin95 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.

94 "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.
95 A standard Certificate of Origin to be used by all Contracting States is annexed and approved by the Contracting States.
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.

Annex - IV

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.
ADDENDUM

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.
Annex 7

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

5 January 2002

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;


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;
Annex 7

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 3.

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 organizations 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
Annex 8

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

5 January 2002

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 realization 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
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Additional Protocol to the SAARC Regional Convention on Suppression of Terrorism

January 2004

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 refugee 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.
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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.

112 M. MORSHED KHAN
Minister of Foreign Affairs
Kingdom of Bhutan

LYONPO NADO RINCHHEN
Minister of Foreign Affairs
Republic of Bangladesh

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


Kathmandu Declaration
25 March 2010, Kathmandu, Nepal

Outcome document of
First Sub-Regional Workshop on South Asian Human Rights Mechanism
Inaugurated by Hon’ble Minister Bhim Rawal, Ministry of Home Affairs (Nepal)

Organised by Informal Sector Service Center (INSEC) and Asian Forum for Human Rights and Development (FORUM-ASIA)

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 from 24 – 25 March, 2010, with the participation of representatives from OHCHR, to critically discuss the prospects and strategies of advancing human rights promotion and protection through regional cooperation towards the establishment of South Asian human rights mechanisms.

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

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

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

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

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

Recalling the UNGA Resolution 32/127(1977) and Commission on Human Rights Resolution 24 (XXXIV) (1978) on the appeals to States in areas where regional arrangements in the field of human rights do not yet exist to consider agreements with a view towards the establishment within their respective regions of suitable regional machinery for the promotion and protection of human rights;

Recalling the Vienna Declaration and Plan of Action (1993) which SAARC member states endorsed, reiterated the need to consider the possibility of establishing regional and sub-regional arrangements for the promotion and protection of human rights where they do not already exist;

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

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

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

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

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

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

Noting that SAARC must address pressing multilateral issues that includes hunger, unemployment, and violence against women and children.
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.
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Kathmandu Statement 2011

25-26 July 2011, Kathmandu, Nepal

Outcome Document of the Second Sub-Regional Workshop on Human Rights Mechanism in South Asia

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 path towards 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 with an outcome document known as the Kathmandu Declaration 2010, which 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 at Thimpu, Bhutan, 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, and that this mechanism could help the South Asian States to promote and protect human rights and fundamental freedoms in their jurisdiction. The President further added that this could ensure that international human rights norms and standards are observed and implemented by SAARC members, and that such a mechanism could help people in the South Asian region develop a common understanding of universal human rights issues and perspectives.

4. The Workshop proceeded to look at the prevailing situations within the region, as well as to examine SAARC with its 25 years of work in the region within the context of
democracy, human rights and development, including the responses provided by State and non-State actors within the SAARC framework. The overwhelming consensus was 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 towards existing NHRIs within the region, which have begun to interact as a whole with a common resolution which was adopted at the Conference of NHRIs of South Asian Countries on Human Rights Awareness and National Capacity Building held 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 do 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 realize their full potential’;

Recognized the growing track record of SAARC member States ratifying the core international human rights treaties which need to be completed together with the removal of reservations to human rights treaties and acceding to related protocols to those ratified 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 twenty-five 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
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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 bodies 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.

All these 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. The Workshop highlighted that such initiative should be seen as a logical outcome of SAARC efforts on development, social justice and democracy. It was also pointed out that by adopting a Human Rights Based Approach (HRBA) in realizing **SAARC Social Charter** principles, goals and objectives including the implementation of SAARC development goals by 2015, there would be much needed participation, transparency and accountability.

6. The Workshop observed that SAARC isn’t a mere geographical region, rather the living space of one-sixth of humanity, with nearly 40% of the poor. The region as a whole fares poorly on human development indicators like education, health, nutrition, sanitation and shelter. The centrality of the State in SAARC has implications in improving those human development indicators as well as the promotion and protection of human rights. Several SAARC States have emerged, or are in the process of transition from authoritarian rule, armed conflict, or struggles for the right to self-determination. Many of them have already adopted national constitutions with strong guarantees for human rights and fundamental freedoms. On the other hand, with political, social and economic conditions remaining volatile in most of the SAARC countries, there is a noticeable weakening of law and a growing culture of impunity without accountability and scrutiny. There has been a steady deterioration in the full enjoyment of fundamental freedoms and human rights. Human rights defenders, social activists, media personnel, trade union leaders, social movements and others have been facing formidable obstacles. Increased militarization and the climate of fear created in the wave of counter-terrorism have jeopardized stability of
the region without assuring security. The Workshop noted that on several occasions State policies have eased to correspond to people's needs and are formulated to accommodate the demands of powerful economic interests. The SAARC region still has three least developing countries with all following growth-oriented trajectories despite high levels of poverty, hunger and malnutrition, homelessness and illiteracy. Women and children are most affected and many of them are in vulnerable situation with the children in the region displaying an alarming concentration of malnutrition, attributing to the high rates of child mortality. Overall, substantial special measures are needed to reduce existing gender gaps in food, health, education and employment. SAARC and its structures have moved ahead in a very slow pace without creating any momentum for the common mindset and a common development paradigm. In this connection, vulnerable and marginalized groups in the region have been suffering most without adequate safety nets. The narrow interpretation of mere economic growth as development, does not address the issue related to the human development and the full enjoyment of economic, social and cultural rights. The Workshop pointed out that supportive policies with human rights strategy are needed for poverty alleviation and building social infrastructure. Added to it are the disputes between SAARC countries restraining it from moving together collectively, given the marked commonalities relating to languages, religions, traditions, histories and cultures.

7. Besides analyzing the overall context of the region at multiple levels, the Workshop also looked into the threats and obstacles faced by SAARC countries and its peoples, including internal conflicts, terrorism, piracy, small arms proliferation and organized crime. The threats have been mainly addressed by governments through security lens rather than identifying the root causes. Resulting to the various forms of extremism and fundamentalism, most often derived from skewed interpretations of religions, history and traditions, threatening the social fabric of societies and disrupting social cohesion. Some of them have acquired political legitimacy and become a source of tension and communal violence in the region. These factors have caused rift in the democratization process in the region with serious consequences across the border. These multiple challenges can’t be tackled just by legal and administrative measures, but rather through dynamic processes of dialogue and cooperation amongst peoples, religions and culture in the SAARC States, with fully ensuring the fundamental freedoms, including freedom of association, assembly and movement across the border without unnecessary bureaucratic restrictions.

8. The Workshop also looked at the status of specific groups and individuals within the region, especially the indigenous peoples and tribes, Dalits and minorities who call for urgent attention both nationally and regionally. The multiple forms of discrimination faced by those specific groups and individuals are region specific, and demand broad based strategic plans, given the fact that all SAARC countries, except Bhutan, have ratified the International Convention on Elimination of all forms of Racial Discrimination (ICERD), besides actively endorsing the Durban Declaration and Programme of Action and its follow-up outcome of the Durban Review Conference (April 2009). In stating it, the Workshop recalled the vibrant network of NGOs in the SAARC region actively involved across the borders at national and international levels. A common positioning
of SAARC countries could contribute significantly towards eliminating this common evil, which seriously hinders peace and security, development and human rights in the region.

9. Proceeding further, the Workshop took up the question of women and children under SAARC, while welcoming the appointment of a first woman Secretary - General as the tenth Secretary -General of SAARC. The rights of women and children rights are violated in the name of religion and culture and they become particularly vulnerable to prejudice, to exclusion and to public repudiation, not only by State forces but by social actors as well. Despite some progress on initiatives for children in the region, comprehensive protection systems are still missing with child abuse and neglect remaining a serious concern in all countries of the region. Most of the human development reports for women and children of the SAARC region have reported the worst, globally. The importance of gender equality and women’s empowerment in access to resources, justice and freedom of expression is yet to be fully realized within the region. Despite commitments from SAARC countries; mainstreaming women's empowerment and equality fully into policy formulation awaits realization. The entire discourse has to change direction, moving away from a merely instrumental approach and centering on women and children as agency in building strong social infrastructure in the region. The gaps could be reduced with the full compliance of SAARC member States to the provisions of Convention on the Elimination of All forms of Discrimination against Women (CEDAW) and Convention on the Rights of the Children (CRC), which all of them have ratified. With enabling forms of rights-based approaches, the SAARC Convention on Preventing and Combating Trafficking in Women and Children for Prostitution and SAARC Convention on Regional Arrangement for the Promotion of Child Welfare would acquire fresh momentum as a time-bound and measurable implementation process. Existing whole spectrum of women’s movements and child rights network awaiting full involvement within the SAARC framework could be a starting point of meaningful participation and engagement for a regional arrangement for the promotion and protection of human rights.

10. Given the above mentioned realities, the Workshop took into consideration the human rights commitments and their implementation by SAARC governments. While ratification of core treaties has increased, the obligations and commitments have correspondingly multiplied, posing considerable challenges of implementation. On the other hand, the record of maintaining reservations to those treaties ratified, as well as acceding to the optional protocols related to the respective ratified treaties remains unchanged. Despite the fact that the South Asia region as a whole has endorsed a significant number of experts and Special Rapporteurs to the HRC and to the treaty bodies, better utilization of UN Special Procedures of the UN Human Rights Council (HRC) and mandate holders remains remarkably low with a noticeable political unwillingness to be fully engaged with UN human rights mechanisms. Moreover, the track record of South Asian countries in implementing recommendations of the UN bodies including the recommendations arising out of the UPR process remained low demanding further initiatives by the SAARC countries for implementation. In this context, a regional arrangement could be a useful platform to utilize existing
opportunities under the UPR with clearly organized national focal points for follow up and civil society over sight. Taken together, the Workshop recognized the importance of fully involving the civil society, including NGOs, besides national institutions and line ministries, which would considerably enhance the process of bridging both the normative and implementation gaps with better compliance to accepted human rights, norms and standards.

11. The Workshop in this respect looked at the arms of the government of the SAARC States. The Judiciary in South Asia, while striving to be independent despite pressures, has demonstrated its strength, particularly, the justiciability of the Economic, Social and Cultural Rights, setting benchmarks for others. However, there are many obstacles and deficits in the administration of justice system within the SAARC countries hindering the people from exercising their right of access to justice. Common human rights jurisprudence for the SAARC is still in the queue. There have been common sessions of South Asian judges which need to be periodic as well as functional. The parliamentarians of SAARC have been holding meetings among themselves, reviving the dream of a South Asian Parliament that could infuse a new life into SAARC and implement agreements in a decisive manner (July 2011, New Delhi). On the other hand, SAARC Parliaments being the lawmakers have to go an “extra mile”, overcoming some aspects of antiquated post-colonial legacies in tackling human rights issues including torture, disappearances, refugee protection, extra-judicial killings and questions related to transitional justice of post conflict situations. A better utilization of existing Special Procedures mandates on the above areas of concern would be a step forward in the right direction.

12. The Workshop acknowledged that NHRIs of different caliber and effectiveness have thrived in the region (except Pakistan and Bhutan), and since 2009, have begun to meet among themselves, arriving at specific resolutions. Besides, the NHRIs of SAARC are actively involved with the Asia Pacific Forum of the National Human Rights Institutions (APF) and with the International Coordination Committee of NHRIs (ICC). Their statutory functions have enabled the NHRIs to actively involve NGOs and professionals to assist them in the promotion of the human rights culture, among others, through human rights education, and to prevent human rights violations. In certain cases, the complementarities between the judiciary and the NHRIs in the region have reached a stage of maturity, to provide an effective mechanism to discharge state responsibility for the protection of human rights within their jurisdiction. Such encouraging developments could very well be further advanced through a coherent system of regional arrangement. The Workshop also pointed out that the Asian NGOs Network on NHRIs (ANNI) carries out a regular nation-wise appraisal of the respective NHRIs. It has been cited that ANNI as a network has been influential in advancing international human rights principles in the region. Here, it would be just and right for NHRIs from SAARC to bring to the notice of SAARC those conclusions and recommendations of the Advisory Council of Jurists (ACJ) of the Asia Pacific Forum of NHRIs (APF) on specific thematic concerns that have been codified under SAARC legal framework, among others trafficking, terrorism, environment etc.
13. Having reviewed the existing SAARC scenario, including some of its actors and players, the Workshop considered the situation of human rights defenders (HRDs) and related NGOs and other civil society organizations in the promotion and protection of human rights within the SAARC region. They faced the imposition of stringent regulations without adequate recognition of their work. Yet, they continue to work under trying circumstances and have significantly contributed to upholding the rights of people in the region, especially those marginalized sectors and groups. Their efforts, as well as the constraints have been duly examined by UN Special Procedures concerning HRDs and related recommendations have been made to SAARC governments based on the UN Declaration on Human Rights Defenders. They await recognition and suitable arrangements for their full engagement from the SAARC countries as a whole. These efforts are much needed at the national level, with corresponding attention being given at the regional level, particularly, to be fully engaged in the implementation of SAARC treaties.

14. Based on these deliberations, the Workshop noted that in today’s geopolitical world, both bilateral and multilateral/regional arrangements are not mutually exclusive, and that the existing, as well as the emerging array of regional groupings of diverse categories, are a common feature of sovereign states trying to work together, handling a broad spectrum of issues and areas of concern. The Workshop also looked at these regional arrangements, particularly those dealing explicitly with questions related to human rights. The recently constituted ASEAN Intergovernmental Commission on Human Rights (AICHR) is a good example, and its current Chair and representative for Indonesia presented its experiences to the participants. Regional co-operation and genuine dialogue is the furtherance of human rights not only strengthens national identities, but also helped each state to re-examine the whole issue of sovereignty. Such arrangements could accommodate regional specificities with better applicability of universally agreed upon human rights norms and standards. SAARC should engage itself more regionally so as to facilitate such particularities without being contentious. This would contribute much towards building confidence and trust among its members and peoples. One such effort could be the situation of fisher folk belonging to coastal and island states and facing innumerable problems across the coastal boundaries. SAARC could very well ameliorate the conditions related to their living and livelihood through a common framework of negotiations, given the fact that SAARC states are parties to both the Conventions of the Law of the Seas and to a number of international human rights treaties, measures based on such negotiations would avoid unwanted abuses, including threats to their life, work and livelihood. Frequently, they are treated arbitrarily, even facing torture, arbitrary detention, loss of their catch and material, and more tragically, loss of their lives. Another issue would be the case of migration both within the South Asian region as well as outside. Some of the SAARC countries are party to the UN Convention on Migrant Workers that could coherently inform regional agreements. In this connection the Workshop welcomed the Draft Disaster Response Agreement (May 2011), given the fact that South Asia as a whole is one of the most disaster prone areas. SAARC agreements could very well integrate the guidelines of the UN Special Representative on Internally Displaced Persons based, among other, on the Tsunami in 2004 that affected a number of SAARC countries. Interestingly, the SAARC
Sanitation Summit (April 2011) provides a good example for multilateralism, taking into consideration that nearly 450 million people of South Asia are without proper sanitation facilities. This Summit pointed out that expenditure on conflicts must be diverted towards development, thereby offering a way towards unpacking Article 7 of the Declaration on the Right to Development.

15. Indicating the challenges and opportunities that exist for SAARC as a regional body to move forward, the Workshop pointed out that the flow of information and communications from SAARC has limited visibility in the public domain. Much of it is confined to a small body of civil servants and ministers, hardly reaching out to the general public. On the other hand, at the Thimpu Summit (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.’ Good governance in a ‘region of democracies’ calls for better access to information, readily made available in the sphere. The print media has only limited coverage of some SAARC events. There is an absence of a public policy doctrine on SAARC and its manifestations. Much of the implementation arrangements of SAARC Conventions and treaties are seldom known to the South Asian community. This calls for more consistent measures on the part of those governing SAARC to communicate regularly in this age of digitally interactive technology, thereby actively interacting with all the state and non-State actors and players within the region. These are active components of multiple track diplomacy, currently pursued by NGOs and others. It would ensure better people centred participation, scrutiny and transparency. National efforts should have interlocking and overarching sub-regional entities.

16. Taking on board all the deliberations of the two days demarche, the participants at the Workshop put forward the following recommendations addressed to specific parties.

16.1. To the leaders of SAARC:

- As per the Thimpu Summit Declaration of April 2010. convene at the earliest possible occasions as ‘South Asian Forum’ for formulating a ‘Vision Statement’ for SAARC with the full involvement of eminent persons and other stakeholders, with consideration given to the promotion and protection of human rights;
- That the SAARC Social Charter and its principles and objectives be fully operationalised, among others, observance and protection of human rights through an optional protocol to be examined by the Standing Committee of SAARC;
- That the SAARC Charter of Democracy currently under consideration be expanded with necessary stipulations incorporating the provisions of the Universal Declaration of Human Rights(UDHR), and other already ratified international human rights instruments, with suitable arrangements for the meaningful participation of civil society, including NGOs in its implementation;
- That the provision regarding relations with non-governmental bodies under...
the *Convention on Regional Arrangements for the Promotion of Child Welfare in South Asia* be put into practice, engaging NGOs;

- That the leaders of SAARC through existing structures of SAARC facilitate better flow of information and communications enabling SAARC to reach out to different sections of the South Asian community;
- That the leaders of SAARC look into the possibilities of arriving at a multilateral framework for the welfare and livelihood of fisher folk in the region;
- That the leaders of SAARC in promoting gender equality and women's empowerment consider gender mainstreaming into all areas of SAARC involvement;
- That the leaders of SAARC in tackling food insecurity and hunger in the region seriously pursue special measures in overcoming child malnutrition and regulating rising food prices;
- That the 17th SAARC Summit scheduled to take place in the Maldives on 10-11 November 2011 explore the path towards the establishment of a regional human rights mechanism with attendant procedural rights for the participation of all.

16.2. To the SAARC Parliamentarians and Speakers:

- That as principal lawmakers, they continue to interact periodically through the 'Conclave of SAARC Parliamentarians', and among others, initiate the modalities towards the explicit promotion and protection of human rights, thereby ensuring the full implementation of the *SAARC Social Charter* and *SAARC Charter of Democracy*, with adequate overseeing;
- That in their lawmaking function, they pay attention to normative gaps regarding human rights concerns.

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

- That the NHRIs of South Asia maintain their biannual meetings addressing cross-border human rights violations with concerted efforts towards finding remedies;
- That the NHRIs of South Asia, while interfacing with each other, give due attention to the development of a common regional human rights mechanism as an essential building block for the protection of human rights in the region, and also involving NGOs;
- That the NHRIs of South Asia undertake initiatives towards mainstreaming the general conclusions and recommendations of the Asia Pacific Forum of National Human Rights Institutions (APF) and its Advisory Council of Jurists (ACJ) regarding SAARC-specific mandates, particularly on environment, torture, trafficking and terrorism etc.;
- That the NHRIs of South Asia, in addition to their conferences, hold periodical joint consultations with NGOs regarding areas of common concern, especially related to the protection of human rights of a cross-border nature;
- That the NHRIs of South Asia explore the possibilities of better coordination and joint action with other National Institutions in the SAARC countries, thereby effectively enhancing national human rights mechanisms;
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- That the NHRIs of South Asia together with NGOs actively recommend to the SAARC governments to more systematically utilize existing UN human rights mechanisms within their respective jurisdictions;
- That the NHRIs of South Asia continue to cooperate with NGOs in pursuing the path towards the establishment of a regional human rights mechanism as manifested through their active presence and participation at the sub-regional workshops.

16.4. To the UN High Commissioner for Human Rights (UNHCHR):
- That besides providing active support and accompaniment to the initiatives jointly undertaken by NHRIs and NGOs towards a sub-regional human rights mechanism, the UNHCHR pursue efforts towards a visible field presence of the OHCHR in South Asia with a programmatic approach.

16.5. To the Office of the High Commissioner for Human Rights (OHCHR):
- That the OHCHR, having been actively present at the sub-regional workshop for the establishment of sub-regional human rights mechanisms, should move forward, addressing the normative gaps from a human rights perspective and continue to support and to facilitate the steps taken together towards the creation of such a mechanism for SAARC.

16.6. To the Non-Governmental Organizations (NGOs):
- That the NGOs together with other civil society organizations, people’s movements and other like-minded bodies, continue to remain focused on setting up a sub-regional human rights mechanism by constituting an informal working group as a task force on SAARC and Human Rights with a strategic plan of action;
- That the informal working group, with members from each SAARC country establish contacts with the SAARC Standing Committee so as to initiate efforts for the mechanism on human rights as a new area of cooperation, as well as with the SAARC Secretariat
- That the NGOs, together with the informal working group, establish national focal points for lobbying and advocacy at national and sub-regional levels, thereby expanding the efforts for the mechanism on human rights;
- That the concerned NGOs, with the support of FORUM-ASIA, explore the possibilities of engaging with SAARC and its activities, particularly concerning women and children, currently operational through existing SAARC Conventions;
- That the programme of national workshops and seminars presently organized through FORUM-ASIA’s South Asia Programme be continued with the presence and participation of NHRIs, Parliamentarians, Judges, academicians, experts and the media, with a focus on unfolding a double multi-track approach;
- That the NGOs maintain regular contacts with the OHCHR concerning human rights questions and pursue the path towards a sub-regional human
rights mechanism, wherever possible (this may include other UN agencies, UN country team etc.);

- That the NGOs and others strive to spread information on SAARC and its activities, especially those related to human rights, through their own websites and other relevant means of communication;
- That the NGOs, together with the informal working group, pay close attention to the forthcoming 17th SAARC Summit and its agenda and programme for work with a view towards convening their own event, especially through people's SAARC or through new outlets;
- That the NGOs progressively evaluate all the measures taken, thereby canvassing positive support for a sub-regional human rights mechanism;
- That the NGOs may look into the existing SAARC Regional Centres, SAARC National Coordination Committee for implementation with a view towards encouraging people's participation in related matters;
- That the NGOs and civil society continue to lobby with their respective governments for the ratification of human rights treaties which are not yet ratified, as well as advocating processes towards the ratification if the optional protocols related to each particular human rights treaty;
- That the NGOs continue to intensify their efforts within their respective countries for better utilization of existing Special Procedures, including the possibility of extending a standing invitation to all Special Procedures mandate holders;
- That the NGOs, along with other concerned HR organizations, actively pursue the follow-up to the first round of UPR and remain fully engaged in the preparations for the Second Round of UPR (2012) besides informing their respective governments and NHRIs through dialogue and cooperation.

16.7. To the South Asian Media, including the South Asian Free Media Association:
- To ensure the South Asian media makes wider coverage on the human rights issue of the region
- To disseminate the information for the protection and promotion of human rights in South Asia from human rights perspective
- To work together with SAARC affiliated media networks and other media for the defense of freedom of expression and fundamental freedom in South Asia.
Annex 12

Addu Declaration 2011

Outcome Document of the 17th SAARC Summit
14 November 2011, Addu, Maldives
“Building Bridges”

The President of the Islamic Republic of Afghanistan, His Excellency Mr. Hamid Karzai; the Prime Minister of the People’s Republic of Bangladesh, Her Excellency Sheikh Hasina; the Prime Minister of the Kingdom of Bhutan, His Excellency Lyonchhen Jigmi Yoeser Thinley; the Prime Minister of the Republic of India, His Excellency Dr. Manmohan Singh; the President of the Republic of Maldives, His Excellency Mr. Mohamed Nasheed; the Prime Minister of Nepal, His Excellency Dr. Baburam Bhattarai; the Prime Minister of the Islamic Republic of Pakistan, His Excellency Syed Yusuf Raza Gilani; and the President of the Democratic Socialist Republic of Sri Lanka, His Excellency Mr. Mahinda Rajapaksa met in Addu City, the Maldives, on 10-11 November 2011 for the Seventeenth Summit of the South Asian Association for Regional Cooperation (SAARC).

Welcoming the theme of the Summit and recognizing the importance of bridging differences, creating better understanding and promoting amity and mutually beneficial and comprehensive cooperation in order to promote effective linkages and connectivity for greater movement of people, enhanced investment and trade in the region;

Reaffirming their commitment to peace, confidence building, liberty, human dignity, democracy, mutual respect, good governance and human rights;

Renewing their firm commitment to alleviate poverty and reduce income inequalities within the societies and reaffirming their resolve to improve the quality of life and well-being of their people through people-centered sustainable development;

Recognizing that the full enjoyment of fundamental rights by women and girls is an inalienable, integral and indivisible part of universal human rights and that gender-based violence and discriminatory practices constitute a violation of fundamental rights;

Mindful of the plurality of cultures and diversities within the region and cognizant of the need to promote inter-cultural harmony through greater contact and interaction between peoples;
Deeply Concerned about the continuing threat of terrorism in all its forms and manifestations, transnational organized crimes, especially illegal trafficking in narcotic drugs and psychotropic substances, trafficking in persons and small arms and increased incidents of maritime piracy in the region; and reiterating their resolve to fight all such menaces;

Conscious of the environmental degradation and particular vulnerabilities of the region to the threat of climate change;

Recognizing the need to further strengthen the institutional mechanisms of SAARC in order to bolster and enhance regional cooperation;

Welcoming the signing of the SAARC Agreement on Rapid Response to Natural Disasters, the SAARC Seed Bank Agreement, the SAARC Agreement on Multilateral Arrangement on Recognition of Conformity Assessment and the SAARC Agreement on Implementation of Regional Standards;

Recognizing the importance of the full implementation of SAFTA as a measure towards the creation of an enabling economic environment in the region;

Noting the recommendations of the Report of the First Meeting of the South Asia Forum that SAARC needs to move from looking within to accepting the logic of interdependence;

Acknowledging the participation of Observers from Australia, the People's Republic of China, the Islamic Republic of Iran, Japan, the Republic of Korea, Mauritius, the Union of Myanmar, the United States of America and the European Union at the Seventeenth Summit;

DO HEREBY DECLARE:

1. To direct the SAFTA Ministerial Council to intensify efforts to fully and effectively implement SAFTA and the work on reduction in Sensitive Lists as well as early resolution of non-tariff barriers and expediting the process of harmonizing standards and customs procedures.
2. To direct the SAARC Finance Ministers to chart a proposal that would allow for greater flow of financial capital and intra-regional long-term investment.
3. To hold the Twelfth SAARC Trade Fair along with SAARC Travel and Tourism Fair in Kulhudhuffushi, Maldives in 2012; and to develop modalities, by involving the relevant private sector, in promoting the region globally as ‘Destination South Asia.’
4. To conclude the Regional Railways Agreement and to convene the Expert Group Meeting on the Motor Vehicles Agreement before the next Session of the Council of Ministers; and to direct the early conducting of a demonstration run of a container train (Bangladesh – India – Nepal).
5. To direct the Secretary General to ensure completion of the preparatory work on the Indian Ocean Cargo and Passenger Ferry Service, including the Feasibility Study, by the end of 2011, in order to launch the Service.

6. To ensure timely implementation of the Thimphu Statement on Climate Change.

7. To direct the conclusion of the Inter-governmental Framework Agreement for Energy Cooperation and the Study on the Regional Power Exchange Concept as also the work related to SAARC Market for Electricity.

8. To make available an appropriate percentage of national income towards the respective countries’ renewable energy investments, subject to the approval of national arrangements.

9. To resolve the operational issues related to the SAARC Food Bank by the next Session of the Council of Ministers with a view to ensuring its effective functioning.

10. To root out terrorism, taking into account its linkages with illegal trafficking in narcotic drugs, psychotropic substances and small arms and to make coordinated and concerted efforts to combat terrorism; and call for an early conclusion of the proposed UN Comprehensive Convention on International Terrorism and completion of the ratification of the SAARC Convention on Mutual Assistance in Criminal Matters.

11. To initiate work towards combating maritime piracy in the region.

12. To direct the convening of an Inter-governmental Expert Group Meeting to discuss the establishment of a regional mechanism to ensure empowerment of women and gender equality in the region, with focus on national legislations, including timely realization of the MDGs and SDGs.

13. To direct the finalization of the work on the elaboration of the SAARC Regional Convention on Preventing and Combating Trafficking in Women and Children for Prostitution with a view to its adoption by the next Summit.

14. To formulate an actionable framework to address the common challenge of sanitation and access to safe drinking water in the region.

15. To expedite the work on mutual recognition of academic and professional degrees and harmonization of academic standards; and establishment of long-term linkages among universities, research institutions and think-tanks in the region.

16. To direct the South Asia Forum to continue to work towards the development of the “Vision Statement” for South Asia and its future development, including on the goal and elements of a South Asian Economic Union, as may emerge from its subsequent meetings.

17. To strengthen SAARC mechanisms, including the Secretariat and Regional Centres, through an inter-governmental process.

18. To direct SAARC mechanisms and institutions to develop and implement regional and sub-regional projects, as appropriate, in agreed areas.

19. To undertake a comprehensive review of all matters relating to SAARC’s engagement with Observers, including the question of dialogue partnership, before the next Session of the Council of Ministers in 2012.
20. To mark a SAARC Media Day and, in that context, decide to convene a Regional Conference on Media to consider deepening collaboration in the region.
# Annex 13

## Working Group on South Asian Human Rights Mechanisms

<table>
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